LOAN AGREEMENT

By and Between

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

and

Double Rock Ventures, LLC, a California limited liability company

for

Alice Griffith Replacement Projects Phase 1
$21,972,930

Dated as of
July 15, 2014
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>ARTICLE</th>
<th>TITLE</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>DEFINITIONS</td>
<td>5</td>
</tr>
<tr>
<td>2</td>
<td>FUNDING</td>
<td>14</td>
</tr>
<tr>
<td>3</td>
<td>TERMS</td>
<td>14</td>
</tr>
<tr>
<td>4</td>
<td>CLOSING; DISBURSEMENTS</td>
<td>17</td>
</tr>
<tr>
<td>5</td>
<td>DEMOLITION, REHABILITATION OR CONSTRUCTION</td>
<td>21</td>
</tr>
<tr>
<td>6</td>
<td>MARKETING</td>
<td>22</td>
</tr>
<tr>
<td>7</td>
<td>AFFORDABILITY AND OTHER LEASING RESTRICTIONS</td>
<td>24</td>
</tr>
<tr>
<td>8</td>
<td>MAINTENANCE AND MANAGEMENT OF THE PROJECT</td>
<td>26</td>
</tr>
<tr>
<td>9</td>
<td>GOVERNMENTAL REQUIREMENTS</td>
<td>27</td>
</tr>
<tr>
<td>10</td>
<td>PROJECT MONITORING, REPORTS, BOOKS AND RECORDS</td>
<td>27</td>
</tr>
<tr>
<td>11</td>
<td>USE OF INCOME FROM OPERATIONS</td>
<td>29</td>
</tr>
<tr>
<td>12</td>
<td>REQUIRED RESERVES</td>
<td>29</td>
</tr>
<tr>
<td>13</td>
<td>DISTRIBUTIONS</td>
<td>31</td>
</tr>
<tr>
<td>14</td>
<td>SYNDICATION PROCEEDS</td>
<td>32</td>
</tr>
<tr>
<td>15</td>
<td>DEVELOPER FEES</td>
<td>32</td>
</tr>
<tr>
<td>16</td>
<td>TRANSFERS</td>
<td>32</td>
</tr>
<tr>
<td>17</td>
<td>INSURANCE AND BONDS</td>
<td>32</td>
</tr>
<tr>
<td>18</td>
<td>GOVERNMENTAL APPROVALS</td>
<td>33</td>
</tr>
<tr>
<td>19</td>
<td>DEFAULT</td>
<td>33</td>
</tr>
<tr>
<td>20</td>
<td>REPRESENTATIONS AND WARRANTIES</td>
<td>36</td>
</tr>
<tr>
<td>21</td>
<td>NOTICES</td>
<td>37</td>
</tr>
<tr>
<td>22</td>
<td>HAZARDOUS SUBSTANCES</td>
<td>38</td>
</tr>
<tr>
<td>23</td>
<td>INDEMNITY</td>
<td>38</td>
</tr>
<tr>
<td>24</td>
<td>GENERAL PROVISIONS</td>
<td>40</td>
</tr>
</tbody>
</table>
EXHIBITS

A  Schedules of Income and Rent Restrictions
B  Site Description
C-1 Table of Sources and Uses of Funds
C-2 Annual Operating Budget
C-3 20-Year Cash Flow Proforma
D  Form of Promissory Note
E  Bayview Hunters Point Employment and Contracting Policy
F  Contract Compliance Policies
G  Insurance Requirements
H  Lobbying/Debarment Certification Form
I  Form of Annual Monitoring Report
J  Tenant Selection Plan Policy
K  Form of Deed of Trust
L  Form of Declaration of Restrictions
M  Schedule of Performance
N  OCII Monthly Project Update Form
O  Developer Fee Schedule
P  Assignment of Work Product
Q  Consent to Assignment of Work Product
R. Final Financial Plan Confirmation Letter
LOAN AGREEMENT
(Tax Increment Funds)

(Alice Griffith Replacement Projects Phase 1)

THIS LOAN AGREEMENT ("Agreement") is entered into as of July 15, 2014, ("Agreement Date") by and between 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, hereafter referred to as the Office of Community Investment and Infrastructure, ("OCII"), and Double Rock Ventures, LLC, a California limited liability company ("Borrower").

RECITALS

A. In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code, section 33000 et seq. the “CRL”), the former San Francisco Redevelopment Agency ("Former Agency") would undertake programs for the reconstruction and construction to improve blighted areas in the City and County of San Francisco (the “City”).

B. In accordance with the CRL, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Bayview Hunters Point Redevelopment Project Area (the “Project Area”) by Ordinance No. 113-06, adopted on May 16, 2006. In cooperation with the City, OCII is responsible for implementing the Bayview Hunters Point Redevelopment Plan (the “Redevelopment Plan”)

C. Under California State Assembly Bill No. 1X26 (Chapter 5, Statutes of 2011-12, first Extraordinary Session) ("AB 26"), as amended by California State Assembly Bill No. 1484 ("AB 1484") (together the “Dissolution Laws”) the Former Agency dissolved as a matter of law on February 1, 2012. On October 2, 2012 the San Francisco Board of Supervisors, acting as legislative body of OCII as the successor to the Agency, passed Ordinance 215-12, which outlined the rights and responsibilities of OCII as the Agency’s successor agency, including but not limited to certain retained existing enforceable obligations for the development of affordable housing. Accordingly, under Ordinance 215-12 and Dissolution Law, OCII has the obligation and authority to enter into this Agreement to allow for the development of the Alice Griffith Replacement Project as further discussed below in Recital D below.

D. The Hunters Point Shipyard/Candlestick Point Project (the “Shipyard Development”) is one of San Francisco's three critical redevelopment legacy projects that OCII must continue to implement under the Dissolution Law. The Shipyard Development is divided into two related parts, called Phase 1 and Phase 2, each with a separate disposition and development agreement. The disposition and development agreements, together with a number of related binding agreements attached to or referenced in the text of the disposition and development agreement, establish a comprehensive set of enforceable obligations that collectively govern the completion of the Shipyard Development. The disposition and development agreements are binding contractual agreements that provide for the transfer of land from OCII to developers, the developers' and OCII's rights and obligations relating to the construction of specified
improvements, and the financing mechanisms for completing these projects. Phase 1 covers approximately 75 acres and Phase 2 is significantly larger, covering over 700 acres at the Shipyards and at the adjacent Candlestick Point. The Alice Griffith Replacement Project is a key component of Phase 2 of the Shipyards Development. All 256 public housing units currently on site will be replaced (“Public Housing Replacement Units”) and 248 new affordable units (“Additional Affordable Units”) will be added on seven blocks that are a combination of vacant lots and existing Alice Griffith parcels (“Development” or “AG”).

E. In connection with the Candlestick Point and Phase 2 of Hunters Point Shipyards project, the Former Agency and CP Development Co., LP (“CP Dev Co”) entered into a Disposition and Development Agreement (Candlestick Point and Phase 2 of the Hunters Point Shipyards), dated June 3, 2010 (the “DDA”). The DDA includes a Below Market-Rate Housing Plan (“Housing Plan”). The Housing Plan defines the roles and responsibilities of the Former Agency and CP Dev Co regarding the development of up to 10,500 housing units, an important part of which is the revitalization of the Alice Griffith public housing development as a mixed-income, service-enriched community, developed according to the principles of the City’s HOPE SF Program. On December 14, 2012 the California Department of Finance (“DOF”) recognized the DDA as an Enforceable Obligation under the Dissolution Law. The Dissolution Law, in particular California Health and Safety Code Section 34177, provides that OCII is required to (1) perform obligations required pursuant to any Enforceable Obligation, and (2) continue to oversee development of properties until the contracted work has been completed.

F. Based on the requirements of the DDA, McCormack Baron Salazar (“MBS”) was selected by CP Dev Co to be the Alice Griffith Developer based upon their extensive experience revitalizing public housing across the country. Additional development team members include the San Francisco Housing Authority (“SFHA”) and Urban Strategies, Inc., which will be implementing the social services program at AG. The Borrower is the development entity for the overall redevelopment of Alice Griffith Public Housing and is an affiliate of MBS. Each financing phase of development will have a separate development entity affiliate of MBS. The current public housing site is bordered roughly by Hawes, Carroll, and Gilman Streets and vacant land owned by the State Parks Department and OCII (Exhibit B). AG will include the adjacent State and OCII lands and be comprised of Blocks 1, 2, 4, 5, 8, 9, and 14 (as shown in Exhibit B). Block 2 is the subject of this document (the “Site”). Block 2 is “AG Phase 1”.

G. The Below-Market Rate Housing Plan, which is Exhibit E of the DDA, requires that CP Dev Co provide a per unit subsidy to the AG vertical development equal to $90,000 per Public Housing Replacement Unit, and $70,000 per Additional Affordable Unit (“Master Developer Subsidy”). Exhibit E also requires that OCII provide a base subsidy of $62,017,200 in tax increment gap financing to be divided among the five phases based on development needs per phase. For each phase of AG and according to a formula in Exhibit 5, OCII and CP Dev Co will provide the proportion of the contributions described above that is proportionate to that phase.

If after maximizing all available and appropriate sources other than CP Dev Co and OCII, the total development cost (“TDC”) for any phase exceeds the TDC initially projected in the DDA, then the excess of the TDC will be considered a cost overrun (“Cost Overrun”). If there
are Cost Overruns in any phase, then CP Dev Co must cover the proportion of Cost Overruns attributable to the Public Housing Replacement Units and OCII must cover the Cost Overruns attributable to the Additional Affordable Units. OCII is responsible for funding any gaps in projected tax credit equity and/or Affordable Housing Program funds below what was projected at the time the DDA was executed. Conversely, additional funding sources unanticipated at the time of the DDA reduces OCII’s obligation (e.g. the portion of HUD’s CNI Grant described in Recital I for housing development at AG). Therefore, OCII’s base subsidy, once the CNI funds are incorporated into the development budget, is $40,667,200. The respective OCII and Master Developer subsidies must be provided at or prior to the close of construction financing of each phase, pursuant to Section 5.4 (a) and (c) of the Housing Plan in the DDA.

H. The Former Agency and Borrower entered into a Tax Increment Loan Agreement for $3,000,000 for master planning and initial predevelopment work for the first phases of AG on March 29, 2011. Of this loan $1,916,750 was allocated to predevelopment of the first two phases of the AG; in the amount of $958,375 for each Phase I and Phase II. The remaining balance of $1,083,250 has been allocated to site-wide master planning.

I. In August 2011, MBS as lead applicant and SFHA as co-applicant were awarded a U.S. Department of Housing and Urban Development ("HUD") Choice Neighborhoods Initiative Implementation ("CNI") Grant in the amount of $30,500,000, of which $21,500,000 is to be used for housing development at AG. The CNI program supports locally driven strategies to address struggling neighborhoods with distressed public or HUD-assisted housing through a comprehensive approach to neighborhood transformation. Local leaders, residents, and stakeholders, such as public housing authorities, cities, schools, police, business owners, nonprofits, and private developers, come together to create and implement a plan that transforms distressed HUD housing and addresses the challenges in the surrounding neighborhood. The program is designed to catalyze critical improvements in neighborhood assets, including vacant property, housing, services and schools. The CNI funding comes with a variety of deadlines and deliverables, the most important of which is a statutory obligation that grants funds be expended and units delivered by September 2016 for the portion of the funds associated with Phases 1 and 2 and September 2017 for the portion of the funds to be used for Phase 3. Therefore, CNI funds and associated funding deadlines will apply to the first three phases of AG.

J. On September 23, 2013 the Oversight Board of the City and County of San Francisco approved an expenditure of up to $18,310,070 for funding for the Development including the Project (as defined in Recital K below) through Item No. 161 of the Recognized Obligation Payment Schedule for the period of January 1, 2014 through June 30, 2014 (“ROPS 13-14B”), and the Funding Amount consists of a portion of the $7,856,717 in reserves approved by DOF shown on that Item. The reserves for Item 161 consist of funds approved by DOF to be retained through the Low and Moderate Income Housing Funds Due Diligence Reserve for the Alice Griffith Replacement Project. The California Department of Finance provided final approval of the expenditure for Item No. 239 through its letter dated December 17, 2013.

K. Borrower requested funds in the amount of $2,713,863, in predevelopment funding ("Funds or the "Funding Amount") for AG Phase 1 (the "Project"). This amount, combined with $958,375 in predevelopment funds described in Recital H, totals $3,672,238. On December 20,
2013 the Citywide Affordable Housing Loan Committee ("Loan Committee") approved this request for funding and on April 1, 2014, OCII Commission approved the Borrower's request for predevelopment funds for the Project.

M. Borrower has requested additional gap funds in the amount of $18,300,692 for a total aggregate amount not to exceed $21,972,930 ("Funds or the "Funding Amount") for the Project. On May 16, 2014 the Loan Committee approved this request for funding and on June 17, 2014, OCII Commission approved the Borrower's request for gap funds for the Project.

O. The Funding Amount consists of OCII funds and Master Developer Subsidy per the requirements of the Housing Plan in the DDA as described in Recital G above and shown in the following table:

<table>
<thead>
<tr>
<th></th>
<th>OCII</th>
<th>Master Developer Subsidy (&quot;MDS&quot;)</th>
<th>Total Funds Approved/Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Predevelopment (approved April 1, 2014)</td>
<td>$3,672,238</td>
<td>$0</td>
<td>$3,672,238</td>
</tr>
<tr>
<td>Gap (approved June, 17, 2014)</td>
<td>$3,421,679</td>
<td>$14,879,013</td>
<td>$18,300,692</td>
</tr>
<tr>
<td>Total</td>
<td>$7,093,917</td>
<td>$14,879,013</td>
<td>$21,972,930</td>
</tr>
</tbody>
</table>

P. The portion of the OCII and Master Developer subsidies that are a part of the base contribution and the portion attributable to Cost Overruns as required by the DDA for current phase of work and described in Recital G above is shown in the following table:

<table>
<thead>
<tr>
<th>OCII Permanent Sources</th>
<th></th>
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<tbody>
<tr>
<td>OCII Funding Base</td>
<td>$2,743,650</td>
</tr>
<tr>
<td>OCII Funding &quot;Cost Overruns&quot;</td>
<td>$4,350,267</td>
</tr>
<tr>
<td>Total OCII Funding</td>
<td>$7,093,917</td>
</tr>
<tr>
<td>CP DEV CO Funding Base</td>
<td>$7,670,000</td>
</tr>
<tr>
<td>CP DEV CO Funding &quot;Cost Overruns&quot;</td>
<td>$7,209,013</td>
</tr>
<tr>
<td>Total Master Developer Subsidy</td>
<td>$14,879,013</td>
</tr>
<tr>
<td>Total Loan Amount</td>
<td>$21,972,930</td>
</tr>
</tbody>
</table>

Q. Subsequent to the execution of this Agreement and Prior to the Loan Closing Date this Agreement will be assigned to AG Phase 1, L.P., a California limited partnership.

R. Upon completion of the Project, OCII intends to transfer the affordable housing loan obligation, asset, and ground lease to MOHCD as the designated Successor Housing Agency of the City and County of San Francisco under Board Resolution 11-12, as required by Dissolution Law. The transfer will occur subsequent to recordation of the notice of completion and all MOHCD asset management requirements will apply.

S. OCII wishes to make a permanent loan (the "Loan") to Developer in the amount of $21,972,930 in permanent funding for the Project, as described in Recital M, pursuant to the terms of this Agreement.
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.

"Additional Affordable Units" has the meaning set forth in Recital D.

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

"AG Phase 1, L.P." has the meaning set forth in Recital Q.

"Agreement" means this Loan Agreement.

"Agreement Date" means the date first written above.

"Annual Monitoring Report" has the meaning set forth in Section 10.3.

"Annual Operating Budget" means an annual operating budget for the Project attached hereto as Exhibit C-2, which may not be adjusted without the City's prior written approval. The Final Financial Plan for the Project, including the Annual Operating Budget, is subject to approval by the MOHCD Director and the OCII Executive Director, prior to the Loan Closing Date.

"Approved Plans" has the meaning set for in Section 5.2.

"Approved Specifications" has the meaning set forth in Section 5.2.

"Assignment of Work Product" means the assignment of work product executed by Borrower granting OCII a security interest in the Work Product to secure Borrower's performance under this Agreement and the Note prior to the Loan Closing Date, in substantially the form and substance attached hereto as Exhibit P.

"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 the City and evidencing Borrower's authority to execute, deliver and perform the obligations under the OCI Documents to which Borrower is a party or by which it is bound.

"Borrower" means: Double Rock Ventures, LLC, a California limited liability company, and 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 OCI 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.

"CNI" has the meaning set forth in Recital I.

"CNI Loan" means the loan of CNI funds made by MOHCD to Borrower for the Project.

"Completion Date" has the meaning set forth in Section 5.6.

"Compliance Term" has the meaning set forth in Section 3.2.

"Construction Contract" has the meaning set forth in Section 5.2.

"Control of the Site" means Borrower’s acquisition of fee ownership or a leasehold interest in the Site (or a portion thereof).

"Conversion Date" means the date upon which Borrower’s institutional construction financing converts to a permanent phase requiring payments of principal amortized over the remaining term of such loan.

"CP Dev Co" has the meaning set forth on Recital E.
“CRL” has the meaning set forth in Recital A.

“Development” has the meaning set forth in Recital D.

“DDA” has the meaning set forth in Recital E.

“Department of Building Inspection” has the meaning set forth in Section 5.2.

"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.

“Dissolution Law” has the meaning set forth in Recital C.

"Distributions" has the meaning set forth in Section 13.1.

“DOF” has the meaning set forth in Recital E.

"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.


"Escrow Agent" means the escrow agent for the title company issuing the Title Policy.

"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.

"Final Financial Plan" means the Table of Sources and Uses, the Annual Operating Budget and 20 Year Cash Flow as (Exhibits C-1, C-2, and C-3) approved by the MOHCD Director and the OCII Executive Director prior to the Loan Closing Date. Once approved, the attachments reflecting the Final Financial Plan will be attached to this Agreement along with a Final Financial Plan Confirmation Letter (Exhibit R).

"Final Financial Plan Confirmation Letter" means a letter documenting the approved Final Financial Plan and any subsequent adjustments to this document, including interest rate, and will be attached to this Agreement as Exhibit R.

"Former Agency" has the meaning set forth in Recital G.

"Funding Amount" has the meaning set forth in Recital M and in Exhibit C-1. The Final Financial Plan for the Project, including the Funding Amount, is subject to approval by the MOHCD Director and the OCII Executive Director prior to the Loan Closing Date.

"Funds" has the meaning set forth in Recital M means money that has been borrowed from OCII pursuant to the terms of this Agreement.

"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.

"Ground Lease" means the ground lease between Borrower and SFHA to be executed on or before the Loan Closing Date, subject to approval of MOHCD Director and OCII Executive Director.

"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.

"Housing Plan" has the meaning set forth in Recital E.

"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.

"HUD Requirements" means the CNI legal requirements as evidenced by the CNI grant agreement and funding agreement and any associated HUD requirements, Public Housing, Project Based Section 8 and Rental Assistance Demonstration program legal requirements, as applicable.

"Indemnify" means, whenever any provision of this Agreement requires a person or entity (the "Indemnitor") to Indemnify any other entity or person (the "Indemnitee"), that the Indemnitor will be obligated to defend, indemnify and protect and hold harmless the Indemnitee, its officers, employees, agent, constituent partners, and members of its boards and commissions harmless from and against any and all Losses arising directly or indirectly, in whole or in part, out of the act, omission, event, occurrence or condition with respect to which the Indemnitor is required to Indemnify an Indemnitee, whether the act, omission, event, occurrence or condition is caused by the Indemnitor or its agents, employees or contractors, or by any third party or any natural cause, foreseen or unforeseen; provided that no Indemnitor will be obligated to Indemnify any Indemnitee against any Loss arising or resulting from the gross negligence or intentional wrongful acts or omissions of the Indemnitee or its agents, employees or contractors. If a Loss is attributable partially to the grossly negligent or intentionally wrongful acts or omissions of the Indemnitee (or its agents, employees or contractors), the Indemnitor must Indemnify the Indemnitee for that part of the Loss not attributable to its own grossly negligent or intentionally wrongful acts or omissions or those of its agents, employees or contractors.

"Indemnitee" has the specific meaning set forth in Section 23.1 and the general meaning set forth in the definition of "Indemnify."

"Indemnitor" has the meaning set forth in the definition of "Indemnify."

"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 S.

"Loan Closing Date" 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 K.
"Loss" or "Losses" includes any loss, liability, damage, cost, expense or charge and reasonable attorneys' fees and costs, including those incurred in a proceeding in court or by mediation or arbitration, on appeal or in the enforcement of OCII's or the City's rights or in defense of any action in a bankruptcy proceeding.

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

"MBS" has the meaning set forth in Recital F.

"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 principal amount of the Funding Amount.

"Oversight Board" has the meaning set forth in Recital E.

"OCII" means the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, known as the Office of Community Investment and Infrastructure.

