December 11, 2014

BRIDGE Housing Corporation
600 California Street
Suite 600
San Francisco, CA 94108
Attention: Ann Silverberg

Subject: Memorandum of Understanding for the Ownership and Operation of Transbay Block 9 Affordable

Dear Ms. Silverberg:

The purpose of this memorandum of understanding (“Memorandum”) is to set forth the proposed terms for a partnership between BRIDGE Housing Corporation, a California nonprofit public benefit corporation (“BRIDGE”) and Block 9 Transbay, LLC, a Delaware limited liability company (“Developer”), for the ownership and operation of a mixed income residential rental project of which 109 units will be rented to low and very low income tenants at affordable rents to be known as Transbay Block 9 Affordable located in the City of San Francisco, in the State of California (the “Affordable Project”). It is understood that the Affordable Project will consist of one or more air rights parcels on the lower 21 residential floors of a single building (the “Building”) consisting of 42 residential floors (the “Development”) and that the lower 21 residential floors of the Building will also include market rate units (the “Lower Floor Market Rate Project”). The upper 21 floors of the Development will consist of all market rate residential units (the “Upper Floor Market Rate Project”). The owner of the Lower Floor Market Rate Project and the owner of the Upper Floor Market Rate Project shall have no ownership interest in the Affordable Project and the Partnership shall have no ownership interest in either the Lower Floor Market Rate Project or the Upper Floor Market Rate Project. The Affordable Project, the Lower Floor Market Rate Project, and the Upper Floor Market Rate Project shall be subject to one or more reciprocal easement agreements which will govern the use and maintenance of, and the sharing of costs with respect to, the Building’s systems, common areas, parking, access, and security, among other things.

1. **Partnership Structure.** The Affordable Project will be developed and owned by a limited partnership the anticipated name of which is Transbay Block 9 Affordable Housing, L.P. (the “Partnership”) pursuant to that certain Agreement of Limited Partnership of Transbay Block 9 Affordable Housing, L.P., (the “Partnership Agreement”), in which BRIDGE through a to be formed limited liability company the sole member of which is a wholly controlled 501(c)(3) corporate affiliate of BRIDGE will own a 0.005% interest and will act as the managing general partner of the Partnership (“Managing General Partner”). Developer or an affiliate of Developer, will own a 0.005% interest in its capacity as a general partner and will act as the
2. **Partnership Financing.** The Affordable Project may obtain its own debt and equity financing and such financing shall be separate from any financing obtained by the Developer for the Lower Floor Market Rate Project and the Upper Floor Market Rate Project or it may obtain debt financing in conjunction with financing for the Lower Floor Market Rate Project and the Upper Floor Market Rate Project so long as such financing is not tax exempt bond financing. It is anticipated that the debt of the Affordable Project will be funded with tax exempt bonds (“**Bonds**”) and that the equity will be provided, in part, through an allocation of low income housing tax credits (“**Tax Credits**”). The debt of the Affordable Project, if separate, will not be cross collateralized with the Market Rate Project or cross defaulted with the debt of the Market Rate Project financing, and the debt of the Market Rate Project shall not be cross collateralized with the Affordable Project or cross defaulted with the debt of the Affordable Project. The Developer shall be primarily responsible for and shall make all final decisions regarding applying for, obtaining, and negotiating the terms and documentation of all bond, loan, credit enhancement, interest rate hedging, Tax Credits, and the Partnership Agreement; provided that BRIDGE will fully participate in the negotiations of the foregoing and will take a lead role in the preparation and submission of the applications, for allocations of the Bonds and Tax Credits, obtaining credit enhancement with respect to the Bonds or a private placement of the Bonds, and solicitation of proposals from potential tax credit investors.

3. **Financial Participation.**
   (a) **Developer Fee.** The Project will include a developer fee payable solely to Developer for the performance of certain development services more particularly described in a separate development services agreement.
   
