



118-0072023-002

Agenda Item **Nos. 5 (b) through 5(d)**
Meeting of April 4, 2023

MEMORANDUM

TO: Successor Agency Commissioners

FROM: Thor Kaslofsky, Executive Director

SUBJECT: Authorizing a First Amendment to the Second Amended and Restated Loan Agreement with HPSY 52-54, L.P., a California limited partnership, to decrease the loan amount by \$2,200,302, for a total aggregate loan amount of \$57,000,430 for the development of a 112-unit affordable rental housing project (including two manager's units) at 351 Friedell Street and 151 Friedell Street (Hunters Point Shipyard Phase 1 Blocks 52 and 54); Providing notice that this approval is within the scope of the Hunters Point Shipyard Phase 1 Reuse Final Environmental Impact Report, a Program EIR, and is adequately described therein for the purposes of the California Environmental Quality Act ("CEQA"); and adopting environmental findings pursuant to CEQA; Hunters Point Shipyard Redevelopment Project Area

Authorizing a Ground Lease with HPSY 52-54, L.P., a California limited partnership, and a Site Development Agreement in an amount not to exceed \$4,838,390 with Rose Community Development Company, LLC, a Delaware limited liability company, for the development of a 112-unit affordable rental housing project (including two manager's units) at 351 Friedell Street and 151 Friedell Street (Hunters Point Shipyard Phase 1 Blocks 52 and 54), and providing notice that this approval is within the scope of the Hunters Point Shipyard Phase 1 Reuse Final Environmental Impact Report, a Program EIR, and is adequately described therein for the purposes of the California Environmental Quality Act ("CEQA"); and, adopting environmental findings pursuant to CEQA; Hunters Point Shipyard Redevelopment Project Area

London N. Breed
MAYOR

Thor Kaslofsky
EXECUTIVE DIRECTOR

Bivett Brackett
CHAIR

Alex Ludlum
Tamsen Drew
Dr. Carolyn Ransom-Scott
COMMISSIONERS

📍 One S. Van Ness Ave.
5th Floor
San Francisco, CA
94103

📞 415 749 2400

🏠 www.sfocii.org

Authorizing a Shoring, Underpinning and Tieback Easement Agreement and Escrow Agreement with HPS1 Block 52, LLC, a Delaware limited liability company, to provide right of access for temporary structural improvements necessary for the construction of an affordable rental housing project at 351 Friedell Street, and providing notice that this approval is within the scope of the Hunters Point Shipyard Phase 1 Reuse Final Environmental Impact Report, a Program EIR, and is adequately described in the Phase 1 EIR for the purposes of the California Environmental Quality Act ("CEQA"); and, adopting environmental findings pursuant to CEQA; Hunters Point Shipyard Redevelopment Project Area

EXECUTIVE SUMMARY

The Office of Community Investment and Infrastructure ("OCII"), as Successor Agency to the Redevelopment Agency of the City and County of San Francisco, is implementing the affordable housing obligations of the Hunters Point Shipyard Redevelopment Plan ("HPS Redevelopment Plan") and Disposition and Development Agreement -- Hunters Point Shipyard Phase 1 ("Phase 1 DDA"). In August 2021, the Successor Agency Commission ("Commission") authorized a Second Amended and Restated Loan Agreement ("Loan Agreement") with HPSY 52-54 L.P., (the "Developer") a California limited partnership formed by The Jonathan Rose Companies ("JRC") and Bayview Hunters Point Multipurpose Senior Services ("BHPMSS"). The Loan Agreement provides \$59,200,732 for the planning of a 112-unit affordable rental housing project at 351 Friedell Street (within Block 52) and 151 Friedell Street (within Block 54), San Francisco, CA. The affordable housing projects on the two OCII Housing Parcels within Blocks 52 and 54 of HPS Phase 1 are the "Project". See Attachment A.

Beginning in 2020, the State started allocating tax-exempt bond financing for affordable housing projects on a competitive basis, and such financing has been oversubscribed in every financing application round. Once in 2021 and then again in 2022, the Developer unsuccessfully applied for a competitive bond allocation from the State (there are three rounds per year). After restructuring the Project's financing to be more competitive, the Developer succeeded in obtaining a State affordable housing bond allocation on November 30, 2022. Due to delays and costs from multiple unsuccessful Low Income Housing Tax Credit and tax-exempt bond applications to the State as well as cost escalation from interest rate and construction cost increases during the delays the Developer is requesting an increase in total OCII subsidy for the Project to \$61,838,820, from an original amount of \$59,200,732, of which approximately \$57,000,430 will be provided via an amended Loan Agreement and approximately \$4,838,390 will be funded through a Site Development Agreement to remove site preparation costs from the basis of the Project (making it more competitive for bond allocation).

Now, in preparation for the close of construction financing and construction start, planned for May 2023, staff is requesting Commission approval of: (1) a First Amendment to the Loan Agreement, authorizing an aggregate loan amount not to exceed approximately \$57,000,430 (“Amended Loan Agreement”) (Attachment B); (2) a 75-year ground lease (“Ground Lease”) (Attachment C); (3) a Site Development Agreement for site preparation work in an amount not to exceed approximately \$4,838,390 with Rose Community Development Company, LLC, (“RCDC”) a Delaware limited liability company affiliated with JRC (Attachment D); (4) a Shoring, Underpinning and Tieback Easement Agreement (“Easement Agreement”) and Escrow Agreement (“Escrow Agreement”) with HPS1 Block 52, LLC, a Delaware limited liability company affiliated the Master Developer (defined below) (Attachment E). The Citywide Affordable Housing Loan Committee approved the loan request on March 17, 2023 (Attachment F).

Staff recommends that the Commission authorize the Amended Loan Agreement, the Ground Lease, the Site Development Agreement, the Easement Agreement and Escrow Agreement, and adopt environmental findings pursuant to CEQA.

DISCUSSION

Project Area Background

In 1997, the San Francisco Board of Supervisors adopted the HPS Redevelopment Plan to guide redevelopment of the former Hunters Point Naval Shipyard (“HPS” or “Shipyard”) in the Bayview Hunters Point neighborhood of San Francisco. Pursuant to a Conveyance Agreement between the U.S. Department of the Navy (“Navy”) and the former San Francisco Redevelopment Agency (“Former Agency”) executed in 2004, the Navy agreed to transfer certain properties within the Shipyard to the Former Agency (now OCII) after federal and state regulators determined that all necessary environmental remediation had occurred and the property was determined to be suitable for its intended use.

In 2004, the Navy and federal and state environmental regulators determined that Parcel A – previously used for military barracks during active military base use – did not require environmental remediation and was suitable for its intended use as future residential development. Thereafter, the Navy transferred Parcel A to the Former Agency.

In 2010, the City and County of San Francisco Board of Supervisors (“BOS”) adopted an amendment to the HPS Redevelopment Plan dividing the Project Area into two phases: Phase 1 consisting of Parcel A and creating a HPS second phase (“Phase 2”), consisting of the remaining parcels at the Shipyard, which had not yet transferred to the Former Agency due to ongoing remediation. HPS Phase 2 is now included as part of a separate development project together with the adjacent Candlestick Point area of the Bayview Hunters Point Redevelopment Project Area.

For purposes of redevelopment, Parcel A is further subdivided into Parcel A-1, commonly called the Hilltop, and Parcel A-2, commonly called the Hillside. The Hilltop consists of eleven housing development blocks, including Blocks 52 and 54, further subdivided into developable lots.

Master Development Under the Phase 1 DDA

In accordance with the Redevelopment Plan, the Former Agency entered into the Phase 1 DDA on December 3, 2003, with Lennar/BVHP, LLC (predecessor in interest to current development entity, HPS Development Co., L.P., a Delaware limited partnership (an affiliate of Lennar Urban and herein “Master Developer”). The Phase 1 DDA governs the horizontal and vertical redevelopment of HPS Phase 1, including transportation, infrastructure, parks and open space, and affordable housing. The Master Developer is responsible for construction of horizontal infrastructure to serve development within Phase 1, 26 acres of parks and open space, and has the right to convey improved Lots to Vertical Developers for the construction of up to approximately 1,210 residential Units (with at least 10.5% of these Units being made affordable to households earning 80% of Area Median Income). In addition, the Phase 1 DDA identifies three Agency Affordable Parcels, on which OCII is to construct approximately 218 Agency Affordable Housing Units. Together, the Vertical Developers’ inclusionary affordable Units and the Agency Affordable Housing Units are to comprise approximately 29% of Units constructed with Phase 1.

To date, the following development has occurred under the Phase 1 DDA (including both Hilltop and Hillside):

- The Master Developer has built 47% of the infrastructure including 12 acres of park space and 40% of the roadways.
- Construction is completed or nearing completion on eight of nine market-rate housing blocks within Parcel A-1 (Hilltop).
- Vertical Developers have built 505 units, including 43 inclusionary units, within market-rate buildings, and 59 inclusionary units in a 100% affordable project on Block 49 (Pacific Pointe at 350 Friedell).¹
- OCII’s three stand-alone Agency Housing Parcels within Blocks 52, 54, and 56 will provide approximately 182 BMR units at up to 50% of the Area Median Income (“AMI”), including 112 units at Blocks 52/54.²

¹ As part of the Sixth Amendment to the Phase 1 DDA, OCII allowed the Master Developer to shift 59 affordable inclusionary units serving households earning up to 50% of AMI from within the market rate blocks to a stand-alone, 100% affordable project at Block 49.

² Block 56 is being developed by Mercy Housing California and San Francisco Housing Development Corporation, and construction is scheduled to begin mid-April 2023.

Environmental Testing and Confirmation Studies

Beginning in 2018 and in response to community concerns aggravated by fraudulent environmental remediation testing on Navy parcels in Phase 2 of the Shipyard, the following additional studies were performed, and included the Project site:

- In July through November of 2018, at the request of the City and County of San Francisco and U.S. House of Representatives Speaker, Nancy Pelosi, the California Department of Public Health (“CDPH”) performed a phased-approach radiological survey to assess the environmental safety of Parcel A. CDPH completed a Final Report for Hunters Point Shipyard Parcel A-1 on February 5, 2019 followed by a Final Report for Parcel A-2 on April 24, 2019. Both CDPH reports concluded that no residents, workers or visitors are being exposed to radiological health and safety hazards at Parcel A.
- In 2019, Mayor Breed, City Attorney Herrera, and Supervisor Shamann Walton asked experts from UC San Francisco and UC Berkeley to conduct an impartial analysis of CDPH’s procedures for Parcel A. The report concluded that CDPH’s health and safety scan on Parcel A was appropriate as a health and safety survey.
- In 2022, OCII worked with the Developer to establish a scope of additional radiological soil testing at Blocks 52 and 54, to be conducted along with the standard Phase II environmental testing. In 2022, Developer’s environmental consultant, Langan,³ collected soil borings from Blocks 52 and 54 for that testing. The Developer presented Langan’s final report to the Hunters Point Shipyard Citizen’s Advisory Committee (“HPS CAC”) on December 12, 2022. Radiological testing results indicate no contamination and no risk to construction workers, the public or future residents.

Project History

In October 2017, OCII issued a request for proposals to develop a scattered-site affordable housing development on Blocks 52 and 54. In March 2018, the Commission selected a development team consisting of McCormack Baron Salazar (“MBS”) as lead developer, BHPMSS as co-developer and services lead, Mithun | Solomon (“Mithun”) as architect and The John Stewart Company (“JSCo”) as property manager.

On July 16, 2019, the Commission adopted Resolution 17-2019 conditionally approving a Schematic Design for the Project. In August 2020, MBS withdrew and terminated their participation in the Project. In October 2020, OCII issued a Request for Qualifications (“RFQ”) seeking a developer to replace MBS as lead developer with the remainder of the previous development team remaining in place

³ Langan is an industry-leading international engineering and environmental consulting services firm with recognized experience in, among other fields, coordinating soils testing programs.

along with the work product developed to date. On April 6, 2021, the Commission adopted Resolution 08-2021 to enter into an Exclusive Negotiations Agreement (“ENA”) and a Loan Agreement for predevelopment with the Developer. Most recently, the Commission adopted Resolution No. 28-2021 on August 17, 2021 to enter into the Loan Agreement with the Developer to fund Project costs not supported by the Developer’s construction financing or equity investment (referred to as permanent gap funding).⁴ The development team now also includes an associate architect, Kerman Morris Architects LLP, a general contractor, Baines-Nibbi.

Since this Project was last brought to Commission for permanent gap funding 19 months ago, several factors have contributed to increased Project costs, including soaring construction demand and associated labor shortages, supply chain disruptions and inflation in the price of construction materials. In addition, rising interest rates have impacted the amount of permanent debt the Project can support, and the multiple unsuccessful bond applications required the Developer to restructure their financing to be more competitive by removing site preparation from the Project budget, resulting in a loss of equity. All of these matters have resulted in the need to support the Project with additional permanent gap funding from OCII.

Project Description and Design

The Project comprises 112 rental residential units spread across two sites within Phase 1 on Block 52 and Block 54. The Project contains a mix of unit sizes ranging from 1- to 5-bedroom units (summarized in the table below) serving households up to 50% of the AMI, as defined annually by the Mayor’s Office of Housing and Community Development (“MOHCD”).

The Project will construct two new, five-story buildings comprised of a concrete podium and Type V (wood-frame) construction. Because the two blocks have different dimensions, the most efficient layouts on the two blocks are substantially different. The Developer decided to gather the community and management functions on the larger site, Block 52.

The buildings will have a combined parking ratio of approximately 0.6 to 1, more than double OCII’s typical parking ratio in recognition of the neighborhood’s current transit needs. The Project will also include multiple courtyards and gardens, a community room with a kitchen, a fitness room, management and services spaces, children’s play space and laundry lounges.

⁴ The ‘Project Financing and Loan Terms’ section, below provides a detailed list of all non-OCII funding for the Project.

Unit Type	Block 52 (OCII)	Block 54 (OCII)	Total
1 BDRM	31	18	49
2 BDRM	16	15	31
3 BDRM	12	11	23
4 BDRM	8	0	8
5 BDRM	0	1	1
TOTAL	67	45	112

Block 52

The identity of Block 52 is established by an entry court garden at grade on Friedell Street. This space is defined by a welcoming landscaped space in a paved plaza for spill-out from the community room with generous planter areas. The parking garage is located at the rear of the site tucked into the grade as much as is feasible.

All administrative functions for both buildings – management and tenant services – are clustered on the southwest side of the Block 52 entry court garden. To protect the privacy of patrons of tenant services, the circulation and entrances to these functions are separated from one another. To keep the podium level units on Avocet Way at the east side of the site as low as possible, the garage entrance for the mostly subterranean parking is on Friedell Street, carefully integrated and largely concealed in the massing of the building.

Block 54

On Block 54, the opportunity for a stunning view of downtown San Francisco is a key design driver. The entry and main vertical circulation of the building are located to take advantage of a roof deck at the northeast corner of the property, highlighting the view. An amenity space envisioned as a lounge and laundry room connects the main lobby with the street-level courtyard space. Vehicle and bike parking and utilities are located at the southern and eastern edge of the property and located below grade as much as is feasible. The residential units at the upper levels are grouped around a courtyard, and the massing responds to the adjacent neighbors to the east by stepping down at the Hudson Avenue façade. Lightwells at the southern property line respond to those of the adjacent buildings and break up the massing of the building.

Project Financing and Loan Terms

In addition to the OCII subsidy, the Project is financed with a State of California Housing and Community Development Infill Infrastructure Grant (“IIG”), private mortgage loan, investor equity raised from the sale of 4% Federal Low-Income Housing Tax Credits and a construction loan backed by tax-exempt bonds issued by the City. Funding sources and uses for the Project are summarized in the chart below:

Permanent Sources	Amount	Per Unit	Per Sq. Ft.
Private mortgage	\$2,410,462	\$21,522	\$15
Federal Tax Credit Equity	\$61,915,175	\$552,814	\$373
IIG	\$5,913,900	\$52,803	\$36
Deferred Fee	\$802,284	\$7,163	\$5
Subtotal of Non-OCII Sources	\$71,041,821	\$634,302	\$429
OCII Loan	\$57,000,430	\$508,932	\$344
OCII-Site Development Agreement	\$4,838,390	\$43,200	\$29
Subtotal of OCII Sources	\$61,838,820	\$552,132	\$373
Total Development Sources	\$132,880,642	\$1,186,434	\$801
Uses	Amount	Per Unit	Per Sq. Ft.
Hard Costs	\$105,098,447	\$938,379	\$634
Soft Costs	\$24,959,911	\$222,856	\$151
Developer Fee	\$2,822,284	\$25,199	\$17
Total Development Costs	\$132,880,642	\$1,186,434	\$802

As previously noted, in August 2021 the Commission approved a \$59,200,732 permanent gap loan for the Project with a term of 55 years and an interest rate of 3%. Subsequently, on March 17, 2023 and consistent with Developer's efforts to increase the Project's competitiveness for tax credit allocation, Loan Committee recommended approval of a total OCII subsidy amount of \$61,838,820, an increase of \$2,638,088 in permanent funding. The additional funds will partially finance the site preparation work funded through the Site Development Agreement described below.

Amended Loan Agreement

If approved by Commission, OCII and HPSY 52-54, L.P. will enter into a First Amendment to Second Amended and Restated Loan Agreement for the additional permanent funding. This amendment will reduce the loan by \$2,200,302 to \$57,000,430 and reallocate the \$2,200,302 to the Site Development Agreement described below. The Amended Loan Agreement requires the Developer to maximize tax credit equity to the Project while meeting the Internal Revenue Code requirement that at least 50% of Project costs be paid for by the tax-exempt bond financed loan. Therefore, if the OCII loan amount can be increased, which will generate additional tax credit equity, and the Site Development Agreement funding amount can be decreased prior to the close of construction financing those

amounts may be adjusted as part of the Final Financial Plan⁵ (“FFP”) as long as total funding for the Project does not exceed the total OCII Subsidy amount of \$61,838,820. The interest rate may also be adjusted between 0% and 3% based on the Project’s financial feasibility (subject to any adjustment being included in the FFP) confirmation letter approved by the OCII Executive Director and MOHCD Director. Similarly, the total OCII subsidy may be reduced depending on the final sources and uses for the Project.

Site Development Agreement

To be more competitive for tax credits, the Developer restructured the Project’s financing by excluding \$4.8 million in site preparation work from the development budget. If approved by Commission, OCII will enter into a Site Development Agreement with RCDC. Under the terms of the Site Development Agreement, OCII will reimburse RCDC, at the request and direction of the Developer, for site development work at a cost of up to approximately \$4,838,390. The site preparation scope of work includes demolition, soil improvement, off-hauling and disposing of onsite soils, and grading. The Site Development Agreement and Ground Lease will be executed concurrently and work under both agreements will commence simultaneously in May 2023. The final amount of funding allocated to the Site Development Agreement may be adjusted prior to execution to maximize tax credit equity to the Project (subject to any adjustment being included in the FFP confirmation letter approved by the OCII Executive Director and MOHCD Director and without increasing total OCII subsidy for the Project).

Ground Lease Terms

OCII currently owns the Project site and will maintain ownership through the construction period. The Developer is seeking to enter into the Ground Lease (75-year term with an option for an additional 24 years’ extension), which would allow Developer to construct, and thereafter own and operate the Project on the Project site. Once the Project is complete, OCII will transfer its fee interest in the Project site, together with OCII’s interest in the Ground Lease and the Amended Loan Agreement, to MOHCD as the Housing Successor Agency. MOHCD will perform long-term asset management and ensure compliance with the Ground Lease and Amended Loan Agreement terms. HPSY 52-54, L.P. will maintain ownership of the building or “improvements”. Key terms of the Ground Lease are described below.

Rent

The Project will be subject to annual rent as established in the Ground Lease. The annual rent will be equal to \$660,000 (10% of the unrestricted value of the Project site) and will consist of: 1) a base rent of \$15,000, which is paid out of the Project’s annual operating expenses and accrues if not paid, and 2) a residual rent that is equal to the annual rent less the \$15,000 base rent. Residual rent is paid

⁵ The Final Financial Plan, is the final Project budget including adjustments to the interest rate and final total funding amount (within the total OCII subsidy amount of \$61,838,820) based on the final sources and uses for this Project, will be approved by the OCII Executive Director and MOHCD Director closer to the start of construction of the Project.

only if there is surplus cash after the Project pays all of its operating expenses, and, does not accrue if not paid.

Affordability Restrictions

The Project previously included one manager's unit to serve both buildings at Blocks 52 and 54. The total number of units in the Project remains unchanged at 112 units, but an additional manager's unit has been added so that each building will have its own manager's unit. This change in unit designations is needed because this Project is considered a scattered sites project by TCAC, not a single project, with the two non-contiguous parcels for this Project being separated by another parcel in between.

The Project is subject to a maximum income restriction of 50% MOHCD AMI per the Phase 1 DDA. As shown in the table below, the Project includes four units at 30% AMI, nine units at 40% AMI, and 97 units at 50% AMI.

Unit Size	No. of Units	Maximum Income Level
1 BR	1	30% of Median Income
1 BR	4	40% of Median Income
1 BR	44	50% of Median Income
2 BR	2	30% of Median Income
2 BR	1	40% of Median Income
2 BR	26	50% of Median Income
3 BR	1	30% of Median Income
3 BR	2	40% of Median Income
3 BR	20	50% of Median Income
4 BR	1	40% of Median Income
4 BR	7	50% of Median Income
5 BR	1	40% of Median Income
2 BR	2	Manager's Unit

Construction of the Improvements

The Ground Lease requires that the Developer construct the Project in compliance with applicable approvals and approved documents, and staff will continue to monitor progress on the Project until completion. The Ground Lease requires OCII approval of any proposed changes to the construction plans after construction has commenced.

As previously stated, OCII's assets related to the Project site will be transferred to MOHCD after completion of construction. MOHCD reviewed the RFP and participated on the evaluation panel, and will review the Project's financial underwriting, funding, and disposition documents to ensure a smooth transition to MOHCD at project completion.

Easement Agreement and Escrow Agreement

Staff is recommending executing the Easement Agreement with HPS1 Block 52, LLC ("Block 52 Developer"), the vertical developer and the owner of real property immediately adjacent to OCII's

portion of Block 52, allowing entry onto Block 52 Developer's property for the installation of a temporary shoring system necessary for construction of the foundations and structural components of the Project. The Easement Agreement is temporary, remaining in place only until the Project's foundations are complete and vertical construction begins (the temporary shoring system is left in place). Developer's construction schedule estimates the duration of the Easement Agreement to be five months. During the term of the Easement Agreement, the easement holder must maintain and secure the easement site, keep it clean, repair any damage to the easement site or property resulting from work under the Easement Agreement, indemnify Block 52 Developer against claims arising from work under the Easement Agreement, and maintain insurance.

OCII is executing the Easement Agreement due to timing considerations, but pursuant to the terms of the Easement Agreement and Ground Lease, the Developer assumes all obligations of OCII under the Easement Agreement upon execution of the Ground Lease. As a condition to entering into the Easement Agreement, Block 52 Developer has requested that OCII guaranty Developer's performance under the Easement Agreement. OCII's liability under this guaranty is limited by Developer's indemnification of OCII under the Ground Lease, which requires the Developer to be responsible for any claims made against OCII arising from the Easement Agreement.

Also at the request of Block 52 Developer, and also assignable at Ground Lease, staff is recommending that OCII enter into an Escrow Agreement with the Block 52 Developer, which establishes terms for the Developer to provide a deposit to secure performance of obligations under the Easement Agreement. Pursuant to the terms of the Escrow Agreement, The Developer will fund \$250,000 into an escrow account, to be drawn down if Developer does not perform its obligations under the Easement Agreement, or otherwise released after a certificate of occupancy is issued for the Project.

Marketing and Leasing Preferences

Occupancy priorities will follow the HPS Redevelopment Plan and the Phase 1 DDA and also include Displaced Tenant Housing Preference ("DTHP") and Neighborhood Residential Housing Preference ("NRHP") pursuant to April 16, 2019 Commission action, as follows: 1) Certificate of Preference Holders ("COP"); 2) DTHP for 20% of the units; 3) NRHP for 25% of the units; and, 4) San Francisco Residents or Workers. Additionally, as of January 1, 2022 the COP Program has been extended to include descendants of household members who directly experienced displacement. Descendants who have obtained a COPs will be notified of this housing opportunity.

EQUAL OPPORTUNITY AND COMPLIANCE WITH OCII POLICIES

The Developer is required to adhere to the Bayview Hunters Point ("BVHP") Employment and Contracting Policy which is designed to ensure that OCII projects provide employment opportunities for lower-income BVHP Residents and San Francisco Residents in areas of construction, professional services, construction workforce, and permanent jobs. In addition, the Developer is

subject to OCII's contracting policies including the Small Business Enterprise ("SBE") Policy, the Nondiscrimination in Contracts and Equal Benefits Policy, the Minimum Compensation Policy, the Healthcare Accountability Policy, Construction Workforce Policy, and the Prevailing Wage Policy.

Under the SBE Program, the Developers must make good faith efforts to achieve an SBE 50% goal for construction and professional services contracts. To date, the Developer has achieved 87% SBE participation for professional services consultants. Of the total awards, 79.1% went to San Francisco-based SBEs, 6.4% to Minority-owned Business Enterprises and 69.3% to Woman-owned Business Enterprises.

During the construction phase of this Project, the Developer is committed to meeting OCII's requirements and goals which include the 50% SBE participation goal, payment of prevailing wages, and the 50% local construction workforce hiring goal. As a result of a competitive general contractor selection process, the Developer has selected Baines/Nibbi, a joint venture between Nibbi Brothers and the Baines Group, a San Francisco-based minority-owned SBE.

Attachments G and H provide additional detail on the Project's Professional Services contracts, including SBE firm biographies.

RECOGNIZED OBLIGATIONS PAYMENT SCHEDULE ("ROPS") AUTHORITY

The requested Amended Loan Agreement funding amount is included in the approved ROPS 22-23 under line item number 395.

COMMUNITY PARTICIPATION

Staff presented the original RFP to the HPS CAC Housing Subcommittee of the HPS CAC and to the full HPS CAC in July and August 2017. In September 2017, staff convened an informational meeting about the RFP for Hilltop homeowners. Staff presented an update on the selection process to the HPS CAC Housing Subcommittee in January 2018 and presented the developer selection recommendation to the HPS CAC in February 2018. The HPS CAC voted to recommend that Commission select the MBS/BHPMSS team to develop Blocks 52/54.

Staff presented an update on the proposed Schematic Design to the Hilltop neighbors in March 2019. The design team made some adjustments to the building design for Block 54 (OCII) where it abuts the existing market rate building based on input from the neighbors. They adjusted one lightwell for better alignment with the market rate building and recessed the portion of the building adjacent to the open space. Staff then presented the proposed Schematic Design to the HPS CAC Housing Subcommittee in March 2019 and to the HPS CAC in April 2019. The HPS CAC voted unanimously to recommend that Commission approve the Schematic Design for the Project.

Staff provided a development update to the HPS CAC in October 2020. This update included information regarding the RFQ seeking a new lead developer. In February 2021, staff presented the results of the evaluation process to the HPSCAC and they voted to recommend that the Commission select JRC as the new lead developer for the Project. Most recently on December 12, 2022, OCII staff and the Developer presented the results of the latest soil testing to the HPS CAC. OCII Staff and Developer will continue to outreach to the community through the HPS CAC throughout the development process.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

Commission authorization of the First Amendment to Second Amended and Restated Loan Agreement, Ground Lease, Site Development Agreement, Shoring, Underpinning and Tieback Easement Agreement and Escrow Agreement (collectively, "Project Agreements"), facilitate the development of the Project and are within the scope of the project analyzed in the Phase 1 EIR certified by the Former Agency Commission on February 8, 2000, and its subsequent addenda, and the Final Environmental Impact Report on the Candlestick Point – Hunters Point Shipyard Phase 2 Development Plan Project ("Phase 2 EIR") certified by the Former Agency Commission on June 3, 2010 and its subsequent addenda, and thus require no additional environmental review pursuant to CEQA Guidelines Sections 15180, 15162, 15163, and 15164 for the following reasons:

(3) implementation of the Project Agreements does not require major revisions to the Phase 1 EIR or the Phase 2 EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant impacts; and,

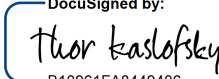
(2) no substantial changes have occurred with respect to the circumstances under which the project analyzed in the Phase 1 EIR and Phase 2 EIR will be undertaken that would require major revisions to the Phase 1 EIR or Phase 2 EIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the Phase 1 EIR and Phase 2 EIR; and,

(3) no new information of substantial importance to the project analyzed in the Phase 1 EIR and Phase 2 EIR has become available, which would indicate that (i) implementation of the Project Agreements will have significant effects not discussed in the Phase 1 EIR or Phase 2 EIR; (ii) significant environmental effects will be substantially more severe; (iii) mitigation measures or alternatives found not feasible, which would reduce one or more significant effects, have become feasible; or (iv) mitigation measures or alternatives, which are considerably different from those in the Phase 1 EIR or Phase 2 EIR, will substantially reduce one or more significant effects on the environment that would change the conclusions set forth in the Phase 1 EIR and Phase 2 EIR.

NEXT STEPS

Construction financing is anticipated to close on April 28, 2023 and construction will commence immediately after. Construction is scheduled to be complete by April 2025. Upon full occupancy of the Project, the land, Ground Lease, and Amended Loan will be transferred to MOHCD as the Housing Successor Agency under Dissolution Law.

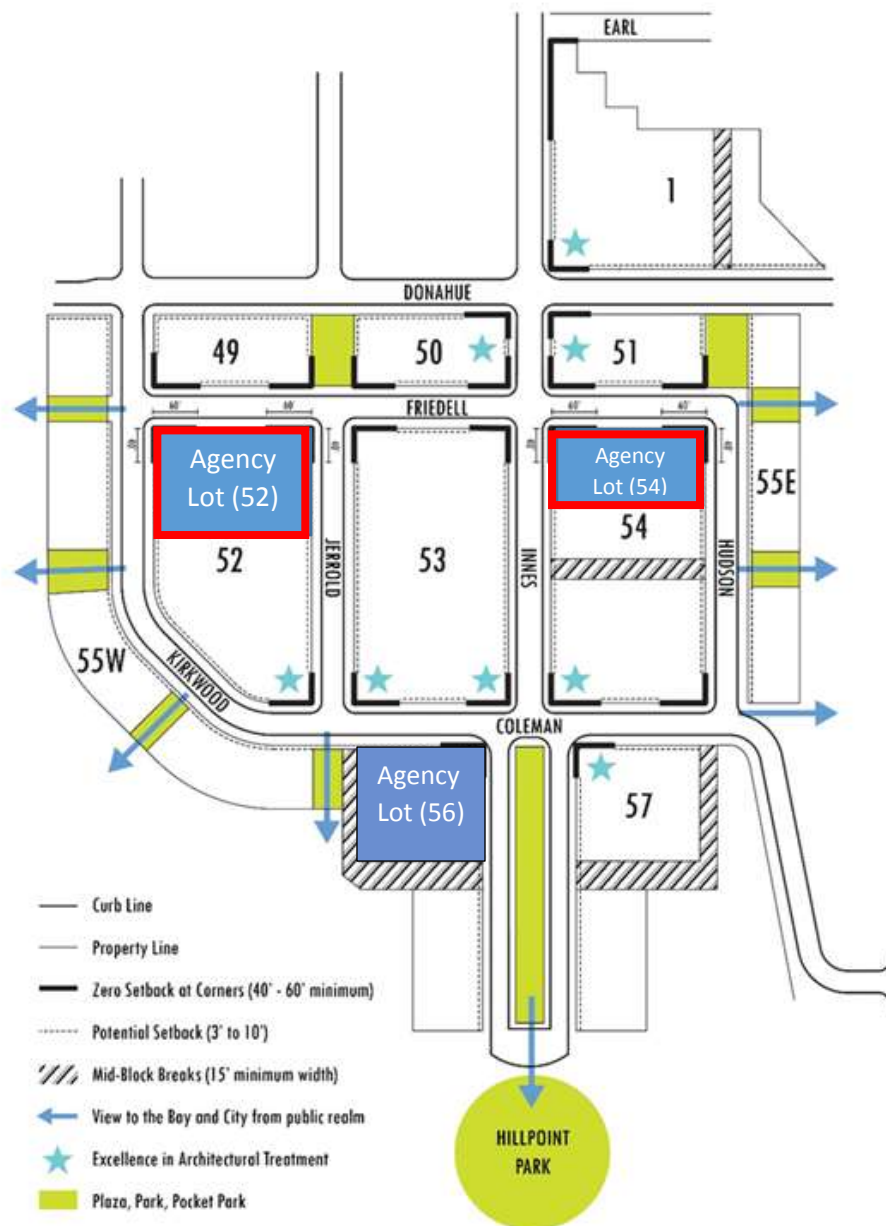
(Originated by Jasmine Kuo, Development Specialist)

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Thor Kaslofsky
Executive Director

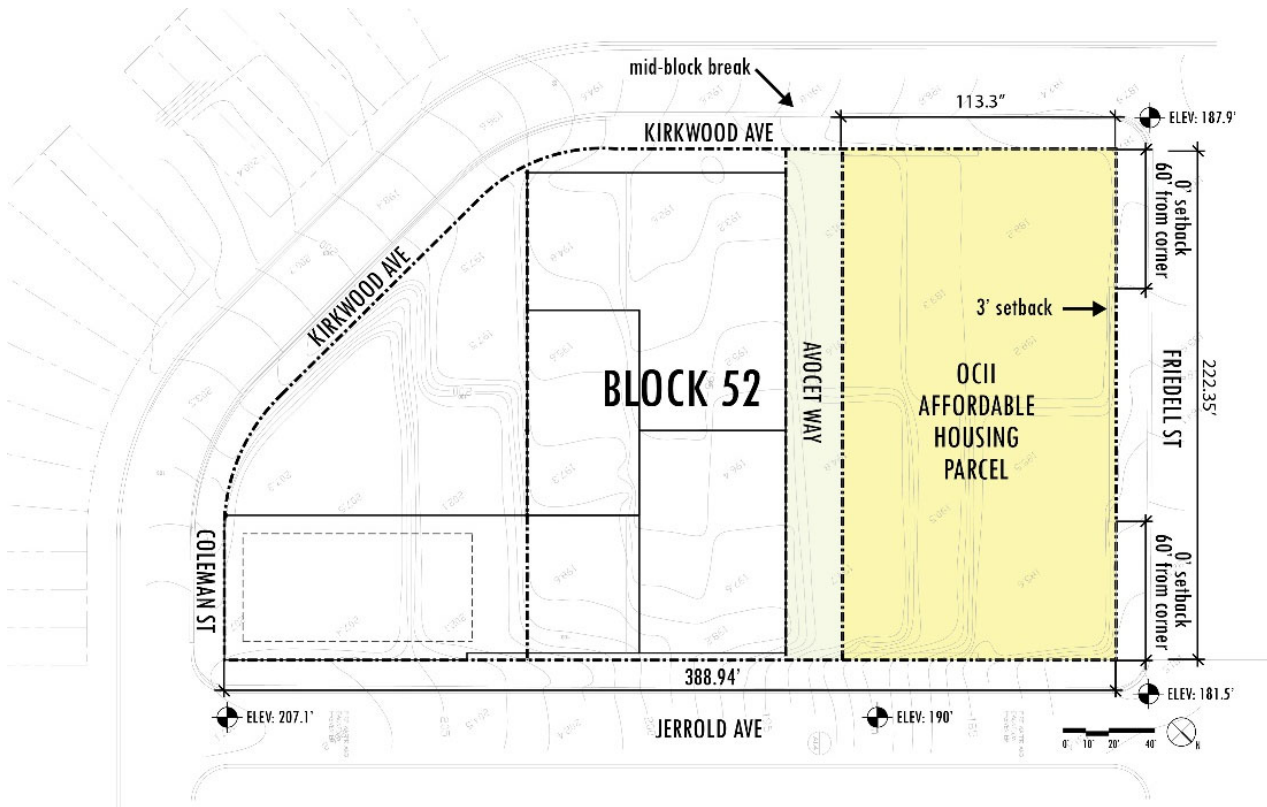
Attachments:

- A: Hilltop Map and HPS Phase 1 Block 52 and Block 54 Parcel Maps
- B: First Amendment to Second Amended and Restated Loan Agreement
- C: Ground Lease
- D: Site Development Agreement
- E: Shoring, Underpinning and Tieback Easement Agreement and Escrow Agreement
- F: Loan Evaluation
- G: SBE Consultant Summary
- H: Consultant Biographies

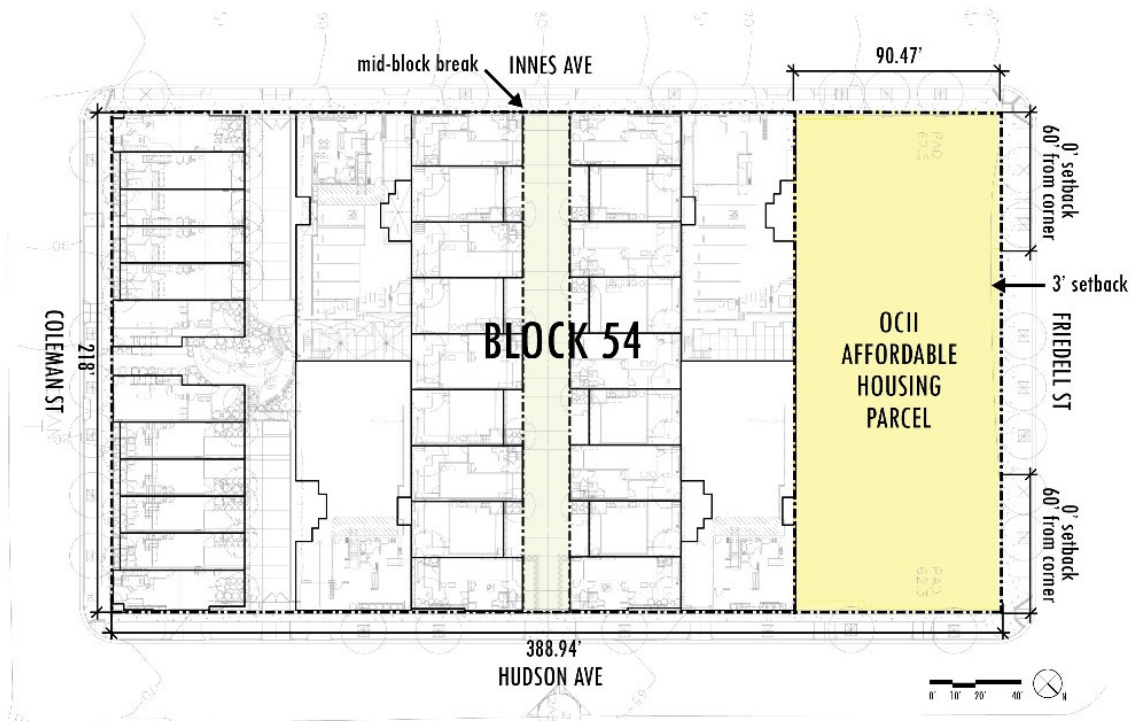
Hunters Point Shipyard Phase 1 Hilltop Parcels



Block 52



Block 54



**FIRST AMENDMENT TO SECOND AMENDED AND RESTATED LOAN
AGREEMENT BETWEEN HPSY 52-54, LP AND THE OFFICE OF COMMUNITY
INVESTMENT AND INFRASTRUCTURE FOR THE HUNTERS POINT SHIPYARD
PHASE 1 BLOCKS 52 AND 54 PROJECT**

This First Amendment to Second Amended and Restated Loan Agreement (this “First Amendment”) is entered into as of _____, 2023 by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO (commonly known as the OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE, or “OCII”), a public body operating and existing under the laws of the State of California, and HPSY 52-54, LP, a California limited partnership (the “Borrower”), whose administrative general partner is Rose HPSY 52-54 GP, LLC, a Delaware limited liability company, an affiliate of Rose Companies Holdings, LLC (“Co-General Partner”), and whose managing general partner is HP Shipyard 52 and 54 LLC, a California limited liability company (“Managing General Partner”).

RECITALS

- A. OCII previously agreed to provide Fifty-Nine Million Two Hundred Thousand Seven Hundred Thirty-Two Dollars (\$59,200,732) (the “Loan”) to Borrower to finance development of two parcels of land within Phase 1 of the Hunters Point Shipyard Redevelopment Project Area, commonly referred to as OCII Blocks 52 and 54 (the “Site”), on which the Borrower would construct approximately 112 housing units (the “Project”). The Loan is evidenced by the following documents: (1) a Second Amended and Restated Loan Agreement dated August 17, 2021 (the “Agreement”); and (2) a Secured Promissory Note made by Borrower in an amount of the Loan to the order of OCII dated August 17, 2021 (the “Original Note”). All initially capitalized terms used but not defined in this First Amendment have the meanings given to those terms in the Agreement.
- B. Beginning in 2020, the State has allocated tax-exempt bond financing and tax credits for affordable housing projects on a competitive basis, and such financing has been oversubscribed in every application round. In 2021 and 2022, the Borrower unsuccessfully applied for a competitive bond allocation from the State. After restructuring the Project’s financing to be more competitive, the Borrower succeeded in obtaining a State affordable housing bond and tax credit allocations on November 30, 2022.
- C. The Borrower has requested an increase in total OCII subsidy for the Project to \$61,838,820 (“Total OCII Subsidy”) due to delays and costs from the unsuccessful low-income housing tax credit and tax-exempt bond applications to the State of California, and cost escalations from interest rate and construction cost increases during those delays.
- D. The Borrower and OCII now desire to amend the Agreement in accordance with this First Amendment to reduce the Loan by \$2,200,302, from \$59,200,732 to \$57,000,430, which amount may be adjusted, subject to the limit of the Total OCII Subsidy (defined below) and to MOHCD Director and OCII Executive Director approval through the Final Financial Plan (“FFP”) Confirmation Letter, to address changes to the financial conditions of this

Agreement (as amended) after Commission approval but before loan closing. In addition to the Loan, the Commission, by Resolution XX-2023 dated April 4, 2023, authorized OCII to use approximately \$4,838,390 to cause site preparation work to be performed on the Site, at the request and direction of the Borrower in accordance with the Ground Lease. The Loan and the cost of site development work collectively equal, and will not exceed, the Total OII Subsidy.

AGREEMENT

NOW, THEREFORE, OCII and the Borrower agree as follows:

1. Amendments to Agreement. The Agreement is amended as follows. For informational purposes, where applicable, updated language is underlined.
 - (a) On the cover page, the loan amount of “\$59,200,732” is deleted and replaced with “\$57,000,430”.
 - (b) In the Preamble, the language that follows (“Borrower”) is deleted in its entirety and replaced with the following: “whose administrative general partner is Rose HPSY 52-54 GP, LLC, a Delaware limited liability company, an affiliate of Rose Companies Holdings, LLC (“Co-General Partner”), and whose managing general partner is HP Shipyard 52 and 54 LLC, a California limited liability company (“Managing General Partner”).”
 - (c) Recital D is corrected as follows: “The DDA identifies the specific “**Agency Affordable Parcels**”, which include the two parcels of land (and appurtenant interests) described in Exhibit Q hereto (the “Site”), commonly referred to as OCII Blocks 52 and 54.
 - (d) The following is added as Recital I.1. “I.1. The Partnership was originally governed by that certain Limited Partnership Agreement dated as of April 1, 2021, which will be amended and restated on or about the date hereof by that certain Amended and Restated Agreement of Limited Partnership of Borrower (the “LPA”), pursuant to which Managing General Partner will be admitted to the Partnership as managing general partner.”
 - (e) Recital J is corrected as follows: “On July 16, 2021, the Citywide Affordable Housing Loan Committee (“Loan Committee”) approved a loan to the Borrower ~~(the “Loan”)~~ for the development of the Project for an aggregate amount not to exceed Fifty Nine Million Two Hundred Thousand Seven Hundred and Thirty Two Dollars (\$59,200,732), which amount includes the Predevelopment Loan Amount and an increase to the Predevelopment Loan Amount of \$751,605 to fund additional predevelopment costs of the Project (collectively the “Total Predevelopment Loan Amount”).”

(f) Recital K is corrected as follows: “On August 17, 2021, by Resolution No. 28-2021, the Commission approved the issuance of ~~the Loan and authorized the OCII Executive Director to enter into this Agreement~~ a permanent gap loan to Borrower, which OCII and Borrower executed as of August 17, 2021. Thereafter, Borrower unsuccessfully applied to the State for two rounds of tax-exempt bond financing and tax credits. After restructuring the financing of the Project to remove some costs for site preparation, Borrower successfully obtained a bond and tax credit allocation on November 30, 2022. However, the Borrower has requested an increase in total OCII subsidy to the Project due to delays and costs from the unsuccessful low-income housing tax credit and tax-exempt bond applications to the State, and cost escalations from interest rate and construction cost increases during those delays. Thus, on March 17, 2023, the Loan Committee recommended approval of additional OCII subsidy for the Project in a total aggregate amount of \$61,838,820 (“Total OCII Subsidy”), constituting (i) approximately \$4,838,390 to cause site preparation work to be performed on the Site, at the request and direction of the Borrower in accordance with the Ground Lease, and (ii) a reduced loan amount of approximately \$57,000,430 (“Loan”), which continues to include the Total Predevelopment Loan Amount, and on April 4, 2023, by Resolution No. XX-2023, the Commission approved the issuance of a First Amendment to this Agreement (as so amended, hereafter referred to as the “Agreement”) and authorized the OCII Executive Director to enter into this Agreement.

(g) The definition of “Excess Development Proceeds” is amended as follows: **“Excess Development Proceeds”** means Development Proceeds remaining after payment of Development Expenses (but for the sake of clarity does not include erroneous overpayments by Investor Limited Partner, if any).

(h) In the definition of “Funding Amount,” the phrase “Fifty-Nine Million Two Hundred Thousand and Seven Hundred Thirty-Two Dollars (\$59,200,732)” is deleted and replaced with “Fifty-Seven Million Four Hundred Thirty Dollars (\$57,000,430)”.

(i) The definition of “Loan” is corrected to refer to its place of original definition as being Recital K.

(j) The definition of “Managing General Partner” is deleted in its entirety and replaced with the following: **“Managing General Partner”** has the meaning assigned in the Preamble”. As of the date hereof, any references to “Managing General Partner” in the Agreement refer to the Managing General Partner defined in the preamble, currently HP Shipyard 52 and 54 LLC, a California limited liability company.

(k) In the definition of “One Hundred Percent Occupancy,” the phrase “One Hundred and Eleven (111)” is deleted and replaced with “One Hundred and Ten (110)”.

(l) In the definition of “Payment Date”, the phrase “May 1st” is deleted and replaced with “_____”

(m) In the definition of “Project Expenses”, subsection (g) is deleted in its entirety and replaced with the following: “(g) an annual bond monitoring fee equal to 12.5 basis points of the average outstanding bond amount in the prior year, and \$2,500 for the remainder of the qualified project period after the bonds have been paid off.”

(n) Section 3.2 is deleted in its entirety and replaced with the following:

“Interest. The outstanding principal balance of the Loan will bear simple interest at a rate of one half percent (0.5%) per annum. However, the interest rate may be reduced to a floor of 0% on or prior to the Loan Closing Date upon Borrower’s demonstration that a reduction is necessary to meet certain requirements of tax credit financing, such as “true debt”, subject to justification from the Borrower, and review and approval by the OCII Executive Director and the MOHCD Director in their sole discretion as part of the Final Financial Plan, if any.”

(o) In Section 3.3, the phrase “December 31, 2074 (the “**Maturity Date**”)” is deleted and replaced with “December 31 of the year that is 55 years from the date on which the Project is placed in service (the “**Maturity Date**”), which Maturity date is expected to be December 31, 2080”.

(p) Section 3.12 (h) is hereby deleted in its entirety, and replaced with the following: “Borrower shall comply with the following loan conditions based on OCII’s requirements and the Loan Committee’s recommendations in reviewing and approving the Project’s Loan Evaluation on March 17, 2023.”

- i. Borrower must provide final operating and development budgets (including contractor budgets) that meet MOHCD underwriting guidelines and are sufficient to cover anticipated operating expenses.
- ii. Borrower must provide OCII with information outlining cost containment, efficiencies to reduce overall project costs and maximize efficiency of OCII gap loan and Site Development Agreement. Borrower must maximize equity and debt and reduce Site Development Agreement amount as much as possible.
- iii. Borrower must update marketing budget and lease-up staffing costs to be consistent with current practices.
- iv. Nine to twelve months prior to TCO, Borrower will provide information regarding marketing (including the reflection of the lease-up team to that of the applicants) and operations (i.e., does on-site staff reflect the property residents) in existing portfolio and work with OCII and MOHCD to establish a marketing and outreach plan for the Project focusing on preference populations.
- v. Borrower must provide an Early Outreach Plan 1 month after the start of construction and initial draft marketing plan within 12 months of anticipated TCO, outlining the affirmative steps they will take to market the project to OCII’s preference program participants, including COP Holders, Displaced Tenants, and Neighborhood Residents.

- vi. Borrower will conduct ongoing outreach to the Hunters Point Shipyard community to solicit input, address concerns, and educate community members on construction progress and marketing of the affordable units.
- vii. Borrower shall cooperate with OCII and continue to require the general contractor to exercise good faith efforts to select subcontractors who are either SBEs or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs.

(q) Section 4.1 is deleted in its entirety and replaced with the following: “Closing. Subject to the Exhibit L Schedule of Performance and Exhibit B-3 20-Year Cash Flow Proforma, in the event Borrower does not satisfy all of the conditions to Loan Closing contained in Section 4.1.1 within twenty-four (24) months of the date of this Agreement (as amended) , OCII may terminate this Agreement and relieve the parties of all obligations that have not arisen prior to termination.”

(r) The first sentence of Section 5.6 is deleted in its entirety and replaced with the following: “Subject to the Exhibit L Schedule of Performance and Exhibit B-3 20-Year Cash Flow Proforma, and unless otherwise extended in writing by OCII, Borrower must: (a) commence construction of the Project by May 31, 2023; (b) complete construction of the Project by October 1, 2025 in substantial accordance with the plans and specifications approved by OCII, as evidenced by a temporary certificate of occupancy or equivalent certification provided by DBI, and an architect's or engineer's certificate of completion (the “**Completion Date**”); and (c) achieve occupancy of ninety five percent (95%) of the residential units by July 30, 2026.”

(s) Section 7.3(a) is revised to add the following: “Rent charged to each Qualified Tenant may not exceed the amounts set forth in Exhibit A (except, for clarity, as stated in the ‘Note’ included in Exhibit A)”

(t) Section 12.1(b) is deleted in its entirety and replaced with the following: “At a minimum, Borrower shall make monthly deposits of \$ 500 per Unit in the Project in accordance with the Loan Committee approval dated March 17, 2023, or such other amount as approved by MOHCD Director and OCII Executive Director as part of the Final Financial Plan, provided that should such approved amount be greater than \$500 per Unit, such additional sum shall be made from available Surplus Cash. For avoidance of doubt, Borrower shall deposit into the Replacement Reserve Account an aggregate annual total of \$56,000.”

(u) Section 15.1 is hereby deleted in its entirety and replaced with the following:

“15.1 Amount. OCII has approved the payment of fees to the Developer in an aggregate amount not to exceed Two Million Eight Hundred Twenty-Two Thousand Two Hundred Eighty-Four Dollars (\$2,822,284) (“**Developer Fees**”), to be paid in accordance with the Developer Fee Schedule. The Developer Fee are comprised of the following:

(a) an amount not to exceed Nine Hundred Thousand Dollars (\$900,000), for the predevelopment and construction periods of the Project (the “**Project Management Fee**”);

(b) an additional amount not to exceed One Million One Hundred Twenty Thousand Dollars (\$1,120,000) that is at-risk to the extent needed to fund cost overruns if total development costs exceed estimated development costs shown in the Final Financial Plan (the “**At-Risk Fee**”);

(c) an additional amount not to exceed Eight Hundred Two Thousand Two Hundred Eighty-Four Dollars (\$802,284), (the “**Deferred Developer Fee**”), payable only from surplus cash pursuant to Section 3.6. Under no circumstance will any deferred fee be considered a Project Expense.”

(v) Section 16.1 is amended as follows: “... ~~or~~ (e) transfers of a general partnership interest between or among affiliates controlled by Rose Companies Holdings, LLC; (f) security interests for the benefit of lenders securing loans for the Project as approved by OCII on terms and in amounts as approved by OCII in its reasonable discretion; or (g) the grant or exercise of an option agreement or a right of first refusal agreement between Borrower and Borrower’s general partner(s) or manager of any of their respective affiliates in connection with the tax credit syndication of the Project where such agreement has been previously approved in writing by OCII in its reasonable discretion. ...”

(w) Section 19.2 is amended as follows: “If an Event of Default occurs, or an event occurs that, with notice or the passage of time, or both, could constitute an Event of Default, OCII shall give Investor Limited Partner the same written notice given to the Borrower as required in this Agreement. Investor Limited Partner shall have the right, but not the obligation, to cure defaults within the time periods provided to Borrower herein (as may be extended by Executive Director to be consistent with time periods provided to Lender or Investor Limited Partner to cure similar defaults under the Ground Lease). ...”

(x) The first sentence of Section 20.1 is deleted in its entirety and replaced with the following: “As a further inducement for OCII to enter into this Agreement, each of the undersigned General Partner and Managing General Partner on behalf of itself, only, represents and warrants as to the Borrower as follows:”

(y) In Section 21.1, the following is deleted in its entirety: “Bayview Senior Services/1751 Carroll Street/San Francisco, CA 94124/Attn: Executive Director”, and replaced with the following:

HP Shipyard 52 and 54 LLC
c/o Bayview Hunters Point Multipurpose Senior Services, Inc.
1753 Carroll Avenue
San Francisco, California 94124

Attention: Executive Director
Cathy.davis@bhpmss.org

With copies to:

Carle, Mackie, Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401
Attention: Henry Loh II
hloh@cmprlaw.com

(z) In Section 21.1, the following addresses for notice are inserted:

To Investor

Limited Partner: Bank of America, N.A.
Banc of America CDC Special Holding Company, Inc.
Mail Code: MA5-100-04-11
100 Federal Street - 4th Floor
Boston, MA 02110
Attention: LIHTC Asset Management

With a copy to:

Buchalter, a Professional Corporation
1000 Wilshire Blvd., Suite 1500
Los Angeles, CA 90017
Attention: Michael Williamson

(aa) Each of the following exhibits to the Agreement is deleted in its entirety and replaced with and superseded by the applicable exhibit attached hereto (the “New Exhibits”). As of the date hereof, reference in the Agreement to any of the following exhibits refers to the applicable New Exhibit:

- a. Exhibit A Schedule of Income and Rent Restrictions
- b. Exhibit B-1 Table of Sources and Uses of Funds
- c. Exhibit B-2 Annual Operating Budget
- d. Exhibit B-3 20-Year Cash Flow Proforma
- e. Exhibit F Insurance Requirements
- f. Exhibit K Form of Declaration of Restrictions
- g. Exhibit L Schedule of Performance
- h. Exhibit N Developer Fee Schedule
- i. Exhibit Q Legal Description of Site
- j. Exhibit R Final Financial Plan Confirmation Letter

2. Amended and Restated Promissory Note. Concurrently herewith, Borrower will execute an Amended and Restated Promissory Note in favor of OCII (the “Note”), in form and substance acceptable to OCII. Accordingly, OCII hereby acknowledges and agrees that the Note will supersede and replace the Original Note, and as of the date of the Note, the Original Note will be canceled, returned to Borrower and of no further force or effect. A copy of the Note is attached to this First Amendment as Attachment 1.

3. Representation and Warranties.

(a) Each of the undersigned General Partner and Managing General Partner on behalf of itself, only, confirm that all of the representations and warranties made by Borrower to OCII in the Agreement and other OCII Documents, as defined in the Agreement, continue to be true and complete as of the date of this First Amendment.

(b) No event has occurred and is continuing that constitutes an event of default or potential event of default under the Agreement, Note, or any other OCII Documents.

4. Miscellaneous.

(a) References. No reference to this First Amendment is necessary in any instrument or document at any time referring to the Agreement. Any reference to such documents will be deemed a reference to the Agreement as amended by this First Amendment.

(b) No Other Amendments. Except as amended by this First Amendment, the Agreement will remain unmodified and in full force and effect.

(c) Counterparts. This First Amendment may be executed in two or more counterparts, each of which will be deemed an original, but all of which when taken together will constitute one and the same instrument.

(d) Successors and Assigns. The terms, covenants, and conditions contained in this First Amendment will bind and inure to the benefit of Borrower and OCII and, except as otherwise provided herein, their personal representatives and successors and assigns.

(e) Further Instruments. The parties hereto agree to execute such further instruments and to take such further actions as may be reasonably required to carry out the intent of this First Amendment.

(f) Conflicts. In the event that any dates, numbers, or other provisions in this First Amendment and the New Exhibits conflict with any provision in the Agreement, the provisions of this First Amendment and the New Exhibits shall prevail.

Signatures Appear on Following Page

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment at San Francisco, California as of the date first written above.

OCII:

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

By: _____
Thor Kaslofsky
Executive Director

APPROVED AS TO FORM:
James Morales, General Counsel

By: _____
Aaron Foxworthy
Deputy General Counsel

BORROWER:

HPSY 52-54, LP,

a California limited partnership

By: Rose HPSY 52-54 GP, LLC,
a Delaware limited liability company,
its administrative general partner

By: Rose GP Investors, LLC,
a Delaware limited liability
company, its managing member

By: Rose Company Holdings, LLC,
a Delaware limited liability
company, its managing member

By: _____
Yusef Freeman
Authorized Signatory

By: HP Shipyard 52 and 54 LLC,
a California limited liability company,
its managing general partner

By: Bayview Hunters Point
Multipurpose Senior Services,
Inc., a California nonprofit
public benefit corporation, its
manager

By: _____
Cathy Davis
Executive Director

Authorized by OCII Resolution No. xx-2023, dated _____

ATTACHMENT 1

Amended and Restated Promissory Note

PROMISSORY NOTE

Principal Amount: \$57,000,430

San Francisco, CA

Date: _____

FOR VALUE RECEIVED, the undersigned, HPSY 52-54, LP, a California limited partnership ("**Maker**"), hereby promises to pay to the order of 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, commonly referred to as the Office of Community Investment and Infrastructure ("**OCII**"), including any successors or assigns), or holder (as the case may be, "**Holder**"), the principal sum of Fifty-Seven Million Four Hundred Thirty DOLLARS (\$57,000,430 (the "**Funding Amount**"), or so much of the Funding Amount as may be disbursed from time to time pursuant to the Agreement described in Section 1 below, together with interest thereon, as provided in this Note.

1. Agreement. This Secured Promissory Note ("**Note**") is given under the terms of that certain First Amendment to Second Amended and Restated Loan Agreement by and between Maker and Holder (the "**Agreement**") dated as of the date set forth above, which Agreement is incorporated herein by reference. Unless otherwise specified herein, definitions and rules of interpretation set forth in the Agreement apply to this Note. In the event of any inconsistency between the Agreement and this Note, this Note will control. Two previous notes by Borrower for OCII dated April 6, 2021 and August 17, 2021 in the amount of Three Million Six Hundred and Fifty Thousand Dollars (\$3,650,000) and Fifty-Nine Million Two Hundred Thousand Seven Hundred Thirty-Two Dollars (\$59,200,732), respectively (the "**Original Note**") has been cancelled and returned to Borrower, and this Note replaces the Original Note in its entirety.

2. Interest. Interest will accrue on the principal balance outstanding under this Note from time to time at the rate of ____ percent (____%) per annum, simple interest, from the date of disbursement of funds by Holder through the date of full payment of all amounts owing under the OCII Documents. .

3. Default Interest Rate. Upon the occurrence of an Event of Default under any OCII Document, interest will be deemed to have accrued on the outstanding principal balance of the Loan at a compounded annual rate equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, commencing on the date on which Maker receives written notice from Holder of the Event of Default through the earlier of: (x) the date on which the Event of Default is cured; or (y) the date on which all amounts due under the OCII Documents are paid to Holder. Maker acknowledges and agrees that the default interest that must be paid in the event of an Event of Default pursuant to this Section represents a reasonable sum considering all the circumstances existing on the date of this Note and represents a fair and reasonable estimate of the costs that will be sustained by Holder if Maker defaults. Maker further agrees that proof of actual damages would be costly and inconvenient and that default interest will be paid without prejudice to Holder's right to collect any other amounts to be paid or to exercise any of its other rights or remedies under any OCII Document.

4. Repayment of Funding Amount. Maker must repay all amounts owing under the OCII Documents in accordance with Section 3.1 of the Agreement.

All payments will be applied in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan. The unpaid principal balance of the Loan, together with all accrued and unpaid interest and unpaid costs and fees incurred, will be due and payable on the Maturity Date. Any Payment Date, including the Maturity Date, that falls on a weekend or holiday will be deemed to fall on the next succeeding business day.

5. Security. Maker's obligations under this Note are secured by a leasehold Deed of Trust.

6. Terms of Payment.

6.1 All Payments must be made in currency of the United States of America then lawful for payment of public and private debts.

6.2 All Payments must be made payable to Holder and mailed or delivered in person to Holder's office at One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103, or to any other place Holder from time to time designates.

6.3 In no event will Maker be obligated under the terms of this Note to pay interest exceeding the lawful rate. Accordingly, if the payment of any sum by Maker pursuant to the terms of this Note would result in the payment of interest exceeding the amount that Holder may charge legally under applicable state and/or federal law, the amount by which the payment exceeds the amount payable at the lawful interest rate will be deducted automatically from the principal balance owing under this Note.

6.4 Maker waives the right to designate how Payments will be applied pursuant to California Civil Code Sections 1479 and 2822. Subject to the terms in this Note, Holder will have the right in its sole discretion to determine the order and method of application of Payments to obligations under this Note.

6.5 Subject to this Section, Holder will not seek or obtain judgment against Maker for the payment of any amounts due under this Note following a judicial or nonjudicial foreclosure of the Deed of Trust, or exercise of Holder's rights under the Assignment of Work Product, and Holder's sole recourse against Maker for any default under this Note will be limited to the collateral for the Loan, *provided, however*, that this Section will be deemed void and of no effect if Maker challenges Holder's right to foreclose following an Event of Default in any legal proceeding on the grounds that the OCII Documents are not valid and enforceable under California law. This provision does not limit in any way Holder's right to recover from Maker sums incurred by Holder as a result of Maker's fraud, willful misrepresentation, misapplication of funds (including Loan funds and Rents (as defined in the Deed of Trust)), waste or negligent or intentional damage to the collateral for the Loan.

6.6 This Note may be prepaid in whole or in part at any time, and from time to time, without penalty provided that notice is given to Holder no later than sixty (60) days prior to prepayment.

7. Default.

7.1 Any of the following will constitute an “**Event of Default**” under this Note:

(a) Maker fails to make any Payment required under this Note within ten (10) days of the date it is due; or

(b) the occurrence of any other Event of Default under the Agreement or other instrument securing the obligations of Maker under this Note or under any other agreement between Maker and Holder with respect to the Loan subject to all applicable notice and cure rights.

7.2 Upon the occurrence of any Event of Default, without notice to or demand upon Maker, which are expressly waived by Maker (except for notices or demands otherwise required by applicable laws to the extent not effectively waived by Maker and any notices or demands specified in the OCII Documents), Holder may exercise all rights and remedies available under this Note, the Agreement or otherwise available to Holder at law or in equity. Maker acknowledges and agrees that Holder's remedies include the right to accelerate the Maturity Date by declaring the outstanding principal balance of the Loan, together with all accrued and unpaid interest and unpaid fees and costs incurred, due and payable immediately, in which case, the Maturity Date will be superseded and replaced by the date established by Holder.

8. Waivers.

8.1 Maker expressly agrees that the term of this Note or the date of any payment due hereunder may be extended from time to time with Holder's consent, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Maker.

8.2 No extension of time for any Payment made by agreement by Holder with any person now or hereafter liable for the payment of this Note will operate to release, discharge, modify, change or affect the original liability of Maker under this Note, either in whole or in part.

8.3 The obligations of Maker under this Note are absolute, and Maker waives any and all rights to offset, deduct or withhold any Payments or charges due under this Note for any reason whatsoever.

9. Miscellaneous Provisions.

9.1 All notices to Holder or Maker must be given in the manner and at the addresses set forth in the Agreement, or to the addresses Holder and/or Maker hereafter designate in accordance with the Agreement.

9.2 In the event of any legal proceedings arising from the enforcement of or a default under this Note or in any bankruptcy proceeding of Maker, the non-prevailing party promises to pay all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the proceeding, as provided in the Agreement.

9.3 This Note may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

9.4 This Note is governed by and must be construed in accordance with the laws of the State of California, without regard to the choice of law rules of the State.

9.5 Time is of the essence in the performance of any obligations hereunder.

"MAKER"

HPSY 52-54, LP,

a California limited partnership

By: Rose HPSY 52-54 GP, LLC,
a Delaware limited liability company,
its administrative general partner

By: Rose GP Investors, LLC,
a Delaware limited liability
company, its managing member

By: Rose Company Holdings, LLC,
a Delaware limited liability
company, its managing member

By: _____
Yusef Freeman
Authorized Signatory

By: HP Shipyard 52 and 54 LLC,
a California limited liability company,
its managing general partner

By: Bayview Hunters Point
Multipurpose Senior Services, Inc., a California nonprofit public benefit
corporation, its manager

By: _____
Cathy Davis
Executive Director

EXHIBIT A

Schedule of Income and Rent Restrictions¹

Unit Type	Proposed Number of Units	Proposed Avg. Sq. Feet	Max. Rent (at Target AMI)*	Max. % AMI	Target % AMI	Rent or Operating Subsidies
1BR	1	589	\$722	30%	30%	none
1BR	4	589	\$939	40%	40%	none
1BR	44	589	\$1277	50%	50%	none
2BR	2	824	\$781	30%	30%	none
2BR	1	824	\$1094	40%	40%	none
2BR	26	824	\$1405	50%	50%	none
3BR	1	1082	\$840	30%	30%	none
3BR	2	1082	\$1186	40%	40%	none
3BR	20	1082	\$1534	50%	50%	none
4BR	1	1358	\$1249	40%	40%	none
4BR	7	1358	\$1624	50%	50%	none
5BR	1	1661	\$1304	40%	40%	none
2BR	2	824	Mgr	Mgr	Mgr	none
Total Units	112					

** Maximum rent is based on estimates for MOHCD limits for 2022. The maximum rent levels shall be updated upon the commencement of leasing of the Project, and the updated amounts shall be applicable for the first year of the leasing of the Project.*

Note: Any changes to the Schedule of Income and rent Restrictions are subject to approval by the OCII Executive Director and the MOHCD Director through the Final Financial Plan. Except as provided in Section B of the Declaration of Restrictions, the restrictions on any unit shall not exceed 50% of Area Median Income.

¹ This table is in furtherance of and subject to the rent restriction provisions of Article 7. In the event of conflict between this Exhibit A and Article 7 of the Agreement, Article 7 shall prevail.