"OCII Documents" means this Agreement, the Note, the Assignment of Work Product 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.

"Official Records" has the meaning set forth in Article 3.

"Operating Reserve Account" has the meaning set forth in Section 12.2.

"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.

"Payment Date" means the first June 1st following the Completion Date and each succeeding until the Maturity Date.

"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 K. If indicated by the context, "Project" means the Site and the improvements developed on the Site.

"Project Close-Out" means that all of the following conditions have been met: (1) all Project construction has been completed; (2) the Borrower has submitted all documents, reports and forms as required by this Agreement, including a copy of the 8609 report submitted to TCAC; (3) MOHCD has reviewed and approved Borrower's project completion reports and documents; and (4) The Project has achieved 100% initial lease-up.

"Project Expenses" means the following costs, which may be paid from Project Income in the following order of priority to the extent of available Project Income pursuant to the Annual Operating Budget approved prior to the Loan Closing Date by OCII Executive Director and MOHCD Director as part of the Final Financial Plan: (a) all charges incurred in the operation of the Project for utilities, real estate taxes and assessments and premiums for insurance required under this Agreement or by other lenders providing secured financing for the Project; (b) salaries, wages and any other compensation due and payable to the employees or agents of Borrower employed in connection with the Project, including all related withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments; (c) all other expenses actually incurred to cover operating costs of the Project, including maintenance and repairs and the fee of any managing agent as indicated in the Annual Operating Budget; (d) required deposits, or required replenishment of, the Replacement Reserve Account, Operating Reserve Account and any other reserve account required under this Agreement; (e) annual base rent payments under the Ground Lease in an amount equal to $1; (f) the approved annual asset management fees indicated in the Annual Operating Budget and approved by MOHCD Director and OCII Executive Director as part of the Final Financial Plan prior to the Loan Closing Date; (g) required payments of interest and principal, if any, on any senior financing secured by the Site and used to finance the Project that has been approved by OCII; (h) additional expenses that are HUD requirements, subject to approval by MOHCD Director and OCII Executive Director as part of the Final Financial Plan prior to the Loan Closing Date; and (i) any extraordinary expenses approved in advance by MOHCD (other than expenses paid from any reserve account). Project Fees are not Project Expenses.

"Project Fees" means (i) an annual partnership management fee in the amount of $19,060, increasing by 3% annually, payable to the Borrower's general partner, and (ii) a limited partner investor services fee in the amount of $4,650, increasing annually by 3%, payable to Borrower's limited partners, subject to approval by MOHCD Director and OCII Executive Director as part of the Final Financial Plan prior to the Loan Closing Date.

"Project Income" means all income and receipts in any form received by Borrower from the operation of the Project, including rents, fees, deposits (other than tenant security deposits), any accrued interest disbursed from any reserve account required under this Agreement for a purpose other than that for which the reserve account was established, reimbursements and other charges paid to Borrower in connection with the Project. Interest accruing on any portion of the Funding Amount is not Project Income.

"Project Operating Account" has the meaning set forth in Section 11.1.
"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.

"Qualified Tenant" means a Tenant household, earning no more than the maximum permissible annual income level allowed under this Agreement as set forth in Exhibit A. The term "Qualified Tenant" includes each category of Tenant designated in Exhibit A. Existing AG residents with higher incomes than established here will be accommodated in conformance with the HUD Requirements.

"RAD" means HUD’s Rental Assistance Demonstration Program.

"Rent" means the aggregate annual sum charged to Tenants for rent and utilities in compliance with Article 7, with utility charges to Qualified Tenants limited to an allowance determined by the SFHA.

"Rent Restrictions" means the limitations on Rents set forth in Section 7.3 and Exhibit A.

"Replacement Reserve Account" has the meaning set forth in Section 12.1.

"Retention" has the meaning set forth in Section 4.7.

"Schedule of Performance" means the schedule attached hereto as Exhibit M 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.

"Senior Lien" has the meaning set forth in Section 24.1.

"SFHA" means the San Francisco Housing Authority.

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

"Table" or "Table of Sources and Uses" means a table of sources and uses of funds attached hereto as Exhibit C-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.

"TCAC" means the California Tax Credit Allocation Committee.

"Tenant" means any residential household in the Project.
"Tenant Selection Plan" has the meaning set forth in Section 6.1.

"Title Policy" means an ALTA extended coverage lender's policy of title insurance in form and substance satisfactory to OCII, issued by an insurer selected by Borrower and satisfactory to OCII, together with any endorsements and policies of coinsurance and/or reinsurance required by OCII, in a policy amount equal to the Funding Amount, insuring the Deed of Trust and indicating the Declaration of Restrictions as valid liens on the Site, each subject only to the Permitted Exceptions.

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

**ARTICLE 2  FUNDING.**

2.1 **Funding Amount.** OCII agrees to lend to Borrower a maximum principal amount equal to the Funding Amount in order to finance predevelopment costs associated with the Project. 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.

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 Compliance Term; Declaration of Restrictions. Borrowers, and its assigns, must comply with all provisions of the OCII Documents relating to the use of the Site and the Project, as set forth in the Declaration of Restrictions, and any amended and restated versions of such declaration, to be recorded in the Official Records, for the period commencing on the date a certificate of occupancy for the Project is issued and ending on the fifty-fifth (55th) anniversary of that date (the “Compliance Term”) even if the Loan is repaid or otherwise satisfied, or the Deed of Trust is reconveyed before that date. Notwithstanding anything to the contrary contained herein, Borrower’s obligation to comply with the terms and obligations contained in the OCII documents shall be subject to Borrower’s compliance with all applicable laws, statutes and regulations, including, but not limited to Section 42 of the Internal Revenue Code, the California Revenue and Taxation Code, and TCAC’s regulations.

3.2 Loan Repayment Terms. Interest shall accrue, and repayment of principal and interest shall be paid from Surplus Cash in accordance with Section 3.5, below. Notwithstanding the foregoing, the outstanding principal balance and any accrued but unpaid interest of the Loan will be due and payable on the fifty-seventh (57th) anniversary of the date Deed of Trust is recorded on the leasehold interest in the Official Records (the “Maturity Date”) according to the terms set forth in full in the Note. At least sixty (60) days prior to the Maturity Date, the Borrower may apply to the City for an extension of the Maturity Date. In the event that, as of the date of such request, the Borrower continues to be in compliance with the Loan Documents, the City may, in its discretion, agree to extend the Maturity Date pursuant to a written amendment to the Agreement and permit the Borrower to continue to defer repayment of principal and interest, or may require that the Borrower make amortized payments of principal and interest, depending on factors such as rental payments received from the commercial portion of the Site.

3.3 Interest. The outstanding principal balance of the Loan will bear simple interest at a rate of zero percent (0%) per annum, as provided in the Note. The OCII Executive Director and MOHCD Director may increase the interest rate to a maximum of 3%, should the Projects be able to support it at the time of the close of construction financing.

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 Distribution of Surplus Cash and Repayment of Principal. Each Payment Date of each fiscal year following the Completion Date and the Project’s cost certification, as defined in Section 5.6 below, Borrower shall apply annual Project Income to pay Project Expenses and then to pay Project Fees. Any cash remaining after payment of Project Expenses and Project Fees
shall be deemed Surplus Cash. If the Borrower is found by MOHCD (as such determinations will be made following the issuance of the notice of completion and transfer to MOHCD) to be in compliance with all applicable requirements and agreements, Borrower shall use Surplus Cash to make the following payments:

- Up to one-third (1/3) of remaining Surplus Cash shall be paid to the Borrower as an incentive management fee in an amount not to exceed Five Hundred Dollars ($500) per unit per year, up to a maximum of Fifty Thousand Dollars ($50,000) per year.
- The remaining portion of Surplus Cash, shall be allocated proportionally toward payment of outstanding principal and accrued but unpaid interest on the Loan, and then to payment of outstanding principal and accrued but unpaid interest or on any other debt payable from Surplus Cash, such as the CNI Loan. A portion may also be allocated to SFHA for payment of Ground Rent or SFHA loans to the Project, if any, pursuant to a memorandum of understanding between SFHA and OCII related to the apportionment of surplus cash for the Project or the Development and in conformance with the HUD Requirements.
- The Final Financial Plan for the Project, including the distribution of Surplus Cash, is subject to approval by the MOHCD Director and the OCII Executive Director prior to the Loan Closing Date.

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 predevelopment and construction 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. Examples of significant changes include loss or adjustments (other than regular annual adjustments) in funding under Shelter + Care, Section 8 or similar programs. OCII reserves the right to modify the terms of this Agreement based upon any substantial reductions in Borrower's projected sources or substantial increase in Borrower's uses of all funds for the Project to the extent Borrower has not provided additional Project sources sufficient to cover any reductions or increase in uses, which sources shall be acceptable to the OCII in its reasonable discretion.

3.7 Additional OCII Approvals. Borrower understands and agrees that OCII is entering into this Agreement in its proprietary capacity and not as a regulatory agency with certain police powers. 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 obtain 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, which may include, without limitation, the San Francisco City Planning Commission and the San Francisco Board of Supervisors. 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.

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.

4.2 Closing. In the event Borrower does not satisfy all of the conditions to Loan closing contained in Section 4.3 (b) within twenty-four (24) months of the date of this Agreement, 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 will authorize Loan closing upon satisfaction of the following conditions:

(i) Borrower shall have obtained the following Project financing, all on terms and in amounts acceptable to Borrower and OCII pursuant to Section 4.5 (a)(iv): (1) Borrower shall receive a loan or loans for Project development costs, made from the proceeds of the sale of tax-exempt bonds allocated to to the issuer by the California Debt Limit Allocation Committee; (2) Borrower shall receive an allocation of four percent (4%) federal low income housing tax credits by TCAC pursuant to Section 42 of the Internal Revenue Code of 1986, as amended; (3) Borrower shall obtain an equity investment in the Project from a tax credit investor; and (4) Borrower shall obtain additional Project financing from any other required lenders (collectively, the “Project Financing”);
(ii) the lenders and investors associated with the Project Financing are unconditionally prepared to close and fund their financing; and

(iii) Borrower shall have executed the Ground Lease and (subject to such limitations or reservations as may be referenced in the Ground Lease) accepted the condition of the Site.

(b) OCII will authorize the Loan closing upon satisfaction of the following conditions:

(i) 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) including the Deed of Trust and Declaration of Restrictions; (iii) an opinion of Borrower’s counsel in form and substance reasonably acceptable to OCII; (iv) the Authorizing Resolutions; and (v) any other OCII Documents reasonably requested by OCII.

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

(iii) Borrower must have delivered to OCII insurance endorsements and, if requested by OCII, copies of policies for all insurance required under Exhibit G of this Agreement.

(iv) Borrower must submit a complete services plan and budget which has been approved by the OCII or MOHCD.

(c) As a condition of Loan closing, OCII must be in receipt of the Master Developer Subsidy, which is included in the Funding Amount, pursuant to Section 5.4 (a) and (c) of the Below Market Rate Housing Plan component of the DDA with CP Dev Co which states that the Master Developer Subsidy must be provided “on the date of the closing of the construction loan” for the applicable phase. After the Loan Closing Date, OCII shall be responsible for advancing the full Funding Amount (including amounts derived from or calculated by reference to the Master Developer Subsidy) as and when due to Borrower pursuant to the terms of this Agreement and expressly agrees that the Borrower will not, after such time, bear any risk associated with the timing or amount of Master Developer Subsidy available to OCII.

(d) “Commencement of Vertical Construction” conditions have been met per Section 8 of the DDA.

4.4 Disbursement of Funds. Following satisfaction of the conditions in Section 4.3, OCII will authorize the Escrow Agent to disburse Funds as provided in OCII’s escrow instructions.

4.5 Disbursements.
(a) The Funding Amount is available for disbursement on or after the Loan Closing Date. OCII’s obligation to approve the expenditure of Funds on or after the Loan Closing Date is subject to Borrower’s satisfaction of the following conditions precedent:

(i) 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: (i) 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 Executive Director or his/her designee; and (ii) 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.

(ii) 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.

(iii) 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 F, Section 1, if applicable.

(iv) Borrower must have complied with the following loan conditions, as required by the Citywide Affordable Housing Loan Committee through its approval of the Project’s Loan Evaluation on May 16, 2014 Loan Evaluation which include:

1. OCII and MOHCD must review and approve the investor and lender Requests for Proposals for the Project. Borrower must allow OCII staff and MOHCD staff and its financial advisor, with borrower participation in such communication, to communicate directly with prospective and selected lenders/investors.

2. If Affordable Housing Program funds are awarded to either or both of the first two phases of Alice Griffith, they will reduce the Cost Overrun calculation, thereby reducing the OCII loan. If Affordable Housing Program funds are not awarded, Borrower will continue to apply until awarded or until the funds can no longer be used during the construction period.

3. Borrower will collaborate with OCII/MOHCD staff to determine the most appropriate financial plan for the Project that conforms to the DDA, MOHCD Underwriting Guidelines, CNI and applicable HUD regulations, and HOPE SF principles.
4. Borrower will continue to explore options to address the early negative cash flow occurrences while maximizing any opportunities to leverage permanent debt for Phase 1 and Phase 2 without jeopardizing project stability. At a minimum, the existing cash flow must be supplemented with Project-Based Vouchers (PBVs), as made available by HUD and SFHA, and such PBV income should be at a level to permit permanent debt. The Final Financial Plan is subject to approval by OCII Director and MOHCD Executive Director, prior to the Loan Closing Date.

5. Borrower must provide justification of the increase from the per unit cost that was presented and approved by the Loan Committee on December 20, 2013, to the Developer’s current request. Developer must work closely with OCII staff to reduce per unit cost. Per MOHCD Underwriting Guidelines, the current 5% design/bid contingency included in the development budget will be eliminated once construction bids have been received.

6. The addition of any infrastructure sources and uses to the project development budgets must be approved by OCII Executive Director and MOHCD Director prior to the Loan Closing Date. If this addition results in added funding from CP Dev Co that will be paid to OCII and loaned to the Projects, that increased loan amount or additional loan must be approved by Loan Committee and the OCII Commission. Under no circumstances will OCII provide funds, other than those provided by CP Dev Co, to the Projects to be used on infrastructure construction or soft costs.

(b) OCII shall either approve or disapprove such Expenditure Request within 10 business days of receipt. In the event OCII disapproves an Expenditure Request OCII shall provide written notice thereof to Borrower specifying the reason for such disapproval. OCII shall fund all approved expenditure requests in a timely manner.

4.6 Schedule of Performance. Borrower must perform in accordance with the Schedule of Performance (Exhibit M). 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.

4.7 Retention. In addition to the other conditions to Disbursements, Borrower acknowledges that the amount of hard costs or tenant improvements costs included in any Expenditure Request associated with rehabilitation or construction, when added to previously approved costs, may not exceed ninety percent (90%) of the approved budgeted costs on a line item basis. OCII will retain the remaining ten percent (10%) of hard costs or tenant improvement costs associated with rehabilitation or construction (the "Retention"). Borrower may request disbursement of the aggregate amount of the Retention only upon satisfaction of each of the following conditions, unless otherwise approved in writing by OCII: (a) completion of rehabilitation or construction of the Project in accordance with the plans and specifications approved by OCII, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect’s or engineer’s certificate of completion; (b) timely recordation of a notice of completion; and (c) either
expiration of the lien period and the absence of any unreleased mechanics' liens or stop notices or recordation of the lien releases of all contractors, subcontractors and suppliers who provided labor or materials for the Project. OCII shall not retain any Retention for disbursements of the Predevelopment Loan.

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 DEMOLITION, REHABILITATION OR CONSTRUCTION.

5.1 Selection Requirements. In the selection of all contractors and professional consultants for the Project, Borrower must comply with OCII’s procurement requirements and procedures.

5.2 Plans and Specifications. Before starting any demolition, rehabilitation or construction on the Site, Borrower must have delivered to OCII, and OCII must have reviewed and approved plans and specifications and the construction contract for the Project entered into between Borrower and Borrower’s general contractor and approved by OCII (the “Construction Contract”). The plans approved by OCII must also be approved by the City and County of San Francisco’s Department of Building Inspection (the “Department of Building Inspection”) (collectively, the “Approved Plans”) prior to the start of any demolition, rehabilitation or construction on the Site. The Approved Plans must be explicitly identified in the Construction Contract. The specifications approved by OCII, including the funder requirements and the technical specifications (the “Approved Specifications”) must also be explicitly identified in the Construction Contract. The Construction Contract may include funder requirements not otherwise addressed in the Approved Specifications. After completion of the Project, Borrower must retain the Approved Plans as well as "as-built" plans for the Project, the Approved Specifications and the Construction Contract, all of which Borrower must make available to OCII upon request.

5.3 Change Orders. Borrower may not approve or permit any change orders to the plans and specifications approved by OCII without OCII’s prior written consent. Borrower acknowledges that OCII’s approval of any change order will not constitute an agreement to amend the Table of Sources and Uses or to provide additional Funds for the Project, unless OCII agrees in its sole discretion to amend the Table of Sources and Uses or provide additional Funds for that purpose. OCII shall endeavor to provide written approval or disapproval of each change order within fifteen (15) business days of receipt for request therefor, and within five (5) business days for items that impact the critical path of the Schedule of Performance.

5.4 Insurance, Bonds and Security. Before starting any demolition, rehabilitation or construction on the Site, Borrower must deliver to OCII insurance endorsements and bonds as
described in Exhibit G. At all times, Borrower must take prudent measures to ensure the security of the Site.

5.5 Notice to Proceed. No demolition, rehabilitation or construction may commence until Borrower has issued a written notice to proceed with OCII's approval.

5.6 Commencement and Completion of Project. Unless otherwise extended in writing by OCII, Borrower must: (a) commence construction within 2 weeks of the Loan Closing Date (b) complete demolition, rehabilitation or construction by December 31, 2016 (the "Completion Date"), in substantial accordance with the plans and specifications approved by OCII, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect's or engineer's certificate of completion; and (c) achieve occupancy of Ninety Five percent (95%) of the Units by March 1, 2017.

5.7 Construction Standards. All construction must be performed in a first class manner, substantially in accordance with final plans and specifications approved by OCII and in accordance with all applicable codes.

ARTICLE 6 MARKETING PLAN AND TENANT SELECTION PLAN

6.1. The requirements in this Article 6 apply to all units in the Project except for the Public Housing Replacement Units. By the Loan Closing Date, Borrower must deliver to OCII for OCII's and MOHCD's review and approval a draft affirmative marketing plan for initial and ongoing marketing of the Units (the “Marketing Plan”) and a written Tenant selection procedure for initial and ongoing renting of the Units (the “Tenant Selection Plan”), all in compliance with the restrictions set forth in Exhibit A and in form and substance acceptable to OCII. Borrower must obtain OCII’s approval of reasonable alterations to the Marketing Plan or the Tenant Selection Plan. Borrower must market and rent the Units in the manner set forth in the Marketing Plan and the Tenant Selection Plan (both of which plans must included the preference requirement for Alice Griffith residents both as approved by OCII). Before marketing any Units, Borrower must provide OCII with updated implementation and contact information.

6.2 Affirmative Marketing Plan Requirements. Borrower's Marketing Plan must address how Borrower intends to market vacant Units and any opportunity for placement on the Waiting List, as defined in 6.3. The Marketing Plan shall include as many of the following elements as are appropriate to the Project, as determined by OCII and consistent with OCII and MOHCD policies and procedures related to marketing of affordable units, and shall include Borrower’s plan to provide assistance to applicants throughout the marketing process:

(a) First preference, in the following priority order, for: (1) residents of the Alice Griffith housing development per the HUD Requirements, and as required in the Redevelopment Plan for the Bayview Hunters Point Redevelopment Area adopted on August 3, 2010; (2) Hunters Point Certificate of Preference Holders (“COP”); (3) Western Addition Certificate of Preference Holders, (4) rent burdened or assisted housing residents, defined as persons paying more than fifty percent (50%) of their income for housing, or persons residing in
public housing or Project-Based Section 8 housing; (5) San Francisco residents and (6) members of the general public. Borrower must incorporate a priority for Ellis Act Housing Preference ("EAHP") certificate holders in conformance with both priorities listed above and the policies established for EAHP Program as applicable beginning on the date that Commission adopts EAHP as OCII policy.

(b) Specifically for COP certificate holders, the Borrower shall make support services staff available to provide assistance throughout the application process, as it may be needed, with the goal of maximizing COP participation to the extent possible. The Borrower shall ensure that COP holders are aware that such assistance is available. This requirement will also apply to EAHP certificate holders beginning on the date that Commission adopts EAHP as OCII policy.

(c) A reasonable accommodations policy that indicates how Borrower intends to market Units to disabled individuals, including an indication of the types of accessible Units in the Project, the procedure for applying, and a policy giving disabled individuals a priority in the occupancy of accessible Units.

(d) Advertising in local neighborhood newspapers, community-oriented radio stations, on the internet and in other media that are likely to reach low-income households. All advertising must display the Equal Housing Opportunity logo.