   (b) **Partnership Sponsor Fee.** BRIDGE will receive a fee in the amount of $1,000,000 payable in consideration of BRIDGE’s services in connection with the formation of the Partnership, work on the tax exempt bond application, the low income housing tax credit application, and the solicitation and identification of the bond loan lender and tax credit investor. Such fee shall be payable $100,000 upon closing of the acquisition of the land, $600,000 paid when the Partnership Agreement is executed and the Limited Partner is admitted, and $300,000 at 90% initial lease-up of the Affordable Project. Developer will pay BRIDGE $0.15 of every $1.00 of tax credit investor capital contribution in excess of $___________[the projected tax credit investor capital contribution in excess of $___________[the projected tax credit investor amount based upon the final calculation of eligible basis after the construction contract is bid and accepted, using a $1 per credit price, and the projected tax credit factor determined in the month of the projection], not to exceed $400,000. This amount will be determined based on the actual amount of the tax credit investor’s total capital contribution as set forth in the executed Partnership Agreement, will not be
subject to any tax credit adjusters, and will be paid in full on the execution of the Partnership Agreement.

(c) **Partnership Management Fee.** Commencing 90 days after the Project has reached 90% occupancy and continuing every January 1st thereafter, in consideration for acting as the Managing General Partner of the Partnership, Managing General Partner shall receive a partnership management fee of $30,000 per year (the “MGP Fee”) which shall be payable in whole or in part from cash from operations of the Project and which is payable annually and will be increased each January 1st by 3%. The annual payment of the MGP Fee and accrued MGP Fee shall be prioritized over any deferred developer fee payable to Developer, other partnership fees and partnership voluntary loans. In the event all or a portion of the MGP Fee is not available to be paid from cash from operations in any given year, the unpaid portion of the MGP Fee shall accrue (without interest) and be payable upon availability of cash flow.

(d) **Net Cash Flow and Sale or Refinancing Proceeds.** Net cash flow and sale or refinancing proceeds available for distribution shall be distributed to BRIDGE in an amount equal to 10% of the distributions of net cash flow and 10% of the sale and refinancing proceeds allocated to the Administrative General Partner in the Partnership Agreement and to the other partners of the Partnership as described in the Partnership Agreement in effect at the time of distributions. In the event that there has been a deferral of the MGP Fee due to lack of annual cash flow, the deferred fee shall be paid in the first month that funds are available. If no funds are available from cash flow to pay the MGP Fee, the accrued fee will be paid from any sale or refinancing proceeds. Accrued MGP Fees shall be paid as a priority before the payment to the Administrative General Partner, or its affiliates, of the fees due to it, or its affiliates, (other than any deferred Developer Fee) from proceeds of net cash flow and sale or refinancing.

(e) **Payment of Fees upon Removal or Withdrawal.** Upon removal or withdrawal of Managing General Partner from the Partnership, either voluntarily or involuntarily, any fees earned but unpaid under this Section 3 shall be paid upon the removal or withdrawal of Managing General Partner. Managing General Partner may only be removed from the Partnership by a partner of the Partnership for failing to maintain the property tax exemption due to the fault of Managing General Partner, failing to perform any of its duties under the Partnership Agreement, in the event of bankruptcy (voluntary or involuntary), insolvency, loss of its tax exempt status, failing to comply or causing the Partnership to fail to comply with any bond or tax credit imposed obligation to the extent of Managing General Partner’s obligations, or for any other reason set forth in the Partnership Agreement.

4. **Guaranties.** Developer or another entity affiliated with Developer as specified by Developer will provide any guaranties required by lenders and Limited Partners in connection with the construction of the Project and in connection with the tax credit investor’s requirements. Developer shall not provide any guaranties to or for the benefit of BRIDGE. BRIDGE shall provide a guaranty in connection with the tax credit compliance requirements to the extent of its responsibilities with respect to such compliance but shall otherwise have no responsibility or obligation to provide
guaranties or to fund any amounts in connection with the Project, including, but not limited to, development deficits, permanent loan shortfalls, tax credit shortfalls resulting from adjusters or, operational expenses or operating deficits.