EXHIBIT B-1

Table of Sources and Uses of Funds

Application Date:
Project Name:
Project Address:
Project Sponsor:

January 18 2023
Hunters Point Shipyard Blocks 52&54
151 &351 Friedell St
Rose Companies Holdings

Units: 112
Bedrooms: 217
Beds:
N/a

SOURCES	Total Sources						Comments
	57,000,430	2,410,462	61,915,175	802,284	4,838,390	5,913,900	
Name of Sources:	MOHCD/OCII	Perm Loan	Equity	Deferred Fee	OCII-	IIG	-

USES

ACQUISITION

Acquisition cost or value							0
Legal / Closing costs / Broker's Fee							0
Holding Costs							0
Transfer Tax							0
TOTAL ACQUISITION	0	0	0	0	0	0	0

CONSTRUCTION (HARD COSTS)

* Unit Construction/Rehab	26,486,674	1,918,315	46,979,961		3,006,801	5,913,900	84,305,651	Include FF&E	
* Commercial Shell Construction							0		
* Demolition							0		
* Environmental Remediation							0		
* Onsite Improvements/Landscaping							0		
* Offsite Improvements							0		
* Infrastructure Improvements							0	HOPE SF/OCII costs for streets etc.	
Parking							0		
GC Bond Premium/GC Insurance/GC Taxes	7,545,318				625,237		8,170,555		8.2%
GC Overhead & Profit	1,538,321		1,538,321		341,849		3,418,491		3.4%
CG General Conditions	1,769,733		1,769,733		393,274		3,932,741		3.9%
Sub-total Construction Costs	37,340,046	1,918,315	50,288,015	0	4,367,161	5,913,900	99,827,437		
Escalation	0		0		0		0	\$45MM+	0.0%
Bid Contingency (remove at bid)							0	\$45MM+	0.0%
Plan Check Contingency (remove/reduce during Plan Review)							0	\$45MM+	0.0%
Hard Cost Construction Contingency	4,831,453				439,556		5,271,009	5% new construction / 15% rehab	5.3%
Sub-total Construction Contingencies	4,831,453	0	0	0	439,556	0	5,271,009		
TOTAL CONSTRUCTION COSTS	42,171,499	1,918,315	50,288,015	0	4,806,717	5,913,900	105,098,447		

SOFT COSTS

Architecture & Design									
Architect design fees	3,031,893						3,031,893	See MOHCD A&E Fee Guidelines:	
Design Subconsultants to the Architect (incl. Fees)	668,277						668,277	http://sfmohcd.org/documents-reports-and-forms	
Architect Construction Admin							0		
Reimbursables	40,000		200,000				240,000		
Additional Services	427,798						427,798		
Sub-total Architect Contract	4,167,968	0	200,000	0	0	0	4,367,968		
Other Third Party design consultants (not included under Architect contract)							0	Consultants not covered under architect contract; name consultant type and contract amount	
Total Architecture & Design	4,167,968	0	200,000	0	0	0	4,367,968		
Engineering & Environmental Studies									
Survey	23,500						23,500		
Geotechnical studies	228,500						228,500		
Phase I & II Reports	183,900						183,900		
CEQA / Environmental Review consultants							0		
NEPA / 106 Review							0		
CNA/PNA (rehab only)							0		
Other environmental consultants	177,350						177,350	Name consultants & contract amounts	
Total Engineering & Environmental Studies	613,250	0	0	0	0	0	613,250		
Financing Costs									
Construction Financing Costs									
Construction Loan Origination Fee			1,105,401		31,674		1,137,074		
Construction Loan Interest			7,888,221				7,888,221		
Title & Recording			200,000				200,000		
CDLAC & CDIAC fees			27,050				27,050		
Bond Issuer Fees	138,750						138,750		
Other Bond Cost of Issuance							0		
Other Lender Costs (specify)	50,000		48,000				98,000		
Sub-total Const. Financing Costs	188,750	0	9,268,671	0	31,674	0	9,489,095		
Permanent Financing Costs									
Permanent Loan Origination Fee			49,657				49,657		
Credit Enhance. & Appl. Fee							0		
Title & Recording		20,000					20,000		
Sub-total Perm. Financing Costs	0	20,000	49,657	0	0	0	69,657		
Total Financing Costs	188,750	20,000	9,318,328	0	31,674	0	9,558,752		
Legal Costs									
Borrower Legal fees	200,000						200,000		
Land Use / CEQA Attorney fees	100,000						100,000		
Tax Credit Counsel							0		
Bond Counsel			80,000				80,000		
Construction Lender Counsel			50,000				50,000		
Permanent Lender Counsel		65,000					65,000		
Other Legal (specify)	625,000						625,000		
Total Legal Costs	925,000	65,000	130,000	0	0	0	1,120,000		
Other Development Costs									
Appraisal	10,000						10,000		
Market Study	10,000						10,000		
Insurance	1,444,764						1,444,764		
Property Taxes	150,000						150,000		
Accounting / Audit	42,500						42,500		
Organizational Costs	25,000						25,000		
Entitlement / Permit Fees	1,507,050						1,507,050		
Marketing / Rent-up			702,000				702,000		
Furnishings			380,000				380,000	\$2,000/unit; See MOHCD UIW Guidelines on: http://sfmohcd.org/documents-reports-and-forms	
PGE / Utility Fees							0		
TCAC App / Alloc / Monitor Fees	45,100						45,100		
Financial Consultant fees	50,000						50,000		
Construction Management fees / Owner's Rep	180,000						180,000		
Security during Construction							0		
Relocation							0		
Adjacent Property	250,000						250,000		
Special Inspections ,Site camera, Final Cleaning AI QAC	759,000						759,000		
MBE Coordinator and Tax Credit fees	92,364						92,364		
Total Other Development Costs	4,565,778	0	1,082,000	0	0	0	5,647,778		
Soft Cost Contingency									
Contingency (Arch, Eng, Fin, Legal & Other Dev)	1,238,184	8,500	896,832	0	0	0	2,143,516	Should be either 10% or 5% of total soft costs.	
TOTAL SOFT COSTS	11,698,930	93,500	11,627,160	0	31,674	0	23,451,264		10.1%

RESERVES

* Operating Reserves		398,647					398,647	
Replacement Reserves							0	
* Tenant Improvements Reserves							0	
* CFD fee reserve & Master HOA Reserve	1,110,000						1,110,000	
* Other (specify)							0	
* Other (specify)							0	
TOTAL RESERVES	1,110,000	398,647	0	0	0	0	1,508,647	

DEVELOPER COSTS

Developer Fee - Cash-out Paid at Milestones	2,020,000						2,020,000	
Developer Fee - Cash-out At Risk							0	
Commercial Developer Fee							0	
Developer Fee - GP Equity (also show as source)							0	
Developer Fee - Deferred (also show as source)				802,284			802,284	
Development Consultant Fees							0	Need MOHCD approval for this cost, N/A for most projects
Other (specify)							0	
TOTAL DEVELOPER COSTS	2,020,000	0	0	802,284	0	0	2,822,284	

TOTAL DEVELOPMENT COST

Development Cost/Unit by Source	57,000,430	2,410,462	61,915,175	802,284	4,838,390	5,913,900	132,880,642	
Development Cost/Unit as % of TDC by Source	508,932	21,522	552,814	7,163	43,200	52,803	1,186,434	
	42.9%	1.8%	46.6%	0.6%	3.6%	4.5%	100.0%	

Acquisition Cost/Unit by Source

0	0	0	0	0	0	0	0	

Construction Cost (inc Const Contingency)/Unit By Source

376,531	17,128	449,000	0	42,917	52,803	938,379	
254.35	11.57	303.30	0.00	28.99	35.67	633.88	

*Possible non-eligible GO Bond/COP Amount:

29,891,438

City Subsidy/Unit

508,932

Tax Credit Equity Pricing:

0.985

Construction Bond Amount:

63,000,000

Construction Loan Term (in months):

36 months

Construction Loan Interest Rate (as %):

7.66%

EXHIBIT B-2

Annual Operating Budget

Application Date:
Total # Units:
First Year of Operations (provide data assuming that Year 1 is a full year, i.e. 12 months of operations):

January
18 2023
112
2025

Project Name:
Project Address:
Project Sponsor:

Hunters Point Shipyard Blocks 52&54
151 &351 Friedell St
Rose Companies Holdings

INCOME	Total	Comments
Residential - Tenant Rents	1,805,700	Links from 'New Proj - Rent & Unit Mix' Worksheet
Residential - Tenant Assistance Payments (Non-LOSP)	0	Links from 'New Proj - Rent & Unit Mix' Worksheet
Commercial Space	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
Residential Parking	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Rent Income	0	Links from 'Utilities & Other Income' Worksheet
Supportive Services Income		
Interest Income - Project Operations	0	Links from 'Utilities & Other Income' Worksheet
Laundry and Vending	40,768	Links from 'Utilities & Other Income' Worksheet
Tenant Charges	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Residential Income	0	Links from 'Utilities & Other Income' Worksheet
Other Commercial Income	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
Withdrawal from Capitalized Reserve (deposit to operating account)	0	
Gross Potential Income	1,846,468	
Vacancy Loss - Residential - Tenant Rents	(92,323)	Vacancy loss is 5.1% of Tenant Rents.
Vacancy Loss - Residential - Tenant Assistance Payments	0	#DIV/0!
Vacancy Loss - Commercial	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
EFFECTIVE GROSS INCOME	1,754,145	PUPA: 15,662

OPERATING EXPENSES

Management

Management Fee	87,360	1st Year to be set according to HUD schedule.
Asset Management Fee	26,909	
Sub-total Management Expenses	114,269	PUPA: 1,020

Salaries/Benefits

Office Salaries	55,450	
Manager's Salary	88,820	
Health Insurance and Other Benefits		
Other Salaries/Benefits	73,940	
Administrative Rent-Free Unit	33,720	
Sub-total Salaries/Benefits	251,930	PUPA: 2,249

Administration

Advertising and Marketing	850	
Office Expenses	41,303	
Office Rent		
Legal Expense - Property	10,000	
Audit Expense	32,472	
Bookkeeping/Accounting Services		
Bad Debts		
Miscellaneous		
Sub-total Administration Expenses	84,625	PUPA: 756

Utilities

Electricity	60,000	
Water	100,000	
Gas		
Sewer	50,000	
Sub-total Utilities	210,000	PUPA: 1,875

Taxes and Licenses

Real Estate Taxes	8,000	
Payroll Taxes		
Miscellaneous Taxes, Licenses and Permits		
Sub-total Taxes and Licenses	8,000	PUPA: 71

Insurance

Property and Liability Insurance	125,000	
Fidelity Bond Insurance		
Worker's Compensation		
Director's & Officers' Liability Insurance		
Sub-total Insurance	125,000	PUPA: 1,116

Maintenance & Repair

Payroll	102,030	
Supplies	23,300	
Contracts	47,500	Fire Protection & landscaping
Garbage and Trash Removal	40,000	
Security Payroll/Contract	150,000	
HVAC Repairs and Maintenance	45,000	
Vehicle and Maintenance Equipment Operation and Repairs	20,000	Elevator
Miscellaneous Operating and Maintenance Expenses		
Sub-total Maintenance & Repair Expenses	427,830	PUPA: 3,820

Supportive Services

Commercial Expenses	90,000	
	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%

TOTAL OPERATING EXPENSES

1,311,654

PUPA: 11,711

Reserves/Ground Lease Base Rent/Bond Fees

Ground Lease Base Rent	15,000	Ground lease with MOHCD	Provide additional comments here, if needed.
Bond Monitoring Fee	3,013		
Replacement Reserve Deposit	56,000		
Operating Reserve Deposit			
Other Required Reserve 1 Deposit			
Other Required Reserve 2 Deposit			
Required Reserve Deposit/s, Commercial	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	
Sub-total Reserves/Ground Lease Base Rent/Bond Fees	74,013	PUPA: 667	

TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)

1,385,667

PUPA: 12,372

NET OPERATING INCOME (INCOME minus OP EXPENSES)

368,478

PUPA: 3,290

DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)

Hard Debt - First Lender	161,173	First Mortgage	Provide additional comments here, if needed.
Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd	0		Provide additional comments here, if needed.
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)	0		Provide additional comments here, if needed.
Hard Debt - Fourth Lender	0		Provide additional comments here, if needed.
Commercial Hard Debt Service	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	
TOTAL HARD DEBT SERVICE	161,173	PUPA: 1,439	

CASH FLOW (NOI minus DEBT SERVICE)

207,305

USES OF CASH FLOW BELOW (This row also shows DSCR.)

2.29

USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL

"Below-the-line" Asset Mgt fee (uncommon in new projects, see polic			
Partnership Management Fee (see policy for limits)	26,909	4th	
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)	7,500	3rd	
Other Payments			
Non-amortizing Loan Pmnt - Lender 1 (select lender in comments field)			Provide additional comments here, if needed.
Non-amortizing Loan Pmnt - Lender 2 (select lender in comments field)			Provide additional comments here, if needed.
Deferred Developer Fee (Enter amt <= Max Fee from cell I130)	86,448	Def. Develop. Fee split: 50%	Provide additional comments here, if needed.

TOTAL PAYMENTS PRECEDING MOHCD

120,857

PUPA: 1,079

RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)

86,448

Residual Receipts Calculation

Does Project have a MOHCD Residual Receipt Obligation?

Yes

Project has MOHCD ground lease?

Yes

Will Project Defer Developer Fee?

Yes

Max Deferred Developer Fee/Borrower % of Residual Receipts in Y1

50%

Max Deferred Developer Fee Amt (Use for data entry above. Do not link.):

86,448

% of Residual Receipts available for distribution to soft debt lenders

50%

Soft Debt Lenders with Residual Receipts Obligations

(Select lender name/program from drop down)

Total Principal Amt

Distrib. of Soft Debt Loans

MOHCD/OCII - Soft Debt Loans	All MOHCD/OCII Loans payable from res. rects	\$57,000,430	99.74%
MOHCD/OCII - Ground Lease Value or Land Acq Cost	Ground Lease Value	\$150,000	0.26%
HCD (soft debt loan) - Lender 3			0.00%
Other Soft Debt Lender - Lender 4			0.00%
Other Soft Debt Lender - Lender 5			0.00%

MOHCD RESIDUAL RECEIPTS DEBT SERVICE

MOHCD Residual Receipts Amount Due	86,448	50% of residual receipts, multiplied by 100% – MOHCD's pro rata share of all soft debt
Proposed MOHCD Residual Receipts Amount to Loan Repayment	86,448	Enter/override amount of residual receipts proposed for loan repayment.
Proposed MOHCD Residual Receipts Amount to Residual Ground Le	0	If applicable, MOHCD residual receipts amt due LESS amt proposed for loan repymt.

REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS

DEBT SERVICE

0

NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE

HCD Residual Receipts Amount Due	0	
Lender 4 Residual Receipts Due	0	
Lender 5 Residual Receipts Due	0	
Total Non-MOHCD Residual Receipts Debt Service	0	

REMAINDER (Should be zero unless there are distributions below)

0

Owner Distributions/Incentive Management Fee	0	
Other Distributions/Uses	0	
Final Balance (should be zero)	0	

EXHIBIT B-3

20-Year Cash Flow Proforma

Hunters Point Shipyard Blocks 52&54

Total # Units: 112

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20
		2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044
	% annual increase	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total
INCOME																					
Residential - Tenant Rents	2.5%	1,805,700	1,850,843	1,897,114	1,944,541	1,993,155	2,042,984	2,094,058	2,146,410	2,200,070	2,255,072	2,311,449	2,369,235	2,428,466	2,489,177	2,551,407	2,615,192	2,680,572	2,747,586	2,816,276	2,886,683
Residential - Tenant Assistance Payments (Non-LOSP)	n/a	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Commercial Space	2.5%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Other Income		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Gross Potential Income		1,846,468	1,892,630	1,939,945	1,988,444	2,038,155	2,089,109	2,141,337	2,194,870	2,249,742	2,305,986	2,363,635	2,422,726	2,483,294	2,545,377	2,609,011	2,674,236	2,741,092	2,809,619	2,879,860	2,951,856
Vacancy Loss - Residential - Tenant Rents	n/a	(92,323)	(94,631)	(96,997)	(99,422)	(101,908)	(104,455)	(107,067)	(109,744)	(112,487)	(115,299)	(118,182)	(121,136)	(124,165)	(127,269)	(130,451)	(133,712)	(137,055)	(140,481)	(143,993)	(147,593)
Vacancy Loss - Residential - Tenant Assistance Payments	n/a	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Vacancy Loss - Commercial	n/a	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
EFFECTIVE GROSS INCOME		1,754,145	1,797,998	1,842,948	1,889,022	1,936,247	1,984,654	2,034,270	2,085,127	2,137,255	2,190,686	2,245,453	2,301,590	2,359,129	2,418,108	2,478,560	2,540,524	2,604,038	2,669,138	2,735,867	2,804,264
OPERATING EXPENSES																					
Management	3.5%	114,269	118,268	122,408	126,692	131,126	135,716	140,466	145,382	150,470	155,737	161,188	166,829	172,668	178,712	184,967	191,440	198,141	205,076	212,253	219,682
Salaries/Benefits	3.5%	251,930	260,748	269,874	279,319	289,095	299,214	309,686	320,525	331,744	343,355	355,372	367,810	380,684	394,007	407,798	422,071	436,843	452,133	467,957	484,336
Administration	3.5%	84,625	87,587	90,652	93,825	97,109	100,508	104,026	107,667	111,435	115,335	119,372	123,550	127,874	132,350	136,982	141,776	146,739	151,874	157,190	162,692
Utilities	3.5%	210,000	217,350	224,957	232,831	240,980	249,414	258,144	267,179	276,530	286,208	296,226	306,594	317,324	328,431	339,926	351,823	364,137	376,882	390,073	403,725
Taxes and Licenses	2.0%	8,000	8,160	8,323	8,490	8,659	8,833	9,009	9,189	9,373	9,561	9,752	9,947	10,146	10,349	10,556	10,767	10,982	11,202	11,426	11,654
Insurance	3.5%	125,000	129,375	133,903	138,590	143,440	148,461	153,657	159,035	164,601	170,362	176,325	182,496	188,884	195,495	202,337	209,419	216,748	224,334	232,186	240,313
Maintenance & Repair	3.5%	427,830	442,804	458,302	474,343	490,945	508,128	525,912	544,319	563,370	583,088	603,496	624,619	646,481	669,107	692,526	716,764	741,851	767,816	794,690	822,504
Supportive Services	3.5%	90,000	93,150	96,410	99,785	103,277	106,892	110,633	114,505	118,513	122,661	126,954	131,397	135,996	140,756	145,683	150,781	156,059	161,521	167,174	173,025
Commercial Expenses		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL OPERATING EXPENSES		1,311,654	1,357,442	1,404,830	1,453,874	1,504,632	1,557,165	1,611,533	1,667,801	1,726,037	1,786,307	1,848,685	1,913,242	1,980,057	2,049,206	2,120,773	2,194,842	2,271,500	2,350,838	2,432,949	2,517,931
PUPA (w/o Reserves/GL Base Rent/Bond Fees)		11,711																			
Reserves/Ground Lease Base Rent/Bond Fees																					
Ground Lease Base Rent		15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000	15,000
Bond Monitoring Fee		3,013	3,013	3,004	2,984	2,963	2,940	2,891	2,864	2,800	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500	2,500
Replacement Reserve Deposit		56,000	57,960	59,989	62,088	64,261	66,510	68,838	71,248	73,741	76,322	78,994	81,758	84,620	87,582	90,647	93,820	97,103	100,502	104,019	107,660
Operating Reserve Deposit		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other Required Reserve 1 Deposit		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other Required Reserve 2 Deposit		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Required Reserve Deposit/s, Commercial		0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sub-total Reserves/Ground Lease Base Rent/Bond Fees		74,013	75,973	77,993	80,072	82,224	84,450	86,729	89,112	91,241	93,822	96,494	99,258	102,120	105,082	108,147	111,320	114,603	118,002	121,519	125,160
TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)		1,385,667	1,433,415	1,482,823	1,533,946	1,586,857	1,641,615	1,698,262	1,756,913	1,817,278	1,880,130	1,945,178	2,012,501	2,082,176	2,154,288	2,228,920	2,306,162	2,386,103	2,468,840	2,554,469	2,643,091
PUPA (w/ Reserves/GL Base Rent/Bond Fees)		12,372																			
NET OPERATING INCOME (INCOME minus OP EXPENSES)		368,478	364,583	360,126	355,076	349,391	343,039	336,008	328,214	319,977	310,557	300,275	289,089	276,953	263,820	249,640	234,363	217,934	200,299	181,398	161,172
DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)																					
Hard Debt - First Lender		161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173
Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Lender)		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Hard Debt - Fourth Lender		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Commercial Hard Debt Service		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL HARD DEBT SERVICE		161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173	161,173
CASH FLOW (NOI minus DEBT SERVICE)		207,305	203,410	198,953	193,903	188,218	181,866	174,835	167,041	158,804	149,384	139,102	127,916	115,780	102,647	88,467	73,190	56,761	39,126	20,225	(1)
USES OF CASH FLOW BELOW (This row also shows DSCR.)	DSCR:	2.286	2.262	2.234	2.203	2.168	2.128	2.085	2.036	1.985	1.927	1.863	1.794	1.718	1.637	1.549	1.454	1.352	1.243	1.125	1
USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL																					
Deferred Developer Fee (Enter amt <= Max Fee from row 131)		86,448	86,637	84,036	81,126	77,884	74,294	70,349	66,008	61,428	56,240	50,605	7,229	-	-	-	-	-	-	-	-
"Below-the-line" Asset Mgt fee (uncommon in new projects, see policy)	3.5%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Partnership Management Fee (see policy for limits)	3.5%	26,909	25,137	25,880	26,651	27,450	28,278	29,136	30,025	30,947	31,903	32,893	33,920	34,984	36,087	37,230	45,100	46,678	39,126	20,226	-
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)		7,500	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	5,000	-	-	-	-	-
Other Payments		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Non-amortizing Loan Pmnt - Lender 1		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Non-amortizing Loan Pmnt - Lender 2		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL PAYMENTS PRECEDING MOHCD		120,857	116,774	114,916	112,777	110,334	107,572	104,485	101,033	97,375	93,143	88,498	46,149	39,984	41,087	42,230	45,100	46,678	39,126	20,226	-
RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD		86,448	86,636	84,037	81,126	77,884	74,294	70,350	66,008	61,429	56,241	50,604	81,767	75,796	61,560	46,237	28,090	10,083	(0)	(1)	(1)
Does Project have a MOHCD Residual Receipt Obligation?	Yes																				
Will Project Defer Developer Fee?	Yes																				
1st Residual Receipts Split - Lender/Deferred Developer Fee	50% / 50%																				
MOHCD RESIDUAL RECEIPTS DEBT SERVICE	Dist. Soft Debt Loans																				
MOHCD Residual Receipts Amount Due	100.00%	86,448	86,636	84,037	81,126	77,884	74,294	70,350	66,008	61,429	56,241	50,604	81,767	50,531	41,040	30,825	18,726	6,722	-	-	-
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Proposed MOHCD Residual Receipts Amount to Replacement Reserve		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE		-	-	-	-	-	-	-	-	-	-	-	-	25,265	20,520	15,412	9,363	3,361	-	-	-
NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE																					
HCD Residual Receipts Amount Due	0.00%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lender 4 Residual Receipts Due	0.00%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lender 5 Residual Receipts Due	0.00%	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Non-MOHCD Residual Receipts Debt Service																					

EXHIBIT F

Insurance Requirements

Subject to approval by the OCII 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 in this Exhibit F throughout the Compliance Term of this Agreement, or in accordance with the timeframes stated herein, at no expense to OCII.

A. **Overview of Coverage Requirements.** The following table summarizes required insurance policies and documentation. Please see Section B of this Exhibit F for more detailed descriptions of policy requirements.

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Commercial General Liability (see Section B.1)	\$1,000,000 per occurrence/ \$2,000,000 aggregate*	Borrower's design and professional contractors; and Borrower (prior to start of construction)	Additional insured (see Section G)
	\$10,000,000 per occurrence/ \$10,000,000 aggregate*	Borrower (upon construction start), general contractor, and subcontractors to the general contractor	Completed Operations Coverage endorsement (on construction stage policy) (see Section G)
Automobile Liability (see Section B.2)	\$1,000,000 per accident*	Borrower and Borrower's contractors	Additional insured (see Section G)
	\$10,000,000 per accident*	Upon construction start – general contractor and subcontractors to the general contractor	
Worker's Compensation and Employer's Liability (see Section B.3)	As per statute for Workers Comp; \$1,000,000 per accident; \$1,000,000 per employee; and in aggregate for bodily injury by disease as respects Employers Liability*	Borrower and Borrower's contractors	Waiver of subrogation
Professional Liability (see Section B.4)	\$2,000,000 per claim/ \$2,000,000 aggregate	Borrower if engaged in any eligible design-related activities; and Borrower's design and professional contractors	None
Crime/Dishonesty (see Section B.5)	\$1,000,000 per loss	Borrower	Loss payee endorsement

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Pollution Liability/Asbestos – During Construction (see Section B.6)	\$1,000,000 per claim/ \$2,000,000 aggregate	Borrower or Borrower's construction contractor(s)	Additional insured (see Section G)
Builder's Risk – During Construction (see Section B.7a)	100% of replacement value	Borrower	Loss payee endorsement
Property Insurance – After Construction Completion (see Section B.7b)	100% of replacement value	Borrower or Borrower's property manager	Loss payee endorsement
Performance and Payment Bonds (see Section B.8)	100% of contract value (excluding the Modular Work)	Borrower's construction contractors	OCII and Borrower named as dual obligees

** Umbrella, excess liability policy, or owner controlled insurance program (OCIP) may be used to meet limits (see Section D)*

B. Minimum Scope and Limits of Insurance. Borrower and/or Borrower's Contractors must maintain insurance with limits no less than:

- 1) Commercial General Liability coverage, under Insurance Services Office occurrence form CG 00 01 or other form approved by OCII, with additional insured endorsement (form CG 20 10 or equivalent) (see Section G). Limits set forth below. Coverage must be included for contractual liability; explosion, collapse and underground (XCU); products and completed operations. Umbrella, Excess Liability, or an Owner Controlled Insurance Policy may be used to meet the terms of this section.
 - a. Before the start of demolition/construction if the Site is unoccupied, Borrower and Borrower's Contractors will maintain coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit. These limit requirements apply to Borrower's design and professional contractors throughout the required coverage period;
 - b. During demolition/construction and occupancy of the Site and ongoing operations of the Project, Borrower and its Construction Contractors and/or Property Manager will maintain coverage of not less than Ten Million Dollars (\$10,000,000) combined single limit per occurrence and Ten Million Dollars (\$10,000,000) general aggregate limit. For subcontractors to the Construction General Contractor and the Property Manager, the Borrower, in consultation with the Construction General Contractor and the Property Manager, as appropriate, is required to assess the risks associated with such contractors and determine, authorize, and verify the appropriate level of coverage provided by the subcontractor or consultant;

- c. The construction period general liability policy must include completed operations coverage for a minimum of ten (10) years. Borrower must provide a completed operations coverage endorsement (form CG 20 37 or equivalent) and OCII must be named as an additional insured pursuant Section G below.
- 2) Automobile Liability coverage for all owned, non-owned, scheduled, and hired automobiles under Insurance Services Office form number CA 00 01 or other form approved by OCII, with additional insured endorsement (see Section G). If Borrower does not own any automobiles, Borrower must provide OCII a written statement confirming that no automobiles are owned, and OCII will accept an Automobile Insurance policy providing coverage for Symbol 8 (hired autos) and Symbol 9 (non-owned autos), with additional insured endorsement. One Million Dollars (\$1,000,000) per accident for bodily injury and property damage, combined single limit.
 - 3) Worker's Compensation and Employer's Liability as required by the State of California. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us"). Employer's Liability coverage must provide limits of One Million Dollars (\$1,000,000) for bodily injury each accident; and not less than One Million Dollars (\$1,000,000) per employee; and One Million Dollars (\$1,000,000) in the annual aggregate for bodily injury by disease. If the Borrower does not have any employees, then evidence of Workers' Compensation and Employers Liability coverage required herein must be provided by either the Project Sponsor(s) or the all general partners of the Partnership, in lieu of such coverage being provided by the Borrower. Additionally, the Borrower must provide a written statement confirming that the Borrower does not have employees.
 - 4) Professional Liability (Errors and Omissions) insurance, applicable to the Borrower's licensed design and professional contractors (architects, engineers, surveyors and other eligible consultants) and to the Borrower only if the Borrower or Sponsor has any employees providing design or engineering services. Two Million Dollars (\$2,000,000) for each claim and in the annual aggregate limit covering negligent acts, errors or omissions in connection with professional services to be provided in connection with the Project. If the Professional Liability insurance is "claims made" coverage, these minimum limits shall be maintained for no less than five (5) years beyond completion of the scope of services performed. Any deductible over One Hundred Thousand Dollars (\$100,000) each claim must be reviewed by OCII Risk Management.

Design professionals who utilize the services of subcontractors or consultants to complete work in connection with this project are required to assess the risks associated with such contractors and, with the authorization of the Borrower, determine and verify the appropriate level of coverage provided by the subcontractor or consultant. The design professional and the Borrower shall assume costs and expenses that may be incurred in fulfilling any indemnity obligations as to itself or any subcontractors or consultants for whom the design professional and/or the Borrower are legally liable in the absence of adequate subcontractor or consultant coverage.

- 5) Crime Policy or Fidelity Bond (Employee Dishonesty Coverage) covering Borrower and Developer's officers and employees against employee dishonesty, forgery & alteration, theft of money & securities, and theft via electronic means, endorsed to cover third party fidelity, covering all officers and employees with respect to the Funding Amount. One Million Dollars

(\$1,000,000) each loss, with any deductible not to exceed Fifty Thousand Dollars (\$50,000). Borrower must provide an endorsement naming OCII as an additional obligee or loss payee.

Application of Crime Insurance Proceeds. Borrower shall promptly notify OCII of any claim under the required Crime Insurance Policy. OCII may retain from the proceeds of the required Crime Insurance Policy, a sufficient amount of the proceeds to pay the Funding Amount, if any, and shall pay the balance to Borrower. For the avoidance of doubt, OCII shall have no right or claim to the proceeds of the required Crime Insurance Policy in excess of the Funding Amount.

- 6) Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than One Million Dollars (\$1,000,000) per claim or occurrence and Two Million Dollars (\$2,000,000) aggregate per policy aggregate, this coverage shall be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Borrower's construction contractor to maintain these minimum limits for no less than three (3) years beyond completion of the Project.

7) Property Insurance

- a. Builder's Risk Insurance during the course of any construction, 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 Fifty Thousand Dollars (\$50,000) each loss, including OCII as loss payee. Builder's Risk must be maintained by the Borrower or the Borrower must cause its general contractor to maintain this insurance.
- b. Property Insurance after completion of construction, special form coverage, excluding earthquake and flood, but including vandalism and malicious mischief, and including boiler and machinery insurance, 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 loss payee. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us").
- 8) Performance and Payment Bonds for eligible construction contractors during construction and/or rehabilitation, 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. OCII has approved issuance of a Completion Guaranty by an affiliate of Borrower to Borrower's institutional lender as completion security.

- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in excess of those required for policies stated herein must be declared to and approved by OCII. At the option of OCII, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers,

agents and employees; or Borrower shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.

- D. Umbrella, Excess Liability, and Owner Controlled Insurance Policies (OCIP). An Umbrella and/or Excess Liability policy(ies) or an OCIP may be used to reach the Commercial General Liability, Workers' Compensation, and/or Automobile Liability coverage limits required herein. The Umbrella/Excess Liability/OCIP policy(ies) must appropriately schedule any such underlying policy(ies).
- E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise approved by OCII's Risk Manager.
- F. General Requirements.
- 1) If the Borrower maintains additional coverages and/or higher limits than the minimums shown in this Exhibit F, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Borrower.
 - 2) The policies required herein, with the exception of Professional Liability and Workers Compensation, shall be primary insurance and non-contributory as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees shall be in excess of Borrower's insurance and shall not contribute with it.
 - 3) Each insurance policy required herein must be endorsed (if endorsement is available) to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by mail has been given to OCII. Should the insurance carrier not be able to provide such notice, then the responsibility to provide the notice to OCII shall be borne by the policyholder.
 - 4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees.
 - 5) Approval of Borrower's insurance by OCII will not relieve or decrease the liability of Borrower under this Agreement.
 - 6) OCII and its officers, agents and employees will not be liable for any required premium under any policy maintained by Borrower.
 - 7) 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 five (5) years after recordation of a notice of completion for builder's risk or the Compliance Term for general liability and property insurance.

G. Verification of Coverage. Borrower must furnish OCII with certificates of insurance and original endorsements evidencing coverage required by this clause. The certificates and applicable endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by OCII before work commences. OCII reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time. Borrower shall require and verify that its contractors and consultants maintain the required policies as stated herein. Borrower must furnish OCII with copies of certificates and endorsements upon request. All certificates shall include the following:

- 1) Identify the following as the certificate holder:
Successor Agency to the Redevelopment Agency of the City and County of San Francisco
Office of Community Investment and Infrastructure
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
- 2) Identify the name of the insurance policy holder (Borrower, Developer, or Contractor), the Project name, and the Project address.
- 3) For policies in which OCII is required to be named as an additional insured, loss payee, dual obligee, or named on a waiver of subrogation, the policy shall name "Office of Community Investment and Infrastructure/Successor Agency to the Redevelopment Agency of the City and County of San Francisco, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees" on the certificate and on the attached endorsement or certificate.

H. Review. OCII reserves the right to modify the insurance coverage under this Section, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances consistent with OCII's Risk Management Policy. The insurance coverage required under this Section shall be evaluated by OCII for adequacy from time to time. OCII may require Borrower to increase the insurance limits and/or forms of coverage in its reasonable discretion provided that such limits and/or coverage is generally available at commercially reasonable rates

EXHIBIT K

FORM DECLARATION OF RESTRICTIONS

FREE RECORDING PURSUANT TO
GOVERNMENT CODE §27383 & 27388.1 AT THE
REQUEST OF THE SUCCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO

WHEN RECORDED RETURN TO:

The Successor Agency to the Redevelopment
Agency of the City and County of San
Francisco, One South Van Ness Avenue,
5th Floor, San Francisco, California 94103
Attn: Jane Suskin

Space above for Recorder

(Assessor's Block 4591C, Lots 212 and 673)

DECLARATION OF RESTRICTIONS

Hunters Point Shipyard Phase 1 Blocks 52 and 54

THIS DECLARATION OF RESTRICTIONS ("Declaration") is made as of _____, 2021, by HPSY 52-54, L.P., a California limited partnership ("Declarant") owner of a leasehold interest in the land described in Exhibit A attached hereto (the "Property"), in favor of 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, commonly referred to as the Office of Community Investment and Infrastructure ("OCII", including any successors or assigns). The restrictions and covenants stated herein shall bind Declarant and its successors and assigns and shall be enforceable by OCII and its successors and assigns.

RECITALS

A. OCII and Declarant have entered into that certain Ground Lease dated _____ (the "Ground Lease") and an Amended and Restated Loan Agreement dated as of _____, 2021 (as it may be amended from time to time, the "Loan Agreement"). The Ground Lease and Loan Agreement obligate Declarant to develop the Property as low-income housing (the "Project"). Definitions and rules of interpretation set forth in the Ground Lease apply to this Declaration, unless otherwise noted.

OCII and Declarant entered into the Loan Agreement to finance costs associated with the development of the Project. The Agreement is incorporated by reference in this Declaration as though fully set forth in this Declaration. Definitions and rules of interpretation set forth in the Agreement apply to this Declaration.

B. Pursuant to the Ground Lease and the Loan Agreement, Declarant has agreed to comply with certain affordability and other use and occupancy restrictions contained herein commencing on the date on which a certificate of occupancy is issued for the Project, and continuing for the Life of the Project (the "**Compliance Term**"), even if the Loan is repaid or otherwise satisfied or the Deed of Trust is reconveyed.

AGREEMENT

Now, therefore, in consideration of OCII's agreement to fund in accordance with the OCII Documents, Declarant agrees as follows:

A. Declarant must comply with the following regulatory obligations contained in this Section 1 (the "**Regulatory Obligations**") through the expiration of the Compliance Term, regardless of any reconveyance of the Deed of Trust. Specifically, Declarant agrees as follows, subject to additional terms as set forth in the Agreement:

1. With the exception of two manager's units, Declarant covenants that all residential units in the Project will at all times be occupied, or held vacant and available, for rental only to households who qualify as Qualified Tenants at initial occupancy, specifically:

Unit Size	No. of Units	Maximum Income Level
1 bdrm	1	30% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
1 bdrm	4	40% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
1 bdrm	44	50% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
2 bdrm	2	30% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
2 bdrm	1	40% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
2 bdrm	26	50% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
3 bdrm	1	30% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
3 bdrm	2	40% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
3 bdrm	20	50% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area

4 bdrm	1	40% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
4 bdrm	7	50% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
5 bdrm	1	40% of Area Median Income as published annually by MOHCD, derived from the income limits determined by HUD for the San Francisco Area, adjusted solely for household size, but not high housing cost area
2 bdrm	2	Manager Unit (unrestricted)
Total	112	

2. In addition to a tenant's qualification as a Qualified Tenant, the total amount for rent and utilities charged to a Qualified Tenant may not exceed either:

- i. thirty percent (30%) of the Maximum Income Level specified in the foregoing table; or
- ii. the fair market rent established by the San Francisco Housing Authority for Qualified Tenants holding Section 8 vouchers or certificates.
- iii. Maximum income levels, as adjusted pursuant to Articles 6, 7, and 9 of Ground Lease

B. Survival of Restrictions.

(1) The affordability restrictions and covenants herein shall remain in effect for the life of the Project and shall survive the termination of the Ground Lease and the Loan Agreement, even if the loan under the Loan Agreement is repaid or otherwise satisfied or the Deed of Trust is reconveyed. Subject to the provisions of subsection (2) below, these affordability restrictions and covenants shall remain in first position and shall not be subordinated to the lien of any deed of trust or other financing, unless OCII determines, in its sole discretion, that subordination is necessary to secure adequate financing to ensure the viability of the Project.

(2) Unless otherwise prohibited by the Redevelopment Plan, the occupancy and rent restrictions of Section A herein may be altered only to the minimum extent required to meet the requirements of Section 42 of the United States Internal Revenue Code or as otherwise determined by OCII, each in its reasonable

discretion, but in any event to include rent levels affordable to households earning no greater than 60% of AMI. The relief provided by the foregoing shall not be construed as authorizing Declarant to exceed any income or rent restriction imposed on the Project by CDLAC, TCAC or any other applicable agreement, and Declarant warrants that it shall have obtained any necessary approvals or relief from any other applicable income and rent limitations prior to implementing the relief provided by this Section. In addition, upon foreclosure (or acceptance of a deed in lieu thereof) under any security interest in the Project (including the Ground Lease) to which OCII has subordinated its own security interest therein, and notwithstanding anything to the contrary contained in either (i) this Declaration (including Section A); or (ii) the Ground Lease, the sole limitation on rental and occupancy of Units in the Project shall be that all residential units (except the manager's unit) shall at all times be occupied by Qualified Tenants and the monthly rent paid by such Qualified Tenants shall not exceed: (a) 50% of the Maximum Income Level (adjusted to 60% of AMI as permitted in this Section), (b) less utility allowance.

C. During the Compliance Term OCII may rely on the Deed of Trust and/or this Declaration, in OCII discretion, to enforce any of OCII's, rights under the OCII Documents.

D. This Declaration may be amended only with the prior written approval of OCII, and any attempt to otherwise amend this Declaration shall be void or voidable at OCII's sole discretion.

E. This Declaration and the Regulatory Obligations constitute covenants running with the land, including the leasehold interest and bind successors and assigns of Declarant and any non-borrower owner and lessee of the Property. In the event that Declarant fails to comply with the covenants and restrictions of this Declaration, including without limitation the Regulatory Obligations, to OCII's satisfaction, in its sole discretion, within thirty (30) days of Declarant's receipt of written notice from OCII to so comply, if Declarant has not diligently begun efforts to comply, OCII at its option may exercise any rights available at equity or in law, including, without limitation, institute an action for specific performance. Declarant shall pay OCII's costs in connection with OCII's enforcement of the terms of this Declaration, including, without limitation, OCII's reasonable attorneys' fees and costs.

(document continues on following page)

Declarant has executed this Declaration as of the date first written above.

DECLARANT:

HPSY 52-54, LP, a California limited partnership

By: Rose HPSY 52-54 GP, LLC, a Delaware limited liability company, its Co-General Partner

By: Rose GP Investors, LLC, a Delaware limited liability company, its Managing Member

By: Rose Companies Holdings, LLC, a Delaware limited liability company, its Managing Member

By: _____

Name:

Title:

EXHIBIT A
(Legal Description of the Property)

EXHIBIT L

SCHEDULE OF PERFORMANCE

No.	Performance Milestone	Estimated or Actual Date	Contractual Deadline
A.	Prop I Noticing (if applicable)	<u>N/A</u>	
1.	Acquisition/Predev Financing Commitment	<u>COMPLETE</u>	
2.	Site Acquisition	<u>N/A</u>	
3.	Development Team Selection		
a.	Architect	<u>COMPLETE</u>	
b.	General Contractor	<u>COMPLETE</u>	<u>COMPLETE</u>
c.	Owner's Representative	<u>COMPLETE</u>	<u>COMPLETE</u>
d.	Property Manager	<u>COMPLETE</u>	
e.	Service Provider	<u>COMPLETE</u>	
4.	Design		
a.	Submittal of Schematic Design & Cost Estimate	<u>COMPLETE</u>	<u>COMPLETE</u>
b.	Submittal of Design Development & Cost Estimate	<u>COMPLETE</u>	<u>COMPLETE</u>
c.	Submittal of 50% CD Set & Cost Estimate	<u>COMPLETE</u>	<u>COMPLETE</u>
d.	Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs)	<u>1/10/2022</u>	<u>3/10/2022</u>
5.	Environ Review/Land-Use Entitlements	<u>N/A</u>	
a.	CEQA Environ Review Submission	<u>COMPLETE</u>	<u>COMPLETE</u>
b.	NEPA Environ Review Submission	<u>N/A</u>	
c.	CUP/PUD/Variances Submission	<u>COMPLETE</u>	<u>COMPLETE</u>
6.	Permits		

a.	Building / Site Permit Application Submitted	<u>COMPLETE</u>	<u>COMPLETE</u>
b.	Addendum #1 Submitted	<u>COMPLETE</u>	<u>COMPLETE</u>
c.	Addendum #2 Submitted	<u>COMPLETE</u>	<u>COMPLETE</u>
7.	Request for Bids Issued	<u>12/8/2022</u>	<u>9/9/2023</u>
8.	Service Plan Submission		
a.	Preliminary	<u>COMPLETE</u>	
b.	Interim	<u>COMPLETE</u>	<u>COMPLETE</u>
c.	Update	<u>7/1/2023</u>	<u>12/10/2023</u>
9.	Additional City Financing		
a.	Predevelopment Financing Application #2		
b.	Gap Financing Application	<u>COMPLETE</u>	<u>6/21/2022</u>
10.	Other Financing		
a.	MHP Application	<u>N/A</u>	
b.	Construction Financing RFP	<u>11/1/2022</u>	<u>11/30/2022</u>
c.	AHP Application	<u>N/A</u>	
d.	CDLAC Application	<u>Application:</u> <u>7/7/2022</u> <u>Award:</u> <u>10/19/2022</u>	<u>Application:</u> <u>03/15/2023</u> <u>Award:</u> <u>06/15/2023</u>
12 e.	TCAC Application	<u>Application:</u> <u>8/9/2022</u> <u>Award:</u> <u>11/30/2022</u>	<u>Application:</u> <u>03/15/2023</u> <u>Award:</u> <u>6/15/2023</u>
f.	State Credit Application	<u>N/A</u>	

g.	HUD 202 or 811 Application	<u>N/A</u>	
h.	Other Financing Application (IIG)	<u>COMPLETE</u>	<u>COMPLETE</u>
11.	Closing		
a.	Construction Closing	<u>5/1/2023</u>	<u>5/29/2023</u>
b.	Permanent Financing Closing	<u>5/1/2026</u>	<u>12/31/2026</u>
12.	Construction		
a.	Notice to Proceed	<u>5/1/2023</u>	<u>5/29/2023</u>
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>3/7/2025</u>	<u>[180 DAYS + NIBBI TCO DATE]</u>
13.	Marketing/Rent-up		
a.	Marketing Plan Submission	<u>3/7/2024</u>	<u>Within 12 months of anticipated TCO</u>
b.	Commence Marketing	<u>6/1/2024</u>	
c.	COP Outreach Obligation	<u>5/01/2024</u>	At least three months prior to construction completion and prior to the initiation of any tenant selection process.
d.	95% Occupancy	<u>12/30/2025</u>	
14.	Cost Certification/8609	<u>10/1/2025</u>	
15.	Close Out MOH/OCII Loan(s)	<u>11/1/2025</u>	

EXHIBIT N

Developer Fee Schedule

Total Developer Fee:	\$2,822,284	
Project Management Fee Paid to Date:	\$150,000	
Amount of Remaining Project Management Fee:	\$750,000	
Amount of Fee at Risk (the "At Risk Fee"):	\$1,120,000	
Amount of Fee Deferred (the "Deferred Fee"):	\$802,284	
Amount of General Partner Equity Contribution (the "GP Equity"):	\$0	No GPE recommended to maintain lower costs for CDLAC application
Milestones for Disbursement of that portion of Developer Fee remaining and payable for Project Management	Amount Paid at Milestone	Percentage Project Management Fee
Acquisition/Predevelopment	\$135,000	15%
Predevelopment Close	\$315,000	35%
Construction Close	\$180,000	20%
Construction Completion	\$180,000	20%
Project Close-Out	\$90,000	10%
Milestones for Disbursement of that portion of Developer Fee defined as At Risk Fee		Percentage At Risk Fee
95% lease up and draft cost certification	\$224,000	20%
Permanent conversion	\$560,000	50%
Project close-out	\$336,000	30%

EXHIBIT Q

Legal Description of the Site

All that certain real property, situate in the City and County of San Francisco, State of California, described as follows:

Parcel One:

LOT 1 AS SHOWN ON THE FINAL MAP ENTITLED "FINAL MAP NO. 10058 HUNTERS POINT SHIPYARD, BLOCK 52" RECORDED IN THE OFFICE OF SAN FRANCISCO COUNTY RECORDER ON MARCH 11, 2020, IN BOOK 1 OF MAPS, AT PAGES 8 TO 10 OF SAID COUNTY.

Assessor's Block 4591C Lot 673

Parcel Two:

BEING ALL OF LOTS 33, 34, 40, AND 41, AS SAID LOTS ARE SHOWN AND SO DESIGNATED ON FINAL MAP NO. 4231, RECORDED AUGUST 12, 2009, IN BOOK CC OF SURVEY MAPS, AT PAGE 165, IN THE OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO, AS AMENDED BY THAT CERTAIN CERTIFICATE OF CORRECTION, RECORDED DECEMBER 23, 2011, AS INSTRUMENT NO. 2011-J324068-00, OF OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERN CORNER OF SAID LOT 33;

THENCE, FROM SAID POINT OF BEGINNING, ALONG THE BOUNDARY LINES OF SAID LOTS, THE FOLLOWING FOUR (4) COURSES:

- 1) SOUTH 53°16'32" EAST 90.47 FEET,
- 2) SOUTH 36° 43'28" WEST 218.00 FEET,
- 3) NORTH 53°16'32" WEST 90.47 FEET, AND
- 4) NORTH 36°43'28" EAST 218.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 19,722 SQUARE FEET OF LAND, MORE OR LESS.

Assessor's Block 4591C Lot 212

EXHIBIT R

Final Financial Plan Confirmation Letter

To be attached on or before the Loan Closing Date

GROUND LEASE

This Ground Lease (“**Lease**”) is dated as of _____ 2023, by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF CITY AND COUNTY OF SAN FRANCISCO, a public body, organized and existing under the laws of the State of California, commonly known as the Office of Community Investment and Infrastructure (“**OCII**” or the “**Landlord**”), and HPSY 52-54, L.P., a California limited partnership, as tenant (the “**Tenant**”).

RECITALS

A. In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code, section 33000 et seq. the “**CRL**”), the Redevelopment Agency of the City and County of San Francisco (the “**Former Agency**”) and the Board of Supervisors of the City and County of San Francisco (the “**City**”) established the Hunters Point Shipyard (“**HPS**”) Redevelopment Project Area “**Project Area**”).

B. In accordance with the CRL, the City, acting through its Board of Supervisors initially approved a Redevelopment Plan for the Hunters Point Shipyard Redevelopment Project Area by Ordinance No. 285-97 adopted on July 14, 1997 (and as currently amended, the “**HPS Redevelopment Plan**”).

C. Consistent with the HPS Redevelopment Plan, the Former Agency thereafter entered into a Disposition and Development Agreement – Hunters Point Shipyard Phase 1 (initially adopted December 2, 2003, and as currently amended, the “**DDA**”) with Lennar BVHP Partners, L.P., predecessor in interest to HPS Development Co., L.P. (the “**Master Developer**”).

D. Under the DDA including its Affordable Housing Program, the Master Developer is required to deliver “finished lots” (i.e., subdivided land served by improved streets, sidewalks, parks, open space and utilities) to be sold to vertical developers or retained by OCII for the development of affordable housing. The DDA identifies the specific “**Agency Affordable Parcels**”, which include the two parcels of land (and appurtenant interests) described in Attachment 1 hereto (the “**Site**”), commonly referred to as OCII Blocks 52 and 54. OCII intends to provide financing to assist in the construction of at least 218 affordable housing units, collectively, on the Agency Affordable Parcels, including approximately 112 units pursuant to a ground lease of the Site.

E. On February 1, 2012, the State of California dissolved all redevelopment agencies, including the Former Agency, by operation of law pursuant to California Health and Safety Code Sections 34170 et seq. (“**Redevelopment Dissolution Law**”). Under the authority of the Redevelopment Dissolution Law and under San Francisco Ordinance No. 215-12 (October 4, 2012) (establishing the Successor Agency Commission, the “**Commission**” and delegating to it state authority under the Redevelopment Dissolution Law), OCII is administering enforceable obligations of the Former Agency.

F. On December 14, 2012, the California Department of Finance made a final and conclusive determination pursuant to Redevelopment Dissolution Law that the DDA and the affordable housing program funded by the Low and Moderate Income Housing Fund for HPS Phase 1 are enforceable obligations that survive the dissolution of the Former Agency, and require OCII to administer the development authorized under the HPS Redevelopment Plan, DDA, and related Plan Documents, including the obligation to fund construction of affordable housing on the Agency Affordable Housing Parcels.

G. In 2015, the State of California adopted amendments to the Redevelopment Dissolution Law, codified in Health and Safety Code Section 34177.7, which authorized OCII to incur indebtedness for the purpose of funding development of affordable housing, including of the Agency Affordable Housing Parcels.

H. On March 20, 2018, by Resolution No. 07-2018, the Commission selected McCormack Baron Salazar and Bayview Hunters Point Multipurpose Senior Services (“BHPMSS”) as co-developers to develop Agency Affordable Housing Units on Blocks 52 and 54 (the “**Project**”) with Mithun | Solomon as architect and John Stewart Company as property manager

I. On August 7, 2018, by Resolution No. 33-2018, the Commission approved a loan in an initial amount of Four Million Dollars (\$4,000,000) to Shipyard 5254, L.P., an affiliate of McCormack Baron Salazar (the “**Prior Developer**”), for predevelopment funding (“**Original Predevelopment Loan Agreement**”) to develop and operate affordable family rental housing units pursuant to a ground lease of the Site and an Exclusive Negotiations Agreement (the “**Original ENA**”) and an associated Option to Ground Lease.

J. On or about February 17, 2020, the Original ENA between OCII and the Prior Developer expired according to its terms and in August 2020, the Prior Developer formally notified OCII that it would no longer be proceeding with the development of the Project. BHPMSS intended to remain co-developer and services provider for the Project.

K. As a result of the Prior Developer’s withdrawal, on April 6, 2021, by Resolution No. 08-2021, the Commission approved selection of The Jonathan Rose Companies (“**JRC**”) as new lead developer for the Project. In furtherance of the Commission’s approval and authorized thereby (1) on May 26, 2021 OCII, Prior Developer, and Tenant entered into an Assignment, Assumption and Release Agreement pursuant to which Prior Developer assigned to Tenant all rights of ownership of the Existing Work Product (as defined therein), Tenant assumed the Existing Work Product and all rights and obligations of “Borrower” under the Original Predevelopment Loan Agreement, and OCII and Tenant released the Prior Developer from any further obligations under the Original Predevelopment Loan Agreement; and (2) on April 6, 2021 OCII and the Tenant entered into a new Exclusive Negotiations Agreement for the Project (the “**ENA**”), and an Amended and Restated Predevelopment Loan Agreement (“**Predevelopment Loan Agreement**”) providing a loan to Tenant to fund predevelopment costs of the Project in the amount of Three Million Six Hundred Fifty Thousand Dollars (\$3,650,000) reflecting the sum of the proceeds expended on the Existing Work Product (as defined in the Predevelopment

Loan Agreement) and the remaining predevelopment loan funding initially approved for the Project (the “**Predevelopment Loan Amount**”).

L. The ENA establishes a series of milestones intended to result in the execution of an option to ground lease agreement (which the parties executed on September 7, 2021), and ultimately a long-term ground lease agreement for the Site after public hearing and consideration by the Commission.

M. Tenant intends to construct, pursuant to a ground lease of the Site, approximately one hundred twelve (112) residential units thereon, including one hundred ten units of low-income rental housing and two unrestricted manager’s units, with related management, services and amenity space, in two non-contiguous buildings, all as more particularly set forth in the Basic Concept and Schematic Designs approved on July 16, 2019 by Commission Resolution No. 17-2019, and as may be further revised in accordance with Redevelopment Requirements.

N. On March 17, 2023, the Citywide Affordable Housing Loan Committee approved a total OCII subsidy in an aggregate amount not to exceed Sixty-Two Million Eight Hundred Fifty-Three Thousand Nine Hundred Fifty-Nine Dollars (\$62,853,959) (“**Total OCII Subsidy**”) consisting of (i) approximately \$4,838,390 to cause site preparation work to be performed on the Site, at the request and direction of the Developer in accordance with this Ground Lease, and (ii) a loan amount of approximately \$57,000,430 to Developer for the construction and operation of the Project (“**OCII Loan**”) and which includes the Predevelopment Loan Amount and an increase to the Predevelopment Loan Amount of \$751,605 to fund additional predevelopment costs of the Project.

O. On April 4, 2023, by Resolution No. xx-2023, the Commission authorized the issuance of the Loan. Also on April 4, 2023, by Resolution No. xx-2023, the Commission authorized the Executive Director to execute a ground lease of the Site to Developer for the purposes of constructing and operating the Project, and to execute, on behalf of Landlord, a Shoring, Underpinning and Tieback Easement Agreement (“**Easement**”) with HPS1 Block 52, LLC, a Delaware limited liability company (“**Grantor**”) permitting access to Grantor’s property immediately adjacent to OCII Block 52 necessary for construction activities related to the Project. Pursuant to the terms of the Easement, upon execution of this Lease the Tenant assumes all obligations of the Landlord under the Easement, with the exception of certain guaranties of performance (“**Guaranty**”).

P. Also on April 4, 2023, by Resolution No. XX, Commission approved the execution of a Site Development Agreement (as defined in Section 8.03 below) with an affiliate of Tenant, Rose Community Development Company, LLC, a Delaware limited liability company (“**RCDC**”) as an independent contractor to perform the Site Work (as defined in Section 8.03) in order to put the Site in a buildable condition for construction of the Project. Tenant will enter into a license agreement (the “**License Agreement**”) with RCDC to allow for access via the Easement and performance of the Site Work.

Q. OCII now intends to lease the Site to Tenant for the purposes of constructing and maintaining the Project on the Site, in accordance with the terms of this Lease.

R. For purposes of implementation and to ensure consistency with the City’s overall affordable housing goals and priorities, OCII has engaged the City’s Mayor’s Office of Housing and Community Development (“**MOHCD**”) to provide loan disbursement services for the Project, in cooperation with OCII.

S. Upon completion of the Project, OCII intends to assign its rights and obligations under this Lease and the Loan Documents (as defined herein), together with conveyance of fee title to the Site, to MOHCD as the designated Housing Successor of the City and County of San Francisco under Board of Supervisors Resolution 11-12 (January 24, 2012), as required by Redevelopment Dissolution Law and OCII’s approved Long-Term Property Management Plan dated December 2015.

NOW THEREFORE, in consideration of the mutual obligations of the parties to this Lease, Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Site, for the Term (as defined in ARTICLE 2), and subject to the terms, covenants, agreements, and conditions set forth below, each and all of which Landlord and Tenant mutually agree.

ARTICLE 1 DEFINITIONS

Terms used herein have the meanings given them when first used or as set forth in this ARTICLE 1, unless the context clearly requires otherwise.

- 1.01 **Agency Affordable Parcels** has the meaning set forth in Recital D.
- 1.02 **Agreement Date** means the date first set forth above.
- 1.03 **Annual Rent** has the meaning set forth in Section 4.01(a).
- 1.04 **Area Median Income** (or **AMI**) means median income as published annually by MOHCD, derived from the Income Limits determined by the United States Department of Housing and Urban Development for the San Francisco area, adjusted solely for household size, but not high housing cost area, also referred to as “Unadjusted Median Income.”
- 1.05 **Base Rent** has the meaning set forth in Section 4.02(a).
- 1.06 **Base Rent Accrual** has the meaning set forth in Section 4.02(b).
- 1.07 **Certificate of Occupancy** means a Temporary Certificate of Occupancy or a Final Certificate of Occupancy as issued by the San Francisco Department of Building Inspection.
- 1.08 **Certificate of Completion** has the meaning set forth in Section 11.01.
- 1.09 **Change** has the meaning set forth in Section 12.02.
- 1.10 **City** means the City and County of San Francisco.

- 1.11 **Claim(s)** has the meaning set forth in Section 21.01.
- 1.12 **Construction Documents** has the meaning set forth in Section 10.03.
- 1.13 **COP Outreach Obligation** has the meaning set forth in Section 6.02(e).
- 1.14 **CRL** means the California Community Redevelopment Law (Health and Safety Code, section 33000 *et seq.*).
- 1.15 **DDA** has the meaning set forth in Recital C
- 1.16 **Declaration of Restrictions** means that certain Declaration of Restrictions, which is part of the Loan Documents, and which was recorded on _____ in the Official Records of the County of San Francisco as Document No. _____
- 1.17 **Easement** has the meaning set forth in Recital P.
- 1.18 **Effective Date** means the date on which the Memorandum of Ground Lease is recorded in the Official Records of the County of San Francisco.
- 1.19 **Environmental Law** has the meaning set forth in Section 21.02(b)(ii).
- 1.20 **Facilities Condition Report** has the meaning set forth in Section 17.02.
- 1.21 **First Lease Payment Year** means the year in which the 73rd and final residential unit receives its Certificate of Occupancy, which may be a full or partial Lease Year depending on the date of issuance of the Certificate of Occupancy.
- 1.22 **First Mortgage Lender** means any lender and its successors, assigns, and participants or other entity holding the first deed of trust on the Leasehold Estate.
- 1.23 **Former Agency** has the meaning set forth in Recital A.
- 1.24 **Grantor** has the meaning set forth in Recital P.
- 1.25 **Guaranty** has the meaning set forth in Recital P.
- 1.26 **Hazardous Substance** has the meaning set forth in Section 21.02(b)(i).
- 1.27 **Holder** has the meaning set forth in Section 25.02.
- 1.28 **Improvements** means all physical construction, including all structures, fixtures, and other improvements, to be constructed or rehabilitated on the Site.
- 1.29 **Indemnified Party or Parties** has the meaning set forth in Section 22.01.

1.30 **Landlord** means the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, commonly known as the Office of Community Investment and Infrastructure, and its successors and/or assigns.

1.31 **Laws** means all statutes, laws, ordinances, regulations, rules, orders, writs, judgments, injunctions, decrees, or awards of the United States or any state, county, municipality, or governmental agency.

1.32 **Lease** means this Ground Lease, as it may be amended from time to time.

1.33 **Lease Year** means each calendar year during the Term, beginning on January 1 and ending on December 31, provided that the “First Lease Year” will commence on the Effective Date and continue through December 31st of that same calendar year. Furthermore, the “Last Lease Year” will end upon the expiration of the Term.

1.34 **Leasehold Estate** means the estate held by the Tenant created by and pursuant to this Lease.

1.35 **Leasehold Mortgage** means any mortgage, deed of trust, trust indenture, letter of credit, or other security instrument, and any assignment of the rents, issues, and profits from the Site, or any portion thereof, that constitutes a lien on the Leasehold Estate and is approved in writing by Landlord.

1.36 **Lender** means any entity holding a Leasehold Mortgage.

1.37 **License Agreement** has the meaning set forth in Recital P.

1.38 **Loan Documents** means those certain loan agreements, notes, deeds of trust, Declaration of Restrictions, and any other documents executed and delivered in connection with the predevelopment, construction, and permanent financing for the Project.

1.39 **Low-Income Households** means a household with combined initial income that does not exceed fifty percent (50%) of Area Median Income.

1.40 **Master Developer** has the meaning set forth in Recital C.

1.41 **Memorandum of Ground Lease** has the meaning set forth in ARTICLE 48. A form of the Memorandum of Ground Lease is included as Attachment 5.

1.42 **MOHCD** means the San Francisco Mayor’s Office of Housing and Community Development.

1.43 **MOHCD Fees Policy** means the MOHCD Multifamily Affordable Housing Operating Fees Policy (effective April 1, 2016), as may be amended from time to time.

1.44 **New Developer** has the meaning set forth in Section 10.16.

1.45 **OCII** means the San Francisco Office of Community Investment and Infrastructure, 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, Landlord under this Lease.

1.46 **OCII Loan** has the meaning set forth in Recital N.

1.47 **Permitted Limited Partner** means Bank of America, N.A., a national banking association, Banc of America CDC Special Holding Company, Inc., a North Carolina corporation, and their respective successors and assigns.

1.48 **Personal Property** means all fixtures, furniture, furnishings, equipment, machinery, supplies, software and other tangible personal property that is located in, on, or about the Premises and that can be removed from the Premises without substantial economic loss to the Premises or substantial damage to the Premises and that is incident to the ownership, development, or operation of the Improvements or the Premises, belonging to Tenant, any Residential Occupant, or any subtenant or other occupant of the Premises and/or in which Tenant, Residential Occupant, or any subtenant or other occupant has an ownership interest, together with all present and future attachments, replacements, substitutions, and additions thereto or therefor.

1.49 **Premises** means the Site and all Improvements.

1.50 **Predevelopment Loan** has the meaning set forth in Recital K.

1.51 **Prohibited Use** has the meaning set forth in Section 9.02.

1.52 **Project** has the meaning given in Recital H. If indicated by context, Project means the Leasehold Estate and the fee interest in the Improvements on the Site.

1.53 **Project Expenses** means the following costs: (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 Tenant who maintain, administer, operate or provide services in connection with the Project, including all related withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments; (c) required payments of interest and principal, if any, on any senior financing that has been approved by OCII and is secured, consistent with the Lease, by either the Tenant's leasehold interest in the Lease, the improvements constructed thereon, or both, and used to finance the Project; (d) all other expenses actually incurred by Tenant to cover operating costs of the Project, including supportive services (if any), maintenance and repairs and any property management fee, each as indicated in the Annual Operating Budget; (e) required, or necessary, deposits to the Replacement Reserve Account, Operating Reserve Account and any other reserve account required under this Agreement or required by another lender or regulatory agency, each as approved by OCII and MOHCD pursuant to the Final Financial Plan; (f) annual base rent payments under the Lease in an amount equal to FIFTEEN

THOUSAND AND No/100 DOLLARS (\$15,000.00); (g) an annual bond monitoring fee equal to 12.5 basis points of the average outstanding bond amount in the prior year, and \$2,500 for the remainder of the qualified project period after the bonds have been paid off; (h) mandatory interest payment(s) payable to HCD for any loan made by HCD to Tenant for the Project or mandatory interest payment(s) payable to another subordinate lender for any loan made by such lender to Tenant for the Project, each as approved by OCII and MOHCD pursuant to the Final Financial Plan; (i) annual asset management fee indicated in the Annual Operating Budget established in the Final Financial Plan and consistent with the limitations set out in the MOHCD Fees Policy; and (j) any extraordinary expenses approved in advance by OCII (other than expenses paid from any reserve account). Project Fees are not Project Expenses.

1.54 **Project Fees** means (i) any partnership management fee payable to the Tenant's general partner, as established in the Final Financial Plan and consistent with the limitations set out in the MOHCD Fees Policy; and (ii) a limited partner asset management fee/annual investor services fee payable to Tenant's Investor Limited Partner as approved by OCII pursuant to the terms of the Loan Documents and consistent with the MOHCD Fees Policy.

1.55 **Project Income** means all revenue, income, receipts in any form, and other consideration received by Tenant from the operation of the Improvements, including without limitation: all rents, fees, and charges paid by Residential Occupants; Section 8 or other rental subsidy payments received for the dwelling units; supportive services funding; deposits forfeited by tenants; all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; accrued interest disbursed from any reserve account required under this Lease for a purpose other than that for which the reserve account was established; and the proceeds of business interruption or similar insurance. Project Income does not include individual tenants' security deposits (except forfeited deposits), loan proceeds, capital contributions or similar advances, condemnation proceeds, insurance proceeds provided for the purpose of reconstructing all or part of the Project, or interest accruing on any portion of the Loan.

1.56 **Redevelopment Dissolution Law** has the meaning set forth in in Recital E.

1.57 **Redevelopment Requirements** means the DDA, the HPS Redevelopment Plan and Plan Documents (as defined therein), and the Redevelopment Area Declaration of Restrictions Hunters Point Shipyard Redevelopment Project Area, recorded on November 21, 2003, in t Official Records of the County of San Francisco as Document No. 2003H59599700.

1.58 **Release** has the meaning set forth in Section 21.02(b)(iii).

1.59 **Residential Occupant** means any person or entity authorized by Tenant to occupy a residential unit on the Site, or any portion thereof.

1.60 **Residential Unit** has the meaning set forth in Section 9.01.

1.61 **Residual Rent** has the meaning set forth in Section 4.03.

1.62 **Site** means the real property as more particularly described in the Site Legal Description, Attachment 1, and as OCII and Borrower may collectively agree to expand prior to Loan Closing.

1.63 **RCDC** has the meaning set forth in Recital Q.

1.64 **Subsequent Owner** means any successor (including a Lender or an affiliate or assignee of a Lender as applicable) to the Tenant's interest in the Leasehold Estate and the Improvements who acquires such interest as a result of a foreclosure, deed in lieu of foreclosure, or transfer from a Lender, its affiliate, and any successors to any such person or entity.

1.65 **Surplus Cash** means all Project Income in any given Lease Year remaining after payment of Project Expenses and Project Fees. The amount of Surplus Cash will be based on figures contained in audited financial statements. All permitted uses and distributions of Surplus Cash will be governed by Section g) of this Lease.

1.66 **Tenant** means HPSY 52-54, L.P., a California limited partnership and its permitted successors and assigns (or a Subsequent Owner, where appropriate).

1.67 Whenever an Attachment is referenced, it means an attachment to this Lease unless otherwise specifically identified. Whenever a section, article, or paragraph is referenced, it is a reference to this Lease unless otherwise specifically referenced.

ARTICLE 2 TERM

2.01 Initial Term. The term of this Lease will commence upon the Effective Date and will end seventy-five (75) years from that date ("**Term**"), unless extended under Section 2.02 below or earlier terminated as provided in this Lease.

2.02 Option for Extension. The Term may be extended at the option of the Tenant for one twenty-four (24) year period, as provided in this Article below. If the Term is extended pursuant to this Section, all applicable references in this Lease to the "Term" will mean the Term as extended by this extension period.

2.03 Notice of Extension. Not later than one hundred eighty (180) days before the Termination Date, the Tenant may notify Landlord in writing that it wishes to exercise its option to extend the term of this Lease (an "**Extension Notice**"). Provided that the Tenant is not in default under the terms of this Lease and the Loan Documents either at the time of giving of an Extension Notice or on the last day of the initial seventy-five year Term (the "**Termination Date**"), the Term will be extended for twenty-four (24) years from the Termination Date upon Tenant's exercise of this option, for a total Lease term not to exceed ninety-nine (99) years.

2.04 Rent During Extended Term. Rent for any extended term will be as set forth in ARTICLE 4.

2.05 Holding Over. Any holding over after expiration or earlier termination of the Term without Landlord's written consent will constitute a default by Tenant and entitle Landlord

to exercise any or all of its remedies as provided in this Lease, even if Landlord elects to accept one or more payments of Annual Rent. Failure to surrender the Site in the condition required by this Lease will constitute holding over until the conditions of surrender are satisfied.

ARTICLE 3 FINANCIAL ASSURANCE

Tenant will submit for Landlord's approval, on the dates specified in the Schedule of Performance, Attachment 2, evidence satisfactory to Landlord in its reasonable discretion that Tenant has sufficient equity capital and commitments for construction and permanent financing, and/or such other evidence of capacity to proceed with the construction of the Improvements in accordance with this Lease as is acceptable to Landlord. Landlord acknowledges that as of the Effective Date Tenant has met this requirement.

ARTICLE 4 RENT

4.01 Annual Rent.

a) To the extent Base Rent and Residual Rent are due pursuant to Section 4.02 and 4.03, Tenant will pay to Landlord Six Hundred Sixty Thousand Dollars (\$660,000) (the "**Annual Rent**") per year for each year of the Term of this Lease. Annual Rent consists of Base Rent and Residual Rent, as defined in Section 4.02 below, without offset of any kind (except as otherwise permitted by this Lease) and without necessity of demand, notice or invoice. Annual Rent will be re-determined on the fifteenth (15th) anniversary of the date of the first payment of Base Rent pursuant to Section a) below and every fifteen (15) years thereafter, and will be equal to ten percent (10%) of the appraised fair market value of the Site as determined by an MAI appraiser selected by and at the sole cost of the Tenant. Any such adjustment will be made to the Residual Rent and not to the Base Rent.

b) If the Tenant elects to extend the Term of this Lease pursuant to ARTICLE 2 above, Annual Rent (along with any potential future adjustments) during any such extended Term will be set by mutual agreement of the parties; provided, however, that Annual Rent during the extended Term will in no event be less than the Annual Rent set forth in Section a) above. If the parties cannot agree on Annual Rent for the extended Term, either party may invoke a neutral third-party process and the parties will agree on a neutral third-party appraiser to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. Notwithstanding the foregoing, Tenant may, after the neutral third-party process and in its sole discretion, rescind the Extension Notice if it does not wish to extend the Term of this Lease.

4.02 Base Rent

a) "**Base Rent**" means Fifteen Thousand Dollars (\$15,000) per annum; provided, however, that if the Tenant or any Subsequent Owner fails, after notice and opportunity to cure, to comply with the provisions of Section 9.01, then Base Rent will be increased to the full amount of Annual Rent, in addition to any other remedies of Landlord for

said default. Base Rent will be due and payable in arrears on January 31st following the Lease Year for which it is owed; provided, however, Base Rent for the First Lease Payment Year shall be equal to Fifteen Thousand Dollars (\$15,000) multiplied by the number of days in the First Lease Payment Year, divided by three hundred sixty-five (365); and provided further that no Base Rent will be due until all Residential Units have received Certificates of Occupancy.

b) If the Project does not have sufficient Project Income to pay Base Rent in any given Lease Year after the payment of (a) through (d) in the definition of Project Expenses, above, and Landlord has received written notice from Tenant regarding its inability to pay Base Rent from Project Income at least sixty (60) days before the Base Rent due date, along with supporting documentation for Tenant's position that it is unable to pay Base Rent from Project Income, then the unpaid amount will be deferred and all deferred amounts will accrue without interest until paid ("**Base Rent Accrual**"). The Base Rent Accrual will be due and payable each year from and to the extent Surplus Cash is available. Any Base Rent Accrual will be due and payable upon the earlier of (i) sale of the Project (but not a refinancing or foreclosure of the Project); or (ii) termination of this Lease (unless a new lease is entered into with a mortgagee under Section 26.09 below).

c) If Tenant has not provided Landlord with the required written notice and documentation under Section b) in connection with its claim that it cannot pay Base Rent due to insufficient Project Income, and/or Landlord has reasonably determined that Tenant's claim that it is unable to pay Base Rent is not supported by such documentation, Landlord will assess a late payment penalty of two percent (2%) for each month or any part thereof that any Base Rent payment is delinquent. This penalty will not apply to Base Rent Accrual that has been previously approved by Landlord under Section b). The Tenant may request in writing that Landlord waive such penalties by describing the reasons for Tenant's failure to pay Base Rent and Tenant's proposed actions to ensure that Base Rent will be paid in the future. Landlord may, in its sole discretion, waive in writing all or a portion of such penalties if it finds that Tenant's failure to pay Base Rent was beyond Tenant's control and that Tenant is diligently pursuing reasonable solutions to such failure to pay.