(d) Notices to neighborhood-based, nonprofit housing corporations and other low-income housing advocacy organizations that maintain waiting lists or make referrals for below-market-rate housing.

(e) Notices to SFHA.

(f) Notices to MOHCD.

(g) To the extent practicable, without holding Units off the market, the community outreach efforts listed above must take place before advertising vacant Units or open spots on the Waiting List to the general public.

(h) An acknowledgement that, with respect to vacant Units, the marketing elements listed above shall only be implemented if there are no qualified applicants interested or available from the Waiting List.

6.3 Tenant Selection Plan Requirements: Borrower’s Tenant Selection Plan shall comply with the requirements of the Tenant Selection Plan Policy as set forth in the attached Exhibit J. The Tenant Selection Plan must be kept on file at the Project at all times. Minimum income requirements shall not be more restrictive than requiring a minimum income that is two times the rent, and must include tenant based rent subsidies as income. Additionally ability to pay rent based on rental history of paying a similar or higher rent or other demonstrable methods of rent payment such as participation in money management shall be considered mitigating circumstances related to minimum income and must be evaluated prior to denial of housing.
6.4 Marketing Records. Borrower must keep records of: (a) activities implementing the affirmative marketing plan; (b) advertisements; and (c) other community outreach efforts.

6.5 Waiting List. Borrower's Tenant Selection Plan must contain, at a minimum, policies and criteria that provide for the selection of tenants from a written waiting list in the chronological order of their application (the "Waiting List"). The Tenant Selection Plan may allow an applicant to refuse an available Unit for good cause without losing standing on the Waiting List but shall limit the number of refusals without cause as approved by OCII. Borrower shall at all times maintain the Waiting List. Upon the vacancy of any Unit, Borrower shall first attempt to select the new Tenant for such Unit from the Waiting List, and shall only market the Unit to the general public after determining that no applicants from the Waiting List qualify for such Unit. The Waiting List must be kept on file at the Project at all times.

ARTICLE 7
AFFORDABILITY AND OTHER LEASING RESTRICTIONS.

7.1 Term of Leasing Restrictions. Borrower acknowledges and agrees that the covenants and other leasing restrictions set forth in this Article will remain in full force and effect: (a) for the Compliance Term and survive the prior repayment or other satisfaction of the Loan, termination of this Agreement or reconveyance of the Deed of Trust; (b) for any Unit that has been subject to a regulatory agreement with TCAC, for a period ending three (3) years after the date of any transfer of the Project by foreclosure or deed-in-lieu of foreclosure; and (c) with respect to any Unit occupied by a Qualified Tenant at expiration of either the Compliance Term or the 3-year period referred to in Subsection (b) above, until the Qualified Tenant voluntarily vacates his/her Unit or is evicted lawfully for just cause. If applicable, the requirements to comply with the provisions of Internal Revenue Code Section 42, including Section 42(h)(6)(E)(ii), are hereby acknowledged.

7.2 Borrower's Covenant.

(a) Borrower covenants to rent all Units (except one Unit reserved for the manager of the Project) at all times to households certified as Qualified Tenants at initial occupancy, as set forth in Exhibit A.

(b) A Tenant who is a Qualified Tenant at initial occupancy may not be required to vacate the Unit due to subsequent rises in household income, except as provided in Section 7.3. After the over-income Tenant vacates the Unit, the vacant Unit must be rented only to Qualified Tenants as provided in Section 7.1.

7.3 Rent Restrictions.

(a) Maximum Rent charged to each Qualified Tenant may not exceed the amounts set forth in Exhibit A; provided that maximum Rent for Qualified Tenants for Units for
which Section 8 assistance is available is the fair market rent established by SFHA and HUD or other Governmental Agency with jurisdiction over the rental subsidy program.

(b) Unless prohibited under any applicable Law or the rules and regulations governing any Project funding source, each residential lease must provide for termination of the lease upon 120 days' prior written notice in the event that Borrower's annual income certification indicates that the Tenant's household income exceeds 120 percent of Median Income.

(c) Subject to Section 7.3(d), annual Rent increases for Units will be limited as follows:

(i) for all other Units, except as permitted under Sections 7.3(c)(ii) and 7.3(d) below, annual Rent increases will be limited to the lesser of: (A) the amount which would result in a rent equal to the maximum rent permitted for the unit under Section 7.3(a), or (B) the amount which corresponds to the percentage of the annual increase in Median Income published by HUD; and,

(ii) for Units occupied by over-income Tenants, rent charged may not exceed thirty percent (30%) of the over-income Tenant's adjusted household income.

(d) With the OCII's prior written approval and in accordance with maximum rent limitations set forth in Section 7.3(a) and all applicable restrictions, Rent increases for Units exceeding the amounts permitted under Section 7.3(c)(ii) will be permitted in order to recover increases in Project Expenses, but in no event may single or aggregate increases exceed ten percent (10%) per year, unless such an increase is contemplated in a OCII-approved temporary relocation plan or when the increase is caused by an increase in certified income. OCII approval for such rent increases that are necessary to meet all approved Project Expenses and financial obligations shall not be unreasonably withheld.

7.4 Certification.

(a) As a condition to initial occupancy, each person who desires to be a Qualified Tenant in the Project must be required to sign and deliver to Borrower a certification in the form shown in Exhibit E in which the prospective Qualified Tenant certifies that he/she or his/her household qualifies as a Qualified Tenant. In addition, each person must be required to provide any other information, documents or certifications deemed necessary by OCII to substantiate the prospective Tenant's income.

(b) Each Qualified Tenant in the Project must recertify to Borrower on an annual basis his/her household income.

(c) Income certifications with respect to each Qualified Tenant who resides in a Unit or resided therein during the immediately preceding calendar year must be maintained on file at Borrower's principal office, and Borrower must file or cause to be filed copies thereof with the OCII promptly upon request by the OCII.
7.5 **Form of Lease.** The form of lease for Tenants must provide for termination of the lease and consent to immediate eviction for failure to qualify as a Qualified Tenant if the Tenant has made any material misrepresentation in the initial income certification. The term of the lease must be for a period of not less than one (1) year. Borrower may not terminate the tenancy or refuse to renew any lease of a Unit except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Laws or other good cause. Any termination or refusal to renew the lease for a Unit must be preceded by not less than thirty (30) days' written notice to the Tenant specifying the grounds for the action. The form of lease for any Unit that has received an allocation of tax credits must provide that the Tenant agrees that the lease may be terminated upon 120 days' notice if the Tenant's certified household income exceeds 120 percent of Median Income and must specify that it may only be terminated in accordance with the requirements of Section 42 of the Internal Revenue Code.

7.6 **Nondiscrimination.** Borrower agrees not to discriminate against or permit discrimination against any person or group of persons because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability, gender identity, height, weight, source of income or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC) in the operation and use of the Project except to the extent permitted by law or required by any other funding source for the Project. Borrower agrees not to discriminate against or permit discrimination against Tenants using Section 8 certificates or vouchers or assistance through other rental subsidy programs.

7.7 **Security Deposits.** Security deposits may be required of Tenants only in accordance with applicable state law and this Agreement. Any security deposits collected must be segregated from all other funds of the Project in an Account held in trust for the benefit of the Tenants and disbursed in accordance with California law. The balance in the trust Account must at all times equal or exceed the aggregate of all security deposits collected plus accrued interest thereon, less any security deposits returned to Tenants.

**ARTICLE 8 MAINTENANCE AND MANAGEMENT OF THE PROJECT.**

8.1 **Borrower's Responsibilities.**

(a) Subject to the rights set forth in Section 8.2, Borrower will be specifically and solely responsible for causing all maintenance, repair and management functions performed in connection with the Project, including selection of tenants, recertification of income and household size, evictions, collection of rents, routine and extraordinary repairs and replacement of capital items. Borrower must maintain or cause to be maintained the Project, including the Units and common areas, in a safe and sanitary manner in accordance with local health, building and housing codes, California Health and Safety Code 17920.10 and the applicable provisions of 24 CFR Part 35.
8.2 Contracting With Management Agent.

(a) Borrower may contract or permit contracting with a management agent for the performance of the services or duties required in Section 8.1(a), subject to OCII prior written approval of both the management agent and, at OCII discretion, the management contract between Borrower and the management agent, provided, however, that the arrangement will not relieve Borrower of responsibility for performance of those duties. Any management contract must contain a provision allowing Borrower to terminate the contract without penalty upon no more than thirty (30) days' notice. OCII hereby approves McCormack Baron Ragan as the management agent for the Project.

(b) OCII will provide written notice to Borrower of any determination that the contractor performing the functions required in Section 8.1(a) has failed to operate and manage the Project in accordance with this Agreement. If the contractor has not cured the failure within a reasonable time period, as determined by OCII, Borrower must exercise its right of termination immediately and make immediate arrangements for continuous and continuing performance of the functions required in Section 8.1(a), subject to OCII approval.

8.3 Borrower Management. Borrower may manage the Project itself only with the City's prior written approval. OCII will provide written notice to Borrower of any determination that Borrower has failed to operate and manage the Project in accordance with this Agreement, in which case, OCII may require Borrower to contract or cause contracting with a management agent to operate the Project, or to make other arrangements OCII deems necessary to ensure performance of the functions required in Section 8.1(a).

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, and those requirements set forth in Exhibit F. Borrower acknowledges that its failure to comply with any of these requirements will constitute an Event of Default under this Agreement. Subject to Section 23.1, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

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 acknowledges that, if and after Borrower acquires Control of the Site, OCII may also conduct periodic on-site inspections of the Project provided access to the interior of any residential unit is preceded by no less than 48 hours' prior notice. 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.

(c) Borrower must provide written notice of the replacement of: the member or manager of its administrative general partner or the executive director, director of housing development, director of property management and/or any equivalent position within the sole member of the managing general partner, within thirty (30) days after the effective date of such replacement.

10.2 Monthly Reporting. Commencing upon the Loan Closing Date, 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 N through submission of Forms 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 Capital Needs Assessment. Borrower must deliver to OCII or the City an updated CNA ten years after the Completion Date and every five (5) years thereafter for approval. The updated CNA must include an analysis of Borrower's actual expenditures for capital needs compared to the most recently approved CNA, Borrower's 20-Year Proforma (Exhibit C-3) and initial Annual Operating Budget (Exhibit C-2) and its then-current Annual Operating Budget.

10.5 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 previously prepared 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.

10.6 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 this Agreement or any other OCII Document, Borrower agrees that duly authorized representatives of OCII (which shall include but not be limited to 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.

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

ARTICLE 11 USE OF INCOME FROM OPERATIONS.

11.1 Project Operating Account.

(a) Borrower must deposit all Project Income promptly after receipt into a segregated depository account (the "Project Operating Account") established exclusively for the Project. Withdrawals from the Project Operating Account may be made only in accordance with the provisions of this Agreement and the approved Annual Operating Budget, as it may be revised from time to time with the OCII's approval. Borrower may make withdrawals from the Project Operating Account solely for the payment of Project Expenses and Project Fees and payments and distributions of Surplus Cash in accordance with Section 3.5. Withdrawals from the Project Operating Account (including accrued interest) for any other purposes may be made only with the OCII's express prior written approval.

(b) Borrower must keep accurate records indicating the amount of Project Income deposited into and withdrawn from the Project Operating Account and the use of Project Income. Borrower must provide copies of the records to the OCII upon request.

ARTICLE 12 REQUIRED RESERVES.

12.1 Replacement Reserve Account.

(a) Commencing no later than sixty (60) days after the Completion, or any other date the OCII designates in writing, Borrower must establish or cause to be established a segregated interest-bearing replacement reserve depository account (the "Replacement Reserve Account"). On or before the 15th day of each month following establishment of the Replacement Reserve Account, Borrower must make monthly deposits from Project Income into the Replacement Reserve Account in the amount necessary to meet the requirements of this Section.
The OCII may review the adequacy of deposits to the Replacement Reserve Account periodically and require adjustments as it deems necessary, which shall not be unreasonably withheld.

(b) Monthly deposits must equal one-twelfth of the sum of $400 per unit, per year in accordance with MOHCD requirements.

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(c) Borrower may withdraw funds from the Replacement Reserve Account solely to fund capital improvements for the Project, such as replacing or repairing structural elements, furniture, fixtures or equipment of the Project that are reasonably required to preserve the Project. Borrower may not withdraw funds (including any accrued interest) from the Replacement Reserve Account for any other purpose without the MOHCD’s prior written approval.

12.2 Operating Reserve Account.

(a) Upon the later to occur of: (x) Borrower’s tax credit equity investor’s capital contribution made in connection with conversion of the Project’s senior debt from construction to permanent debt, or (y) sixty (60) days after the Completion Date, Borrower must establish or cause to be established a segregated interest-bearing operating reserve depository account (the "Operating Reserve Account") by depositing funds in an amount equal to $228,000 or such greater amount as is required by the senior lender or borrower’s investor limited partner and as approved by OCII and MOHCD. OCII may review the adequacy of deposits to the Operating Reserve Account periodically and require adjustments as it deems necessary.

(b) No less than annually after establishing the Operating Reserve Account and continuing until the Compliance Term has expired, Borrower must make additional deposits, if necessary, to bring the balance in the Operating Reserve Account to an amount equal to 25% of the prior year’s operating expenses, or such other amount as approved by MOHCD Director and OCII Executive Director as part of the Final Financial Plan prior to the Loan Closing Date. Such additional deposits shall be made from available Surplus Cash.

(c) Borrower may withdraw funds from the Operating Reserve Account solely to alleviate cash shortages resulting from unanticipated and unusually high maintenance expenses, seasonal fluctuations in utility costs, abnormally high vacancies, other expenses that vary seasonally or from month to month in the Project and reductions in operating subsidy. Borrower may not withdraw funds (including any accrued interest) from the Operating Reserve Account for any other purpose without the OCII’s prior written approval.
ARTICLE 13 DISTRIBUTIONS.

13.1 Definition. "Distributions" refers to cash or other benefits received as Project Income from the operation of the Project and available to be distributed to Borrower, its general partners or any party having a beneficial interest in the Project as Surplus Cash, but does not include reasonable payments for property management, asset management, partnership management or other services performed in connection with the Project.

13.2 Conditions to Distributions. The 20-Year Cash Flow Proforma attached hereto as Exhibit C-3 includes projections of annual Distributions of Surplus Cash. Exhibit C-3 is not intended to impose limits on the amounts to be annually distributed. Distributions for a particular fiscal year may be made only following: (a) OCII approval of the Annual Monitoring Report submitted for that year; (b) the OCII’s determination that Borrower is not in default under this Agreement or any other agreement entered into with the City and County of San Francisco or the OCII for the Project; and (c) the OCII’s determination that the amount of the proposed Distribution satisfies the conditions of this Agreement, including, but not limited to Section 3.5. OCII will be deemed to have approved Borrower's written request for approval of a proposed Distribution unless OCII delivers its disapproval or request for more information to Borrower within thirty (30) business days after the City's receipt of the request for approval.

13.3 Prohibited Distributions. No Distribution may be made in the following circumstances:

(a) when a written notice of default has been issued to Borrower by any entity with an equitable or beneficial interest in the Project and the default is not cured within the applicable cure periods; or

(b) when OCII determines that Borrower or Borrower's management agent has failed to comply with this Agreement and such failure has not been remedied; or

(c) if required debt service on all loans secured by the Project and all operating expenses have not been paid current; or

(d) if the Replacement Reserve Account, Operating Reserve Account or any other reserve account required for the Project is not fully funded under this Agreement; or

(e) if the Loan is to be repaid from Surplus Cash, Borrower failed to make a payment when due on a Payment Date and the sum remains unpaid; or

(f) during the pendency of an uncured Event of Default (including Borrower’s failure to provide its own funds at any time OCII determines the Loan is out of balance) under any OCII Document.

13.4 Distributions of Surplus Cash. Distributions of Surplus Cash shall be made in accordance with Section 3.5.
ARTICLE 14  SYNDICATION PROCEEDS.

14.1  Distribution and Use. If Borrower is a limited partnership or limited liability company, and unless otherwise approved by OCII in writing, Borrower must allocate, distribute and pay or cause to be allocated, distributed and paid all net syndication proceeds and all loan and grant funds as specified in the Table. Borrower must notify OCII of the receipt and disposition of any net syndication proceeds received by Borrower during the term of this Agreement.

ARTICLE 15  DEVELOPER FEES.

15.1  Amount. OCII has approved the payment of fees in an amount not to exceed One Million Five Hundred Thousand and No/100 Dollars ($1,500,000.00) to Developer for the predevelopment and construction periods of the Project with One Million and No/100 Dollars ($1,000,000.00) to be paid in accordance with the Developer Fee Schedule attached hereto as Exhibit O, with Five Hundred Thousand and No/100 Dollars ($500,000.00) to be used to cover Project costs, and an additional One Million and No/100 Dollars ($1,000,000.00) that is at-risk for costs exceeding the Final Financial Plan and any remaining amount will be available at the Project Close Out for an aggregate of Two Million Five Hundred Thousand and No/100 Dollars ($2,500,000.00) ("Developer Fees").

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, or (c) leases or occupancy agreements to occupants of residential units. Any other transfer, assignment, encumbrance or lease without OCII's prior written consent 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. Commencing on the date hereof, Borrower must obtain and maintain, or cause to be obtained and maintained, insurance and bonds as set forth in Exhibit G 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. Subject to Section 23.1, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

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) On or after the Loan Closing Date, any lien is recorded against all or any part of the Site or the Project without OCII's prior written consent, whether prior or subordinate to the lien of the Deed of Trust or Declaration of Restrictions, and the lien is not removed from title or otherwise remedied to the OCII's satisfaction within 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 the City, provided that Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion; 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) All or a substantial or material portion of the improvements on the Site is damaged or destroyed by fire or other casualty, and OCII has determined upon restoration or repair that the security of the Deed of Trust has been impaired or that the repair, restoration or replacement of the improvements in accordance with the requirements of the Deed of Trust is not economically practicable or is not completed within two (2) years of the receipt of insurance proceeds; or all or a substantial or material portion of the improvements is condemned, seized or appropriated by any non-City Governmental Agency or subject to any action or other proceeding instituted by any non-City Governmental Agency for any purpose with the result that the improvements cannot be operated for their intended purpose provided, however, that Borrower
shall not be deemed in default pursuant to this Section 19.1(e) so long as it is acting in compliance with applicable HUD Requirements and has provided OCI sixty (60) days notice of such action; 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 OCI's prior written consent as required under the terms of this Agreement, Borrower assigns or attempts to assign any rights or interest under any OCI Document, whether voluntarily or involuntarily, except as permitted under Section 16.1; or

(h) Without OCI'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 OCI's prior written consent, Borrower transfers, or authorizes the transfer of, funds in any Account required or authorized under this Agreement; or

(j) Either the Deed of Trust or the Declaration of Restrictions ceases to constitute a valid and indefeasible perfected lien on the Site and improvements, subject only to Permitted Exceptions; 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 ninety (90) 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 undischarged and unstayed for more than ninety (90) 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 ninety (90) days after its issue or levy; or

(l) Any material adverse change that occurs in the financial condition or operations of Borrower, such as a loss of services funding or rental subsidies, that has a material adverse impact on the Project such that absent intervention an Event of Default (other than under this Section 19.1(l)) is likely to occur and Borrower has not, within 90 days of the material
adverse change, remedied the situation or presented to OCII a plan that in OCII’s reasonable judgment is likely to remedy the situation; or

(m) Borrower fails to make any payments or disbursements required to bring the Loan in balance after OCII determines that the Loan is out of balance; or

(n) On or after the Loan Closing Date and before a certificate of occupancy is issued for the Project, Borrower ceases rehabilitation or construction of the Project for a period of fifteen (15) consecutive working days, and the cessation is not excused under Section 19.3 or such cessation of construction or rehabilitation shall have been caused by a delay in issuance of an addendum to Borrower’s building permit by the City of San Francisco, which delay is not caused directly or indirectly by Borrower’s actions or inactions; 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, 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 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:

(a) OCII at its option 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 at its option 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, either directly or through an agent or court-appointed receiver, may take possession of the Project and enter into contracts and take any other action OCII deems appropriate to complete or construct all or any part of the improvements, subject to modifications and changes in the Project OCII deems appropriate.
(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.

19.3 Force Majeure. The occurrence of any of the following events will excuse performance of any obligations of OCII or Borrower rendered impossible to perform while the event continues: 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) To the best of Borrower's knowledge after due inquiry, No action, suit or proceeding is pending or 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, to the best of Borrower's knowledge after due inquiry, 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, to the best of Borrower's knowledge after due inquiry, its general contractor been suspended, disciplined or prohibited from contracting with any Governmental Agency.

(f) The Loan is in balance, and the Funding Amount, together with all other committed sources of financing for the Project, are sufficient to complete the Project in accordance with this Agreement.

