FIRST AMENDMENT TO THE DISBURSEMENT AGREEMENT

OCII Low Moderate Income Housing Fund Balance
(Hunters View)

THIS FIRST AMENDMENT TO THE DISBURSEMENT AGREEMENT ("First Amendment") is entered into as of August 19, 2014 ("Agreement Date"), by and among 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"), HV Partners 2, L.P., a California limited partnership ("Borrower"), and Hunters View Associates, L.P., a California limited partnership ("Master Developer").

RECITALS

A. On April 19, 2011, the Agency and Master Developer entered into that certain Phase II-III Rental Tax Increment Loan Agreement (the "Loan Agreement") pursuant to which Agency agreed to provide up to $31,406,982 to Master Developer (the "Loan") for predevelopment and construction activities for Phases II and III of the Project. In order to implement the enforceable obligations under the Loan Agreement, OCII, Borrower and Master Developer entered into that certain Disbursement Agreement dated January 7, 2014 (the "Disbursement Agreement") to disburse $21,775,220 of the Loan (the "Disbursement Amount") to Borrower for the Phase IIA(1) Project and to set forth the terms and conditions of such disbursement. On January 7, 2014, the Commission on Community Investment and Infrastructure ("Commission") approved the Disbursement Agreement through Resolution No. 3-2014. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Disbursement Agreement.

B. At the time of execution of the Disbursement Agreement, Borrower anticipated needing to expend both predevelopment funds and a portion of the horizontal infrastructure construction funds prior to entering into the Phase IIA(1) Ground Lease for the the Phase IIA(1) Site (defined in the Disbursement Agreement as the "Ground Lease Closing Date") and recording a Memorandum of the Ground Lease, which was expected to occur no later than August 31, 2014, at which time Borrower would execute and record the Deed of Trust and Declaration of Restrictions for the Loan. Typically OCII only allows the disbursement of predevelopment funds, and not construction funding, prior to the recording of the Deed of Trust, Declaration of Restrictions and Memorandum of Ground Lease. In order to ensure that the Project remained on schedule, the Disbursement Agreement allowed OCII to disburse $1,700,000 of the Disbursement Amount prior to Ground Lease Closing Date, with the intention that those funds were related to a portion of the horizontal infrastructure construction. However, disbursement authority should have also been included for predevelopment costs, such as architecture and other soft costs related to the vertical development, as is typical in OCII funded affordable housing projects.

C. Therefore the Developer is seeking an amendment to the Disbursement Agreement to now include spending authority for predevelopment expenses. In addition due to unforeseen delays in obtaining a final legal description for the Phase IIA(1) Site, the Ground Lease Closing
Date is now anticipated to occur by no later than October 31, 2014. In order to avoid demobilizing the horizontal infrastructure construction work, the Developer is seeking to increase the related disbursement authority commensurately.

D. OCII and Borrower now desire to enter into this First Amendment to: (i) extend the permitted outside date for the Ground Lease Closing Date; and (ii) increase the amount of the Disbursement Amount available for disbursement prior to the Ground Lease Closing Date to allow $1,615,300 for predevelopment expenses and $2,049,000 for horizontal infrastructure construction expenses, for a total amount of $3,664,300. The total Disbursement Amount remains unchanged as $21,775,220.

E. On August 19, 2014, the Commission approved this First Amendment through Resolution No. 65-2014.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein and other good and valuable consideration, OCII, Borrower and Master Developer agree as follows:

**AGREEMENT**

1. **Amendments to the Disbursement Agreement**

   (a) The definition of “Ground Lease Closing Date” shall be deleted in its entirety and replaced with the following: “‘Ground Lease Closing Date’ means the date that the Phase IIA(1) Ground Lease is executed by Borrower and SFHA and a Memorandum of the Phase IIA(1) Ground Lease is recorded against the Phase IIA(1) Site.”