4.03 Residual Rent. "**Residual Rent**" means, in any given Lease Year, Six Hundred Forty-Five Thousand Dollars (\$645,000), Annual Rent less Base Rent, subject to any periodic adjustments under Section a). Commencing with the First Lease Payment Year, Residual Rent will be due in arrears on May 15th following the Lease Year for which it is owed, provided that the Residual Rent for the First Lease Payment Year shall be due on May 15th of the following calendar year and shall be equal to the difference of Base Rent subtracted from Annual Rent then multiplied by the number of days in the First Lease Payment Year then divided by three hundred sixty-five (365). Residual Rent will be payable only to the extent of Surplus Cash as provided in Section g) below, and any unpaid Residual Rent will not accrue. Furthermore, Residual Rent shall not be due during any Lease Year prior to the First Lease Payment Year. If Surplus Cash available in a given year is insufficient to pay the full amount of the Residual Rent owed, Tenant will certify to Landlord, in writing and no later than May 15th of the calendar year the Residual Rent is due, that available Surplus Cash is insufficient to pay Residual Rent and Tenant will provide to Landlord any supporting documentation reasonably requested by Landlord to allow Landlord to verify the insufficiency.

4.04 Triple Net Lease. This Lease is a triple net lease and the Tenant will be responsible to pay all costs, charges, taxes, assessments, impositions, and other obligations related to the Premises accruing after the Effective Date. If Landlord pays any such amounts, whether to cure a default or otherwise protect its interests hereunder, Landlord will be entitled to be reimbursed by Tenant the full amount of such payments as additional rent within thirty (30) days of written demand by Landlord. Failure to timely pay the additional rent will be a default by Tenant of this Lease. No occurrence or situation arising during the Term, or any Law, whether foreseen or unforeseen, and however extraordinary, relieves Tenant from its liability to pay all of the sums required by any of the provisions of this Lease, or otherwise relieves Tenant from any of its obligations under this Lease, or gives Tenant any right to terminate this Lease in whole or in part.

ARTICLE 5 LANDLORD COVENANTS

OCII is duly created, validly existing and in good standing under the Law, and has full right, power and authority to enter into and perform its obligations under this Lease. Landlord covenants and warrants that the Tenant and its tenants will have, hold and enjoy, during the Term, peaceful, quiet and undisputed possession of the Site leased without hindrance or molestation by or from anyone so long as the Tenant is not in default under this Lease.

ARTICLE 6 TENANT COVENANTS

Tenant covenants and agrees for itself and its successors and assigns to or of the Site, or any part thereof, that, as of the Effective Date:

6.01 Authority. Tenant is a California limited partnership and has full rights, power, and authority to enter into and perform its obligations under this Lease.

6.02 Use of Site and Rents. During the Term of this Lease, Tenant and its successors and assigns will comply with the following requirements:

a) Permitted Uses. Tenant will devote the Site to, exclusively and in accordance with, the uses specified in this Lease, as specified in ARTICLE 9 below, which are the only uses permitted by this Lease. Tenant acknowledges that that a prohibition on the change in use contained in Section 9.01 is expressly authorized by California Civil Code section 1997.230 and is fully enforceable.

b) Non-Discrimination. Tenant herein covenants by and for itself, its assigns, and all persons claiming under or through it, and this lease is made and accepted upon and subject to the following conditions: That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the Premises herein leased nor shall the tenant himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of

discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the Premises herein leased. Tenant will not discriminate against tenants with certificates or vouchers under the Section 8 program or any successor rent subsidy program.

c) Non-Discriminatory Advertising. All advertising (including signs) for sublease of the whole or any part of the Site must include the legend “Equal Housing Opportunity” in type or lettering of easily legible size and design, or as required by applicable Law.

d) Access for Disabled Persons. Tenant will comply with all applicable Laws providing for access for persons with disabilities, including, but not limited to, the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

e) Marketing. Early outreach and marketing of the Residential Units shall comply, to the extent consistent with fair housing laws, with the early outreach and marketing requirements established in Article 6 “Marketing” in the Loan Agreement and related Exhibits I, S, T-1, and T-2. Under the Loan Agreement (including its attachments), Tenant is required to submit a marketing plan to Landlord and MOHCD that addresses how it intends to affirmatively market units in the Project to Certificate of Preference (“COP”) holders and also requires that Tenant, either through a third-party Access to Housing counseling organization as approved by MOHCD or on its own, conduct outreach to COP Holders, including making “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” and ensuring that COP holders “are aware that such assistance is available” (“**COP Outreach Obligation**”). In addition to meeting these requirements, Tenant will also provide a report to the Commission on its compliance with the COP Outreach Obligation at least three months prior to construction completion and prior to the initiation of any tenant selection process.

f) Lead Based Paint. Tenant agrees to comply with the regulations set forth in 24 CFR Part 35 and all applicable rules and orders issued thereunder which prohibit the use of lead-based paint in certain residential structures undergoing federally assisted construction and require the elimination of lead-based paint hazards.

g) Permitted Uses of Surplus Cash. If the Tenant is in compliance with all applicable requirements and agreements under this Lease, Tenant will use any Surplus Cash to make the following payments in the following order of priority:

- i. First, to Base Rent Accrual payments, if any;
- ii. Second, to replenish the Operating Reserve Account, if necessary, up to the amount required by Lenders or the Permitted Limited Partner;
- iii. Third, (a) if the Project includes a deferred developer fee and Tenant is in compliance with the Loan Documents and MOHCD policies, then fifty percent (50%) of remaining Surplus Cash to Landlord (Landlord’s portion

of Surplus Cash will be applied first to repayment of the OCII Loan according to the terms of the OCII Loan Documents, then to Residual Rent) beginning on the initial Payment Date (as such term is defined in the OCII Loan Documents) until and including the earlier of the year (i) of the fifteenth (15th) Payment Date, or (ii) in which all deferred developer fees have been paid to Tenant; or (b) if the Project does not include a deferred developer fee, then two-thirds (2/3) of remaining Surplus Cash to Landlord (Landlord's portion of Surplus Cash will be applied first to repayment of OCII Loan according to the terms of the OCII Loan Documents, then to Residual Rent); and

- iv. Then, any remaining Surplus Cash may be used by Tenant for any purposes permitted under the residual receipt policy governing the Project, as it may be amended from time to time.

Notwithstanding the foregoing, Tenant and Landlord agree that the distribution of Surplus Cash may be modified based on the requirements of other Lenders or the Tenant's Investor Limited Partner.

h) Assumption of Easement. By executing this Lease, Tenant agrees that has assumed and shall perform all rights and obligations of "Grantee" in accordance with Section 2 of the Easement, and that all acts and omissions of Tenant related to or arising from the Easement or Tenant's use of the Grantor's Property (as defined in the Easement), including without limitation any and all costs incurred by OCII under Sections 2 and 9 of the Easement, are subject to Tenant's indemnification obligations owed to Landlord and the Indemnified Parties under Article 21.

6.03 Landlord Deemed Beneficiary of Covenants. In amplification and not in restriction of the provisions of the preceding subsections, it is intended and agreed that Landlord will be deemed beneficiary of the agreements and covenants provided in this ARTICLE 6 for in its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Those agreements and covenants will run in favor of Landlord for the entire term of those agreements and covenants, without regard to whether Landlord has at any time been, remains, or is an owner of any land or interest therein, or in favor of, to which such agreements and covenants relate. Landlord or its successor will have the exclusive right, in the event of any breach of any such agreements or covenants, in each case, after notice and the expiration of cure periods, to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of covenants, to which it or any other beneficiaries of such agreements or covenants may be entitled.

ARTICLE 7

ANNUAL INCOME COMPUTATION, AND CERTIFICATION

No later than OCII's issuance of the Certificate of Completion (as defined in Section 11.01) by the Tenant for the Improvements, and not later than May 31st of each year thereafter, Tenant will compile and furnish to Landlord a list of the persons who are Residential Occupants of the Project, the specific unit that each person occupies, the household income of the Residential Occupants of each unit, the household size and the rent being charged to the Residential Occupants of each unit along with an income certification, in the form set forth in Attachment 6, for each Residential Occupant. In addition, Tenant will require each Residential Occupant to provide any other information, documents, or certifications deemed necessary by OCII/MOHCD to substantiate the Residential Occupant's income. If any state or federal agency requires an income certification for Residential Occupants of the Project containing the above-referenced information, Landlord agrees to accept such certification in lieu of Attachment 6 as meeting the requirements of this Lease.

ARTICLE 8 CONDITION OF SITE—"AS IS"

8.01 Tenant acknowledges and agrees that Tenant is familiar with the Site, the Site is being leased and accepted in its "as-is" condition, without any improvements or alterations by Landlord, without representation or warranty of any kind, and subject to all applicable Laws governing their use, development, occupancy, and possession. Tenant further represents and warrants that Tenant has investigated and inspected, either independently or through agents of Tenant's own choosing, the condition of the Site and the suitability of the Site for Tenant's intended use. Tenant acknowledges and agrees that neither Landlord nor any of its agents have made, and Landlord hereby disclaims, any representations or warranties, express or implied, concerning the rentable area of the Site, the physical or environmental condition of the Site, or the present or future suitability of the Site for Tenant's use, or any other matter whatsoever relating to the Site, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose; it being expressly understood that the Site is being leased in an "AS IS" condition with respect to all matters.

8.02 Accessibility Disclosure. California Civil Code Section 1938 requires commercial landlords to disclose to tenants whether the property being leased has undergone inspection by a Certified Access Specialist ("CASp") to determine whether the property meets all applicable construction-related accessibility requirements. The law does not require landlords to have the inspections performed. Tenant is hereby advised that the Site has not been inspected by a CASp.

8.03 Site Development Work. OCII, in consultation with Tenant, has determined that certain site work (the "Site Work") is necessary to be carried out on Site, in order to put the Site in a buildable condition for construction of the Project, and, at the request and direction of Tenant, has determined to engage an affiliate of Tenant, RCDC. Pursuant to that certain Site Development Agreement, of even date herewith, by and between OCII and RCDC (the "**Site Development Agreement**"), RCDC will perform certain preconstruction site preparation activities on the Site in advance of Tenant's commencement of construction of the Project (as further defined in the Site Development Agreement, the "**Site Work**"), all in consultation with

Tenant and in accordance with the License Agreement from Tenant to RCDC dated on or about the date hereof granting permission to access the Site under this Lease and including Tenant's Easement rights hereunder. Tenant acknowledges that OCII's financial responsibility pursuant to the Site Development Agreement is limited to the amount specified therein. Additionally, OCII and Tenant acknowledge that the Site Development Agreement will not result in the creation of any Improvements on the Site. Tenant further acknowledges that, pursuant to Section 22.1 of the Site Development Agreement, if the RCDC encounters previously unknown or unforeseen Hazardous Substances or other environmental conditions during the course of the Site Work, or if the amount of Hazardous Substance specified in the approved plans and specifications as established under the Site Development Agreement is exceeded, such matters will not be the responsibility of the RCDC but will be addressed by OCII and the Tenant in accordance with applicable provisions of this Lease, including, but not limited to, those Tenant obligations under Article 21 of this Lease.

ARTICLE 9 PERMITTED AND PROHIBITED USES

9.01 Permitted Uses and Occupancy Restrictions. The permitted uses of the Project are limited to one hundred ten (110) units of affordable rental housing plus two manager's units (collectively, the "**Residential Units**") and common areas constituting the Project. Upon the completion of construction, one hundred ten (110) of the Residential Units in the Project will be occupied or held vacant and available for rental by Low-Income Households (except as provided in Section B of the Declaration of Restrictions). Residential Units must be occupied and rented in accordance with all applicable restrictions imposed on the Project by this Lease and by Lenders for so long as such restrictions are required by the Lease and/or the applicable Lender.

9.02 Prohibited Uses. Tenant agrees that the following activities, by way of example only and without limitation, and any other use that is not a Permitted Use (in each instance, a "**Prohibited Use**" and collectively, "**Prohibited Uses**"), are inconsistent with this Lease, are strictly prohibited and are considered Prohibited Uses:

- a) any activity, or the maintaining of any object, that is not within the Permitted Use;
- b) any activity, or the maintaining of any object, that will in any way increase the existing rate of, affect or cause a cancellation of, any fire or other insurance policy covering the Premises, any part thereof or any of its contents;
- c) any activity or object that will overload or cause damage to the Premises excluding normal wear and tear;
- d) any activity that constitutes waste or nuisance, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any objectionable odors, noises, or lights onto adjacent properties, or the use of loudspeakers or sound or light apparatus that can be heard or seen outside the Premises;

- e) any activity that will in any way injure, obstruct, or interfere with the rights of owners or occupants of adjacent properties, including, but not limited to, rights of ingress and egress except in accordance with permits issued by the City;
- f) any auction, distress, fire, bankruptcy or going out of business sale on the Premises without the prior written consent of Landlord, which consent may be granted, conditioned, or withheld in the sole and absolute discretion of Landlord;
- g) any vehicle and equipment maintenance, including but not limited to, fueling, changing oil, transmission or other automotive fluids;
- h) the storage of any and all excavated materials, including but not limited to, dirt, concrete, sand, asphalt, and pipes, except to the extent necessary during construction of the Project or during maintenance or repairs to the Project or its shared systems for the timeframe reasonably necessary in Tenant's reasonable discretion to complete such maintenance or repairs; and/or
- i) the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials, except to the extent necessary during construction of the Project or during maintenance or repairs to the Project or its shared systems for the timeframe reasonably necessary in Tenant's reasonable discretion to complete such maintenance or repairs.

ARTICLE 10 SUBDIVISION; CONSTRUCTION OF IMPROVEMENTS

10.01 Schedule of Performance. Tenant agrees to undertake and complete all physical construction on the Site in accordance with the Schedule of Performance, Attachment 2, as modified by any change orders.

10.02 Reserved.

10.03 General Requirements and Rights of Landlord. All construction documents for the construction of the Improvements by Tenant (the "**Construction Documents**") must be prepared by a person registered in and by the State of California to practice architecture and shall be in conformity with this Lease, including any limitations established in OCII's approval of the schematic drawings, preliminary construction documents, and final construction documents for the Project, and all applicable Federal, State, and local laws and regulations. The architect will use, as necessary, members of associated design professions, including engineers and landscape architects. All Improvements shall be owned, for federal income tax purposes, by Tenant, subject to the rights of Landlord upon expiration or early termination of the Lease.

10.04 OCII Approvals and Limitation Thereof. The Construction Documents must be approved by OCII in the manner set forth below:

a) Compliance with Redevelopment Plan and Lease. OCII's approval with respect to the Construction Documents is limited to determination of their compliance with the HPS Redevelopment Plan and Plan Documents (as defined therein), this Lease and the Loan Documents. The Construction Documents will be subject to general architectural review and guidance by OCII as part of this review and approval process.

b) OCII Does Not Approve Compliance with Construction Requirements. OCII's approval is not directed to engineering or structural matters or compliance with local building codes and regulations, the Americans with Disabilities Act, or any other applicable Law relating to construction standards or requirements. Nothing in this Lease will limit in any way Tenant's obligation to obtain any required approvals from City officials, departments, boards or commissions having jurisdiction over the Premises. By entering into this Lease, OCII is in no way modifying or limiting Tenant's obligation to cause the Premises to be used and occupied in accordance with all applicable Laws.

10.05 Construction to be in Compliance with Construction Documents and Law.

a) Compliance with Approved Documents. The construction must be in compliance with the OCII-approved Construction Documents.

b) Compliance with Local, State and Federal Law. The construction must be in strict compliance with all applicable Laws, including all laws relating to accessibility for persons with disabilities and all applicable mitigation measures identified in the Hunters Point Shipyard Phase I Development Mitigation Monitoring and Reporting Program, attached hereto as Attachment 11. Tenant understands and agrees that Tenant's use of the Premises and construction of the Improvements permitted under this Lease will require authorizations, approvals, or permits from governmental regulatory agencies with jurisdiction over the Premises, including, without limitation, City agencies. Tenant will be solely responsible for obtaining any and all such regulatory approvals. Tenant will bear all costs associated with applying for and obtaining any necessary or appropriate regulatory approval and will be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval; provided, however, any such condition that could affect use or occupancy of the Project or OCII's interest therein must first be approved by OCII in its sole discretion. Any fines or penalties levied as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval will be immediately paid and discharged by Tenant, and Landlord will have no liability, monetary or otherwise, for any such fines or penalties. Tenant will indemnify, defend, and hold harmless OCII and the other Indemnified Parties hereunder against all Claims (as such terms are defined in ARTICLE 21 below) arising in connection with Tenant's failure to obtain or failure by Tenant, its agents, or invitees to comply with the terms and conditions of any regulatory approval except to the extent such Claims are caused by gross negligence or willful misconduct of the party seeking indemnification.

10.06 Approval of Construction Documents by OCII. Tenant will submit and OCII will approve or disapprove the Construction Documents referred to in this Lease within the times established in the Schedule of Performance, so long as each set of the applicable Construction Documents are complete and properly submitted within the time frames set forth in the Schedule

of Performance. Failure by OCII either to approve or disapprove within the times established in the schedule of Performance will entitle Tenant to a day for day extension of time for completion of any activities delayed as a direct result of OCII's failure to timely approve or disapprove the Construction Documents.

10.07 Disapproval of Construction Documents by OCII. If OCII disapproves the Construction Documents in whole or in part as not being in compliance with Redevelopment Requirements or this Lease, Tenant will submit new or corrected Construction Documents which are in compliance within thirty (30) days after written notification to it of disapproval, and the provision of this section relating to approval, disapproval and re-submission of corrected Construction Documents will continue to apply until the Construction Documents have been approved by OCII; provided, however, that in any event Tenant must submit satisfactory Construction Documents (i.e., approved by OCII) no later than the date specified therefor in the Schedule of Performance.

10.08 Issuance of Building Permits.

a) Tenant will have the sole responsibility for obtaining all necessary building permits and will make application for such permits directly to the City's Department of Building Inspection. Landlord understands and agrees that Tenant may use the Fast Track method of permit approval for construction of the Improvements. Tenant shall report permit status every thirty (30) days to OCII. Failure to timely file and to diligently pursue issuance of permits shall be a breach of this Lease.

b) The Tenant is advised that the Central Permit Bureau will forward all building permits to OCII for approval of compliance with Redevelopment Requirements. OCII's approval under this Section 10.08(b) is limited to its determination of compliance with Redevelopment Requirements and does not include Section 10.04(b) matters. OCII evidences such compliance by signing the permit and returning the permit to the Central Permit Bureau for issuance directly to the Tenant. Approval of any intermediate permit, however, is not approval of compliance with all Redevelopment Requirements necessary for a full and final building permit.

10.09 Performance and Payment Bonds. Except as provided elsewhere in this Agreement or the OCII Loan Agreement, before commencement of construction of the Improvements, and subject to the reasonable approval of OCII, Tenant will deliver to OCII performance and payment bonds, each for the full value of the cost of construction of the Improvements, which bonds will name OCII as co-obligee, or such other completion security which is acceptable to OCII. The payment and performance bonds may be obtained by Tenant's general contractor and name Tenant and OCII as co-obligees.

10.10 OCII Approval of Changes after Commencement of Construction. Tenant may not approve or permit any change to the Construction Documents approved by OCII without OCII's prior written consent, except as may be permitted under the OCII Loan Agreement.

10.11 Times for Construction. Tenant agrees for itself, and its successors and assigns to or of the Leasehold Estate or any part thereof, that Tenant and such successors and assigns will

promptly begin and diligently prosecute to completion the construction of the Improvements upon the Site, and that such construction will be completed no later than the dates specified in the Schedule of Performance, subject to force majeure, unless such dates are extended by Landlord.

10.12 Force Majeure. For the purposes of any of the provisions of this Lease, and notwithstanding anything to the contrary, neither Landlord nor Tenant, as the case may be, will be considered in breach or default of its obligations, and there will not be deemed a failure to satisfy any conditions with respect to the beginning and completion of construction of the Improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations or satisfaction of such conditions, due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, acts of God, acts of the public enemy, terrorism, fires, floods, epidemics, pandemics, quarantine restrictions, strikes, freight embargoes, general scarcity of materials, unusually severe weather, or delays of subcontractors due to unusual scarcity of materials or unusually severe weather; it being the purposes and intent of this provision that the time or times for the satisfaction of conditions to this Lease including those with respect to construction of the Improvements, will be extended for the period of the enforced delay; provided, however, that the party seeking the benefit of the provisions of this paragraph must have notified the other party of the delay and evidence of its causes in writing within thirty (30) days after the beginning of any such enforced delay and requested an extension for the reasonably estimated period of the enforced delay; and, provided further, that this paragraph does not apply to, and nothing contained in this paragraph will extend or will be construed to extend, the time of performance of any of Tenant's obligations to be performed before the commencement of construction, and the failure to timely perform pre-commencement of construction obligations will not extend or be construed to extend Tenant's obligations to commence, prosecute, and complete construction of the Improvements in the manner and at the times specified in this Lease.

10.13 Reports. Commencing when construction of the Improvements commences and continuing until completion of construction of the Improvements, Tenant will make a report in writing to OCII every month, in such detail as may reasonably be required by OCII, as to the actual progress of the Tenant with respect to the construction. During such period, the work of the Tenant shall be subject to inspection by representatives of OCII, at reasonable times and upon reasonable advance notice.

10.14 Access to Site. As of the Effective Date and until OCII issues a Certificate of Completion (as defined in Section 11.01 below), Tenant will permit access to the Site to Landlord whenever and to the extent necessary to carry out the purposes of the provisions of this Lease or other redevelopment obligations, at reasonable times and upon reasonable advance notice, and on an emergency basis without notice whenever Landlord believes that emergency access is required. After OCII's issuance of a Certificate of Completion, access to the Premises will be governed by ARTICLE 24, below.

10.15 Notice of Completion. Promptly upon completion of the construction of the Improvements in accordance with the provisions of this Lease, Tenant will file a Notice of

Completion (“**NOC**”) and record the NOC in the San Francisco Recorder’s Office. Tenant will provide OCII with a copy of the recorded NOC.

10.16 Completion of Improvements by New Developer. In the event a Lender or a successor thereto forecloses, obtains a deed in lieu of foreclosure, or otherwise realizes upon the Premises and undertakes construction of the Improvements (“**New Developer**”) (a) the New Developer will not be bound by the provisions of the Schedule of Performance with respect to any deadlines for the completion of the Improvements but will only be required to complete the Improvements with due diligence and in conformance with a new Schedule of Performance as agreed upon by the New Developer and OCII, (b) the New Developer will only be required to complete the Improvements in accordance with all applicable building codes and ordinances, and the OCII-approved Construction Documents with such changes that are mutually agreed upon by OCII and the New Developer under the following clause (c); and (c) OCII and New Developer will negotiate in good faith such reasonable amendments and reasonable modifications to the Schedule of Performance and ARTICLE 10 of this Lease as the parties mutually determine to be reasonably necessary based upon the financial and construction conditions then existing.

ARTICLE 11 COMPLETION OF IMPROVEMENTS

11.01 Certificate of Completion—Issuance. After completion of the construction of the Improvements in accordance with the provisions of this Lease, if requested by Tenant together with reasonable supporting documentation, including an architect’s certification of completion, OCII will furnish Tenant with an appropriate instrument so certifying (the “**Certificate of Completion**”). OCII’s Certificate of Completion will be a conclusive determination of satisfaction and termination of the agreements and covenants of this Lease regarding Tenant’s obligation to construct the Improvements in accordance with approved Construction Documents. The Certificate of Completion will include the dates of the beginning and completion of construction of the Improvements, but the Certificate of Completion will not constitute evidence of compliance with or satisfaction of Tenant’s obligations to any Lender, or any insurer of a mortgage, securing money loaned to finance the construction or any part thereof; provided further, that OCII’s issuance of a Certificate of Completion does not relieve Tenant or any other person or entity from any and all OCII requirements, regulatory approvals, or conditions relating to construction or occupancy of the Improvements, which requirements or conditions must be complied with separately.

OCII may elect to issue Tenant a Certificate of Completion if no events of default by Tenant are then existing under this Lease or the Loan Documents for the OCII Loan, and Tenant has completed the Improvements in accordance with this Lease, except for: (1) punch list items; (2) landscaping and other outside areas of the Improvements; and (3) other items that do not adversely affect or impair Tenant’s use and occupancy of the Improvements for the purposes contemplated by this Lease and that do not preclude the City’s issuance of a certificate of occupancy or other certificate or authorization of Tenant’s use and occupancy of the Improvements. However, OCII will not be obligated to issue a Certificate of Completion in these circumstances unless and until Tenant has provided to OCII, at OCII’s request, a bond, letter of credit, certificate of deposit, or other security reasonably acceptable to OCII in an amount equal

to 110% of the estimated cost to OCII of completing the items described in clauses (1) through (3) above, as reasonably determined by OCII.

11.02 Certifications to be Recordable. The Certificate of Completion will be in a form that permits it to be recorded with the Recorder of the City.

11.03 Certification of Completion—Non-Issuance Reasons. If OCII refuses or fails to provide a Certificate of Completion in accordance with the provisions of Section 11.01, OCII will provide Tenant with a written statement indicating in adequate detail in what respects Tenant has failed to complete the construction of the Improvements in accordance with the provisions of this Lease or is otherwise in default hereunder and what measures or acts will be necessary, in the opinion of OCII, for Tenant to take or perform in order to obtain a Certificate of Completion.

ARTICLE 12 CHANGES TO THE IMPROVEMENTS

12.01 Post-Completion Changes. Landlord has a particular interest in the Project and in the nature and extent of the permitted changes to the Improvements. Accordingly, it imposes the following controls on the Site and on the Improvements: during the term of this Lease, neither Tenant nor any voluntary or involuntary successor or assign, may make or permit any Change (as defined in Section 12.02) in the Project or the Premises, unless the express prior written consent for any Change has been requested in writing from Landlord and obtained, and, if obtained, upon such terms and conditions as Landlord may reasonably require. Landlord agrees not to unreasonably withhold or delay its response to such a request.

12.02 Definition of Change. “**Change**” as used in this Article 12 means any alteration, modification, addition, and/or substitution of or to the Leasehold Estate, the Project, the Premises, and/or the density of development that differs materially from that which existed upon the completion of construction of the Improvements in accordance with this Lease, and includes, without limitation, the exterior design, colors and materials. For purposes of the foregoing, “exterior” includes the roof of the Project. “Change” does not include any repair, maintenance, cosmetic interior alterations (e.g., paint, carpet, installation of moveable equipment and trade fixtures, and hanging of wall art) in the normal course of operation of the Project, or as may be required in an emergency to protect the safety and well-being of the Project’s Residential Occupants.

12.03 Enforcement. Subject to ARTICLE 19 hereof, Landlord will have any and all remedies in law or equity (including, without limitation, restraining orders, injunctions, and/or specific performance), judicial or administrative, to enforce the provisions of this ARTICLE 12, including, without limitation, any threatened or actual breach or violation of this Section.

ARTICLE 13 TITLE TO IMPROVEMENTS

Landlord acknowledges that fee title to the Improvements will be vested in Tenant for the Term of this Lease. It is the intent of the Parties that this Lease and the Memorandum of Ground Lease will create a constructive notice of severance of the Improvements from the land without

the necessity of a deed from Lessor to Lessee. Landlord and Tenant hereby agree that fee title to the Improvements will remain vested in Tenant during the Term, subject to Section 14.01 below; provided, however, that, subject to the rights of any Lenders and as further consideration for Landlord entering into this Lease, at the expiration or earlier termination of this Lease, fee title to all the Improvements will vest in Landlord without further action of any party, without any obligation by Landlord to pay any compensation to Tenant, and without the necessity of a deed from Tenant to Landlord. Notwithstanding the foregoing, if requested by Landlord, upon expiration or sooner termination of this Lease, Tenant shall execute and deliver to Landlord an acknowledged and good and sufficient grant deed conveying to Landlord Tenant's fee interest in the Improvements. For so long as it is not in default of this Lease continuing beyond applicable notice and cure periods, Tenant shall have the exclusive right to deduct, claim retain and enjoy any and all rental income appreciation, gain, depreciation, amortization, and tax credits for federal and State tax purposes relating thereto, substitution therefor, fixtures therein and other property relating thereto.

ARTICLE 14 ASSIGNMENT, SUBLEASE, OR OTHER CONVEYANCE

14.01 Assignment, Sublease, or Other Conveyance by Tenant. Tenant may not sell, assign, convey, sublease, or transfer in any other mode or form all or any part of its interest in the Site, this Lease or in the Improvements or any portion thereof except as provided in ARTICLE 51 of this Lease.

a) Assignment, Sublease, or Other Conveyance by Landlord. The Parties acknowledge and agree that OCII, effective upon the issuance of the Certificate of Completion or some later date as determined by OCII, intends to transfer all of its rights, interests and obligations under this Lease and the OCII Loan Agreements, together with conveyance of fee title to the Site, to MOHCD as the designated Housing Successor of the City and County of San Francisco under Board of Supervisors Resolution 11-12 (January 26, 2012), Redevelopment Dissolution Law, and OCII's approved Long-Term Property Management Plan (November 23, 2015). Tenant shall have no right to object and shall attorn to such assignee, and shall execute such instruments and take such actions as may be reasonably required to carry out OCII's intent. Upon assignment to MOHCD, all references herein to Landlord shall be deemed references to MOHCD. OCII and Tenant 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 14.02. Upon assignment to MOHCD, all references herein to OCII shall be deemed references to MOHCD.

b) As a condition of the assignment of the Lease and OCII Loan to the City, the City may require standard City contracting provisions under San Francisco Administrative Code or other Laws, as described in Attachment 7, be incorporated into the Lease and OCII Loan.

c) The parties acknowledge that any sale, assignment, transfer, or conveyance or encumbrance of all or any part of Landlord's interest in the Premises, the Site, the Improvements, or this Lease, is subject to this Lease. Landlord will require that any purchaser, assignee, or transferee expressly assume all of the obligations of Landlord under this Lease by a

written instrument recordable in the Official Records of the City. This Lease will not be affected by any such sale, and Tenant will attorn to any such purchaser or assignee.

ARTICLE 15 TAXES

Subject to any exemption available therefor, Tenant agrees to pay, or cause to be paid, before delinquency to the proper authority, any and all valid taxes, assessments, and similar charges on the Premises that become effective after the Effective Date of this Lease, including all taxes levied or assessed on the possession, use or occupancy, as distinguished from the ownership, of the Site. Tenant will not permit any such taxes, charges, or other assessments to become a defaulted lien on the Site, Leasehold Estate or the Improvements thereon; provided, however, that in the event any such tax, assessment, or similar charge is payable in installments, Tenant may make, or cause to be made, payment in installments; and, provided further, that Tenant may contest the legal validity or the amount of any tax, assessment, or similar charge, through such proceedings as Tenant considers necessary or appropriate provided that such proceedings are initiated on or before the date the disputed tax, assessment or similar charge would otherwise be due and payable, and Tenant may defer the payment thereof so long as the validity or amount thereof is contested by Tenant in good faith and without expense to Landlord. If Tenant contests a tax, assessment, or other similar charge, then Tenant will protect, defend, and indemnify Landlord against all Claims resulting therefrom, and if Tenant is unsuccessful in any such contest, Tenant will immediately pay, discharge, or cause to be paid or discharged, the tax, assessment, or other similar charge. Landlord will furnish such information as Tenant may reasonably request in connection with any such contest, provided that such information is in Landlord's possession or control or is otherwise available to the public. Landlord hereby consents to and will reasonably cooperate and assist with Tenant applying for and obtaining any applicable exemptions from taxes or assessments levied on the Site, the Improvements, or on Tenant's interest therein. Tenant will have no obligation under this Section before the Effective Date, including but not limited to any taxes, assessments, or other charges levied against the Site that are incurred before the Effective Date.

ARTICLE 16 UTILITIES

From and after the Effective Date, Tenant will procure water and sewer service from the City and electricity, telephone, natural gas, if applicable, and any other utility service from the City or utility companies providing such services, and will pay all connection and use charges imposed in connection with such services. From and after the Effective Date, as between Landlord and Tenant, Tenant will be responsible for the installation and maintenance of all facilities required in connection with such utility services to the extent not installed or maintained by the City or the utility providing such service.

ARTICLE 17 MAINTENANCE AND OPERATION

17.01 Maintenance. Tenant, at all times during the Term, shall maintain or cause to be maintained the Premises in good condition and repair to the reasonable satisfaction of Landlord, including the exterior, interior, substructure, and foundation of the Improvements and all fixtures, equipment, and landscaping from time to time located on the Site or any part thereof.

Landlord will not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description whatsoever to the Premises or any buildings or improvements now or hereafter located thereon. Tenant hereby waives all rights to make repairs at Landlord's expense under Sections 1932(1), 1941 and 1942 of the California Civil Code or under any similar Law now or hereafter in effect.

17.02 Facilities Condition Report. Every five (5) years beginning on the fifth anniversary date of the issuance of the Certificate of Completion, Tenant will deliver to Landlord a facilities condition report for the Premises, prepared by a qualified team of construction professionals acceptable to Tenant and Landlord, describing at a minimum the condition and integrity of the Premises, foundation and structural integrity of the building, and all utilities systems serving the building (the "**Facilities Condition Report**"). Tenant will provide with its submittal of the Facilities Condition Report, an anticipated schedule of and budget for, the repairs identified in the Facilities Condition Report. If Landlord reasonably believes the Facilities Condition Report does not adequately describe the condition and integrity of the listed items or the timing of required repairs, then Landlord will notify Tenant of the deficiency and Tenant will revise the Facilities Condition Report to address Landlord's concerns. If Tenant fails to provide a Facilities Condition Report to Landlord every five (5) years, then Landlord after giving thirty (30) days' notice to Tenant will have the right, but not the obligation, to cause a Facilities Condition Report to be prepared by a team of construction professionals of Landlord's choice, at Tenant's sole cost. Tenant will perform the repairs within the timeframe set forth in the Facilities Condition Report approved by Landlord.

17.03 Landlord's Right to Inspect. Without limiting ARTICLE 24 below, Landlord may, upon reasonable prior notice to Tenant, make periodic inspections of the Premises and other areas for which Tenant has obligations and may advise Tenant when maintenance or repair is required, but such right of inspection will not relieve Tenant of its independent responsibility to maintain the Premises, Improvements, and other areas as required by this Lease in a condition as good as, or better than, their condition at the completion of the Improvements, excepting ordinary wear and tear.

17.04 Landlord's Right to Repair. If Tenant fails to maintain or to promptly repair any damage to the Premises as required by this Lease, then subject to applicable notice and cure periods, Landlord may repair the damage at Tenant's sole cost and expense and Tenant will immediately reimburse Landlord for all costs of the maintenance or repair.

17.05 Operation. Following completion of the Improvements, Tenant will maintain and operate the Project consistent with the maintenance and operation of a safe, clean, well-maintained first-class residential project located in San Francisco. Tenant will be exclusively responsible, at no cost to Landlord except as otherwise contemplated herein and under the Loan Documents, for the management and operation of the Project. In connection with managing and operating the Project, Tenant will provide (or require others to provide), services as necessary and appropriate to the uses to which the Project are put, including (a) repair and maintenance of the Improvements; (b) utility, telecommunications and internet (including Wi-Fi) services to the extent customarily provided by equivalent projects located in San Francisco; (c) cleaning, janitorial, pest extermination, recycling, composting, and trash and garbage removal; (d) landscaping and

groundskeeping; (e) security services with on-site personnel for the Project; and (f) lighting at night sufficient for safe pedestrian navigation along pathways. Tenant will use commercially reasonable efforts to ensure that no portion of the Project remains unoccupied or unused without the prior written consent of Landlord, which consent may be withheld in Landlord's sole and absolute discretion.

ARTICLE 18 LIENS

Tenant will use its best efforts to keep the Premises free from any liens arising out of any work performed or materials furnished by itself or its subtenants. If Tenant does not cause a lien to be released of record or bonded around within thirty (30) days following written notice from Landlord of the imposition of the lien, Landlord will have, in addition to all other remedies provided in this Lease and by Law, the right (but not the obligation) to cause the lien to be released by any means as it deems proper, including payment of the claim giving rise to such lien. All sums paid by Landlord for such purpose, and all reasonable expenses incurred by it in connection therewith, will be payable to Landlord by Tenant as additional Base Rent, and paid promptly on demand. Notwithstanding the foregoing, Tenant will have the right, upon posting of an adequate bond or other security, to contest any lien, and Landlord will not seek to satisfy or discharge the lien unless Tenant has failed so to do within ten (10) days after the final determination of the validity of the lien. If Tenant contests a lien, then Tenant will protect, defend, and indemnify Landlord against all Claims resulting therefrom. The provisions of this Section will not apply to any liens arising before the Effective Date, or any liens that are not the result of Tenant's contractors, consultants, or activities.

ARTICLE 19 GENERAL REMEDIES

19.01 Application of Remedies. The provisions of this ARTICLE 19 govern the parties' remedies for breach of this Lease.

19.02 Breach by Landlord. If Tenant believes that Landlord has materially breached this Lease, Tenant must first notify Landlord in writing of the purported breach, giving Landlord one hundred twenty (120) days from receipt of such notice to cure the breach. If Landlord does not cure the breach within the 120-day period, or if the breach is not reasonably susceptible to cure within that 120-day period, begin to cure within one hundred twenty (120) days and diligently prosecute then cure to completion, then Tenant will have all of its rights at law or in equity by taking any or all of the following remedies: (i) terminating in writing this entire Lease with the written consent of each Lender; (ii) prosecuting an action for damages; (iii) seeking specific performance of this Lease; or (iv) any other remedy available at law or equity.

19.03 Breach by Tenant.

a) Default by Tenant.

Subject to the notice and cure rights under Sections b) and 19.04, the following events each constitute a basis for Landlord to take action against Tenant:

- (i) Tenant fails to comply with the Permitted Uses and Occupancy Restrictions set forth in Section 9.01;
- (ii) Tenant voluntarily or involuntarily assigns, transfers, or attempts to transfer or assign this Lease or any rights in this Lease, or in the Improvements, except as permitted by this Lease or otherwise approved by Landlord;
- (iii) From and after the Effective Date, Tenant, or its successor in interest fails to pay real estate taxes or assessments in accordance with Article 15, or places or allows to be placed on the Site, Leasehold Estate or Improvements any encumbrance or lien unauthorized by this Lease, or suffers any levy or attachment, or any material supplier's or mechanic's lien or the attachment of any other unauthorized encumbrance or lien, and the taxes or assessments have not been paid, or the encumbrance or lien removed, discharged or bonded around within the time period provided in ARTICLE 18; provided, however, that Tenant has the right to contest any tax or assessment or encumbrance or lien as provided in ARTICLE 15 and ARTICLE 18;
- (iv) Tenant is adjudicated bankrupt or insolvent or makes a transfer to defraud its creditors, or makes an assignment for the benefit of creditors, or brings or has brought against Tenant any action or proceeding of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy, or reorganization act and, in the event such proceedings are involuntary, Tenant is not dismissed from the proceedings within sixty (60) days thereafter; or, a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within sixty (60) days;
- (v) Tenant breaches any other material provision of this Lease;
- (vi) Tenant fails to pay any portion of Annual Rent when due in accordance with the terms and provisions of this Lease;
- (vii) Failure to commence any maintenance or repair obligation concerning the Premises.

b) Notification and Landlord Remedies.

Upon the happening of any of the events described in Section a) above, and before exercising any remedies, Landlord will notify Tenant, the Permitted Limited Partners, and each Lender in writing of Tenant's purported breach, failure, or act in accordance with the notice provisions of ARTICLE 39, giving Tenant, any Lender, and Permitted Limited Partner sixty (60) days from the giving of the notice to cure such breach, failure, or act, with the exception of breach of Section 19.03(a)vii, above, which shall be subject to a cure period of ten (10) days. If

Tenant, Lender, or Permitted Limited Partner does not cure or, if the breach, failure, or act is not reasonably susceptible to cure within the applicable cure period, begin to cure within the applicable cure period and thereafter diligently prosecute such cure to completion, then, subject to the rights of any Lender and Permitted Limited Partner and subject to Section 19.04 and ARTICLE 26, Landlord will have all of its rights at law or in equity, including, but not limited to:

(i) the remedy described in Section 1951.4 of the California Civil Code (a landlord may continue the lease in effect after a tenant's breach and abandonment and recover rent as it becomes due, if the tenant has the right to sublet and assign subject only to reasonable limitations) under which it may continue this Lease in full force and effect and the Landlord may enforce all of its rights and remedies under this Lease, including the right to collect rent when due. During the period Tenant is in default, Landlord may enter the Premises without terminating this Lease and relet them, or any part of them, to third parties for Tenant's account. Tenant will be liable immediately to Landlord for all reasonable costs that Landlord incurs in reletting the Premises, including, but not limited to, broker's commissions, expenses of remodeling the Premises required by the reletting and like costs. Reletting can be for a period shorter or longer than the remaining Term, at such rents and on such other terms and conditions as Landlord deems advisable, subject to any restrictions applicable to the Premises. Tenant shall owe Landlord the rent due under this Lease on the dates the rent is due, less the rent Landlord receives from any reletting. If Landlord elects to relet, then rentals received by Landlord from the reletting will be applied in the following order: (1) to reasonable attorneys' and other fees incurred by Landlord as a result of a default and costs if suit is filed by Landlord to enforce its remedies; (2) to the payment of any costs of maintaining, preserving, altering, repairing, and preparing the Premises for reletting, the other costs of reletting, including but not limited to brokers' commissions, reasonable attorneys' fees and expenses of removal of Tenant's Personal Property and Changes; (3) to the payment of rent due and unpaid; (4) the balance, if any, will be paid to Tenant upon (but not before) expiration of the Term. If that portion of the rentals received from any reletting during any month that is applied to the payment of rent, is less than the rent payable during the month, then Tenant shall owe the deficiency to Landlord. The deficiency will be calculated and paid monthly. No act by Landlord allowed by this Section will terminate this Lease unless Landlord notifies Tenant that Landlord elects to terminate this Lease. After Tenant's default and for as long as Landlord does not terminate Tenant's right to possession of the Premises by written notice, if Tenant obtains Landlord's consent Tenant will have the right to assign or sublet its interest in this Lease, but Tenant shall not be released from liability and the assignment or subletting will not serve to cure the default.

(ii) Landlord may terminate Tenant's right to possession of the Leasehold Estate at any time. No act by Landlord other than giving notice of termination to Tenant will terminate this Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on Landlord's initiative to protect Landlord's interest under this Lease will not constitute a termination of Tenant's right to possession. If Landlord elects to terminate this Lease, then Landlord has the rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including the right to terminate Tenant's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Annual Rent and any additional charges for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that Tenant proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2. Landlord's efforts to mitigate the damages caused by Tenant's breach of this Lease will not waive Landlord's rights to recover damages upon termination.

(iii) The right to have a receiver appointed for Tenant upon application by Landlord to take possession of the Premises and to apply any rental collected from the Premises and to exercise all other rights and remedies granted to Landlord under this Lease;

(iv) seeking specific performance of this Lease; or

(v) in the case of default under Section 19.03(i) continuing beyond applicable notice and cure periods, increasing the Base Rent to the full amount of the Annual Rent.

Notwithstanding the foregoing, during the 15-year tax credit "compliance period" (as defined in Section 42 of the Internal Revenue Code, as amended) for the Project, Landlord may only terminate this Lease for a default by Tenant under Section (a)(vi) above.

19.04 Rights of Permitted Limited Partner.

a) If a Permitted Limited Partner cannot cure a default due to an automatic stay in Bankruptcy court because the general partner of the Tenant is in bankruptcy, any cure period will be tolled during the pendency of such automatic stay.

b) Landlord will not exercise its remedy to terminate this Lease if a Permitted Limited Partner is attempting to cure the default and the cure requires removal of any or both managing general partners of the Tenant, so long as the Permitted Limited Partner is proceeding diligently to remove such defaulting general partner(s) in order to effect a cure of the default, and the removal of such general partner(s) shall not in and of itself cause a default hereunder.

c) Unless otherwise provided for in this Lease, any limited partner that is not the Permitted Limited Partner identified in ARTICLE 39 wishing to become a Permitted Limited Partner must provide five (5) days written notice to Landlord in accordance with the notice provisions of this Lease, setting forth a notice address and providing a copy of such notice to the Tenant and all of the Tenant's partners. The limited partner will become a Permitted Limited Partner upon the expiration of the five-day period. A limited partner will not be afforded the protections of this Section with respect to any default occurring before the limited partner becomes a Permitted Limited Partner.

19.05 Landlord's Right to Cure Tenant's Default. If Tenant defaults in the performance of any of its obligations under this Lease, Landlord may at any time thereafter after notice and expiration of the applicable cure period (except in the event of an emergency as determined by Landlord, in which case the may act when Landlord determines necessary), remedy the default for Tenant's account and at Tenant's expense. Tenant will pay to Landlord as additional Base Rent, promptly upon demand, all sums expended by Landlord, or other costs, damages, expenses, or liabilities incurred by Landlord, including reasonable attorneys' fees, in remedying or attempting to remedy the default. Tenant's obligations under this Section will survive the termination of this Lease. Nothing in this Section implies any duty of Landlord to do any act that Tenant is obligated to perform under any provision of this Lease, and Landlord's cure or attempted cure of Tenant's default will not constitute a waiver of Tenant's default or any rights or remedies of Landlord on account of the default.

19.06 Waiver of Redemption. Tenant hereby waives, for itself and all persons claiming by and under Tenant, redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other pertinent present or future Law, in the event Tenant is evicted or Landlord takes possession of the Premises by reason of any default of Tenant hereunder.

19.07 Remedies Not Exclusive. The remedies set forth in Section [19.03] (b) are not exclusive; they are cumulative and in addition to any and all other rights or remedies of Landlord now or later allowed by Law. Tenant's obligations under this Article 19 will survive any termination of this Lease.

ARTICLE 20 DAMAGE AND DESTRUCTION

20.01 Insured Casualty. If the Improvements or any part thereof are damaged or destroyed by any cause covered by any policy of insurance required to be maintained by Tenant under this Lease, Tenant will promptly commence and diligently complete the restoration of the Improvements as nearly as possible to the condition thereof before such damage or destruction, or in accordance with plans approved by Landlord; provided, however, that if more than fifty percent (50%) of the Improvements are destroyed or are damaged by fire or other casualty and if the insurance proceeds do not provide at least ninety percent (90%) of the funds necessary to complete the restoration, then Tenant, with the written consent of each Lender and Permitted Limited Partner, may terminate this Lease within thirty (30) days after the later of (i) the date of such damage or destruction, or (ii) the date on which Tenant is notified of the amount of insurance proceeds available for restoration. If Tenant is required or elects to restore the

Improvements, then all proceeds of any policy of insurance required to be maintained by Tenant under this Lease will, subject to any applicable rights of Lenders and the Permitted Limited Partner, be used by Tenant for that purpose and Tenant will make up from its own funds or obtain additional financing as reasonably approved by Landlord any deficiency between the amount of insurance proceeds available for the work of restoration and the actual cost. If Tenant elects to terminate this Lease as provided under this Section 20.01, or elects not to restore the Improvements, then the insurance proceeds will be divided in the order set forth in Section 20.03.

20.02 Uninsured Casualty. If (i) more than fifty percent (50%) of the Improvements are damaged or destroyed and ten percent (10%) or more of the cost to complete the restoration is not covered by insurance required to be carried under this Lease; and (ii) in the reasonable opinion of Tenant, the undamaged portion of the Improvements cannot be completed or operated on an economically feasible basis; and (iii) there is not available to Tenant any feasible source of third party financing for restoration reasonably acceptable to Tenant; then Tenant may, with the written consent of each Lender and the Permitted Limited Partner, other than Landlord, terminate this Lease upon ninety (90) days written notice to Landlord. If it appears that the provisions of this Section 20.02 may apply to a particular event of damage or destruction, Tenant will notify Landlord promptly and not consent to any settlement or adjustment of an insurance award without Landlord's written approval, which approval will not be unreasonably withheld or delayed. If Tenant terminates this Lease under this Section 20.02, then all insurance proceeds and damages payable by reason of the casualty will be divided among Landlord, Tenant, and Lenders in accordance with the provisions of Section 20.03. If Tenant does not have the right, or elects not to exercise the right, to terminate this Lease as a result of an uninsured or underinsured casualty, then Tenant will promptly commence and diligently complete the restoration of the Improvements as nearly as possible to their condition before the damage or destruction in accordance with the provisions of Section 20.01 and will, subject to any applicable rights of Lenders, be entitled to all available insurance proceeds to do so.

20.03 Distribution of the Insurance Proceeds. If Tenant elects to terminate and surrender as provided in either Sections 20.01 or 20.02, then the priority and manner for distribution of the proceeds of any insurance policy required to be maintained by Tenant hereunder will be as follows:

- a) First to the Lenders, in order of their priority, to control, disburse or apply to any outstanding loan amounts in accordance with the terms their respective Leasehold Mortgages and applicable Law;
- b) Second, at Landlord's election, to pay the actual cost of removing all debris from the Site and adjacent and underlying property, and for the actual cost of any work or service required by any Law, for the protection of persons or property from any risk, or for the abatement of any nuisance, created by or arising from the casualty or the damage or destruction caused thereby;

- c) Third, to compensate Landlord for any diminution in the value (as of the date of the damage or destruction) of the Site caused by or arising from the damage or destruction; and
- d) The remainder to Tenant.

20.04 Clean-up of Housing Site. If Tenant terminates this Lease under the provisions of Sections 20.01 or 20.02, Tenant must, at Landlord's election, clean up and remove all debris from the Site and adjacent and underlying property and leave the Site in a clean and safe condition and in compliance with all Laws upon surrender, as described in in Section 20.03 b). If the proceeds of any insurance policy are insufficient to pay the clean-up and other costs described in Section b), then Tenant must pay the portion of the costs not covered by the insurance proceeds.

20.05 Waiver. Tenant and Landlord intend that this Lease fully govern all of their rights and obligations in the event of any damage or destruction of the Premises. Accordingly, Landlord and Tenant each hereby waive the provisions of Sections 1932(2), 1933(4), 1941 and 1942 of the California Civil Code, as such sections may from time to time be amended, replaced, or restated.

ARTICLE 21 DAMAGE TO PERSON OR PROPERTY; HAZARDOUS SUBSTANCES; INDEMNIFICATION

21.01 Damage to Person or Property—General Indemnification. Landlord will not in any event whatsoever be liable for any injury or damage during the Term of this Lease to any person happening on or about the Site, for any injury or damage during the Term of this Lease to the Premises, or to any property of Tenant, or to any property of any other person, entity, or association on or about the Premises, unless arising from the gross negligence or willful misconduct of an Indemnified Party (as defined below). Tenant will defend, hold harmless, and indemnify Landlord and the City and County of San Francisco, including but not limited to their boards, commissions, commissioners, departments, agencies, and other subdivisions, officers, agents, and employees (each, an “**Indemnified Party**” and collectively the “**Indemnified Parties**”), of and from all claims, loss, damage, injury, actions, causes of action, and liability of every kind, nature and description (collectively, “**Claims**”) incurred in connection with or directly or indirectly arising after the Effective Date from the Site, this Lease, the Easement, Tenant's tenancy, its or their use of the Site including adjoining sidewalks and streets, and any of its or their operations or activities thereon or connected thereto; all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that the indemnity is void or otherwise unenforceable under applicable Law in effect on or validly retroactive to the date of this Lease and further excepting only such Claims that are caused exclusively by the willful misconduct or gross negligence of the Indemnified Parties. The foregoing indemnity will include, without limitation, reasonable fees of attorneys, consultants, and experts and related costs and Landlord's reasonable costs of investigating any Claim. Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend Landlord from any claim that actually or potentially falls within any indemnity provision set forth in this Lease even if such allegation is

or may be groundless, fraudulent, or false, which obligation arises at the time such claim is tendered to Tenant by an Indemnified Party and continues at all times thereafter.

Notwithstanding the foregoing, this Article 21 shall not be deemed or construed to and shall not impose any obligation on Tenant to indemnify and save harmless the Indemnified Parties from any Claims arising from or in any way related to or connected with any willful misconduct or gross negligence by an Indemnified Party. Tenant's obligations under this Article will survive the termination or expiration of this Lease.

21.02 Hazardous Substances—Indemnification.

a) Tenant will indemnify, defend, and hold the Indemnified Parties harmless from and against any and all Claims of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to violation of any Environmental Law, or any Release, threatened Release, and any condition arising after the Effective Date of pollution, contamination or Hazardous Substance-related nuisance on, under or from the Site caused by Tenant, its employees, agents, affiliates, or contractors; provided, however, that this Section 21.02(a) shall not be deemed or construed to, and shall not impose any obligation on Tenant to indemnify and save harmless the Indemnified Parties from any Claim arising from or in any way related to or connected with any willful misconduct or gross negligence by any Indemnified Party occurring after the Effective Date. No Indemnified Party shall be entitled to indemnification under this Section for, and Tenant will have no liability for any Claims relating to a violation of, any Environmental Law, Release, or threatened Release, or arising out of any condition or action of pollution, contamination or Hazardous Substance-related nuisance on, under or from the Site occurring prior to the Effective Date except for those contributed to or exacerbated by Tenant.

b) For purposes of this Section 21.02, the following definitions apply:

(i) "**Hazardous Substance**" has the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Lease, 42 U.S.C. 9601(14), and in addition includes, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls ("**PCBs**"), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code 25316 and 25281(d), all chemicals listed under the California Health & Safety Code 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition does not include materials or substances that occur naturally on the Site except if and to the extent they are regulated by Laws. The foregoing definition of Hazardous Substances does not include commercially reasonable amounts of hazardous materials or substances used in the ordinary course of construction and operation of a residential development, provided they are used and stored in accordance with all applicable Laws.

(ii) **"Environmental Law"** means all Laws governing hazardous waste, wastewater discharges, drinking water, air emissions, Hazardous Substance releases or reporting requirements, Hazardous Substance use or storage, and employee or community right-to-know requirements related to the work being performed under this Lease.

(iii) **"Release"** means any spillage, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any Hazardous Substance.

21.03 Exculpation and Waiver. Tenant, as a material part of the consideration to be rendered to Landlord, hereby waives any and all Claims against the Indemnified Parties related to this Lease including their rights or obligations as landlord under this Lease, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, but excluding any Claims caused solely by the Indemnified Parties' willful misconduct (including breach of this Lease) or gross negligence. The Indemnified Parties will not be responsible for or liable to Tenant, and Tenant hereby assumes the risk of, and waives and releases the Indemnified Parties from all Claims against the Indemnified Parties related to this Lease including their rights or obligations as landlord under this Lease for, any injury, loss, or damage to any person or property in or about the Premises by or from any cause whatsoever occurring on or after the Effective Date including, without limitation, (a) any act or omission of persons occupying adjoining premises or any part of the Premises adjacent to or connected with the Premises, (b) theft, (c) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (d) stopped, leaking, or defective building systems, (d) construction or Site defects, (f) damages to goods, wares, goodwill, merchandise, equipment, or business opportunities, (g) Claims by persons in, upon or about the Premises or any other Landlord property for any cause arising at any time, (h) alleged facts or circumstances of the process or negotiations leading to this Lease before the Effective Date (other than with respect to any Environmental Law or Release and other than those facts withheld by misrepresentation or fraud); and (i) any other acts, omissions, or causes.

21.04 Tenant understands and expressly accepts and assumes the risk that any facts concerning the Claims released in this Lease might be found later to be other than or different from the facts now believed to be true, and agrees that the releases in this Lease will remain effective. Therefore, with respect to the Claims released in this Lease, Tenant waives any rights or benefits provided by Section 1542 of the Civil Code, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Tenant initials ____

Tenant specifically acknowledges and confirms the validity of the release made above and the fact that Tenant was represented by counsel who explained the consequences of the release at the time this Lease was made, or that Tenant had the opportunity to consult with counsel, but declined to do so.

21.05 Insurance. The Indemnification requirements under this Lease, or any other agreement between OCII and Tenant, will in no way be limited by any insurance requirements under any such agreements.

21.06 Survival. The provisions of ARTICLE 21 will survive the expiration or earlier termination of this Lease.

ARTICLE 22 INSURANCE

22.01 Insurance. Subject to approval by OCII's Risk Manager of the insurers and policy forms, Tenant must obtain and maintain, or cause to be maintained, the insurance and bonds as set forth in Attachment 8 throughout the Term of this Lease at no expense to OCII.

ARTICLE 23 COMPLIANCE WITH SITE-RELATED AND LEGAL REQUIREMENTS

23.01 Compliance with Legal Requirements. From and after the Effective Date, Tenant will at its cost and expense, promptly comply with all applicable Laws now in force or that may later be in force, including, without limitation, the requirements of the fire department or other similar body now or later constituted and with any direction or occupancy certificate issued under any Law as any of them may relate to or affect the condition, use, or occupancy of the Site. If Tenant contests any of the foregoing, Tenant will not be obligated to comply therewith to the extent that the application of the contested Law is stayed by the operation of law or administrative or judicial order and Tenant indemnifies, defends, and holds harmless the Indemnified Parties against all Claims resulting from noncompliance.

23.02 Regulatory Approvals. Tenant understands and agrees that Landlord is entering into this Lease in its capacity as a landowner with a proprietary interest in the Site and not as a regulatory agency with certain police powers. Tenant understands and agrees that neither entry by Landlord into this Lease nor any approvals given by Landlord under this Lease will be deemed to imply that Tenant has thereby obtained any required approvals from City departments, boards, or commissions that have jurisdiction over the Premises. By entering into this Lease, Landlord is in no way modifying or limiting the obligations of Tenant to develop the Project in accordance with all Laws and as provided in this Lease.

Tenant understands that the construction of the Improvements on the Leasehold Estate and development of the Project will require approval, authorization, or permit by governmental agencies with jurisdiction. Tenant must use good faith efforts to obtain and will be solely responsible for obtaining any approvals required for the Project in the manner set forth in this Section. Throughout the permit process for any regulatory approvals, Tenant will consult and coordinate with Landlord in Tenant's efforts to obtain permits. Landlord will cooperate

reasonably with Tenant in its efforts to obtain permits; provided, however, Tenant may not agree to the imposition of conditions or restrictions in connection with its efforts to obtain a permit from any other regulatory agency if Landlord is required to be a co-permittee under the permit or the conditions or restrictions could create any financial or other material obligations on the part of Landlord whether on or off of the Premises, unless in each instance Landlord has approved the conditions previously in writing and in Landlord's reasonable discretion. No approval by Landlord will limit Tenant's obligation to pay all the costs of complying with conditions under this Section. Tenant must bear all costs associated with applying for and obtaining any necessary regulatory approval, as well as any fines, penalties or corrective actions imposed as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval.

With Landlord's prior written consent, Tenant will have the right to appeal or contest any condition in any manner permitted by Law imposed upon any regulatory approval. In addition to any other indemnification provisions of this Lease, Tenant must indemnify, defend, and hold harmless Landlord and its commissioners, officers, agents or employees from and against any and all Claims that may arise in connection with Tenant's failure to obtain or comply with the terms and conditions of any regulatory approval or with the appeal or contest of any conditions of any regulatory approval, except to the extent damage arises out of the gross negligence or willful misconduct of Landlord or its agents.

ARTICLE 24 ENTRY

24.01 Landlord reserves for itself and its authorized representatives (including MOHCD) the right, at its cost, to enter the Premises at all reasonable times during normal business hours upon not less than forty-eight (48) hours' written notice to Tenant (except in the event of an emergency), subject to the rights of the occupants, tenants, and others lawfully permitted on the Premises, for any of the following purposes:

- a) to determine whether the Premises is in good condition and to inspect the Premises (including soil borings or other Hazardous Substance investigations) as reasonably determined by Landlord to be warranted;
- b) to determine whether Tenant is in compliance with its Lease obligations and to cure or attempt to cure any Tenant default;
- c) to serve, post, or keep posted any notices required or allowed under any of the provisions of this Lease;
- d) to do any remediation, maintenance or repairs to the Premises that Landlord has the right or the obligation, if any, to perform hereunder; and
- e) to show the Premises to any prospective purchasers, brokers, Lenders, or public officials, or, during the last year of the Term of this Lease, exhibit the Premises to prospective tenants or other occupants, and to post any reasonable "for sale" or "for lease" signs in connection therewith.

24.02 In the event of an emergency, as reasonably determined by Landlord, at its sole option and without notice, Landlord may enter the Premises and alter or remove any Improvements or Tenant's personal property on or about the Premises as reasonably necessary to make the Premises safe, given the nature of the emergency. Landlord will have the right to use any and all means Landlord considers appropriate to gain access to any portion of the Premises in an emergency, in which case, Landlord will not be responsible for any damage or injury to any property, or for the replacement of any property, and no emergency entry may be deemed to be a forcible or unlawful entry onto or a detainer of the Premises, or an eviction, actual or constructive, of Tenant from the Premises or any portion thereof.

24.03 Landlord will not be liable in any manner for any inconvenience, disturbance, loss of business, nuisance, or other damage arising out of Landlord's entry onto the Premises, except to the extent damage arises out of the gross negligence or willful misconduct of Landlord or its agents. Landlord will be responsible for any losses resulting from its gross negligence or willful misconduct and will repair any resulting damage promptly.

24.04 Tenant will not be entitled to any abatement in Annual Rent if Landlord exercises any rights reserved in this Section, subject to Section 24.03 above.

24.05 Landlord will use its reasonable good faith efforts to conduct any activities on the Premises allowed under this Section in a manner that, to the extent practicable, will minimize any disruption to Tenant's use of the Premises as permitted by this Lease.

ARTICLE 25 MORTGAGE FINANCING

25.01 No Encumbrances Except for Development Purposes. Notwithstanding any other provision of this Lease and subject to the prior written consent of Landlord in the form attached hereto as Attachment 3, which consent will not be unreasonably withheld, conditioned, or delayed, Leasehold Mortgages (and encumbrances related to such Leasehold Mortgages or required by Project lenders or equity investors, including, but not limited to use agreements and regulatory agreements) are permitted to be placed upon the Leasehold Estate only for the purpose of securing loans of funds to be used for financing the acquisition of the Project; refinancing of financing used to acquire or rehabilitate the Project; design, construction, renovation, or reconstruction of the Improvements; and any other expenditures reasonably necessary and appropriate to acquire, own, develop, construct, renovate, or reconstruct the Improvements under this Lease and in connection with the operation of the Project; and costs and expenses incurred or to be incurred by Tenant in furtherance of the purposes of this Lease. OCII, acting solely in its capacity as landlord under this Lease, hereby acknowledges and accepts (or the Fiscal Agent acting on its behalf pursuant to the tax exempt loan to Tenant) as a Lender the lender(s) named in Section 26, and consents to the Leasehold Mortgage associated with Lender's construction loan to Tenant for the Project.

25.02 Holder Not Obligated to Construct. The holder of any mortgage, deed of trust, or other security interest authorized by Section 25.01 ("**Holder**" or "**Lender**"), including the successors or assigns of the Holder, is not obligated to complete any construction of the Improvements or to guarantee such completion; and no covenant or any other provision of this

Lease may be construed to obligate the Holder. However, if the Holder undertakes to complete or guarantee the completion of the construction of the Improvements, nothing in this Lease will be deemed or construed to permit or authorize the Holder or its successors or assigns to devote the Premises or any portion thereof to any uses, or to construct any Improvements on the Site, other than those uses or Improvements authorized under Section 9.01 and any reasonable modifications in plans proposed by the Holder or its successors in interest proposed for the viability of the Project approved by Landlord in its reasonable discretion under Section 10.16. To the extent any Holder or its successors in interest wish to change such uses or construct different improvements, Holder or its successors in interest must obtain the advance written consent of Landlord.

25.03 Failure of Holder to Complete Construction. In any case where six (6) months after assumption of obligations under Section 25.02 above, a Lender, having first exercised its option to complete the construction, has not proceeded diligently with completion of the construction, Landlord will have all the rights against the Holder it would otherwise have against Tenant under this Lease for events or failures occurring after such assumption; subject to any extensions of time granted under Section 10.16 of this Lease.

25.04 Default by Tenant and Landlord's Rights.

a) Right of Landlord to Cure a Default or Breach by Tenant under a Leasehold Mortgage. In the event of a default or breach by Tenant under any Leasehold Mortgage, and Tenant's failure to timely commence or diligently prosecute cure of such default or breach, Landlord may, at its option, cure such breach or default for the period of one hundred ten (110) days after the date that the Lender files a notice of default. In such event, Landlord will be entitled to reimbursement from Tenant of all costs and expenses reasonably incurred by Landlord in curing the default or breach. Landlord will also be entitled to a lien upon the Leasehold Estate or any portion thereof to the extent such costs and disbursements are not reimbursed by Tenant. Any such lien will be subject to the lien of any then-existing Leasehold Mortgage authorized by this Lease, including any lien contemplated because of advances yet to be made. After ninety (90) days following the date of Lender filing a notice of default and expiration of all applicable cure periods of Tenant under the terms of the applicable loan documents, Landlord will also have the right to assign Tenant's interest in the Lease to another entity, subject to all Lenders' and Permitted Limited Partner's written consent, and which consent may be conditioned, among other things, upon the assumption by such other entity of all obligations of the Tenant under the Leasehold Mortgage. After ninety (90) days following the date of Lender filing a notice of default and expiration of all applicable cure periods of Tenant under the terms of the applicable loan documents, Landlord will also have the right to assign Tenant's interest in the Lease to another entity, subject to all Lenders' and Permitted Limited Partner's written consent in the exercise of their sole and absolute discretion, and which consent may be conditioned, among other things, upon the assumption by such other entity of all obligations of the Tenant under the Leasehold Mortgage.

b) Notice of Default to Landlord. Tenant will use its best efforts to require Lender to give Landlord prompt written notice of any default or breach of the Leasehold

Mortgage and each Leasehold Mortgage will provide for that notice to Landlord and contain Landlord's right to cure as above set forth.

25.05 Cost of Mortgage Loans to be Paid by Tenant. Tenant covenants and affirms that it will bear all of the costs and expenses in connection with (a) the preparation and securing of any Leasehold Mortgage, (b) the delivery of any instruments and documents and their filing and recording, if required, and (c) all taxes and charges payable in connection with any Leasehold Mortgage.

ARTICLE 26 PROTECTION OF LENDER

26.01 Notification to Landlord. Promptly upon the creation of any Leasehold Mortgage and as a condition precedent to the existence of any of the rights set forth in this ARTICLE 26, Tenant will cause each Lender to give written notice to Landlord of the Lender's address and of the existence and nature of its Leasehold Mortgage. Execution of Attachment 3 will constitute Landlord's acknowledgement of Lender's having given such notice as is required to obtain the rights and protections of a Lender under this Lease. Landlord hereby acknowledges that Bank of America, N.A., national association (or the Fiscal Agent acting on its behalf pursuant to the tax-exempt loan to Tenant) is the First Mortgage Lender and is deemed to have given such written notice as First Mortgage Lender prior to the conversion date, and California Community Reinvestment Corporation, a California nonprofit public benefit corporation, is anticipated to become the First Mortgage Lender on the conversion date and shall be deemed to have given such written notice as First Mortgage Lender if and when it purchases the tax-exempt loan from Bank of America, N.A.

26.02 Lender's Rights to Prevent Termination. Each Lender has the right, but not the obligation, at any time before termination of this Lease and without payment of any penalty other than the interest on unpaid rent, to pay all of the rents due under this Lease, to effect any insurance, to pay any taxes and assessments, to make any repairs and improvements, to do any other act or thing required of Tenant or necessary and proper to be done in the performance and observance of the agreements, covenants and conditions of this Lease to prevent a termination of this Lease to the same effect as if the same had been made, done, and performed by Tenant instead of by Lender.

26.03 Lender's Rights When Tenant Defaults. If any event of default under this Lease occurs and is continuing, and is not cured within the applicable cure period, Landlord will not terminate this Lease or exercise any other remedy unless it first gives written notice of the event of default to Lender, and:

a) If the event of default is a failure to pay a monetary obligation of Tenant (not including any of Tenant's indemnification obligations under this Lease (the "**Indemnification Obligations**")), Lender fails to cure such default within sixty (60) days from the date of written notice from Landlord to Lender to cure the default; or

b) If the event of default is not a failure to pay a monetary obligation of Tenant, Lender fails, within sixty (60) days of receipt of the written notice, to either (a) remedy

such default; or (b) obtain title to the Leasehold Estate and Improvements in lieu of foreclosure; or (c) commence foreclosure or other appropriate proceedings in the nature thereof (including the appointment of a receiver) and thereafter diligently prosecute such proceedings to completion, in which case such event of default will be remedied or deemed remedied in accordance with Section 26.04 below.

c) All rights of Landlord to terminate this Lease as the result of the occurrence of any uncured event of default is subject to, and conditioned upon, Landlord having first given Lender written notice of the event of default and Lender having failed to remedy such default or acquire Tenant's Leasehold Estate or commence foreclosure or other appropriate proceedings in the nature thereof as set forth in and within the time specified by this Section 26.03, and upon the Permitted Limited Partners having failed to proceed as permitted under Sections 19.04(b) or 26.06(b).