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

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, overnight delivery service, facsimile (if followed within one (1) business day by first class mail) or by United States certified mail, postage prepaid, return receipt requested. 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

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

To Borrower: McCormack Baron Salazar, Inc.  
720 Olive Street, Suite 2500  
St. Louis, MO  63101  
Attn: Hillary Zimmerman

With a copy to: Klein Hornig LLP  
101 Arch St., Suite 1101  
Boston, MA 02111  
Attn: Dan Rosen
With a copy to: McCormack Baron Salazar, Inc.
50 California Street, Suite 1500
San Francisco, California 94111
Attn: Yusef Freeman

Investor Limited Partner: To be determined

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.

21.2 **Required Notices.** 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 Site or ability to repay the Loan.

21.3 **Notice and Cure Rights of Investor Limited Partner.** Upon written notice from Borrower to OCII of admission of the Investor Limited Partner if an Event of Default occurs, OCII shall give Investor Limited Partner the same written notice given to the Borrower as required herein. Investor Limited Partner shall have the right, but not the obligation, to cure defaults within the time periods provided to Borrower herein. With respect to any right of cure provided herein, performance of a cure by Investor Limited Partner shall have the same effect as would like performance by Borrower. Unless OCII is otherwise notified, notices to Investor Limited Partner shall be sent to the address provided in Section 21.1 above.

**ARTICLE 22 HAZARDOUS SUBSTANCES.**

22.1 **Borrower's Representations.** 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 its agents to cause 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 notice of the discovery by Borrower of any Environmental Activity on the Site promptly following Borrower's discovery.

**ARTICLE 23 INDEMNITY.**

23.1 **Borrower's Obligations.** Borrower must Indemnify OCII, the City, and their respective officers, agents and employees (individually or collectively, an "Indemnitee") against any and all Losses arising out of: (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 material respects when made; (c) injury or death to persons or damage to property or other loss occurring on or in connection with the Site or the Project after the Loan Closing Date, whether
caused by the negligence or any other act or omission of Borrower (or its agents) or by negligent, faulty, inadequate or defective design, building, construction, rehabilitation or maintenance or any other condition or otherwise, but only to the extent such event arises directly or indirectly from Borrower’s (or its agents) activities on the Site; (d) any claim of any surety in connection with any bond relating to the construction or rehabilitation of any improvements or offsite improvements performed by Borrower or its agents; (e) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee that relates to or arises out of the OCII Documents, the Loan, Borrower’s (or its agents) activities on the Site or the Project after the Loan Closing Date or any transaction contemplated by, or the relationship between Borrower and OCII or Borrower and the City; (f) the occurrence, before the expiration of the term of this Agreement, of any Environmental Activity caused or permitted by Borrower on the Site or any failure of Borrower (or its agents) to comply with all applicable Environmental Laws relating to Borrower’s (or its agents) activities on the Project or the Site (exclusive of activities by CP Dev Co, SFHA, and their respective agents); (g) the occurrence, after the termination of this Agreement, of any Environmental Activity resulting directly or indirectly from any Environmental Activity occurring from the Loan Closing Date until the termination of this Agreement relating directly or indirectly to Borrower’s (or its agents) activities on the Project or the Site; (h) 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 (i) 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, provided that no Indemnitee will be entitled to indemnification under this Section for matters caused by its own gross negligence or willful misconduct. In the event any action or proceeding is brought against an Indemnitee by reason of a claim arising out of any Loss for which Borrower has indemnified the Indemnities, upon written notice, Borrower must answer and otherwise defend the action or proceeding using counsel approved in writing by the Indemnitee at Borrower’s sole expense. Each Indemnitee will 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 Indemnitee 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. Any indemnification obligation of the Borrower and/or its partners under the OCII Documents shall not extend to repayment of principal or interest on the Loan. The sole recourse of OCII under the OCII Documents for repayment of the Loan shall be the exercise of their respective rights against the Project.

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 Subordination. The Deed of Trust and Declaration of Restrictions may be subordinated to other financing secured by and used for development of the Project and to instruments mandated by HUD pursuant to HUD Requirements (in each case, a "Senior Lien"), but only if OCII determines in its sole discretion that subordination is necessary to comply with HUD Requirements and/or to secure adequate acquisition, construction, rehabilitation and/or permanent financing to ensure the viability of the Project. Following review and approval by OCII and approval as to form by the City Attorney's Office, the Director of OCII or his/her successor or designee, or if after the recordation of the notice of completion, the Director of MOHCD or his/her successor or designee, will be authorized to execute any approved subordination agreement, to execute other instruments and/or to modify OCII Documents as may be required to conform to the HUD Requirements as applicable to the Project, without the necessity of any further action or approval.

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 or City Obligations. OCII's or the City's, as OCII's successor and assign, 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 or the City be liable to Borrower for any special or consequential damages arising out of actions or failure to act by OCII or the City 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 more than one person or entity signs this Agreement as Borrower, the obligations of such persons and entities shall be joint and several.

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, 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 Site, 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 Site 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.

24.20 **Borrower’s Board of Directors.** Borrower or its managing general partner (or managing member of its 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 drives, 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. Subsequent to the Loan Closing Date, Borrower may grant senior pledges of the Work Product to the holder of a Senior Lien approved pursuant to Section 24.1.

This Agreement constitutes a security agreement under the California Uniform Commercial Code, as it may be amended from time to time, and Borrower authorizes OCI to file any financing statements OCI 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 OCI. If it is ever determined that any such creations are not works for hire under applicable law, Borrower hereby assigns all copyrights thereto to OCI, 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 OCI, 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 OCI obtains the rights set forth in this Section.

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

24.24 Assignment. OCI and Borrower hereby acknowledge and agree that, subsequent to the date of recordation of the Notice of Completion, all of OCI’s rights, interests and obligations under the OCI Documents shall be assigned to the City. No further instruments shall be necessary to effectuate this assignment, but if requested by MOHCD, OCI 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 the City, all references herein to OCI shall be deemed references to the City.

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

A  Schedules of Income and Rent Restrictions
B  Site Description
C-1  Table of Sources and Uses of Funds
C-2  Annual Operating Budget
C-3  20-Year Cash Flow Proforma
D  Form of Promissory Note
E  Bayview Hunters Point Employment and Contracting Policy
F  Contract Compliance Policies
G  Insurance Requirements
H  Lobbying/Debarment Certification Form
I  Form of Annual Monitoring Report
J  Tenant Selection Plan Policy
K  Form of Deed of Trust
L  Form of Declaration of Restrictions
M  Schedule of Performance
N  OCHI Monthly Project Update Form
O  Developer Fee Schedule
P  Assignment of Work Product
Q  Consent to Assignment of Work Product
R  Final Financial Plan Confirmation Letter
IN WITNESS WHEREOF, the parties hereto have executed this Agreement 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:
Double Rock Ventures, LLC, a Delaware limited
liability company
By: Double Rock MBS Member, Inc., a Missouri
corporation, its Sole Member

By: _________________________________
    Kevin J. McCormack, President

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _________________________________
    Heidi J. Gewertz
    Deputy City Attorney
**EXHIBIT A**

**Schedules of Income and Rent Restrictions**

(HUD Area Median Income not adjusted for high cost areas pursuant to MOH and SFRA policy adopted in 2001)

<table>
<thead>
<tr>
<th></th>
<th>Phase 1 Block 2</th>
<th>Max AMI*</th>
<th>Max Rent 2014**</th>
<th>Rent or Operating Subsidies***</th>
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<td>1 BDRM</td>
<td>23</td>
<td>50%</td>
<td>$911</td>
<td>see below</td>
</tr>
<tr>
<td>2 BDRM</td>
<td>51</td>
<td>50%</td>
<td>$1,014</td>
<td>see below</td>
</tr>
<tr>
<td>3 BDRM</td>
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<td>50%</td>
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<td>4 BDRM</td>
<td>12</td>
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<td><strong>TOTAL</strong></td>
<td><strong>93</strong></td>
<td>50%</td>
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<td></td>
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<tr>
<td><strong>Total Bedrooms</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>194</strong></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Public Housing Replacement</td>
<td>58</td>
<td>50%</td>
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<td>RAD or Section 8</td>
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<tr>
<td>Additional Affordable Units / 50% AMI</td>
<td>35</td>
<td>50%</td>
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<td>none</td>
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<td><strong>TOTAL</strong></td>
<td><strong>93</strong></td>
<td></td>
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</table>

*Existing Alice Griffith residents with incomes higher than established above will be accommodated as allowed by HUD regulations

**The Project rents will be established based on established rents for the appropriate year of the commencement of marketing of the Project. The rents shown here are net of the Utility Allowances established for 2014 and applicable to the Project as designed.

***The exact unit mix for Public Housing Replacement Units will be established based on the needs of existing residents closer to the time of close of construction financing.
EXHIBIT B
Site Description
EXHIBIT C-1
Table of Sources and Uses of Funds

The Final Financial Plan, including the Table of Sources and Uses of Funds is pending and subject to approval by OCII Executive Director and MOHCD Director, prior to the Loan Closing Date.

<table>
<thead>
<tr>
<th>Phase 1</th>
<th>Number of Units</th>
<th>93</th>
<th>PHR</th>
<th>58</th>
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<tr>
<td>Sqft</td>
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<td>136,067</td>
<td>LIHTC</td>
<td>35</td>
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<tr>
<td>Number of Bedrooms</td>
<td></td>
<td>197</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Cost Per Unit</td>
<td>Cost Per Bedroom</td>
<td>Cost Per Sqft</td>
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<tr>
<td>City/OCII Permanent Sources</td>
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<tr>
<td>OCII Funding Base</td>
<td></td>
<td>$2,743,650</td>
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<td>OCII Funding &quot;Cost Overruns&quot;</td>
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<td>$4,350,267</td>
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<td>Total Loan Amount</td>
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<td>Non-City/OCII Permanent Sources</td>
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<td></td>
<td></td>
<td></td>
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<tr>
<td>CNI</td>
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<td>$8,700,000</td>
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<td>LP Equity</td>
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<td>GP Equity</td>
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<tr>
<th>Phase 1 Uses</th>
<th>Cost Per Unit</th>
<th>Cost Per Bedroom</th>
<th>Cost Per Sqft</th>
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<td>$0</td>
<td>$0</td>
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<tr>
<td>Construction</td>
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<td>Architecture and Engineering</td>
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<td>Survey and Engineering Studies</td>
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<td>Financing Costs</td>
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<td>Legal Costs</td>
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<td>Other Soft Costs</td>
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<td>Soft Cost Contingency</td>
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<tr>
<td>Capitalized Operating Reserves</td>
<td>$228,000</td>
<td>$2,452</td>
<td>$1,157</td>
</tr>
<tr>
<td>Lease Up Reserve</td>
<td>$152,000</td>
<td>$1,634</td>
<td>$772</td>
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<tr>
<td>Construction Management/Financial Consultant</td>
<td>$118,000</td>
<td>$1,269</td>
<td>$599</td>
</tr>
<tr>
<td>Developer Fee</td>
<td>$2,500,000</td>
<td>$26,882</td>
<td>$12,690</td>
</tr>
<tr>
<td>Total</td>
<td>$54,422,930</td>
<td>$585,193</td>
<td>$276,259</td>
</tr>
</tbody>
</table>
EXHIBIT C-2
Annual Operating Budget

The Final Financial Plan, including the Annual Operating Budget is pending and subject to approval by OCII Executive Director and MOHCD Director, prior to the Loan Closing Date.
EXHIBIT C-3
20-Year Cash Flow Proforma

The Final Financial Plan, including the 20-Year Cash Flow Proforma is pending and subject to approval by OCI Executive Director and MOHCD Director, prior to the Loan Closing Date.
EXHIBIT D
Form of Promissory Note
EXHIBIT E
Bayview Hunters Point Employment and Contracting Policy
EXHIBIT F
Contract Compliance Policies

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

   (i) **Small Business Enterprise (SBE) Policy** (adopted by Resolution No. 82-2009, July 27, 2009);

   (ii) **Construction Workforce**;

   (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


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 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.


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.


(a) Borrower understands and agrees that under the State Public Records Law (Cal. Gov. Code §§ 6250 et seq.), 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. Compliance with Minimum Compensation Policy and Health Care Accountability Policy. Borrower agrees, as of the date of this Agreement and during the term of this Agreement, to comply with the provisions of the Agency’s Minimum Compensation Policy and Health Care Accountability Policy (the "Policies"), adopted by Agency 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's Department of Public Health, or to participate in a health benefits program developed by the City's Director of Health.

10. 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 G
Insurance Requirements

Subject to approval by the City's Risk Manager of the insurers and policy forms Borrower must obtain and maintain, or caused to be maintained, the insurance and bonds as set forth below throughout the Compliance Term of this Agreement at no expense to the OCII:

1. Borrower, Contractors.

(a) to the extent Borrower or its contractors and subcontractors have "employees" as defined in the California Labor Code, workers' compensation insurance with employer's liability limits not less than One Million Dollars ($1,000,000) each accident;

(b) commercial general liability insurance, with limits set forth below, combined single limit for bodily injury and property damage, including coverage for contractual liability; personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; broad form property damage; explosion, collapse and underground (XCU); products and completed operations, as follows:

   (i) not less than One Million Dollars ($1,000,000) combined single limit per occurrence and Two Million Dollars ($2,000,000) annual aggregate limit before the start of demolition/construction if the Site is unoccupied;

   (ii) not less than Five Million Dollars ($5,000,000) combined single limit per occurrence and Ten Million Dollars ($10,000,000) annual aggregate limit during demolition/construction and occupancy of the Site/ongoing operations of the Project;

(c) business automobile liability insurance, with limits not less than One Million Dollars ($1,000,000) each occurrence, combined single limit for bodily injury and property damage, hired and non-owned auto coverage, as applicable;

(d) professional liability insurance for all architects employed in connection with the Project, with limits not less than Two Million Dollars ($2,000,000) (or, in the case of any other professionals, $1,000,000) each claim and Four Million Dollars ($4,000,000) annual aggregate limit for architects and Two Million ($2,000,000) annual aggregate for any other professionals with respect to negligent acts, errors or omissions in connection with professional services to be provided in connection with the Project. Any deductible over Fifty Thousand Dollars ($50,000) each claim must be reviewed by Risk Management; and

(e) crime policy or fidelity bond covering Borrower's officers and employees against dishonesty with respect to the Funds, in the amount of Seventy Five Thousand Dollars ($75,000) each loss, with any deductible not to exceed Five Thousand Dollars ($5,000) each loss, including the OCII as additional obligee or loss payee.
(f) Pollution Liability and/or Asbestos Pollution Liability: Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than $1,000,000 per claim or occurrence and $2,000,000 aggregate per policy period of one year, this coverage shall be endorsed to include Non-Owned Disposal Site coverage.

2. **Property Insurance**. Borrower must maintain, or cause its contractors and property managers, as appropriate for each, to maintain, insurance and bonds as follows:

   (a) during the course of any construction, builders' risk insurance, special form coverage, excluding earthquake and flood, for one hundred percent (100%) of the replacement value of all completed improvements and OCII property in the care, custody and control of Borrower or its contractor, including coverage in transit and storage off-site, with a deductible not to exceed Ten Thousand Dollars ($10,000) each loss, including OCII and all subcontractors as loss payees;

   (b) property insurance, special form coverage, excluding earthquake and flood, but including vandalism and malicious mischief, for one hundred percent (100%) of the replacement value of all furnishings, fixtures, equipment, improvements, alterations and property of every kind located on or appurtenant to the Site, including coverage for loss of rental income due to an insured peril for twelve (12) months, with a deductible not to exceed Twenty Five Thousand Dollars ($25,000) each loss, including OCII as a named insured;

   (c) boiler and machinery insurance, comprehensive form, in the amount of replacement value of all insurable objects, with any deductible not to exceed Ten Thousand Dollars ($10,000) each loss, including OCII as a named insured; and

   (d) during construction and/or rehabilitation, performance and payment bonds of contractors, each in the amount of one hundred percent (100%) of contract amounts, naming OCII and Borrower as dual obligees, or other completion security approved by OCII in its sole discretion.

3. **Commercial Space**. Borrower must require that all nonresidential tenants' liability insurance policies include Borrower and OCII as additional insureds, as their respective interests may appear. Throughout the term of any lease of Commercial Space in the Project, Borrower must require commercial tenants to maintain insurance as follows:

   (a) to the extent the tenant has "employees" as defined in the California Labor Code, workers' compensation insurance with employer's liability limits not less than One Million Dollars ($1,000,000) each accident;

   (b) commercial general liability insurance, with limits not less than One Million Dollars ($1,000,000) each occurrence, combined single limit for bodily injury and property damage, including coverage for contractual liability; personal injury; advertisers' liability; including coverage for loss of income due to an insured peril for twelve (12) months;
owners' and contractors' protective; broadform property damage; explosion, collapse and underground (XCU); products and completed operations coverage;

(c) business automobile liability insurance, with limits not less than One Million Dollars ($1,000,000) each occurrence, combined single limit for bodily injury and property damage, including owned, hired and non-owned auto coverage, as applicable;

(d) with respect to any tenant who has (or is required by Law to have) a liquor license and who is selling or distributing alcoholic beverages and/or food products on the leased premises, to maintain liquor and/or food products liability coverage with limits not less than One Million Dollars ($1,000,000), as appropriate;

(e) special form coverage insurance, including vandalism and malicious mischief, in the amount of 100% of the full replacement cost thereof, covering all furnishings, fixtures, equipment, leasehold improvements, alterations and property of every kind of the tenant and of persons claiming through the tenant; and

(f) full coverage plate glass insurance covering any plate glass on the commercial space.


(a) General and automobile liability policies of Borrower, contractors, commercial tenants and property managers must include OCII, including its Boards, commissions, officers, agents and employees, as an additional insured by endorsement acceptable to OCII.

(b) All policies required by this Agreement must be endorsed to provide no less than thirty (30) days' written notice to OCII before cancellation or intended non-renewal is effective.

(c) With respect to any property insurance, Borrower hereby waives all rights of subrogation against OCII to the extent of any loss covered by Borrower's insurance, except to the extent subrogation would affect the scope or validity of insurance.

(d) Approval of Borrower's insurance by OCII will not relieve or decrease the liability of Borrower under this Agreement.

(e) Any and all insurance policies called for herein must contain a clause providing that OCII and its officers, agents and employees will not be liable for any required premium.

(f) OCII reserves the right to require an increase in insurance coverage in the event OCII determines that conditions show cause for an increase, unless Borrower demonstrates to OCII's satisfaction that the increased coverage is commercially unreasonable and unavailable to Borrower.
(g) All liability policies must provide that the insurance is primary to any other insurance available to the additional insureds with respect to claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought and that an act of omission of one of the named insureds that would void or otherwise reduce coverage will not void or reduce coverage as to any other insured, but the inclusion of more than one insured will not operate to increase the insurer's limit of liability.

(h) Any policy in a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs are included in the general annual aggregate limit must be in amounts that are double the occurrence or claims limits specified above.

(i) All claims based on acts, omissions, injury or damage occurring or arising in whole or in part during the policy period must be covered. If any required insurance is provided under a claims-made policy, coverage must be maintained continuously for a period ending no less than three (3) years after recordation of a notice of completion for builder's risk or the Compliance Term for general liability and property insurance.

(j) Borrower must provide OCII with copies of insurance certificates and endorsements for each required insurance policy.
EXHIBIT H
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.

_____________________ , a c-Corporation

BY: ________________________________

NAME: ______________________________

TITLE: ______________________________

DATE: ______________________________
EXHIBIT I
Form of Annual Monitoring Report
EXHIBIT J
Tenant Selection Plan Policy

This policy is in addition to the obligations to comply with applicable federal, state and local civil rights laws, including laws pertaining to reasonable accommodation and limited English proficiency (LEP), and the applicable provision of the Violence Against Women Act, Pub. Law 109-62 (January 5, 2006), as amended.

Application Process

- Application Materials. The housing provider’s written and/or electronic application materials should:
  - Outline the screening criteria that the housing provider will use;
  - Provide space(s) for the applicant to explain any conviction, eviction, tenancy issues or credit concerns and present evidence that he or she will be a suitable tenant;
  - Outline how an applicant may request a modification of the admission process and/or a change in admission policies or practices as a reasonable accommodation;
  - Be written in language that is clear and readily understandable.
- First Interview. In accordance with the housing provider policies, each applicant with the minimum eligibility requirements for housing unit shall be offered the opportunity for an interview.
- Second Interview. Before issuing a denial, the housing provider should consider offering a second interview to resolve issues and inconsistencies, gather additional information, and assist as much as possible with a determination to admit the applicant.
- Confidentiality. All information provided will be kept confidential and be used only by the housing provider, the referring agency and the funding agency for the purpose of assisting and evaluating the applicant in the admission process.
- Delays in the Process. If delays have occurred or are likely to occur in the application and screening process or the process exceeds the housing provider’s normal timeline for application and screening, the housing provider must immediately inform the referring agency and the funding agency, of the status of the application, the reason for the delay and the anticipated time it will take to complete the application process.
- Problems with the Referring Agency. If at any point the housing provider has difficulty reaching or getting a response from the applicant and referring agency, the housing provider must immediately contact the referring agency, if possible, and the funding agency, DPH or HSA.