5. **Representations and Warranties.** Developer will provide representations and warranties on behalf of the Partnership and the Developer to lenders and tax credit investors, other than representations and warranties in respect of any representation and warranty that BRIDGE makes, or is deemed to have made, on its own behalf, set forth in any loan documents, any credit enhancement document, any partnership document, and any offering document in connection with tax exempt bonds, as applicable.

6. **Reimbursements.** Developer will be responsible for payment of all pre-development expenses; provided, that all pre-development expenses incurred by Developer in respect to the Affordable Project shall be reimbursed to Developer by the Partnership. BRIDGE shall have no responsibility or obligation to fund pre-development expenses; provided, however, if, with the prior written consent of Developer, BRIDGE incurs any reasonable third-party expenses in connection with the Project, tax credits, tax exempt financing, other debt financing, any entitlement for the Project, or the like, as applicable, all such expenses shall be reimbursed to BRIDGE by the Developer.

7. **Property Management.** The Partnership will retain a to be named property management company (which shall be an affiliate of Developer and/or Essex) to provide property management services for the Project. The parties anticipate that the Affordable Project, Lower Floor Market Rate Project, and the Upper Floor Market Rate Project will be managed by the same property management company. If the Affordable Project, the Lower Floor Market Rate Project, and the Upper Floor Market Project are managed by different property management companies. BRIDGE will have the right to approve the property management Company of the Affordable Project if other than an affiliate of Developer and/or Essex which approval shall not be unreasonably withheld, conditioned, or delayed. The Property Management Fee will be paid “above the line” as a fixed operating expense of the Partnership (subject to the requirements of the investor members that all or a portion of the Property Management Fee be deferred in the event of operating deficits).

8. **Roles and Responsibilities.** Developer will be primarily responsible for development and construction of the Building, and, after completion of construction, Developer, or its affiliated management company, will be solely responsible for the overall operation, maintenance, budgeting, and payment of costs and expenses incurred in the ownership, maintenance, and operation of the Building. Developer shall meet and confer with BRIDGE on a regular basis as reasonably requested by BRIDGE and shall promptly provide BRIDGE with copies of all material documents requested in writing by BRIDGE related to the entitlements, design, construction, financing and operation of the Affordable Project or the Partnership. Costs and expenses of the ownership, operation, and maintenance of the Building shall be allocated to the Affordable Project based upon either the percentage of units in the Affordable Project to the number of units in Building or the percentage of the total square footage of the residential units in the Affordable Project to the total square footage of the residential units in the Building as reasonably determined by Developer. Although Developer shall consult with BRIDGE with respect to matters
affecting the Affordable Project, Developer will have the sole authority to select the lender, investor, and general contractor for construction of the Building and to make decisions with respect to the development, design, and construction of the Building. During the operational phase of the Affordable Project, BRIDGE shall be primarily responsible for the Partnership's operations, and shall act as the Managing General Partner of the Partnership in accordance with California Revenue and Taxation Code Section 214(g) and the California State Board of Equalization (“BOE”) Property Tax Rules (“BOE Rules”). With respect to the Affordable Project only, BRIDGE shall perform the following Substantial Management Duties (as that term is defined in the BOE Rules) any of which may be delegated by the Managing General Partner to the Administrative General Partner pursuant to the BOE Rules: (a) on-going leasing and compliance during the operating period, including determination regarding tenant eligibility and appropriate rent levels and related monitoring under the requirements of CDLAC, TCAC and MOH (b) participate in the hiring and oversight of the property manager, (c) participate in the hiring and overseeing the work of all persons necessary to provide services for the management and operation of the limited partnership business, (d) execute and enforce all contracts executed by the Partnership, (e) maintain records and documents, including prepare or cause to be prepared at the Partnership’s expense all reports to be provided to the Partners or lenders on a periodic basis consistent with the requirements of the Partnership Agreement (f) provide or cause to be provided at the Partnership’s expense tenant services, if applicable, and (g) execute and deliver all partnership documents on behalf of the Partnership. BRIDGE agrees to perform such other tasks and duties as may be required for nonprofit general partners in order to maintain property tax abatement under the welfare exemption of the California Revenue and Taxation Code. BRIDGE will apply for the welfare exemption each year and Developer agrees to cooperate with BRIDGE in connection with all filings made by BRIDGE to apply for and maintain the property tax abatement. Developer understands and agrees that the welfare exemption is awarded to the project annually by the BOE, and BRIDGE cannot warrant that the project will qualify for exemption in any given year. Unusual expenses (related to changes in future legislation) incurred by BRIDGE to qualify the property for exemption will be borne by the Partnership. BRIDGE will file the bond issuer’s annual compliance filings, the California Tax Credit Allocation Committee (“CTCAC”) annual filings, and such other annual compliance filings as may be necessary in respect of the Affordable Project. The Partnership will reimburse BRIDGE for all reasonable third-party expenses incurred by BRIDGE for which the Partnership is responsible under this paragraph.