26.04 Default That Cannot be Remedied by Lender. Any event of default under this Lease that in the nature thereof cannot be remedied by Lender will be deemed to be remedied as it pertains to Lender or any Subsequent Owner if (a) within ninety (90) days (and as may be extended in the OCII Executive Director's discretion) after receiving notice from Landlord setting forth the nature of such event of default, Lender has acquired the Leasehold Estate and Improvements or has commenced foreclosure or other appropriate proceedings in the nature of foreclosure, (b) Lender is diligently prosecuting any such proceedings to completion, (c) Lender has fully cured any event of default arising from failure to pay or perform any monetary obligation (other than the Indemnification Obligations) in accordance with Section 26.03, and (d) after gaining possession of the Improvements, Lender diligently proceeds to perform all other obligations of Tenant as and when due in accordance with the terms of this Lease.

Notwithstanding anything to the contrary contained elsewhere herein, in no event shall any Lender have the obligation, or be required, as a condition to preventing the termination of this Ground Lease, as a condition to obtaining a new lease or otherwise, to cure any breach by Tenant of its obligation, under Article 25.04 of this Ground Lease, to reimburse Landlord for all costs, expenses, advances and disbursements made or incurred by Landlord in connection with its cure of any breach or default under any Leasehold Mortgage (and all such breaches shall automatically be deemed cured upon a foreclosure under any Leasehold Mortgage (or acceptance of a deed in lieu thereof)).

26.05 Court Action Preventing Foreclosure. If Lender is prohibited by any process or injunction issued by any court or because of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure, the times specified in Sections 26.03 and 26.04 above for commencing or prosecuting such foreclosure or other proceedings will be extended for the period of such prohibition. If this Lease is terminated for any reason or rejected by Tenant in bankruptcy, then Landlord agrees to enter into a new ground lease with the Lender on the same terms set forth in this Lease, and said new lease shall be afforded a priority equal to the recording priority of this Lease. For purpose of this Article, if there is more than one Lender, Landlord will offer the new lease to each Lender in the order of priority until accepted.

26.06 Lender's Rights to Record, Foreclose, and Assign. Landlord hereby agrees with respect to any Leasehold Mortgage, that:

a) the Lender may cause its Leasehold Mortgage to be recorded and enforced, and upon foreclosure, sell and assign the Leasehold Estate to an assignee from whom it may accept a purchase price; provided however that: (a) except with respect to affiliates of a Lender, Lender obtains prior written approval from Landlord with respect to the selection of the assignee, which approval shall not be unreasonably withheld, conditioned or delayed); and (b) the proposed assignee maintains the use restrictions of Section 9.02 and is controlled by a California nonprofit public benefit corporation exempt from tax under Section 501(c)(3) of the Internal Revenue Code such that the Premises would, if leased by such entity, receive an exemption from state property taxes as provided under Section 214 of the California Revenue and Taxation Code. Lender, furthermore, may acquire title to the Leasehold Estate in any lawful way, and if the Lender, or an affiliate, shall become the assignee, may sell and assign said Leasehold Estate subject to Landlord approval as to the assignee or purchaser, which shall not be unreasonably withheld, conditioned or delayed, and to the Landlord's cure rights under Section 24.04(a). The foreclosure of the Leasehold Mortgage shall not constitute an Event of Default hereunder.

b) each Subsequent Owner must take said Leasehold Estate subject to all of the provisions of this Lease, and except as provided elsewhere in this Lease, must assume all of the obligations of Tenant under this Lease for so long as it is the owner of the Leasehold Estate;

c) Landlord will mail or deliver to any Lender that has an outstanding Leasehold Mortgage a duplicate copy of all notices that Landlord may give to Tenant under this Lease; and

d) any Permitted Limited Partners of Tenant will have the same rights as any Lender under Sections 26.02, 26.03, and 26.06(c), and any reference to a Lender in those sections will be deemed to include the Permitted Limited Partners; provided, however, that the rights of the Permitted Limited Partners are subordinate to the rights of any Lender.

26.07 Lease Rent after Lender Foreclosure or Assignment. Upon foreclosure of a Leasehold Mortgage or assignment of the Leasehold Estate in lieu of such foreclosure, (i) any accrued Annual Rent at the time of foreclosure will be forgiven by Landlord, and will not be an obligation of the Lender, its assignee, or the Subsequent Owner; and (ii) for so long as the Project is operated in accordance with the use and occupancy restrictions of ARTICLE 9, Annual Rent shall be set as follows:

a) The obligations of any Subsequent Owner other than a Lender (or its affiliate) for payment of Annual Rent shall be as set forth in ARTICLE 4;

b) A Lender (or the affiliate of a Lender) who acquires the Leasehold Estate as a result of foreclosure of a Leasehold Mortgage or assignment of the Leasehold Estate in lieu of such foreclosure shall pay Annual Rent as follows:

(i) For 180 days after foreclosure of a Leasehold Mortgage or assignment of the Leasehold Estate in lieu of such foreclosure, the obligations for payment of Annual Rent of the Lender (or such affiliate) shall be as set forth in ARTICLE 4;

(ii) If, within 180 days after foreclosure of a Leasehold Mortgage or assignment of the Leasehold Estate in lieu of such foreclosure: (a) the Lender (or such affiliate) identifies as a potential assignee of the Leasehold Estate an entity that is controlled by, or includes a partner or member which is, a California nonprofit public benefit corporation that is exempt from tax under Section 501(c)(3) of the Internal Revenue Code such that the Leasehold Estate would, if leased by such entity, receive an exemption from state property taxes as provided under Section 214 of the California Revenue and Taxation Code, (b) Landlord has approved such entity (which approval shall not be unreasonably withheld, conditioned or delayed), and (3) Lender (or its affiliate) is engaged, diligently and in good faith, in negotiations with such entity for assignment of the Leasehold Estate, then, if requested by Lender, the obligations for payment of Annual Rent of the Lender (or such affiliate) shall continue to be as set forth in ARTICLE 4 for an additional sixty (60) days after the end of the one-hundred eighty (180) day period set forth in 26.07(ii)(B)(1) above;

(iii) From and after the date that Lender (or its affiliate) no longer qualifies under paragraph (1) or paragraph (2) of this Section 26.07(ii)(B), Base Rent shall accrue and shall be payable by Lender (or such affiliate) in arrears on each January 31st in accordance with Section 4.02; provided, however, that payment of Base Rent thus accrued may, at the option of the Lender (or such affiliate), be deferred, with simple interest at six percent (6%) per annum until paid, until the first to occur of (x) assignment of the Leasehold Estate to a Subsequent Owner or (y) the date that is sixty days after the termination of this Lease.

26.08 Permitted Uses After Lender Foreclosure. Notwithstanding the above, in the event of a foreclosure and transfer to a Subsequent Owner, the Premises must be operated in accordance with the Declaration of Restrictions, Section 9.01 of this Lease, and in accordance with those uses specified in the schematic designs and final construction documents approved by OCII and the building permit, with all addenda, as approved by the City's Department of Building Inspection, and any reasonable modifications in plans proposed by the Subsequent Owner or its successors in interest for the viability of the Project approved by Landlord in its reasonable discretion under Section 10.16.

26.09 Preservation of Leasehold Benefits. Until such time as a Lender notifies Landlord in writing that the obligations of the Tenant under its loan documents have been satisfied, Landlord agrees:

a) That subject to Section b) Landlord will not voluntarily cancel or surrender this Lease, or accept a voluntary cancellation or surrender of this Lease by Tenant, or amend this Lease to materially increase the obligations of the Tenant or the rights of Landlord under this Lease or alter the rights and protections of Lender, without the prior written consent of the Lender (which may not be unreasonably withheld or delayed);

b) That Landlord will not enforce against a Lender any waiver or election made by the Tenant under this Lease that has a material adverse effect on the value of the Leasehold Estate without the prior written consent of the Lender (which will not be unreasonably withheld or delayed);

c) That, if a Lender makes written request to Landlord for a new ground lease within fifteen (15) days after Lender receives written notice of termination of this Lease, then Landlord will enter a new ground lease with the Lender commencing on the date of termination of this Lease and ending on the normal expiration date of this Lease, on substantially the same terms and conditions as this Lease and subject to the rent provisions set forth in Section 26.07, and with the same priority as against any subleases or other interests in the Premises; so long as the Lender cures all unpaid monetary defaults under this Lease (other than the Indemnification Obligations), through the date of such termination;

d) That Landlord will provide reasonable prior notice to each Lender of any proceedings for adjustment or adjudication of any insurance or condemnation claim involving the Premises and will permit each Lender to participate the proceedings as an interested party.

26.10 No Merger. The Leasehold Estate will not merge with the fee interest in the Site, notwithstanding ownership of the leasehold and the fee by the same person, without the prior written consent of each Lender.

26.11 Landlord Bankruptcy.

a) If a bankruptcy proceeding is filed by or against Landlord, Landlord will immediately notify each Lender of the filing and will deliver a copy of all notices, pleadings, schedules, and similar materials regarding the bankruptcy proceedings to each Lender.

b) Landlord acknowledges that (i) the Tenant seeks to construct improvements on the Leasehold Estate using proceeds of the loans provided by the Lenders, and (ii) it would be unfair to both the Tenant and the Lenders to sell the Site free and clear of the Leasehold Estate. Therefore, Landlord waives its right, under section 363(f) of the Bankruptcy Code, to sell Landlord's fee interest in the Site free and clear of the Leasehold Estate.

c) If a bankruptcy proceeding is filed by or on behalf of Landlord, Landlord agrees as follows:

(i) the Tenant will be presumed to have objected to any attempt by Landlord to sell the fee interest free and clear of the Leasehold Estate;

(ii) if Tenant does not so object, each Lender will have the right to so object on its own behalf or on behalf of the Tenant; and

(iii) in connection with any such sale, the Tenant will not be deemed to have received adequate protection under section 363(e) of the Bankruptcy Code, unless it has received and paid to each Lender the outstanding balance under its respective loan.

d) Landlord recognizes that the Lenders are authorized on behalf of the Tenant to vote, participate in, or consent to any bankruptcy, insolvency, receivership, or court proceeding concerning the Leasehold Estate.

26.12 Encumbrance of Landlord's Interest. Landlord shall not voluntarily encumber Landlord's interest in the Site with a foreclosable mortgage or similar interest without the prior written consent of Tenant, Permitted Limited Partners and all Lenders.

ARTICLE 27 CONDEMNATION AND TAKINGS

27.01 Parties' Rights and Obligations to be Governed by Agreement. If, during the term of this Lease, there is any condemnation of all or any part of the Premises or any interest in the Leasehold Estate is taken by condemnation, the rights and obligations of the parties will be determined under this ARTICLE 27, subject to the rights of any Lender. Accordingly, Tenant waives any right to terminate this Lease upon the occurrence of a partial condemnation under Sections 1265.120 and 1265.130 of the California Code of Civil Procedure, as those sections may from time to time be amended, replaced, or restated

27.02 Notice. In case of the commencement of any proceedings or negotiations that might result in a condemnation of all or any portion of the Premises during the Term, the party learning of such proceedings will promptly give written notice of the proceedings or negotiations to the other party. The notice will describe with as much specificity as is reasonable, the nature and extent of such condemnation or the nature of such proceedings or negotiations and of the condemnation that might result, as the case may be.

27.03 Total Taking. If the Project is totally taken by condemnation, this Lease will terminate on the date the condemnor has the right to possession of the Site.

27.04 Partial Taking. If any portion of the Project is taken by condemnation, this Lease will remain in effect, except that Tenant may, with Lender's written consent, elect to terminate this Lease if, in Tenant's reasonable judgment, the remaining portion of the Improvements is rendered unsuitable for Tenant's continued operation of the Project. If Tenant elects to terminate this Lease, Tenant must exercise its right to terminate under this paragraph by giving notice to Landlord within thirty (30) days after Landlord notifies Tenant of the nature and the extent of the taking. Tenant's termination notice must include the date of termination, which date may not be earlier than thirty (30) days or later than six (6) months after the date of Tenant's notice; except that this Lease will terminate on the date the condemnor has the right to possession of the Project if that date falls on a date before the date of termination as designated by Tenant. If Tenant does

not terminate this Lease within the thirty (30) day notice period, this Lease will continue in full force and effect.

27.05 Effect on Rent. If any portion of the Project is taken by condemnation and this Lease remains in full force and effect, then on the date of taking the rent will be reduced by an amount that is in the same ratio to the rent as the value of the area of the portion of the Improvements taken bears to the total value of the Improvements immediately before the date of the taking.

27.06 Restoration of Improvements. If there is a partial taking of the Project and this Lease remains in full force and effect under Section 27.04, then Tenant may but is not obligated to, subject to the terms of the Leasehold Mortgage, use the proceeds of the taking to accomplish all necessary restoration to the Improvements.

27.07 Award and Distribution. Any compensation awarded, paid, or received on a total or partial condemnation of the Project or threat of condemnation of the Project will belong to and be distributed in the following order:

a) First, to pay the balance due on any outstanding Leasehold Mortgages and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals, and lease residuals, to the extent provided therein; and

b) Second, to the Tenant in an amount equal to the then fair market value of Tenant's interest in the Project, such value to be determined as it existed immediately preceding the earliest taking or threat of taking of the Site; and;

c) Third, to Landlord.

d) Notwithstanding anything to the contrary set forth in this Section, any portion of the compensation awarded that has been specifically designated by the condemning authority or in the judgment of any court to be payable to Landlord or Tenant on account of any interest in the Premises or the Improvements separate and apart from the condemned land value, the value of Landlord's reversionary interest in the Improvements, Tenant's Leasehold Estate, or the value of the Improvements on the Premises for the remaining unexpired portion of the Term, will be paid to Landlord or Tenant, as applicable, as so designated by the condemning authority or judgment.

27.08 Payment to Lenders. In the event the Improvements are subject to the lien of a Leasehold Mortgage on the date when any compensation resulting from a condemnation or threatened condemnation is to be paid to Tenant, the award will be disposed of as provided in the Leasehold Mortgages.

27.09 Temporary Condemnation. If there is a condemnation of all or any portion of the Premises for a temporary period lasting less than the remaining Term, this Lease will remain in full force and effect, there will be no abatement of Rent, and the entire award will be payable to Tenant.

27.10 Personal Property; Goodwill. Notwithstanding Section 27.07, Landlord will not be entitled to any portion of any award payable in connection with the condemnation of the Personal Property of Tenant or any of its subtenants, or any moving expenses, loss of goodwill or business loss or interruption of Tenant, severance damages with respect to any portion of the Premises and Improvements remaining under this Lease, or other damages suffered by Tenant.

ARTICLE 28 ESTOPPEL CERTIFICATE

Landlord or Tenant, as the case may be, will execute, acknowledge, and deliver to the other and/or any Lender or a Permitted Limited Partner, promptly upon request, its certificate certifying (a) that this Lease is unmodified and in full force and effect (or, if there have been modifications, that this Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which rent has been paid, (c) whether there are then existing any charges, offsets, or defenses against the enforcement by Landlord or Tenant to be performed or observed and, if so, specifying them, and (d) whether there are then existing any defaults by Tenant or Landlord in the performance or observance by Tenant or Landlord of any agreement, covenant, or condition on the part of Tenant or Landlord to be performed or observed under this Lease, and whether any notice has been given to Tenant or Landlord of any default that has not been cured and, if so, specifying the uncured default. Within ten (10) days following Tenant's request, Landlord shall deliver to Tenant an estoppel certificate in the form attached hereto as Attachment 10.

ARTICLE 29 SURRENDER AND QUITCLAIM

29.01 Surrender.

a) Upon expiration or earlier termination of this Lease, Tenant will surrender to Landlord the Project in good order, condition, and repair (except for ordinary wear and tear occurring after the last necessary maintenance made by Tenant and except for Casualty or Condemnation as described in ARTICLE 20 and ARTICLE 27). Ordinary wear and tear will not include any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Lease. The Premises must be surrendered clean, free of debris, waste, and Hazardous Substances, except any of the foregoing that existed on the Site prior to the Effective Date, and free and clear of all liens and encumbrances other than liens and encumbrances existing as of the date of this Lease and any other encumbrances created or approved in writing by Landlord. On or before the expiration or earlier termination of this Lease, Tenant at its sole cost will remove from the Premises, and repair any damage caused by removal of, Personal Property, including any signage. Improvements and Changes will remain in the Premises as Landlord property and title to the Improvements and any Changes will be conveyed to Landlord as provided in ARTICLE 13 above.

b) If the Project is not surrendered at the end of the Term or sooner termination of this Lease, and in accordance with the provisions of this ARTICLE 29, Tenant will continue to be responsible for the payment of Annual Rent until the Project is surrendered in accordance with this ARTICLE 29, and Tenant will indemnify, defend and hold harmless the

Indemnified Parties from and against any and all Claims resulting from delay by Tenant in so surrendering the Project including, without limitation, any costs of Landlord to obtain possession of the Project; any loss or liability resulting from any Claim against Landlord made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to Landlord due to lost opportunities to lease any portion of the Project or the Site to any such succeeding tenant or prospective tenant, together with, in each instance, reasonable attorneys' fees and costs.

c) No act or conduct of Landlord, including, but not limited to, the acceptance of the keys to the Project, will constitute an acceptance of the surrender of the Project by Tenant before the expiration of the Term. Only a written notice from Landlord to Tenant confirming termination of this Lease and surrender of the Project by Tenant will constitute acceptance of the surrender of the Project and accomplish a termination of this Lease.

29.02 Quitclaim. Upon the expiration or earlier termination of this Lease, the Project will automatically, and without further act or conveyance on the part of Tenant or Landlord, become the property of Landlord, free and clear of all liens and without payment therefore by Landlord, as provided in ARTICLE 13. Upon expiration or sooner termination of this Lease, Tenant must surrender the Project to Landlord and, at Landlord's request, will execute, acknowledge, and deliver to Landlord a good and sufficient quitclaim deed with respect to any interest of Tenant in the Premises.

29.03 Abandoned Property. Any items, including Personal Property, not removed by Tenant will be deemed abandoned. Landlord may retain, store, remove, and sell or otherwise dispose of abandoned Personal Property, and Tenant waives all Claims against Landlord for any damages resulting from Landlord's retention, removal, and disposition of abandoned Personal Property; provided, however, that Tenant will be liable to Landlord for all costs incurred in storing, removing, and disposing of abandoned Personal Property and repairing any damage to the Premises resulting from its removal. Tenant agrees that Landlord may elect to sell abandoned Personal Property and offset against the sales proceeds Landlord's storage, removal, and disposition costs without notice to Tenant or otherwise according to the procedures set forth in California Civil Code Section 1993, the benefits of which Tenant waives.

29.04 Survival. Tenant's obligation under this ARTICLE 29 will survive the expiration or earlier termination of this Lease.

ARTICLE 30 EQUAL OPPORTUNITY

Tenant agrees to comply with OCII's Equal Opportunity Program as described in Attachment 9 and will submit all documents required pursuant to the policies included in Attachment 9.

ARTICLE 31 OCII LABOR STANDARDS PROVISIONS

California Labor Code Section 1720 *et seq.* requires payment of prevailing wages for developments paid for in whole or in part out of public funds. Although the Parties acknowledge

that the development of the Project is a private work of improvement, Tenant further acknowledges that the Project may be subject to Labor Code requirements. Tenant agrees to pay or cause to be paid prevailing rates of wages in accordance with the requirements set forth in Attachment 9-3 and to comply with applicable provisions of the Labor Code.

ARTICLE 32

OCII MINIMUM COMPENSATION AND HEALTH CARE ACCOUNTABILITY POLICY

OCII finds that it has a significant proprietary interest in the public parcel that is being leased to the Tenant pursuant to this Lease. Tenant agrees that the Tenant and its subtenants, if any, will comply with the applicable provisions of OCII's Health Care Accountability Policy, Attachment 9-5, and Minimum Compensation Policy, Attachment 9-6, and, adopted by Agency Resolution No. 168-2001 on September 25, 2001, as these policies may be amended from time to time (jointly in this Article, the "Policies"). Notwithstanding this requirement, the Parties recognize that the residential housing component of the Improvements is not subject to the Policies, but leasing and operations of any Non-residential Space is subject to the Policies (the Parties acknowledge that no Non-residential Space is proposed).

ARTICLE 33 OCII PREFERENCE PROGRAMS

To the extent permitted by applicable Law, Tenant agrees to comply with the requirements of OCII's current housing preference programs, as amended from time to time; provided, however, that such requirements will apply only to the extent permitted by the requirements of non-OCII funding approved by OCII for the Project.

ARTICLE 34 CONFLICT OF INTEREST

No commissioner, official, or employee of OCII may have any personal or financial interest, direct or indirect, in this Lease, and any such commissioner, official, or employee may not participate in any decision relating to this Lease that affects his or her personal interests or the interests of any corporation, partnership, or association in which he or she is directly or indirectly interested.

ARTICLE 35 NO PERSONAL LIABILITY

No commissioner, official, or employee of OCII will be personally liable to Tenant or any successor in interest in the event of any default or breach by Landlord or for any amount that may become due to Tenant or its successors or on any obligations under the terms of this Lease.

ARTICLE 36 ENERGY CONSERVATION

Tenant agrees that it will use its best efforts to maximize provision of, and incorporation of, both energy conservation techniques and systems and improved waste-handling methodology in the construction of the Improvements.

ARTICLE 37 WAIVER

The waiver by Landlord or Tenant of any term, covenant, agreement or condition in this Lease will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, agreement, or condition in this Lease, and no custom or practice that may grow up between the parties in the administration of this Lease may be construed to waive or to lessen the right of Landlord or Tenant to insist upon the performance by the other in strict accordance with its terms. The subsequent acceptance of rent or any other sum by Landlord will not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant, agreement, or condition of this Lease, other than the failure of Tenant to pay the particular rent or other sum accepted, regardless of Landlord's knowledge of the preceding breach at the time of acceptance of such rent or other sum. Any waiver by Landlord of any term or provision of this Lease must be in writing.

ARTICLE 38 TENANT RECORDS

Upon reasonable notice during normal business hours, and as often as Landlord may deem necessary, Tenant will make available to Landlord and its authorized representatives for examination all records, reports, data, and information made or kept by Tenant regarding its activities or operations on the Site. Nothing contained in this Lease will entitle Landlord to inspect personal histories of residents or lists of donors or supporters. To the extent that it is permitted by Law to do so, Landlord will respect the confidentiality requirements of Tenant in regard to the lists above of the names of Residential Occupants of the Premises furnished by Tenant under to ARTICLE 7 above.

ARTICLE 39 NOTICES AND CONSENTS

All notices, demands, consents, or approvals that may be given or are required to be given by either party to the other under this Lease must be in writing and will be deemed to have been fully given when delivered in person to such representatives of the Tenant and Landlord, or when deposited in the United States mail, certified, postage prepaid, or by express delivery service with a delivery receipt and addressed

if to Tenant at: HPSY 52-54, L.P.
 c/o Jonathan Rose Companies
 551 Fifth Avenue, 23rd Floor
 New York, NY 10176
 Attn: Asset Management

With a copy to: Klein Hornig LLP
 101 Arch Street, Suite 1101
 Boston, MA 02110
 Attn: Daniel Rosen

With a copy to: HP Shipyard 52 and 54 LLC
c/o Bayview Hunters Point Multipurpose Senior Services, Inc.
1753 Carroll Avenue
San Francisco, California 94124
Attention: Executive Director
Cathy.davis@bhpmss.org

With a copy to: Carle, Mackie, Power & Ross LLP
100 B Street, Suite 400
Santa Rosa, CA 95401
Attention: Henry Loh II
hloh@cmprlaw.com

if to Landlord at: Successor Agency to the Redevelopment Agency of the City
and County of San Francisco
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attention: Executive Director

with a copy to: Mayor's Office of Housing and Community Development
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attention: Director

if to Investor
Limited Partner: Bank of America, N.A.
Banc of America CDC Special Holding Company, Inc.
Mail Code: MA5-100-04-11
100 Federal Street - 4th Floor
Boston, MA 02110
Attention: LIHTC Asset Management

With a copy to: Buchalter, a Professional Corporation
1000 Wilshire Blvd., Suite 1500
Los Angeles, CA 90017
Attention: Michael Williamson

[add lender]

or to such other address with respect to either party as that party may from time to time designate by notice to the other given under the provisions of this ARTICLE 39. Any notice given under this ARTICLE 39 will be effective on the date of delivery or the date delivery is refused as shown on the delivery receipt. Courtesy copies of notices may be delivered by email.

ARTICLE 40 HEADINGS

Any titles of the paragraphs, articles, and sections of this Lease are inserted for convenience only and will be disregarded in construing or interpreting any of its provisions. "Paragraph," "article," and "section" may be used interchangeably.

ARTICLE 41 SUCCESSORS AND ASSIGNS

This Lease will be binding upon and inure to the benefit of the successors and assigns of Landlord and Tenant and where the term "Tenant" or "Landlord" is used in this Lease, it means and includes their respective successors and assigns; provided, however, that Landlord will have no obligation under this Lease to, and no benefit of this Lease will accrue to, any unapproved successor or assign of Tenant where Landlord approval of a successor or assign is required by this Lease. If and when Landlord sells the Site to any third party, Landlord will require such third party to assume all of Landlord's obligations under this Lease arising on and after the transfer in writing for the benefit Tenant and its successors and assigns.

ARTICLE 42 TIME

Time is of the essence in the enforcement of the terms and conditions of this Lease. References to days, months and years mean calendar days, months and years unless otherwise specified.

ARTICLE 43 PARTIAL INVALIDITY

If any provisions of this Lease are determined to be illegal or unenforceable, that determination will not affect any other provision of this Lease and all the other provisions of this Lease will remain in full force and effect.

ARTICLE 44 APPLICABLE LAW; NO THIRD PARTY BENEFICIARY

This Lease is governed by and construed under the laws of the State of California. This Lease is entered into solely among, between, and for the benefit of, and may be enforced only by, the parties hereto and does not create rights in any other third party.

ARTICLE 45 ATTORNEYS' FEES

If either Landlord or Tenant fails to perform any of its obligations under this Lease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Lease, the defaulting party or the non-prevailing party in such dispute, as the case may be, will pay the prevailing party reasonable attorneys' and experts' fees and costs, and all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights under this Lease (whether or not such action is prosecuted to a judgment). For purposes of this Lease, reasonable attorneys' fees of OCII or the City's Office of the City Attorney will be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the 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 OCII or the Office of the City Attorney. The term "attorneys' fees" also includes, without limitation, all such fees incurred with respect to appeals, mediations, arbitrations, and bankruptcy proceedings, and whether or not any action is brought with respect to the matter for which the fees were incurred. The term "costs" means the costs and expenses of counsel to the parties, which may include printing, duplicating, and other expenses, air freight charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

ARTICLE 46 EXECUTION IN COUNTERPARTS

This Lease and any memorandum hereof may be executed in counterparts, each of which will be considered an original, and all of which will constitute one and the same instrument.

ARTICLE 47 BROKERS

Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the Lease contemplated herein. If any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings, or communication, the party through whom the broker or finder makes a claim will be responsible for such commission or fee and will indemnify, defend and hold harmless the other party from any and all Claims. The provisions of this Section shall survive any termination of this Lease.

ARTICLE 48 RECORDATION OF MEMORANDUM OF GROUND LEASE

This Lease may not be recorded, but a memorandum of this Lease will be recorded in the form attached hereto as Attachment 5 ("**Memorandum of Ground Lease**"). The parties will execute the memorandum in form and substance as required by a title insurance company insuring Tenant's leasehold estate or the interest of any Leasehold Mortgagee, and sufficient to give constructive notice of the Lease to subsequent purchasers and mortgagees.

ARTICLE 49 INTENTIONALLY OMITTED

ARTICLE 50 SURVIVAL

Termination or expiration of this Lease will not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Lease, the ability to collect any damages or sums due, and it will not affect any provision of this Lease that expressly states it will survive termination or expiration of this Lease.

ARTICLE 51 TRANSFER OF PARTNERSHIP INTERESTS IN TENANT

Tenant 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 Tenant, or lease or permit a sublease on all or any part of the Project, other than: (a) leases, subleases, or occupancy agreements to Residential Occupants; or (b) security interests for the benefit of lenders securing loans for the Project as approved by Landlord on terms and in amounts as approved by Landlord in its reasonable discretion, (c) transfers from Tenant to a limited partnership or limited liability company formed for the tax credit syndication of the Project, where Tenant or an affiliated nonprofit public benefit corporation is the managing general partner or manager of that entity; (d) transfers of the general partnership or manager's interest in Tenant to a nonprofit public benefit corporation or to a subsidiary or affiliate of either of the existing general partners approved in advance by Landlord; (e) transfers of any limited partnership or membership interest in Tenant to an investor under the tax credit syndication of the Project and transfers of any limited partner interest in Tenant to affiliates of the Permitted Limited Partner in accordance with the terms of the Tenant's partnership agreement; (f) any transfers by foreclosure or deed in lieu of foreclosure consistent with this Agreement; (g) the grant or exercise of an option agreement or a right of first refusal agreement between Tenant and Tenant's general partner(s) or manager or any of their respective affiliates in connection with the tax credit syndication of the Project where such agreement has been previously approved in writing by Landlord; or (h) the withdrawal of Rose HPSY 52-54 GP, LLC from the Partnership in accordance with Section 3.10(o) of the OCII Loan Agreement. Further, the Landlord shall not unreasonably delay consent to approval or replacement of a general partner by the Permitted Limited Partner due to a default by a general partner as provided in Tenant's partnership agreement. Any other transfer, assignment, encumbrance, or lease without Landlord's prior written consent will be voidable and, at Landlord's election, constitute a default under this Agreement. Landlord'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 Landlord's rights under this Lease.

ARTICLE 52 CITY PROVISIONS

Upon transfer of the Site and assignment of the rights and obligations of this Lease under Section 14.02 herein, Tenant is required to comply with the provisions set out in Attachment 7 to this Lease. At that time, any conflict between such provisions and those of this Lease shall be resolved in favor of the provisions contained in Attachment 7.

ARTICLE 53 COMPLETE AGREEMENT

There are no oral agreements between Tenant and Landlord affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, agreements, and understandings between Tenant and Landlord with respect to the lease of the Site.

ARTICLE 54 AMENDMENTS

Neither this Lease nor any terms or provisions hereof may be changed, waived, discharged, or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge, or termination is sought (including, if applicable, the Permitted Limited Partner(s) and/or the Lender). No waiver of any breach will affect or alter this Lease, but each and every term, covenant, and condition of this Lease will continue in full force and effect with respect to any other then-existing or subsequent breach thereof. Any amendments or modifications to this Lease, including, without limitation, amendments to or modifications to the attachments to this Lease, will be subject to the mutual written agreement of Landlord and Tenant, and Landlord's agreement may be made upon the sole approval of OCII's Executive Director, or his or her designee; provided, however, material amendments, or modifications to this Lease (a) changing the legal description of the Site, (b) increasing the Term beyond than provided in ARTICLE 2, (c) increasing the Rent, (d) changing the general use of the Project from the use authorized under this Lease, and (e) any other amendment or modification which materially increases Landlord's liabilities or financial obligations under this Lease will additionally require the approval of the Commission on Community Investment and Infrastructure.

ARTICLE 55 ATTACHMENTS

The following are attached to this Lease and by this reference made a part hereof:

1. Legal Description of Site
2. Schedule of Performance
3. Consent to Leasehold Mortgage
4. Operational Rules for San Francisco Housing Lotteries and Rental Lease-Up Activities
5. Form of Memorandum of Ground Lease
6. Form of Income Certification Form
7. City Contract Provisions Applicable Upon Assignment
8. Insurance Requirements
9. Contract Compliance Policies

- 9-1. Small Business Enterprise Agreement
- 9-2. Bayview Hunters Point Employment and Contracting Policy
- 9-3. Construction Workforce Agreement
- 9-4. Prevailing Wage Policy
- 9-5. Nondiscrimination in Contracts and Benefits
- 9-6. Health Care Accountability Policy Declaration
- 9-7. Minimum Compensation Policy Declaration
- 10. Landlord Estoppel Certificate

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS LEASE, TENANT ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF OCII HAS AUTHORITY TO COMMIT OCII TO THIS LEASE UNLESS AND UNTIL THE COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE HAS DULY ADOPTED A RESOLUTION APPROVING THIS LEASE AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF OCII UNDER THIS LEASE ARE CONTINGENT UPON ADOPTION OF SUCH A RESOLUTION, AND THIS LEASE WILL BE NULL AND VOID IF THE COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE DOES NOT APPROVE THIS LEASE IN ITS SOLE DISCRETION. APPROVAL OF THIS LEASE BY ANY DEPARTMENT, COMMISSION, OR AGENCY OF CITY WILL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ENACTED, AND NO SUCH APPROVAL WILL CREATE ANY BINDING OBLIGATIONS ON OCII.

IN WITNESS WHEREOF, the Tenant and Landlord have executed this Lease as of the day and year first above written.

TENANT:

HPSY 52-54, LP,

a California limited partnership

By: Rose HPSY 52-54 GP, LLC,
a Delaware limited liability company,
its administrative general partner

By: Rose GP Investors, LLC,
a Delaware limited liability company,
its managing member

By: Rose Company Holdings, LLC,
a Delaware limited liability company,
its managing member

By: _____
Yusef Freeman
Authorized Signatory

By: HP Shipyard 52 and 54 LLC,
a California limited liability company,
its managing general partner

By: Bayview Hunters Point Multipurpose Senior Services, Inc.,
a California nonprofit public benefit corporation,
its manager

By: _____
Cathy Davis
Executive Director

[Signatures continue on following page]

LANDLORD:

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: _____
Thurston Kaslofsky
Executive Director

APPROVED AS TO FORM:
James B. Morales
OCII General Counsel

By: _____
Aaron J. Foxworthy
Deputy General Counsel

ATTACHMENT 1

LEGAL DESCRIPTION OF THE SITE

The Site referred to being situate in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Parcel One

LOT 1 AS SHOWN ON THE FINAL MAP ENTITLED "FINAL MAP NO. 10058 HUNTERS POINT SHIPYARD, BLOCK 52" RECORDED IN THE OFFICE OF SAN FRANCISCO COUNTY RECORDER ON MARCH 11, 2020, IN BOOK 1 OF MAPS, AT PAGES 8 TO 10 OF SAID COUNTY.

Assessor's Block 4591C Lot 673

And including all rights, obligations and interests created by that certain Shoring, Underpinning and Tieback Easement Agreement entered into as of [•] [•], 2023 by and between HPS1 Block 52, LLC, a Delaware limited liability company and the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public entity organized and existing under the laws of the State of California, recorded in the Office of San Francisco County Recorder on _____, 2023 as Document No. _____.

Parcel Two

BEING ALL OF LOTS 33, 34, 40, AND 41, AS SAID LOTS ARE SHOWN AND SO DESIGNATED ON FINAL MAP NO. 4231, RECORDED AUGUST 12, 2009, IN BOOK CC OF SURVEY MAPS, AT PAGE 165, IN THE OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO, AS AMENDED BY THAT CERTAIN CERTIFICATE OF CORRECTION, RECORDED DECEMBER 23, 2011, AS INSTRUMENT NO. 2011-J324068-00, OF OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERN CORNER OF SAID LOT 33;

THENCE, FROM SAID POINT OF BEGINNING, ALONG THE BOUNDARY LINES OF SAID LOTS, THE FOLLOWING FOUR (4) COURSES:

- 1) SOUTH 53°16'32" EAST 90.47 FEET,
- 2) SOUTH 36° 43'28" WEST 218.00 FEET,

3) NORTH 53°16'32" WEST 90.47 FEET, AND

4) NORTH 36°43'28" EAST 218.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 19,722 SQUARE FEET OF LAND, MORE OR LESS.

Assessor's Block 4591C Lot 212

ATTACHMENT 2

SCHEDULE OF PERFORMANCE

No.	Performance Milestone	Estimated or Actual Date	Contractual Deadline
A.	Prop I Noticing (if applicable)	<u>N/A</u>	
1	Acquisition/Predev Financing Commitment	<u>COMPLETE</u>	
2.	Site Acquisition	<u>N/A</u>	
3.	Development Team Selection		
a.	Architect	<u>COMPLETE</u>	
b.	General Contractor	<u>COMPLETE</u>	<u>COMPLETE</u>
c.	Owner's Representative	<u>COMPLETE</u>	<u>COMPLETE</u>
d.	Property Manager	<u>COMPLETE</u>	
e.	Service Provider	<u>COMPLETE</u>	
4.	Design		
a.	Submittal of Schematic Design & Cost Estimate	<u>COMPLETE</u>	<u>COMPLETE</u>
b.	Submittal of Design Development & Cost Estimate	<u>COMPLETE</u>	<u>COMPLETE</u>
c.	Submittal of 50% CD Set & Cost Estimate	<u>COMPLETE</u>	<u>COMPLETE</u>
d.	Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs)	<u>COMPLETE</u>	<u>COMPLETE</u>
5.	Environ Review/Land-Use Entitlements	<u>COMPLETE</u>	<u>COMPLETE?</u>

No.	Performance Milestone	Estimated or Actual Date	Contractual Deadline
a.	CEQA Environ Review Submission	<u>COMPLETE</u>	<u>COMPLETE</u>
b.	NEPA Environ Review Submission	<u>N/A</u>	
c.	CUP/PUD/Variances Submission	<u>COMPLETE</u>	<u>COMPLETE</u>
6.	Permits		
a.	Building / Site Permit Application Submitted	<u>COMPLETE</u>	<u>COMPLETE</u>
b.	Addendum #1 Submitted	<u>COMPLETE</u>	<u>COMPLETE</u>
c.	Addendum #2 Submitted	<u>COMPLETE</u>	<u>COMPLETE</u>
7.	Request for Bids Issued	<u>12/8/2022</u>	<u>9/9/2023</u>
8.	Service Plan Submission		
a.	Preliminary	<u>COMPLETE</u>	
b.	Interim	<u>COMPLETE</u>	<u>COMPLETE</u>
c.	Update	<u>7/1/2023</u>	<u>12/10/2023</u>
9.	Additional City Financing		
a.	Predevelopment Financing Application #2		
b.	Gap Financing Application	<u>COMPLETE</u>	<u>COMPLETE</u>
10.	Other Financing		
a.	MHP Application	<u>n/a</u>	
b.	Construction Financing RFP	<u>11/1/2022</u>	<u>11/30/2022</u>

No.	Performance Milestone	Estimated or Actual Date	Contractual Deadline
c.	AHP Application	<u>N/A</u>	<u>N/A2023</u>
d.	CDLAC Application	<u>Application:</u> <u>7/7/2022</u> <u>Award:</u> <u>10/19/2022</u>	<u>Application:</u> <u>03/15/2023</u> <u>Award:</u> <u>06/15/2023</u>
12 e.	TCAC Application	<u>Application:</u> <u>8/9/2022</u> <u>Award:</u> <u>11/30/2022</u>	<u>Application:</u> <u>03/15/2023</u> <u>Award:</u> <u>6/15/2023</u>
f.	State Credit Application	<u>n/a</u>	
g.	HUD 202 or 811 Application	<u>n/a</u>	
h.	Other Financing Application (IIG)	<u>COMPLETE</u>	<u>TBD</u>
11.	Closing		
a.	Construction Closing	<u>5/1/2023</u>	<u>5/29/2023</u>
b.	Permanent Financing Closing	<u>5/1/2026</u>	<u>12/31/2026</u>
12.	Construction		
a.	Notice to Proceed	<u>5/1/2023</u>	<u>5/29/2023</u>
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>3/7/2025</u>	<u>[180 DAYS + NIBBI TCO DATE]</u>

No.	Performance Milestone	Estimated or Actual Date	Contractual Deadline
13.	Marketing/Rent-up		
a.	Early Outreach Plan	<u>6/1/2023</u>	<u>One month after start of construction</u>
b.	Initial draft Marketing Plan Submission	<u>3/7/2024</u>	<u>Within 12 months of anticipated TCO</u>
c.	Commence Marketing	<u>6/1/2024</u>	
c.	COP Outreach Obligation	<u>05/01/2024</u>	At least three months prior to construction completion and prior to the initiation of any tenant selection process.
d.	95% Occupancy	<u>12/30/2025</u>	
14.	Cost Certification/8609	<u>10/1/2025</u>	
15.	Close Out MOH/OCII Loan(s)	<u>11/1/2025</u>	

ATTACHMENT 3

CONSENT TO LEASEHOLD MORTGAGE

Date:

Office of Community Investment and Infrastructure
Successor to the San Francisco Redevelopment Agency
Attn: Executive Director
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

RE: _____, San Francisco (LEASEHOLD MORTGAGE)

To Whom It May Concern:

Under Section 25.01 of the _____ Ground Lease, dated _____, 20____, between the Office of Community Investment and Infrastructure ("OCII") and _____, a California _____, we are formally requesting the OCII's consent to our placing a leasehold mortgage upon the leasehold estate of the above referenced development. The following information is provided in order for OCII to provide its consent:

Lender:

Principal Amount:

Interest:

Term:

Attached hereto are unexecuted draft loan documents, including the loan agreement, promissory note, and all associated security agreements which we understand are subject to the review and approval by OCII. Furthermore, we are willing to supply any additional documentation related to the leasehold mortgage which OCII deems necessary.

Sincerely,

Rose HPSY 52-54 GP, LLC, a Delaware limited liability company, its sole general partner

By: Rose GP Investors, LLC, a Delaware limited liability company, its managing member

By: Rose Companies Holdings, LLC, a Delaware limited liability company, its managing member

By: _____

Name: Yusef Freeman

Title: Managing Director

enc.

By signing this letter, the OCII consents to the leasehold mortgage, under the terms and conditions of Section 25.01 of the _____ Ground Lease, dated _____, 2023.

Office of Community Investment and Infrastructure

Thurston Kaslofsky
Executive Director

ATTACHMENT 4

OPERATIONAL RULES FOR SAN FRANCISCO HOUSING LOTTERIES AND RENTAL LEASE-UP ACTIVITIES

The Operational Rules for San Francisco Housing Lotteries and Rental Lease Up Activities may be found in the current version of the Housing Preferences and Lottery Procedures Manual which is incorporated herein by this reference and may be downloaded from the Mayor's Office of Housing and Community Development website at the following link:

[https://sfmohcd.org/sites/default/files/Documents/MOH/Lottery Preferences/Lottery Preferences Manual.pdf](https://sfmohcd.org/sites/default/files/Documents/MOH/Lottery%20Preferences/Lottery%20Preferences%20Manual.pdf)

ATTACHMENT 5

FORM OF MEMORANDUM OF GROUND LEASE

FREE RECORDING PURSUANT TO
GOVERNMENT CODE §§27383 & 27388.1 AT THE
REQUEST OF THE SUCCESSOR AGENCY TO
THE REDEVELOPMENT AGENCY OF THE
CITY AND COUNTY OF SAN FRANCISCO

WHEN RECORDED RETURN TO:

The Successor Agency to the Redevelopment
Agency of the City and County of San
Francisco, One South Van Ness Avenue,
5th Floor, San Francisco, California 94103
Attn: Jane Suskin

Assessor's Block 4591C, Lot 271 11 Innes Ct

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MEMORANDUM OF GROUND LEASE

This Memorandum of Ground Lease ("Memorandum") is entered into as of _____, 2023, 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 ("Landlord"), and HPSY 52-54, L.P., a California limited partnership ("Tenant"), with respect to that certain Ground Lease (the "Lease") dated for reference purposes as _____, 2023, between Landlord and Tenant.

Under the Lease, Landlord hereby leases to Tenant and Tenant leases from Landlord the real property more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the "Property"). The Lease will become effective on the date of recordation of this Memorandum and will end on the date that is 75 years from said date, subject to a 24-year option to extend, unless terminated earlier or extended pursuant to the terms of the Lease.

It is the intent of the parties to the Lease that the Lease creates a constructive notice of severance of the Improvements from the Property (as defined in the Lease), without the necessity of a deed from Lessor to Lessee, which Improvements together with the Leasehold Interest in the Property created by the Lease are and will remain real property.

This Memorandum incorporates herein all of the terms and provisions of the Lease as though fully set forth herein.

This Memorandum is solely for recording purposes and will not be construed to alter, modify, amend, or supplement the Lease, of which this is a memorandum.

This Memorandum may be signed by the parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts will be deemed an original of this Memorandum.

Executed as of _____, 2023 in San Francisco, California.

TENANT:

HPSY 52-54, LP,

a California limited partnership

By: Rose HPSY 52-54 GP, LLC,
a Delaware limited liability company,
its administrative general partner

By: Rose GP Investors, LLC,
a Delaware limited liability company,
its managing member

By: Rose Company Holdings, LLC,
a Delaware limited liability company,
its managing member

By: _____

Name: Yusef Freeman

Title: Authorized Signatory

By: HP Shipyard 52 and 54 LLC,
a California limited liability company,
its managing general partner

By: Bayview Hunters Point Multipurpose Senior Services, Inc.,
a California nonprofit public benefit corporation,
its manager

By: _____

Name: Cathy Davis

Title: Executive Director

[Signatures continue on following page]

LANDLORD:
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: _____
Thurston Kaslofsky
Executive Director

APPROVED AS TO FORM:
James B. Morales
General Counsel

By: _____
Heidi Gewertz
Deputy City Attorney

Exhibit A

Legal Description

The Property referred to is situated in the County of San Francisco, City of San Francisco, State of California, and is described as follows:

Parcel One

LOT 1 AS SHOWN ON THE FINAL MAP ENTITLED "FINAL MAP NO. 10058 HUNTERS POINT SHIPYARD, BLOCK 52" RECORDED IN THE OFFICE OF SAN FRANCISCO COUNTY RECORDER ON MARCH 11, 2020, IN BOOK 1 OF MAPS, AT PAGES 8 TO 10 OF SAID COUNTY.

Assessor's Block 4591C Lot 673

And including all rights, obligations and interests created by that certain Shoring, Underpinning and Tieback Easement Agreement entered into as of [•] [•], 2023 by and between HPS1 Block 52, LLC, a Delaware limited liability company and the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public entity organized and existing under the laws of the State of California, recorded in the Office of San Francisco County Recorder on _____, 2023 as Document No. _____.

Parcel Two

BEING ALL OF LOTS 33, 34, 40, AND 41, AS SAID LOTS ARE SHOWN AND SO DESIGNATED ON FINAL MAP NO. 4231, RECORDED AUGUST 12, 2009, IN BOOK CC OF SURVEY MAPS, AT PAGE 165, IN THE OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO, AS AMENDED BY THAT CERTAIN CERTIFICATE OF CORRECTION, RECORDED DECEMBER 23, 2011, AS INSTRUMENT NO. 2011-J324068-00, OF OFFICIAL RECORDS, IN SAID OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHERN CORNER OF SAID LOT 33;

THENCE, FROM SAID POINT OF BEGINNING, ALONG THE BOUNDARY LINES OF SAID LOTS, THE FOLLOWING FOUR (4) COURSES:

- 1) SOUTH 53°16'32" EAST 90.47 FEET,

- 2) SOUTH 36° 43'28" WEST 218.00 FEET,
- 3) NORTH 53°16'32" WEST 90.47 FEET, AND
- 4) NORTH 36°43'28" EAST 218.00 FEET TO SAID POINT OF BEGINNING.

CONTAINING 19,722 SQUARE FEET OF LAND, MORE OR LESS.

Assessor's Block 4591C Lot 212

ATTACHMENT 6

FORM OF TENANT INCOME CERTIFICATION

TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ Recertification ☐ Other _____

Effective Date: _____
Move-In Date: _____
(MM-DD-YYYY)

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ TCAC#: _____ BIN#: _____
Address: _____ If applicable, CDLAC#: _____
Unit Number: _____ # Bedrooms: _____ Square Footage: _____

PART II. HOUSEHOLD COMPOSITION

☐ Vacant (Check if unit was vacant on December 31 of the Effective Date Year)

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	Student Status (Check One)	Last 4 digits of Social Security #
1				HEAD		FT ☐ /PT ☐ /NA ☐	
2						FT ☐ /PT ☐ /NA ☐	
3						FT ☐ /PT ☐ /NA ☐	
4						FT ☐ /PT ☐ /NA ☐	
5						FT ☐ /PT ☐ /NA ☐	
6						FT ☐ /PT ☐ /NA ☐	
7						FT ☐ /PT ☐ /NA ☐	

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$	\$	\$	\$

Add totals from (A) through (D), above

TOTAL INCOME (E):

\$

PART IV. INCOME FROM ASSETS

HH Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset

TOTALS: \$

\$

Enter Column (H) Total

Passbook Rate

If over \$5000

\$ _____ X 0.06%

= (J) Imputed Income

\$

Enter the greater of the total of column I, or J: imputed income

TOTAL INCOME FROM ASSETS (K)

\$

(L) Total Annual Household Income from all Sources [Add (E) + (K)]

\$

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature

(Date)

Signature

(Date)

Signature

(Date)

Signature

(Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY**RECERTIFICATION ONLY:**

TOTAL ANNUAL HOUSEHOLD
INCOME FROM ALL SOURCES:
From item (L) on page 1

\$

Unit Meets Federal
Income Restriction at:
☐ 60% ☐ 50%

Current Federal LIHTC
Income Limit x 140%:

\$

Current Federal LIHTC Income Limit per
Family Size (Federal Income Restriction at
60%, 50% or A.I.T. (20% - 80%)):

\$

Or Federal A.I.T. at:
☐ 80% ☐ 70% ☐ 60% ☐ 50%
☐ 40% ☐ 30% ☐ 20%

Household Income exceeds
140% at recertification:
☐ Yes ☐ No

If Applicable, Current Federal Bond
Income Limit per Family Size:

\$

Unit Meets State Deeper
Targeting Income Restriction
at:

Household Size at Move-in:

Household Income as of Move-in:

\$

☐ Other _____%

PART VI. RENT

Tenant Paid Monthly Rent:

\$

Federal Rent Assistance:

\$

*Source: _____

Monthly Utility Allowance:

\$

Non-Federal Rent Assistance:

\$

(*0-8)

Other Monthly Non-optional charges:

\$

Total Monthly Rent Assistance: \$

GROSS MONTHLY RENT FOR UNIT:
(Tenant paid rent plus Utility Allowance &
other non-optional charges)

\$

*Source of Federal Assistance

1 **HUD Multi-Family Project Based Rental Assistance (PBRA)

2 Section 8 Moderate Rehabilitation

3 Public Housing Operating Subsidy

4 HOME Rental Assistance

5 HUD Housing Choice Voucher (HCV), tenant-based

6 HUD Project-Based Voucher (PBV)

7 USDA Section 521 Rental Assistance Program

8 Other Federal Rental Assistance

0 Missing

Maximum Federal LIHTC Rent Limit for
this unit:

\$

If Applicable, Maximum Federal & State
LIHTC Bond Rent Limit for this unit:

\$

Unit Meets Federal Rent Restriction at:

☐ 60% ☐ 50%

Or Federal A.I.T. at:

☐ 80% ☐ 70% ☐ 60%
☐ 50% ☐ 40% ☐ 30%
☐ 20%

** (PBRA) Includes: Section 8 New Construction/Substantial Rehabilitation;
Section 8 Loan Management; Section 8 Property Disposition; Section 202
Project Rental Assistance Contracts (PRAC)

If Applicable, Unit Meets Bond Rent
Restriction at:

☐ 60% ☐ 50%

Unit Meets State Deeper
Targeting Rent Restriction at:

☐ Other: _____%

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ Yes ☐ No

If yes, Enter student explanation*
(also attach documentation)

Enter
1-5

*Student Explanation:

1 AFDC / TANF Assistance

2 Job Training Program

3 Single Parent/Dependent Child

4 Married/Joint Return

5 Former Foster Care

PART VIII. PROGRAM TYPE

Identify the program(s) for which this household's unit will be counted toward the property's occupancy requirements.

Select one of the following.

- ☐ 9% Allocated Federal Housing Tax Credit
☐ 4% Allocated Federal Housing Tax Credit
☐ Tax-Exempt Bond Only (No tax credits)

Select all that apply.

- ☐ HOME (including TCAP)
☐ CDBG
☐ Other HUD, including 202, 811, and 236
☐ National Housing Trust Fund
☐ USDA Rural Housing Service, including 514, 515, and 538
☐ Other state or local housing programs

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

PART IX. SUPPLEMENTAL INFORMATION FORM

The California Tax Credit Allocation Committee (CTCAC) requests the following information in order to comply with the Housing and Economic Recovery Act (HERA) of 2008, which requires all Low Income Housing Tax Credit (LIHTC) properties to collect and submit to the U.S. Department of Housing and Urban Development (HUD), certain demographic and economic information on tenants residing in LIHTC financed properties. Although the CTCAC would appreciate receiving this information, you may choose not to furnish it. You will not be discriminated against on the basis of this information, or on whether or not you choose to furnish it. If you do not wish to furnish this information, please check the box at the bottom of the page and initial.

Enter both Ethnicity and Race codes for each household member (see below for codes).

TENANT DEMOGRAPHIC PROFILE						
HH Mbr #	Last Name	First Name	Middle Initial	Race	Ethnicity	Disabled
1						
2						
3						
4						
5						
6						
7						

The Following Race Codes should be used:

- 1** – White – A person having origins in any of the original people of Europe, the Middle East or North Africa.
- 2** – Black/African American – A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” apply to this category.
- 3** – American Indian/Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- 4** – Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent:
 - 4a – Asian India 4e – Korean
 - 4b – Chinese 4f – Vietnamese
 - 4c – Filipino 4g – Other Asian
 - 4d – Japanese
- 5** – Native Hawaiian/Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands:
 - 5a – Native Hawaiian 5c – Samoan
 - 5b – Guamanian or Chamorro 5d – Other Pacific Islander

6 – Other

7 – Did not respond. **(Please initial below)**

Note: Multiple racial categories may be indicated as such: 31 – American Indian/Alaska Native & White, 41 – Asian & White, etc.

The Following Ethnicity Codes should be used:

- 1** – Hispanic – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Terms such as “Latino” or “Spanish Origin” apply to this category.
- 2** – Not Hispanic – A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- 3** – Did not respond. **(Please initial below)**

Disability Status:

1 – Yes

If any member of the household is disabled according to Fair Housing Act definition for handicap (disability):

- A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment or being regarded as having such an impairment. For a definition of “physical or mental impairment” and other terms used, please see 24 CFR 100.201, available at <http://fairhousing.com/legal-research/hud-regulations/24-cfr-100201-definitions>.
- “Handicap” does not include current, illegal use of or addiction to a controlled substance.
- An individual shall not be considered to have a handicap solely because that individual is a transgender.

2 – No

3 – Did not respond **(Please initial below)**

☐ **Resident/Applicant:** I do not wish to furnish information regarding ethnicity, race and other household composition.

(Initials) _____
 (HH#) 1. 2. 3. 4. 5. 6. 7.

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Enter the type of tenant certification: Initial Certification (move-in), Recertification (annual recertification), or Other. If other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual income recertification's, this effective date should be no later than one year from the effective date of the previous (re)certification.
Move-In Date	Enter the most recent date the household tax credit qualified. This could be the move-in date or in an acquisition rehab property, this is not the date the tenant moved into the unit, it is the most recent date the management company income qualified the unit for tax credit purposes.
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
TCAC#	Enter the project number assigned to the property by TCAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: CA-2010-123
BIN #	Enter the building number assigned to the building (from IRS Form 8609).
Address	Enter the physical address of the building, including street number and name, city, state, and zip code.
If applicable, CDLAC#	If project is awarded 4% bonds please enter the project number assigned to the property by CDLAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: 16-436
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.
Square Footage	Enter the square footage for the entire unit.
Vacant Unit	Check if unit was vacant on December 31 of requesting year. For example, for the collection of 2011 data, this would refer to December 31, 2011.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following definitions:

H	Head of Household	S	Spouse	U	Unborn Child/Anticipated
A	Adult Co-Tenant	O	Other Family Member		Adoption or Foster
C	Child	F	Foster child(ren)/adult(s)		
L	Live-in Caretaker	N	None of the above		

Date of Birth	Enter each household member's date of birth.
Student Status	Check FT for Full-time student, PT for Part-time student, or N/A if household member is not a student and question does not apply.
Last Four Digits of Social Security Number	For each tenant 15 years of age or older, enter the last four digits of the social security number or the last four digits of the alien registration number. If the last four digits of SSN or alien registration is missing, enter 0000. For tenants under age 15, social security number not required, although please enter 0000.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List **each** respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. If individual household member income is provided, list the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 0.06% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)	
Row (L)	Total Annual Household Income From all Sources	Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Federal LIHTC Income Limit per Unit Meets Federal Income Restriction at 60%, 50% or A.I.T (20% - 80%)	Enter the Current Move-in Income Limit for the household size – specifically, the max income limit for the federal 60%, 50% or A.I.T (20% - 80%) set aside.
Current Bond Income Limit per Family Size	Enter the Current most restrictive Move-in Income Limit for the household size – specifically, the max income limit incorporating both federal and in some instances more restrictive state standards as reflected in the 50% or 60% set aside detailed in the Bond Regulatory Agreement.

Household Income at Move-in	For recertifications only. Enter the household income from the move-in certification.
Household Size at Move-in	Enter the number of household members from the move-in certification.
Current Federal LIHTC Income Limit x 140%	For recertifications only. Multiply the current LIHTC Maximum Move-in Income Limit by 140% and enter the total. 140% is based on the Federal Set-Aside of 20/50 or 40/60, or A.I.T. (20% - 60% = 140% X 60%, 70% = 140% X 70% and 80% = 140% X 80%) as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the LIHTC Income Limit per Family Size at Move-in date (above), then the available unit rule must be followed.
Unit Meets Federal Income Restriction at or Federal A.I.T. at	Check the appropriate box for the income restriction that the household meets according to what is required by the federal set-aside(s) for the project.
Unit Meets State Deeper Targeting Income Restriction at	If your agency requires an income restriction lower than the federal limit, enter the percent required.

Part VI - Rent

Tenant Paid Monthly Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Federal Rent Assistance	Enter the amount of rent assistance received from a federal program, if any.
Non-Federal Rent Assistance	Enter the amount of non-federal rent assistance received, if any.
Total Monthly Rent Assistance	Enter the amount of total rent assistance received, if any.
Source of Federal Rent Assistance	If federal rent assistance is received, indicate the single program source.
Monthly Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other Monthly Non-Optional Charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Monthly Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges. The total may NOT include amounts other than Tenant Paid Rent, Utility Allowances and other non-optional charges. In accordance with the definition of Gross Rent in IRC §42(g)(2)(B), it may not include any rent assistance amount.
Maximum LIHTC Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent limit for the federal 50%, 60% or A.I.T. (20% - 80%) set aside. This does not include state deeper targeting levels.
Maximum LIHTC Bond Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent incorporating both federal and in some instances more restrictive state standards as reflected in the 50% or 60% set aside detailed in the Bond Regulatory Agreement.
Unit Meets Federal Rent Restriction at or Federal A.I.T. at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal set-aside(s) for the project.
Unit Meets Bond Rent Restriction at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal and state law for the project.
Unit Meets State Deeper Targeting Rent Restriction at	If your agency requires a rent restriction lower than the federal limit, enter the percent required.

Part VII - Student Status

If all household members are full time* students, check “yes”. Full-time status is determined by the school the student attends. If at least one household member is not a full-time student, check “no.”

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

Part VIII – Program Type

Select the program(s) for which this household's unit will be counted toward the property's occupancy requirements. One response from the first column must be selected.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

PART IX. SUPPLEMENTAL INFORMATION

Complete this portion of the form at move-in and at recertification's (only if household composition has changed from the previous year's certification).

Tenant Demographic Profile

Complete for each member of the household, including minors. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status.

Resident/Applicant Initials

All tenants who wish not to furnish supplemental information should initial this section. Parent/Guardian may complete and initial for minor child(ren).

ATTACHMENT 7

CITY CONTRACT PROVISIONS APPLICABLE UPON ASSIGNMENT

In accordance with Article 52 of the Lease, upon transfer of the Site and assignment of the rights and obligations of this Lease to the City in accordance with Section 14.02 therein, the following provisions shall be applicable to Tenant and in that event, any conflict between these provisions and those of the Lease shall be resolved in favor of the provisions set out below.

1. Non-Discrimination.

- a. Covenant Not to Discriminate. In the performance of this Lease, Tenant covenants and 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, disability, weight, height, 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 Tenant, in any of Tenant'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 Tenant.
- b. Subleases and Other Subcontracts. Tenant must include in all subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to the subtenant or other subcontractor in substantially the form of Section 50.01(a) above. In addition, Tenant must incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)–(k), and 12C.3 of the San Francisco Administrative Code and must require all subtenants and other subcontractors to comply with those provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Lease.
- c. Non-Discrimination in Benefits. Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or with respect to its operations under this Lease 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 (collectively "Core Benefits"), as well as any benefits other than Core Benefits, 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 entity under state or local Law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.
- d. Condition to Lease. As a condition to this Lease, Tenant must execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Commission.

- e. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by Parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Tenant must comply fully with and be bound by all of the provisions that apply to this Lease under those Chapters of the Administrative Code, including, but not limited to, the remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that under Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.
2. MacBride Principles—Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Tenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.
3. Conflicts of Interest. Tenant states that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, certifies that it knows of no facts that would constitute a violation of those provisions and agrees that if Tenant becomes aware of any such fact during the term of this Lease Tenant will immediately notify the City. Tenant further certifies that it has made a complete disclosure to the City of all facts bearing on any possible interests, direct or indirect, that Tenant believes any officer or employee of the City presently has or will have in this Lease or in the performance thereof or in any portion of the profits thereof. Willful failure by Tenant to make such disclosure, if any, will constitute grounds for City's termination and cancellation of this Lease.
4. Charter Provisions. This Lease is governed by and subject to the provisions of the Charter of the City and County of San Francisco. Accordingly, Tenant acknowledges and agrees that no officer or employee of the City has authority to commit the City to this Lease unless and until a resolution of the City's Board of Supervisors has been duly enacted approving this Lease. Therefore, any obligations or liabilities of Landlord under this Lease are contingent upon enactment of a resolution, and this Lease will be null and void unless the City's Mayor and the Board of Supervisors approve this Lease, in their respective sole and absolute discretion, and in accordance with all applicable Laws. Approval of this Lease by any City department, commission, or agency may not be deemed to imply that a resolution will be enacted or create any binding obligations on the City.
5. Tropical Hardwood/Virgin Redwood Ban. Under Section 804(b) of the San Francisco Environment Code, the City and County of San Francisco urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood

product, virgin redwood, or virgin redwood wood product. Except as permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Tenant will not use any items in the rehabilitation, development, or operation of the Premises or otherwise in the performance of this Lease that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

6. Tobacco Product Advertising Ban. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products will be allowed on the Premises. The foregoing prohibition includes the placement of the name of a company producing, selling, or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product, or on any sign. The foregoing prohibition will not apply to any advertisement sponsored by a state, local, or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.
7. Pesticide Ordinance. Tenant must comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the “Pesticide Ordinance”), which (a) prohibit the use of certain pesticides on City property, (b) require the posting of certain notices and the maintenance of certain records regarding pesticide usage, and (c) require Tenant to submit to the City’s Department of the Environment an integrated pest management (“IPM”) plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the Term of this Lease, (ii) describes the steps Tenant will take to meet the City’s IPM Policy described in Section 39.1 of the Pesticide Ordinance, and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Tenant’s primary IPM contact person with City. In addition, Tenant must comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing in this Lease will prevent Tenant, acting through the City, from seeking a determination from the City’s Commission on the Environment that Tenant is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 307 thereof.
8. Compliance with City’s Sunshine Ordinance. Tenant understands and agrees that under the City’s Sunshine Ordinance (S.F. Admin. Code, Chapter 67) and the State Public Records Law (Cal. Gov. Code §§ 6250 et seq.), this Lease and any and all records, information and materials submitted to the City hereunder are public records subject to public disclosure. Tenant hereby authorizes the City to disclose any records, information, and materials submitted to the City in connection with this Lease as required by Law. Further, Tenant specifically agrees to conduct any meeting of its governing board that addresses any matter relating to the Project or to Tenant’s performance under this Lease as a passive meeting.
9. Notification of Limitations on Contributions. Through its execution of this Lease, Tenant 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 City for the selling or leasing any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for such contract until the termination of negotiations for

such contract or three (3) months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves.

10. Requiring Health Benefits for Covered Employees. Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (the "HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated in this Lease by reference and made a part of this Lease as though fully set forth. The text of the HCAO is available on the web at www.sfgov.org/oca/lwlh.htm. Capitalized terms used in this Section and not defined in this Lease have the meanings assigned to them in Chapter 12Q. Notwithstanding this requirement, City recognizes that the residential housing component of the Improvements is not subject to the HCAO.
- a. For each Covered Employee, Tenant must provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, the health plan must meet the minimum standards set forth by the San Francisco Health Commission.
 - b. If Tenant is a small business as defined in Section 12Q.3(d) of the HCAO, Tenant will have no obligation to comply with Section 50.10(a) above.
 - c. Tenant's failure to comply with the HCAO will constitute a material breach of this Lease. If Tenant fails to cure its breach within thirty (30) days after receiving the City's written notice of a breach of this Lease for violating the HCAO or, if the breach cannot reasonably be cured within the 30-day period and Tenant fails to commence efforts to cure within the 30-day period, or thereafter fails diligently to pursue the cure to completion, then the City will have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies will be exercisable individually or in combination with any other rights or remedies available to the City.
 - d. Any sublease entered into by Tenant for commercial space in the Project must require the subtenant to comply with the requirements of the HCAO and must contain contractual obligations substantially the same as those set forth in this Section. Tenant must notify the City's Purchasing Department when Tenant enters into a sublease and must certify to the Purchasing Department that Tenant has notified the subtenant of the obligations under the HCAO and has imposed the requirements of the HCAO on subtenant through the sublease. Tenant will be responsible for its subtenants' compliance with this Chapter. If a subtenant fails to comply, the City may pursue the remedies set forth in this Section against Tenant based on the subtenant's failure to comply, provided that City has first provided Tenant with notice and an opportunity to obtain a cure of the violation.
 - e. Tenant may not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying the City with regard to Tenant's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

- f. Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.
 - g. Tenant must keep itself informed of the current requirements of the HCAO.
 - h. Tenant must provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on subtenants, as applicable.
 - i. Tenant must provide City with access to records pertaining to compliance with HCAO after receiving a written request from the City to do so and being provided at least five (5) business days to respond.
 - j. The City may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant agrees to cooperate with the City when it conducts audits.
 - k. If Tenant is exempt from the HCAO when this Lease is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with the City to reach \$75,000, all the agreements will be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and MOHCD to be equal to or greater than \$75,000 in the fiscal year.
11. Public Access to Meetings and Records. If Tenant receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Tenant must comply with and will be bound by all the applicable provisions of that Chapter. By executing this Lease, Tenant agrees to open its meetings and records to the public in the manner set forth in Sections 12L.4 and 12L.5 of the Administrative Code. Tenant further agrees to make good-faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 12L.6 of the Administrative Code. Tenant acknowledges that its material failure to comply with any of the provisions of this paragraph will constitute a material breach of this Lease. Tenant further acknowledges that such material breach of this Lease will be grounds for City to terminate and/or not renew this Lease, partially or in its entirety.
12. Resource-Efficient Building Ordinance. Tenant acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Chapter 7 relating to resource-efficient City buildings and resource-efficient pilot projects. Tenant will comply with the applicable provisions of such code sections as those sections may apply to the Premises.
13. Drug Free Work Place. Tenant acknowledges that under the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited on City premises. Tenant agrees that any violation of this prohibition by Tenant, its agents, or assigns will be deemed a material breach of this Lease.
14. Preservative Treated Wood Containing Arsenic. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Lease unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term

"preservative-treated wood containing arsenic" means wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Tenant may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

15. Nondisclosure of Private Information. Tenant agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "Nondisclosure of Private Information Ordinance"), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated and made a part of this Lease as though fully set forth. Capitalized terms used in this section and not defined in this Lease have the meanings assigned to those terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:
- a. Neither Tenant nor any of its subcontractors will disclose Private Information, unless one of the following is true:
 - (i) The disclosure is authorized by this Lease;
 - (ii) Tenant received advance written approval from the Contracting Department to disclose the information; or
 - (iii) The disclosure is required by law or judicial order.
 - b. Any disclosure or use of Private Information authorized by this Lease must be in accordance with any conditions or restrictions stated in this Lease. Any disclosure or use of Private Information authorized by a Contracting Department must be in accordance with any conditions or restrictions stated in the approval.
 - c. Private Information means any information that: (1) could be used to identify an individual, including, without limitation, name, address, social security number, medical information, financial information, date and location of birth, and names of relatives; or (2) the law forbids any person from disclosing.
 - d. Any failure of Tenant to comply with the Nondisclosure of Private Information Ordinance will be a material breach of this Lease. In such an event, in addition to any other remedies available to it under equity or law, City may terminate this Lease, debar Tenant, or bring a false claim action against Tenant.
16. Graffiti. Graffiti is detrimental to the health, safety, and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is

detrimental to property values, business opportunities, and the enjoyment of life; is inconsistent with City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

Tenant will remove all graffiti from the Premises and any real property owned or leased by Tenant in the City and County of San Francisco within forty-eight (48) hours of the earlier of Tenant's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require Tenant to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn, or painted on any building, structure, fixture, or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards, and fencing surrounding construction Premises, whether public or private, without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code section 987 et seq.) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 et seq.). Any failure of Tenant to comply with this section of this Lease will constitute an event of default of this Lease.

17. Incorporation. Each and every provision of the San Francisco Administrative Code described or referenced in this Lease is hereby incorporated by reference as though fully set forth herein. Failure of Tenant to comply with any provision of this Lease relating to any such code provision will be governed by ARTICLE 19 of this Lease, unless (i) such failure is otherwise specifically addressed in this Lease or (ii) such failure is specifically addressed by the applicable code section.
18. Food Service Waste Reduction. Tenant agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Lease as though fully set forth herein. Accordingly, Tenant acknowledges that City contractors and lessees may not use Disposable Food Service Ware that contains Polystyrene Foam in City Facilities and while performing under a City contract or lease, and shall instead use suitable Biodegradable/ Compostable or Recyclable Disposable Food Service Ware. This provision is a material term of this Lease. By entering into this Lease, Tenant agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, Tenant agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated

damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Lease was made. Those amounts will not be considered a penalty, but rather agreed upon monetary damages sustained by City because of Tenant's failure to comply with this provision.