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Exhibit J
• **Limited English Proficiency Policy.** Throughout the application process, the housing provider must comply with the language access requirements for applicants with limited English proficiency.

**Reasonable Accommodation and Modification Policy**

**Reasonable Accommodation:** The application process should provide information about how an applicant may make a reasonable accommodation request. At any stage in the admission process, an applicant may request a reasonable accommodation, if the applicant has a disability and as a result of the disability needs a modification of the provider’s rules, policies or practices, including a change in the way that the housing provider communicates with or provides information to the applicant that would give the applicant an equal chance to be selected by the housing provider to live in the unit.

**Reasonable Modification:** Applicant may request a reasonable modification if he or she has a disability and as a result of the disability needs:

- a physical change to the room or housing unit that would give the applicant an equal chance to live at the development and use the housing facilities or take part in programs on site;
- a physical change in some other part of the housing site that would give the applicant an equal chance to live at the development and use the housing facilities or take part in programs on site.

**Response to Request:** The housing provider shall respond to a request for reasonable accommodation or modification within ten (10) business days. The response may be to grant, deny, or modify the request, or seek additional information in writing or by a meeting with the applicant. The housing provider will work with the applicant and referring agency to determine if there are ways to accommodate the applicant.

The housing provider shall grant the request if the provider determines that:

- the applicant has a disability;
- reasonable accommodation or modification is necessary because of the disability; and
- the request is reasonable (i.e., does not impose an undue financial or administrative burden or fundamentally alter the nature of the housing program.)

If the reasonable accommodation request is denied, the rejection must explain the reasons in writing. If the denial of the reasonable accommodation request results in the applicant being denied admission to the unit, the provisions of the section on Notice of Denial and Appeal Process apply.

**Notice of Denial and Appeal Process**

- The housing provider shall:
  - promptly send a written and electronic notice (to the addresses provided) to each applicant denied admission with a written and/or electronic copy to the referring agency and the funding agency. The notice should:
    - list all the reasons for the rejection, including the particular conviction or convictions that led to the decision in cases where past criminal offenses were a reason for rejection;

Exhibit J
• explain how the applicant can request an in person appeal to contest the decision;
• state that an applicant with a disability is entitled to request a reasonable accommodation to participate in the appeal;
• inform the applicant that he or she is entitled to bring an advocate or attorney to the in person appeal;
• provide referral information for local legal services and housing rights organizations;
• describe the evidence that the applicant can present at the appeal;
  o give applicants denied admission a date within which to file the appeal, which shall be at least ten (10) business days from the date of the notice;
  o unless an extension is agreed to by the applicant and the housing provider, hold the appeal within ten (10) business days of the request for the appeal;
  o confine the subject of the appeal to the reason for denial listed in the notice;
  o give the applicant a chance to present documents and/or witnesses showing that he or she will be a suitable tenant;
  o have an impartial supervisor or manager from the housing provider, but who is not the person who made the initial decision or a subordinate of the person who made the initial decision, conduct the appeal;
  o within 5 business days of the in person appeal, provide the applicant with a written decision that states the reason for the decision and the evidence relied upon. A copy of the written decision must be sent (electronically or otherwise) to the referring agency and the funding agency.

If the rejection is based on a criminal background check obtained from a tenant screening agency, the Fair Credit Reporting Act and the Investigative Consumer Reporting Agencies Act impose additional notice requirements.2


Exhibit J
EXHIBIT K
Form of Deed of Trust
EXHIBIT L
Form of Declaration of Restrictions
### EXHIBIT M

**Schedule of Performance**

<table>
<thead>
<tr>
<th>No.</th>
<th>Performance Milestone</th>
<th>Estimated</th>
<th>Completion Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Predev Financing Commitment</td>
<td>Complete</td>
<td>Complete</td>
</tr>
<tr>
<td>2</td>
<td>Site Acquisition</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>3</td>
<td>Development Team Selection</td>
<td>Complete</td>
<td>Complete</td>
</tr>
<tr>
<td>a.</td>
<td>Architect</td>
<td>Complete</td>
<td>Complete</td>
</tr>
<tr>
<td>b.</td>
<td>General Contractor</td>
<td>Complete</td>
<td>Complete</td>
</tr>
<tr>
<td>c.</td>
<td>Owner's Representative</td>
<td>7/30/2014</td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td>Property Manager</td>
<td>Complete</td>
<td>Complete</td>
</tr>
<tr>
<td>e.</td>
<td>Service Provider</td>
<td>Complete</td>
<td>Complete</td>
</tr>
<tr>
<td>4</td>
<td>Design</td>
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</tr>
<tr>
<td>a.</td>
<td>Submittal of Schematic Design &amp; Cost Estimate</td>
<td>Complete</td>
<td>Complete</td>
</tr>
<tr>
<td>b.</td>
<td>Submittal of Design Development &amp; Cost Estimate</td>
<td>5/15/14</td>
<td>Complete</td>
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<tr>
<td>c.</td>
<td>Submittal of Pre-Bid Set &amp; Cost Estimate (75%-80% CDs)</td>
<td>8/30/14</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Environ Review/Land-Use Entitlements</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td>CEQA Environ Review Submission</td>
<td>Complete</td>
<td>Complete</td>
</tr>
<tr>
<td>b.</td>
<td>NEPA Environ Review Submission</td>
<td>CP-HPS2 EIR complete; separate EIS process – complete 2/13</td>
<td>Complete</td>
</tr>
<tr>
<td>c.</td>
<td>CUP/PUD/Variance Submission</td>
<td>NA</td>
<td>NA</td>
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<tr>
<td>6</td>
<td>Permits</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td>Building / Site Permit Application Submitted</td>
<td>Complete</td>
<td>Complete</td>
</tr>
<tr>
<td>b.</td>
<td>Addendum #1 Submitted (Foundation/Framing)</td>
<td>8/30/14</td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td>Addendum #2 Submitted</td>
<td>10/30/14</td>
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<tr>
<td>7</td>
<td>Request for Bids Issued</td>
<td>11/1/14</td>
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<td>8</td>
<td>Service Plan Submission</td>
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<td></td>
</tr>
<tr>
<td>b.</td>
<td>Interim</td>
<td>1/15/15</td>
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<tr>
<td>c.</td>
<td>Phase Update</td>
<td>3/1/2015</td>
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<td>9</td>
<td>Additional City Financing</td>
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<tr>
<td>a.</td>
<td>Predevelopment Financing Application (additional)</td>
<td>NA</td>
<td>NA</td>
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<tr>
<td></td>
<td>Gap Financing Application</td>
<td>5/30/14</td>
<td>Complete</td>
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<tr>
<td>---</td>
<td>--------------------------</td>
<td>---------</td>
<td>----------</td>
</tr>
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<td>10.</td>
<td>Other Financing</td>
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<tr>
<td>a.</td>
<td>Construction Financing RFP</td>
<td>7/30/2014</td>
<td>Complete</td>
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<tr>
<td>b.</td>
<td>AHP Application</td>
<td>4/2015</td>
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<td>c.</td>
<td>CDLAC</td>
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<td></td>
<td>7/18/2014</td>
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<td>TCAC</td>
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</tr>
<tr>
<td></td>
<td>8/15/2014</td>
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</tr>
<tr>
<td>TCAC and CDLAC Applications</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.</td>
<td>Closing</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td>Loan Closing Date-Construction Closing</td>
<td>1/15/15</td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>Permanent Financing Closing/Construction Loan Conversion</td>
<td>5/15/17</td>
<td></td>
</tr>
<tr>
<td>12.</td>
<td>Construction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td>Notice to Proceed</td>
<td>1/15/15</td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>Temporary Certificate of Occupancy/Cert of Substantial Completion</td>
<td>9/15/16</td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td>Final Completion</td>
<td>11/15/2016</td>
<td></td>
</tr>
<tr>
<td>13.</td>
<td>Marketing/Rent-up</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td>Marketing Plan Submission</td>
<td>1/15/15</td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td>Commence Marketing</td>
<td>3/15/16</td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td>95% Occupancy</td>
<td>3/1/17</td>
<td></td>
</tr>
<tr>
<td>14.</td>
<td>Cost Certification/8609</td>
<td>6/1/17</td>
<td></td>
</tr>
<tr>
<td>15.</td>
<td>Close Out SFRA Loan(s)</td>
<td>7/1/17</td>
<td></td>
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</tbody>
</table>
## EXHIBIT O
Developer Fee Schedule

<table>
<thead>
<tr>
<th>Developer Fee Schedule (Per Phase)</th>
<th>% of Project Mgmt Fee</th>
<th>Amount Phase 1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Management Portion</td>
<td></td>
<td></td>
</tr>
<tr>
<td>At CDLAC/TCAC application per Phase</td>
<td>15%</td>
<td>$150,000</td>
</tr>
<tr>
<td>During or at end of Predevelopment</td>
<td>35%</td>
<td>$350,000</td>
</tr>
<tr>
<td>During or at End of Construction</td>
<td>35%</td>
<td>$350,000</td>
</tr>
<tr>
<td>At Project Close Out</td>
<td>15%</td>
<td>$150,000</td>
</tr>
<tr>
<td>TOTAL (Per Phase)</td>
<td></td>
<td>$1,000,000</td>
</tr>
<tr>
<td>At Risk Fee</td>
<td></td>
<td></td>
</tr>
<tr>
<td>At Project Close Out, if available</td>
<td></td>
<td>$1,000,000</td>
</tr>
<tr>
<td>To be used on Project Development Costs as Shown in the Table of Sources and Uses of Funds</td>
<td></td>
<td>$500,000</td>
</tr>
</tbody>
</table>
EXHIBIT P
Assignment of Work Product
EXHIBIT Q
Consent to Assignment of Work Product
EXHIBIT R
Final Financial Plan Confirmation Letter
LOAN AGREEMENT

By and Between

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

and

Double Rock Ventures, LLC, a California limited liability company

for

Alice Griffith Replacement Projects Phase 2
$21,893,251

Dated as of
July 15, 2014
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>ARTICLE</th>
<th>TITLE</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>DEFINITIONS</td>
<td>5</td>
</tr>
<tr>
<td>2</td>
<td>FUNDING</td>
<td>14</td>
</tr>
<tr>
<td>3</td>
<td>TERMS</td>
<td>14</td>
</tr>
<tr>
<td>4</td>
<td>CLOSING; DISBURSEMENTS</td>
<td>17</td>
</tr>
<tr>
<td>5</td>
<td>DEMOLITION, REHABILITATION OR CONSTRUCTION</td>
<td>21</td>
</tr>
<tr>
<td>6</td>
<td>MARKETING</td>
<td>22</td>
</tr>
<tr>
<td>7</td>
<td>AFFORDABILITY AND OTHER LEASING RESTRICTIONS</td>
<td>24</td>
</tr>
<tr>
<td>8</td>
<td>MAINTENANCE AND MANAGEMENT OF THE PROJECT</td>
<td>26</td>
</tr>
<tr>
<td>9</td>
<td>GOVERNMENTAL REQUIREMENTS</td>
<td>27</td>
</tr>
<tr>
<td>10</td>
<td>PROJECT MONITORING, REPORTS, BOOKS AND RECORDS</td>
<td>27</td>
</tr>
<tr>
<td>11</td>
<td>USE OF INCOME FROM OPERATIONS</td>
<td>29</td>
</tr>
<tr>
<td>12</td>
<td>REQUIRED RESERVES</td>
<td>29</td>
</tr>
<tr>
<td>13</td>
<td>DISTRIBUTIONS</td>
<td>31</td>
</tr>
<tr>
<td>14</td>
<td>SYNDICATION PROCEEDS</td>
<td>32</td>
</tr>
<tr>
<td>15</td>
<td>DEVELOPER FEES</td>
<td>32</td>
</tr>
<tr>
<td>16</td>
<td>TRANSFERS</td>
<td>32</td>
</tr>
<tr>
<td>17</td>
<td>INSURANCE AND BONDS</td>
<td>32</td>
</tr>
<tr>
<td>18</td>
<td>GOVERNMENTAL APPROVALS</td>
<td>33</td>
</tr>
<tr>
<td>19</td>
<td>DEFAULT</td>
<td>33</td>
</tr>
<tr>
<td>20</td>
<td>REPRESENTATIONS AND WARRANTIES</td>
<td>36</td>
</tr>
<tr>
<td>21</td>
<td>NOTICES</td>
<td>37</td>
</tr>
<tr>
<td>22</td>
<td>HAZARDOUS SUBSTANCES</td>
<td>38</td>
</tr>
<tr>
<td>23</td>
<td>INDEMNITY</td>
<td>38</td>
</tr>
<tr>
<td>24</td>
<td>GENERAL PROVISIONS</td>
<td>40</td>
</tr>
</tbody>
</table>
EXHIBITS

A  Schedules of Income and Rent Restrictions
B  Site Description
C-1  Table of Sources and Uses of Funds
C-2  Annual Operating Budget
C-3  20-Year Cash Flow Proforma
D  Form of Promissory Note
E  Bayview Hunters Point Employment and Contracting Policy
F  Contract Compliance Policies
G  Insurance Requirements
H  Lobbying/Debarment Certification Form
I  Form of Annual Monitoring Report
J  Tenant Selection Plan Policy
K  Form of Deed of Trust
L  Form of Declaration of Restrictions
M  Schedule of Performance
N  OCII Monthly Project Update Form
O  Developer Fee Schedule
P  Assignment of Work Product
Q  Consent to Assignment of Work Product
R.  Final Financial Plan Confirmation Letter
LOAN AGREEMENT
(Tax Increment Funds)

(Alice Griffith Replacement Projects Phase 2)

THIS LOAN AGREEMENT ("Agreement") is entered into as of July 15, 2014, ("Agreement Date") by and between 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, hereafter referred to as the Office of Community Investment and Infrastructure, ("OCII"), and Double Rock Ventures, LLC, a California limited liability company ("Borrower").

RECITALS

A. In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code, section 33000 et seq. the “CRL”), the former San Francisco Redevelopment Agency ("Former Agency") would undertake programs for the reconstruction and construction to improve blighted areas in the City and County of San Francisco (the “City”).

B. In accordance with the CRL, the City, acting through its Board of Supervisors, approved a Redevelopment Plan for the Bayview Hunters Point Redevelopment Project Area (the “Project Area”) by Ordinance No. 113-06, adopted on May 16, 2006. In cooperation with the City, OCII is responsible for implementing the Bayview Hunters Point Redevelopment Plan (the “Redevelopment Plan”)

C. Under California State Assembly Bill No. 1X26 (Chapter 5, Statutes of 2011-12, first Extraordinary Session) ("AB 26"), as amended by California State Assembly Bill No. 1484 ("AB 1484") (together the “Dissolution Laws”) the Former Agency dissolved as a matter of law on February 1, 2012. On October 2, 2012 the San Francisco Board of Supervisors, acting as legislative body of OCII as the successor to the Agency, passed Ordinance 215-12, which outlined the rights and responsibilities of OCII as the Agency’s successor agency, including but not limited to certain retained existing enforceable obligations for the development of affordable housing. Accordingly, under Ordinance 215-12 and Dissolution Law, OCII has the obligation and authority to enter into this Agreement to allow for the development of the Alice Griffith Replacement Project as further discussed below in Recital D below.

D. The Hunters Point Shipyard/Candlestick Point Project (the “Shipyard Development”) is one of San Francisco's three critical redevelopment legacy projects that OCII must continue to implement under the Dissolution Law. The Shipyard Development is divided into two related parts, called Phase 1 and Phase 2, each with a separate disposition and development agreement. The disposition and development agreements, together with a number of related binding agreements attached to or referenced in the text of the disposition and development agreement, establish a comprehensive set of enforceable obligations that collectively govern the completion of the Shipyard Development. The disposition and development agreements are binding contractual agreements that provide for the transfer of land from OCII to developers, the developers' and OCII's rights and obligations relating to the construction of specified
improvements, and the financing mechanisms for completing these projects. Phase 1 covers approximately 75 acres and Phase 2 is significantly larger, covering over 700 acres at the Shipyard and at the adjacent Candlestick Point. The Alice Griffith Replacement Project is a key component of Phase 2 of the Shipyard Development. All 256 public housing units currently on site will be replaced ("Public Housing Replacement Units") and 248 new affordable units ("Additional Affordable Units") will be added on seven blocks that are a combination of vacant lots and existing Alice Griffith parcels ("Development" or "AG").

E. In connection with the Candlestick Point and Phase 2 of Hunters Point Shipyard project, the Former Agency and CP Development Co., LP ("CP Dev Co") entered into a Disposition and Development Agreement (Candlestick Point and Phase 2 of the Hunters Point Shipyard), dated June 3, 2010 (the "DDA"). The DDA includes a Below Market Rate Housing Plan ("Housing Plan"). The Housing Plan defines the roles and responsibilities of the Former Agency and CP Dev Co regarding the development of up to 10,500 housing units, an important part of which is the revitalization of the Alice Griffith public housing development as a mixed-income, service-enriched community, developed according to the principles of the City's HOPE SF Program. On December 14, 2012 the California Department of Finance ("DOF") recognized the DDA as an Enforceable Obligation under the Dissolution Law. The Dissolution Law, in particular California Health and Safety Code Section 34177, provides that OCII is required to (1) perform obligations required pursuant to any Enforceable Obligation, and (2) continue to oversee development of properties until the contracted work has been completed.

F. Based on the requirements of the DDA, McCormack Baron Salazar ("MBS") was selected by CP Dev Co to be the Alice Griffith Developer based upon their extensive experience revitalizing public housing across the country. Additional development team members include the San Francisco Housing Authority ("SFHA") and Urban Strategies, Inc., which will be implementing the social services program at AG. The Borrower is the development entity for the overall redevelopment of Alice Griffith Public Housing and is an affiliate of MBS. Each financing phase of development will have a separate development entity affiliate of MBS. The current public housing site is bordered roughly by Hawes, Carroll, and Gilman Streets and vacant land owned by the State Parks Department and OCII (Exhibit B). AG will include the adjacent State and OCII lands and be comprised of Blocks 1, 2, 4, 5, 8, 9, and 14 (as shown in Exhibit B). Block 4 is the subject of this document (the "Site"). Block 4 is "AG Phase 2".

G. The Below-Market Rate Housing Plan, which is Exhibit E of the DDA, requires that CP Dev Co provide a per unit subsidy to the AG vertical development equal to $90,000 per Public Housing Replacement Unit, and $70,000 per Additional Affordable Unit ("Master Developer Subsidy"). Exhibit E also requires that OCII provide a base subsidy of $62,017,200 in tax increment gap financing to be divided among the five phases based on development needs per phase. For each phase of AG and according to a formula in Exhibit 5, OCII and CP Dev Co will provide the proportion of the contributions described above that is proportionate to that phase.

If after maximizing all available and appropriate sources other than CP Dev Co and OCII, the total development cost ("TDC") for any phase exceeds the TDC initially projected in the DDA, then the excess of the TDC will be considered a cost overrun ("Cost Overrun"). If there
are Cost Overruns in any phase, then CP Dev Co must cover the proportion of Cost Overruns attributable to the Public Housing Replacement Units and OCII must cover the Cost Overruns attributable to the Additional Affordable Units. OCII is responsible for funding any gaps in projected tax credit equity and/or Affordable Housing Program funds below what was projected at the time the DDA was executed. Conversely, additional funding sources unanticipated at the time of the DDA reduces OCII’s obligation (e.g. the portion of HUD’s CNI Grant described in Recital I for housing development at AG). Therefore, OCII’s base subsidy, once the CNI funds are incorporated into the development budget, is $40,667,200. The respective OCII and Master Developer subsidies must be provided at or prior to the close of construction financing of each phase, pursuant to Section 5.4 (a) and (c) of the Housing Plan in the DDA.

H. The Former Agency and Borrower entered into a Tax Increment Loan Agreement for $3,000,000 for master planning and initial predevelopment work for the first phases of AG on March 29, 2011. Of this loan $1,916,750 was allocated to predevelopment of the first two phases of the AG; in the amount of $958,375 for each Phase I and Phase II. The remaining balance of $1,083,250 has been allocated to site-wide master planning.

I. In August 2011, MBS as lead applicant and SFHA as co-applicant were awarded a U.S. Department of Housing and Urban Development (“HUD”) Choice Neighborhoods Initiative Implementation (“CNI”) Grant in the amount of $30,500,000, of which $21,500,000 is to be used for housing development at AG. The CNI program supports locally driven strategies to address struggling neighborhoods with distressed public or HUD-assisted housing through a comprehensive approach to neighborhood transformation. Local leaders, residents, and stakeholders, such as public housing authorities, cities, schools, police, business owners, nonprofits, and private developers, come together to create and implement a plan that transforms distressed HUD housing and addresses the challenges in the surrounding neighborhood. The program is designed to catalyze critical improvements in neighborhood assets, including vacant property, housing, services and schools. The CNI funding comes with a variety of deadlines and deliverables, the most important of which is a statutory obligation that grants funds be expended and units delivered by September 2016 for the portion of the funds associated with Phases 1 and 2 and September 2017 for the portion of the funds to be used for Phase 3. Therefore, CNI funds and associated funding deadlines will apply to the first three phases of AG.