   (b) The first sentence of Section 4(a) of the Disbursement Agreement shall be deleted in its entirety and replaced with the following:

   “Borrower must repay all amounts owing under this Agreement on the date that is the fifty seventh (57th) anniversary of the date the Deed of Trust is recorded in the Recorder’s Office of San Francisco County (the "Maturity Date"), provided however that in the event the Phase IIA(1) Ground Lease has not been executed and a Memorandum of the Phase IIA(1) Ground Lease has not been recorded on or prior to October 31, 2014 (the "Acquisition Date"), the Maturity Date shall be the Acquisition Date.”

   (c) The first sentence of Section 5(a) of the Disbursement Agreement shall be deleted and replaced as follows:

   **(a) Pre-Ground Lease Closing Date.** A total of $3,664,300 of the Disbursement Amount is available for disbursement prior to the Ground Lease Closing Date as follows: $1,615,300 is available for
Attachment 1a

predevelopment uses, identified as uses in the Table of Sources and Uses not defined as “Demolition”, “Construction” or “Hard Cost Contingency”, and $2,049,000 is available for horizontal construction uses, identified in the Horizontal Uses of the Table of Sources and Uses as uses related to “Demolition”, “Construction”, or “Hard Cost Contingency”. All disbursements prior to the Ground Lease Closing Date shall be subject to Borrower’s satisfaction of the following conditions precedent:

2. Representations and Warranties.
   (a) All of the representations and warranties made by Borrower and Master Developer to OCII in the Disbursement Agreement and Loan Agreement continue to be true and complete as of the date of this First Amendment.
   (b) No event has occurred and is continuing that constitutes an event of default or potential event of default under the Disbursement Agreement and Loan Agreement.

3. Miscellaneous.
   (a) No reference to this First Amendment is necessary in any instrument or document at any time referring to the Disbursement Agreement. Any reference to such documents shall be deemed a reference to such documents as amended by this First Amendment.
   (b) Except as amended by this First Amendment, the Disbursement Agreement shall remain unmodified and in full force and effect. In the event of any conflict between the terms of the Disbursement Agreement and the provisions of this First Amendment, this First Amendment shall control.
   (c) This First Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.
   (d) The terms, covenants and conditions contained in this First Amendment shall bind and inure to the benefit of Borrower, Master Developer and OCII and, except as otherwise provided herein, their personal representatives and successors and assigns.
   (e) OCII, Master Developer Borrower hereto agree to execute such further instruments and to take such further actions as may be reasonably required to carry out the intent of this First Amendment.
   (f) Nothing contained in this First Amendment, 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 the OCII, Master Developer and/or Borrower or Master Developer’s or Borrower’s agents, employees or contractors.
IN WITNESS WHEREOF, the parties hereto have executed this First Amendment at San Francisco, California as of the date first written above.

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

By: Tiffany Bohee
Executive Director

BORROWER:
HV Partners 2, LP, a California limited partnership

By: JSCo Hunters View 2 LLC, a California limited liability company, its co-general partner

By: John Stewart Company, a California corporation, its managing member

By: Jack D. Gardner
President

APPROVED AS TO FORM:
DENNIS J. HERRERA
City Attorney

By: Evan A. Gross
Deputy City Attorney

By: HUNTERS POINT AFFORDABLE HOUSING, INC., a California nonprofit public benefit corporation, its managing general partner

By: Larry Hollingsworth
President

By: DEVINE & GONG, INC., a California corporation, its co-general partner

By: Richard J. Devine
President
MASTER DEVELOPER:

Hunters View Associates, L.P.,
a California limited partnership

By: JSCo HVA LLC, a California limited liability company, its managing general partner

By: John Stewart Company, a California corporation, its managing member

By: __________________________
    Jack D. Gardner
    President

By: HUNTERS POINT AFFORDABLE HOUSING, INC., a California nonprofit public benefit corporation, its co-general partner

By: __________________________
    Larry Hollingsworth
    President

By: HV MAFANIKIO LLC, a California limited liability company, its co-general partner

By: Devine & Gong, Inc., a California corporation, its managing member

By: __________________________
    Richard J. Devine
    President