19. Local Hire Requirements. Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.62 (the "Local Hiring Requirements"). Improvements and Changes (as defined in this Lease) are subject to the Local Hiring Requirements unless the cost for such work is (i) estimated to be less than \$750,000 per building permit or (ii) meets any of the other exemptions in the Local Hiring Requirements. Tenant agrees that it will comply with the Local Hiring Requirements to the extent applicable. Before starting any Tenant Improvement Work or any Alteration, Tenant will contact City's Office of Economic Workforce and Development ("OEWD") to verify if the Local Hiring Requirements apply to the work (i.e., whether the work is a "Covered Project").

Tenant will include, and will require its subtenants to include, a requirement to comply with the Local Hiring Requirements in any contract for a Covered Project with specific reference to San Francisco Administrative Code Section 23.62. Each contract must name the City and County of San Francisco as a third party beneficiary for the limited purpose of enforcing the Local Hiring Requirements, including the right to file charges and seek penalties. Tenant will cooperate, and require its subtenants to cooperate, with the City in any action or proceeding against a contractor or subcontractor that fails to comply with the Local Hiring Requirements when required. Tenant's failure to comply with its obligations under this Section will constitute a material breach of this Lease. A contractor's or subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.62 against the breaching party.

20. Criminal History in Hiring and Employment Decisions.

- a. Unless exempt, Tenant agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; "Chapter 12T"), which are hereby incorporated as may be amended from time to time, with respect to applicants and employees of Tenant who would be or are performing work at the Site.
- b. Tenant will incorporate by reference the provisions of Chapter 12T in all subleases of a portion or all of the Site, if any, and will require all subtenants to comply with its provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Lease.
- c. Tenant and subtenants (if any) may not inquire about, require disclosure of, or if such information is received base an Adverse Action (as defined in Chapter 12T) on an applicant's or potential applicant for employment, or employee's: (1) Arrest (as defined in Chapter 12T) not leading to a Conviction (as defined in Chapter 12T), unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been

resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

- d. Tenant and subtenants (if any) may not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in Section 50.20(c) above. Tenant and subtenants (if any) may not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.
 - e. Tenant and subtenants (if any) will state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Site, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.
 - f. Tenant and subtenants (if any) will post the notice prepared by the Office of Labor Standards Enforcement ("OLSE"), available on OLSE's website, in a conspicuous place at the Site and at other workplaces within San Francisco where interviews for job opportunities at the Site occur. The notice will be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Site or other workplace at which it is posted.
 - g. Tenant and subtenants (if any) understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City will have the right to pursue any rights or remedies available under Chapter 12T or this Lease, including but not limited to a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant, or other person as to whom a violation occurred or continued, termination, or suspension in whole or in part of this Lease.
 - h. If Tenant has any questions about the applicability of Chapter 12T, it may contact the City's Real Estate Division for additional information. City's Real Estate Division may consult with the Director of the City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.
21. Prevailing Wages and Working Conditions. Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.61. Tenant will require its Contractors and Subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 et seq. (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, at the Premises to (1) pay workers performing such work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions, and

benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "Prevailing Wage Requirements"). Tenant agrees to cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

Tenant will include, and will require its subtenants, and Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Section 23.61. Each such Construction Contract must name the City and County of San Francisco, affected workers, and employee organizations formally representing affected workers as third party beneficiaries for the limited purpose of enforcing the Prevailing Wage Requirements, including the right to file charges and seek penalties against any Contractor or Subcontractor in accordance with San Francisco Administrative Code Section 23.61. Tenant's failure to comply with its obligations under this Section will constitute a material breach of this Lease. A Contractor's or Subcontractor's failure to comply with this Section will enable the City to seek the remedies specified in San Francisco Administrative Code Section 23.61 against the breaching party. For the current Prevailing Rate of Wages, contact the City's Office of Labor Standards Enforcement.

22. Sugar-Sweetened Beverage Prohibition. Tenant agrees that it will not sell, provide, or otherwise distribute Sugar-Sweetened Beverages, as defined by San Francisco Administrative Code Chapter 101, as part of its performance of this Lease.

23. Taxes, Assessments, Licenses, Permit Fees and Liens.

- a. Tenant recognizes and understands that this Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest.
- b. Tenant agrees to pay taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the Leasehold Estate created and to pay all other taxes, excises, licenses, permit charges, and assessments based on Tenant's usage of the Premises that may be imposed upon Tenant by law, all of which must be paid when the same become due and payable and before delinquency.
- c. Tenant agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Tenant, if so desiring, may have reasonable opportunity to contest the validity of the same.

San Francisco Administrative Code Sections 23.38 and 23.39 require that certain information relating to the creation, renewal, extension, assignment, sublease, or other transfer of this Lease be provided to the County Assessor within sixty (60) days after the transaction. Accordingly, Tenant must provide a copy of this Lease to the County Assessor not later than sixty (60) days after the Effective Date, and any failure of Tenant to timely provide a copy of this Lease to the County Assessor will be a default under this

Lease. Tenant will also timely provide any information that City may request to ensure compliance with this or any other reporting requirement.

24. Vending Machines; Nutritional Standards. Tenant may not install or permit any vending machine on the Premises without the prior written consent of Landlord. Any permitted vending machine must comply with the food nutritional and calorie labeling requirements set forth in San Francisco Administrative Code section 4.9-1(c), as may be amended from time to time (the “Nutritional Standards Requirements”). Tenant agrees to incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section 50.24 will be deemed a material breach of this Lease. Without limiting Landlord’s other rights and remedies under this Lease, Landlord will have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements.
25. San Francisco Packaged Water Ordinance. Tenant agrees to comply with San Francisco Environment Code Chapter 24 (“Chapter 24”). Tenant shall not sell, provide or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Agreement or on City property unless Tenant obtains a waiver from the City’s Department of the Environment. If Tenant violates this requirement, the City may exercise all remedies in this Agreement and the Director of the City’s Department of the Environment may impose administrative fines as set forth in Chapter 24.

ATTACHMENT 8

INSURANCE REQUIREMENTS

Subject to approval by the OCII Risk Manager of the insurers and policy forms, Tenant must obtain and maintain, or caused to be maintained, the insurance and bonds as set forth in this Attachment 8 throughout the Compliance Term of this Agreement, or in accordance with the timeframes stated herein, at no expense to OCII; provided, however, that Tenant shall only be required to provide those coverage amounts that are commercially available, with written proof from insurance carrier.

A. Overview of Coverage Requirements. The following table summarizes required insurance policies and documentation. Please see Section B of this Attachment 8 for more detailed descriptions of policy requirements.

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Commercial General Liability (see Section B.1)	\$1,000,000 per occurrence/ \$2,000,000 aggregate*	Tenant's design and professional contractors; and Tenant (prior to start of construction)	Additional insured (see Section G)
	\$10,000,000 per occurrence/ \$10,000,000 aggregate*	Tenant (upon construction start), general contractor, and subcontractors to the general contractor	Completed Operations Coverage endorsement (on construction stage policy) (see Section G)
Automobile Liability (see Section B.2)	\$1,000,000 per accident*	Tenant and Tenant's contractors	Additional insured (see Section G)
	\$10,000,000 per accident*	Upon construction start - general contractor and subcontractors to the general contractor	
Worker's Compensation and Employer's Liability (see Section B.3)	As per statute for Workers Comp; \$1,000,000 per accident; \$1,000,000 per employee; and in aggregate for bodily injury by disease as respects Employers Liability*	Tenant and Tenant's contractors	Waiver of subrogation
Professional Liability (see Section B.4)	\$2,000,000 per claim/ \$2,000,000 aggregate	Tenant if engaged in any eligible design-related activities; and Tenant's design and professional contractors	None

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Crime/Dishonesty (see Section B.5)	\$1,000,000 per loss	Tenant	Loss payee endorsement
Pollution Liability/Asbestos (see Section B.6)	\$1,000,000 per claim/ \$2,000,000 aggregate	Tenant or Tenant's construction contractor(s)	Additional insured (see Section G)
Builder's Risk – During Construction (see Section B.7a)	100% of replacement value	Tenant	Loss payee endorsement
Property Insurance – After Construction Completion (see Section B.7b)	100% of replacement value	Tenant or Tenant's property manager	Loss payee endorsement
Performance and Payment Bonds (see Section B.8)	100% of contract value	Tenant's construction contractors	OCII and Tenant named as dual obligees

** Umbrella, excess liability policy, or owner controlled insurance program (OCIP) may be used to meet limits (see Section D)*

B. Minimum Scope and Limits of Insurance. Tenant and/or Tenant's Contractors must maintain insurance with limits no less than:

1) Commercial General Liability coverage, under Insurance Services Office occurrence form CG 00 01 or other form approved by OCII, with additional insured endorsement (form CG 20 10 or equivalent) (see Section G). Limits set forth below. Coverage must be included for contractual liability; explosion, collapse and underground (XCU); products and completed operations. Umbrella, Excess Liability, or an Owner Controlled Insurance Policy may be used to meet the terms of this section.

a. Before the start of demolition/construction if the Site is unoccupied, Tenant and Tenant's Contractors will maintain coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit. These limit requirements apply to Tenant's design and professional contractors throughout the required coverage period;

b. During demolition/construction and occupancy of the Site and ongoing operations of the Project, Tenant and its Construction Contractors and/or Property Manager will maintain coverage of not less than Ten Million Dollars (\$10,000,000) combined single limit per occurrence and Ten Million Dollars (\$10,000,000) annual aggregate limit. For subcontractors to the Construction General Contractor and the Property Manager, the Tenant, in consultation with the Construction General Contractor and the Property Manager, as appropriate, is required to assess the risks associated with such contractors and determine,

authorize, and verify the appropriate level of coverage provided by the subcontractor or consultant;

c. The construction period general liability policy must include completed operations coverage for a minimum of ten (10) years. Tenant must provide a completed operations coverage endorsement (form CG 20 37 or equivalent) and OCII must be named as an additional insured pursuant to Section G below.

- 2) Automobile Liability coverage for all owned, non-owned, scheduled, and hired automobiles under Insurance Services Office form number CA 00 01 or other form approved by OCII, with additional insured endorsement (see Section G). If Tenant does not own any automobiles, Tenant must provide OCII a written statement confirming that no automobiles are owned, and OCII will accept an Automobile Insurance policy providing coverage for Symbol 8 (hired autos) and Symbol 9 (non-owned autos), with additional insured endorsement. One Million Dollars (\$1,000,000) per accident for bodily injury and property damage, combined single limit.

For construction operations, Tenant's Contractor will maintain coverage of not less than Ten Million Dollars (\$10,000,000) per accident for bodily injury and property damage, combined single limit. For subcontractors to the Construction General Contractor and the Tenant, the Construction General Contractor, is required to assess the risks associated with such contractors and, with the authorization of the Tenant, determine and verify the appropriate level of automobile liability coverage provided by the subcontractor or consultant.

- 3) Worker's Compensation and Employer's Liability as required by the State of California. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us"). Employer's Liability coverage must provide limits of One Million Dollars (\$1,000,000) for bodily injury each accident; and not less than One Million Dollars (\$1,000,000) per employee; and One Million Dollars (\$1,000,000) in the annual aggregate for bodily injury by disease. If the Tenant does not have any employees, then evidence of Workers' Compensation and Employers Liability coverage required herein must be provided by either the Project Sponsor(s) or the General Partner of the Partnership, in lieu of such coverage being provided by the Tenant. Additionally, the Tenant must provide a written statement confirming that the Tenant does not have employees.
- 4) Professional Liability (Errors and Omissions) insurance, applicable to the Tenant's licensed design and professional contractors (architects, engineers, surveyors and other eligible consultants) and to the Tenant only if the Tenant or Sponsor has any employees providing design or engineering services. Two Million Dollars (\$2,000,000) for each claim and in the annual aggregate limit covering negligent acts, errors or omissions in connection with professional services to be provided in connection with the Project. If the Professional Liability insurance is "claims made" coverage, these minimum limits shall be maintained for no less than five (5) years beyond completion of the scope of services performed. Any deductible over One

Hundred Thousand Dollars (\$100,000) each claim must be reviewed by OCII Risk Management.

Design professionals who utilize the services of subcontractors or consultants to complete work in connection with this project are required to assess the risks associated with such contractors and, with the authorization of the Tenant, determine and verify the appropriate level of coverage provided by the subcontractor or consultant. The design professional and the Tenant shall assume costs and expenses that may be incurred in fulfilling any indemnity obligations as to itself or any subcontractors or consultants for whom the design professional and/or the Tenant are legally liable in the absence of adequate subcontractor or consultant coverage.

- 5) Crime Policy or Fidelity Bond covering Tenant's officers and employees against employee dishonesty, forgery and alteration, theft of money and securities, and theft via electronic means, endorsed to cover third party fidelity, covering all officers and employees with respect to the Funding Amount. One Million Dollars (\$1,000,000) each loss, with any deductible not to exceed Fifty Thousand Dollars (\$50,000). Tenant must provide an endorsement naming OCII as an additional obligee or loss payee.

Application of Crime Insurance Proceeds. Tenant shall promptly notify OCII of any claim under the required Crime Insurance Policy. OCII may retain from the proceeds of the required Crime Insurance Policy, a sufficient amount of the proceeds to pay the Funding Amount, if any, and shall pay the balance to Tenant. For the avoidance of doubt, OCII shall have no right or claim to the proceeds of the required Crime Insurance Policy in excess of the Funding Amount.

- 6) Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than One Million Dollars (\$1,000,000) per claim or occurrence and Two Million Dollars (\$2,000,000) aggregate per policy, this coverage shall be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Tenant's construction contractor to maintain these minimum limits for no less than three (3) years beyond completion of the Project.

7) Property Insurance

- a. Builder's Risk Insurance during the course of any construction, 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 Tenant or its contractor, including coverage in transit and storage off-site, with a deductible not to exceed Fifty Thousand Dollars (\$50,000) each loss, including OCII as loss payee. Builder's Risk must be maintained by the Tenant or the Tenant must cause its general contractor to maintain this insurance.

- b. Property Insurance after completion of construction, special form coverage, excluding earthquake and flood, but including vandalism and malicious mischief, and including boiler and machinery insurance, 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 loss payee. A waiver of subrogation naming OCII is required (also known as “transfer of rights of recovery against others to us”).
- 8) Performance and Payment Bonds for eligible construction contractors during construction and/or rehabilitation, each in the amount of one hundred percent (100%) of contract amounts, naming OCII and Tenant as dual obligees, or other completion security approved by OCII in its sole discretion. OCII has approved issuance of a Completion Guaranty by an affiliate of Tenant to Tenant’s institutional lender as completion security.
- 9) Performance Insurance. Tenant shall require its general contractor to obtain performance insurance that insures against delay in delivery of modules, up to the amount of Tenant’s or Tenant’s general contractor’s contract amount for the delivery of modules for the construction of the Project. Tenant shall limit general contractor’s use of proceeds from the performance insurance policy to be used to solely to reduce cost overruns in the construction of the Project related to or caused by delay in the delivery of modules, and Tenant shall, and shall require general contractor, to obtain OCII’s approval prior to expending such proceeds.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in excess of those required for policies stated herein must be declared to and approved by OCII. At the option of OCII, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees; or Tenant shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- D. Umbrella, Excess Liability, and Owner Controlled Insurance Policies (OCIP). An Umbrella and/or Excess Liability policy(ies) or an OCIP may be used to reach the Commercial General Liability, Workers’ Compensation, and/or Automobile Liability coverage limits required herein. The Umbrella/Excess Liability/OCIP policy(ies) must appropriately schedule any such underlying policy(ies).
- E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise approved by OCII’s Risk Manager.

F. General Requirements.

- 1) If the Tenant maintains additional coverages and/or higher limits than the minimums shown in this Attachment 8, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Tenant.
- 2) The policies required herein, with the exception of Professional Liability and Workers Compensation, shall be primary insurance and non-contributory as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees shall be in excess of Tenant's insurance and shall not contribute with it.
- 3) Each insurance policy required herein must be endorsed (if endorsement is available) to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by mail has been given to OCII. Should the insurance carrier not be able to provide such notice, then the responsibility to provide the notice to OCII shall be borne by the policyholder.
- 4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees.
- 5) Approval of Tenant's insurance by OCII will not relieve or decrease the liability of Tenant under this Agreement.
- 6) OCII and its officers, agents and employees will not be liable for any required premium under any policy maintained by Tenant.
- 7) 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 five (5) years after recordation of a notice of completion for builder's risk or the Compliance Term for general liability and property insurance.

G. Verification of Coverage. Tenant must furnish OCII with certificates of insurance and original endorsements evidencing coverage required by this clause. The certificates and applicable endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by OCII before work commences. OCII reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time. Tenant shall require and verify that its contractors and consultants maintain the required policies as stated herein.

Tenant must furnish OCII with copies of certificates and endorsements upon request. All certificates shall include the following:

- 1) Identify the following as the certificate holder:
Successor Agency to the Redevelopment Agency of the City and County of San Francisco
Office of Community Investment and Infrastructure
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
- 2) Identify the name of the insurance policy holder (Tenant or Contractor), the Project name, and the Project address.
- 3) For policies in which OCII is required to be named as an additional insured, loss payee, dual obligee, or named on a waiver of subrogation, the policy shall name "Office of Community Investment and Infrastructure/ Successor Agency to the Redevelopment Agency of the City and County of San Francisco, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees" on the certificate and on the attached endorsement or certificate.

H. Review. OCII reserves the right to modify the insurance coverage under this Section, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances consistent with OCII's Risk Management Policy. The insurance coverage required under this Section shall be evaluated by OCII for adequacy from time to time. OCII may require Tenant to increase the insurance limits and/or forms of coverage in its reasonable discretion provided that such limits and/or coverage is generally available at commercially reasonable rates.

ATTACHMENT 9

CONTRACT COMPLIANCE POLICIES

1. Equal Opportunity Policies. Tenant shall comply with OCII's Equal Opportunity Policies:

- (i) Small Business Enterprise (SBE) Policy (adopted by Resolution No. 7-2022, March 15, 2022
- (ii) Bayview Hunters Point Employment and Contracting Policy;
- (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
- (vi) Minimum Compensation Policy (adopted by Resolution No. 168-2001).

Copies of the aforementioned policies are available on the OCII website at <http://sfocii.org/policies-and-procedures>

2. Environmental Review. The Project must meet the requirements of the California Environmental Quality Act (Cal. Pub. Res. Code §§ 2100 et seq.) and implementing regulations, and any other environmental reviews as required by any federal funding sources obtained, including the National Environmental Policy Act ("NEPA").

3. Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no employee, agent, consultant, officer or official of Tenant or OCII who exercises or has exercised 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, Tenant 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. Tenant 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, Tenant must take prompt and diligent action to cause the breach to be remedied and compliance to be restored.

(b) Tenant 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. Tenant certifies that it knows of no facts that constitute a violation of any of these provisions and agrees to notify OCII immediately if Tenant at any time obtains knowledge of facts constituting a violation.

(c) In the event of any violation of the conflict of interest prohibitions, Tenant agrees that OCII may refuse to consider any future application for funding from Tenant or any entity related to Borrower until the violation has been corrected to OCII's satisfaction, in OCII's sole discretion.

4. **Disability Access.** Tenant 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.). Tenant 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, Tenant must provide to OCII a written reasonable accommodations policy that indicates how Tenant will respond to requests by disabled individuals for accommodations in Units and common areas of the Project.

5. **Lead-Based Paint.** Tenant 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. Tenant 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.

6. **Relocation.** Tenant must meet any applicable requirements of the California Relocation Assistance Act (Cal. Gov. Code §§ 7260 et seq.) and implementing regulations in Title 25, Chapter 6 of the California Administrative Code and similar Laws.

7. **Non-Discrimination in OCII Contracts and Benefits Policy.**

(a) **Tenant May Not Discriminate.** In the performance of this Agreement, Tenant 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 Tenant, in any of Tenant'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 Tenant.

(b) **Non-Discrimination in Benefits.** Tenant 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.

8. Public Disclosure

(a) Tenant understands and agrees that under the State Public Records Law (Cal. Gov. Code §§ 6250 et seq.) and the Agency Public Records Policy, this Agreement and any and all records, information and materials submitted to OCII or the City hereunder are public records subject to public disclosure. Tenant 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. Limitations on Contributions. Through execution of this Agreement, Tenant 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. Tenant 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. Tenant further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Tenant's board of directors; Tenant's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Tenant; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Tenant. Additionally, Tenant acknowledges that Tenant must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

Finally, Tenant agrees to provide to OCII the names of each member of Tenant's general partners' (or, if applicable, general partners' managing members) board of directors; Tenant'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 Tenant'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 Tenant.

ATTACHMENT #1

SMALL BUSINESS ENTERPRISE AGREEMENT

The company or entity executing this Small Business Enterprise Agreement, by and through its duly authorized representative, hereby agrees to use good faith efforts to comply with all of the following:

I. PURPOSE. The purpose of entering into this Small Business Enterprise Program agreement (“**SBE Program**”) is to establish a set of Small Business Enterprise (“SBE”) participation goals and good faith efforts designed to ensure that monies are spent in a manner which provides SBEs with an opportunity to compete for and participate in contracts by or at the behest of the Successor Agency to the San Francisco Redevelopment Agency (“**Agency**”) and/or the Agency-Assisted Contractor. A genuine effort will be made to give First Consideration to Project Area SBEs and San Francisco-based SBEs before looking outside of San Francisco.

II. APPLICATION. The SBE Program applies to all Contractors and their subcontractors seeking work on Agency-Assisted Projects on or after November 17, 2004 and any Amendment to a Pre-existing Contract.

III. GOALS. The Agency’s SBE Participation Goals are:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

IV. TRAINEE HIRING GOAL. In addition to the goals set forth above in Section III, there is a trainee hiring goal for all design professionals (architects, engineers, planners, and environmental consultants) on contracts or subcontracts over \$100,000. The trainee hiring goal requires architects, engineers and other design professionals only to hire qualified San Francisco residents as trainees. The trainee hiring goal is based upon the total amount of the design professional’s contract as follows:

<u>Trainees</u>	<u>Design Professional Fees</u>
0	\$ 0 – \$99,000
1	\$ 100,000 – \$249,999
2	\$ 250,000 – \$499,999
3	\$ 500,000 – \$999,999
4	\$1,000,000 – \$1,499,999
5	\$1,500,000 – \$1,999,999
6	\$2,000,000 - \$4,999,999
7	\$5,000,000 - \$7,999,999
8	\$8,000,000 – or more

A. Procedures For Trainee Hires

1. Compliance with the Trainee Hiring Goal

Design professionals will be deemed in compliance with this Agreement by meeting or exceeding the trainee hiring goal or by take the following steps in good faith towards compliance.

2. Execution and Incorporation of this Agreement to Sub-agreements

The Agency-Assisted Contractor shall execute this Agreement and shall incorporate by reference or attach this Agreement to its contract(s) with the architects, engineers and other design professionals. Thus, each design professional (regardless of tier) will be obligated to comply with the terms of this Agreement. The Agency-Assisted Contractor and/or the design professionals shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. Contact Educational Institutions

Each design professional shall call the City and County of San Francisco Office of Economic and Workforce Development (OEWD) or educational institution(s) and request referrals for the required trainee positions. The request will indicate generally: (1) the number of trainees sought; (2) the required skills set (keeping in mind that these are trainee positions); (3) a brief description of job duties; (4) the duration of the trainee period; and (5) any other information that would be helpful or necessary for the educational institution or OEWD to make the referral. The minimum duration of assignment is part-time for one semester. However, design professionals are strongly encouraged to offer longer trainee employment periods to allow a more meaningful learning experience. (For example, a half-time or full-time assignment over the summer.) Although the initial contact shall be made by phone, the educational institution(s) or OEWD may require the design professionals to send a confirming letter or complete its form(s). Each design professional is required to timely provide all of the information requested by the OEWD or educational institution(s) in order to get the referrals.

4. Response from Educational Institutions

Each educational institution may have a different way of referring applicants, such as: sending resumes directly to the design professional; having the applicant contact the design professional by phone; require design professionals to conduct on-campus interviews; or some other method. The timing and method of the response will normally be discussed with the design professional during the initial phone request. The design professional is required to follow the process set by the educational institution(s) in order to get the referrals.

5. Action by Design Professionals When Referrals Available

The design professional shall interview each applicant prior to making the decision to hire or not to hire. The design professional shall make the final determination whether the applicant is qualified for the trainee position and the ultimate hiring decision. The Agency strongly encourages the design professional to hire a qualified San Francisco resident referred by the educational institution(s). The design professional shall notify the educational institution in writing of the hiring decision.

6. Action by Design Professionals When Referrals Unavailable

If after contacting two or more educational institutions the design professional is informed that no San Francisco residents are currently available, then the design professional should wait thirty (30) days and contact the educational institutions a second time to inquire whether qualified San Francisco residents are currently available for hire as trainees. If no qualified San Francisco residents are currently available after the second request, then the design professional has fulfilled its obligation under this Agreement, provided that the design professional has acted in good faith. The design professional must retain its file on all of the steps it took to comply with this Section IV and submit a copy of its file to the Agency Compliance Officer upon request.

7. Action by Design Professional When No Response From Educational Institutions

If a design professional has not received a response to its request for referrals from any of the

educational institutions within five (5) business days after the design professional has fully complied with the procedures, if any, set by the educational institution(s) for obtaining referrals, then the design professional should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause the educational institution(s) to respond to the design professional within five (5) business days of the Agency Compliance Officer being notified. If the design professional still has not received a response from the educational institution(s) after this additional five (5) business day period has run, then the design professional has fulfilled its obligation under this Section IV, provided that the design professional has acted in good faith. Each design professional must retain its file on all of the steps it took to comply with this Agreement and submit a copy of its file to the Agency Compliance Officer upon request.

8. Termination of Trainee for Cause

If at any time during the Term, it becomes necessary to terminate for cause a trainee who was hired under this Agreement and the design professional has not met the minimum duration requirements under this policy, then the design professional shall hire a new trainee by following the process set forth above.

B. Reporting Requirements For Trainee Hires

1. Reporting

Upon completion of the Term of the Agreement or the term of the design professional's contract with the Agency-Assisted Contractor, whichever is less, the design professional (i.e. Employer) shall fax or email a report to the Agency Compliance Officer stating in detail: (1) the names of the San Francisco resident(s) interviewed for trainee positions; (2) the date(s) of each interview; (3) the reasons for not hiring the San Francisco resident(s) interviewed; (4) the name, address, gender and racial/ethnic background of the successful candidate for the trainee position; and (5) the number of San Francisco residents hired as trainees.

2. Report on Terminations

In the event a San Francisco resident hired pursuant to this Agreement is terminated for cause, the responsible design professional shall within five (5) days fax or email a termination report to the Agency Compliance Officer stating in detail: (1) the name of the trainee(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); and (4) whether the design professional replaced the trainee(s).

V. TERM. The obligations of the Agency-Assisted Contractor and/or Contractor(s) with respect to SBE Program shall remain in effect until completion of all work to be performed by the Agency-Assisted Contractor in connection with the original construction of the site and any tenant improvements on the site performed by or at the behest of the Agency-Assisted Contractor unless another term is specified in the Agency-Assisted Contract or Contract.

VI. FIRST CONSIDERATION. First consideration will be given by the Agency or Agency-Assisted Contractor in awarding contracts in the following order: (1) Project Area SBEs, (2) San Francisco-based SBEs (outside an Agency Project or Survey Area, but within San Francisco), and (3) Non-San Francisco-based SBEs. Non-San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-San Francisco-based SBEs.

VII. ASSOCIATIONS AND JOINT VENTURES (JV). OCII will recognize JVs and Associations

between non-SBE firms and SBE firms where the SBE partner performs at least 35% of the work defined in the JV or Association agreement, and receives at least 35% (or a proportionate share, whichever is higher) of the dollars to be earned by the JV or Association. Under this arrangement, OCII will deem the JV or Association to be an SBE for the purposes of meeting the SBE goal. Due to the technical nature of the disciplines and the various standards of each industry, OCII will not require a standardized agreement. However, each JV and Association agreement must be in writing and contain, at a minimum, the following terms:

- Define the management of the agreement between the parties;
- Define the technical and managerial responsibilities of each party;
- Define the scope of work to be performed by each party, and where possible identify the percentage and break-down of scope of work for each party;
- Identify any additional subcontractors or consultants that will perform the work under the agreement;
- Define the schedule, duration, and deliverable of the agreement;
- Detail the fee schedule, fee breakdown, or division of compensation;
- Specify insurance requirements and/or if each party shall maintain its own insurance;
- Specify how additional work or changes in scope shall be negotiated or determined and which party shall be responsible for notifying OCII of the changes;
- Specify how claims and disputes will be resolved.

A copy of the JV or Association agreement must be provided to OCII for approval in order for the JV or Association to be recognized.

VIII. CERTIFICATION. The Agency no longer certifies SBEs but instead relies on the information provided in other public entities' business certifications to establish eligibility for the Agency's program. Only businesses certified by the Agency as SBEs whose certification has not expired and economically disadvantaged businesses that meet the Agency's SBE Certification Criteria will be counted toward meeting the participation goals. The SBE Certification Criteria are set forth in the SBE Policy.

IX. INCORPORATION. Each contract between the Agency, Agency-Assisted Contractor or Contractor on the one hand, and any subcontractor on the other hand, shall physically incorporate as an attachment or exhibit and make binding on the parties to that contract, a true and correct copy of this SBE Agreement.

X. DEFINITIONS. Capitalized terms not otherwise specifically defined in this SBE Agreement have the meaning set forth in the Agency's SBE Policy adopted on November 16, 2004 and amended on July 21, 2009 ("**Policy**") or as defined in the Agency-Assisted Contract or Contract. In the event of a conflict in the meaning of a defined term, the SBE Policy shall govern over the Agency-Assisted Contract or Contract which in turn shall govern over this SBE Agreement.

Affiliates means an affiliation with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliated business concerns need not be in the same line of business.

Agency-Assisted Contract means, as applicable, the Development and Disposition Agreement

(“DDA”), Land Disposition Agreement (“LDA”), Lease, Loan and Grant Agreements, and other similar contracts, and agreement that the Agency executed with for-profit or non-profit entities.

Agency-Assisted Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed an Agency-Assisted Contract.

Agency Contract means personal services contracts, purchase requisitions, and other similar contracts and operations agreements that the Agency executes with for-profit or non-profit entities.

Amendment to a Pre-existing Contract means a material change to the terms of any contract, the term of which has not expired on or before the date that this Small Business Enterprise Policy (“SBE Policy”) takes effect, but shall not include amendments to decrease the scope of work or decrease the amount to be paid under a contract.

Annual Receipts means “total income” (or in the case of a sole proprietorship, “gross income”) plus “cost of goods sold” as these terms are defined and reported on Internal Revenue Service tax return forms. The term does not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts. Typically, receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts. However, to the extent a public entity considers a five-year average in its certification program, OCII will accept the five-year average provided the remaining certification criteria of the public entity is consistent with OCII’s criteria stipulated in this Policy. If a concern has not been in business for three (3) years, the average weekly revenue for the number of weeks the concern has been in business is multiplied by 52 to determine its average annual receipts.

Arbitration Party means all persons and entities who attend the arbitration hearing pursuant to Section XIII, as well as those persons and entities who are subject to a default award provided that all of the requirements in Section XIII.L. have been met.

Association means an agreement between two parties established for the purpose of completing a specific task or project. The associate agreement shall provide the SBE associate a significant project management role and the SBE associate shall be recognized in marketing and collateral material. The Association shall be distinguished from traditional subcontracting arrangements via a written Association agreement that defines the management of the agreement, technical and managerial responsibilities of the parties, and defined scopes and percentages of work to be performed by each party with its own resources and labor force. Unlike the more formal Joint Venture, an Association does not require formation of a new business enterprise between the parties. The Associate agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Commercially Useful Function means that the business is directly responsible for providing the materials, equipment, supplies or services in the City and County of San Francisco (“City”) as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a “commercially useful function” unless the brokerage, referral or temporary employment services are required and sought by the Agency.

Contract means any agreement between the Agency and a person(s), firm, partnership, corporation, or combination thereof, to provide or procure labor, supplies or services to, for, or on behalf of the Agency.

Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed a Contract.

Joint Venture means an entity established between two parties for the purposes of completing a venture or project. The Joint Venture agreement typically creates a separate business entity and requires acquisition of additional insurance for the newly created joint business entity. The Joint Venture agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Non-San Francisco-based Small Business Enterprise means a SBE that has fixed offices located outside the geographical boundaries of the City.

Office” or “Offices means a fixed and established place(s) where work is performed of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify as an “office” under this SBE Policy. Work space provided in exchange for services (in lieu of monetary rent) does not constitute an “office.” The office is not required to be the headquarters for the business but it must be capable of providing all the services to operate the business for which SBE certification is sought. An arrangement for the right to use office space on an “as needed” basis where there is no office exclusively reserved for the business does not qualify as an office. The prospective SBE must submit a rental agreement for the office space, rent receipt or cancelled checks for rent payments. If the office space is owned by the prospective SBE, the business must submit property tax or a deed documenting ownership of the office.

Project Area Small Business Enterprise means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of a Redevelopment Project or Survey Area where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a Project Area or Survey Area business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in a Project Area or Survey Area for at least six months preceding its application for certification as a SBE; and (e) has a Project Area or Survey Area office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers of residential addresses alone shall not suffice to establish a firms’ location in a Project Area or Survey Area.

Project Area means an area of San Francisco that meets the requirements under Community Redevelopment Law, Health and Safety Code Section 33320.1. These areas currently include the Bayview Industrial Triangle, Bayview Hunters Point (Area B), Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), Rincon Point/South Beach, South of Market, and Transbay.

San Francisco-based Small Business Enterprise means a SBE that: (a) has fixed offices located within the geographical boundaries of the City where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a San Francisco business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in the City for at least six months preceding its application for certification as a SBE; and (e) has a San Francisco office in which business is transacted

that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers or residential addresses alone shall not suffice to establish a firm's status as local.

Small Business Enterprise (SBE) means an economically disadvantaged business that is certified by another public entity (either municipal, State, or federal agency) that considers the certification criteria stipulated in this Policy. In general, such criteria shall include a determination by the public entity as to whether an economically disadvantaged business is an independent and continuing business for profit; performs a commercially useful function; is owned and controlled by persons residing in the United States or its territories; and has average gross annual receipts in at least the three years (and no more than five years, if practiced by the public entity) immediately preceding its application for certification as a SBE that do not exceed the following limits:

Industry	OCII SBE Size Standard
Construction Contractors	\$24,000,000
Specialty Construction Contractors	\$14,000,000
Suppliers (goods/materials/ equipment and general services)	\$12,000,000
Professional Services	\$5,000,000
Trucking	\$5,000,000

In addition, an economically disadvantaged business shall meet the other certification criteria described in Exhibit I of the SBE Policy in order to be considered an SBE by the Agency.

In order to determine whether or not a firm meets the above economic size definitions, the Agency will use the firm's most recent business tax returns (i.e., 1040 with Schedule C for Sole Proprietorships, 1065s with K-1s for Partnerships, and 1120s for Corporations) to calculate the firm's average annual gross receipts. In addition, the calculation of a firm's size shall include the receipts of all affiliates.

Once a business reaches the average size threshold for the applicable industry the business ceases to be economically disadvantaged, it is not an eligible SBE and it will not be counted towards meeting SBE contracting requirements (or goals).

Specialty Construction Contractor means a contractor licensed by the Contractors State License Board under the "C" classification license pursuant to California Business and Professions Code Section 7058.

Survey Area means an area of San Francisco that meets the requirements of the Community Redevelopment Law, Health and Safety Code Section 33310. These areas currently include the Bayview Hunters Point Redevelopment Survey Area C.

XI. GOOD FAITH EFFORTS TO MEET SBE GOALS Compliance with the following steps will be the basis for determining if the Agency-Assisted Contractor and/or Consultant has made good faith efforts to meet the goals for SBEs:

A. Outreach. Not less than 30 days prior to the opening of bids or the selection of contractors, the Agency-Assisted Contractor or Contractor shall:

1. **Advertise.** Advertise for SBEs interested in competing for the contract, in general circulation media, trade association publications, including timely use of the ***Bid and Contract Opportunities*** newsletter published by the City and County of San Francisco Purchasing Department and media focused specifically on SBE businesses such as the ***Small Business Exchange***, of the opportunity to submit bids or proposals and to attend a pre-bid meeting to learn about contracting opportunities.

2. **Request List of SBEs.** Request from the Agency's Contract Compliance Department a list of all known SBEs in the pertinent field(s), particularly those in the Project and Survey Areas and provide written notice to all of them of the opportunity to bid for contracts and to attend a pre-bid or pre-solicitation meeting to learn about contracting opportunities.

B. Pre-Solicitation Meeting. For construction contracts estimated to cost \$5,000 or more, hold a pre-bid meeting for all interested contractors not less than 15 days prior to the opening of bids or the selection of contractors for the purpose answering questions about the selection process and the specifications and requirements. Representatives of the Contract Compliance Department will also participate.

C. Follow-up. Follow up initial solicitations of interest by contacting the SBEs to determine with certainty whether the enterprises are interested in performing specific items involved in work.

D. Subdivide Work. Divide, to the greatest extent feasible, the contract work into small units to facilitate SBE participation, including, where feasible, offering items of the contract work which the Contractor would normally perform itself.

E. Provide Timely and Complete Information. The Agency-Assisted Contractor or Contractor shall provide SBEs with complete, adequate and ongoing information about the plans, specifications and requirements of construction work, service work and material supply work. This paragraph does not require the Agency-Assisted Contractor or Contractor to give SBEs any information not provided to other contractors. This paragraph does require the Agency Assisted Contractor and Contractor to answer carefully and completely all reasonable questions asked by SBEs and to undertake every good faith effort to ensure that SBEs understand the nature and the scope of the work.

F. Good Faith Negotiations. Negotiate with SBEs in good faith and demonstrate that SBEs were not rejected as unqualified without sound reasons based on a thorough investigation of their capacities.

G. Bid Shopping Prohibited. Prohibit the shopping of the bids. Where the Agency-Assisted Contractor or Contractor learns that bid shopping has occurred, it shall treat such bid shopping as a material breach of contract.

H. Other Assistance. Assist SBEs in their efforts to obtain bonds, lines of credit and insurance. (Note that the Agency has a Surety Bond Program that may assist SBEs in obtaining necessary bonding.) The Agency-Assisted Contractor or Contractor(s) shall require no more stringent bond or insurance standards of SBEs than required of other business enterprises.

I. Delivery Scheduling. Establish delivery schedules which encourage participation of SBEs.

J. Utilize SBEs as Lower Tier Subcontractors. The Agency-Assisted Contractor and its Contractor(s) shall encourage and assist higher tier subcontractors in undertaking good faith efforts to utilize SBEs as lower tier subcontractors.

K. Maximize Outreach Resources. Use the services of SBE associations, federal, state and local SBE assistance offices and other organizations that provide assistance in the recruitment and placement of SBEs, including the Small Business Administration and the Business Development Agency of the Department of Commerce. However, only SBEs certified by the Agency shall count towards meeting the participation goal.

L. Replacement of SBE. If during the term of this SBE Agreement, it becomes necessary to replace any subcontractor or supplier, the Agency's Contract Compliance Specialist should be notified prior to replacement due to the failure or inability of the subcontractor or supplier to perform the required services or timely delivery the required supplies, then First Consideration should be given to a certified SBE, if available, as a replacement.

XII. ADDITIONAL PROVISIONS

A. No Retaliation. No employee shall be discharged or in any other manner discriminated against by the Agency-Assisted Contractor or Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Agreement.

B. No Discrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of an Agency-Assisted Contract or Contract. The Agency-Assisted Contractor or Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

C. Compliance with Prompt Payment Statute. Construction contracts and subcontracts awarded for \$5,000 or more shall contain the following provision:

“Amounts for work performed by a subcontractor shall be paid within seven (7) days of receipt of funds by the contractor, pursuant to California Business and Professions Code Section 7108.5 *et seq.* Failure to include this provision in a subcontractor or failure to comply with this provision shall constitute an event of default which would permit the Agency to exercise any and all remedies available to it under contract, at law or in equity.”

In addition to and not in contradiction to the Prompt Payment Statute (California Business and Professions Code Section 7108.5 *et seq.*), if a dispute arises which would allow a Contractor to withhold payment to a subcontractor due to a dispute, the Contractor shall only withhold that amount which directly relates to the dispute and shall promptly pay the remaining undisputed amount, if any.

D. Submission Of Electronic Certified Payrolls. For any Agency-Assisted Contract which requires the submission of certified payroll reports, the requirements of Section VII of the Agency's Small Business Enterprise Policy shall apply. Please see the Small Business Enterprise Policy for more details.

XIII. PROCEDURES

A. Notice to Agency. The Agency-Assisted Contractor or Contractor(s) shall provide the Agency with the following information within 10 days of awarding a contract or selecting subconsultant:

1. the nature of the contract, e.g. type and scope of work to be performed;
2. the dollar amount of the contract;
3. the name, address, license number, gender and ethnicity of the person to whom the contract was awarded; And
4. SBE status of each subcontractor or subconsultant.

B. Affidavit. If the Agency-Assisted Contractor or Contractor(s) contend that the contract has been awarded to a SBE, the Agency-Assisted Contractor or Contractor(s) shall, at the same time also submit to the Agency a SBE Application for Certification and its accompanying Affidavit completed by the SBE owner. However, a SBE that was previously certified by the Agency shall submit only the short SBE Eligibility Statement.

C. Good Faith Documentation. If the 50% SBE Participation Goals are not met in each category (Construction, Professional Services and Suppliers), the Agency-Assisted Contractor or Contractor(s) shall meet and confer with the Agency at a date and time set by the Agency. If the issue of the Agency-Assisted Contractor's or Contractor's good faith efforts is not resolved at this meeting, the Agency-Assisted Contractor or Contractor shall submit to the Agency within five (5) days, a declaration under penalty of perjury containing the following documentation with respect to the good faith efforts ("**Submission**"):

1. A report showing the responses, rejections, proposals and bids (including the amount of the bid) received from SBEs, including the date each response, proposal or bid was received. This report shall indicate the action taken by the Agency-Assisted Contractor or Contractor(s) in response to each proposal or bid received from SBEs, including the reasons(s) for any rejections.

2. A report showing the date that the bid was received, the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the non-SBE contractor who was selected submitted more than one bid, the amount of each bid and the date that each bid was received shall be shown in the report. If the bidder asserts that there were reasons other than the respective amounts bid for not awarding the contract to an SBE, the report shall also contain an explanation of these reasons.

3. Documentation of advertising for and contacts with SBEs, contractor associations or development centers, or any other agency which disseminates bid and contract information to small business enterprises.

4. Copies of initial and follow-up correspondence with SBEs, contractor associations and other agencies, which assist SBEs.

5. A description of the assistance provided SBE firms relative to obtaining and explaining plans, specifications and contract requirements.

6. A description of the assistance provided to SBEs with respect to bonding, lines of credit, etc.

7. A description of efforts to negotiate or a statement of the reasons for not negotiating with SBEs.

8. A description of any divisions of work undertaken to facilitate SBE participation.
9. Documentation of efforts undertaken to encourage subcontractors to obtain small business enterprise participation at a lower tier.
10. A report which shows for each private project and each public project (without a SBE program) undertaken by the bidder in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars awarded to SBEs and the percentage of contract dollars awarded to non-SBEs.
11. Documentation of any other efforts undertaken to encourage participation by small business enterprises.

D. Presumption of Good Faith Efforts. If the Agency-Assisted Contractor or Contractor(s) achieves the Participation Goals, it will not be required to submit Good Faith Effort documentation.

E. Waiver. Any of the SBE requirements may be waived if the Agency determines that a specific requirement is not relevant to the particular situation at issue, that SBEs were not available, or that SBEs were charging an unreasonable price.

F. SBE Determination. The Agency shall exercise its reasonable judgment in determining whether a business, whose name is submitted by the Agency-Assisted Contractor or Contractor(s) as a SBE, is owned and controlled by a SBE. A firm's appearance in any of the Agency's current directories will be considered by the Agency as prima facie evidence that the firm is a SBE. Where the Agency-Assisted Contractor or Contractor(s) makes a submission the Agency shall make a determination, as to whether or not a business which the Agency-Assisted Contractor or Contractor(s) claims is a SBE is in fact owned and controlled by San Francisco-based SBEs. If the Agency determines that the business is not a SBE, the Agency shall give the Agency-Assisted Contractor or Contractor a Notice of Non-Qualification and provide the Agency-Assisted Contractor or Contractor with a reasonable period (not to exceed 20 days) in which to meet with the Agency and if necessary make a Submission, concerning its good faith efforts. If the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to Section XIII.

G. Agency Investigation. Where the Agency-Assisted Contractor or Contractor makes a Submission and, as a result, the Agency has cause to believe that the Agency-Assisted Contractor or Contractor has failed to undertake good faith efforts, the Agency shall conduct an investigation, and after affording the Agency-Assisted Contractor or Contractor notice and an opportunity to be heard, shall recommend such remedies and sanctions as it deems necessary to correct any alleged violation(s). The Agency shall give the Agency-Assisted Contractor or Contractor a written Notice of Non-Compliance setting forth its findings and recommendations. If the Agency-Assisted Contractor or Contractor disagrees with the findings and recommendations of the Agency as set forth in the Notice of Non-Compliance, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to this SBE Agreement.

XIV. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this SBE Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions

thereof. The arbitration shall take place in the City and County of San Francisco.

B. Demand for Arbitration. Where the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Agency-Assisted Contractor or Contractor shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying any entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Agency-Assisted Contractor and Contractor fail to file a timely Demand for Arbitration, the Agency-Assisted Contractor and Contractor shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

C. Parties' Participation. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Agency-Assisted Contractor or Contractor made an initial timely Demand for Arbitration pursuant to Section XIII.B. above.

D. Agency Request to AAA. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

E. Selection of Arbitrator. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

F. Setting of Arbitration Hearing. A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

G. Discovery. In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

H. Burden of Proof. The burden of proof with respect to SBE status and/or Good Faith Efforts shall be on the Agency-Assisted Contractor and/or Contractor. The burden of proof as to all other alleged breaches by the Agency-Assisted Contractor and/or Contractor shall be on the Agency.

I. California Law Applies. Except where expressly stated to the contrary in this SBE Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. Arbitration Remedies and Sanctions. The arbitrator may impose only the remedies and

sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.
2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Agency-Assisted Contract or this SBE Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Agency-Assisted Contract or this SBE Agreement, other than those minor modifications or extensions necessary to enable compliance with this SBE Agreement.
3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the SBE Program requirements in the Agency-Assisted Contract or this SBE Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.
4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this SBE Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.
5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. Arbitrator's Decision. The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. Default Award; No Requirement to Seek an Order Compelling Arbitration. The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. Arbitrator Lacks Power to Modify. Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agency-Assisted Contract, this SBE Agreement or any other agreement between the Agency, the Agency-Assisted Contractor or Contractor or to negotiate new agreements or provisions between the parties.

N. Jurisdiction/Entry of Judgment. The inquiry of the arbitrator shall be restricted to the

particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

O. Exculpatory Clause. Agency-Assisted Contractor or Contractor (regardless of tier) expressly waive any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Agency-Assisted Contractor or Contractor (regardless of tier) acknowledge and agree that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this SBE Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. Severability. The provisions of this SBE Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this SBE Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this SBE Agreement or the validity of their application to other persons or circumstances.

Q. Arbitration Notice: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Agency-Assisted Contractor

XV. AGREEMENT EXECUTION

I, hereby certify that I have authority to execute this SBE Agreement on behalf of the business,

organization or entity listed below and that it will use good faith efforts to comply with the Agency's 50% SBE Participation Goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name and Phone Number

Office of
Community Investment and Infrastructure

**BAYVIEW HUNTERS POINT
EMPLOYMENT AND CONTRACTING POLICY**

Adopted December 4, 2007

San Francisco Redevelopment Commission Resolution No. 127-2007

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I. PURPOSE

A. Purpose

1. Pursuant to California Community Redevelopment Law (“**CRL**”) and consistent with long standing practice, the Office of Community Investment and Infrastructure (“**Agency**”) hereby adopts this Employment and Contracting Policy to ensure training and employment opportunities for lower-income residents in the Bayview Hunters Point (“**BVHP**”) Redevelopment Project Area, including residents in the 94124 zip code, subject to the criteria set forth below.

2. In adopting the BVHP Redevelopment Plan, the Agency and the City and County of San Francisco (“**City**”) have made a commitment to vigorous equal opportunity and diversity in employment. Thus, the Agency has proposed programs to encourage local hiring and contracting by the private sector engaged in development in the Project Area.

3. This BVHP Employment and Contracting Policy is designed to ensure that Agency Action Projects and private Significant Projects (which do not receive Agency assistance), provide employment opportunities for lower-income BVHP Residents and San Francisco Residents in the areas of construction, professional services, and permanent jobs. This Policy will supplement and not supplant the existing Agency employment and contracting policies found in the Agency’s Equal Opportunity Program and the Agency Purchasing Policy, which are briefly summarized in Section X. The Employment and Contracting Policy seeks to provide economic benefits to existing BVHP Residents and San Francisco Residents from redevelopment activities within the Project Area. BVHP Residents have disproportionately lower income levels. As part of this policy, residents will be referred by the CBOs (defined below) that serve San Francisco lower-income residents. Therefore, the BVHP residential preference fulfills the purpose of providing economic opportunity to lower-income residents.

4. This Employment and Contracting Policy meets or exceeds the requirements of the City of San Francisco’s Administrative Code Chapter 83 (First Source policy) and CityBuild Program. Thus, entering into and complying with the terms of an Employment and Contracting Policy Agreement will satisfy the requirements of the City’s First Source Policy. It is also intended to satisfy the requirements of Health and Safety Code Section 33422.3 which states that for any contract over \$100,000, the Agency may set specific percentages by craft or trade for the employment of available project area residents.

5. The Agency is committed to facilitating Project Sponsor, Contractor and Employer access to and the hiring of qualified BVHP and San Francisco Residents. To further this goal, the Agency will continue to contract with CBOs to provide education and referral programs and services which will allow BVHP and San Francisco Residents to be considered for employment.

6. The Agency and the Planning Department of the City and County of San Francisco (“**Planning**”) entered into a delegation agreement as of September 19, 2006 (the “**Delegation Agreement**”). Per the Delegation Agreement, Planning shall not approve a Significant Project in the Project Area unless the Project Sponsor has entered into an Employment and Contracting Agreement(s) with the Agency. Ongoing compliance with such Agreements(s) shall become a condition of the permit.

7. This Employment and Contracting Policy shall be effective on or after December 4, 2007 (“**Effective Date**”).

8. The Agency and the PAC shall review the effectiveness of the new Employment and Contracting Policy after one (1) year of implementation.

II. HIRING GOALS

A. Construction Workforce Hiring Goal

1. The Employment and Contracting Policy has a goal that **fifty percent (50%)** of construction workforce hires for each trade be qualified BVHP Residents and then San Francisco Residents with First Consideration to BVHP Residents. This goal is expressed as a percentage of each Contractor's total hours of employment and training by trade on the project. The procedure for meeting the construction workforce goal is set forth in Section VII.

B. Permanent / Temporary Workforce Goal

1. The Employment and Contracting Policy has a goal that **fifty percent (50%)** of permanent / temporary workforce hires be qualified BVHP Residents and then San Francisco Residents with First Consideration given to BVHP Residents. The procedure for meeting the permanent / temporary workforce goal is set forth in Section IX.

C. Trainee Goals

1. The Employment and Contracting Policy requires that all design professionals (architects, engineers, planners, and environmental consultants) on contracts over \$100,000, hire qualified BVHP Residents and then San Francisco Residents with First Consideration given to BVHP Residents as trainees. The trainee hiring goal for architects, engineers and other design professionals is based upon the total amount of the design professional's contract as follows:

<u>Trainees</u>	<u>Design Professional Fees</u>
0	\$ 0 - \$ 99,000
1	\$100,000 - \$ 249,999
2	\$250,000 - \$ 499,999
3	\$500,000 - \$ 999,999
4	\$1,000,000 - \$1,499,999
5	\$1,500,000 - \$1,999,999
6	\$2,000,000 - \$4,999,999
7	\$5,000,000 - \$7,999,999
8	\$8,000,000 - or more

2. The procedure for meeting the trainee hiring goal is set forth in Section VIII.

III. DEFINITIONS

1. Agency-Action Project means, as applicable, the Agency's funding (including conduit bond financing), acquisition, disposition, or development of property through a Development and Disposition Agreement ("DDA"), Owner Participation Agreement ("OPA"), loan agreement, grant agreement or other transactional and/or funding documents between a Project Sponsor and the Agency, provided however, that the Agency's Model Block Program is excluded from this definition, as it will contain its own local hiring and contracting requirements.

2. **Agency Compliance Officer** means the Agency's Contract Compliance Specialist assigned to oversee the Project Sponsor's compliance with the requirements of the Employment and Contracting Policy Agreement.

3. **Agreement** means an Employment and Contracting Agreement entered into between the Agency and the Project Sponsor pursuant to this Employment and Contracting Policy.

4. **Arbitration Parties** means the Agency, Project Sponsor, Contractors, Employers and all persons who attend the arbitration hearing pursuant to Section XII, as well as those persons and Project Sponsors who are subject to a default award provided that all of the requirements in Section XII (11) have been met.

5. **BVHP Resident** means, for the purposes of this Employment and Contracting Policy only, any person who resides in the BVHP Project Area or within the 94124 zip code as it is defined on the Effective Date.

6. **CBO** means any community based organization that provides training, education and referral services to BVHP Residents, including but not limited to:

Young Community Developers, Inc., 1715 Yosemite Avenue, San Francisco, CA 94124, (415) 822-3491;

Mission Hiring Hall, 3042 – 16th Street, San Francisco, CA 94103, (415) 626-1919 (Construction jobs only);

South of Market Employment Center, 288 – 7th Street, San Francisco, CA 94103, (415) 865-2105 (Permanent Jobs only) and

Ella Hill Hutch Community Center, 1050 McAllister Street, San Francisco, CA 94115, (415) 921-6276

7. **City** means the City and County of San Francisco.

8. **Commercial Project** means (for purposes of this Employment and Contracting Policy only): (1) any building permit application for a commercial activity over 25,000 square feet in floor area and involving new construction, an addition, or alteration which results in over \$2,000,000 in improvements as stated on the City's building permit application (including any tenant improvements covered by said building permit); or (2) any application which requires discretionary action by the City's Planning Commission relating to a commercial activity over 25,000 square feet including, but not limited to conditional use project authorization under San Francisco Planning Code section 309, and office development under San Francisco Planning Code Sections 320, et seq.

9. **Contractor** means any person(s), firm, partnership, corporation (whether for profit or nonprofit), or combination thereof, who is a general contractor, subcontractor (regardless of tier) or consultant working on: (i) an Agency Action Project, (ii) a Significant Project in the Project Area, or (iii) a development project when the Project Sponsor has voluntarily subscribed to this Employment and Contracting Policy.

10. **Delegation Agreement** means the delegation agreement between the Agency and Planning dated September 19, 2006 as such agreement may be amended from time to time.

11. **Employer** means any person(s), firm, partnership, corporation (whether for profit or nonprofit), or combination thereof, who owns or operates a retail or commercial business which is part of: (i) an Agency Action Project, (ii) a Significant Project in the Project Area, or (iii) a

development project when the Project Sponsor has voluntarily subscribed to this Employment and Contracting Policy.

12. **Employment and Contracting Agreement or (“Agreement”)** means the written agreement entered into between the Project Sponsor and the Agency which details the particular requirements the Project Sponsor must meet in order to be in compliance with this Employment and Contracting Policy.

13. **First Consideration** means that a Project Sponsor, Contractor and/or Employer shall give first consideration to qualified BVHP Residents in accordance with Section VII.A. (6) - (8) of this Employment and Contracting Policy and then to San Francisco residents for hiring opportunities in the areas of construction workforce, permanent / temporary workforce and trainee hires prior to offering the hiring opportunity to other applicants.

14. **Housing Project** means (for purposes of this Employment and Contracting Policy only) new construction, an addition, a conversion, or substantial rehabilitation that results in the creation or addition of ten or more residential units.

15. **PAC** means the Bayview Hunters Point Project Area Committee.

16. **Planning** means the Planning Department and/or the Planning Commission of the City and County of San Francisco.

17. **Position** means a permanent / temporary position not related to construction or construction trades.

18. **Project Area** means the Bayview Hunters Point Project Areas as delineated in the Bayview Hunters Point Redevelopment Plan, adopted June 1, 2006 and recorded June 23, 2006, (Document Number 2006I199495) as it may be amended from time to time.

19. **Project Sponsor** means the developer of commercial space or new housing units defined herein as a Significant Project in the Project Area.

20. **San Francisco Resident** means any person who resides in the City and County of San Francisco.

21. **Significant Project** means, for purposes of this Employment and Contracting Policy only, a Commercial Project or Housing Project as defined in this Employment and Contracting Policy.

IV. **APPLICATION OF POLICY BY PROJECT TYPE**¹

A. Agency Action Projects

1. The Employment and Contracting Policy is mandatory for Agency Action Projects. Agency Action Projects will require the Project Sponsor to execute an Employment and Contracting Agreement with the Agency as a condition of approval. The construction workforce goal, permanent / temporary workforce goal and the trainee hiring goal for professional services contracts all apply to this type of project.

2. Additionally, the Agency’s Small Business Enterprise (“**SBE**”) Program, as amended from time to time, will apply when Project Sponsors on Agency Action Projects contracts for

¹ Page 24 contains a BVHP Employment and Contracting Policy Matrix which also gives an overview of the application of the policy by project type.

professional / personal services related to the project, such as planning studies, building and/or landscape design, economic or feasibility studies, community outreach services, printing or graphic production. The SBE participation goal is a good faith effort that 50% of the subcontracting opportunities go to Agency certified SBEs with First Consideration given to SBEs within the Project Area.

3. In addition to the local hiring and small business contracting programs listed above, Project Sponsors will be **required to comply** with the Agency's Equal Opportunity Program which include:

- Nondiscrimination in Contracts and Equal Benefits Policy
- Minimum Compensation Policy
- Health Care Accountability Policy
- Agency Prevailing Wage Policy (Labor Standards)

4. The Agency's Equal Opportunity Program is described briefly in Section X.

5. The requirements of the Employment and Contracting Policy and the Agency's Equal Opportunity Policies will be incorporated into an Agreement. The Agency's Executive Director will review and approve the Agreement on behalf of the Agency. Adherence to the Agreement shall be monitored by the Agency's Contract Compliance Division. Agency staff shall periodically report to the BVHP PAC and the Agency Commission on the compliance status of Agency Action Projects.

B. Private Significant Projects

1. The Employment and Contracting Policy is mandatory for private Significant Projects (not requiring Agency assistance) in the Project Area that exceed the following thresholds:

- **Housing Projects:** new construction, an addition, a conversion, or substantial rehabilitation that results in the creation or addition of ten or more residential units ; or
- **Commercial Projects:** (1) any building permit application for a commercial activity over 25,000 square feet in floor area and involving new construction, an addition, or alteration which results in over \$2,000,000 in improvements as stated on the City's building permit application (including any tenant improvements covered by said building permit); or (2) any application which requires discretionary action by the City's Planning Commission relating to a commercial activity over 25,000 square feet including, but not limited to conditional use project authorization under San Francisco Planning Code section 309, and office development under San Francisco Planning Code Sections 320, et seq.

2. Private Significant Projects shall be entitled by Planning as set forth in the Delegation Agreement and will require the Project Sponsor to execute an Employment and Contracting Agreement with the Agency as a condition of approval. The construction workforce goal, permanent / temporary workforce goal and the trainee hiring goal for professional services contracts all apply to this type of project.

3. In addition to the hiring program, Project Sponsors will be encouraged to subscribe **voluntarily** to the Agency's Equal Opportunity Program which include:

- Small Business Enterprise Program
- Nondiscrimination in Contracts and Equal Benefits Policy
- Minimum Compensation Policy
- Health Care Accountability Policy
- Prevailing Wage Provisions (Labor Standards)

4. The Agency's Equal Opportunity Program is described briefly in Section X.

5. The mandatory programs and the programs which the Project Sponsor has voluntarily subscribed to, if any, will be incorporated into an Agreement and at that point become mandatory. The Agency's Executive Director will review and approve the Agreement on behalf of the Agency. Adherence to the Agreement shall be monitored by the Agency's Contract Compliance Division. Agency staff shall periodically report to the BVHP PAC and the Agency Commission on the compliance status of private Significant Projects.

C. CityBuild and Public Improvements

1. While not part of the Employment and Contracting Policy, the CityBuild workforce initiative applies to all public infrastructure and other public improvements projects that the City funds in the Project Area. CityBuild is an initiative of the Mayor's Office of Economic and Workforce Development, in partnership with other City departments that utilizes City-sponsored construction as a vehicle to deliver training and employment opportunities to San Francisco residents. When the Agency is providing additional funding for a City funded public project, Agency staff shall work with CityBuild and the lead City department to consider implementation of elements of the Agency Employment and Contracting Policy as well as the Equal Opportunity Program.

2. The purpose of CityBuild is to ensure equal employment opportunities for San Francisco residents of all backgrounds and genders in construction workforce activities provided under City-sponsored construction projects. CityBuild establishes a goal of 50% participation for San Francisco residents in each trade for total hours worked on a project. CityBuild creates a single, responsible and accountable entity, Mayor's Office of Economic and Workforce Development, to direct construction employment and training efforts across projects and departments and develops trained, committed men and women to become the construction workforce of the future.

3. The Agency's Equal Opportunity Program is described briefly in Section X.

D. Small Private Projects

1. The Employment and Contracting Policy does not mandate local hiring or contracting for purely private projects that fall below the threshold of Significant Projects. However, Project Sponsors will be encouraged to subscribe **voluntarily** to the following Agency's Equal Opportunity Programs and other policies which include:

- BVHP Employment and Contracting Policy

- Small Business Enterprise Policy
 - Nondiscrimination in Contracts and Equal Benefits Policy
 - Minimum Compensation Policy
 - Health Care Accountability Policy
 - Agency Prevailing Wage Policy (Labor Standards)
2. The Agency's Equal Opportunity Program is described briefly in Section X.

V. TERM

1. The term for meeting the obligations under the Employment and Contracting Policy (“**Term**”) shall be as follows:

For Construction Workforce – From the date of the Employment and Contracting Agreement until two (2) years thereafter or the expiration of the building permit for the project, whichever is later.

For Trainee Hiring – From the date of the Employment and Contracting Agreement until two (2) years thereafter or the expiration of the building permit for the project, whichever is later.

For Permanent / Temporary Workforce – Up to ten (10) years from the date of the temporary certificate of occupancy per building, as determined through good faith negotiations between the Project Sponsor and the Agency based upon the anticipated number of permanent and/or temporary positions created by the Project.

VI. APPLICABLE COMMUNITY REDEVELOPMENT LAWS

1. The Employment and Contracting Policy is designed to further the objectives of the Community Redevelopment Law that redevelopment project areas support local businesses and lower-income BVHP Residents in the revitalization efforts of the Agency. Specifically, the Community Redevelopment law (which is codified in the California Health and Safety Code) states:

33422.1. Preference in Awarding Contracts to Local Businesses.

To the greatest extent feasible, contracts for work to be performed in connection with any redevelopment project shall be awarded to business concerns which are located in, or owned in the substantial part by persons residing in, the project area.

33422.3. Agency Specification of Workmen to be Lower-Income Project Area Residents for Certain Contracts.

To insure training and employment opportunities for lower-income project area residents, the agency may specify in the call for bids for any contract over one hundred thousand dollars (\$100,000) for work to be performed in connection with any redevelopment project that project area residents, if available, shall be employed for a specified percentage of each craft or type of workmen needed to execute the contract or work.

33423. Prevailing Wage Rates Required.

Before awarding any contract for such work to be done in a project, the agency shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman needed to execute the contract or work, and shall specify in the call for bids for the contract and in the contract such rate and the general prevailing rate for regular holiday and overtime work in the locality, for each craft or type of workman needed to execute the contract.

33424. Payment of Prevailing Wages.

The contractor to whom the contract is awarded and any subcontractor under him shall pay not less than the specified prevailing rate of wages to all workmen employed in the execution of the contract.

33425. Penalty for Noncompliance with Prevailing Wages.

As a penalty to the agency which awarded the contract, the contractor shall forfeit ten dollars (\$10) for each calendar day or portion thereof for each workman paid less than the stipulated prevailing rates for any public work done under the contract by him or by any subcontractor under him. A stipulation to this effect shall be included in the contract.

33426. Record of Wages.

Each contractor and subcontractor shall keep an accurate record showing the name, occupation, and actual per diem wages paid to each workman employed by him in connection with the work. The record shall be kept open at all reasonable hours to the inspection of the agency.

VII. CONSTRUCTION WORKFORCE HIRES²

A. Procedures For Construction Workforce Hires

1. Compliance with the Policy

The Project Sponsor agrees and will require each Contractor and all subcontractors to use its good faith efforts to employ 50% of its construction workforce hires by trade and by hours from qualified BVHP Residents and then San Francisco Residents with First Consideration to BVHP Residents. Project Sponsors and Contractors will be deemed in compliance with this Employment and Contracting Policy by meeting or exceeding the goal or by taking the following steps in good faith towards compliance.

2. Execute Employment and Contracting Agreement

The Project Sponsor shall execute an Agreement which details the requirements of the Employment and Contracting Policy, as well as the Agency's Equal Opportunity Program, if applicable. The Project Sponsor shall incorporate by reference or attach the Agreement to its contract with the general contractor. The general contractor shall do the same in its contracts with its subcontractors. Thus, each Contractor will be obligated to comply with the terms of the

² The same procedure for construction workforce hires applies to all Project Sponsors regardless of whether the project is an Agency Action, private Significant Project, or small Private Project when the Project Sponsor has voluntarily subscribed to the Employment and Contracting Policy.

Agreement. The Project Sponsor and/or Contractors shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. **Submission of Labor Force Projections and Other Data**

The general contractor shall submit, to the extent available, labor force projections to the Compliance Officer within two (2) weeks of award.

4. **Submit Subcontractor Information Form**

The general contractor shall submit to the Compliance Officer the Subcontractor Information Forms, twenty-four (24) hours prior to the preconstruction meeting. The Subcontractor Information Forms are available from the Compliance Officer upon request.

5. **Preconstruction Meeting**

The general contractor shall hold a preconstruction meeting which shall be attended by the Compliance Officer, the CBO assigned to the proposed project, all prime contractor(s) and all subcontractor(s). The preconstruction meeting shall be scheduled between two (2) days and thirty (30) days prior to the start of construction at a time and place convenient to all attendees. The purpose of the meeting is to discuss: the hiring goals, workforce composition, role of the CBOs, worker referral process, certified payroll reporting, procedure for termination and replacement of workers covered by this policy and to explore any anticipated problems in complying with the Employment and Contracting Policy. All questions regarding how this Employment and Contracting Policy applies to the Project Sponsor, general contractor, subcontractors and consultants should be answered at this meeting. Failure to hold or attend at least one (1) preconstruction meeting will be a breach of this Employment and Contracting Policy that may result in the Agency ordering a suspension of work until the breach has been cured. Suspension under this provision is not subject to arbitration.

6. **Submit Construction Worker Request Form**

For the Term of the Agreement, each time the Project Sponsor or Contractor seeks to hire workers for the construction or rehabilitation of improvements, they must first submit, by fax, email or hand delivery, an executed construction worker request form to the CBO. Preferably this request will be submitted at least two (2) business days before the workers are needed. However, requests with less than two (2) business days notice will be accepted. The construction worker request form will indicate generally: the number of workers needed, duration needed, required skills or trade and date/time to report. The construction worker request form is available from the CBO or Compliance Officer upon request.

7. **Response from CBO**

The CBO shall respond, in writing, via fax, email or hand delivery to each request for construction workers. The response shall state that the CBO was able to satisfy the request in full, in part or was unable to satisfy the request. The CBOs shall look to their own referral lists, as well as confer with other CBOs and CityBuild in an attempt to find qualified BVHP Residents and San Francisco Residents. If the CBO is able to satisfy the request in full or in part, it shall direct the qualified BVHP Resident(s) or San Francisco Resident(s) to report to the Contractor on the date and time indicated in the request. If the CBO is unable to satisfy the request, then the CBO shall send a

fax or email stating that no qualified BVHP Residents or San Francisco Residents are currently available.

8. **Action by Contractor When Referrals Available**

The Project Sponsor or Contractor whose request has been satisfied in full or in part shall make the final determination of whether the BVHP Residents or San Francisco Residents are qualified for the positions and the ultimate hiring decision. The Agency strongly encourages the Contractor to hire the qualified BVHP Residents or San Francisco Residents referred by the CBO. However, if the Contractor finds the BVHP Residents or San Francisco Residents are not qualified, then the Contractor shall send the BVHP Residents or San Francisco Residents back to the CBO. Before the close of business on the same day, the Contractor shall fax or email a statement addressed to the CBO stating in detail the reason(s) the BVHP Residents or San Francisco Residents were not qualified or the reason(s) for not hiring the BVHP Residents or San Francisco Residents. The CBO shall, within one (1) business day of receipt of the fax or email, send new qualified BVHP Residents or San Francisco Residents that meet the legitimate qualifications set by the Contractor or alternatively, send a fax or email stating that no qualified BVHP Residents or San Francisco Residents are currently available.

9. **Action by Contractor When Referrals Unavailable**

If a Contractor receives a response from the CBO stating that no qualified BVHP Residents or San Francisco Residents are currently available, then the Contractor may hire the number of construction workers requested from the CBO, using its own recruiting methods, giving first consideration to BVHP Residents and then San Francisco Residents. Any additional new construction workforce hires (including the replacement of any terminated workers) must comply with this Employment and Contracting Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from the CBO as proof of compliance and submit a copy of each response received to the Agency Compliance Officer upon request.