9. Document Review. Developer agrees to furnish BRIDGE and its legal counsel for review and comment all drafts of Partnership documents, loan documents and any other document that pertain to the organization of the Partnership and the financing of the Affordable Project. BRIDGE shall have 10 days after receipt of any form of guaranty which does not contain standard and customary terms for transactions of this type to give Developer written notice thereof and BRIDGE shall thereafter have 25 days after giving such notice to approve the forms and terms of any guaranty which does not contain the standard and customary terms in transactions of this type to be provided by BRIDGE to the tax credit investor as well as the terms of the loan and Tax Credit documentation which do not contain the standard and customary terms in transactions.
of this type which specifically apply to the performance of the specific obligations of BRIDGE or the Managing General Partner, provided that if BRIDGE and any lender or investor or Developer are unable, after good faith negotiation, to agree on any such document or provision, BRIDGE shall either accept the documents the form agreed by Developer, lender and tax credit investor, or give notice of its intention to withdraw from the Partnership. Such withdrawal shall become effective on the Developer’s selection of a replacement nonprofit entity, the approval of such entity by the Successor Agency, and the admission of such entity to the Partnership.

10. **Communication.** BRIDGE will, to the extent practical, be included on every distribution list of any material participant in the equity and debt financing of the Affordable Project, and BRIDGE and Developer will send each other shall send to Developer copies of all written communication which may have a material adverse effect upon BRIDGE from and to lenders, equity partners, government agencies, CTCAC and any other relevant agencies relating to the Partnership or the Affordable Project.

11. **Resident Services.** Resident services, if any are required in connection with the approval of the bond or tax credit allocation, shall be provided by BRIDGE or a third party and all costs therefor shall be borne by the Partnership. The cost for these services shall be reflected in the annual operating budget and shall be as indicated to TCAC and CDLAC.

12. **Indemnification.** Developer shall indemnify BRIDGE including its affiliates, partners, directors, officers, agents and employees, for any liability it incurs as a result of its agreement to act as the Managing General Partner of the Partnership, provided, however, such indemnity shall not extend to any such liability resulting from BRIDGE’s negligence or willful misconduct. Such indemnification shall be reflected in a separate agreement executed by BRIDGE and Developer.

13. **Recognition.** Developer agrees to include BRIDGE’s name on all public announcements, signage, advertising and marketing materials, awards given, and the like, as the nonprofit partner of the Partnership.