J. On September 23, 2013 the Oversight Board of the City and County of San Francisco approved an expenditure of up to $18,310,070 for funding for the Development including the Project (as defined in Recital K below) through Item No. 161 of the Recognized Obligation Payment Schedule for the period of January 1, 2014 through June 30, 2014 ("ROPS 13-14B"), and the Funding Amount consists of a portion of the $7,856,717 in reserves approved by DOF shown on that Item. The reserves for Item 161 consist of funds approved by DOF to be retained through the Low and Moderate Income Housing Funds Due Diligence Reserve for the Alice Griffith Replacement Project. The California Department of Finance provided final approval of the expenditure for Item No. 239 through its letter dated December 17, 2013.

K. Borrower requested funds in the amount of $2,603,863, in predevelopment funding ("Funds or the "Funding Amount") for AG Phase 2 (the "Project"). This amount, combined with $958,375 in predevelopment funds described in Recital H, totals $3,562,238. On December 20,
2013 the Citywide Affordable Housing Loan Committee ("Loan Committee") approved this request for funding and on April 1, 2014, OCII Commission approved the Borrower’s request for predevelopment funds for the Project.

M. Borrower has requested additional gap funds in the amount of $18,331,013 for a total aggregate amount not to exceed $21,893,251 ("Funds or the “Funding Amount”) for the Project. On May 16, 2014 the Loan Committee approved this request for funding and on June 17, 2014, OCII Commission approved the Borrower’s request for gap funds for the Project.

O. The Funding Amount consists of OCII funds and Master Developer Subsidy per the requirements of the Housing Plan in the DDA as described in Recital G above and shown in the following table:

<table>
<thead>
<tr>
<th></th>
<th>OCII</th>
<th>Master Developer Subsidy (&quot;MDS&quot;)</th>
<th>Total Funds Approved/Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Predevelopment (approved April 1, 2014)</td>
<td>$3,562,238</td>
<td>$0</td>
<td>$3,562,238</td>
</tr>
<tr>
<td>Gap (approved June, 17, 2014)</td>
<td>$3,699,043</td>
<td>$14,631,970</td>
<td>$18,331,013</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$7,261,281</strong></td>
<td><strong>$14,631,970</strong></td>
<td><strong>$21,893,251</strong></td>
</tr>
</tbody>
</table>

P. The portion of the OCII and Master Developer subsidies that are a part of the base contribution and the portion attributable to Cost Overruns as required by the DDA for current phase of work and described in Recital G above is shown in the following table:

<table>
<thead>
<tr>
<th><strong>OCII Permanent Sources</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>OCII Funding Base</td>
<td>$2,797,550</td>
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<tr>
<td>OCII Funding &quot;Cost Overruns&quot;</td>
<td>$4,463,731</td>
</tr>
<tr>
<td><strong>Total OCII Funding</strong></td>
<td><strong>$7,261,281</strong></td>
</tr>
<tr>
<td>CP DEV CO Funding Base</td>
<td>$7,490,000</td>
</tr>
<tr>
<td>CP DEV CO Funding &quot;Cost Overruns&quot;</td>
<td>$7,141,970</td>
</tr>
<tr>
<td><strong>Total Master Developer Subsidy</strong></td>
<td><strong>$14,631,970</strong></td>
</tr>
<tr>
<td><strong>Total Loan Amount</strong></td>
<td><strong>$21,893,251</strong></td>
</tr>
</tbody>
</table>

Q. Subsequent to the execution of this Agreement and Prior to the Loan Closing Date this Agreement will be assigned to AG Phase 2, L.P., a California limited partnership.

R. Upon completion of the Project, OCII intends to transfer the affordable housing loan obligation, asset, and ground lease to MOHCD as the designated Successor Housing Agency of the City and County of San Francisco under Board Resolution 11-12, as required by Dissolution Law. The transfer will occur subsequent to recordation of the notice of completion and all MOHCD asset management requirements will apply.

S. OCII wishes to make a permanent loan (the “Loan”) to Developer in the amount of $21,893,251 in permanent funding for the Project, pursuant to the terms of this Agreement.
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.

"Additional Affordable Units" has the meaning set forth in Recital D.

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

"AG Phase 2, L.P." has the meaning set forth in Recital Q.

"Agreement" means this Loan Agreement.

"Agreement Date" means the date first written above.

"Annual Monitoring Report" has the meaning set forth in Section 10.3.

"Annual Operating Budget" means an annual operating budget for the Project attached hereto as Exhibit C-2, which may not be adjusted without the City's prior written approval. The Final Financial Plan for the Project, including the Annual Operating Budget, is subject to approval by the MOHCD Director and the OCII Executive Director, prior to the Loan Closing Date.

"Approved Plans" has the meaning set for in Section 5.2.

"Approved Specifications" has the meaning set forth in Section 5.2.

"Assignment of Work Product" means the assignment of work product executed by Borrower granting OCII a security interest in the Work Product to secure Borrower's performance under this Agreement and the Note prior to the Loan Closing Date, in substantially the form and substance attached hereto as Exhibit P.

"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 the City 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: Double Rock Ventures, LLC, a California limited liability company, and 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.

"CNI" has the meaning set forth in Recital I.

"CNI Loan" means the loan of CNI funds made by MOHCD to Borrower for the Project.

"Completion Date" has the meaning set forth in Section 5.6.

"Compliance Term" has the meaning set forth in Section 3.2.

"Construction Contract" has the meaning set forth in Section 5.2.

"Control of the Site" means Borrower's acquisition of fee ownership or a leasehold interest in the Site (or a portion thereof).

"Conversion Date" means the date upon which Borrower's institutional construction financing converts to a permanent phase requiring payments of principal amortized over the remaining term of such loan.

"CP Dev Co" has the meaning set forth on Recital E.

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

"DDA" has the meaning set forth in Recital E.

"Department of Building Inspection" has the meaning set forth in Section 5.2.

"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.

"Dissolution Law" has the meaning set forth in Recital C.

"Distributions" has the meaning set forth in Section 13.1.

"DOF" has the meaning set forth in Recital E.

"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.


"Escrow Agent" means the escrow agent for the title company issuing the Title Policy.

"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.

"Final Financial Plan" means the Table of Sources and Uses, the Annual Operating Budget and 20 Year Cash Flow as (Exhibits C-1, C-2, and C-3) approved by the MOHCD Director and the OCII Executive Director prior to the Loan Closing Date. Once approved, the attachments reflecting the Final Financial Plan will be attached to this Agreement along with a Final Financial Plan Confirmation Letter (Exhibit R).

"Final Financial Plan Confirmation Letter" means a letter documenting the approved Final Financial Plan and any subsequent adjustments to this document, including interest rate, and will be attached to this Agreement as Exhibit R.

"Former Agency" has the meaning set forth in Recital G.

"Funding Amount" has the meaning set forth in Recital M and in Exhibit C-1. The Final Financial Plan for the Project, including the Funding Amount, is subject to approval by the MOHCD Director and the OCII Executive Director prior to the Loan Closing Date.

"Funds" has the meaning set forth in Recital M means money that has been borrowed from OCII pursuant to the terms of this Agreement.

"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.

"Ground Lease" means the ground lease between Borrower and SFHA to be executed on or before the Loan Closing Date, subject to approval of MOHCD Director and OCII Executive Director.

"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.

"Housing Plan" has the meaning set forth in Recital E.

"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.

"HUD Requirements" means the CNI legal requirements as evidenced by the CNI grant agreement and funding agreement and any associated HUD requirements, Public Housing, Project Based Section 8 and Rental Assistance Demonstration program legal requirements, as applicable.

"Indemnify" means, whenever any provision of this Agreement requires a person or entity (the "Indemnitor") to Indemnify any other entity or person (the "Indemnitee"), that the Indemnitor will be obligated to defend, indemnify and protect and hold harmless the Indemnitee, its officers, employees, agent, constituent partners, and members of its boards and commissions harmless from and against any and all Losses arising directly or indirectly, in whole or in part, out of the act, omission, event, occurrence or condition with respect to which the Indemnitor is required to Indemnify an Indemnitee, whether the act, omission, event, occurrence or condition is caused by the Indemnitor or its agents, employees or contractors, or by any third party or any natural cause, foreseen or unforeseen; provided that no Indemnitor will be obligated to Indemnify any Indemnitee against any Loss arising or resulting from the gross negligence or intentional wrongful acts or omissions of the Indemnitee or its agents, employees or contractors. If a Loss is attributable partially to the grossly negligent or intentionally wrongful acts or omissions of the Indemnitee (or its agents, employees or contractors), the Indemnitor must Indemnify the Indemnitee for that part of the Loss not attributable to its own grossly negligent or intentionally wrongful acts or omissions or those of its agents, employees or contractors.

"Indemnitee" has the specific meaning set forth in Section 23.1 and the general meaning set forth in the definition of "Indemnify."

"Indemnitor" has the meaning set forth in the definition of "Indemnify."

"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 S.

"Loan Closing Date" 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 K.
"Loss" or "Losses" includes any loss, liability, damage, cost, expense or charge and reasonable attorneys' fees and costs, including those incurred in a proceeding in court or by mediation or arbitration, on appeal or in the enforcement of OCII's or the City's rights or in defense of any action in a bankruptcy proceeding.

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

"MBS" has the meaning set forth in Recital F.

"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 principal amount of the Funding Amount.

"Oversight Board" has the meaning set forth in Recital E.

"OCII" means the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, known as the Office of Community Investment and Infrastructure.

"OCII Documents" means this Agreement, the Note, the Assignment of Work Product 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.

"Official Records" has the meaning set forth in Article 3.

"Operating Reserve Account" has the meaning set forth in Section 12.2.

"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.

"Payment Date" means the first June 1st following the Completion Date and each succeeding until the Maturity Date.

"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 K.** If indicated by the context, "Project" means the Site and the improvements developed on the Site.

"Project Close-Out" means that all of the following conditions have been met: (1) all Project construction has been completed; (2) the Borrower has submitted all documents, reports and forms as required by this Agreement, including a copy of the 8609 report submitted to TCAC; (3) MOHCD has reviewed and approved Borrower's project completion reports and documents; and (4) The Project has achieved 100% initial lease-up.

"Project Expenses" means the following costs, which may be paid from Project Income in the following order of priority to the extent of available Project Income pursuant to the Annual Operating Budget approved prior to the Loan Closing Date by OCII Executive Director and MOHCD Director as part of the Final Financial Plan: (a) all charges incurred in the operation of the Project for utilities, real estate taxes and assessments and premiums for insurance required under this Agreement or by other lenders providing secured financing for the Project; (b) salaries, wages and any other compensation due and payable to the employees or agents of Borrower employed in connection with the Project, including all related withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments; (c) all other expenses actually incurred to cover operating costs of the Project, including maintenance and repairs and the fee of any managing agent as indicated in the Annual Operating Budget; (d) required deposits, or required replenishment of, the Replacement Reserve Account, Operating Reserve Account and any other reserve account required under this Agreement; (e) annual base rent payments under the Ground Lease in an amount equal to $1; (f) the approved annual asset management fees indicated in the Annual Operating Budget and approved by MOHCD Director and OCII Executive Director as part of the Final Financial Plan prior to the Loan Closing Date; (g) required payments of interest and principal, if any, on any senior financing secured by the Site and used to finance the Project that has been approved by OCII; (h) additional expenses that are HUD requirements, subject to approval by MOHCD Director and OCII Executive Director as part of the Final Financial Plan prior to the Loan Closing Date; and (i) any extraordinary expenses approved in advance by MOHCD (other than expenses paid from any reserve account). Project Fees are not Project Expenses.

"Project Fees" means (i) an annual partnership management fee in the amount of $19,060, increasing by 3% annually, payable to the Borrower’s general partner, and (ii) a limited partner investor services fee in the amount of $4,650, increasing annually by 3%, payable to Borrower’s limited partners, subject to approval by MOHCD Director and OCII Executive Director as part of the Final Financial Plan prior to the Loan Closing Date.

"Project Income" means all income and receipts in any form received by Borrower from the operation of the Project, including rents, fees, deposits (other than tenant security deposits), any accrued interest disbursed from any reserve account required under this Agreement for a purpose other than that for which the reserve account was established, reimbursements and other charges paid to Borrower in connection with the Project. Interest accruing on any portion of the Funding Amount is not Project Income.

"Project Operating Account" has the meaning set forth in Section 11.1.
"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.

"Qualified Tenant" means a Tenant household, earning no more than the maximum permissible annual income level allowed under this Agreement as set forth in Exhibit A. The term "Qualified Tenant" includes each category of Tenant designated in Exhibit A. Existing AG residents with higher incomes than established here will be accommodated in conformance with the HUD Requirements.

"RAD" means HUD’s Rental Assistance Demonstration Program.

"Rent" means the aggregate annual sum charged to Tenants for rent and utilities in compliance with Article 7, with utility charges to Qualified Tenants limited to an allowance determined by the SFHA.

"Rent Restrictions" means the limitations on Rents set forth in Section 7.3 and Exhibit A.

"Replacement Reserve Account" has the meaning set forth in Section 12.1.

"Retention" has the meaning set forth in Section 4.7.

“Schedule of Performance” means the schedule attached hereto as Exhibit M 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.

"Senior Lien" has the meaning set forth in Section 24.1.

"SFHA" means the San Francisco Housing Authority.

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

"Table" or "Table of Sources and Uses" means a table of sources and uses of funds attached hereto as Exhibit C-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.

"TCAC" means the California Tax Credit Allocation Committee.

"Tenant" means any residential household in the Project.
“Tenant Selection Plan” has the meaning set forth in Section 6.1.

"Title Policy" means an ALTA extended coverage lender's policy of title insurance in form and substance satisfactory to OCII, issued by an insurer selected by Borrower and satisfactory to OCII, together with any endorsements and policies of coinsurance and/or reinsurance required by OCII, in a policy amount equal to the Funding Amount, insuring the Deed of Trust and indicating the Declaration of Restrictions as valid liens on the Site, each subject only to the Permitted Exceptions.

"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) OMB circulars: www.whitehouse.gov/OMB/circulars

(c) 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 F of this Agreement.

ARTICLE 2 FUNDING.

2.1 Funding Amount. OCII agrees to lend to Borrower a maximum principal amount equal to the Funding Amount in order to finance predevelopment costs associated with the Project. 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.

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 Compliance Term: Declaration of Restrictions. Borrowers, and its assigns, must comply with all provisions of the OCII Documents relating to the use of the Site and the Project, as set forth in the Declaration of Restrictions, and any amended and restated versions of such declaration, to be recorded in the Official Records, for the period commencing on the date a certificate of occupancy for the Project is issued and ending on the fifty-fifth (55th) anniversary of that date (the "Compliance Term") even if the Loan is repaid or otherwise satisfied, or the Deed of Trust is reconveyed before that date. Notwithstanding anything to the contrary contained herein, Borrower’s obligation to comply with the terms and obligations contained in the OCII documents shall be subject to Borrower’s compliance with all applicable laws, statutes and regulations, including, but not limited to Section 42 of the Internal Revenue Code, the California Revenue and Taxation Code, and TCAC’s regulations.

3.2 Loan Repayment Terms. Interest shall accrue, and repayment of principal and interest shall be paid from Surplus Cash in accordance with Section 3.5, below. Notwithstanding the foregoing, the outstanding principal balance and any accrued but unpaid interest of the Loan will be due and payable on the fifty-seventh (57th) anniversary of the date Deed of Trust is recorded on the leasehold interest in the Official Records (the "Maturity Date") according to the terms set forth in full in the Note. At least sixty (60) days prior to the Maturity Date, the Borrower may apply to the City for an extension of the Maturity Date. In the event that, as of the date of such request, the Borrower continues to be in compliance with the Loan Documents, the City may, in its discretion, agree to extend the Maturity Date pursuant to a written amendment to the Agreement and permit the Borrower to continue to defer repayment of principal and interest, or may require that the Borrower make amortized payments of principal and interest, depending on factors such as rental payments received from the commercial portion of the Site.

3.3 Interest. The outstanding principal balance of the Loan will bear simple interest at a rate of zero percent (0%) per annum, as provided in the Note. The OCII Executive Director and MOHCD Director may increase the interest rate to a maximum of 3%, should the Projects be able to support it at the time of the close of construction financing.

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 remaining 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 Distribution of Surplus Cash and Repayment of Principal. Each Payment Date of each fiscal year following the Completion Date and the Project’s cost certification, as defined in Section 5.6 below, Borrower shall apply annual Project Income to pay Project Expenses and then to pay Project Fees. Any cash remaining after payment of Project Expenses and Project Fees...
shall be deemed Surplus Cash. If the Borrower is found by MOHCD (as such determinations will be made following the issuance of the notice of completion and transfer to MOHCD) to be in compliance with all applicable requirements and agreements, Borrower shall use Surplus Cash to make the following payments:

- Up to one-third (1/3) of remaining Surplus Cash shall be paid to the Borrower as an incentive management fee in an amount not to exceed Five Hundred Dollars ($500) per unit per year, up to a maximum of Fifty Thousand Dollars ($50,000) per year.

- The remaining portion of Surplus Cash, shall be allocated proportionally toward payment of outstanding principal and accrued but unpaid interest on the Loan, and then to payment of outstanding principal and accrued but unpaid interest or on any other debt payable from Surplus Cash, such as the CNI Loan. A portion may also be allocated to SFHA for payment of Ground Rent or SFHA loans to the Project, if any, pursuant to a memorandum of understanding between SFHA and OCII related to the apportionment of surplus cash for the Project or the Development and in conformance with the HUD Requirements.

- The Final Financial Plan for the Project, including the distribution of Surplus Cash, is subject to approval by the MOHCD Director and the OCII Executive Director prior to the Loan Closing Date.

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 predevelopment and construction 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. Examples of significant changes include loss or adjustments (other than regular annual adjustments) in funding under Shelter + Care, Section 8 or similar programs. OCII reserves the right to modify the terms of this Agreement based upon any substantial reductions in Borrower’s projected sources or substantial increase in Borrower’s uses of all funds for the Project to the extent Borrower has not provided additional Project sources sufficient to cover any reductions in sources or increase in uses, which sources shall be acceptable to the OCII in its reasonable discretion.

3.7 Additional OCII Approvals. Borrower understands and agrees that OCII is entering into this Agreement in its proprietary capacity and not as a regulatory agency with certain police powers. 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 obtain 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, which may include, without limitation, the San Francisco City Planning Commission and the San Francisco Board of Supervisors. Notwithstanding anything to the contrary in this Agreement,
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.

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.

4.2  Closing. In the event Borrower does not satisfy all of the conditions to Loan
closing contained in Section 4.3 (b) within twenty-four (24) months of the date of this
Agreement, 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 will authorize Loan closing upon satisfaction of the following
conditions:

(i)  Borrower shall have obtained the following Project financing, all
on terms and in amounts acceptable to Borrower and OCII pursuant to Section 4.5 (a)(iv): (1)
Borrower shall receive a loan or loans for Project development costs, made from the proceeds of
the sale of tax-exempt bonds allocated to to the issuer by the California Debt Limit Allocation
Committee; (2) Borrower shall receive an allocation of four percent (4%) federal low income
housing tax credits by TCAC pursuant to Section 42 of the Internal Revenue Code of 1986, as
amended; (3) Borrower shall obtain an equity investment in the Project from a tax credit
investor; and (4) Borrower shall obtain additional Project financing from any other required
lenders (collectively, the “Project Financing”);
(ii) the lenders and investors associated with the Project Financing are unconditionally prepared to close and fund their financing; and

(iii) Borrower shall have executed the Ground Lease and (subject to such limitations or reservations as may be referenced in the Ground Lease) accepted the condition of the Site.

(b) OCII will authorize the Loan closing upon satisfaction of the following conditions:

(i) 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) including the Deed of Trust and Declaration of Restrictions; (iii) an opinion of Borrower’s counsel in form and substance reasonably acceptable to OCII; (iv) the Authorizing Resolutions; and (v) any other OCII Documents reasonably requested by OCII.

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

(iii) Borrower must have delivered to OCII insurance endorsements and, if requested by OCII, copies of policies for all insurance required under Exhibit G of this Agreement.

(iv) Borrower must submit a complete services plan and budget which has been approved by the OCII or MOHCD.

(c) As a condition of Loan closing, OCII must be in receipt of the Master Developer Subsidy, which is included in the Funding Amount, pursuant to Section 5.4 (a) and (c) of the Below Market Rate Housing Plan component of the DDA with CP Dev Co which states that the Master Developer Subsidy must be provided “on the date of the closing of the construction loan” for the applicable phase. After the Loan Closing Date, OCII shall be responsible for advancing the full Funding Amount (including amounts derived from or calculated by reference to the Master Developer Subsidy) as and when due to Borrower pursuant to the terms of this Agreement and expressly agrees that the Borrower will not, after such time, bear any risk associated with the timing or amount of Master Developer Subsidy available to OCII.