10. **Action by Contractor When No Response From CBO**

If a Contractor has not received a response to its construction worker request from the CBO within two (2) business days, then the Contractor should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause a response to be sent to the Contractor within two (2) business days of being notified. If the Contractor does not receive a response from the CBO within four (4) business days (the original two (2) business days plus the additional two (2) business days), then the Contractor may hire the number of construction workers requested from the CBO, using its own recruiting methods, giving first consideration to BVHP Residents and then San Francisco Residents. Any construction workforce hires (including the replacement of any terminated workers) must comply with this Employment and Contracting Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from the CBO as proof of compliance and submit a copy of each response received to the Agency Compliance Officer upon request. This Employment and Contracting Policy is intended to provide qualified BVHP and San Francisco Residents with employment opportunities without causing undue delay in hiring needed construction workers.

11. **Action by Contractor When No Response From Union**

The Contractor should immediately advise the Agency Compliance Officer by phone, fax or email when the Contractor has sent a qualified BVHP Resident or San Francisco Resident to a union hall for referral in accordance with a collective bargaining agreement and the union did not refer the qualified BVHP or San Francisco Resident back for employment or when the union referral process impedes the Contractor's ability to meet its obligations under this policy. Conflicts between this Employment and Contracting Policy and any collective bargaining agreements will be resolved pursuant to Section XI (4).

12. **Hiring Apprentices**

A Contractor may meet part of the Construction Workforce Goal by hiring apprentices. However, hiring an apprentice does not satisfy or waive the trainee hiring obligation, if any, for design professionals. Unless otherwise permitted by law, apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training or the California Department of Industrial Relations, Division of Apprenticeship Standards. Credit towards compliance will only be given for paid apprentices actually working on the project. No credit is available for apprentices while receiving class room training. Under no circumstances shall the ratio of apprentices to journeymen in a particular trade or craft exceed 1:5.

13. **Termination and Replacement of Referrals**

If at any time it becomes necessary to terminate for cause a construction worker who was hired under this Employment and Contracting Policy, the Contractor shall notify the CBO in writing via fax or email and submit a report of termination pursuant to Section VII (B)(4). If the Contractor intends to fill the vacant position, then the Contractor shall follow the process set forth in this Employment and Contracting Policy beginning at Section VII (A)(6).

B. Reporting Requirements For Construction Workforce

1. **Submission of Certified Payroll Reports**

Each Contractor subject to this Employment and Contracting Policy shall submit to the Agency a certified payroll report for the preceding work week on each of its employees. The Project Sponsor is ultimately responsible for the submission of these reports by the Contractors. The certified payroll report is due to the Agency by noon each Wednesday. To facilitate compliance, the Agency uses the online LCP Tracker system (www.lcptracker.com) for submission of certified payroll reports. This system is available at no cost to the Contractor and LCP Tracker is compatible with all major computer payroll systems. Training and educational materials for LCP Tracker are available at no cost online and through the Compliance Officer. Contractors are required to report certified payroll using the LCP Tracker system at www.lcptracker.com. However, a waiver shall be granted pursuant to Section XI (10) to any Contractors who do not have a computer, online access or who use a computer payroll system that is incompatible with LCP Tracker.

2. **Contents of Certified Payroll Reports**

If certified payroll records are submitted via the LCP Tracker system, the required data points are already listed. If certified payroll records are submitted in paper form, the records shall be organized in an easily understandable format and contain **all** the following information: the

name, address, telephone number, residency (Bayview Hunters Point, another redevelopment project area, San Francisco or other), last four (4) digits of the worker's Social Security number³, gender, ethnicity (see codes in Section VII (B)(8)), construction trade (see codes in Section VII (B)(8)), classification (e.g., mechanic, apprentice, trainee, helper or laborer), union affiliation (if any), dates of changes in status, daily and weekly number of hours worked, hourly wage rates (including rates of contributions for costs anticipated for fringe benefits or cash equivalents thereof), deductions made and actual wages paid. The foregoing notwithstanding, the reporting of hourly wage rates, deductions and actual wages paid are not required for Significant Projects unless the Project Sponsor has voluntarily subscribed to the Agency's Prevailing Wage Policy or the payment of prevailing wages is otherwise required by law. To the degree that existing certified payroll records satisfy these requirements, the Contractor shall not be required to maintain separate records.

3. **Additional Information**

In order to prevent unlawful discrimination in the selection, hiring and termination of employees on the basis of race, ethnicity, gender or any other basis prohibited by law and to identify and correct such unlawful practices, the Agency will monitor and collect information on the ethnicity and gender of each construction worker and apprentice. If an identifiable pattern of apparent discrimination is revealed by this additional information, it will be treated as a breach of this Employment and Contracting Policy and may be addressed as set forth in Section XII, Arbitration of Disputes.

4. **Report on Terminations**

In the event a BVHP Resident or San Francisco Resident hired pursuant to this Employment and Contracting Policy is terminated for cause, the responsible Contractor shall within two (2) days fax or email a termination report to the CBO with a copy to the Agency Compliance Officer stating in detail: (1) the name of the worker(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); (4) whether the Contractor replaced the construction worker(s); and (5) whether the replacement worker(s) were BVHP Resident(s) or San Francisco Resident(s).

5. **Inspection of Records**

The Project Sponsor and each Contractor shall make the records required under this Employment and Contracting Policy available for inspection or copying by authorized representatives of the Agency, and shall permit such representatives to interview construction workers and apprentices during working hours on the job.

6. **Failure to Submit Reports**

If a Contractor fails or refuses to provide the reports as required it will be treated as a breach of this Employment and Contracting Policy and may be addressed as set forth in Section XII, Arbitration of Disputes.

7. **Submission of Good Faith Effort Documentation**

³ Note: The Project Sponsor is required to provide complete Social Security numbers upon the request of the Agency.

If the Project Sponsor's or Contractor's good faith efforts are at issue, the Contractor shall provide the Agency with the documentation of its efforts to comply with this Employment and Contracting Policy and the Agreement. The Project Sponsor or Contractor must maintain for the duration of the Term, a current file of the names, addresses and telephone numbers of each BVHP Resident or San Francisco Resident applicant referral whether self referral, union referral or CBO referral and what action was taken with respect to each such individual.

8. **Coding Certified Payrolls**

Each Contractor shall include, on the weekly payroll submissions, the code designating each construction worker's and apprentice's craft, skill level, protected class status and domicile in accordance with the following tables:

CRAFT CODE	DESCRIPTION	CRAFT CODE	DESCRIPTION
1	Electrician	22	Carpet, Linoleum and Vinyl Tile Layer
2	Iron Worker	23	Elevator Constructor
3	Sheet Metal Worker	24	Cement Mason
4	Asbestos Worker/ Heat & Frost Insulator	25	Laborer or Allied Worker
5	Plumber, Pipe or Steamfitter	26	Glazier & Glassmaker
6	Refrigeration	27	Painter, Paperhanger, Taper
7	Boilermaker	28	Sign Installer
8	Sprinkler Fitter	29	Scrapper
9	Brick, Caulk, Marble, Point, Terrazzo		
10	Hod Carrier		
11	Terrazzo Finisher	32	Low Voltage Electrician
12	Plasterer	33	Towboat Operator-Marine Engineer
13	Lather	34	Towboat Deckhand-Inland Boat worker
14	Carpenter or Drywall Hanger	35	Owner/Operator - Truck
15	Mill Worker or Cabinetmaker	36	Owner/Operator - Heavy Equipment
16	Millwright	37	Upholsterer
17	Roofer	38	Teamster, Construction
18	Pile Driver	39	Janitor
19	Surveyor/Operating Engineer	40	Environmental Control System Installer
20	Tile (Ceramic)/Marble Finisher	41	Window Cleaner
21	Tile (Ceramic)Setter	89	Security Guard

ETHNICITY CODE	DESCRIPTION
B	African American
L	Latino
I	American Indian
C	Caucasian/White
A	Asian

PI	Pacific Islander
F	Female (all females regardless of ethnicity)

PROJECT AREA CODE	DESCRIPTION
BIT	Bayview Industrial Triangle
BVHP	Bayview Hunters Point
HPSY	Hunters Point Shipyard
IB	India Basin Industrial Park
GG	Golden Gateway
MBN	Mission Bay (North)
MBS	Mission Bay (South)
MM	Mid-Market
RPSB	Rincon Point/South Beach
SF	San Francisco (not in any redevelopment project areas)
SOM	South of Market
TB	Transbay
VV	Visitacion Valley
WA	Western Addition Area A-2
YBC	Yerba Buena Center

VIII. TRAINEE HIRES⁴

A. Procedures For Trainee Hires

1. Compliance with the Policy

For architects, engineers and other design professionals only, there is a trainee hiring goal as set forth in Section II (C) above. These design professionals will be deemed in compliance with this Employment and Contracting Policy by meeting or exceeding the trainee hiring goal or by take the following steps in good faith towards compliance.

2. Execute Employment and Contracting Agreement

The Project Sponsor shall execute an Agreement which details the requirements of the Employment and Contracting Policy, as well as the Agency's Equal Opportunity Program, if applicable. The Project Sponsor shall incorporate by reference or attach the Agreement to its contract with the architects, engineers and other design professionals. Thus, each design professional will be obligated to comply with the terms of the Agreement. The Project Sponsor and/or the design professionals shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. Contact Educational Institutions

The Agency works with the City, as well as educational institutional within the City, to provide a pool of student referrals to assist design professionals in meeting the trainee hiring goal.

⁴ The same procedure for trainee hires applies to all design professionals regardless of whether the project is an Agency Action, private Significant Project, or small Private Project when the Project Sponsor has voluntarily subscribed to the Employment and Contracting Policy.

Within thirty (30) days of execution of the Agreement, the Agency Compliance Officer shall contact each design professionals and provide it with the name, address and telephone number of a point of contact at the City, **City College or other educational institutions in the Bay Area** who have a current list of students who are BVHP Residents or San Francisco Residents and are available for hire as trainees. Each design professional shall call the City or educational institution(s) and request referrals for the required trainee positions. The request will indicate generally: (1) the number of trainees sought; (2) the required skills set (keeping in mind that these are trainee positions); (3) a brief description of job duties; (4) the duration of the trainee period; and (5) any other information that would be helpful or necessary for the educational institution to make the referral. The minimum duration of assignment is part-time for one semester. However, design professionals are strongly encouraged to offer longer trainee employment periods to allow a more meaningful learning experience. (For example, a half-time or full-time assignment over the summer.) Although the initial contact shall be made by phone, the educational institution(s) may require the design professionals to send a confirming letter or fill out a form which the educational institution will provide. Each design professional is required to timely provide all of the information requested by the City or educational institution(s) in order to get the referrals.

4. **Response from Educational Institutions**

Each educational institution may have a different way of referring applicants, such as: sending resumes directly to the design professional; having the applicant contact the design professional by phone; require design professionals to conduct on-campus interviews; or some other method. The timing and method of the response will normally have be discussed with the design professional during the initial phone request. The design professional is required to follow the process set by the educational institution(s) in order to get the referrals.

5. **Action by Design Professionals When Referrals Available**

The design professional shall give First Consideration to BVHP Residents and then to San Francisco Residents referred by the educational institution(s). The design professional shall interview each applicant prior to making the decision to hire or not to hire. The design professional shall make the final determination whether the applicant is qualified for the trainee position and the ultimate hiring decision. The Agency strongly encourages the design professional to hire a qualified BVHP Resident or San Francisco Resident referred by the educational institution(s). The design professional shall notify each BVHP Resident and San Francisco Resident interviewed and the CBO in writing of the hiring decision.

6. **Action by Design Professionals When Referrals Unavailable**

If after contacting all of the educational institutions provided by the Agency Compliance Officer, the design professional is informed that no qualified BVHP residents or San Francisco Residents are currently available, then the design professional should wait thirty (30) days and contact the educational institutions a second time to inquire whether qualified San Francisco Residents are currently available for hire as trainees. If no qualified San Francisco Residents are currently available after the second request, then the design professional has fulfilled its obligation under this Section VIII, provided that the design professional has acted in good faith. The design professional must retain its file on all of the steps it took to comply with this policy and submit a copy of its file to the Agency Compliance Officer upon request.

7. **Action by Design Professional When No Response From Educational Institutions**

If a design professional has not received a response to its request for referrals from any of the educational institutions within five (5) business days after the design professional has fully complied with the procedures, if any, set by the educational institution(s) for obtaining referrals; then the design professional should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause the educational institution(s) to respond to the design professional within five (5) business days of the Agency Compliance Officer being notified. If the design professional still has not received a response from the educational institution(s) after this additional five (5) business day period has run, then the design professional has fulfilled its obligation under this Section VIII, provided that the design professional has acted in good faith. Each design professional must retain its file on all of the steps it took to comply with this policy and submit a copy of its file to the Agency Compliance Officer upon request.

8. **Termination of Trainee for Cause**

If at any time during the Term, it becomes necessary to terminate for cause a trainee who was hired under this Employment and Contracting Policy and the design professional has not met the minimum duration requirements under this policy, then the design professional shall hire a new trainee by following the process set forth in Section VIII(A)(3) above.

B. Reporting Requirements For Trainee Hires

1. **Annual Reporting**

Annually, during the Term of the Agreement or the term of the design professional's contract with the Project Sponsor, whichever is less, the Employer shall fax or email a report to the Agency Compliance Officer stating in detail: (1) the names of the BVHP Resident(s) or San Francisco Resident(s) interviewed in the past year for trainee positions; (2) the date(s) of each interview; (3) the reasons for not hiring the BVHP Residents or San Francisco Residents interviewed; (4) the name, address, gender and racial/ethnic background of the successful candidate for the trainee position; (5) whether the successful candidate is a BVHP or San Francisco Resident; (6) the maximum number of trainees the Employer has had within the last calendar year; and (7) the number of BVHP Residents and San Francisco Residents hired within the last calendar year.

2. **Report on Terminations**

In the event a BVHP Resident or San Francisco Resident hired pursuant to this Employment and Contracting Policy is terminated for cause, the responsible design professional shall within five (5) days fax or email a termination report to the Agency Compliance Officer stating in detail: (1) the name of the trainee(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); (4) whether the design professional replaced the trainee(s); and (5) whether the new trainee(s) are BVHP Resident(s) or San Francisco Resident(s).

IX. **PERMANENT / TEMPORARY WORKFORCE POLICY⁵**

A. **Permanent / Temporary Workforce Hires**

1. **Policy Statement**

Due to the wide variety of development, both public and private, that occurs in the City and is anticipated to occur in the Project Area as redevelopment commences, it is difficult to develop a single hiring requirement or procedure that is appropriate in all situations. The Agency seeks to ensure that BVHP Residents have the opportunity to share in the permanent and temporary jobs that come from redevelopment in the Project Area. At the same time, the Agency seeks to assist Employers in meeting workforce demands for Significant Projects within the Project Area. The Agency has adopted a flexible approach to achieve these goals. The Employment and Contracting Policy sets an overall goal of 50% for permanent / temporary workforce hires but allows flexibility to tailor the remaining key terms of the Agreement to fit the specific project.

2. **Compliance with the Policy**

The Project Sponsor agrees and will require each Employer to use its good faith efforts to employ 50% of its permanent / temporary workforce from qualified BVHP Residents and then San Francisco Residents with First Consideration to BVHP Residents. Project Sponsors and Employers will be deemed in compliance with this Employment and Contracting Policy by meeting or exceeding the goal or by documenting the good faith efforts as set forth in the Agreement.

3. **Negotiate and Execute Employment and Contracting Agreement**

The Project Sponsor shall negotiate in good faith with the Agency's Contract Compliance staff to reach agreement on: (a) the Term of the Agreement; (b) the job titles or type of positions subject to this hiring obligation; (c) procedures for fulfilling the hiring obligation or meeting the good faith efforts; and (d) reporting requirements. These negotiations will be based upon the anticipated number of permanent and/or temporary positions created by the project. The executed Agreement will set forth the mutually agreed upon details, as well as the requirements of the Agency's Equal Opportunity Program, if applicable. The Project Sponsor shall incorporate by reference or attach the Agreement to its contract with the Employer. The Project Sponsor and/or Employer shall retain the executed Agreement and make it available to the Agency Compliance Officer upon request.

4. **Review of Permanent / Temporary Workforce Policy**

Working with the PAC, the CBOs and the City's workforce development systems, the Agency will review the Permanent / Temporary Workforce Policy and will revise the procedures and goals as necessary to ensure that BVHP and San Francisco Residents are given First Consideration for these job opportunities.

⁵ The same procedure for permanent / temporary workforce hires applies to all Project Sponsors regardless of whether the project is an Agency Action, private Significant Project, or small Private Project when the Project Sponsor has voluntarily subscribed to the Employment and Contracting Policy.

X. AGENCY EQUAL OPPORTUNITY PROGRAM

A. Compliance with Agency's Equal Opportunity Program

Compliance with some or all of the Agency's Equal Opportunity Program may be mandatory or voluntary depending on whether the development is an Agency Action Project, private Significant Project, CityBuild / public improvement project or a small Private Project. The components of the Agency's Equal Opportunity Program are described briefly below for reference. The full policies and procedures associated with these programs are available from the Agency's Contract Compliance Division.

1. Small Business Enterprise Program

The Agency's Small Business Enterprise ("SBE") Program was adopted by Agency Resolution No. 133-2004 on November 16, 2004, as part of the Agency's Interim Purchasing Policy and Procedures, and may be amended from time to time. The SBE Program provides for first consideration in awarding subcontracts and sub-consulting opportunities to Agency certified local small business enterprises. The SBE Program is designed to help ensure that SBEs have a fair opportunity to compete for and participate in contracts related to Agency- Action Projects and other projects that are subject to the SBE Program. SBEs are divided into three groups: (1) Project Area SBEs, (2) Local SBEs (outside an Agency project or survey area, but within San Francisco), and (3) all other SBEs (outside of San Francisco). If subject to the SBE Program, the Project Sponsor and its Contractors and Employers must make good faith efforts to achieve the goal of 50% SBE participation for professional / personal services, and construction contracts. The SBE Program sets a contracting goal and thus is different from the Employment and Contracting Policy which sets hiring goals. The Project Sponsor's obligations under the SBE Program will be incorporated into a SBE Agreement ("**SBE Agreement**"). The Agency Executive Director will review and approve the SBE Agreement on behalf of the Agency. The Agency's Compliance Officer will ensure compliance with the requirements and will report periodically to the BVHP PAC and the Agency Commission on compliance matters.

2. Nondiscrimination in Contracts and Equal Benefits Policy

The Agency's Nondiscrimination in Contracts and Equal Benefits Policy was adopted by Agency Resolution No. 175-97 on September 9, 1997 and may be amended from time to time. The Nondiscrimination in Contracts and Equal Benefits Policy prohibits discrimination in contracting and which includes a prohibition on discrimination in providing benefits between employees with spouses and employees with domestic partners. This policy requires the Project Sponsor to agree not to discriminate against or segregate any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status). This policy also requires that employee benefits be equally available to domestic partners as they are to spouses.

3. Minimum Compensation Policy and Health Care Accountability Policies

The Agency's Minimum Compensation Policy ("**MCP**") and Health Care Accountability Policy ("**HCAP**") were adopted by Agency Resolution 168-2001 on September 25, 2001 and may be amended from time to time. MCP requires that all "Covered Employees," as defined therein, receive a minimum level of compensation. HCAP requires offering health plan benefits to Covered Employees or to make payments to the City and County of San Francisco's Department of Public

Health, or to participate in a health benefits program developed by the City and County of San Francisco's Director of Health.

4. Agency's Prevailing Wage Policy

The Agency's Prevailing Wage Policy (Labor Standards) was adopted by Agency Resolution No. 327-85 on November 12, 1985 and may be amended from time to time. The Agency's Prevailing Wage Policy applies to projects: (i) covered under Labor Code Section 1720 *et seq.*, (ii) that are Agency-Action Projects) or (iii) for which the Project Sponsor has voluntarily subscribed to this requirement. The Agency's Prevailing Wage Policy references the State's Labor Standards and the prevailing wage, benefits, eligibility, etc. are all calculated using the State's standards. In many instances, both the California Labor Code and the Agency's Prevailing Wage Policy will apply.

XI. EMPLOYMENT AND CONTRACTING POLICY - ADDITIONAL PROVISIONS

Project Sponsors, Contractors and Employers that are subject to this Employment and Contracting Policy (including those who have voluntarily subscribed to this policy) are subject to the following additional provisions.

1. Designate a Point of Contact

Each Project Sponsor, Contractor and Employer shall designate a responsible representative, manager or agent to monitor all employment-related activity under this Employment and Contracting Policy and to be the primary point of contact for issues arising under this policy.

2. No Retaliation

No person hired pursuant to this policy shall be discharged or in any other manner discriminated against by the Project Sponsor, Contractor or Employer because such person has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Employment and Contracting Policy.

3. No Discrimination

There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status). The Project Sponsor, Contractors and Employers will ensure that applicants are employed, and that persons are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

4. Collective Bargaining Exclusion

Notwithstanding anything to the contrary in this Employment and Contracting Policy, if an Agreement conflicts with an existing labor agreement or collective bargaining agreement to which a Project Sponsor, Contractor or Employer is a party, the labor agreement or collective bargaining agreement shall prevail. Nothing in this Employment and Contracting Policy shall be interpreted to interfere with or prohibit existing labor agreements or collective bargaining agreements. However, the Project Sponsor, Contractor or Employer will still be obligated to provide workforce needs information to the CBO prior to hiring and the Employer will be obligated to make good faith efforts to comply with the requirements of its Employment and Contracting Policy Agreement that do not conflict with the collective bargaining agreement.

5. **No Conflict with State or Federal Law**

This Employment and Contracting Policy is to be implemented in a manner that does not conflict with applicable federal or state laws.

6. **Existing Workforce**

Nothing in this Employment and Contracting Policy shall be interpreted in a manner that would require termination of the Project Sponsor's, Contractor's or Employer's existing workers and employees.

7. **Use of Debarred Entities Prohibited**

Neither the Project Sponsor, Contractor nor Employer shall enter into any subcontract with any person or firm that the Project Sponsor, Contractor or Employer knows or should have known is debarred from federal, state or local government contracts.

8. **Incorporation**

Whenever the Project Sponsor, Contractor or Employer subcontracts a portion of the work, it shall set forth verbatim and make binding on each subcontractor the provisions of this Employment and Contracting Policy. That subcontract shall then be deemed a Contractor or Employer for the purposes of this Employment and Contracting Policy and shall be subject to all of the requirements hereto.

9. **Severability**

If any part or provision of this Employment and Contracting Policy or the application thereof to any person or circumstance is held to be invalid, then the remainder of this Employment and Contracting Policy, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Employment and Contracting Policy are severable.

10. **Waiver**

Any of the Employment and Contracting Policy requirements may be waived by the Agency's Executive Director, if he/she determines for good cause shown that a specific requirement is not relevant to the particular situation, would cause undue hardship, or that an alternative approach would better meet the goals of the Employment and Contracting Policy.

XII. ARBITRATION OF DISPUTES

1. **Arbitration by AAA**

Any dispute involving the alleged breach or enforcement of an Employment and Contracting Policy Agreement, including but not limited to disputes over qualification of referrals; whether termination was for good cause; and whether the Project Sponsor, Contractor or Employer has complied with this Employment and Contracting Policy Agreement in good faith shall be submitted to arbitration. The arbitration shall be submitted to the American Arbitration Association, San Francisco, California office (“AAA”) which will use the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. If there is a conflict between the Commercial Rules of the AAA and the arbitration provisions in this Employment and Contracting Policy, this Employment and Contracting Policy shall govern. The arbitration shall take place in the City and County of San Francisco.

2. **Demand for Arbitration**

The party seeking arbitration shall make a written demand for arbitration (“**Demand for Arbitration**”). The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying the entities believed to be involved in the dispute; (2) a copy of the notice of default, if any, sent from one party to the other; and (3) any written response to the notice of default.

3. **Parties’ Participation**

The Agency, Project Sponsor, Contractor, Employer and all persons or entities affected by the dispute shall be made Arbitration Parties. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such affected person or entity as an Arbitration Party.

4. **Agency Request to AAA**

Within seven (7) business days after service or receipt of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration and any written response thereto from the Project Sponsor, Contractor and/or Employer. Such material shall be made part of the arbitration record.

5. **Selection of Arbitrator**

One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the Arbitration Parties in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) business days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be the arbitrator’s agreement to: (i) submit to all Arbitration Parties the disclosure statement required under California Code of Civil Procedure Section 1281.9; and (ii) render a decision within thirty (30) days from the date of the conclusion of the arbitration hearing.

6. **Setting of Arbitration Hearing**

A hearing shall be held within ninety (90) days of the date of the filing of the Demand for Arbitration with AAA, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

7. **Discovery**

In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05 as it may be amended from time to time.

8. **California Law Applies**

California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings in any Employment and Contracting Agreement.

9. **Arbitration Remedies and Sanctions**

The arbitrator may impose only the remedies and sanctions set forth below:

- a. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance with the Employment and Contracting Policy Agreement.
- b. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Employment and Contracting Policy Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Employment and Contracting Policy Agreement, other than those minor modifications or extensions necessary to enable compliance with the Employment and Contracting Policy Agreement.
- c. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any Arbitration Party to comply with any of the requirements in the Employment and Contracting Policy Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.
- d. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of the Employment and Contracting Policy Agreement unless the breaching party has failed to cure after being provided written notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

e. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

10. **Arbitrator's Decision**

The arbitrator will normally make his or her award within twenty (20) days after the date that the hearing is completed but in no event past thirty (30) days from the conclusion of the arbitration hearing; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

11. **Default Award; No Requirement to Seek an Order Compelling Arbitration**

The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) the person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

12. **Arbitrator Lacks Power to Modify**

Except as expressly provided above in this Section XII, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Employment and Contracting Policy Agreement or to negotiate new agreements or provisions between the parties.

13. **Jurisdiction/Entry of Judgment**

The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The prevailing Arbitration Party (ies) shall be entitled to reimbursement for the arbitrator's fees and related costs of arbitration. Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

BVHP EMPLOYMENT AND CONTRACTING POLICY MATRIX

	Agency-Action Projects	Private Significant Projects	CityBuild & Public Improvements	Small Private Projects
BVHP Employment and Contracting Policy	Mandatory ⁶	Mandatory	Voluntary but Encouraged	Voluntary but Encouraged
Small Business Enterprise Policy	Mandatory	Voluntary but Encouraged ⁷	Voluntary but Encouraged	Voluntary but Encouraged
Nondiscrimination and Equal Benefits Policy	Mandatory	Voluntary but Encouraged	Voluntary but Encouraged	Voluntary but Encouraged
Minimum Compensation Policy	Mandatory	Voluntary but Encouraged	Voluntary but Encouraged	Voluntary but Encouraged
Healthcare Accountability Policy	Mandatory	Voluntary but Encouraged	Voluntary but Encouraged	Voluntary but Encouraged
Agency's Prevailing Wage Policy	Mandatory	Voluntary but Encouraged	Voluntary but Encouraged ⁸	Voluntary but Encouraged

⁶ Mandatory means that the Project Sponsor **is required** to comply with the Agency's policy. However, each Agency policy has its own threshold and compliance requirements. For example, the Agency's Minimum Compensation Policy ("MCP") will apply to all Agency-Action projects but MCP has no compliance requirements for Project Sponsors with less than 25 employees.

⁷ Voluntary but Encouraged means that the Project Sponsor **is not required** to comply with the Agency's policy as a condition to developing the project. However, the Agency's Contract Compliance Department will encourage the Project Sponsor to subscribe voluntarily to these Agency policies. If the Project Sponsor voluntarily agrees to comply with one or more Agency's policies, then those policies will be added as a condition to the building permit and at that point will become mandatory.

⁸ Public Improvements and public/private project receiving City funds are subject to the State of California's prevailing wage requirements per California Labor Code Section 1720 *et seq.*

ATTACHMENT 9-3

CONSTRUCTION WORKFORCE AGREEMENT

- I. **PURPOSE.** This Agreement is entered into between the Office of Community Investment and Infrastructure ("OCII" or "Agency"), as successor agency to the San Francisco Redevelopment Agency, and Owner (who for this purposes of this Attachment 9-2 shall be the Tenant as defined under the Lease to which this document is an Attachment), for the purposes of ensuring participation of San Francisco residents and equal employment opportunities in the construction work force involved in constructing any of the phases upon the Site covered by the underlying agreement to which this Agreement is attached hereto.
- II. **DEFINITIONS.**
The following definitions apply to this Agreement.
- A. "CityBuild" means the construction employment program of the Workforce Development Division of the San Francisco Office of Economic and Workforce Development (OEWD).
 - B. "Contract" means any agreement in excess of \$10,000 between the Owner, its Contractors and a person to provide or procure labor, materials or services for the construction of the Improvements, including a purchase order that requires installation of materials.
 - C. "Contractor" means the Owner's general contractor, all prime contractors and all subcontractors (regardless of tier) having a Contract or subcontract in excess of \$10,000 and who employ persons in a Trade for construction of the Improvements.
 - D. "Improvements" has the meaning set out in the Lease to which this Attachment 9-2 is attached.
 - E. "Project Area Resident" means a San Francisco Resident who resides in the Bay View Hunters Point Project Area or within the ZIP codes of 94124, 94107, or 94134.
 - F. "San Francisco Resident" in the case of a new hire shall mean an individual who has lived in San Francisco for at least one week prior to submitting his/her initial application for employment to work on the Improvements. In the case of a person employed by the Owner or its Contractor or Consultant prior to assignment to the Improvements, this term shall mean a person who has lived in San Francisco for at least six months prior to the date he/she applied for a transfer to a position at the Improvements or the date he/she was assigned to work on the Improvements, whichever is earlier; or a person who establishes, to the satisfaction of the Agency, that he/she lived

in San Francisco prior to applying for or being considered for a position with the Owner, Contractor or Consultant.

III. WORK FORCE GOALS.

The Owner agrees and will require each Contractor and all subcontractors to use good faith efforts to employ 50 percent of its construction workforce hires by trade and by hours from qualified San Francisco Residents with first consideration given to Project Area Residents. Owner and Contractors will be deemed in compliance with this Agreement and the Policy by meeting or exceeding the goal or by demonstrating good faith efforts toward compliance.

IV. GOOD FAITH EFFORTS.

A. Submission of Labor Force Projections and Other Data

The Contractor shall submit, to the extent available, labor force projections to the OCII Compliance Officer, or its agent, within two (2) weeks of contract award.

B. Submit Subcontractor Information Form

The Contractor shall submit to the Compliance Officer, or its agent, the Subcontractor Information Forms, twenty-four (24) hours prior to the preconstruction meeting. The Subcontractor Information Forms are available from the Compliance Officer upon request.

C. Preconstruction Meeting

The Contractor shall hold a preconstruction meeting which shall be attended by the Compliance Officer, CityBuild, all prime contractor(s) and all subcontractor(s). The preconstruction meeting shall be scheduled between two (2) days and thirty (30) days prior to the start of construction at a time and place convenient to all attendees. The purpose of the meeting is to discuss: the hiring goals, workforce composition, worker referral process, certified payroll reporting, procedure for termination and replacement of workers covered by this Agreement and to explore any anticipated problems in complying with the Agreement. All questions regarding how this Agreement applies to the Owner, Contractor, subcontractors and consultants should be answered at this meeting. Failure to hold or attend at least one (1) preconstruction meeting will be a breach of the Policy and this Agreement that may result in the Agency ordering a suspension of work until the breach has been cured. Suspension under this provision is not subject to arbitration.

D. Submit Construction Worker Request Form

For the Term of the Agreement, each time the Owner or Contractor seeks to hire workers for the construction or rehabilitation of improvements, they must first submit, by fax, email or hand delivery, an executed construction worker request form to CityBuild. Preferably this request will be submitted

at least two (2) business days before the workers are needed. However, requests with less than two (2) business days notice will be accepted. The construction worker request form will indicate generally: the number of workers needed, duration needed, required skills or trade and date/time to report. The construction worker request form is available from the Compliance Officer upon request.

E. Response from CityBuild

CityBuild shall respond, in writing, via fax, email or hand delivery to each request for construction workers. The response shall state that CityBuild was able to satisfy the request in full, in part or was unable to satisfy the request. CityBuild shall look to their own referral lists, as well as confer with CBOs in an attempt to find qualified Project Area Residents and San Francisco Residents. If CityBuild is able to satisfy the request in full or in part, it shall direct the qualified Project Area Resident(s) or San Francisco Resident(s) to report to the Contractor on the date and time indicated in the request. If CityBuild is unable to satisfy the request, then CityBuild shall send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

F. Action by Contractor When Referrals Available

The Owner or Contractor whose request has been satisfied in full or in part shall make the final determination of whether the Project Area Residents or San Francisco Residents are qualified for the positions and the ultimate hiring decision. The Agency strongly encourages the Contractor to hire the qualified Project Area Residents or San Francisco Residents referred by CityBuild. However, if the Contractor finds the Project Area Residents or San Francisco Residents are not qualified, then the Contractor shall send the Project Area Residents or San Francisco Residents back to CityBuild. Before the close of business on the same day, the Contractor shall fax or email a statement addressed to CityBuild stating in detail the reason(s) the Project Area Residents or San Francisco Residents were not qualified or the reason(s) for not hiring the Project Area Residents or San Francisco Residents. CityBuild shall, within one (1) business day of receipt of the fax or email, send new qualified Project Area Residents or San Francisco Residents that meet the legitimate qualifications set by the Contractor or alternatively, send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

G. Action by Contractor When Referrals Unavailable

If a Contractor receives a response from CityBuild stating that no qualified Project Area Residents or San Francisco Residents are currently available, then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any additional new construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor

has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request.

H. Action by Contractor When No Response From CityBuild

If a Contractor has not received a response to its construction worker request from CityBuild within two (2) business days, then the Contractor should immediately advise the Compliance Officer by phone, fax or email. The Compliance Officer or his/her designee shall cause a response to be sent to the Contractor within two (2) business days of being notified. If the Contractor does not receive a response from CityBuild within four (4) business days (the original two (2) business days plus the additional two (2) business days), then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request. This Policy is intended to provide qualified Project Area and San Francisco Residents with employment opportunities without causing undue delay in hiring needed construction workers.

I. Action by Contractor When No Response From Union

The Contractor should immediately advise the Compliance Officer by phone, fax or email when the Contractor has sent a qualified Project Area Resident or San Francisco Resident to a union hall for referral in accordance with a collective bargaining agreement and the union did not refer the qualified Project Area or San Francisco Resident back for employment or when the union referral process impedes the Contractor's ability to meet its obligations under this Policy. Nothing in this Policy shall be interpreted to interfere with or prohibit existing labor agreements or collective bargaining agreements.

J. Hiring Apprentices

A Contractor may meet part of the Construction Workforce Goal by hiring apprentices. However, hiring an apprentice does not satisfy or waive the trainee hiring obligation, if any, for design professionals. Unless otherwise permitted by law, apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training or the California Department of Industrial Relations, Division of Apprenticeship Standards. Credit towards compliance will only be given for paid apprentices actually working on the project. No credit is available for apprentices while receiving class room training. Under no circumstances shall the ratio of apprentices to journeymen in a particular trade or craft exceed 1:5.

K. Termination and Replacement of Referrals

If at any time it becomes necessary to terminate for cause a construction worker who was hired under this Policy, the Contractor shall notify CityBuild in writing via fax or email and submit a report of termination pursuant to Section (B)(4). If the Contractor intends to fill the vacant position, then the Contractor shall follow the process set forth in this Policy beginning at Section (A)(6).

V. REPORTING REQUIREMENTS.

A. Submission of Certified Payroll Reports

Each Contractor subject to this Policy shall submit to the Agency a certified payroll report for the preceding work week on each of its employees. The Owner is ultimately responsible for the submission of these reports by the Contractors. The certified payroll report is due to the Agency by noon each Wednesday. To facilitate compliance, the Agency uses an online Project Reporting System (PRS) for submission of certified payroll reports. This system is available at no cost to the Contractor. Training and educational materials for PRS are available at no cost online and through the Compliance Officer. Contractors are required to report certified payroll using PRS. However, a waiver may be granted to any Contractors who do not have a computer or online access.

B. Additional Information

In order to prevent unlawful discrimination in the selection, hiring and termination of employees on the basis of race, ethnicity, gender or any other basis prohibited by law and to identify and correct such unlawful practices, the Agency will monitor and collect information on the ethnicity and gender of each construction worker and apprentice. If an identifiable pattern of apparent discrimination is revealed by this additional information, it will be treated as a breach of this Policy and may be addressed as set forth in the arbitration provisions included in Agency contracts.

C. Report on Terminations

In the event a Project Area Resident or San Francisco Resident hired pursuant to this Policy is terminated for cause, the responsible Contractor shall within two (2) days fax or email a termination report to CityBuild with a copy to the Compliance Officer stating in detail: (1) the name of the worker(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); (4) whether the Contractor replaced the construction worker(s); and (5) whether the replacement worker(s) were Project Area Resident(s) or San Francisco Resident(s).

D. Inspection of Records

The Owner and each Contractor shall make the records required under this Agreement available for inspection or copying by authorized representatives of the Agency and its designated Compliance Officer, and shall permit such representatives to interview construction workers and apprentices during working hours on the job.

E. Failure to Submit Reports

If a Contractor fails or refuses to provide the reports as required it will be treated as a breach of this Agreement and the Policy, and may be addressed under arbitration provisions pursuant to Article VII (Arbitration of Disputes) of this Agreement.

F. Submission of Good Faith Effort Documentation

If the Owner's or Contractor's good faith efforts are at issue, the Contractor shall provide the Agency or its designated Compliance Officer with the documentation of its efforts to comply with this Policy and the Agreement. The Owner or Contractor must maintain a current file of the names, addresses and telephone numbers of each Project Area Resident or San Francisco Resident applicant referral (whether a self-referral or a referral from a union, CBO or CityBuild referral) and what action was taken with respect to each such individual.

G. Coding Certified Payrolls

Each Contractor shall include, on the weekly payroll submissions, the proper job classification (as approved by the California Department of Industrial Relations), apprentice's craft (if applicable), skill level, protected class status, and domicile of each construction worker.

VI. RECORDKEEPING REQUIREMENTS.

Contractor shall comply with the requirements of California Labor Code Section 1776, as amended, regarding the keeping, filing and furnishing of certified copies of payroll records of wages paid to its employees and to the employees of its subcontractors of all tiers.

In addition, each Contractor shall keep, or cause to be kept, for a period of four years from the date of substantial completion of Improvements, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Improvements. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident or disadvantaged worker, and the referral source or method through which the Contractor hired or retained that worker for work on the Improvements (e.g., core workforce, name call, union hiring hall, City-designated referral source, or recruitment or hiring method). Contractor may verify that a worker is a local resident through the worker's possession of a valid SF City ID Card or other government-issued identification. OCII may require additional records to be kept with regard to Contractor's compliance with this Agreement. All records described in this section shall at all times be open to inspection and examination by the duly authorized officers and agents of OCII, including representatives of the OEWD.

VII. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this Construction Work Force Agreement shall be determined by arbitration through the American

Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

- B. **Demand for Arbitration.** Where the Owner disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Owner shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Owner fails to file a timely Demand for Arbitration, the Owner shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.
- C. **Parties' Participation.** The Agency and all persons or entities that have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Owner made an initial timely Demand for Arbitration pursuant to Section VII.B. above.
- D. **Agency Request to AAA.** Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.
- E. **Selection of Arbitrator.** One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.
- F. **Setting of Arbitration Hearing.** A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

- G. **Discovery.** In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.
- H. **Burden of Proof.** The burden of proof with respect to Construction Work Force compliance and/or Good Faith Efforts shall be on the Owner. The burden of proof as to all other alleged breaches by the Owner shall be on the Agency.
- I. **California Law Applies.** Except where expressly stated to the contrary in this Construction Work Force Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.
- J. **Arbitration Remedies and Sanctions.** The arbitrator may impose only the remedies and sanctions set forth below:
1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.
 2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Owner or this Construction Work Force Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Owner or this Construction Work Force Agreement, other than those minor modifications or extensions necessary to enable compliance with this Construction Work Force Agreement.
 3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the Agency's Work Force policy requirements. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.
 4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this Construction Work Force Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be

imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.
- K. **Arbitrator's Decision.** The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.
- L. **Default Award; No Requirement to Seek an Order Compelling Arbitration.** The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.
- M. **Arbitrator Lacks Power to Modify.** Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of this Construction Work Force Agreement or any other agreement between the Agency and Owner or to negotiate new agreements or provisions between the parties.
- N. **Jurisdiction/Entry of Judgment.** The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.
- O. **Exculpatory Clause.** Owner expressly waives any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the

Work”). Owner acknowledges and agrees that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this Construction Work Force Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. **Severability.** The provisions of this Construction Work Force Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Construction Work Force Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this Construction Work Force Agreement or the validity of their application to other persons or circumstances.

Q. **Arbitration Notice:** BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Owner

I, hereby certify that I have authority to execute this Construction Work Force Agreement on behalf of the Owner listed below and that Owner agrees to diligently exercise good faith efforts to comply

with this Agreement to meet or exceed the construction work force participation goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

HPSY 52-54, LP,

a California limited partnership

By: Rose HPSY 52-54 GP, LLC,
a Delaware limited liability company,
its administrative general partner

By: Rose GP Investors, LLC,
a Delaware limited liability company,
its managing member

By: Rose Company Holdings, LLC,
a Delaware limited liability company,
its managing member

By: _____

Name: Yusef Freeman

Title: Authorized Signatory

By: HP Shipyard 52 and 54 LLC,

a California limited liability company,
its managing general partner

By: Bayview Hunters Point Multipurpose Senior Services, Inc.,
a California nonprofit public benefit corporation,
its manager

By: _____

Name: Cathy Davis

Title: Executive Director

ATTACHMENT 9-4

PREVAILING WAGE POLICY

These Prevailing Wage Provisions (hereinafter referred to as "Labor Standards") apply to any and all construction of the Improvements as defined in the underlying agreement between the Tenant and OCII of which this Attachment and these Labor Standards are a part.

11.1 All Contracts and Subcontracts for construction and construction-related improvements shall contain the Labor Standards.

- (a) All specifications relating to the construction of the Improvements shall contain these Labor Standards and the Tenant shall have the responsibility to assure that all contracts and subcontracts, regardless of tier, incorporate by reference the specifications containing these Labor Standards. If for any reason said Labor Standards are not included, the Labor Standards shall nevertheless apply. The Tenant shall supply the Agency with true copies of each contract relating to the construction of the Improvements showing the specifications that contain these Labor Standards promptly after due and complete execution thereof and before any work under such contract commences. Failure to do shall be a violation of these Labor Standards.
- (b) Before close of escrow under the Agreement and as a condition to close of escrow, the Tenant shall also supply a written confirmation to the Agency from any construction lender for the Improvements that such construction lender is aware of these Labor Standards.

11.2 Definitions. The following definitions shall apply for purposes of this Exhibit H:

- (a) "Contractor" is the Tenant if permitted by law to act as a contractor, the general contractor, and any contractor as well as any subcontractor of any tier subcontractor having a contract or subcontract that exceeds \$10,000, and who employs Laborers, Mechanics, working foremen, and security guards to perform the construction on all or any part of the Improvements.
- (a) "Laborers" and "Mechanics" are all persons providing labor to perform the construction, including working foremen and security guards.
- (b) "Working foreman" is a person who, in addition to performing supervisory duties, performs the work of a Laborer or Mechanic during at least 20 percent of the work week.

11.3 Prevailing Wage.

- (a) All Laborers and Mechanics employed in the construction of the improvements will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by §5) the full amount of wages and bona fide fringe benefits

(or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the General Prevailing Wage Determination (hereinafter referred to as the "Wage Determination") made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, sections 1770, 1773 and 1773.1, regardless of any contractual relationship which may be alleged to exist between the Contractor and such Laborers and Mechanics. A copy of the applicable Wage Determination is on file in the offices of the Agency.

- (b) All Laborers and Mechanics shall be paid the appropriate wage rate and fringe benefits for the classification of work actually performed, without regard to skill. Laborers or Mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the Contractor's payroll records accurately set forth the time spent in each classification in which work is performed.
- (c) Whenever the wage rate prescribed in the Wage Determination for a class of Laborers or Mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit in the manner as stated therein i.e. the vacation plan, the health benefit program, the pension plan and the apprenticeship program, or shall pay an hourly cash equivalent thereof.
- (d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any Laborer or Mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the Wage Determination, provided that the Executive Director of the Agency has found, upon the written request of the Contractor, made through the Contractor that the intent of the Labor Standards has been met. Records of such costs shall be maintained in the manner set forth in subsection (a) of §8. The Executive Director of the Agency may require the Contractor to set aside in a separate interest bearing account with a member of the Federal Deposit Insurance Corporation, assets for the meeting of obligations under the plan or program referred to above in subsection (b) of this §4. The interest shall be accumulated and shall be paid as determined by the Agency acting at its sole discretion.
- (e) Regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

11.4 Permissible Payroll Deductions.

The following payroll deductions are permissible deductions. Any others require the approval of the Agency's Executive Director.

- (a) Any withholding made in compliance with the requirements of Federal, State or local income tax laws, and the Federal social security tax.
- (b) Any repayment of sums previously advanced to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when case or its equivalent has been advanced to the employee in such manner as to give him or her complete freedom of disposition of the advanced funds.
- (c) Any garnishment, unless it is in favor of the Contractor (or any affiliated person or entity), or when collusion or collaboration exists.
- (d) Any contribution on behalf of the employee, to funds established by the Contractor, representatives of employees or both, for the purpose of providing from principal, income or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents provided, however, that the following standards are met:
 - 1. The deduction is not otherwise prohibited by law; and
 - 2. It is either:
 - a. Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for obtaining or for the continuation of employment, or
 - b. Provided for in a bona fide collective bargaining agreement between the Contractor and representatives of its employees; and
 - 3. No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor (or any affiliated person or entity) in the form of commission, dividend or otherwise; and
 - 4. The deduction shall serve the convenience and interest of the employee.
- (e) Any authorized purchase of United States Savings Bonds for the employee.
- (f) Any voluntarily authorized repayment of loans from or the purchase of shares in credit unions organized and operated in accordance with Federal and State credit union statutes.

- (g) Any contribution voluntarily authorized by the employee for the American Red Cross, United Way and similar charitable organizations.
- (h) Any payment of regular union initiation fees and membership dues, but not including fines or special assessments provided, that a collective bargaining agreement between the Contractor and representatives of its employees provides for such payment and the deductions are not otherwise prohibited by law.

11.5 Apprentices and Trainees. Apprentices and trainees will be permitted to work at less than the Mechanic's rate for the work they perform when they are employed pursuant to and are individually registered in an apprenticeship or trainee program approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or with the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS") or if a person is employed in his or her first 90 days of probationary employment as an apprentice or trainee in such a program, who is not individually registered in the program, but who has been certified by BAT or DAS to be eligible for probationary employment. Any employee listed on a payroll at an apprentice or trainee wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate for a Mechanic. Every apprentice or trainee must be paid at not less than the rate specified in the registered program for the employee's level of progress, expressed as a percentage of a Mechanic's hourly rate as specified in the Wage Determination. Apprentices or trainees shall be paid fringe benefits in accordance with the provisions of the respective program. If the program does not specify fringe benefits, employees must be paid the full amount of fringe benefits listed in the Wage Determination.

11.6 Overtime. No Contractor contracting for any part of the construction of the improvements which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such construction to work in excess of eight hours in any calendar day or in excess of 40 hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, whichever is greater.

11.7 Payrolls and Basic Records.

- (a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of its construction of the improvements and preserved for a period of one year thereafter for all Laborers and Mechanics it employed in the construction of the improvements. Such records shall contain the name, address and social security number of each employee, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for fringe benefits or cash equivalents thereof), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the wages of any Laborer or Mechanic include

the amount of any costs reasonably anticipated in providing benefits under a plan or program, the Contractor shall maintain records which show the costs anticipated or the actual costs incurred in providing such benefits and that the plan or program has been communicated in writing to the Laborers or Mechanics affected. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage prescribed in the applicable programs or the Wage Determination.

- (b) The Contractor shall submit to the Agency on each Wednesday at noon a copy of the payrolls for the week preceding the previous week in which any construction of the improvements was performed. The payrolls submitted shall set out accurately and completely all of the information required by the Agency's Optional Form, an initial supply of which may be obtained from the Agency. The Contractor if a prime contractor or the Contractor acting as the Contractor is responsible for the submission of copies of certified payrolls by all subcontractors; otherwise each Contractor shall timely submit such payrolls.

11.8 Each weekly payroll shall be accompanied by the Statement of Compliance that accompanies the Agency's Optional Form and properly executed by the Contractor or his or her agent, who pays or supervises the payment of the employees.

- (a) The Contractor shall make the records required under this §8 available for inspection or copying by authorized representatives of the Agency, and shall permit such representatives to interview employees during working hours on the job. On request the Executive Director of the Agency shall advise the Contractor of the identity of such authorized representatives.

11.9 **Occupational Safety and Health.** No Laborer or Mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her safety and health as determined under construction safety and health standards promulgated by Cal-OSHA or if Cal-OSHA is terminated, then by the federal OSHA.

11.10 **Equal Opportunity Program.** The utilization of apprentices, trainees, Laborers and Mechanics under this part shall be in conformity with the Agency's equal opportunity program set forth in Attachment 5 of this Lease Agreement.

11.11 **Nondiscrimination Against Employees for Complaints.** No Laborer or Mechanic to whom the wage, salary or other Labor Standards of this Agreement are applicable shall be discharged or in any other manner discriminated against by the Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to these Labor Standards.

11.12 Posting of Notice to Employees. A copy of the Wage Determination referred to in subsection (a) of §4 together with a copy of a "Notice to Employees," in the form appearing on the last page of these Labor Standards, shall be given to the Contractor at the close of escrow. The Notice to Employees and the Wage Determination shall both be posted and maintained by the Contractor in a prominent place readily accessible to all applicants and employees performing construction of the improvements before construction commences. If such Notice and Wage Determination is not so posted or maintained, the Agency may do so.

11.13 Violation and Remedies.

- (a) Liability to Employee for Unpaid Wages. The Contractor shall be liable to the employee for unpaid wages, overtime wages and benefits in violation of these Labor Standards.
- (b) Stop Work--Contract Terms, Records and Payrolls. If there is a violation of these Labor Standards by reason of the failure of any contract or subcontract for the construction of the improvements to contain the Labor Standards as required by §2 ("Non-Conforming Contract"); or by reason of any failure to submit the payrolls or make records available as required by §8 ("Non-Complying Contractor"), the Executive Director of the Agency may, after written notice to the Contractor with a copy to the Contractor involved and failure to cure the violation within five working days after the date of such notice, stop the construction work under the Non-Conforming Contract or of the Non-Complying Contractor until the Non-Conforming Contract or the Non-Complying Contractor comes into compliance.
- (c) Stop Work and Other Violations. For any violation of these Labor Standards the Executive Director of the Agency may give written notice to the Contractor, with a copy to the Contractor involved, which notice shall state the claimed violation and the amount of money, if any, involved in the violation. Within five working days from the date of said notice, the Contractor shall advise the Agency in writing whether or not the violation is disputed by the Contractor and a statement of reasons in support of such dispute (the "Notice of Dispute"). In addition to the foregoing, the Contractor, upon receipt of the notice of claimed violation from the Agency, shall with respect to any amount stated in the Agency notice withhold payment to the Contractor of the amount stated multiplied by 45 working days and shall with the Notice of Dispute, also advise the Agency that the moneys are being or will be withheld. If the Contractor fails to timely give a Notice of Dispute to the Agency or to advise of the withhold, then the Executive Director of the Agency may stop the construction of the improvements under the applicable contract or by the involved Contractor until such Notice of Dispute and written withhold advice has been received.

Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Contractor

shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14.

- (d) Withholding Certificates of Completion. The Agency may withhold any or all certificates of completion of the improvements provided for in this Agreement, for any violations of these Labor Standards until such violation has been cured.
- (e) General Remedies. In addition to all of the rights and remedies herein contained, but subject to arbitration, except as hereinafter provided, the Agency shall have all rights in law or equity to enforce these Labor Standards including, but not limited to, a prohibitory or mandatory injunction. Provided, however, the stop work remedy of the Agency provided above in subsection (b) and (c) is not subject to arbitration.

11.14 Arbitration of Disputes.

- (a) Any dispute regarding these Labor Standards shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further provisions thereof.
- (b) The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made a party to the arbitration. Any such person or entity not made a party in the demand for arbitration may intervene as a party and in turn may name any such person or entity as a party.
- (c) The arbitration shall take place in the City and County of San Francisco.
- (d) Arbitration may be demanded by the Agency, the Tenant or the Contractor.
- (e) With the demand for arbitration, there must be enclosed a copy of these Labor Standards, and a copy of the demand must be mailed to the Agency and the Contractor, or as appropriate to one or the other if the Contractor or the Agency is demanding arbitration. If the demand does not include the Labor Standards they are nevertheless deemed a part of the demand. With the demand if made by the Agency or within a reasonable time thereafter if not made by the Agency, the Agency shall transmit to the AAA a copy of the Wage Determination (referred to in §4) and copies of all notices sent or received by the Agency pursuant to §13. Such material shall be made part of the arbitration record.
- (f) One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators of the AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the parties fail to select an arbitrator, within seven (7) days from the receipt of the panel, the AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within 30 days from appointment.

- (g) Any party to the arbitration whether the party participates in the arbitration or not shall be bound by the decision of the arbitrator whose decision shall be final and binding on all of the parties and any and all rights of appeal from the decision are waived except a claim that the arbitrator's decision violates an applicable statute or regulation. The decision of the arbitrator shall be rendered on or before 30 days from appointment. The arbitrator shall schedule hearings as necessary to meet this 30 day decision requirement and the parties to the arbitration, whether they appear or not, shall be bound by such scheduling.
- (h) Any party to the arbitration may take any and all steps permitted by law to enforce the arbitrator's decision and if the arbitrator's decision requires the payment of money the Contractor shall make the required payments and the Contractor shall pay the Contractor from money withheld.
- (i) Costs and Expenses. Each party shall bear its own costs and expenses of the arbitration and the costs of the arbitration shall be shared equally among the parties.

11.15 Non-liability of the Agency. The Contractor and each Contractor acknowledge and agree that the procedures hereinafter set forth for dealing with violations of these Labor Standards are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids for the construction of the improvements, in determining the time for commencement and completion of construction and in proceeding with construction work. Accordingly the Contractor, and any Contractor, by proceeding with construction expressly waives and is deemed to have waived any and all claims against the Agency for damages, direct or indirect, arising out of these Labor Standards and their enforcement and including but not limited to claims relative to stop work orders, and the commencement, continuance or completion of construction.

ATTACHMENT 9-5

NONDISCRIMINATION IN CONTRACTS AND BENEFITS

	OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE (OCII) (SUCCESSOR TO THE SAN FRANCISCO REDEVELOPMENT AGENCY) DECLARATION FORM Nondiscrimination in Contracts and Benefits

Section A

Is your company/organization currently certified by the City and County of San Francisco in compliance with Administrative Code 12B Equal Benefits Ordinance and will your company/organization ensure nondiscrimination in contracts and benefits pursuant to 12B on OCII contracts? If yes, please indicate below, skip Section B, and execute the Declaration in Section C. If no, please skip Section A and complete Sections B and C.

- ☐ My company/organization is certified and compliant with the 12B Equal Benefits Ordinance of the City and County of San Francisco and there has been no change in our 12B Declaration since certification. My company/organization agrees to ensure nondiscrimination in contracts and benefits pursuant to 12B on OCII contracts. (Please check box to affirm, if applicable)

Section B

1. Nondiscrimination—Protected Classes

- a. Is it your company/organization's policy that you will not discriminate against your employees, applicants for employment, employees of the Office of Community Investment and Infrastructure (successor to the San Francisco Redevelopment Agency) (Agency), or City and County of San Francisco (City), or members of the public for the following reasons:

• Race	☐ Yes	☐ No
• color	☐ Yes	☐ No
• Creed	☐ Yes	☐ No
• Religion	☐ Yes	☐ No
• ancestry	☐ Yes	☐ No
• national origin	☐ Yes	☐ No
• Age	☐ Yes	☐ No
• sex	☐ Yes	☐ No
• sexual orientation	☐ Yes	☐ No
• gender identity	☐ Yes	☐ No
• marital status	☐ Yes	☐ No
• domestic partner status	☐ Yes	☐ No
• Disability	☐ Yes	☐ No
• AIDS or HIV status	☐ Yes	☐ No

- b. Do you agree to insert a similar nondiscrimination provision in any subcontract you enter into for the performance of a substantial portion of the contract that you have with the Agency or the City?
- ☐ Yes ☐ No

If you answered "no" to any part of Question 1a or 1b, the Agency or the City cannot do business with you.

2. Nondiscrimination—Equal Benefits (Question 2 does not apply to subcontracts or subcontractors)

a. Do you provide, or offer access to, any benefits to employees with spouses or to spouses of employees?

☐ Yes ☐ No

b. Do you provide, or offer access to, any benefits to employees with domestic partners (Partners) or to domestic partners of employees?

☐ Yes ☐ No

If you answered “no” to both Questions 2a and 2b, skip 2c and 2d, and sign, date and return this form. If you answered “yes” to Question 2a or 2b, continue to 2c.

c. If “yes,” please indicate which ones. This list is not intended to be exhaustive. Please list any other benefits you provide (even if the employer does not pay for them).

Benefit	Yes, for Spouses	Yes, for Partners	No
• Medical (health, dental, vision)	☐	☐	☐
• Pension	☐	☐	☐
• Bereavement	☐	☐	☐
• Family leave	☐	☐	☐
• Parental leave	☐	☐	☐
• Employee assistance programs	☐	☐	☐
• Relocation and travel	☐	☐	☐
• Company discounts, facilities, events	☐	☐	☐
• Credit union	☐	☐	☐
• Child care	☐	☐	☐
• Other _____	☐	☐	☐
• Other _____	☐	☐	☐

d. If you answered “yes” to Question 2a or 2b, and in 2c indicated that you do not provide equal benefits, you may still comply with the Policy if you have taken all reasonable measures to end discrimination in benefits, have been unable to do so, and now provide employees with a cash equivalent.

(1) Have you taken all reasonable measures? ☐ Yes ☐ No

(2) Do you provide a cash equivalent? ☐ Yes ☐ No

3. Documentation for Nondiscrimination in Benefits (Questions 2c and 2d only)

If you answered “yes” to any part of Question 2c or Question 2d, you must attach to this form those provisions of insurance policies, personnel policies, or other documents you have which verify your compliance with Question 2c or Question 2d. Please include the policy sections that list the benefits for which you indicated “yes” in Question 2c. If documentation does not exist, attach an explanation, e.g., some of your personnel policies are unwritten. If you answered “yes” to Question 2d(1) complete and attach form SFRA/CC-103, “Nondiscrimination in Benefits—Reasonable Measures Affidavit,” which is available from the Agency. You need not document your “yes” answer to Question 1a or Question 1b.

Section C

I declare (or certify) under penalty of perjury that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Name of Company/Organization: _____
Doing Business As (DBA): _____
Also Known As (AKA): _____
General Address: _____
Remittance Address (if different from above): _____

Name of Signatory: _____ Title: _____
(Please Print)

Signature: _____

Phone Number: _____ Federal Tax Identification Number: _____

Approximate number of employees in the U.S.: _____ Vendor Number: _____
(if known)

ATTACHMENT 9-6

HEALTH CARE ACCOUNTABILITY POLICY DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (“OCII”) (as Successor Agency to the Redevelopment Agency of the City and County of San Francisco) adopted the San Francisco Health Care Accountability Policy (the “HCAP”), which became effective on September 25, 2001. The HCAP requires contractors and subcontractors that provide services to OCII, contractors and subcontractors that enter into leases with OCII, and parties providing services to tenants and sub-tenants on OCII property to offer health plan benefits to their employees.

Specifically, contractors can either: (1) offer the employee minimum standard health plan benefits established by the San Francisco Department of Public Health (“SFPDH”), as approved by the OCII Commission; (2) pay OCII an amount equivalent to the current fee established by the SFPDH for each hour the employee works on the covered contract or subcontract or on property covered by a lease and OCII will appropriate the money for staffing and other resources to provide medical care for the uninsured; or (3) participate in a health benefits program developed and offered by SFPDH. The minimum health plan standards and fees established by SFPDH are published at <https://sfgov.org/olse/health-care-accountability-ordinance-hcao>.

OCII may require contractors to submit reports on the number of employees affected by the HCAP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the HCAP will have the following effect:

- in each contract, the contractor will agree to abide by the HCAP and to provide its employees the minimum benefits the HCAP requires, and to require its subcontractors to do the same.
- if a contractor does not provide the HCAP’s minimum benefits, OCII can award a contract to that contractor **only if** the contract is exempt under the HCAP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII’s contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII’s contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the HCAP to your covered employees, and will ensure that your subcontractors also subject to the HCAP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the HCAP, available from the OCII’s Contract Compliance Department at: (415) 749-2400 or <http://sfocii.org/policies-and-procedures>.

Routing. Return this form to: Contact Compliance Department, Office of Community Investment and Infrastructure, 1 South Van Ness Avenue, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the HCAP to our covered employees, and will ensure that our subcontractors also subject to the HCAP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date _____

Print Name

Company Name

Phone _____

ATTACHMENT 9-7

MINIMUM COMPENSATION POLICY DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (“OCII”) (Successor Agency to the San Francisco Redevelopment Agency) adopted the Minimum Compensation Policy (“MCP”), which became effective on September 25, 2001. The MCP requires contractors and subcontractors to pay Covered Employees a minimum hourly wage and to provide 12 compensated and 10 uncompensated days off per year. The Minimum Compensation rate adjusts automatically to match the wage rate required by the City and County of San Francisco’s Minimum Compensation Ordinance. Contractor is obligated to keep informed of the then-current requirements, which are published at <https://sfgov.org/olse/minimum-compensation-ordinance-mco>.

OCII may require contractors to submit reports on the number of employees affected by the MCP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the MCP will have the following effect:

- in each contract, the contractor will agree to abide by the MCP and to provide its employees the minimum benefits the MCP requires, and to require its subcontractors subject to the MCP to do the same.
- if a contractor does not provide the MCP minimum benefits, OCII can award a contract to that contractor only if the contract is exempt under the MCP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII’s contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the MCP to your covered employees, and will ensure that your subcontractors also subject to the MCP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the MCP, available from the OCII Contract Compliance Department at (415) 749-2400 or <http://sfocii.org/policies-and-procedures>.

Routing. Return this form to: Contract Compliance Department, Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency), 1 South Van Ness, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the MCP to our

covered employees, and will ensure that our subcontractors also subject to the MCP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

ATTACHMENT 10

LANDLORD ESTOPPEL CERTIFICATE

This Landlord Estoppel Certificate ("Certificate") is delivered as of _____, 20__ ("Effective Date") by SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF CITY AND COUNTY OF SAN FRANCISCO, a public body, organized and existing under the laws of the State of California, commonly known as the Office of Community Investment and Infrastructure ("Landlord"), to and for the benefit and reliance of HPSY 52-54, L.P. ("Tenant"), and _____, as nominee, and its successors in interest as the limited partner of Tenant ("Limited Partner"). Tenant is leasing the Premises (defined below) from Landlord pursuant to that certain Ground Lease ("Ground Lease") dated on or about _____. Limited Partner has requested that Tenant obtain from Landlord this Certificate.

Landlord hereby represents and certifies as of the Effective Date as follows:

1. Status of Lease. The Lease is in full force and effect.
2. No Defaults. Landlord is not in default under the Lease and no event has occurred or situation exists which would, with the passage of time or giving of notice or both, result in Landlord being in default under the Lease. To Landlord's knowledge, Tenant is not in default under the Lease and no event has occurred or situation exists which would, with the passage of time or giving of notice or both, result in Tenant being in default under the Lease.
3. No Termination. To Landlord's knowledge, Landlord has no present right to terminate the Lease. Landlord has neither given nor received any notice of termination of the Lease.
4. No Defenses. To Landlord's knowledge, Landlord has no defense, offset, claim, counterclaim, or right of recoupment against its obligations under the Lease.
5. Authority. Landlord and the person or persons executing this certificate on behalf of Landlord have the power and authority to execute this Certificate.

The truth and accuracy of the certifications contained herein is being relied upon by Tenant and Limited Partner and the certifications contained herein shall be binding upon Landlord and its successors and assigns and inure to the benefit of the Tenant and Limited Partner.