14. **BRIDGE Right to Withdraw.** The Partnership Agreement shall include a right on the part of BRIDGE to withdraw upon at least sixty (60) days prior notice with respect to the events set forth in Section 9 of this Agreement, or in the event of any of the following: (a) any action of the Partnership is reasonably determined by BRIDGE to cause a loss of its tax exempt status (unless the same can be cured and the Partnership and the Administrative General Partner take all necessary action to effect a cure); (b) Developer’s failure timely to provide any document required to be delivered to BRIDGE; (c) Developer’s failure to provide any required assistance to BRIDGE in respect of BRIDGE’s obligations to obtain and maintain the welfare exemption, and to provide tenant qualification, compliance reporting; (d) Developer’s unreasonable interference with the performance by BRIDGE of any of its Substantial Management Duties; (e) any disagreement by BRIDGE with Developer’s approach to (i) tax credit compliance, including without limitation, basis calculation, or (ii) welfare exemption methodology; (f) if BRIDGE in good faith determines that any action or inaction of the Developer or the
Partnership could cause BRIDGE to incur, with respect to future BRIDGE projects, negative points under TCAC or CDLAC guidelines or regulations; or (g) any default by the Administrative General Partner in its obligations to BRIDGE under the Partnership Agreement. Any withdrawal shall not be effective until a replacement qualified tax exempt entity has been selected by the Administrative General Partner, approved by the Limited Partners which approval shall not be unreasonably withheld, conditioned or delayed and shall be given or denied within fifteen (15) days after request, and approved by the Successor Agency, and admitted to the Partnership. Developer agrees to use diligent efforts to include in the DDA a provision that the Successor Agency’s approval of a replacement nonprofit will not unreasonably be withheld or delayed and will be given or denied within a specified period of time not to exceed 90 days from submission of the request by Developer. Developer shall submit a replacement nonprofit to Successor Agency and the Limited Partners for approval within thirty (30) days after receipt of BRIDGE’s notice and shall admit the substitute nonprofit to the Partnership immediately upon approval by the Successor Agency and the Limited Partners. If Developer fails to submit a proposed replacement nonprofit to Successor Agency and Limited Partners within such 30 day period, or fails to admit to the Partnership a substitute nonprofit approved by Successor Agency and Limited Partners within five (5) business days after receipt of such approval, then BRIDGE shall have the unconditional right to immediately withdraw from the Partnership.

15. **ROFR and Option.** If offered by the Limited Partner, BRIDGE shall have a right of first refusal and/or a right to participate in the Option to purchase the Affordable Project or the interests of the Limited Partner at the end of the tax credit compliance period at a purchase of debt plus taxes. The right of first refusal and/or the option to purchase the Affordable Project shall only apply to a separate sale of the Affordable Project and shall not apply in to a sale of the entire Building or to a sale of the Upper Floor Market Rate Project, the Lower Floor Market Rate Project, or the Upper Floor Market Rate Project and the Lower Floor Market Rate Project together.

16. **Standards.** In a manner consistent with applicable law, regulations, and the DDA (as defined in Section 17 below), the units in the Affordable Project shall be provided at the same proportion to the aggregate number of units in the Upper Floor and Lower Floor Market Rate Projects in the mix of unit types (based solely on the number of bedrooms in a unit), and shall occupy no less than 20% of the net area of the residential portion of the Building. The interior features of the units in the Affordable Project shall be equivalent to the units in the Lower Floor Market Rate Project and shall be of good quality and consistent with the current standards for new multifamily rental housing.

17. **Miscellaneous.** This Memorandum shall be governed by California law, without regard to any choice of law principles. The exclusive venue for any dispute hereunder shall be a court of competent jurisdiction in Santa Clara County, California. The terms of this Memorandum are binding and intended to summarize the key Partnership terms but no partnership shall exist unless and until a Partnership Agreement is executed by the parties hereto. This Memorandum shall terminate if that certain Disposition and Development Agreement (“DDA”) by and between The Successor Agency to the
Redevelopment Agency of the City and County of San Francisco ("Successor Agency") and Developer is not approved by the Successor Agency in an official action of the Successor Agency and is not executed by the Successor Agency and Developer on or before December 31, 2014. This Memorandum shall terminate and be of no force and effect if the DDA is terminated by its terms such that Developer is no longer pursuing the Development. This Memorandum shall be superseded by the Partnership Agreement and related documents, and if there is a conflict between this Memorandum and the Partnership or any related document, the Partnership Agreement or such related document shall control. Signatures of the parties transmitted electronically by email or by facsimile.

Sincerely,

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AGREE AND ACCEPTED
This 11 day of December, 2014

BRIDGE Housing Corporation,
a California nonprofit public benefit corporation

By: ________________________________
Cynthia A. Parker, President and Chief Executive Officer