(d) “Commencement of Vertical Construction” conditions have been met per Section 8 of the DDA.

4.4 Disbursement of Funds. Following satisfaction of the conditions in Section 4.3, OCII will authorize the Escrow Agent to disburse Funds as provided in OCII’s escrow instructions.

4.5 Disbursements.
(a) The Funding Amount is available for disbursement on or after the Loan Closing Date. OCII’s obligation to approve the expenditure of Funds on or after the Loan Closing Date is subject to Borrower’s satisfaction of the following conditions precedent:

(i) 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: (i) 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 Executive Director or his/her designee; and (ii) 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.

(ii) 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.

(iii) 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 F, Section 1, if applicable.

(iv) Borrower must have complied with the following loan conditions, as required by the Citywide Affordable Housing Loan Committee through its approval of the Project’s Loan Evaluation on May 16, 2014 Loan Evaluation which include:

1. OCII and MOHCD must review and approve the investor and lender Requests for Proposals for the Project. Borrower must allow OCII staff and MOHCD staff and its financial advisor, with borrower participation in such communication, to communicate directly with prospective and selected lenders/investors.

2. If Affordable Housing Program funds are awarded to either or both of the first two phases of Alice Griffith, they will reduce the Cost Overrun calculation, thereby reducing the OCII loan. If Affordable Housing Program funds are not awarded, Borrower will continue to apply until awarded or until the funds can no longer be used during the construction period.

3. Borrower will collaborate with OCII/MOHCD staff to determine the most appropriate financial plan for the Project that conforms to the DDA, MOHCD Underwriting Guidelines, CNI and applicable HUD regulations, and HOPE SF principles.
4. Borrower will continue to explore options to address the early negative cash flow occurrences while maximizing any opportunities to leverage permanent debt for Phase 1 and Phase 2 without jeopardizing project stability. At a minimum, the existing cash flow must be supplemented with Project-Based Vouchers (PBVs), as made available by HUD and SFHA, and such PBV income should be at a level to permit permanent debt. The Final Financial Plan is subject to approval by OCII Director and MOHCD Executive Director, prior to the Loan Closing Date.

5. Borrower must provide justification of the increase from the per unit cost that was presented and approved by the Loan Committee on December 20, 2013, to the Developer's current request. Developer must work closely with OCII staff to reduce per unit cost. Per MOHCD Underwriting Guidelines, the current 5% design/bid contingency included in the development budget will be eliminated once construction bids have been received.

6. The addition of any infrastructure sources and uses to the project development budgets must be approved by OCII Executive Director and MOHCD Director prior to the Loan Closing Date. If this addition results in added funding from CP Dev Co that will be paid to OCII and loaned to the Projects, that increased loan amount or additional loan must be approved by Loan Committee and the OCII Commission. Under no circumstances will OCII provide funds, other than those provided by CP Dev Co, to the Projects to be used on infrastructure construction or soft costs.

(b) OCII shall either approve or disapprove such Expenditure Request within 10 business days of receipt. In the event OCII disapproves an Expenditure Request OCII shall provide written notice thereof to Borrower specifying the reason for such disapproval. OCII shall fund all approved expenditure requests in a timely manner.

4.6 Schedule of Performance. Borrower must perform in accordance with the Schedule of Performance (Exhibit M). 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.

4.7 Retention. In addition to the other conditions to Disbursements, Borrower acknowledges that the amount of hard costs or tenant improvements costs included in any Expenditure Request associated with rehabilitation or construction, when added to previously approved costs, may not exceed ninety percent (90%) of the approved budgeted costs on a line item basis. OCII will retain the remaining ten percent (10%) of hard costs or tenant improvement costs associated with rehabilitation or construction (the "Retention"). Borrower may request disbursement of the aggregate amount of the Retention only upon satisfaction of each of the following conditions, unless otherwise approved in writing by OCII: (a) completion of rehabilitation or construction of the Project in accordance with the plans and specifications approved by OCII, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect's or engineer's certificate of completion; (b) timely recordation of a notice of completion; and (c) either
expiration of the lien period and the absence of any unreleased mechanics' liens or stop notices or recordation of the lien releases of all contractors, subcontractors and suppliers who provided labor or materials for the Project. OCII shall not retain any Retention for disbursements of the Predevelopment Loan.

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 DEMOLITION, REHABILITATION OR CONSTRUCTION.

5.1 Selection Requirements. In the selection of all contractors and professional consultants for the Project, Borrower must comply with OCII's procurement requirements and procedures.

5.2 Plans and Specifications. Before starting any demolition, rehabilitation or construction on the Site, Borrower must have delivered to OCII, and OCII must have reviewed and approved plans and specifications and the construction contract for the Project entered into between Borrower and Borrower's general contractor and approved by OCII (the "Construction Contract"). The plans approved by OCII must also be approved by the City and County of San Francisco's Department of Building Inspection (the "Department of Building Inspection") (collectively, the "Approved Plans") prior to the start of any demolition, rehabilitation or construction on the Site. The Approved Plans must be explicitly identified in the Construction Contract. The specifications approved by OCII, including the funder requirements and the technical specifications (the "Approved Specifications") must also be explicitly identified in the Construction Contract. The Construction Contract may include funder requirements not otherwise addressed in the Approved Specifications. After completion of the Project, Borrower must retain the Approved Plans as well as "as-built" plans for the Project, the Approved Specifications and the Construction Contract, all of which Borrower must make available to OCII upon request.

5.3 Change Orders. Borrower may not approve or permit any change orders to the plans and specifications approved by OCII without OCII's prior written consent. Borrower acknowledges that OCII's approval of any change order will not constitute an agreement to amend the Table of Sources and Uses or to provide additional Funds for the Project, unless OCII agrees in its sole discretion to amend the Table of Sources and Uses or provide additional Funds for that purpose. OCII shall endeavor to provide written approval or disapproval of each change order within fifteen (15) business days of receipt for request therefor, and within five (5) business days for items that impact the critical path of the Schedule of Performance.

5.4 Insurance, Bonds and Security. Before starting any demolition, rehabilitation or construction on the Site, Borrower must deliver to OCII insurance endorsements and bonds as
described in Exhibit G. At all times, Borrower must take prudent measures to ensure the security of the Site.

5.5 Notice to Proceed. No demolition, rehabilitation or construction may commence until Borrower has issued a written notice to proceed with OCI1's approval.

5.6 Commencement and Completion of Project. Unless otherwise extended in writing by OCI1, Borrower must: (a) commence construction within 2 weeks of the Loan Closing Date (b) complete demolition, rehabilitation or construction by December 31, 2016 (the "Completion Date"), in substantial accordance with the plans and specifications approved by OCI1, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect's or engineer's certificate of completion; and (c) achieve occupancy of Ninety Five percent (95%) of the Units by March 1, 2017.

5.7 Construction Standards. All construction must be performed in a first class manner, substantially in accordance with final plans and specifications approved by OCI1 and in accordance with all applicable codes.

ARTICLE 6 MARKETING PLAN AND TENANT SELECTION PLAN

6.1. The requirements in this Article 6 apply to all units in the Project except for the Public Housing Replacement Units. By the Loan Closing Date, Borrower must deliver to OCI1 for OCI1's and MOHCD's review and approval a draft affirmative marketing plan for initial and ongoing marketing of the Units (the "Marketing Plan") and a written Tenant selection procedure for initial and ongoing renting of the Units (the "Tenant Selection Plan"), all in compliance with the restrictions set forth in Exhibit A and in form and substance acceptable to OCI1. Borrower must obtain OCI1's approval of reasonable alterations to the Marketing Plan or the Tenant Selection Plan. Borrower must market and rent the Units in the manner set forth in the Marketing Plan and the Tenant Selection Plan (both of which plans must included the preference requirement for Alice Griffith residents both as approved by OCI1). Before marketing any Units, Borrower must provide OCI1 with updated implementation and contact information.

6.2 Affirmative Marketing Plan Requirements. Borrower's Marketing Plan must address how Borrower intends to market vacant Units and any opportunity for placement on the Waiting List, as defined in 6.3. The Marketing Plan shall include as many of the following elements as are appropriate to the Project, as determined by OCI1 and consistent with OCI1 and MOHCD policies and procedures related to marketing of affordable units, and shall include Borrower's plan to provide assistance to applicants throughout the marketing process:

(a) First preference, in the following priority order, for: (1) residents of the Alice Griffith housing development per the HUD Requirements, and as required in the Redevelopment Plan for the Bayview Hunters Point Redevelopment Area adopted on August 3, 2010; (2) Hunters Point Certificate of Preference Holders ("COP"); (3) Western Addition Certificate of Preference Holders, (4) rent burdened or assisted housing residents, defined as persons paying more than fifty percent (50%) of their income for housing, or persons residing in
public housing or Project-Based Section 8 housing; (5) San Francisco residents and (6) members of the general public. Borrower must incorporate a priority for Ellis Act Housing Preference ("EAHP") certificate holders in conformance with both priorities listed above and the policies established for EAHP Program as applicable beginning on the date that Commission adopts EAHP as OCII policy.

(b) Specifically for COP certificate holders, the Borrower shall make support services staff available to provide assistance throughout the application process, as it may be needed, with the goal of maximizing COP participation to the extent possible. The Borrower shall ensure that COP holders are aware that such assistance is available. This requirement will also apply to EAHP certificate holders beginning on the date that Commission adopts EAHP as OCII policy.

(c) A reasonable accommodations policy that indicates how Borrower intends to market Units to disabled individuals, including an indication of the types of accessible Units in the Project, the procedure for applying, and a policy giving disabled individuals a priority in the occupancy of accessible Units.

(d) Advertising in local neighborhood newspapers, community-oriented radio stations, on the internet and in other media that are likely to reach low-income households. All advertising must display the Equal Housing Opportunity logo.

(d) Notices to neighborhood-based, nonprofit housing corporations and other low-income housing advocacy organizations that maintain waiting lists or make referrals for below-market-rate housing.

(e) Notices to SFHA.

(f) Notices to MOHCD.

(g) To the extent practicable, without holding Units off the market, the community outreach efforts listed above must take place before advertising vacant Units or open spots on the Waiting List to the general public.

(h) An acknowledgement that, with respect to vacant Units, the marketing elements listed above shall only be implemented if there are no qualified applicants interested or available from the Waiting List.

6.3 Tenant Selection Plan Requirements: Borrower’s Tenant Selection Plan shall comply with the requirements of the Tenant Selection Plan Policy as set forth in the attached Exhibit J. The Tenant Selection Plan must be kept on file at the Project at all times. Minimum income requirements shall not be more restrictive than requiring a minimum income that is two times the rent, and must include tenant based rent subsidies as income. Additionally ability to pay rent based on rental history of paying a similar or higher rent or other demonstrable methods of rent payment such as participation in money management shall be considered mitigating circumstances related to minimum income and must be evaluated prior to denial of housing.
6.4 Marketing Records. Borrower must keep records of: (a) activities implementing the affirmative marketing plan; (b) advertisements; and (c) other community outreach efforts.

6.5 Waiting List. Borrower's Tenant Selection Plan must contain, at a minimum, policies and criteria that provide for the selection of tenants from a written waiting list in the chronological order of their application (the "Waiting List"). The Tenant Selection Plan may allow an applicant to refuse an available Unit for good cause without losing standing on the Waiting List but shall limit the number of refusals without cause as approved by OCII. Borrower shall at all times maintain the Waiting List. Upon the vacancy of any Unit, Borrower shall first attempt to select the new Tenant for such Unit from the Waiting List, and shall only market the Unit to the general public after determining that no applicants from the Waiting List qualify for such Unit. The Waiting List must be kept on file at the Project at all times.

ARTICLE 7

AFFORDABILITY AND OTHER LEASING RESTRICTIONS.

7.1 Term of Leasing Restrictions. Borrower acknowledges and agrees that the covenants and other leasing restrictions set forth in this Article will remain in full force and effect: (a) for the Compliance Term and survive the prior repayment or other satisfaction of the Loan, termination of this Agreement or reconveyance of the Deed of Trust; (b) for any Unit that has been subject to a regulatory agreement with TCAC, for a period ending three (3) years after the date of any transfer of the Project by foreclosure or deed-in-lieu of foreclosure; and (c) with respect to any Unit occupied by a Qualified Tenant at expiration of either the Compliance Term or the 3-year period referred to in Subsection (b) above, until the Qualified Tenant voluntarily vacates his/her Unit or is evicted lawfully for just cause. If applicable, the requirements to comply with the provisions of Internal Revenue Code Section 42, including Section 42(h)(6)(E)(ii), are hereby acknowledged.

7.2 Borrower's Covenant.

(a) Borrower covenants to rent all Units (except one Unit reserved for the manager of the Project) at all times to households certified as Qualified Tenants at initial occupancy, as set forth in Exhibit A.

(b) A Tenant who is a Qualified Tenant at initial occupancy may not be required to vacate the Unit due to subsequent rises in household income, except as provided in Section 7.3. After the over-income Tenant vacates the Unit, the vacant Unit must be rented only to Qualified Tenants as provided in Section 7.1.

7.3 Rent Restrictions.

(a) Maximum Rent charged to each Qualified Tenant may not exceed the amounts set forth in Exhibit A, provided that maximum Rent for Qualified Tenants for Units for
which Section 8 assistance is available is the fair market rent established by SFHA and HUD or other Governmental Agency with jurisdiction over the rental subsidy program.

(b) Unless prohibited under any applicable Law or the rules and regulations governing any Project funding source, each residential lease must provide for termination of the lease upon 120 days' prior written notice in the event that Borrower’s annual income certification indicates that the Tenant's household income exceeds 120 percent of Median Income.

(c) Subject to Section 7.3(d), annual Rent increases for Units will be limited as follows:

(i) for all other Units, except as permitted under Sections 7.3 (c)(ii) and 7.3 (d) below, annual Rent increases will be limited to the lesser of: (A) the amount which would result in a rent equal to the maximum rent permitted for the unit under Section 7.3(a), or (B) the amount which corresponds to the percentage of the annual increase in Median Income published by HUD; and,

(ii) for Units occupied by over-income Tenants, rent charged may not exceed thirty percent (30%) of the over-income Tenant’s adjusted household income.

(d) With the OCII’s prior written approval and in accordance with maximum rent limitations set forth in Section 7.3(a) and all applicable restrictions, Rent increases for Units exceeding the amounts permitted under Section 7.3(c) (ii) will be permitted in order to recover increases in Project Expenses, but in no event may single or aggregate increases exceed ten percent (10%) per year, unless such an increase is contemplated in a OCII-approved temporary relocation plan or when the increase is caused by an increase in certified income. OCII approval for such rent increases that are necessary to meet all approved Project Expenses and financial obligations shall not be unreasonably withheld.

7.4 Certification.

(a) As a condition to initial occupancy, each person who desires to be a Qualified Tenant in the Project must be required to sign and deliver to Borrower a certification in the form shown in Exhibit E in which the prospective Qualified Tenant certifies that he/she or his/her household qualifies as a Qualified Tenant. In addition, each person must be required to provide any other information, documents or certifications deemed necessary by OCII to substantiate the prospective Tenant’s income.

(b) Each Qualified Tenant in the Project must recertify to Borrower on an annual basis his/her household income.

(c) Income certifications with respect to each Qualified Tenant who resides in a Unit or resided therein during the immediately preceding calendar year must be maintained on file at Borrower's principal office, and Borrower must file or cause to be filed copies thereof with the OCII promptly upon request by the OCII.
7.5 **Form of Lease.** The form of lease for Tenants must provide for termination of the lease and consent to immediate eviction for failure to qualify as a Qualified Tenant if the Tenant has made any material misrepresentation in the initial income certification. The term of the lease must be for a period of not less than one (1) year. Borrower may not terminate the tenancy or refuse to renew any lease of a Unit except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Laws or other good cause. Any termination or refusal to renew the lease for a Unit must be preceded by not less than thirty (30) days' written notice to the Tenant specifying the grounds for the action. The form of lease for any Unit that has received an allocation of tax credits must provide that the Tenant agrees that the lease may be terminated upon 120 days' notice if the Tenant's certified household income exceeds 120 percent of Median Income and must specify that it may only be terminated in accordance with the requirements of Section 42 of the Internal Revenue Code.

7.6 **Nondiscrimination.** Borrower agrees not to discriminate against or permit discrimination against any person or group of persons because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability, gender identity, height, weight, source of income or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC) in the operation and use of the Project except to the extent permitted by law or required by any other funding source for the Project. Borrower agrees not to discriminate against or permit discrimination against Tenants using Section 8 certificates or vouchers or assistance through other rental subsidy programs.

7.7 **Security Deposits.** Security deposits may be required of Tenants only in accordance with applicable state law and this Agreement. Any security deposits collected must be segregated from all other funds of the Project in an Account held in trust for the benefit of the Tenants and disbursed in accordance with California law. The balance in the trust Account must at all times equal or exceed the aggregate of all security deposits collected plus accrued interest thereon, less any security deposits returned to Tenants.

**ARTICLE 8 MAINTENANCE AND MANAGEMENT OF THE PROJECT.**

8.1 **Borrower's Responsibilities.**

(a) Subject to the rights set forth in Section 8.2, Borrower will be specifically and solely responsible for causing all maintenance, repair and management functions performed in connection with the Project, including selection of tenants, recertification of income and household size, evictions, collection of rents, routine and extraordinary repairs and replacement of capital items. Borrower must maintain or cause to be maintained the Project, including the Units and common areas, in a safe and sanitary manner in accordance with local health, building and housing codes, California Health and Safety Code 17920.10 and the applicable provisions of 24 CFR Part 35.
8.2 Contracting With Management Agent.

(a) Borrower may contract or permit contracting with a management agent for the performance of the services or duties required in Section 8.1(a), subject to OCII prior written approval of both the management agent and, at OCII discretion, the management contract between Borrower and the management agent, provided, however, that the arrangement will not relieve Borrower of responsibility for performance of those duties. Any management contract must contain a provision allowing Borrower to terminate the contract without penalty upon no more than thirty (30) days' notice. OCII hereby approves McCormack Baron Ragan as the management agent for the Project.

(b) OCII will provide written notice to Borrower of any determination that the contractor performing the functions required in Section 8.1(a) has failed to operate and manage the Project in accordance with this Agreement. If the contractor has not cured the failure within a reasonable time period, as determined by OCII, Borrower must exercise its right of termination immediately and make immediate arrangements for continuous and continuing performance of the functions required in Section 8.1(a), subject to OCII approval.

8.3 Borrower Management. Borrower may manage the Project itself only with the City's prior written approval. OCII will provide written notice to Borrower of any determination that Borrower has failed to operate and manage the Project in accordance with this Agreement, in which case, OCII may require Borrower to contract or cause contracting with a management agent to operate the Project, or to make other arrangements OCII deems necessary to ensure performance of the functions required in Section 8.1(a).

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, and those requirements set forth in Exhibit F. Borrower acknowledges that its failure to comply with any of these requirements will constitute an Event of Default under this Agreement. Subject to Section 23.1, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

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 acknowledges that, if and after Borrower acquires Control of the Site, OCII may also conduct periodic on-site inspections of the Project provided access to the interior of any residential unit is preceded by no less than 48 hours’ prior notice. 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.

(c) Borrower must provide written notice of the replacement of the member or manager of its administrative general partner or the executive director, director of housing development, director of property management and/or any equivalent position within the sole member of the managing general partner, within thirty (30) days after the effective date of such replacement.

10.2 Monthly Reporting. Commencing upon the Loan Closing Date, 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 N through submission of Forms 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 Capital Needs Assessment. Borrower must deliver to OCII or the City an updated CNA ten (10) years after the Completion Date and every five (5) years thereafter for approval. The updated CNA must include an analysis of Borrower's actual expenditures for capital needs compared to the most recently approved CNA, Borrower's 20-Year Proforma (Exhibit C-3) and initial Annual Operating Budget (Exhibit C-2) and its then-current Annual Operating Budget.

10.5 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 thereafter 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 previously prepared 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.

10.6 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 this Agreement or any other OCII Document, Borrower agrees that duly authorized representatives of OCII (which shall include but not be limited to 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.

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

ARTICLE 11 USE OF INCOME FROM OPERATIONS.

11.1 Project Operating Account.

(a) Borrower must deposit all Project Income promptly after receipt into a segregated depository account (the "Project Operating Account") established exclusively for the Project. Withdrawals from the Project Operating Account may be made only in accordance with the provisions of this Agreement and the approved Annual Operating Budget, as it may be revised from time to time with the OCII's approval. Borrower may make withdrawals from the Project Operating Account solely for the payment of Project Expenses and Project Fees and payments and distributions of Surplus Cash in accordance with Section 3.5. Withdrawals from the Project Operating Account (including accrued interest) for any other purposes may be made only with the OCII's express prior written approval.

(b) Borrower must keep accurate records indicating the amount of Project Income deposited into and withdrawn from the Project Operating Account and the use of Project Income. Borrower must provide copies of the records to the OCII upon request.

ARTICLE 12 REQUIRED RESERVES.