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: _____
Thurston Kaslofsky
Executive Director

ATTACHMENT 11

HUNTERS POINT SHIPYARD PHASE I
DEVELOPMENT MITIGATION AND MONITORING PROGRAM

HUNTERS POINT SHIPYARD PHASE I DEVELOPMENT MITIGATION MONITORING AND REPORTING PROGRAM

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
Transportation, Traffic, and Circulation				
1.A Transportation Demand Management Adopt a Transportation Demand Management (TDM) approach by forming a Transportation Management Association and preparing and adopting a Transportation System Management Plan which contains the elements specified in Measure 1.B.	San Francisco Redevelopment Agency (Agency), City or other owner/developer	Prior to first new lease or development approval	Agency, Department of Public Works (DPW), Department of Parking and Traffic (DPT), Public Transportation Commission (PTC)	Confirm establishment prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.A.1 Transportation Management Association Form a HPS Transportation Management Association (TMA) composed of Agency staff; City agency staff from the Public Transportation Commission, Parking and Traffic Commission and the Department of Public Works; Hunters Point Shipyards owners, lessees and residents; and Bayview-Hunters Point community members to implement a Transportation System Management Plan (TSMP). The initial TMA group will be appointed by the Mayor for an 18 month term and will report to the Redevelopment Agency Commission ("Agency Commission"). As part of the development of the TSMP, the initial TMA will recommend procedures to the Agency Commission for future appointments to the TMA. The TMA will have no funding authority, but will develop a proposed TSMP for adoption by the Agency. The TSMP will identify funding needs, recommend potential funding sources and develop a phasing schedule consistent with the redevelopment phasing plan for implementation of identified measures. The TMA will monitor the effectiveness of the mitigation measures and the TSMP for the Agency. The TMA will provide an annual report to the Agency on the status of the TSMP implementation.	Agency, City or other owner/developer	Prior to first new lease or development approval	Agency, DPW, DPT, PTC	Confirm establishment prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.B Transportation System Management Plan Have the TMA prepare and the Redevelopment Agency and affected City agencies adopt a TSMP. The TSMP shall identify program goals and implementing mechanisms for each of the following elements:	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.B.1 Transit Pass Sales Establish a convenient location or locations within the boundaries of HPS for selling transit passes.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency

**HUNTERS POINT SHIPYARD
PHASE I DEVELOPMENT
MITIGATION MONITORING AND REPORTING PROGRAM**

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
1.B.2 <u>Transit, Pedestrian, and Bicycle Information</u> Provide maps of local pedestrian and bicycle routes, transit stops and routes, and other information, including bicycle commuter information, on signs and kiosks in occupied areas of HPS. Provide rideshare information and services through RIDES or an equivalent program.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.B.3 <u>Employee Transit Subsidies</u> Require major employers to use a transit subsidy system (e.g., through the Commuter Check Program) for their employees by incorporating transit subsidy requirements in the agreements between the Agency and developers. The TMA will identify major employers, recommend transit subsidy programs and identify transit subsidy systems that will provide employers with incentives to hire local employees as a way of reducing vehicle miles traveled.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.B.4 <u>Expand Transit Services and Monitor Transit Demand.</u> Monitor transit demand at HPS on an annual basis and implement planned services as identified in the HPS Transportation Plan to stimulate transit ridership or respond to transit demand. The TMA will develop a phasing plan for implementation of transit improvements designed to meet or exceed demand. At a minimum, when HPS utilization includes 1,500 new employees or residents, implement those transit improvements contained in the Proposed Reuse Plan that are necessary to meet demand, including proposed MUNI extensions, if applicable. Continue to re-evaluate transit demand and implement required improvements on an annual basis thereafter, and curtail commercial and residential development until required services are funded and implemented, if necessary, to prevent an imbalance between transit demand and services. Identify incentives and disincentives to stimulate demand for transit and other alternative modes of transportation in place of the single occupancy automobile.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.B.5 <u>Secure Bicycle Parking</u> Require provisions for secured Class I bicycle parking spaces in parking lots and parking garages of residential buildings and research and development facilities. This secured bicycle parking is to be in amounts required by the San Francisco Planning Code, Article 1.5, Section 155. Require major employers and large employment sites occupied by many employees to provide clothing lockers and showers for bicyclists. Develop a program to make bicycles available to the public for travel within HPS.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency

**HUNTERS POINT SHIPYARD
PHASE I DEVELOPMENT
MITIGATION MONITORING AND REPORTING PROGRAM**

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
1.B.6 <u>Parking Management Guidelines</u> Establish mandatory parking management policies for the private operators of parking facilities in HPS to discourage long-term parking. Set aside desirable parking areas for rideshare vehicles and alternative fuel vehicles.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.B.7 <u>Flexible Work Time/Telecommuting</u> Where feasible, offer HPS employees the opportunity to work on flexible schedules and/or telecommute so they can avoid peak hour traffic conditions.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.B.8 <u>Shuttle Service</u> Require shuttle service to serve all redeveloped portions of HPS either through the provision of shuttle service by developers, large employers or another entity or entities. The shuttle service will operate between HPS and regional transit stops in San Francisco (e.g., MUNI, Third Street LRT, Bay Area Rapid Transit (BART), CalTrain, Transbay transit terminal, and ferry terminal). Consider use of alternative fuel vehicles for the shuttle service.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.B.9 <u>Monitor Physical Transportation Improvements</u> Monitor physical transportation improvements, such as street repaving and resurfacing and installation of street lighting, and ensure that planned improvements are implemented when necessary to meet the needs of new residents and employees.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.B.10 <u>Ferry Service</u> Assist the Port of San Francisco and others in ongoing studies of the feasibility of expanding regional ferry service. Assist in implementing feasible study recommendations (if any) related to HPS service.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency

**HUNTERS POINT SHIPYARD
PHASE I DEVELOPMENT
MITIGATION MONITORING AND REPORTING PROGRAM**

MEASURES APPLICABLE TO PHASE I DEVELOPMENT

Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
1.B.11 Local Hiring Practices Require the TMA to set a goal to reduce traffic and air quality impacts by hiring workers who reside in the Bayview-Hunters Point neighborhood to fill new jobs at HPS. Qualified workers who reside in the Bayview-Hunters Point neighborhood should be given priority for new employment opportunities. Require compliance with existing Agency local hiring requirements and the City's "First Source" hiring program. Monitor local hiring on an annual basis to determine if the goal is being met and adjust the program as necessary.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.B.12 Clean Air Program Assist the City's Clean Air Program in establishing natural gas fueling stations and electric charging bays in HPS and in implementing other means identified by the Clean Air Program for owners, tenants and users of HPS to use alternative fuel vehicles.	Agency, City or other owner/developer (TMA)	As identified by TMA; ongoing review with Agency	Agency, DPT, PTC, DPW	Confirm preparation of TSMP prior to first new lease or development approval; Agency to consult with TMA as required; TMA to submit periodic status reports to Agency
1.E Adequate Transit Service Monitor transit demand at HPS on an annual basis and ensure that adequate transit service is provided to meet or exceed demand, as required by the Transportation System Management approach described under Mitigation Measure 1.B.4	PTC	As identified by TMA	Agency, PTC, DPT	TMA to submit periodic status reports to Agency; include in applicable project-level plan review, subdivision improvement plans and site permits
1.F Pedestrian and Bicycle Facilities Require completion of planned pedestrian and bicycle facilities as part of adjacent development. Monitor and ensure completion of these facilities as part of the TSMP described under Mitigation Measure 1.B.2.	Agency, City or other owner/developer (TMA)	As identified by TMA	Agency, DPT, PTC	TMA to submit periodic status reports to Agency; include in applicable project-level plan review, subdivision improvement plans and site permits

HUNTERS POINT SHIPYARD PHASE I DEVELOPMENT MITIGATION MONITORING AND REPORTING PROGRAM

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
Air Quality				
2.A TSMP Measures				
Form a Hunters Point TMA and prepare a TSMP as described in Mitigation Measures 1.A and 1.B.				
2.B Construction PM₁₀				
BAAQMD officials consider PM ₁₀ emissions from construction sites to be potentially significant. As conditions of construction contracts, contractors will be required to implement BAAQMD guidelines for controlling particulate emissions at construction sites. BAAQMD guidelines are summarized below:				
- Seed and water all unpaved, inactive portions of the lot or lots under construction to maintain a grass cover if they are to remain inactive for long periods during building construction. - Halt all clearing, grading, earthmoving, and excavating activities during periods of sustained strong winds (hourly average wind speeds of 25 mph [40 km per hour] or greater). - Water or treat all unpaved active portions of the construction site with dust control solutions, twice daily, to minimize windblown dust and dust generated by vehicle traffic. (City Ordinance 175-95 requires that nonpotable water be used for this purpose.) - Sweep paved portions of the construction site daily or as necessary to control windblown dust and dust generated by vehicle traffic. Sweep streets adjacent to the construction site as necessary to remove accumulated dust and soil. - Cover trucks carrying loose soil or sand before they leave the construction site, and limit on-site vehicle speeds to 15 mph (24 km per hour) or lower in unpaved construction areas. - Limit the area subject to excavation, grading or other construction activity at any one time. Cover on-site storage piles of loose soil or sand.	See Measure 1.A and 1.B	See Measure 1.A and 1.B	See Measure 1.A and 1.B	See Measure 1.A and 1.B
	Agency, City, or other owner/developer	Implement through site-permit process and during construction	Agency, DPW, Department of Building Inspection (DBI)	Agency, and depending on the project, DPW or DBI to require evidence of compliance through site permit process

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PHASE I DEVELOPMENT
MITIGATION MONITORING AND REPORTING PROGRAM**

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
2.C Toxic Air Contaminants SFRA will evaluate and permit all potential stationary sources of toxic air contaminants allowed at HPS as one facility and allow new potential stationary sources only if the estimated incremental toxic air contaminant health risk from all stationary sources at HPS is consistent with BAAQMD significance criteria for an industrial facility.	Agency	Implement through Project-level plan review and site permit process	Agency, Department of Public Health (DPH)	Require evidence of compliance through project-level plans and permit applications prior to permit approval for potential stationary sources of toxic air contaminants
Noise				
3.A Residential Construction To reduce noise impacts to proposed residential properties east of Donahue Street, orient and design new or renovated buildings such that future noise intrusion will be minimized to within acceptable levels. In addition, comply with the San Francisco Building Code's noise insulation standards for new residential construction. Physical barriers also could be constructed to reduce noise transmission to these residential areas.	Agency, City, or other owner/developer	Implement through Project-level plan review and during site permit process	Agency, DBI	Require evidence of compliance through project-level plan review for first construction phase in Parcel A and Parcel B and site permits for residential construction in Parcel A and Parcel B

HUNTERS POINT SHIPYARD PHASE I DEVELOPMENT MITIGATION MONITORING AND REPORTING PROGRAM

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
Hazardous Materials and Waste				
7.A <u>Reuse Prior to Complete Remediation</u> Implement base-wide restrictions on and notifications for leased areas prior to remediation (related to IR sites and areas of concern), as described below. - Prohibit users from disturbing soil or conducting intrusive activities without prior Navy approval and coordination with Federal and state regulatory agencies. Prohibitions could include, but are not limited to, shoveling, digging, trenching, installing wells, and conducting subsurface excavations. - Prohibit users from entering fenced-off areas, areas where environmental investigations are in progress, or areas where access is not authorized, as indicated by appropriate signs. - Restrict access to fenced areas of Parcel E until remediation activities have been completed. - Maintain intact the current condition of all flooring and interior and exterior pavement and concrete in lease area. - Prohibit the use of groundwater at HPS for any purpose. - Notify users that petroleum hydrocarbons and hazardous substances have been detected in the soil and groundwater at HPS. - Notify users that investigations and remediation are ongoing at IR sites at HPS. Lessee must not interfere with ongoing environmental investigation and remediation efforts. Areas where sampling and remediation crews are working must be avoided. - Prohibit access to waterfront areas for fishing until it is determined by EPA through the CERCLA process that Parcel F is remediated to a condition protective of human health and ecological resources.	Agency, Navy	Implement through lease or other use authorization prior to remediation	Agency, Navy, United States Environmental Protection Agency (U.S. EPA), Department of Toxics Substances Control (DTSC), Regional Water Quality Control Board (RWQCB)	Agency, Navy to confirm incorporation in lease or other use authorization applicable to unremediated areas; Agency, Navy, U.S. EPA, DTSC, RWQCB to monitor compliance during use period

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MITIGATION MONITORING AND REPORTING PROGRAM**

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
7.B Construction Prior to Remediation The following precautionary measures will be implemented by the project proponent during necessary construction activities prior to remediation. These measures are general and will be refined based on site-specific information and consultation with regulatory agencies. - Obtain site-specific information about soil or groundwater that would be disturbed through new testing or existing information from the Navy and consultation with regulatory agencies. - Before disturbing soil or groundwater, or conducting intrusive activities such as shoveling, digging, trenching, installing wells, subsurface excavations, or building renovation, obtain Navy approval and coordinate with Federal and state regulatory agencies. This coordination would result in an identification of precautionary measures to be implemented during construction activities. The precautionary measures would be incorporated into a site-specific Health and Safety Plan (HASP) (see Section 3.7.5) that is consistent with the contaminants present. - Implement dust suppression measures to limit airborne contaminants in accordance with BAAQMD requirements. - Handle and dispose of soil in a manner consistent with the contamination present, as required by Federal, state, and local laws and regulations.	Agency, City, or other owner/developer	Implement prior to and during construction	Navy, U.S. EPA, RWQCB, DTSC, DBI, DPW, Agency	Agency, and after conveyance of property by Navy, DPW or DBI depending on the project, in consultation with Navy, U.S. EPA, RWQCB, and DTSC to require evidence of compliance through lease procedures or site permit process
7.C Reuse After Complete Remediation Implement and monitor compliance with institutional controls designed to be protective of public health, as determined by law and in consultation with the regulatory agencies. These institutional controls would likely include a prohibition on the use of groundwater and on residential uses in non-residential areas, notification regarding residual contamination, and encapsulation methods.	Agency, City, or other owner/developer	Implement at time of property conveyance and ongoing implementation as provided in institutional controls	Agency, DPH, EPA, DTSC, RWQCB	Agency to verify implementation of institutional controls at time of property conveyance; ongoing enforcement as provided in institutional controls

HUNTERS POINT SHIPYARD PHASE I DEVELOPMENT MITIGATION MONITORING AND REPORTING PROGRAM

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
7.D Construction After Remediation Perform construction activities in a manner consistent with institutional controls designed to be protective of public health, as determined in consultation with the regulatory agencies, and in accordance with CAL OSHA regulations. Take the following additional steps, where warranted by site-specific information: - Obtain information on soil and groundwater contamination by sampling, reviewing existing Navy data, and/or consulting with regulatory agencies. When no sampling results are available, develop and implement a sampling program similar to that required under Article 22A of the San Francisco Public Works Code. - If contamination is identified in the areas proposed for disturbance, prepare a site mitigation plan, similar to that required under Article 22A of the Health Code. If applicable, implement the requirements of Cal. Code Reg. Tit. 8 § 5192 (Hazardous Waste Operations and Emergency Response). - Dispose of groundwater in accordance with applicable permits.	Agency, City, or other owner/developer	Implement through project-level plan review, subdivision improvement plans and site permit process	DPH, DBI, RWQCB, Agency, DPW, U.S. EPA, DTSC	Agency, DPH and depending on project DPW or DBI through project-level plan review, subdivision improvement plan review and site permit process; U.S.EPA, DTSC and RWQCB to enforce as provided in institutional controls
7.E Construction Contingency Plan for Unanticipated Hazardous Materials Inform contractors that unknown hazardous materials could be encountered during demolition or excavation, and instruct them regarding steps to be taken if this occurs. These steps include the following: - The contractor shall immediately stop work in the area and notify the San Francisco Department of Public Health (DPH) verbally and in writing. - The contractor shall immediately secure the area to prevent accidental access by construction workers or the public. - The identified material shall be sampled as directed by DPH. - Handling and disposal of identified materials shall be in accordance with DPH direction and in compliance with applicable laws and regulations. - Work on site may resume only where and when permitted by DPH.	Agency, City or other owners/developers	Implement through site permit process and during construction	DPH, DBI, DPW, Agency	Agency, DPH and depending on the project, DBI or DPW to require evidence of compliance through the site permit process

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PHASE I DEVELOPMENT
MITIGATION MONITORING AND REPORTING PROGRAM**

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
7.F Controls on Ecological Exposure to Hazardous Materials During Construction For surface water impacts, follow all conditions of the state of California storm water construction permit, including implementing BMPs to reduce storm water runoff from the site. For groundwater discharge impacts, follow all permit requirements for discharge into the storm water system or sanitary sewer system. Treat water as appropriate to comply with discharge levels as required by the permit. Assess potential effects on groundwater gradients within construction areas if dewatering is proposed or if new utility lines are proposed that could act as conduits for contaminants in groundwater. Conduct dewatering activities and design utility installations such that contamination does not spread to the Bay or other ecologically sensitive areas. New storm drains shall have watertight joints, such as rubber gaskets. Methods to be considered could include installing sheet piling, groundwater pumping/recharge, and installing utility lines in impermeable bedding material. For boring and pile driving activities along the Bay, drive the piles directly into the sediments without boring where possible, to minimize and localize sediment disruption. Where pile driving without drilling is not possible due to shallow bedrock, drive a casing to the solid material, preventing collapse of the material and allowing drilling to occur within the casing without excessive sediment disruption. Then place the pile in the casing and backfill with concrete. Perform dredging activities in a manner consistent with institutional controls established via the CERCLA process. Require consultation with agencies represented in the Army Corps of Engineers Interagency Dredged Material Management Office regarding appropriate methods for limiting disturbance of sediment, containing suspended sediment to the immediate area being dredged, and additional measures to be protective of human health and the environment as described in Section 3.7.5 (under Dredging).	Agency, City or other owners/developers	Implement through site permit process and during construction	DPH, DBI, DPW, RWQCB, Bay Conservation and Development Commission (BCDC), United States Army Corps of Engineers (U.S. Army Corp), Agency, San Francisco Public Utilities Commission (SFPUC)	Agency, DPH and depending on the project, DBI or DPW to require evidence of compliance through site permit process; SFPUC to monitor storm and sanitary sewer system discharges; US Army Corp, BCDC, RWQCB to review pile driving along Bay; U.S. EPA, DTSC, RWQCB to enforce institutional controls
7.G Controls on Cross Contamination of Aquifers During Construction Place piles in a manner so that there is no conduit for groundwater migration along pile edges. Where possible, drive piles directly into sediments without drilling. If drilling is required, drive casing into bedrock, drill within casing, and backfill with cement grout.	Agency, City or other owners/developers	Implement through site permit process and during construction	DPH, DBI, DPW, Agency	Agency, DPH and depending on project DPW or DBI to review pre-drilling plan through site permit process

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MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
Geology and Soils				
8.A Handling Naturally Occurring Asbestos During Construction Follow BAAQMD, U.S. EPA, and federal and CAL OSHA regulations for construction and demolition activities. Continuously wet serpentine involved in excavation or drilling operations. Wet and cover stockpiled serpentine. Do not use serpentine as road, surfacing, or paving material. Cap serpentine used as fill material with at least one foot (0.3 m) of clean non-serpentine fill material, and implement institutional controls to prevent future exposure from excavation activities. Treat excavated waste materials containing greater than one percent asbestos by weight as hazardous waste, and transport and dispose of this material in accordance with applicable Federal and state regulations.	Agency, City or other owners/developers	Implement through site permit process and during construction	DPH, DBI, DPW, Agency	Agency, DPH and depending on project DPW or DBI to review construction plan procedures through site permit process
8.B Existing Building Survey for Seismic Hazards Before increasing the occupancy of existing buildings, survey buildings that may be unsafe in the event of an earthquake, and take appropriate steps to prevent injury. Those steps could include interior modifications, bracing, retrofits, and/or access restrictions.	Agency	Complete survey prior to lease, other use authorization or through site permit process	DBI, Agency	Agency to require evidence of survey prior to lease or other use authorization; DBI to review survey report and preventative measures through site permit process
Water Resources				
9.A Storm Water Improvement Design to Control CSO Volumes Eliminate projected increases in combined sewer overflow (CSO) volumes caused by storm water discharges to the City's combined system by upgrading or replacing the separated system at HPS (Option 1 or 2). Also consider ways to offset non-significant increases attributable to sanitary flows. Arrange for the SFPUC to condition permits issued for groundwater discharge to the City's combined sewer system, so that discharges do not occur in wet weather when overflows are anticipated to occur.	Subject to regulatory approvals, Agency, City or other owner/developer	Submit as part of project-level reviews, subdivision improvement plans and site permit plans	Agency, DPW, SFPUC	Agency, DPW, SFPUC to review as part of project-level reviews, subdivision improvement plans and site permit process

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MITIGATION MONITORING AND REPORTING PROGRAM**

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
9.B Storm Water Discharge Quality To ensure that the quality of storm water discharges improves as anticipated, implement the following measures: - Develop and implement a SWPPP for HPS that is applicable to new development under the Redevelopment Plan to control the quality of direct discharges of stormwater to near-shore waters. The SWPPP will include provisions for controlling soil migration off site (e.g., silt fences, settling units) during periods of runoff and for monitoring possible sources of industrial contaminants. Develop the program in coordination with the San Francisco Public Utility Commission staff and according to guidelines contained in the California Municipal Storm Water Best Management Practice Handbook, the California Industrial/Commercial Storm Water Best Management Practice Handbook and U.S. EPA's proposed Phase II stormwater regulations. - As part of the SWPPP, implement BMPs such as public education and outreach, pollution prevention, and good housekeeping. - Construct stormwater retention and treatment areas on site to improve the quality of discharges to the Bay. Specify in the SWPPP the locations of appropriate areas for stormwater infiltration that avoid toxic hot spot areas and capped areas and identify drainage patterns to direct stormwater to appropriate infiltration locations.	Subject to regulatory approvals, Agency, City or other owner/developer	Submit as part of project-level reviews, subdivision improvement plans and site permit plans	DPW, SFPUC	Agency, DPW, SFPUC to review as part of project-level reviews, subdivision improvement plans and site permit process

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MITIGATION MONITORING AND REPORTING PROGRAM**

MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
Utilities				
10.A Drinking Water Distribution System Prior to authorization of reuse activities within a given area of HPS, assess deficiencies in the water distribution system and address them through planned infrastructure improvements or other actions. As proposed under the draft utility infrastructure plan, replace the potable water distribution system with a new system built to meet demands of proposed development. This will ensure the supply of safe potable water and adequate water pressure. As an alternative to wholesale system replacement, the City also could implement incremental improvements. • In the upper housing area, cap the water distribution system and drain and abandon the 410,000-gallon (1.5-million liter) tank. • Locate, excavate, and repair valves and lines. Replace PVC lines. • Sample water at the point of consumption for chlorine, lead, and copper levels to ensure that it complies with the Safe Drinking Water Act. • Install backflow preventors at the two San Francisco service points. • Inspect service points for cross connections and for exposure to contamination so problems can be remediated, if needed. • Install water meters to measure quantities delivered.	Subject to regulatory approvals, Agency, City or other owner/developer	Submit as part of project-level reviews, subdivision improvement plans and site permit plans	Agency, DPW, SFPUC	Agency, DPW, SFPUC to review as part of project-level reviews, subdivision improvement plans and site permit process
10.B Fire Fighting Water Distribution System Prior to authorization of reuse activities within a given area of HPS, assess fire fighting deficiencies in the water systems and address them through planned infrastructure improvements or other actions. Construct a new auxiliary water supply system to augment the water supply for fire fighting purposes. As an alternative to constructing a new system, the City may, in the interim, upgrade the existing potable water distribution system and fire hydrants to meet fire-fighting needs.	Subject to regulatory approvals, Agency, City or other owner/developer	Submit as part of project-level reviews, subdivision improvement plans and site permit plans	Agency, DPW, San Francisco Fire Department (SFFD)	Agency, DPW, SFFD to review as part of project-level reviews, subdivision improvement plans and site permit process

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MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
10.C Storm Water Collection System Prior to authorization of reuse activities within a given area of HPS, assess deficiencies in the storm water collection system and address them through planned infrastructure improvements or other actions. To mitigate impacts, implement the following measures: • Upgrade or replace the storm water collection system as planned in each section of HPS prior to reuse. • Restrict the amount of paved surfaces at HPS for no net increase • Design the storm water collection system to incorporate appropriate infiltration locations and drainage patterns contained in the SWPPP as provided in Measure 9.B. • Install valves, gates, or duckbills at storm line discharge points to prevent tidal surges and movement of contaminated Bay Mud into the storm lines.	Subject to regulatory approvals, Agency, City or other owner/developer	Submit as part of project-level reviews, subdivision improvement plans and site permit plans	Agency, DPW, SFPUC	Agency, DPW, SFPUC to review as part of project-level reviews, subdivision improvement plans and site permit process
10.D Sanitary Collection System Prior to authorizing reuse activities within a given area of HPS, assess deficiencies in the sanitary collection system and address them through planned infrastructure improvements or other actions. Construct a sanitary collection system at HPS to meet the Proposed Reuse Plan's sanitary collection needs.	Subject to regulatory approvals, Agency, City or other owner/developer	Submit as part of subdivision improvement plans and site permit plans	Agency, DPW, SFPUC	Agency, DPW, SFPUC to review as part of project-level reviews, subdivision improvement plans and site permit process
10.E Natural Gas System Prior to authorization of reuse activities within a given area of HPS, assess deficiencies in the natural gas system and address them through planned infrastructure improvements or other actions. Construct a natural gas system according to Federal, state, and local codes to meet the Proposed Reuse Plan's needs.	Subject to regulatory approvals, Agency, City or other owner/developer	Submit as part of project-level reviews, subdivision improvement plans and site permit plans	Agency, DPW, SFPUC	Agency, DPW, SFPUC to review as part of project-level reviews, subdivision improvement plans and site permit process

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MEASURES APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
Cultural Resources				
12.D Archeological Resources Require contractors to be made aware of the potentials for discovery of archaeological resources. If development in the four subsurface zones identified as having the potential for containing significant archeological deposits involves construction or installation below the level of fill, retain a professional archeologist to develop a project-specific treatment or monitoring program. If archaeological resources are discovered during construction, suspend all work in the immediate vicinity. Avoid altering the materials and their context pending site investigation by a qualified professional archeologist. If the qualified professional archeologist determines that the discovery is significant, notify the SHPO and ensure that an appropriate treatment plan is developed and implemented.	Agency, City or other owner/developer	Prior to excavation; ongoing implementation during construction as required by measure	Agency, State Historic Preservation Office (SHPO)	Agency to require evaluation prior to excavation; SHPO to review treatment plans if required
Biological Resources				
13.A Wetlands Habitat Protection Place barriers along the Bay side of trails to reduce human and domestic animal disturbances to sensitive wetland habitats. Design barriers so that wildlife cannot hear or see people from foraging areas and so that people cannot easily leave the trail to enter sensitive wildlife areas. Develop and implement a public access program to include fencing sensitive areas, posting signs, and imposing leash requirements to further reduce disturbance to wetland areas.	Subject to regulatory approval, Agency, City or other owner/developer	Submit access program as part of first development approval; submit as part of project-level reviews, subdivision improvement plans and site permit plans	Agency, BCDC, RWQCB, U.S. Army Corps	Agency to review through first development approval and through subdivision and site permit process; U.S. Army Corps, BCDC, RWQCB to review as part of project involving wetland construction
13.B Litter Control Provide adequate trash receptacles along public access areas. Ensure pick-up and trash receptacle maintenance on a regular basis.	Agency, City, DPW or other owner/developer	Submit as part of project-level reviews, subdivision improvement plans and site permit plans	Agency, DPW	Agency, DPW to review through subdivision and site permit approval process

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MEASURES NOT APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
Transportation, Traffic, and Circulation				
1.C Phelps/Evans Eliminate the southbound left-turn lane and re-route turns via Phelps Street to Evans Street. Signalize the Phelps/Evans intersection and remove parking along Phelps and Evans Street. In addition, adopt a transportation system management approach as described under Mitigation Measure 1.B.	DPT, PTC, Agency, City or other owner/developer	Provide trip generation calculations and cumulative thresholds as part of Project-level plan review and implement when need demonstrated	Agency, DPT, PTC	Verify completion at applicable project-level plan review
1.D Evans/Cesar Chavez To improve operations and reduce delays at this intersection, restripe the existing northbound shared left/right-turn lane on Evans Avenue to create an exclusive left-turn lane and an exclusive right-turn lane. Widen the Evans Avenue northbound approach at Cesar Chavez Street. The southeast corner curb return will require structural modifications to the existing viaduct. Change the existing signal timing plan to include the exclusive left-turn and right-turn lanes.	DPT, PTC, Agency, City or other owner/developer	Provide trip generation calculations and cumulative thresholds as part of Project-level plan review and implement when need demonstrated.	Agency, DPT, PTC	Verify completion at applicable project-level plan review
Cultural Resources				
12.A Protection of Historical Resources Implement applicable measures to be contained in an MOA between the Navy and SHPO, with City/Agency concurrence. Measures to include:	Agency, City or other owner/developer	Ongoing implementation as required by measure; include in any applicable site permit plans	Agency	Agency to require implementation of program prior to excavation or construction through Project-level plan review
- Agreement by the City/Agency to designate NRHP-eligible buildings and structures as landmarks under San Francisco's own historic preservation ordinance or to prohibit demolishing these resources. - Agreement by the City/Agency to require the use of the Secretary of the Interior's <i>Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings</i> for all alterations proposed to historic resources identified as eligible for listing in the NRHP. - Agreement by the City/Agency to inform future project developers of the potential for encountering archeological resources and the required procedures to be followed (see Mitigation 12.D below).				

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MEASURES NOT APPLICABLE TO PHASE I DEVELOPMENT				
Mitigation Measure	Mitigation Responsibility	Mitigation Schedule	Monitoring Responsibility	Monitoring Actions/Schedule
12.B Alteration of Historical Resources Comply with the Proposed Reuse Plan, <i>Hunters Point Shipyard Redevelopment Plan</i> , and associated <i>Design for Development</i> , including requirements for retaining and identifying the historical resources described in Section 3.12. These documents also require that alterations that affect the historic resources be implemented according to the Secretary of the Interior's <i>Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings</i> (Proposed Reuse Plan Objective 12, Policy 6).	Agency, City or other owner/developer	Ongoing implementation as required by measure; include in any applicable site permit plans	Agency	Agency to require implementation of program prior to construction through Project-level plan review
12.C Construction Within Historic District Any construction within the Hunters Point Commercial Drydock Historic District will require compliance with the policies set forth in the Proposed Reuse Plan, which calls for creating an attractive and distinctive visual character for HPS that respects and enhances the natural features, the history, and the vision for mixed-use development oriented toward arts and industrial uses (Objective 11). It further states that the structures around Drydocks 2 and 3 will be the focus of the arts/cultural and mixed-use district (Objective 12, Policy 2). Construction must also comply with applicable provisions of the Secretary of the Interior's <i>Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings</i> .	Agency, City or other owner/developer	Ongoing implementation as required by measure; include in any applicable site permit plans	Agency	Agency to require implementation of program prior to construction through Project-level plan review

SITE DEVELOPMENT 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

ROSE COMMUNITY DEVELOPMENT COMPANY, LLC,

a Delaware limited liability company

for

**Hunters Point Shipyard Phase 1 Blocks 52 and 54
151 and 351 Friedell St.**

\$4,838,390

Dated as of _____, 2023

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SITE DEVELOPMENT AGREEMENT
(Hunters Point Shipyard Phase 1 Blocks 52 and 54)

This SITE DEVELOPMENT AGREEMENT ("**Agreement**") is entered into as of _____ 2023, by and between the SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, hereafter referred to as the Office of Community Investment and Infrastructure, a public body organized and existing under the laws of the State of California ("**OCII**"), and ROSE COMMUNITY DEVELOPMENT COMPANY, LLC, a Delaware limited liability company (the "**Site Developer**").

RECITALS

A. In furtherance of the objectives of the California Community Redevelopment Law (Health and Safety Code, section 33000 et seq. the "**CRL**"), the Redevelopment Agency of the City and County of San Francisco (the "**Former Agency**") and the Board of Supervisors of the City and County of San Francisco (as more particularly defined below, the "**City**") established the Hunters Point Shipyard ("**HPS**") Redevelopment Project Area ("**Project Area**").

B. In accordance with the CRL, the City, acting through its Board of Supervisors initially approved a Redevelopment Plan for the Project Area by Ordinance No. 285-97 adopted on July 14, 1997 (and as currently amended, the "**HPS Redevelopment Plan**").

C. Pursuant to California Health and Safety Code §§ 34170 et seq. (the "**Redevelopment Dissolution Law**") and San Francisco Ordinance No. 215-12 (October 4, 2012) (establishing the Successor Agency Commission (as more particularly defined below, the "**Commission**") and delegating to it state authority under the CRL), OCII is responsible for implementing the HPS Redevelopment Plan and fulfilling enforceable obligations of the Former Agency under the Disposition and Development Agreement – Hunters Point Shipyard Phase 1 (initially adopted December 2, 2003, and as currently amended, the "**DDA**") between OCII and HPS Development Co., L.P. (the "**Master Developer**").

D. Under the DDA including its Affordable Housing Program, the Master Developer is required to deliver "finished lots" (i.e., subdivided land served by improved streets, sidewalks, parks, open space and utilities) to be sold to vertical developers or retained by OCII for the development of affordable housing. The DDA identifies the specific "**Agency Affordable Parcels**", which include the two parcels of land (and appurtenant interests) described in Attachment 1 hereto (the "**Site**"), commonly referred to as OCII Blocks 52 and 54. The DDA requires OCII to commence and complete construction of affordable housing on the Agency Affordable Parcels in a timely manner.

E. OCII intends to provide financing to assist in the construction of at least 218 affordable housing units, collectively, on the Agency Affordable Parcels, including approximately 111 units on the Site.

F. On August 7, 2018, by Resolution No. 33-2018, the Commission approved a predevelopment loan in an initial amount of Four Million Dollars (\$4,000,000.00) to Shipyard 5254, L.P., an affiliate of McCormack Baron Salazar (the "**Prior Project Owner**"), for predevelopment funding to develop and operate affordable family rental housing units on the Site. The Oversight Board of the City and County of San Francisco and the California Department of Finance have approved, under Redevelopment Dissolution Law, this expenditure in the Recognized Obligation Payment Schedule for July 1, 2017 to June 30, 2018 - Oversight Board Resolution No. 1-2017 (January 23, 2017), as amended by Oversight Board Resolution No. 3-2017 (September 8, 2017).

G. On July 16, 2019, by Resolution No. 17-2019, the Commission conditionally approved schematic designs for development of affordable housing on the Site, which, as currently proposed consistent with the Commission's approval, currently includes approximately one hundred twelve (112) family residential units (including one hundred ten (110) units of low-income rental housing and two unrestricted manager's units), related management services, amenity spaces and associated landscaping and similar improvements. (the "**Project**").

H. On or about February 17, 2020, the exclusive negotiations agreement between OCII and the Prior Project Owner expired according to its terms and the Prior Project Owner halted development of the Project.

I. As a result of the Prior Project Owner's withdrawal, on October 22, 2020, OCII issued a Housing Development Request for Qualifications seeking a new lead developer to continue development and thereafter operations of the Project, including assumption of rights and obligations of borrower under an amended and restated predevelopment loan agreement and a new exclusive negotiations agreement.

J. On April 6, 2021, by Resolution No. 08-2021, the Commission approved the selection of HPSY 52-54, LP, a California limited partnership (the "**Project Owner**"), whose (i) general partner is Rose HPSY 52-54 GP, LLC, a Delaware limited liability company, an affiliate of Rose Companies Holdings, LLC, as the replacement lead developer for the Project, and (ii) investor limited partner is Bank of America, N.A., a national banking association ("**Investor Limited Partner**") pursuant to that Amended and Restated Agreement of Limited Partnership of Project Owner dated as of even date herewith (the "**LPA**").

K. Beginning in 2020, the State has allocated tax-exempt bond financing and tax credits for affordable housing projects on a competitive basis, and such financing has been oversubscribed in every application round. In 2021 and 2022, the Project Owner unsuccessfully applied for a competitive bond allocation from the State. After restructuring the Project's financing to be more competitive, the Project Owner succeeded in obtaining a State affordable housing bond and tax credit allocation on November 30, 2022.

L. The Project Owner, in restructuring the Project's financing, has determined that certain site preparation work, including demolition, soil improvement, grading and off-hauling and disposing of onsite soils (as further defined in Section 2.1 below, the "Site Work") is necessary to put the Site in a buildable condition for construction of the Project, and, in fulfillment of its obligation under the DDA to commence and construct affordable housing and at the request and

direction of the Developer, OCII is proposing to engage an affiliate of the Developer, Rose Community Development Company, LLC, a Delaware limited liability company (“RCDC”), as an independent contractor to perform the Site Work at a cost of up to approximately \$4,838,390.

M. Due to delays and costs from the unsuccessful low-income housing tax credit and tax-exempt bond applications to the State of California, and cost escalations from interest rate and construction cost increases during those delays, Developer has requested an increase in total OCII subsidy for the Project to \$61,838,820. On March 17, 2023, the Citywide Affordable Housing Loan Committee approved a total OCII subsidy for the Project of Sixty-One Million Eight Hundred Thirty-Eight Thousand Eight Hundred Twenty Dollars (\$61,838,820) consisting of up to \$4,838,390 to fund costs of the Site Work hereunder and a loan of \$57,000,430 (“**Loan**”) to the Project Owner to Project Owner to fund the construction and operations of the Project.

N. On April 4, 2023, by Resolution No. xx-2023, the Commission authorized the issuance of the Loan to the Project Owner.

O. Also on April 4, 2023, by Resolution No. XX, the Commission authorized execution of a ground lease of the Site (the “**Ground Lease**”) between OCII (in its capacity as “Landlord”) and the Project Owner (in its capacity as “Tenant”) for the purpose of the Project Owner constructing and operating the Project on the Site, and authorized execution of this Agreement for the purposes stated herein.

P. OCII, pursuant to its obligation under the DDA to commence and construct affordable housing, now wishes to enter into this Agreement with Site Developer as an independent contractor to perform certain preconstruction site preparation activities on the Site to ensure that the Site is in a buildable condition in support of Tenant’s commencement of construction of the Project Site Work, at the request and direction of Tenant and in accordance with the Ground Lease and the License Agreement (defined below).

Q. Project Owner and Site Developer have entered into that certain license Agreement of even date herewith (“**License Agreement**”), authorizing Site Developer, its agents, employees, contractors, subcontractors, and consultants, to enter the Site to perform the Site Work, in accordance with Project Owner’s rights under the Ground Lease and the “**Easement**” (as defined in the Ground Lease).

R. OCII now intends to execute this Agreement for the performance of the Site Work and disbursement of Funds to Site Developer to fund the costs of the Site Work in accordance with 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 OCII in writing. All Accounts must be maintained in accordance with Section 2.3.

"**Agreement**" has the meaning set forth in the first paragraph hereto.

"**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 OCII and evidencing Site Developer's authority to execute, deliver and perform the obligations under the OCII Documents to which Site Developer is a party or by which it is bound.

"**Disburse**", "**Disbursement**" and other derivatives thereof means the disbursement of all or a portion of the Funding Amount by OCII as described in Article 4.

"**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 Site Developer issued by the California Secretary of State and, if Site Developer 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 Effective Date.

"**City**" means the City and County of San Francisco, a municipal corporation. 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.

"**Commission**" means the Successor Agency Commission, commonly referred to as the Commission on Community Investment and Infrastructure.

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

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

"**CRL**" has the meaning set forth in Recital A.

"**Easement**" has the meaning set forth in Recital N.

"**Effective Date**" means the date on which all conditions to the commencement of Site Work under the Agreement pursuant to Section 4.1 (a) have been met.

"**Environment**" means surface or subsurface soil or strata, surface waters and sediments, navigable waters, wetlands, groundwater, drinking water supply, ambient or indoor air, plants, animals, wildlife and natural resources.

"**Environmental Activity**" means any actual, proposed or threatened presence, spilling, leaking, pumping, pouring, emitting, discharging, leaching, storage, releasing, generation, abatement, removal, treatment, disposal, handling or transportation of any Hazardous Substance at, under, into, on or from the Site.

"**Environmental Laws**" means all present and future federal, state, local and administrative laws, common law, ordinances, statutes, rules and regulations, orders, judgments, decrees, agreements, authorizations, consents, licenses, permits and other governmental restrictions and requirements relating to health and safety, industrial hygiene or the Environment or to any Hazardous Substance or Environmental Activity, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (commonly known as the "Superfund" law) (42 U.S.C. §§ 9601 *et seq.*), the Resource Conservation and Recovery Act of 1976, as amended by the Solid Waste and Disposal Act of 1984 (42 U.S.C. §§ 6901 *et seq.*); the National Environmental Policy Act of 1969 ("NEPA") (24 CFR §§ 92 and 24 CFR §§ 58); the California Hazardous Substance Account Act (also known as the Carpenter-Presley-Tanner Hazardous Substance Account Law and commonly known as the "California Superfund" law) (Cal. Health & Safety Code §§ 25300 *et seq.*); and the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as "Proposition 65") (Cal. Health & Safety Code §§ 25249.2 *et seq.*); and Sections 25117 and 25140 of the California Health & Safety Code, each as has been and hereafter may be amended.

"**Event of Default**" has the meaning set forth in Section 19.1.

"**Excess Funds**" means Funding Amount remaining after payment of all Site Work Expenses.

"Expenditure Request" means a written request by Site Developer for a Disbursement from the Funding Amount, which must certify that the Site Work costs covered by the Expenditure Request have been paid or incurred by Site Developer.

"Funding Amount" means an aggregate amount not to exceed four million eight hundred thirty eight thousand three hundred ninety dollars (\$4,838,390).

"Funds" means the monies to be disbursed by OCII under 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 a ground lease of the Site between Project Owner as tenant and OCII as landlord, as approved by the Commission.

"Hazardous Substance(s)" means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any Governmental Agency with jurisdiction over the Site 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, classified or otherwise identified as a "hazardous substance," "hazardous waste," "hazardous material," "pollutant," "contaminant," "pesticide" or is listed under Proposition 65 or otherwise as a chemical known to cause cancer or reproductive toxicity or is otherwise identified as "hazardous" or "toxic" under any Environmental Law, and includes by way of example any asbestos, asbestos-containing materials, radionuclides, 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 ordinarily used in the construction, operation or maintenance of activities similar to the Site Work will not be deemed Hazardous Substances for purposes of this Agreement if used in compliance with applicable Environmental Laws.

"HCD" means the California Department of Housing and Community Development.

"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.

"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.

“License Agreement” has the meaning set forth in Recital N.

“Loan” 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 rights in defense of any action in a bankruptcy proceeding.

"MOHCD" means the Mayor's Office of Housing and Community Development or its successor. Under Dissolution Law, the Board of Supervisors of the City and County of San Francisco has designated MOHCD as the Housing Successor to the former Redevelopment Agency.

"Notice to Proceed" has the meaning set forth in Section 5.5.

"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, and any other documents executed with OCII or delivered to OCII in connection with this Agreement.

"Official Records" means the Official Records of the City and County of San Francisco.

"Project" means the development described in Recital G, to be developed and owned by the Project Owner.

"Project Area" has the meaning set forth in Recital A.

"Project Owner" has the meaning set forth in Recital J.

"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 Site Work or is paid for in whole or in part using the Funding Amount.

“Retention” has the meaning set forth in Section 4.4.

"Schedule of Performance" means the schedule attached hereto as Exhibit E that sets forth Site Work tasks and milestones and the dates by which they will be completed.

"Site" means the real property described in Exhibit D of this Agreement.

“**Site Developer**” has the meaning set forth in the first paragraph hereto.

“**Site Developer Parties**” has the meaning set forth in Section 23.1.

“**Site Work**” has the meaning set forth in Section 2.1.

"Site Work Expenses" means all costs incurred by Site Developer in connection with the performance of the Site Work, including hard and soft development costs and the expense of a cost audit.

"Table of Sources and Uses" means a table of sources and uses of funds attached hereto as Exhibit A, including a line item budget for the use of the Funding Amount, which table may not be adjusted without OCII's prior written approval.

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

ARTICLE 2 ENGAGEMENT AND FUNDING

2.1 Engagement to Perform Site Work. In accordance with the Ground Lease and subject to the Project Owner's license with Site Developer, OCII hereby engages the Site Developer to perform or cause to be performed the following work on the Site, which is necessary to allow for the construction of the Project (the "**Site Work**"): (i) demolition of existing structures, (ii) soil improvement, (iii) grading, and (iv) remediation of Hazardous Substances required by applicable Environmental Laws. The Site Work is as more particularly described in, and as further provided below shall be performed in accordance with, the Approved Plans as described in more detail in Section 5.2. The Site Developer accepts such engagement by OCII and agrees to perform the Site Work on the Site for OCII (as an independent contractor and not as an agent of OCII), subject to the terms and conditions set forth below.

2.2 Funding Amount. OCII agrees to disburse to Site Developer a maximum amount equal to the Funding Amount to finance expenses and third-party costs incurred by Site Developer to cause the Site Work to be performed on the Site. The Funding Amount will be disbursed according to the terms and conditions described in this Agreement.

2.3 Use of Funds. Site Developer acknowledges that OCII's agreement to Disburse the Funds is based in part on Site Developer's agreement to use the Funds solely to cause the Site Work to be performed 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 Site Developer 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. Any interest earned on funds in any Account must be used for the benefit of the Site Work.

2.4 Records. Site Developer must maintain and provide to 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 OCII in writing and keep all estimates, invoices, receipts and other documents related to expenditures from each Account. In addition, Site

Developer must provide to OCII promptly following Site Developer'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. OCII may grant or deny any application by Site Developer for additional financing for the Site Work in its sole discretion.

2.6 Contracting Requirements. Site Developer shall comply with OCII's Agreement compliance requirements for procurement activities as further set forth in Exhibit B of this Agreement. OCII acknowledges and approves Site Developer's selection of [] as the Site Developer's general contractor in accordance with the foregoing requirements.

2.7 Workforce Requirements. Site Developer shall comply with OCII workforce requirements pursuant to Exhibit B, including but not limited to OCII's Labor Standards and the Construction Workforce Agreement, as set forth in Exhibits B-2 and B-3 for all construction related work.

2.8 Additional OCII Approvals. Site Developer understands and agrees that OCII is entering into this Agreement in its proprietary capacity and not as a regulatory agency with certain police powers. Site Developer 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 Site Developer will obtain any required approvals from City departments, boards or commissions which have jurisdiction over the Site Work. By entering into this Agreement, OCII is in no way modifying or limiting the obligations of Site Developer to carry out the Site Work in accordance with all local laws. Site Developer understands that the Site Work shall require approvals, authorizations and permits from governmental agencies with jurisdiction over the Site Work, which may include, without limitation, the 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 Site Work, 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,; (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 Site Work.

ARTICLE 3 INTENTIONALLY OMITTTED.

ARTICLE 4 DISBURSEMENTS.

4.1 Conditions Precedent to Start of Site Work.

- (a) OCII will authorize the commencement of the Site Work upon satisfaction

of the following preconditions:

- i. The Ground Lease must be executed and delivered between OCII (as Landlord) and the Project Owner (as Tenant);
- ii. The License Agreement must be executed and delivered between Project Owner and Site Developer;
- iii. Site Developer must have delivered to OCII fully executed originals of the following documents, in form and substance satisfactory to OCII: (i) this Agreement (in triplicate); (ii) the Authorizing Resolutions; and (iii) any other OCII Documents reasonably requested by OCII.
- iv. Site Developer must have delivered to OCII Site Developer's Charter Documents.
- v. Site Developer must have delivered to OCII evidence of insurance (including required endorsements), acceptable to OCII, and, if requested by OCII, copies of policies for all insurance required under Exhibit C of this Agreement.

(b) Following satisfaction of the conditions in Section 4.1 (a), OCII will authorize the commencement of the Site Work and begin Disbursements in accordance with Section 4.2.

4.2 Disbursement of Funds

4.2.1 Generally. OCII will make Disbursements in an aggregate sum not to exceed the Funding Amount to or for the account of Site Developer in accordance with this Agreement and the approved line-item budget contained in the Table of Sources and Uses, as applicable.

4.2.2 Disbursement of Funds. As and when requested and in accordance with this Agreement and the approved line-item budget contained in the Table of Sources and Uses, OCII will make Disbursements to or for the account of Site Developer in an aggregate sum not to exceed the Funding Amount.

4.2.3 Conditions to Disbursement of Funding Amount. OCII's obligation to Disburse Funds is subject to Site Developer's satisfaction of the following conditions precedent:

(a) Site Developer must have delivered to OCII an Expenditure Request in form and substance satisfactory to OCII, together with: (i) copies of invoices, Agreements 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 Site Developer to reallocate the Funding Amount 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 Funding Amount in the aggregate may be made with the express written approval of OCII's Housing Manager; and (ii) except for funds moved from the contingency line item to another line item, a requested reallocation of the Funding Amount in an amount up to ten percent (10%) of the Funding Amount may be made only with the express written approval of the OCII Executive Director. Reallocations of the Funding Amount from contingency line items to other line items shall not require the consent of OCII. Any such approved changes will be considered amendments to the Table of Sources and Uses.

(e) 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.

(f) With respect to any Expenditure Request for construction costs, Site Developer must have certified to OCII that all construction-related work Site Work complies with the labor standards set forth in Exhibit B-3, if applicable.

(g) OCII shall use best efforts to either approve or disapprove each such Expenditure Request within ten (10) business days of receipt. In the event that OCII disapproves an Expenditure Request, OCII shall provide written notice thereof to Site Developer specifying the reason for such disapproval. OCII shall use best efforts to fund all approved Expenditure Requests within five (5) business days of approval.

4.3 Schedule of Performance. Site Developer must perform in accordance with the Schedule of Performance (Exhibit E). The Schedule of Performance may be modified at the request of the Site Developer; however, any modification to the Schedule of Performance shall be at the reasonable discretion of the OCII Executive Director.

4.4 Retention. In addition to the other conditions to Disbursements, Site Developer acknowledges that the amount of hard costs included in any Expenditure Request associated with construction, when added to previously approved costs, may not exceed ninety percent (90%) of the approved budgeted costs on a line item basis. OCII (or other entity approved in writing by OCII) will retain the remaining ten percent (10%) of hard costs associated with construction (the "**Retention**"), and no portion of the Retention may be released without OCII's prior written consent. Site Developer 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 the Site Work 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 Site Work.

After fifty percent (50%) of the construction of the Site Work is complete as determined by the OCII-assigned construction management staff, and upon Site Developer's written request, Site Developer may reduce the amount of Retention withheld to a level of no less than five percent

(5%) of the hard costs (resulting in a blended 7.5% aggregate Retention), provided that the following prerequisites have been met: (a) all work required to be performed by all parties for whom OCII agrees to release the Retention (the "Early Retention Release Contractors") has been completed in conformance with the terms of the applicable contract documents, the plans and specifications approved by the City and all applicable Laws; (b) the applicable Early Retention Release Contractors have filed unconditional lien waivers satisfactory to the OCII construction specialist; (c) no liens or stop notices have been filed against the Site that have not been released or bonded for according to construction mechanic's lien laws of the State of California or an appropriate title endorsement has been issued in a form reasonably satisfactory to OCII; (d) no claims against the Site are pending; (e) OCII determines that the contingency is in balance and adequate to complete the Site Work; and (f) the Site Work is on schedule.

4.5 Limitations on Approved Expenditures. OCII may refuse to make any Disbursement: (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 Expenditure Requests. 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 Site Developer under this Agreement exceed the Funding Amount.

4.6 Retention of Excess Funds. OCII will retain Excess Funds.

ARTICLE 5 CONSTRUCTION.

5.1 Contracting Requirements. In the selection of all contractors and professional consultants for the Site Work, Site Developer must comply with all applicable laws and OCII's Agreement compliance requirements as further set forth in Exhibit B of this Agreement.

5.2 Plans and Specifications. Before starting any demolition or construction on the Site, Site Developer must have delivered to OCII, and OCII must have reviewed and approved (for purposes of consistency with the HPS Redevelopment Plan and Plan Documents (as defined therein) and Commission approvals related to the Project) plans and specifications and the construction contract for the Site Work entered into between Site Developer and Site Developer's general contractor and approved by OCII (the "**Construction Contract**"). The plans as approved by OCII (and by all other applicable City agencies in accordance with Section 2.8) are referenced collectively as the "**Approved Plans**." 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 Site Work, Site Developer must retain the Approved Plans as well as "as-built" plans for the Site Work, the Approved Specifications and the Construction Contract, all of which Site Developer must make available to OCII upon request.

5.3 Change Orders. Site Developer may not approve or permit any change orders to the plans and specifications approved by OCII without OCII's prior written consent. Site Developer 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 Site Work, 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 and any equivalent amendment to the Table of Sources and Uses within ten (10) calendar days of receipt for request therefor.

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

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

5.6 Commencement and Completion of Site. Unless otherwise extended in writing by OCII, Site Developer must: (a) commence Site Work by May 29, 2023; and (b) complete Site Work by [] in substantial accordance with the plans and specifications approved by OCII, as evidenced by [] (the "**Completion Date**").

5.7 Site Work 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. The Site Work must be performed consistent with the Project Owner's obligations under the Ground Lease and in strict compliance with all applicable Laws, including all laws relating to accessibility for persons with disabilities and all applicable mitigation measures identified in the Hunters Point Shipyard Phase I Development Mitigation Monitoring and Reporting Program, attached to the Ground Lease. Site Developer understands and agrees that Site Developer's use of the Site and performance of the Site Work permitted under this Agreement will require authorizations, approvals, or permits from governmental regulatory agencies with jurisdiction over the Site, including, without limitation, City agencies. Site Developer will be solely responsible for obtaining any and all such regulatory approvals. Site Developer will bear all costs associated with applying for and obtaining any necessary or appropriate regulatory approval as part of the budget contained in the Table of Sources and Uses and will be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval; provided, however, any such condition that could affect use or occupancy of the Project or OCII's interest therein must first be approved by OCII in its sole discretion. Any fines or penalties levied as a result of Site Developer's failure to comply with the terms and conditions of any regulatory approval will be immediately paid and discharged by Site Developer, and OCII will have no liability, monetary or otherwise, for any such fines or penalties. Site Developer will indemnify, defend, and hold harmless OCII and the other Indemnified Parties hereunder against all Claims (as such terms are defined in Article 23 below) arising in connection with Site Developer's failure to obtain or failure by Site Developer, its agents, or invitees to comply with the terms and conditions of any regulatory approval except

to the extent such Claims are caused by gross negligence or willful misconduct of the party seeking indemnification.

ARTICLE 6 INTENTIONALLY OMITTED.

ARTICLE 7 INTENTIONALLY OMITTED.

ARTICLE 8 INTENTIONALLY OMITTED.

ARTICLE 9 GOVERNMENTAL REQUIREMENTS.

9.1 Site Developer Compliance. Site Developer must comply, and where applicable, require its contractors to comply, with all applicable Laws governing the use of the Funding Amount for the Site Work, including the requirements of the CRL, and those Laws set forth in Exhibit B. Site Developer 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 Site Developer from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

ARTICLE 10 SITE WORK MONITORING, REPORTS, BOOKS AND RECORDS.

10.1 Generally.

(a) Site Developer understands and agrees that it will be monitored by OCII from time to time to ensure compliance with all terms and conditions in this Agreement and all Laws. Site Developer must cooperate with the monitoring by OCII and ensure full access to the Site and all information related to the Site Work as reasonably required by OCII.

(b) Site Developer must keep and maintain books, records and other documents relating to the receipt and use of all Funds. Site Developer must maintain records of all income, expenditures, assets, liabilities, Agreements, operations, and condition of the Site Work. All financial reports must be prepared and maintained in accordance with GAAP as in effect at the time of performance.

10.2 [Intentionally Omitted].

10.3 [Intentionally Omitted].

10.4 [Intentionally Omitted].

10.5 Site Work Completion Report. Within the specific time periods set forth below after the completion of the Site Work, as applicable, Site Developer must provide to OCII the reports listed below certified by Site Developer to be complete and accurate. Subsequent to the required submission of the reports listed below, Site Developer shall provide to OCII information or documents reasonably requested by OCII to assist in OCII's review and analysis of the submitted reports. To the extent not otherwise prohibited by applicable Law, Site Developer shall provide the following reports:

(a) within one hundred eighty (180) days after the Completion Date, a project completion audit performed by an independent certified public accountant identifying the uses of all the Funds; and

(b) within thirty (30) days after the Completion Date, a report on expenditures to third-party firms, including but not limited to consultants, contractors, and subcontractors, whether such firms are small business enterprises, the type of work and the dollar value of such work.

10.6 Response to Inquiries. At the request of OCII, its agents, employees or attorneys, Site Developer must respond promptly and specifically to questions relating to the income, expenditures, assets, liabilities, Agreements, operations and condition of the Site Work, and any other requested information with respect to Site Developer or the Site Work.

10.7 Delivery of Records. At the request of OCII, made through its agents, employees, officers or attorneys, Site Developer must provide OCII within a reasonable period of time of no less than sixty (60) days from request therefor with copies of any other records related to the services rendered on the Site, certified in writing by Site Developer to be complete and accurate.

10.8 Access to Other Books and Records. In addition to Site Developer's obligations under Sections 2.4 and 10.1, any other obligations to provide reports or maintain records in this Agreement or any other OCII Document, Site Developer 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 Site Developer is required to keep at all reasonable times, following reasonable notice, for the retention period required under Section 10.9.

10.9 Records Retention. Site Developer must retain all records required for the periods required under applicable Laws.

ARTICLE 11 INTENTIONALLY OMITTED.

ARTICLE 12 INTENTIONALLY OMITTED.

ARTICLE 13 INTENTIONALLY OMITTED.

ARTICLE 14 INTENTIONALLY OMITTED.

ARTICLE 15 NO SITE WORK FEES.

Site Work Developer shall not be entitled to payment of any fees in consideration of its performance of the services arising under this Agreement.

ARTICLE 16 INTENTIONALLY OMITTED

ARTICLE 17 INSURANCE AND BONDS

17.1 Site Developer's Insurance. Subject to approval by OCII's risk manager of the insurers and policy forms, Site Developer must obtain and maintain, or cause to be obtained and maintained, insurance and bonds as set forth in Exhibit C commencing with the Effective Date and thereafter throughout the duration of the Site Work, at no expense to OCII.

ARTICLE 18 GOVERNMENTAL APPROVALS.

18.1 Compliance. Site Developer 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 performance and completion of the Site Work. Subject to Section 23.1, this Section does not prohibit Site Developer 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 Site Developer of any covenant, agreement, provision or warranty contained in this Agreement that remains uncured upon the expiration of any applicable notice and cure periods will constitute an "Event of Default," including the following:

(a) Site Developer fails to perform or observe any term, covenant or agreement contained in any OCII Document, and the failure continues for thirty (30) days after Site Developer's receipt of written notice from OCII to cure the default, or, if the default cannot be cured within a 30-day period, Site Developer will have sixty (60) days to cure the default, or any longer period of time deemed necessary by OCII, *provided that* Site Developer commences to cure the default within the 30-day period and diligently pursues the cure to completion; or

(b) Any representation or warranty made by Site Developer in any of this Agreement proves to have been incorrect in any material respect when made; or

(c) Site Developer 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 Site Developer applies for or consents to the appointment of any receiver, trustee or similar official for Site Developer 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 sixty (60) days); or Site Developer institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to Site Developer 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 sixty (60) days).

19.2 Intentionally Omitted.

19.3 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 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.

(b) OCII may perform any of Site Developer's obligations in any manner, in OCII's reasonable discretion.

(c) OCII may terminate this Agreement.

(d) 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 Site Developer's noncompliance with this Agreement.

19.4 Force Majeure. The occurrence of any of the following events will excuse performance of any obligations of OCII or Site Developer to the extent the event(s) cause delays in the performance of a party's obligations under this Agreement and which delays are beyond the control of the party obligated to perform: 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; pandemics and other causes beyond the control of the party obligated to perform. The occurrence of a force majeure event will excuse Site Developer's performance only in the event that Site Developer has provided notice to OCII within thirty (30) days after the

occurrence or commencement of the event or events, and Site Developer's performance will be excused for so long as the conditions giving rise to the delay continue to result in delay to performance hereunder.

ARTICLE 20 REPRESENTATIONS AND WARRANTIES.

20.1 Site Developer Representations and Warranties. As a further inducement for OCII to enter into this Agreement, Site Developer 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 Site Developer under any applicable Law, any Charter Document of Site Developer or any instrument binding upon or affecting Site Developer, or any Agreement, agreement, judgment, order, decree or other instrument binding upon or affecting Site Developer.

(b) When duly executed, the OCII Documents will constitute the legal, valid and binding obligations of Site Developer. Site Developer hereby waives any defense to the enforcement of the OCII Documents related to alleged invalidity of the OCII Documents.

(c) To Site Developer's knowledge, no action, suit or proceeding is pending or threatened that might affect Site Developer or the Site Work adversely in any material respect.

(d) To Site Developer's knowledge, Site Developer is not in default under any agreement to which it is a party, including any lease of real property.

(e) None of Site Developer, Site Developer's principals or Site Developer's general contractor has been suspended or debarred by the Department of Industrial Relations or any Governmental Agency, nor has Site Developer, any of its principals or its general contractor been suspended, disciplined or prohibited from contracting with any Governmental Agency.

(f) All statements and representations made by Site Developer in connection with the Site Work 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, by nationally recognized courier that obtains receipts 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 Site Developer: Rose Community Development Company, LLC
c/o Jonathan Rose Companies
551 Fifth Avenue, 23rd Floor
New York, NY 10176
Attention: Yusef Freeman
Email: yfreeman@rosecompanies.com

WITH A COPY TO:

Klein Hornig LLP
101 Arch Street, Suite 1101
Boston, MA 02110
Attn: Daniel Rosen
Email: drosen@kleinhornig.com

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.

ARTICLE 22 HAZARDOUS SUBSTANCES.

22.1 Responsibilities. In no event shall the Site Developer be directly or indirectly responsible for the identification, investigation or remediation of Hazardous Substances or other environmental conditions at, in, on, under, from or in the vicinity of the Site except as explicitly specified in the approved plans and specifications under Section 5.2 of this Agreement (and, where applicable, in the amounts specified in the approved plans and specifications) as part of the Site Work and to the extent of available Funds. If previously unknown or unforeseen Hazardous Substances or other environmental conditions are encountered during the course of the Site Work, or if the amount of Hazardous Substances specified in the approved plans and specifications is exceeded, the Site Developer will notify OCII and the Project Owner promptly. Any such unknown or unforeseen Hazardous Substances, excess amounts of Hazardous

Substances, and any other environmental conditions that are not specifically identified in the approved plans and specifications under Section 5.2 of this Agreement are not the responsibility of Site Developer and shall be addressed either by mutually agreed amendment to this Agreement, or by OCII and/or the Project Owner in accordance with applicable provisions of the Ground Lease.

22.2 Covenant. Unless OCII otherwise consents in writing, at all times from and after the date of this Agreement, at its sole expense, Site Developer must: (a) comply with all applicable Environmental Laws relating to the Site and the Site Work, and not engage in or 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 Site Work or intended use of the Site, *provided that* nothing contained in this Section will prevent Site Developer from contesting, in good faith and by appropriate proceedings, any interpretation, enforcement or application of Environmental Laws; and (b) deliver to OCII notice of the discovery by Site Developer of any Environmental Activity in violation of applicable Environmental Laws on the Site promptly following Site Developer's discovery.

ARTICLE 23 INDEMNITY.

23.1 Site Developer's Obligations. Site Developer shall, to the fullest extent allowable by law, defend, indemnify and protect and hold harmless OCII, the City, and their respective officers, agents and employees (individually or collectively, an "**Indemnitee**") against any and all Losses arising directly or indirectly, in whole or in part out of: (a) any default by Site Developer in the observance or performance of any of Site Developer's obligations under the OCII Documents (including those covenants set forth in Article 22 above (and subject to the limitation in Section 22.1 above); (b) any failure of any representation by Site Developer to be correct in all material respects when made; (c) injury or death to persons or damage to property or other Loss occurring on the Site (including, for clarity, Grantor's Property as defined in the Easement) in connection with the Site Work (including, for clarity, Losses of OCII resulting from Sections 2 and 9 of the Easement), whether caused by the negligence or any other act or omission of Site Developer or its contractors, agents, permittees or invitees (individually and collectively the "**Site Developer Parties**") or by negligent, faulty, inadequate or defective design, building, construction, rehabilitation or maintenance or any other condition or otherwise, but only to the extent any such damage, injury, activity, condition or event (x) occurs on or after the Effective Date, and (y) arises directly or indirectly from Site Developer's or Site Developer's Parties' activities related to the Site Work; (d) any claim of any surety in connection with any bond relating to the Site Work performed by Site Developer or Site Developer Parties; (e) any claim, demand or cause of action, or any action or other proceeding (including without limitation those made by third-parties), whether meritorious or not, brought or asserted against any Indemnitee that relates to or arises out of the OCII Documents, the Disbursements, Site Developer's or Site Developer's Parties' activities on the Site or Site Developer's or Site Developer's Parties' performance of the Site Work, or any transaction contemplated by, or the relationship between Site Developer and OCII or Site Developer and the City; (f) the occurrence, after the date of this Agreement and before the expiration of the term of this Agreement, of any Environmental

Activity arising directly or indirectly from Site Developer's or Site Developer's Parties' activities on the Site or any failure of Site Developer or Site Developer's Parties to comply with all applicable Environmental Laws relating to Site Developer's or Site Developer's Parties' activities on the Site; (g) the occurrence, after the termination of this Agreement, of any Environmental Activity resulting directly or indirectly from any act or failure to act caused or permitted by Site Developer or Site Developer's Parties occurring from the date of this Agreement until the termination of this Agreement; (h) any liability of any nature arising from Site Developer's contest of or relating to the application of any Law, including any contest permitted under Sections 9.1 or 18.1; 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 any Environmental Activity first existing or occurring as of or prior to the date of this Agreement (unless and except to the extent aggravated or exacerbated by Site Developer or Site Developer's Parties), any Environmental Activity of or caused by a person or entity other than Site Developer or Site Developer's Parties, or for matters caused solely by the Indemnitee's own 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 Site Developer has indemnified the Indemnitees hereunder, upon written notice, Site Developer must answer and otherwise defend the action or proceeding using counsel approved in writing by the Indemnitee at Site Developer'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 completion of the Site Work and/or termination of this Agreement.

23.2 No Limitation. Site Developer's obligations under Section 23.1 are not limited by the insurance requirements under this Agreement.

ARTICLE 24 GENERAL PROVISIONS.

24.1 Intentionally Omitted.

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 Site Developer or Site Developer's agents, employees or contractors.

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 Site Work. Site Developer must include this requirement as a provision in any Agreements for the performance of the Site Work.

24.4 Entire Agreement. This Agreement and its Exhibits incorporate the terms of all agreements made by OCII and Site Developer 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 Site Developer.

24.5 OCII Obligations. OCII's 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 be liable to Site Developer for any special or consequential damages arising out of actions or failure to act by OCII in connection with any of the OCII Documents.

24.6 Site Developer Solely Responsible. Site Developer 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. Site Developer 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 Agreement that they will be solely responsible for similar matters relating to their employees; (b) any losses or damages incurred by Site Developer, any of its contractors or subcontractors and OCII and its officers, representatives, agents and employees on account of any act, error or omission of Site Developer in the performance of this Agreement or any other OCII Document and the performance of the Site Work; and (c) all costs and expenses relating to Site Developer'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. Site Developer 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 as pertains to the Site Work, 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 Site Developer or if Site Developer consists of more than one person or entity, 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 Site Developer of its obligation under the OCII Documents to obtain OCII's prior written consent to any assignment or other transfer of Site Developer's interests in the Agreement, the Site or the ownership interests in Site Developer.

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.

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. Site Developer 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 Intentionally Omitted.

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 Site Developer's Personnel. The Site Work shall be implemented only by competent personnel under the direction and supervision of Site Developer.

24.20 Intentionally Omitted.

24.21 Intentionally Omitted.

24.22 Works for Hire. If, in connection with this Agreement or the implementation of the Site Work, Site Developer 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, Site Developer 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, Site Developer may retain and use copies of such creations for reference and as documentation of its experience and capabilities. Site Developer shall use commercially reasonable efforts to obtain all releases, assignments or other agreements from other persons or entities implementing the Site Work to ensure that OCII obtains the rights set forth in this Section.

24.23 Intentionally Omitted.

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

EXHIBITS

- A Table of Sources and Uses of Funds
- B Agreement Compliance Policies
- C Insurance Requirements
- D Lobbying/Debarment Certification Form
- E Schedule of Performance
- F Legal Description of the Site

Signatures begin on following page

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: _____
Thurston Kaslofsky
Executive Director

APPROVED AS TO FORM:

James B. Morales
OCII General Counsel

By: _____
Aaron J. Foxworthy
Deputy General Counsel

SITE DEVELOPER:

Rose Community Development Company, LLC, a Delaware limited liability company

By: Jonathan Rose Companies LLC,
a New York limited liability company,
its managing member

By: Rose Community Holdings, LLC
a Delaware limited liability
company, its managing member

By: Rose Companies Holdings,
LLC, a Delaware limited
liability company, its
managing member

By: _____
Name: [_____]
Title: Authorized Signatory

Authorized by OCII Resolution No. [_____] , dated [_____]

EXHIBIT A

Table of Sources and Uses

Application Date:
Project Name:
Project Address:
Project Sponsor:

January 18 2023
Hunters Point Shipyard Blocks 52&54
151 &351 Friedell St
Rose Companies Holdings

Units: 112
Bedrooms: 217
Beds:

N/a

SOURCES	Total Sources						Comments
	57,000,430	2,410,462	61,915,175	802,284	4,838,390	5,913,900	
Name of Sources:	MOHCD/OCII	Perm Loan	Equity	Deferred Fee	OCII-	IIG	-

USES

ACQUISITION

Acquisition cost or value							0
Legal / Closing costs / Broker's Fee							0
Holding Costs							0
Transfer Tax							0
TOTAL ACQUISITION	0	0	0	0	0	0	0

CONSTRUCTION (HARD COSTS)

* Unit Construction/Rehab	26,486,674	1,918,315	46,979,961		3,006,801	5,913,900	84,305,651	Include FF&E	
* Commercial Shell Construction							0		
* Demolition							0		
* Environmental Remediation							0		
* Onsite Improvements/Landscaping							0		
* Offsite Improvements							0		
* Infrastructure Improvements							0	HOPE SF/OCII costs for streets etc.	
Parking							0		
GC Bond Premium/GC Insurance/GC Taxes	7,545,318				625,237		8,170,555		8.2%
GC Overhead & Profit	1,538,321		1,538,321		341,849		3,418,491		3.4%
CG General Conditions	1,769,733		1,769,733		393,274		3,932,741		3.9%
Sub-total Construction Costs	37,340,046	1,918,315	50,288,015	0	4,367,161	5,913,900	99,827,437		
Escalation	0		0		0		0	\$45MM+	0.0%
Bid Contingency (remove at bid)							0	\$45MM+	0.0%
Plan Check Contingency (remove/reduce during Plan Review)							0	\$45MM+	0.0%
Hard Cost Construction Contingency	4,831,453				439,556		5,271,009	5% new construction / 15% rehab	5.3%
Sub-total Construction Contingencies	4,831,453	0	0	0	439,556	0	5,271,009		
TOTAL CONSTRUCTION COSTS	42,171,499	1,918,315	50,288,015	0	4,806,717	5,913,900	105,098,447		

SOFT COSTS

Architecture & Design									
Architect design fees	3,031,893						3,031,893	See MOHCD A&E Fee Guidelines:	
Design Subconsultants to the Architect (incl. Fees)	668,277						668,277	http://sfmohcd.org/documents-reports-and-forms	
Architect Construction Admin							0		
Reimbursables	40,000		200,000				240,000		
Additional Services	427,798						427,798		
Sub-total Architect Contract	4,167,968	0	200,000	0	0	0	4,367,968		
Other Third Party design consultants (not included under Architect contract)							0	Consultants not covered under architect contract; name consultant type and contract amount	
Total Architecture & Design	4,167,968	0	200,000	0	0	0	4,367,968		
Engineering & Environmental Studies									
Survey	23,500						23,500		
Geotechnical studies	228,500						228,500		
Phase I & II Reports	183,900						183,900		
CEQA / Environmental Review consultants							0		
NEPA / 106 Review							0		
CNA/PNA (rehab only)							0		
Other environmental consultants	177,350						177,350	Name consultants & contract amounts	
Total Engineering & Environmental Studies	613,250	0	0	0	0	0	613,250		
Financing Costs									
Construction Financing Costs									
Construction Loan Origination Fee			1,105,401		31,674		1,137,074		
Construction Loan Interest			7,888,221				7,888,221		
Title & Recording			200,000				200,000		
CDLAC & CDIAC fees			27,050				27,050		
Bond Issuer Fees	138,750						138,750		
Other Bond Cost of Issuance							0		
Other Lender Costs (specify)	50,000		48,000				98,000		
Sub-total Const. Financing Costs	188,750	0	9,268,671	0	31,674	0	9,489,095		
Permanent Financing Costs									
Permanent Loan Origination Fee			49,657				49,657		
Credit Enhance. & Appl. Fee							0		
Title & Recording		20,000					20,000		
Sub-total Perm. Financing Costs	0	20,000	49,657	0	0	0	69,657		
Total Financing Costs	188,750	20,000	9,318,328	0	31,674	0	9,558,752		
Legal Costs									
Borrower Legal fees	200,000						200,000		
Land Use / CEQA Attorney fees	100,000						100,000		
Tax Credit Counsel							0		
Bond Counsel			80,000				80,000		
Construction Lender Counsel			50,000				50,000		
Permanent Lender Counsel		65,000					65,000		
Other Legal (specify)	625,000						625,000		
Total Legal Costs	925,000	65,000	130,000	0	0	0	1,120,000		
Other Development Costs									
Appraisal	10,000						10,000		
Market Study	10,000						10,000		
Insurance	1,444,764						1,444,764		
Property Taxes	150,000						150,000		
Accounting / Audit	42,500						42,500		
Organizational Costs	25,000						25,000		
Entitlement / Permit Fees	1,507,050						1,507,050		
Marketing / Rent-up			702,000				702,000		
Furnishings			380,000				380,000	\$2,000/unit; See MOHCD UIW Guidelines on: http://sfmohcd.org/documents-reports-and-forms	
PGE / Utility Fees							0		
TCAC App / Alloc / Monitor Fees	45,100						45,100		
Financial Consultant fees	50,000						50,000		
Construction Management fees / Owner's Rep	180,000						180,000		
Security during Construction							0		
Relocation							0		
Adjacent Property	250,000						250,000		
Special Inspections ,Site camera, Final Cleaning AI QAC	759,000						759,000		
MBE Coordinator and Tax Credit fees	92,364						92,364		
Total Other Development Costs	4,565,778	0	1,082,000	0	0	0	5,647,778		
Soft Cost Contingency									
Contingency (Arch, Eng, Fin, Legal & Other Dev)	1,238,184	8,500	896,832	0	0	0	2,143,516	Should be either 10% or 5% of total soft costs.	
TOTAL SOFT COSTS	11,698,930	93,500	11,627,160	0	31,674	0	23,451,264		10.1%

RESERVES

* Operating Reserves		398,647					398,647	
Replacement Reserves							0	
* Tenant Improvements Reserves							0	
* CFD fee reserve & Master HOA Reserve	1,110,000						1,110,000	
* Other (specify)							0	
* Other (specify)							0	
TOTAL RESERVES	1,110,000	398,647	0	0	0	0	1,508,647	

DEVELOPER COSTS

Developer Fee - Cash-out Paid at Milestones	2,020,000						2,020,000	
Developer Fee - Cash-out At Risk							0	
Commercial Developer Fee							0	
Developer Fee - GP Equity (also show as source)							0	
Developer Fee - Deferred (also show as source)				802,284			802,284	
Development Consultant Fees							0	Need MOHCD approval for this cost, N/A for most projects
Other (specify)							0	
TOTAL DEVELOPER COSTS	2,020,000	0	0	802,284	0	0	2,822,284	

TOTAL DEVELOPMENT COST

Development Cost/Unit by Source	57,000,430	2,410,462	61,915,175	802,284	4,838,390	5,913,900	132,880,642	
Development Cost/Unit as % of TDC by Source	508,932	21,522	552,814	7,163	43,200	52,803	1,186,434	
	42.9%	1.8%	46.6%	0.6%	3.6%	4.5%	100.0%	

Acquisition Cost/Unit by Source

0	0	0	0	0	0	0	0	

Construction Cost (inc Const Contingency)/Unit By Source

376,531	17,128	449,000	0	42,917	52,803	938,379	
254.35	11.57	303.30	0.00	28.99	35.67	633.88	

*Possible non-eligible GO Bond/COP Amount:

29,891,438

City Subsidy/Unit

508,932

Tax Credit Equity Pricing:

0.985

Construction Bond Amount:

63,000,000

Construction Loan Term (in months):

36 months

Construction Loan Interest Rate (as %):

7.66%

EXHIBIT B

Agreement Compliance Policies

1. Equal Opportunity Policies. Site Developer shall comply with OCII's Equal Opportunity Policies:

- (i) Small Business Enterprise (SBE) Policy (adopted by Resolution No. 43-2015, July 7, 2015);
- (ii) Bayview Hunters Point Employment and Contracting Policy;
- (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
- (vi) Minimum Compensation Policy (adopted by Resolution No. 168-2001).