12.1 Replacement Reserve Account.

(a) Commencing no later than sixty (60) days after the Completion, or any other date the OCII designates in writing, Borrower must establish or cause to be established a segregated interest-bearing replacement reserve depository account (the "Replacement Reserve Account"). On or before the 15th day of each month following establishment of the Replacement Reserve Account, Borrower must make monthly deposits from Project Income into the Replacement Reserve Account in the amount necessary to meet the requirements of this Section.
The OCII may review the adequacy of deposits to the Replacement Reserve Account periodically and require adjustments as it deems necessary, which shall not be unreasonably withheld.

(b) Monthly deposits must equal one-twelfth of the sum of $400 per unit, per year in accordance with MOHCD requirements.

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(c) Borrower may withdraw funds from the Replacement Reserve Account solely to fund capital improvements for the Project, such as replacing or repairing structural elements, furniture, fixtures or equipment of the Project that are reasonably required to preserve the Project. Borrower may not withdraw funds (including any accrued interest) from the Replacement Reserve Account for any other purpose without the MOHCD’s prior written approval.

12.2 Operating Reserve Account.

(a) Upon the later to occur of: (x) Borrower’s tax credit equity investor’s capital contribution made in connection with conversion of the Project’s senior debt from construction to permanent debt, or (y) sixty (60) days after the Completion Date, Borrower must establish or cause to be established a segregated interest-bearing operating reserve depository account (the “Operating Reserve Account”) by depositing funds in an amount equal to $228,000 or such greater amount as is required by the senior lender or borrower’s investor limited partner and as approved by OCII and MOHCD. OCII may review the adequacy of deposits to the Operating Reserve Account periodically and require adjustments as it deems necessary.

(b) No less than annually after establishing the Operating Reserve Account and continuing until the Compliance Term has expired, Borrower must make additional deposits, if necessary, to bring the balance in the Operating Reserve Account to an amount equal to 25% of the prior year’s operating expenses, or such other amount as approved by MOHCD Director and OCII Executive Director as part of the Final Financial Plan prior to the Loan Closing Date. Such additional deposits shall be made from available Surplus Cash.

(c) Borrower may withdraw funds from the Operating Reserve Account solely to alleviate cash shortages resulting from unanticipated and unusually high maintenance expenses, seasonal fluctuations in utility costs, abnormally high vacancies, other expenses that vary seasonally or from month to month in the Project and reductions in operating subsidy. Borrower may not withdraw funds (including any accrued interest) from the Operating Reserve Account for any other purpose without the OCII’s prior written approval.
ARTICLE 13 DISTRIBUTIONS.

13.1 Definition. "Distributions" refers to cash or other benefits received as Project Income from the operation of the Project and available to be distributed to Borrower, its general partners or any party having a beneficial interest in the Project as Surplus Cash, but does not include reasonable payments for property management, asset management, partnership management or other services performed in connection with the Project.

13.2 Conditions to Distributions. The 20-Year Cash Flow Proforma attached hereto as Exhibit C-3 includes projections of annual Distributions of Surplus Cash. Exhibit C-3 is not intended to impose limits on the amounts to be annually distributed. Distributions for a particular fiscal year may be made only following: (a) OCII approval of the Annual Monitoring Report submitted for that year; (b) the OCII’s determination that Borrower is not in default under this Agreement or any other agreement entered into with the City and County of San Francisco or the OCII for the Project; and (c) the OCII’s determination that the amount of the proposed Distribution satisfies the conditions of this Agreement, including, but not limited to Section 3.5. OCII will be deemed to have approved Borrower's written request for approval of a proposed Distribution unless OCII delivers its disapproval or request for more information to Borrower within thirty (30) business days after the City's receipt of the request for approval.

13.3 Prohibited Distributions. No Distribution may be made in the following circumstances:

(a) when a written notice of default has been issued to Borrower by any entity with an equitable or beneficial interest in the Project and the default is not cured within the applicable cure periods; or

(b) when OCII determines that Borrower or Borrower's management agent has failed to comply with this Agreement and such failure has not been remedied; or

(c) if required debt service on all loans secured by the Project and all operating expenses have not been paid current; or

(d) if the Replacement Reserve Account, Operating Reserve Account or any other reserve account required for the Project is not fully funded under this Agreement; or

(e) if the Loan is to be repaid from Surplus Cash, Borrower failed to make a payment when due on a Payment Date and the sum remains unpaid; or

(f) during the pendency of an uncured Event of Default (including Borrower’s failure to provide its own funds at any time OCII determines the Loan is out of balance) under any OCII Document.

13.4 Distributions of Surplus Cash. Distributions of Surplus Cash shall be made in accordance with Section 3.5.
ARTICLE 14 SYNDICATION PROCEEDS.

14.1 Distribution and Use. If Borrower is a limited partnership or limited liability company, and unless otherwise approved by OCII in writing, Borrower must allocate, distribute and pay or cause to be allocated, distributed and paid all net syndication proceeds and all loan and grant funds as specified in the Table. Borrower must notify OCII of the receipt and disposition of any net syndication proceeds received by Borrower during the term of this Agreement.

ARTICLE 15 DEVELOPER FEES.

15.1 Amount. OCII has approved the payment of fees in an amount not to exceed One Million Five Hundred Thousand and No/100 Dollars ($1,500,000.00) to Developer for the predevelopment and construction periods of the Project with One Million and No/100 Dollars ($1,000,000.00) to be paid in accordance with the Developer Fee Schedule attached hereto as Exhibit O, with Five Hundred Thousand and No/100 Dollars ($500,000.00) to be used to cover Project costs, and an additional One Million and No/100 Dollars ($1,000,000.00) that is at-risk for costs exceeding the Final Financial Plan and any remaining amount will be available at the Project Close Out for an aggregate of Two Million Five Hundred Thousand and No/100 Dollars ($2,500,000.00) ("Developer Fees").

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, or (c) leases or occupancy agreements to occupants of residential units. Any other transfer, assignment, encumbrance or lease without OCII's prior written consent 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. Commencing on the date hereof, Borrower must obtain and maintain, or cause to be obtained and maintained, insurance and bonds as set forth in Exhibit G 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. Subject to Section 23.1, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

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) On or after the Loan Closing Date, any lien is recorded against all or any part of the Site or the Project without OCII's prior written consent, whether prior or subordinate to the lien of the Deed of Trust or Declaration of Restrictions, and the lien is not removed from title or otherwise remedied to the OCII's satisfaction within 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 the City, provided that Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion; 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) All or a substantial or material portion of the improvements on the Site is damaged or destroyed by fire or other casualty, and OCII has determined upon restoration or repair that the security of the Deed of Trust has been impaired or that the repair, restoration or replacement of the improvements in accordance with the requirements of the Deed of Trust is not economically practicable or is not completed within two (2) years of the receipt of insurance proceeds; or all or a substantial or material portion of the improvements is condemned, seized or appropriated by any non-City Governmental Agency or subject to any action or other proceeding instituted by any non-City Governmental Agency for any purpose with the result that the improvements cannot be operated for their intended purpose provided, however, that Borrower
shall not be deemed in default pursuant to this Section 19.1 (e) so long as it is acting in compliance with applicable HUD Requirements and has provided OCII sixty (60) days notice of such action; 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) Either the Deed of Trust or the Declaration of Restrictions ceases to constitute a valid and indefeasible perfected lien on the Site and improvements, subject only to Permitted Exceptions; 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 ninety (90) 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 ninety (90) 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 ninety (90) days after its issue or levy; or

(l) Any material adverse change that occurs in the financial condition or operations of Borrower, such as a loss of services funding or rental subsidies, that has a material adverse impact on the Project such that absent intervention an Event of Default (other than under this Section 19.1(l)) is likely to occur and Borrower has not, within 90 days of the material
adverse change, remedied the situation or presented to OCII a plan that in OCII’s reasonable judgment is likely to remedy the situation; or

(m) Borrower fails to make any payments or disbursements required to bring the Loan in balance after OCII determines that the Loan is out of balance; or

(n) On or after the Loan Closing Date and before a certificate of occupancy is issued for the Project, Borrower ceases rehabilitation or construction of the Project for a period of fifteen (15) consecutive working days, and the cessation is not excused under Section 19.3 or such cessation of construction or rehabilitation shall have been caused by a delay in issuance of an addendum to Borrower’s building permit by the City of San Francisco, which delay is not caused directly or indirectly by Borrower’s actions or inactions; 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, 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 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:

(a) OCII at its option 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 at its option 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, either directly or through an agent or court-appointed receiver, may take possession of the Project and enter into contracts and take any other action OCII deems appropriate to complete or construct all or any part of the improvements, subject to modifications and changes in the Project OCII deems appropriate.
(e) OCI 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 OCI Documents, will become due and payable automatically.

(g) All costs, expenses, charges and advances of OCI 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 OCI within ten (10) days of OCI's demand for reimbursement.

19.3 Force Majeure. The occurrence of any of the following events will excuse performance of any obligations of OCI or Borrower rendered impossible to perform while the event continues: 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 OCI 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 OCI to enter into this Agreement, Borrower represents and warrants as follows:

(a) The execution, delivery and performance of the OCI 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 OCI Documents will constitute the legal, valid and binding obligations of Borrower. Borrower hereby waives any defense to the enforcement of the OCI Documents related to alleged invalidity of the OCI Documents.

(c) To the best of Borrower's knowledge after due inquiry, No action, suit or proceeding is pending or 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, to the best of Borrower's knowledge after due inquiry, 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, to the best of Borrower's knowledge after due inquiry, its general contractor been suspended, disciplined or prohibited from contracting with any Governmental Agency.

(f) The Loan is in balance, and the Funding Amount, together with all other committed sources of financing for the Project, are sufficient to complete the Project in accordance with this Agreement.

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

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, overnight delivery service, facsimile (if followed within one (1) business day by first class mail) or by United States certified mail, postage prepaid, return receipt requested. 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

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

To Borrower: McCormack Baron Salazar, Inc.
720 Olive Street, Suite 2500
St. Louis, MO 63101
Attn: Hillary Zimmerman

With a copy to: Klein Hornig LLP
101 Arch St., Suite 1101
Boston, MA 02111
Attn: Dan Rosen
With a copy to: McCormack Baron Salazar, Inc.  
50 California Street, Suite 1500  
San Francisco, California 94111  
Attn: Yusef Freeman

Investor Limited Partner: To be determined

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.

21.2 Required Notices. 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 Site or ability to repay the Loan.

21.3 Notice and Cure Rights of Investor Limited Partner. Upon written notice from Borrower to OCII of admission of the Investor Limited Partner if an Event of Default occurs, OCII shall give Investor Limited Partner the same written notice given to the Borrower as required herein. Investor Limited Partner shall have the right, but not the obligation, to cure defaults within the time periods provided to Borrower herein. With respect to any right of cure provided herein, performance of a cure by Investor Limited Partner shall have the same effect as would like performance by Borrower. Unless OCII is otherwise notified, notices to Investor Limited Partner shall be sent to the address provided in Section 21.1 above.

ARTICLE 22 HAZARDOUS SUBSTANCES.

22.1 Borrower's Representations. 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 its agents to cause 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 notice of the discovery by Borrower of any Environmental Activity on the Site promptly following Borrower's discovery.

ARTICLE 23 INDEMNITY.

23.1 Borrower's Obligations. Borrower must Indemnify OCII, the City, and their respective officers, agents and employees (individually or collectively, an "Indemnitee") against any and all Losses arising out of: (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 material respects when made; (c) injury or death to persons or damage to property or other loss occurring on or in connection with the Site or the Project after the Loan Closing Date, whether
caused by the negligence or any other act or omission of Borrower (or its agents) or by negligent, faulty, inadequate or defective design, building, construction, rehabilitation or maintenance or any other condition or otherwise, but only to the extent such event arises directly or indirectly from Borrower’s (or its agents) activities on the Site; (d) any claim of any surety in connection with any bond relating to the construction or rehabilitation of any improvements or offsite improvements performed by Borrower or its agents; (e) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee that relates to or arises out of the OCII Documents, the Loan, Borrower’s (or its agents) activities on the Site or the Project after the Loan Closing Date or any transaction contemplated by, or the relationship between Borrower and OCII or Borrower and the City; (f) the occurrence, before the expiration of the term of this Agreement, of any Environmental Activity caused or permitted by Borrower on the Site or any failure of Borrower (or its agents) to comply with all applicable Environmental Laws relating to Borrower’s (or its agents) activities on the Project or the Site (exclusive of activities by CP Dev Co, SFHA, and their respective agents); (g) the occurrence, after the termination of this Agreement, of any Environmental Activity resulting directly or indirectly from any Environmental Activity occurring from the Loan Closing Date until the termination of this Agreement relating directly or indirectly to Borrower’s (or its agents) activities on the Project or the Site; (h) 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 (i) 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, provided that no Indemnitee will be entitled to indemnification under this Section for matters caused by its own gross negligence or willful misconduct. In the event any action or proceeding is brought against an Indemnitee by reason of a claim arising out of any Loss for which Borrower has indemnified the Indemnitees, upon written notice, Borrower must answer and otherwise defend the action or proceeding using counsel approved in writing by the Indemnitee at Borrower’s sole expense. Each Indemnitee will 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 Indemnitee 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. Any indemnification obligation of the Borrower and/or its partners under the OCII Documents shall not extend to repayment of principal or interest on the Loan. The sole recourse of OCII under the OCII Documents for repayment of the Loan shall be the exercise of their respective rights against the Project.

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 Subordination. The Deed of Trust and Declaration of Restrictions may be subordinated to other financing secured by and used for development of the Project and to instruments mandated by HUD pursuant to HUD Requirements (in each case, a "Senior Lien"), but only if OCII determines in its sole discretion that subordination is necessary to comply with HUD Requirements and/or to secure adequate acquisition, construction, rehabilitation and/or permanent financing to ensure the viability of the Project. Following review and approval by OCII and approval as to form by the City Attorney's Office, the Director of OCII or his/her successor or designee, or if after the recordation of the notice of completion, the Director of MOHCD or his/her successor or designee, will be authorized to execute any approved subordination agreement, to execute other instruments and/or to modify OCII Documents as may be required to conform to the HUD Requirements as applicable to the Project, without the necessity of any further action or approval.

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 or City Obligations. OCII's or the City's, as OCII's successor and assign, 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 or the City be liable to Borrower for any special or consequential damages arising out of actions or failure to act by OCII or the City 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 more than one person or entity signs this
Agreement as Borrower, the obligations of such persons and entities shall be joint and several.

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, 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 Site, 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 Site 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.

24.20 **Borrower's Board of Directors.** Borrower or its managing general partner (or managing member of its 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 drives, 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. Subsequent to the Loan Closing Date, Borrower may grant senior pledges of the Work Product to the holder of a Senior Lien approved pursuant to Section 24.1.

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, subsequent to the date of recordation of the Notice of Completion, all of OCII's rights, interests and obligations under the OCII Documents shall be assigned to the City. No further instruments shall be necessary to effectuate this assignment, but if requested by 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 the City, all references herein to OCII shall be deemed references to the City.

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

EXHIBITS
A  Schedules of Income and Rent Restrictions
B  Site Description
C-1 Table of Sources and Uses of Funds
C-2 Annual Operating Budget
C-3 20-Year Cash Flow Proforma
D  Form of Promissory Note
E  Bayview Hunters Point Employment and Contracting Policy
F  Contract Compliance Policies
G  Insurance Requirements
H  Lobbying/Debarment Certification Form
I  Form of Annual Monitoring Report
J  Tenant Selection Plan Policy
K  Form of Deed of Trust
L  Form of Declaration of Restrictions
M  Schedule of Performance
N  OCII Monthly Project Update Form
O  Developer Fee Schedule
P  Assignment of Work Product
Q  Consent to Assignment of Work Product
R  Final Financial Plan Confirmation Letter
IN WITNESS WHEREOF, the parties hereto have executed this Agreement 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:**
Double Rock Ventures, LLC, a Delaware limited
liability company
By: Double Rock MBS Member, Inc., a Missouri
corporation, its Sole Member

By: ________________________________
   Kevin J. McCormack, President

**APPROVED AS TO FORM:**

**DENNIS J. HERRERA**
City Attorney

By: ________________________________
   Heidi J. Gewertz
   Deputy City Attorney
## EXHIBIT A

### Schedules of Income and Rent Restrictions

(HUD Area Median Income not adjusted for high cost areas pursuant to MOH and SFRA policy adopted in 2001)

<table>
<thead>
<tr>
<th></th>
<th>Phase 1 Block 2</th>
<th>Max AMI*</th>
<th>Max Rent 2014**</th>
<th>Rent or Operating Subsidies***</th>
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<tbody>
<tr>
<td>1 BDRM</td>
<td>23</td>
<td>50%</td>
<td>$911</td>
<td>see below</td>
</tr>
<tr>
<td>2 BDRM</td>
<td>51</td>
<td>50%</td>
<td>$1,014</td>
<td>see below</td>
</tr>
<tr>
<td>3 BDRM</td>
<td>7</td>
<td>50%</td>
<td>$1,107</td>
<td>see below</td>
</tr>
<tr>
<td>4 BDRM</td>
<td>12</td>
<td>50%</td>
<td>$1,173</td>
<td>see below</td>
</tr>
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<td><strong>TOTAL</strong></td>
<td><strong>93</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total Bedrooms**: 194

- **Public Housing Replacement**: 58, 50%, RAD or Section 8
- **Additional Affordable Units / 50% AMI**: 35, 50%, none, none
- **TOTAL**: 93

*Existing Alice Griffith residents with incomes higher than established above will be accommodated as allowed by HUD regulations

**The Project rents will be established based on established rents for the appropriate year of the commencement of marketing of the Project. The rents shown here are net of the Utility Allowances established for 2014 and applicable to the Project as designed.

***The exact unit mix for Public Housing Replacement Units will be established based on the needs of existing residents closer to the time of close of construction financing.
EXHIBIT B
Site Description
EXHIBIT C-1
Table of Sources and Uses of Funds

The Final Financial Plan, including the Table of Sources and Uses of Funds is pending and subject to approval by OCII Executive Director and MOHCD Director, prior to the Loan Closing Date.

<table>
<thead>
<tr>
<th>Phase 1</th>
<th></th>
<th></th>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>Number of Units</td>
<td>93</td>
<td>PHR</td>
<td>58</td>
<td></td>
</tr>
<tr>
<td>Sqft</td>
<td>136,067</td>
<td>LIHTC</td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>Number of Bedrooms</td>
<td>197</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cost Per Unit</td>
<td>Cost Per Bedroom</td>
<td>Cost Per Sqft</td>
<td></td>
<td></td>
</tr>
<tr>
<td>City/OCII Permanent Sources</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OCII Funding Base</td>
<td>$2,743,650</td>
<td>$29,502</td>
<td>$13,927</td>
<td>$20.16</td>
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<td>OCII Funding &quot;Cost Overruns&quot;</td>
<td>$4,350,267</td>
<td>$46,777</td>
<td>$22,083</td>
<td>$31.97</td>
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<tr>
<td>Total OCII Funding</td>
<td>$7,093,917</td>
<td>$76,279</td>
<td>$36,010</td>
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<td>CP DEV CO Funding Base</td>
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<td>$82,473</td>
<td>$38,934</td>
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<td>CP DEV CO Funding &quot;Cost Overruns&quot;</td>
<td>$7,209,013</td>
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<tr>
<td>Total Master Developer Subsidy</td>
<td>$38,79,013</td>
<td>$159,989</td>
<td>$75,528</td>
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<td>Total Loan Amount</td>
<td>$21,972,930</td>
<td>$76,279</td>
<td>$36,010</td>
<td>$52</td>
</tr>
<tr>
<td>Non-City/OCII Permanent Sources</td>
<td></td>
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<td>CNI</td>
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<td>Total Sources</td>
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<td>$585,193</td>
<td>$276,259</td>
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<table>
<thead>
<tr>
<th>Phase 1 Uses</th>
<th>Cost Per Unit</th>
<th>Cost Per Bedroom</th>
<th>Cost Per Sqft</th>
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<td>Acquisition</td>
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<td>Construction</td>
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<td>Other Soft Costs</td>
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<td>Soft Cost Contingency</td>
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<td>Capitalized Operating Reserves</td>
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<td>Lease Up Reserve</td>
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<td>Developer Fee</td>
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<td>Total</td>
<td>$54,422,930</td>
<td>$585,193</td>
<td>$276,259</td>
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</table>
EXHIBIT C-2
Annual Operating Budget

The Final Financial Plan, including the Annual Operating Budget is pending and subject to approval by OCII Executive Director and MOHCD Director, prior to the Loan Closing Date.
EXHIBIT C-3
20-Year Cash Flow Proforma

The Final Financial Plan, including the 20-Year Cash Flow Proforma is pending and subject to approval by OCII Executive Director and MOHCD Director, prior to the Loan Closing Date.
EXHIBIT N
Title Report for Agency Property

TO BE
ATTACHED
EXHIBIT O
Title Report for Authority Property

TO BE
ATTACHED