Copies of the aforementioned policies are available on the OCII website at <http://sfocii.org/policies-and-procedures>

2. Environmental Review. The Site Work must meet the requirements of the California Environmental Quality Act (Cal. Pub. Res. Code §§ 2100 et seq.) and implementing regulations, and any other environmental reviews as required by any federal funding sources obtained, including the National Environmental Policy Act ("NEPA").

3. Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no employee, agent, consultant, officer or official of Site Developer or OCII who exercises or has exercised 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, Site Developer 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. Site Developer 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, Site Developer must take prompt and diligent action to cause the breach to be remedied and compliance to be restored.

(b) Site Developer 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. Site Developer certifies that it knows of no facts that constitute a violation of any of these provisions and agrees to notify OCII immediately if Site Developer at any time obtains knowledge of facts constituting a violation.

(c) In the event of any violation of the conflict of interest prohibitions, Site Developer agrees that OCII may refuse to consider any future application for funding from Site Developer or any entity related to Site Developer until the violation has been corrected to OCII's satisfaction, in OCII's sole discretion.

4. Disability Access. Site Developer 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.). Site Developer is responsible for determining which disability access Laws apply to the Site Work, including those applicable due to the use of Funds. In addition, before occupancy of the Site Work, Site Developer must provide to OCII a written reasonable accommodations policy that indicates how Site Developer will respond to requests by disabled individuals for accommodations in Units and common areas of the Site Work.

5. Lead-Based Paint. Site Developer 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. Site Developer 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.

6. [Intentionally Omitted]

7. Non-Discrimination in OCII Contracts and Benefits Policy.

(a) Site Developer May Not Discriminate. In the performance of this Agreement, Site Developer 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 Site Developer, in any of Site Developer'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 Site Developer.

(b) Non-Discrimination in Benefits. Site Developer 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.

8. Public Disclosure.

(a) Site Developer understands and agrees that under the State Public Records Law (Cal. Gov. Code §§ 6250 et seq.) and the Agency Public Records Policy, this Agreement and any and all records, information and materials submitted to OCII or the City hereunder are public records subject to public disclosure. Site Developer 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. Limitations on Contributions. Through execution of this Agreement, Site Developer 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 Agreement or six months after the date the contract is approved. Site Developer 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. Site Developer further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Site Developer's board of directors; Site Developer's chairperson, chief

executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Site Developer; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Site Developer. Additionally, Site Developer acknowledges that Site Developer must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

Finally, Site Developer agrees to provide to OCII the names of each member of Site Developer's general partners' (or, if applicable, general partners' managing members) board of directors; Site Developer'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 Site Developer'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 Site Developer.

EXHIBIT B-1

SMALL BUSINESS ENTERPRISE AGREEMENT

The company or entity executing this Small Business Enterprise Agreement, by and through its duly authorized representative, hereby agrees to use good faith efforts to comply with all of the following:

- I. **PURPOSE.** The purpose of entering into this Small Business Enterprise Program agreement ("SBE Program") is to establish a set of Small Business Enterprise ("SBE") participation goals and good faith efforts designed to ensure that monies are spent in a manner which provides SBEs with an opportunity to compete for and participate in contracts by or at the behest of the Successor Agency to the San Francisco Redevelopment Agency ("Agency") and/or the Agency-Assisted Contractor. A genuine effort will be made to give First Consideration to Project Area SBEs and San Francisco-based SBEs before looking outside of San Francisco.
- II. **APPLICATION.** The SBE Program applies to all Contractors and their subcontractors seeking work on Agency-Assisted Projects on or after November 17, 2004 and any Amendment to a Pre-existing Contract.

- III. **GOALS.** The Agency's SBE Participation Goals are:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

- IV. **TRAINEE HIRING GOAL.** In addition to the goals set forth above in Section III, there is a trainee hiring goal for all design professionals (architects, engineers, planners, and environmental consultants) on contracts or subcontracts over \$100,000. The trainee hiring goal requires architects, engineers and other design professionals only to hire qualified San Francisco residents as trainees. The trainee hiring goal is based upon the total amount of the design professional's contract as follows:

<u>Trainees</u>	<u>Design Professional Fees</u>
0	\$ 0 – \$99,000
1	\$ 100,000 – \$249,999
2	\$ 250,000 – \$499,999
3	\$ 500,000 – \$999,999
4	\$1,000,000 – \$1,499,999
5	\$1,500,000 – \$1,999,999
6	\$2,000,000 - \$4,999,999
7	\$5,000,000 - \$7,999,999
8	\$8,000,000 – or more

A. Procedures For Trainee Hires

1. Compliance with the Trainee Hiring Goal

Design professionals will be deemed in compliance with this Agreement by meeting or exceeding the trainee hiring goal or by take the following steps in good faith towards compliance.

2. Execution and Incorporation of this Agreement to Sub-agreements

The Agency-Assisted Contractor shall execute this Agreement and shall incorporate by reference or attach this Agreement to its contract(s) with the architects, engineers and other design professionals. Thus, each design professional (regardless of tier) will be obligated to comply with the terms of this Agreement. The Agency-Assisted Contractor and/or the design professionals shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. Contact Educational Institutions

Each design professional shall call the City and County of San Francisco Office of Economic and Workforce Development (OEWD) or educational institution(s) and request referrals for the required trainee positions. The request will indicate generally: (1) the number of trainees sought; (2) the required skills set (keeping in mind that these are trainee positions); (3) a brief description of job duties; (4) the duration of the trainee period; and (5) any other information that would be helpful or necessary for the educational institution or OEWD to make the referral. The minimum duration of assignment is part-time for one semester. However, design professionals are strongly encouraged to offer longer trainee employment periods to allow a more meaningful learning experience. (For example, a half-time or full-time assignment over the summer.) Although the initial contact shall be made by phone, the educational institution(s) or OEWD may require the design professionals to send a confirming letter or complete its form(s). Each design professional is required to timely provide all of the information requested by the OEWD or educational institution(s) in order to get the referrals.

4. Response from Educational Institutions

Each educational institution may have a different way of referring applicants, such as: sending resumes directly to the design professional; having the applicant contact the design professional by phone; require design professionals to conduct on-campus interviews; or some other method. The timing and method of the response will normally be discussed with the design professional during the initial phone request. The design professional is required to follow the process set by the educational institution(s) in order to get the referrals.

5. Action by Design Professionals When Referrals Available

The design professional shall interview each applicant prior to making the decision to hire or not to hire. The design professional shall make the final determination whether the applicant is qualified for the trainee position and the ultimate hiring decision. The Agency strongly encourages the design professional to hire a qualified San Francisco resident referred by the educational institution(s). The design professional shall notify the educational institution in writing of the hiring decision.

6. Action by Design Professionals When Referrals Unavailable

If after contacting two or more educational institutions the design professional is informed that no San Francisco residents are currently available, then the design professional should wait thirty (30) days and contact the educational institutions a second time to inquire whether qualified San Francisco residents are currently available for hire as trainees. If no qualified San Francisco residents are currently available after the second request, then the design professional has fulfilled its obligation under this Agreement, provided that the design professional has acted in good faith. The design professional must retain its file on all of the steps it took to comply with this Section IV and submit a copy of its file to the Agency Compliance Officer upon request.

7. Action by Design Professional When No Response From Educational Institutions

If a design professional has not received a response to its request for referrals from any of the

educational institutions within five (5) business days after the design professional has fully complied with the procedures, if any, set by the educational institution(s) for obtaining referrals, then the design professional should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause the educational institution(s) to respond to the design professional within five (5) business days of the Agency Compliance Officer being notified. If the design professional still has not received a response from the educational institution(s) after this additional five (5) business day period has run, then the design professional has fulfilled its obligation under this Section IV, provided that the design professional has acted in good faith. Each design professional must retain its file on all of the steps it took to comply with this Agreement and submit a copy of its file to the Agency Compliance Officer upon request.

8. Termination of Trainee for Cause

If at any time during the Term, it becomes necessary to terminate for cause a trainee who was hired under this Agreement and the design professional has not met the minimum duration requirements under this policy, then the design professional shall hire a new trainee by following the process set forth above.

B. Reporting Requirements For Trainee Hires

1. Reporting

Upon completion of the Term of the Agreement or the term of the design professional's contract with the Agency-Assisted Contractor, whichever is less, the design professional (i.e. Employer) shall fax or email a report to the Agency Compliance Officer stating in detail: (1) the names of the San Francisco resident(s) interviewed for trainee positions; (2) the date(s) of each interview; (3) the reasons for not hiring the San Francisco resident(s) interviewed; (4) the name, address, gender and racial/ethnic background of the successful candidate for the trainee position; and (5) the number of San Francisco residents hired as trainees.

2. Report on Terminations

In the event a San Francisco resident hired pursuant to this Agreement is terminated for cause, the responsible design professional shall within five (5) days fax or email a termination report to the Agency Compliance Officer stating in detail: (1) the name of the trainee(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); and (4) whether the design professional replaced the trainee(s).

V. TERM. The obligations of the Agency-Assisted Contractor and/or Contractor(s) with respect to SBE Program shall remain in effect until completion of all work to be performed by the Agency-Assisted Contractor in connection with the original construction of the site and any tenant improvements on the site performed by or at the behest of the Agency-Assisted Contractor unless another term is specified in the Agency-Assisted Contract or Contract.

VI. FIRST CONSIDERATION. First consideration will be given by the Agency or Agency-Assisted Contractor in awarding contracts in the following order: (1) Project Area SBEs, (2) San Francisco-based SBEs (outside an Agency Project or Survey Area, but within San Francisco), and (3) Non-San Francisco-based SBEs. Non-San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-San Francisco-based SBEs.

VII. ASSOCIATIONS AND JOINT VENTURES (JV). OCII will recognize JVs and Associations between non-SBE firms and SBE firms where the SBE partner performs at least 35% of the work defined in the JV or Association agreement, and receives at least 35% (or a proportionate share, whichever is higher) of the dollars to be earned by the JV or Association. Under this arrangement, OCII will deem the JV or Association to be an SBE for the purposes of meeting the SBE goal. Due to the technical nature of the disciplines and the various standards of each industry, OCII will not require a standardized agreement. However, each JV and Association agreement must be in writing and contain, at a minimum, the following terms:

- Define the management of the agreement between the parties;
- Define the technical and managerial responsibilities of each party;
- Define the scope of work to be performed by each party, and where possible identify the percentage and break-down of scope of work for each party;
- Identify any additional subcontractors or consultants that will perform the work under the agreement;
- Define the schedule, duration, and deliverable of the agreement;
- Detail the fee schedule, fee breakdown, or division of compensation;
- Specify insurance requirements and/or if each party shall maintain its own insurance;
- Specify how additional work or changes in scope shall be negotiated or determined and which party shall be responsible for notifying OCII of the changes;
- Specify how claims and disputes will be resolved.

A copy of the JV or Association agreement must be provided to OCII for approval in order for the JV or Association to be recognized.

VIII. CERTIFICATION. The Agency no longer certifies SBEs but instead relies on the information provided in other public entities' business certifications to establish eligibility for the Agency's program. Only businesses certified by the Agency as SBEs whose certification has not expired and economically disadvantaged businesses that meet the Agency's SBE Certification Criteria will be counted toward meeting the participation goals. The SBE Certification Criteria are set forth in the SBE Policy.

IX. INCORPORATION. Each contract between the Agency, Agency-Assisted Contractor or Contractor on the one hand, and any subcontractor on the other hand, shall physically incorporate as an attachment or exhibit and make binding on the parties to that contract, a true and correct copy of this SBE Agreement.

X. DEFINITIONS. Capitalized terms not otherwise specifically defined in this SBE Agreement have the meaning set forth in the Agency's SBE Policy adopted on November 16, 2004 and amended on July 21, 2009 ("**Policy**") or as defined in the Agency-Assisted Contract or Contract. In the event of a conflict in the meaning of a defined term, the SBE Policy shall govern over the Agency-Assisted Contract or Contract, which in turn shall govern over this SBE Agreement.

Affiliates means an affiliation with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliated business concerns need not be in the same line of business.

Agency-Assisted Contract means, as applicable, the Development and Disposition Agreement, Land Disposition Agreement, Lease, Loan and Grant Agreements, and other similar contracts, and agreement that the Agency executed with for-profit or non-profit entities.

Agency-Assisted Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed an Agency-Assisted Contract.

Agency Contract means personal services contracts, purchase requisitions, and other similar contracts and operations agreements that the Agency executes with for-profit or non-profit entities.

Amendment to a Pre-existing Contract means a material change to the terms of any contract, the term of which has not expired on or before the date that this Small Business Enterprise Policy ("SBE Policy") takes effect, but shall not include amendments to decrease the scope of work or decrease the amount to be paid under a contract.

Annual Receipts means "total income" (or in the case of a sole proprietorship, "gross income") plus "cost of goods sold" as these terms are defined and reported on Internal Revenue Service tax return forms. The term does not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts. Receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts. If a concern has not been in business for three (3) years, the average weekly revenue for the number of weeks the concern has been in business is multiplied by 52 to determine its average annual receipts.

Arbitration Party means all persons and entities who attend the arbitration hearing pursuant to Section XIII, as well as those persons and entities who are subject to a default award provided that all of the requirements in Section XIII.L. have been met.

Association means an agreement between two parties established for the purpose of completing a specific task or project. The associate agreement shall provide the SBE associate a significant project management role and the SBE associate shall be recognized in marketing and collateral material. The Association shall be distinguished from traditional subcontracting arrangements via a written Association agreement that defines the management of the agreement, technical and managerial responsibilities of the parties, and defined scopes and percentages of work to be performed by each party with its own resources and labor force. Unlike the more formal Joint Venture, an Association does not require formation of a new business enterprise between the parties. The Associate agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Commercially Useful Function means that the business is directly responsible for providing the materials, equipment, supplies or services in the City and County of San Francisco ("City") as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a "commercially useful function" unless the brokerage, referral or temporary employment services are required and sought by the Agency.

Contract means any agreement between the Agency and a person(s), firm, partnership, corporation, or combination thereof, to provide or procure labor, supplies or services to, for, or on behalf of the Agency.

Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed a Contract.

Joint Venture means an entity established between two parties for the purposes of completing a venture or project. The Joint Venture agreement typically creates a separate business entity and requires acquisition of additional insurance for the newly created joint business entity. The Joint Venture agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Non-San Francisco-based Small Business Enterprise means a SBE that has fixed offices located outside the geographical boundaries of the City.

Office" or "Offices means a fixed and established place(s) where work is performed of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify as an "office" under this SBE Policy. Work space provided in exchange for services (in lieu of monetary rent) does not constitute an "office." The office is not required to be the headquarters for the business but it must be capable of providing all the services to operate the business for which SBE certification is sought. An arrangement for the right to use office space on an "as needed" basis where there is no office exclusively reserved for the business does not qualify as an office. The prospective SBE must submit a rental agreement for the office space, rent receipt or cancelled checks for rent payments. If the office space is owned by the prospective SBE, the business must submit property tax or a deed documenting ownership of the office.

Project Area Small Business Enterprise means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of a Redevelopment Project or Survey Area where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a Project Area or Survey Area business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in a Project Area or Survey Area for at least six months preceding its application for certification as a SBE; and (e) has a Project Area or Survey Area office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers of residential addresses alone shall not suffice to establish a firms' location in a Project Area or Survey Area.

Project Area means an area of San Francisco that meets the requirements under Community Redevelopment Law, Health and Safety Code Section 33320.1. These areas currently include the Bayview Industrial Triangle, Bayview Hunters Point (Area B), Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), Rincon Point/South Beach, South of Market, and Transbay.

San Francisco-based Small Business Enterprise means a SBE that: (a) has fixed offices located within the geographical boundaries of the City where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a San Francisco business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in the City for at least six months preceding its application for certification as a SBE; and (e) has a San Francisco office in which business is transacted

that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers or residential addresses alone shall not suffice to establish a firm's status as local.

Small Business Enterprise (SBE) means an economically disadvantaged business that: is an independent and continuing business for profit; performs a commercially useful function; is owned and controlled by persons residing in the United States or its territories; has average gross annual receipts in the three years immediately preceding its application for certification as a SBE that do not exceed the following limits:

Industry	OCII SBE Size Standard
Construction Contractors	\$20,000,000
Specialty Construction Contractors	\$14,000,000
Suppliers (goods/materials/ equipment and general services)	\$10,000,000
Professional Services	\$2,500,000
Trucking	\$3,500,000

In addition, an economically disadvantaged business shall meet the other certification criteria described in Exhibit I of the SBE Policy in order to be considered an SBE by the Agency.

In order to determine whether or not a firm meets the above economic size definitions, the Agency will use the firm's three most recent business tax returns (i.e., 1040 with Schedule C for Sole Proprietorships, 1065s with K-1s for Partnerships, and 1120s for Corporations) to calculate the firm's three year average annual gross receipts. In addition, the calculation of a firm's size shall include the receipts of all affiliates.

Once a business reaches the 3-year average size threshold for the applicable industry the business ceases to be economically disadvantaged, it is not an eligible SBE and it will not be counted towards meeting SBE contracting requirements (or goals).

Specialty Construction Contractor means a contractor licensed by the Contractors State License Board under the "C" classification license pursuant to California Business and Professions Code Section 7058.

Survey Area means an area of San Francisco that meets the requirements of the Community Redevelopment Law, Health and Safety Code Section 33310. These areas currently include the Bayview Hunters Point Redevelopment Survey Area C.

XI. GOOD FAITH EFFORTS TO MEET SBE GOALS Compliance with the following steps will be the basis for determining if the Agency-Assisted Contractor and/or Consultant has made good faith efforts to meet the goals for SBEs:

A. Outreach. Not less than 30 days prior to the opening of bids or the selection of contractors, the Agency-Assisted Contractor or Contractor shall:

- 1. Advertise.** Advertise for SBEs interested in competing for the contract, in general circulation media, trade association publications, including timely use of the ***Bid and Contract Opportunities*** newsletter published by the City and County

of San Francisco Purchasing Department and media focused specifically on SBE businesses such as the ***Small Business Exchange***, of the opportunity to submit bids or proposals and to attend a pre-bid meeting to learn about contracting opportunities.

2. **Request List of SBEs.** Request from the Agency's Contract Compliance Department a list of all known SBEs in the pertinent field(s), particularly those in the Project and Survey Areas and provide written notice to all of them of the opportunity to bid for contracts and to attend a pre-bid or pre-solicitation meeting to learn about contracting opportunities.
- B. Pre-Solicitation Meeting.** For construction contracts estimated to cost \$5,000 or more, hold a pre-bid meeting for all interested contractors not less than 15 days prior to the opening of bids or the selection of contractors for the purpose answering questions about the selection process and the specifications and requirements. Representatives of the Contract Compliance Department will also participate.
- C. Follow-up.** Follow up initial solicitations of interest by contacting the SBEs to determine with certainty whether the enterprises are interested in performing specific items involved in work.
- D. Subdivide Work.** Divide, to the greatest extent feasible, the contract work into small units to facilitate SBE participation, including, where feasible, offering items of the contract work which the Contractor would normally perform itself.
- E. Provide Timely and Complete Information.** The Agency-Assisted Contractor or Contractor shall provide SBEs with complete, adequate and ongoing information about the plans, specifications and requirements of construction work, service work and material supply work. This paragraph does not require the Agency-Assisted Contractor or Contractor to give SBEs any information not provided to other contractors. This paragraph does require the Agency Assisted Contractor and Contractor to answer carefully and completely all reasonable questions asked by SBEs and to undertake every good faith effort to ensure that SBEs understand the nature and the scope of the work.
- F. Good Faith Negotiations.** Negotiate with SBEs in good faith and demonstrate that SBEs were not rejected as unqualified without sound reasons based on a thorough investigation of their capacities.
- G. Bid Shopping Prohibited.** Prohibit the shopping of the bids. Where the Agency-Assisted Contractor or Contractor learns that bid shopping has occurred, it shall treat such bid shopping as a material breach of contract.
- H. Other Assistance.** Assist SBEs in their efforts to obtain bonds, lines of credit and insurance. (Note that the Agency has a Surety Bond Program that may assist SBEs in obtaining necessary bonding.) The Agency-Assisted Contractor or Contractor(s) shall require no more stringent bond or insurance standards of SBEs than required of other business enterprises.
- I. Delivery Scheduling.** Establish delivery schedules that encourage participation of SBEs.
- J. Utilize SBEs as Lower Tier Subcontractors.** The Agency-Assisted Contractor and its

Contractor(s) shall encourage and assist higher tier subcontractors in undertaking good faith efforts to utilize SBEs as lower tier subcontractors.

- K. Maximize Outreach Resources.** Use the services of SBE associations, federal, state and local SBE assistance offices and other organizations that provide assistance in the recruitment and placement of SBEs, including the Small Business Administration and the Business Development Agency of the Department of Commerce. However, only SBEs certified by the Agency shall count towards meeting the participation goal.
- L. Replacement of SBE.** If during the term of this SBE Agreement, it becomes necessary to replace any subcontractor or supplier, the Agency's Contract Compliance Specialist should be notified prior to replacement due to the failure or inability of the subcontractor or supplier to perform the required services or timely delivery the required supplies, then First Consideration should be given to a certified SBE, if available, as a replacement.

XII. ADDITIONAL PROVISIONS

A. No Retaliation. No employee shall be discharged or in any other manner discriminated against by the Agency-Assisted Contractor or Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Agreement.

B. No Discrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of an Agency-Assisted Contract or Contract. The Agency-Assisted Contractor or Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

C. Compliance with Prompt Payment Statute. Construction contracts and subcontracts awarded for \$5,000 or more shall contain the following provision:

"Amounts for work performed by a subcontractor shall be paid within seven (7) days of receipt of funds by the contractor, pursuant to California Business and Professions Code Section 7108.5 *et seq.* Failure to include this provision in a subcontractor or failure to comply with this provision shall constitute an event of default which would permit the Agency to exercise any and all remedies available to it under contract, at law or in equity."

In addition to and not in contradiction to the Prompt Payment Statute (California Business and Professions Code Section 7108.5 *et seq.*), if a dispute arises which would allow a Contractor to withhold payment to a subcontractor due to a dispute, the Contractor shall only withhold that amount which directly relates to the dispute and shall promptly pay the remaining undisputed amount, if any.

D. Submission of Electronic Certified Payrolls. For any Agency-Assisted Contract which requires the submission of certified payroll reports, the requirements of Section VII of the Agency's Small Business Enterprise Policy shall apply. Please see the Small Business Enterprise Policy for more

details.

XIII. PROCEDURES

A. Notice to Agency. The Agency-Assisted Contractor or Contractor(s) shall provide the Agency with the following information within 10 days of awarding a contract or selecting subconsultant:

1. the nature of the contract, e.g. type and scope of work to be performed;
2. the dollar amount of the contract;
3. the name, address, license number, gender and ethnicity of the person to whom the contract was awarded; And
4. SBE status of each subcontractor or subconsultant.

B. Affidavit. If the Agency-Assisted Contractor or Contractor(s) contend that the contract has been awarded to a SBE, the Agency-Assisted Contractor or Contractor(s) shall, at the same time also submit to the Agency a SBE Application for Certification and its accompanying Affidavit completed by the SBE owner. However, a SBE that was previously certified by the Agency shall submit only the short SBE Eligibility Statement.

C. Good Faith Documentation. If the 50% SBE Participation Goals are not met in each category (Construction, Professional Services and Suppliers), the Agency-Assisted Contractor or Contractor(s) shall meet and confer with the Agency at a date and time set by the Agency. If the issue of the Agency-Assisted Contractor's or Contractor's good faith efforts is not resolved at this meeting, the Agency-Assisted Contractor or Contractor shall submit to the Agency within five (5) days, a declaration under penalty of perjury containing the following documentation with respect to the good faith efforts ("**Submission**"):

1. A report showing the responses, rejections, proposals and bids (including the amount of the bid) received from SBEs, including the date each response, proposal or bid was received. This report shall indicate the action taken by the Agency-Assisted Contractor or Contractor(s) in response to each proposal or bid received from SBEs, including the reasons(s) for any rejections.
2. A report showing the date that the bid was received, the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the non-SBE contractor who was selected submitted more than one bid, the amount of each bid and the date that each bid was received shall be shown in the report. If the bidder asserts that there were reasons other than the respective amounts bid for not awarding the contract to an SBE, the report shall also contain an explanation of these reasons.
3. Documentation of advertising for and contacts with SBEs, contractor associations or development centers, or any other agency which disseminates bid and contract information to small business enterprises.
4. Copies of initial and follow-up correspondence with SBEs, contractor associations and other agencies, which assist SBEs.
5. A description of the assistance provided SBE firms relative to obtaining and explaining plans, specifications and contract requirements.

6. A description of the assistance provided to SBEs with respect to bonding, lines of credit, etc.
7. A description of efforts to negotiate or a statement of the reasons for not negotiating with SBEs.
8. A description of any divisions of work undertaken to facilitate SBE participation.
9. Documentation of efforts undertaken to encourage subcontractors to obtain small business enterprise participation at a lower tier.
10. A report which shows for each private project and each public project (without a SBE program) undertaken by the bidder in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars awarded to SBEs and the percentage of contract dollars awarded to non-SBEs.
11. Documentation of any other efforts undertaken to encourage participation by small business enterprises.

D. Presumption of Good Faith Efforts. If the Agency-Assisted Contractor or Contractor(s) achieves the Participation Goals, it will not be required to submit Good Faith Effort documentation.

E. Waiver. Any of the SBE requirements may be waived if the Agency determines that a specific requirement is not relevant to the particular situation at issue, that SBEs were not available, or that SBEs were charging an unreasonable price.

F. SBE Determination. The Agency shall exercise its reasonable judgment in determining whether a business, whose name is submitted by the Agency-Assisted Contractor or Contractor(s) as a SBE, is owned and controlled by a SBE. A firm's appearance in any of the Agency's current directories will be considered by the Agency as prima facie evidence that the firm is a SBE. Where the Agency-Assisted Contractor or Contractor(s) makes a submission the Agency shall make a determination, as to whether or not a business which the Agency-Assisted Contractor or Contractor(s) claims is a SBE is in fact owned and controlled by San Francisco-based SBEs. If the Agency determines that the business is not a SBE, the Agency shall give the Agency-Assisted Contractor or Contractor a Notice of Non-Qualification and provide the Agency-Assisted Contractor or Contractor with a reasonable period (not to exceed 20 days) in which to meet with the Agency and if necessary make a Submission, concerning its good faith efforts. If the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to Section XIII.

G. Agency Investigation. Where the Agency-Assisted Contractor or Contractor makes a Submission and, as a result, the Agency has cause to believe that the Agency-Assisted Contractor or Contractor has failed to undertake good faith efforts, the Agency shall conduct an investigation, and after affording the Agency-Assisted Contractor or Contractor notice and an opportunity to be heard, shall recommend such remedies and sanctions as it deems necessary to correct any alleged violation(s). The Agency shall give the Agency-Assisted Contractor or Contractor a written Notice of Non-Compliance setting forth its findings and recommendations. If the Agency-Assisted Contractor or Contractor disagrees with the findings and recommendations of the Agency as set forth in the Notice of Non-Compliance, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to this SBE Agreement.

XIV. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this SBE Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. Demand for Arbitration. Where the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Agency-Assisted Contractor or Contractor shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying any entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Agency-Assisted Contractor and Contractor fail to file a timely Demand for Arbitration, the Agency-Assisted Contractor and Contractor shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

C. Parties' Participation. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Agency-Assisted Contractor or Contractor made an initial timely Demand for Arbitration pursuant to Section XIII.B. above.

D. Agency Request to AAA. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

E. Selection of Arbitrator. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

F. Setting of Arbitration Hearing. A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

G. Discovery. In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

H. Burden of Proof. The burden of proof with respect to SBE status and/or Good Faith Efforts shall be on the Agency-Assisted Contractor and/or Contractor. The burden of proof as to all other alleged breaches by the Agency-Assisted Contractor and/or Contractor shall be on the Agency.

I. California Law Applies. Except where expressly stated to the contrary in this SBE Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. Arbitration Remedies and Sanctions. The arbitrator may impose only the remedies and sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Agency-Assisted Contract or this SBE Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Agency-Assisted Contract or this SBE Agreement, other than those minor modifications or extensions necessary to enable compliance with this SBE Agreement.

3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the SBE Program requirements in the Agency-Assisted Contract or this SBE Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this SBE Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. Arbitrator's Decision. The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. Default Award; No Requirement to Seek an Order Compelling Arbitration. The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. Arbitrator Lacks Power to Modify. Except as otherwise provided, the arbitrator shall

have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agency-Assisted Contract, this SBE Agreement or any other agreement between the Agency, the Agency-Assisted Contractor or Contractor or to negotiate new agreements or provisions between the parties.

N. Jurisdiction/Entry of Judgment. The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

O. Exculpatory Clause. Agency-Assisted Contractor or Contractor (regardless of tier) expressly waive any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Agency-Assisted Contractor or Contractor (regardless of tier) acknowledge and agree that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this SBE Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. Severability. The provisions of this SBE Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this SBE Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this SBE Agreement or the validity of their application to other persons or circumstances.

Q. Arbitration Notice: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Agency-Assisted Contractor

XV. AGREEMENT EXECUTION

I, hereby certify that I have authority to execute this SBE Agreement on behalf of the business, organization or entity listed below and that it will use good faith efforts to comply with the Agency's 50% SBE Participation Goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name and Phone Number

Signature

Date

Print Your Name

Title

Company Name and Phone Number

EXHIBIT B-2

**Add Bayview Hunters Point Employment and Contracting Policy here,
Then add section break and make Construction Work Force agreement Exhibit B-3**

EXHIBIT B-3

CONSTRUCTION WORK FORCE AGREEMENT

- I. PURPOSE.** This Agreement is entered into between the Site Developer ("Site Developer") and the Office of Community Investment and Infrastructure ("OCII" or "Agency"), as successor agency to the San Francisco Redevelopment Agency for the purposes of ensuring participation of San Francisco residents and equal employment opportunities in the construction work force involved in constructing any of the phases upon the Site covered by the underlying agreement to which this Agreement is attached hereto.
- II. DEFINITIONS.**
The following definitions apply to this Agreement.
- A. "CityBuild" means the construction employment program of the Workforce Development Division of the San Francisco Office of Economic and Workforce Development (OEWD).
 - B. "Contract" means any agreement in excess of \$10,000 between the Site Developer, its Contractors and a person to provide or procure labor, materials or services for the construction of the Site Developer Improvements, including a purchase order that requires installation of materials.
 - C. "Contractor" means the Site Developer's general contractor, all prime contractors and all subcontractors (regardless of tier) having a Contract or subcontract in excess of \$10,000 and who employ persons in a Trade for construction of the Site Developer Improvements.
 - D. "Site Developer Improvements" means improvements constructed by the Site Developer.
 - E. "Project Area Resident" means a San Francisco Resident who resides in the Bay View Hunters Point Project Area or within the ZIP codes of 94124, 94107, or 94134.
 - F. "San Francisco Resident" in the case of a new hire shall mean an individual who has lived in San Francisco for at least one week prior to submitting his/her initial application for employment to work on the Site Developer Improvements. In the case of a person employed by the Site Developer or its Contractor or Consultant

prior to assignment to the Site Developer Improvements, this term shall mean a person who has lived in San Francisco for at least six months prior to the date he/she applied for a transfer to a position at the Site Developer Improvements or the date he/she was assigned to work on the Site Developer Improvements, whichever is earlier; or a person who establishes, to the satisfaction of the Agency, that he/she lived in San Francisco prior to applying for or being considered for a position with the Site Developer, Contractor or Consultant.

III. WORK FORCE GOALS.

The Site Developer agrees and will require each Contractor and all subcontractors to use good faith efforts to employ 50 percent of its construction workforce hires by trade and by hours from qualified San Francisco Residents with first consideration given to Project Area Residents. Site Developer and Contractors will be deemed in compliance with this Agreement and the Policy by meeting or exceeding the goal or by demonstrating good faith efforts toward compliance.

IV. GOOD FAITH EFFORTS.

A. Submission of Labor Force Projections and Other Data

The Contractor shall submit, to the extent available, labor force projections to the OCII Compliance Officer, or its agent, within two (2) weeks of contract award.

B. Submit Subcontractor Information Form

The Contractor shall submit to the Compliance Officer, or its agent, the Subcontractor Information Forms, twenty-four (24) hours prior to the preconstruction meeting. The Subcontractor Information Forms are available from the Compliance Officer upon request.

C. Preconstruction Meeting

The Contractor shall hold a preconstruction meeting which shall be attended by the Compliance Officer, CityBuild, all prime contractor(s) and all subcontractor(s). The preconstruction meeting shall be scheduled between two (2) days and thirty (30) days prior to the start of construction at a time and place convenient to all attendees. The purpose of the meeting is to discuss: the hiring goals, workforce composition, worker referral process, certified payroll reporting, procedure for termination and replacement of workers covered by this Agreement and to explore any anticipated problems in complying with the Agreement. All questions regarding how this Agreement applies to the Site Developer, Contractor, subcontractors and consultants should be answered at this meeting. Failure to hold or attend at least one (1) preconstruction meeting will be a breach of the Policy and this Agreement that may result in the Agency ordering a suspension of work until the breach has been cured. Suspension under this provision is not subject to arbitration.

D. Submit Construction Worker Request Form

For the Term of the Agreement, each time the Site Developer or Contractor seeks to hire workers for the construction or rehabilitation of improvements, they must

first submit, by fax, email or hand delivery, an executed construction worker request form to CityBuild. Preferably this request will be submitted at least two (2) business days before the workers are needed. However, requests with less than two (2) business days notice will be accepted. The construction worker request form will indicate generally: the number of workers needed, duration needed, required skills or trade and date/time to report. The construction worker request form is available from the Compliance Officer upon request.

E. Response from CityBuild

CityBuild shall respond, in writing, via fax, email or hand delivery to each request for construction workers. The response shall state that CityBuild was able to satisfy the request in full, in part or was unable to satisfy the request. CityBuild shall look to their own referral lists, as well as confer with CBOs in an attempt to find qualified Project Area Residents and San Francisco Residents. If CityBuild is able to satisfy the request in full or in part, it shall direct the qualified Project Area Resident(s) or San Francisco Resident(s) to report to the Contractor on the date and time indicated in the request. If CityBuild is unable to satisfy the request, then CityBuild shall send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

F. Action by Contractor When Referrals Available

The Site Developer or Contractor whose request has been satisfied in full or in part shall make the final determination of whether the Project Area Residents or San Francisco Residents are qualified for the positions and the ultimate hiring decision. The Agency strongly encourages the Contractor to hire the qualified Project Area Residents or San Francisco Residents referred by CityBuild. However, if the Contractor finds the Project Area Residents or San Francisco Residents are not qualified, then the Contractor shall send the Project Area Residents or San Francisco Residents back to CityBuild. Before the close of business on the same day, the Contractor shall fax or email a statement addressed to CityBuild stating in detail the reason(s) the Project Area Residents or San Francisco Residents were not qualified or the reason(s) for not hiring the Project Area Residents or San Francisco Residents. CityBuild shall, within one (1) business day of receipt of the fax or email, send new qualified Project Area Residents or San Francisco Residents that meet the legitimate qualifications set by the Contractor or alternatively, send a fax or email stating that no qualified Project Area Residents or San Francisco Residents are currently available.

G. Action by Contractor When Referrals Unavailable

If a Contractor receives a response from CityBuild stating that no qualified Project Area Residents or San Francisco Residents are currently available, then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any additional new construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the

goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request.

H. Action by Contractor When No Response From CityBuild

If a Contractor has not received a response to its construction worker request from CityBuild within two (2) business days, then the Contractor should immediately advise the Compliance Officer by phone, fax or email. The Compliance Officer or his/her designee shall cause a response to be sent to the Contractor within two (2) business days of being notified. If the Contractor does not receive a response from CityBuild within four (4) business days (the original two (2) business days plus the additional two (2) business days), then the Contractor may hire the number of construction workers requested from CityBuild, using its own recruiting methods, giving first consideration to Project Area Residents and then San Francisco Residents. Any construction workforce hires (including the replacement of any terminated workers) must comply with this Policy, unless the Contractor has already met or exceeded the goal. The Contractor must keep a copy of the response it receives from CityBuild as proof of compliance and submit a copy of each response received to the Compliance Officer upon request. This Policy is intended to provide qualified Project Area and San Francisco Residents with employment opportunities without causing undue delay in hiring needed construction workers.

I. Action by Contractor When No Response From Union

The Contractor should immediately advise the Compliance Officer by phone, fax or email when the Contractor has sent a qualified Project Area Resident or San Francisco Resident to a union hall for referral in accordance with a collective bargaining agreement and the union did not refer the qualified Project Area or San Francisco Resident back for employment or when the union referral process impedes the Contractor's ability to meet its obligations under this Policy. Nothing in this Policy shall be interpreted to interfere with or prohibit existing labor agreements or collective bargaining agreements.

J. Hiring Apprentices

A Contractor may meet part of the Construction Workforce Goal by hiring apprentices. However, hiring an apprentice does not satisfy or waive the trainee hiring obligation, if any, for design professionals. Unless otherwise permitted by law, apprentices must be trained pursuant to training programs approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training or the California Department of Industrial Relations, Division of Apprenticeship Standards. Credit towards compliance will only be given for paid apprentices actually working on the project. No credit is available for apprentices while receiving class room training. Under no circumstances shall the ratio of apprentices to journeymen in a particular trade or craft exceed 1:5.

K. Termination and Replacement of Referrals

If at any time it becomes necessary to terminate for cause a construction worker

who was hired under this Policy, the Contractor shall notify CityBuild in writing via fax or email and submit a report of termination pursuant to Section (B)(4). If the Contractor intends to fill the vacant position, then the Contractor shall follow the process set forth in this Policy beginning at Section (A)(6).

V. REPORTING REQUIREMENTS.

A. Submission of Certified Payroll Reports

Each Contractor subject to this Policy shall submit to the Agency a certified payroll report for the preceding work week on each of its employees. The Site Developer is ultimately responsible for the submission of these reports by the Contractors. The certified payroll report is due to the Agency by noon each Wednesday. To facilitate compliance, the Agency uses an online Project Reporting System (PRS) for submission of certified payroll reports. This system is available at no cost to the Contractor. Training and educational materials for PRS are available at no cost online and through the Compliance Officer. Contractors are required to report certified payroll using PRS. However, a waiver may be granted to any Contractors who do not have a computer or online access.

B. Additional Information

In order to prevent unlawful discrimination in the selection, hiring and termination of employees on the basis of race, ethnicity, gender or any other basis prohibited by law and to identify and correct such unlawful practices, the Agency will monitor and collect information on the ethnicity and gender of each construction worker and apprentice. If an identifiable pattern of apparent discrimination is revealed by this additional information, it will be treated as a breach of this Policy and may be addressed as set forth in the arbitration provisions included in Agency contracts.

C. Report on Terminations

In the event a Project Area Resident or San Francisco Resident hired pursuant to this Policy is terminated for cause, the responsible Contractor shall within two (2) days fax or email a termination report to CityBuild with a copy to the Compliance Officer stating in detail: (1) the name of the worker(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); (4) whether the Contractor replaced the construction worker(s); and (5) whether the replacement worker(s) were Project Area Resident(s) or San Francisco Resident(s).

D. Inspection of Records

The Site Developer and each Contractor shall make the records required under this Agreement available for inspection or copying by authorized representatives of the Agency and its designated Compliance Officer, and shall permit such representatives to interview construction workers and apprentices during working hours on the job.

E. Failure to Submit Reports

If a Contractor fails or refuses to provide the reports as required it will be treated as a breach of this Agreement and the Policy, and may be addressed under arbitration

provisions pursuant to Article VII (Arbitration of Disputes) of this Agreement.

F. Submission of Good Faith Effort Documentation

If the Site Developer's or Contractor's good faith efforts are at issue, the Contractor shall provide the Agency or its designated Compliance Officer with the documentation of its efforts to comply with this Policy and the Agreement. The Site Developer or Contractor must maintain a current file of the names, addresses and telephone numbers of each Project Area Resident or San Francisco Resident applicant referral (whether a self-referral or a referral from a union, CBO or CityBuild referral) and what action was taken with respect to each such individual.

G. Coding Certified Payrolls

Each Contractor shall include, on the weekly payroll submissions, the proper job classification (as approved by the California Department of Industrial Relations), apprentice's craft (if applicable), skill level, protected class status, and domicile of each construction worker.

VI. RECORDKEEPING REQUIREMENTS.

Contractor shall comply with the requirements of California Labor Code Section 1776, as amended, regarding the keeping, filing and furnishing of certified copies of payroll records of wages paid to its employees and to the employees of its subcontractors of all tiers.

In addition, each Contractor shall keep, or cause to be kept, for a period of four years from the date of substantial completion of Site Developer Improvements, certified payroll and basic records, including time cards, tax forms, and superintendent and foreman daily logs, for all workers within each trade performing work on the Site Developer Improvements. Such records shall include the name, address and social security number of each worker who worked on the covered project, his or her classification, a general description of the work each worker performed each day, the apprentice or journey-level status of each worker, daily and weekly number of hours worked, the self-identified race, gender, and ethnicity of each worker, whether or not the worker was a local resident or disadvantaged worker, and the referral source or method through which the Contractor hired or retained that worker for work on the Site Developer Improvements (e.g., core workforce, name call, union hiring hall, City-designated referral source, or recruitment or hiring method). Contractor may verify that a worker is a local resident through the worker's possession of a valid SF City ID Card or other government-issued identification. OCII may require additional records to be kept with regard to Contractor's compliance with this Agreement. All records described in this section shall at all times be open to inspection and examination by the duly authorized officers and agents of OCII, including representatives of the OEWD.

VII. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this Construction Work Force Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

- B. **Demand for Arbitration.** Where the Site Developer disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Site Developer shall have seven (7) business days, in which to file a Demand for Arbitration,** unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Site Developer fails to file a timely Demand for Arbitration, the Site Developer shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.
- C. **Parties' Participation.** The Agency and all persons or entities that have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Site Developer made an initial timely Demand for Arbitration pursuant to Section VII.B. above.
- D. **Agency Request to AAA.** Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.
- E. **Selection of Arbitrator.** One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.
- F. **Setting of Arbitration Hearing.** A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.
- G. **Discovery.** In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.
- H. **Burden of Proof.** The burden of proof with respect to Construction Work Force compliance and/or Good Faith Efforts shall be on the Site Developer. The burden

of proof as to all other alleged breaches by the Site Developer shall be on the Agency.

- I. **California Law Applies.** Except where expressly stated to the contrary in this Construction Work Force Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.
- J. **Arbitration Remedies and Sanctions.** The arbitrator may impose only the remedies and sanctions set forth below:
 1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.
 2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Site Developer or this Construction Work Force Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Site Developer or this Construction Work Force Agreement, other than those minor modifications or extensions necessary to enable compliance with this Construction Work Force Agreement.
 3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the Agency's Work Force policy requirements. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.
 4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this Construction Work Force Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.
 5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

- K. **Arbitrator's Decision.** The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.
- L. **Default Award; No Requirement to Seek an Order Compelling Arbitration.** The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.
- M. **Arbitrator Lacks Power to Modify.** Except as otherwise provided, the arbitrator shall have no power to add to, subtract from, disregard, modify or otherwise alter the terms of this Construction Work Force Agreement or any other agreement between the Agency and Site Developer or to negotiate new agreements or provisions between the parties.
- N. **Jurisdiction/Entry of Judgment.** The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.
- O. **Exculpatory Clause.** Site Developer expressly waives any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Site Developer acknowledges and agrees that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this Construction Work Force Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.
- P. **Severability.** The provisions of this Construction Work Force Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this Construction Work Force Agreement or the invalidity of the application thereof to any person or circumstance

shall not affect the validity of the remainder of this Construction Work Force Agreement or the validity of their application to other persons or circumstances.

- Q. **Arbitration Notice:** BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Site Developer

I, hereby certify that I have authority to execute this Construction Work Force Agreement on behalf of the Site Developer listed below and that Site Developer agrees to diligently exercise good faith efforts to comply with this Agreement to meet or exceed the construction work force participation goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name

Phone Number

Signature

Date

Print Your Name

Title

Company Name

Phone Number

EXHIBIT B-4
PREVAILING WAGE PROVISIONS
(LABOR STANDARDS)

1. **Applicability.** These Prevailing Wage Provisions (hereinafter referred to as "Labor Standards") apply to any and all construction of the Site Work as defined in the underlying agreement between the Site Developer and the Office of Community Investment and Infrastructure (OCII) "Successor Agency" of which this Exhibit B and these Labor Standards are a part. The Site Work is further referenced below as the "Project."
2. **All Contracts and Subcontracts shall contain the Labor Standards. Confirmation by Construction Lender.**
 - a. All specifications relating to the construction of the Project shall contain these Labor Standards and the Site Developer shall have the responsibility to assure that all contracts and subcontracts, regardless of tier, incorporate by reference the specifications containing these Labor Standards. If for any reason said Labor Standards are not included, the Labor Standards shall nevertheless apply. The Site Developer shall supply the Agency with true copies of each contract relating to the construction of the Project showing the specifications that contain these Labor Standards promptly after due and complete execution thereof and before any work under such contract commences. Failure to do so shall be a violation of these Labor Standards.
 - b. Before close of escrow under the Agreement and as a condition to close of escrow, the Site Developer shall also supply a written confirmation to the Agency from any construction lender for the Project that such construction lender is aware of these Labor Standards.
3. **Definitions.** The following definitions shall apply for purposes of this Exhibit B:
 - a. "Contractor" is the Site Developer if permitted by law to act as a contractor, the general contractor, and any contractor as well as any subcontractor of any tier subcontractor having a contract or subcontract that exceeds \$10,000, and who employs Laborers, Mechanics, working foremen, and security guards to perform the construction on all or any part of the Project.
 - b. "Laborers" and "Mechanics" are all persons providing labor to perform the construction, including working foremen and security guards.
 - c. "Working foreman" is a person who, in addition to performing supervisory duties, performs the work of a Laborer or Mechanic during at least 20 percent of the workweek.
4. **Prevailing Wage.**

- a. All Laborers and Mechanics employed in the construction of the Project will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by §5) the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at the time of payment computed at rates not less than those contained in the General Prevailing Wage Determination (hereinafter referred to as the "Wage Determination") made by the Director of Industrial Relations pursuant to California Labor Code Part 7, Chapter 1, Article 2, sections 1770, 1773 and 1773.1, regardless of any contractual relationship which may be alleged to exist between the Contractor and such Laborers and Mechanics. A copy of the applicable Wage Determination is on file in the offices of the Agency with the Development Services Manager. At the time of escrow closing the Agency shall provide the Site Developer with a copy of the applicable Wage Determination.
- b. All Laborers and Mechanics shall be paid the appropriate wage rate and fringe benefits for the classification of work actually performed, without regard to skill. Laborers or Mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein provided that the Contractor's payroll records accurately set forth the time spent in each classification in which work is performed.
- c. Whenever the wage rate prescribed in the Wage Determination for a class of Laborers or Mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit in the manner as stated therein i.e. the vacation plan, the health benefit program, the pension plan and the apprenticeship program, or shall pay an hourly cash equivalent thereof.
- d. If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any Laborer or Mechanic the amount of any costs reasonably anticipated in providing benefits under a plan or program of a type expressly listed in the Wage Determination, provided that the Executive Director of the Agency has found, upon the written request of the Contractor, made through the Site Developer that the intent of the Labor Standards has been met. Records of such costs shall be maintained in the manner set forth in subsection (a) of §8. The Executive Director of the Agency may require the Site Developer to set aside in a separate interest bearing account with a member of the Federal Deposit Insurance Corporation, assets for the meeting of obligations under the plan or program referred to above in subsection (b) of this §4. The interest shall be accumulated and shall be paid as determined by the Agency acting at its sole discretion.
- e. Regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

5. **Permissible Payroll Deductions.** The following payroll deductions are permissible deductions. Any others require the approval of the Agency's Executive Director.
- a. Any withholding made in compliance with the requirements of Federal, State or local income tax laws, and the Federal social security tax.
 - b. Any repayment of sums previously advanced to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when case or its equivalent has been advanced to the employee in such manner as to give him or her complete freedom of disposition of the advanced funds.
 - c. Any garnishment, unless it is in favor of the Contractor (or any affiliated person or entity), or when collusion or collaboration exists.
 - d. Any contribution on behalf of the employee, to funds established by the Contractor, representatives of employees or both, for the purpose of providing from principal, income or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts or similar payments for the benefit of employees, their families and dependents provided, however, that the following standards are met:
 - (i) The deduction is not otherwise prohibited by law; and
 - (ii) It is either:
 - 1) Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for obtaining or for the continuation of employment, or
 - 2) Provided for in a bona fide collective bargaining agreement between the Contractor and representatives of its employees; and
 - (iii) No profit or other benefit is otherwise obtained, directly or indirectly, by the Contractor (or any affiliated person or entity) in the form of commission, dividend or otherwise; and
 - (iv) The deduction shall serve the convenience and interest of the employee.
 - e. Any authorized purchase of United States Savings Bonds for the employee.
 - f. Any voluntarily authorized repayment of loans from or the purchase of shares in

credit unions organized and operated in accordance with Federal and State credit union statutes.

- g. Any contribution voluntarily authorized by the employee for the American Red Cross, United Way and similar charitable organizations.
- h. Any payment of regular union initiation fees and membership dues, but not including fines or special assessments provided, that a collective bargaining agreement between the Contractor and representatives of its employees provides for such payment and the deductions are not otherwise prohibited by law.

6. **Apprentices and Trainees.** Apprentices and trainees will be permitted to work at less than the Mechanic's rate for the work they perform when they are employed pursuant to and are individually registered in an apprenticeship or trainee program approved by the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training ("BAT") or with the California Department of Industrial Relations, Division of Apprenticeship Standards ("DAS") or if a person is employed in his or her first 90 days of probationary employment as an apprentice or trainee in such a program, who is not individually registered in the program, but who has been certified by BAT or DAS to be eligible for probationary employment. Any employee listed on a payroll at an apprentice or trainee wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate for a Mechanic. Every apprentice or trainee must be paid at not less than the rate specified in the registered program for the employee's level of progress, expressed as a percentage of a Mechanic's hourly rate as specified in the Wage Determination. Apprentices or trainees shall be paid fringe benefits in accordance with the provisions of the respective program. If the program does not specify fringe benefits, employees must be paid the full amount of fringe benefits listed in the Wage Determination.

7. **Overtime.** No Contractor contracting for any part of the construction of the Project which may require or involve the employment of Laborers or Mechanics shall require or permit any such Laborer or Mechanic in any workweek in which he or she is employed on such construction to work in excess of eight hours in any calendar day or in excess of 40 hours in such workweek unless such Laborer or Mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of 40 hours in such workweek, whichever is greater.

8. **Payrolls and Basic Records.**

- a. Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of its construction of the Project and preserved for a period of one year thereafter for all Laborers and Mechanics it employed in the construction of the Project. Such records shall contain the name, address and social security number of each employee, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for fringe benefits or cash equivalents thereof), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the wages of any Laborer or Mechanic

include the amount of any costs reasonably anticipated in providing benefits under a plan or program, the Contractor shall maintain records which show the costs anticipated or the actual costs incurred in providing such benefits and that the plan or program has been communicated in writing to the Laborers or Mechanics affected. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage prescribed in the applicable programs or the Wage Determination.

- b. The Contractor shall submit to the Agency on each Wednesday at noon a copy of the payrolls for the week preceding the previous week in which any construction of the Project was performed. The payrolls submitted shall set out accurately and completely all of the information required by the Agency's Optional Form, an initial supply of which may be obtained from the Agency. The Contractor if a prime contractor or the Site Developer acting as the Contractor is responsible for the submission of copies of certified payrolls by all subcontractors; otherwise each Contractor shall timely submit such payrolls.
 - c. Each weekly payroll shall be accompanied by the Statement of Compliance that accompanies the Agency's Optional Form and properly executed by the Contractor or his or her agent, who pays or supervises the payment of the employees.
 - d. The Contractor shall make the records required under this §8 available for inspection or copying by authorized representatives of the Agency, and shall permit such representatives to interview employees during working hours on the job. On request the Executive Director of the Agency shall advise the Contractor of the identity of such authorized representatives.
9. **Occupational Safety and Health.** No Laborer or Mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to his or her safety and health as determined under construction safety and health standards promulgated by Cal-OSHA or if Cal-OSHA is terminated, then by the federal OSHA.
10. **Equal Opportunity Program.** The utilization of apprentices, trainees, Laborers and Mechanics under this part shall be in conformity with the equal opportunity program set forth in Exhibit B of the Agreement including Schedules A and B. Any conflicts between the language contained in these Labor Standards and Exhibit I shall be resolved in favor of the language set forth in Exhibit I, except that in no event shall less than the prevailing wage be paid.
11. **Nondiscrimination Against Employees for Complaints.** No Laborer or Mechanic to whom the wage, salary or other Labor Standards of this Agreement are applicable shall be discharged or in any other manner discriminated against by the Contractor because

such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to these Labor Standards.

12. **Posting of Notice to Employees.** A copy of the Wage Determination referred to in subsection (a) of §4 together with a copy of a "Notice to Employees," in the form appearing on the last page of these Labor Standards, shall be given to the Site Developer at the close of escrow. The Notice to Employees and the Wage Determination shall both be posted and maintained by the Contractor in a prominent place readily accessible to all applicants and employees performing construction of the Project before construction commences. If such Notice and Wage Determination is not so posted or maintained, the Agency may do so.

13. **Violation and Remedies.**

- a. **Liability to Employee for Unpaid Wages.** The Contractor shall be liable to the employee for unpaid wages, overtime wages and benefits in violation of these Labor Standards.
- b. **Stop Work--Contract Terms, Records and Payrolls.** If there is a violation of these Labor Standards by reason of the failure of any contract or subcontract for the construction of the Project to contain the Labor Standards as required by §2 ("Non-Conforming Contract"); or by reason of any failure to submit the payrolls or make records available as required by §8 ("Non-Complying Contractor"), the Executive Director of the Agency may, after written notice to the Site Developer with a copy to the Contractor involved and failure to cure the violation within five working days after the date of such notice, stop the construction work under the Non-Conforming Contract or of the Non-Complying Contractor until the Non-Conforming Contract or the Non-Complying Contractor comes into compliance.
- c. **Stop Work and Other Violations.** For any violation of these Labor Standards the Executive Director of the Agency may give written notice to the Contractor, with a copy to the Contractor involved, which notice shall state the claimed violation and the amount of money, if any, involved in the violation. Within five working days from the date of said notice, the Contractor shall advise the Agency in writing whether or not the violation is disputed by the Contractor and a statement of reasons in support of such dispute (the "Notice of Dispute"). In addition to the foregoing, the Contractor, upon receipt of the notice of claimed violation from the Agency, shall with respect to any amount stated in the Agency notice withhold payment to the Contractor of the amount stated multiplied by 45 working days and shall with the Notice of Dispute, also advise the Agency that the moneys are being or will be withheld. If the Contractor fails to timely give a Notice of Dispute to the Agency or to advise of the withhold, then the Executive Director of the Agency may stop the construction of the improvements under the applicable contract or by the involved Contractor until such Notice of Dispute and written withhold advice has been received.

- d. Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Contractor shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14. Upon receipt of the Notice of Dispute and withhold advice, any stop work which the Executive Director has ordered shall be lifted, but the Site Developer shall continue to withhold the moneys until the dispute has been resolved either by agreement, or failing agreement, by arbitration as is provided in §14.
- e. Withholding Certificates of Completion. The Agency may withhold any or all certificates of completion of the Project provided for in this agreement, for any violations of these Labor Standards until such violation has been cured.
- f. General Remedies. In addition to all of the rights and remedies herein contained, but subject to arbitration, except as hereinafter provided, the Agency shall have all rights in law or equity to enforce these Labor Standards including, but not limited to, a prohibitory or mandatory injunction. Provided, however, the stop work remedy of the Agency provided above in subsection (b) and (c) is not subject to arbitration.

14. Arbitration of Disputes.

- a. Any dispute regarding these Labor Standards shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further provisions thereof.
- b. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made a party to the arbitration. Any such person or entity not made a party in the demand for arbitration may intervene as a party and in turn may name any such person or entity as a party.
- c. The arbitration shall take place in the City and County of San Francisco.
- d. Arbitration may be demanded by the Agency, the Site Developer or the Contractor.
- e. With the demand for arbitration, there must be enclosed a copy of these Labor Standards, and a copy of the demand must be mailed to the Agency and the Site Developer, or as appropriate to one or the other if the Site Developer or the Agency is demanding arbitration. If the demand does not include the Labor Standards they are nevertheless deemed a part of the demand. With the demand if made by the Agency or within a reasonable time thereafter if not made by the Agency, the Agency shall transmit to the AAA a copy of the Wage Determination (referred to in §4) and copies of all notices sent or received by the Agency pursuant to §13. Such material shall be made part of the arbitration record.

- f. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators of the AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the parties fail to select an arbitrator, within seven (7) days from the receipt of the panel, the AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within 30 days from appointment.
 - g. Any party to the arbitration whether the party participates in the arbitration or not shall be bound by the decision of the arbitrator whose decision shall be final and binding on all of the parties and any and all rights of appeal from the decision are waived except a claim that the arbitrator's decision violates an applicable statute or regulation. The decision of the arbitrator shall be rendered on or before 30 days from appointment. The arbitrator shall schedule hearings as necessary to meet this 30 day decision requirement and the parties to the arbitration, whether they appear or not, shall be bound by such scheduling.
 - h. Any party to the arbitration may take any and all steps permitted by law to enforce the arbitrator's decision and if the arbitrator's decision requires the payment of money the Contractor shall make the required payments and the Site Developer shall pay the Contractor from money withheld.
 - i. Costs and Expenses. Each party shall bear its own costs and expenses of the arbitration and the costs of the arbitration shall be shared equally among the parties.
15. **Non-liability of the Agency.** The Site Developer and each Contractor acknowledge and agree that the procedures hereinafter set forth for dealing with violations of these Labor Standards are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids for the construction of the Project, in determining the time for commencement and completion of construction and in proceeding with construction work. Accordingly the Site Developer, and any Contractor, by proceeding with construction expressly waives and is deemed to have waived any and all claims against the Agency for damages, direct or indirect, arising out of these Labor Standards and their enforcement and including but not limited to claims relative to stop work orders, and the commencement, continuance or completion of construction.

SAN FRANCISCO REDEVELOPMENT AGENCY

NOTICE TO EMPLOYEES

***EQUAL
OPPORTUNITY
NON-DISCRIMI-
NATION***

The contractor must take equal opportunity steps to provide employment opportunities to minority group persons and women and shall not discriminate on the basis of age, ancestry, color, creed, disability, gender, national origin, race, religion or sexual orientation.

***PREVAILING
WAGE***

You shall not be paid less than the wage rate attached to this Notice for the kind of work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 8 a day or 40 a week, whichever is greater.

APPRENTICES

Apprentice rates apply only to employees registered under an apprenticeship or trainee program approved by the Bureau of Apprenticeship and Training or the California Division of Apprenticeship Standards.

PROPER PAY

If you do not receive proper pay, write the Office of Community Investment and Infrastructure, OCII
1 South Van Ness Ave. 5th Floor
San Francisco, CA 94103
or call **(415) 749-2546** and ask for
Mr. George Bridges
Contract Compliance Specialist

EXHIBIT B-5
Nondiscrimination in Contracts and Benefits



OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE (OCII)
(SUCCESSOR TO THE SAN FRANCISCO REDEVELOPMENT AGENCY)
DECLARATION FORM
Nondiscrimination in Contracts and Benefits

Section A

Is your company/organization currently certified by the City and County of San Francisco in compliance with Administrative Code 12B Equal Benefits Ordinance and will your company/organization ensure nondiscrimination in contracts and benefits pursuant to 12B on OCII contracts? If yes, please indicate below, skip Section B, and execute the Declaration in Section C. If no, please skip Section A and complete Sections B and C.

- ☐ My company/organization is certified and compliant with the 12B Equal Benefits Ordinance of the City and County of San Francisco and there has been no change in our 12B Declaration since certification. My company/organization agrees to ensure nondiscrimination in contracts and benefits pursuant to 12B on OCII contracts. (Please check box to affirm, if applicable)

Section B

1. Nondiscrimination—Protected Classes

- a. Is it your company/organization's policy that you will not discriminate against your employees, applicants for employment, employees of the Office of Community Investment and Infrastructure (successor to the San Francisco Redevelopment Agency) (Agency), or City and County of San Francisco (City), or members of the public for the following reasons:
- | | | |
|---------------------------|------------------------------|-----------------------------|
| • Race | ☐ Yes | ☐ No |
| • color | ☐ Yes | ☐ No |
| • Creed | ☐ Yes | ☐ No |
| • Religion | ☐ Yes | ☐ No |
| • ancestry | ☐ Yes | ☐ No |
| • national origin | ☐ Yes | ☐ No |
| • Age | ☐ Yes | ☐ No |
| • sex | ☐ Yes | ☐ No |
| • sexual orientation | ☐ Yes | ☐ No |
| • gender identity | ☐ Yes | ☐ No |
| • marital status | ☐ Yes | ☐ No |
| • domestic partner status | ☐ Yes | ☐ No |
| • Disability | ☐ Yes | ☐ No |
| • AIDS or HIV status | ☐ Yes | ☐ No |
- b. Do you agree to insert a similar nondiscrimination provision in any subcontract you enter into for the performance of a substantial portion of the contract that you have with the Agency or the City?
- ☐ Yes ☐ No

If you answered "no" to any part of Question 1a or 1b, the Agency or the City cannot do business with you.

2. Nondiscrimination—Equal Benefits (Question 2 does not apply to subcontracts or subcontractors)

- a. Do you provide, or offer access to, any benefits to employees with spouses or to spouses of employees?
- ☐ Yes ☐ No
- b. Do you provide, or offer access to, any benefits to employees with domestic partners (Partners) or to domestic partners of employees?
- ☐ Yes ☐ No

If you answered "no" to both Questions 2a and 2b, skip 2c and 2d, and sign, date and return this form. If you answered "yes" to Question 2a or 2b, continue to 2c.

- c. If "yes," please indicate which ones. This list is not intended to be exhaustive. Please list any other benefits you provide (even if the employer does not pay for them).

Benefit	Yes, for Spouses	Yes, for Partners	No
• Medical (health, dental, vision)	☐	☐	☐
• Pension	☐	☐	☐
• Bereavement	☐	☐	☐
• Family leave	☐	☐	☐
• Parental leave	☐	☐	☐
• Employee assistance programs	☐	☐	☐
• Relocation and travel	☐	☐	☐
• Company discounts, facilities, events	☐	☐	☐
• Credit union	☐	☐	☐
• Child care	☐	☐	☐
• Other _____	☐	☐	☐
• Other _____	☐	☐	☐

- d. If you answered "yes" to Question 2a or 2b, and in 2c indicated that you do not provide equal benefits, you may still comply with the Policy if you have taken all reasonable measures to end discrimination in benefits, have been unable to do so, and now provide employees with a cash equivalent.

- (1) Have you taken all reasonable measures? ☐ Yes ☐ No
- (2) Do you provide a cash equivalent? ☐ Yes ☐ No

3. Documentation for Nondiscrimination in Benefits (Questions 2c and 2d only)

If you answered "yes" to any part of Question 2c or Question 2d, you must attach to this form those provisions of insurance policies, personnel policies, or other documents you have which verify your compliance with Question 2c or Question 2d. Please include the policy sections that list the benefits for which you indicated "yes" in Question 2c. If documentation does not exist, attach an explanation, e.g., some of your personnel policies are unwritten. If you answered "yes" to Question 2d(1) complete and attach form SFRA/CC-103, "Nondiscrimination in Benefits—Reasonable Measures Affidavit," which is available from the Agency. You need not document your "yes" answer to Question 1a or Question 1b.

Section C

I declare (or certify) under penalty of perjury that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this _____ day of _____, 20____, at _____, _____.
(City) (State)

Name of Company/Organization: _____

Doing Business As (DBA): _____

Also Known As (AKA): _____

General Address: _____

Remittance Address (if different from above): _____

Name of Signatory: _____ Title: _____
(Please Print)

Signature: _____

Phone Number: _____ Federal Tax Identification Number: _____

Approximate number of employees in the U.S.: _____ Vendor Number: _____
(if known)

- ☐ Check here if your address has changed.
- ☐ Check here if your organization is a non-profit.
- ☐ Check here if your organization is a governmental entity.

THIS FORM MUST BE RETURNED WITH THE ORIGINAL SIGNATURE

Please return this form to: Office of Community Investment and Infrastructure (successor to the San Francisco Redevelopment Agency), One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103

EXHIBIT B-6
MINIMUM COMPENSATION POLICY (MCP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure ("OCII") (Successor Agency to the San Francisco Redevelopment Agency) adopted the Minimum Compensation Policy ("MCP"), which became effective on September 25, 2001. The MCP requires contractors and subcontractors to pay Covered Employees a minimum hourly wage and to provide 12 compensated and 10 uncompensated days off per year. The Minimum Compensation rate adjusts automatically to match the wage rate required by the City and County of San Francisco's Minimum Compensation Ordinance. Contractor is obligated to keep informed of the then-current requirements, which are published at <https://sfgov.org/olse/minimum-compensation-ordinance-mco>.

The OCII may require contractors to submit reports on the number of employees affected by the MCP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the MCP will have the following effect:

- in each contract, the contractor will agree to abide by the MCP and to provide its employees the minimum benefits the MCP requires, and to require its subcontractors subject to the MCP to do the same.
- if a contractor does not provide the MCP minimum benefits, OCII can award a contract to that contractor only if the contract is exempt under the MCP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII's contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the MCP to your covered employees, and will ensure that your subcontractors also subject to the MCP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the MCP, available from the OCII Contract Compliance Department at (415) 749-2400 or <http://sfocii.org/policies-and-procedures>.

Routing. Return this form to: Contract Compliance Department, Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency), 1 South Van Ness, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the MCP to our covered employees, and will ensure that our subcontractors also subject to the MCP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

EXHIBIT B-7

HEALTH CARE ACCOUNTABILITY POLICY (HCAP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure ("OCII") (as Successor Agency to the Redevelopment Agency) adopted the San Francisco Health Care Accountability Policy (the "HCAP"), which became effective on September 25, 2001. The HCAP requires contractors and subcontractors that provide services to OCII, contractors and subcontractors that enter into leases with OCII, and parties providing services to tenants and sub-tenants on OCII property to offer health plan benefits to their employees.

Specifically, contractors can either: (1) offer the employee minimum standard health plan benefits established by the San Francisco Department of Public Health ("SFPDH"), as approved by the OCII Commission; (2) pay OCII an amount equivalent to the current fee established by the SFPDH for each hour the employee works on the covered contract or subcontract or on property covered by a lease and OCII will appropriate the money for staffing and other resources to provide medical care for the uninsured; or (3) participate in a health benefits program developed and offered by SFPDH. The minimum health plan standards and fees established by SFPDH are published at <https://sfgov.org/olse/health-care-accountability-ordinance-hcao>.

OCII may require contractors to submit reports on the number of employees affected by the HCAP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the HCAP will have the following effect:

- in each contract, the contractor will agree to abide by the HCAP and to provide its employees the minimum benefits the HCAP requires, and to require its subcontractors to do the same.
- if a contractor does not provide the HCAP's minimum benefits, OCII can award a contract to that contractor **only if** the contract is exempt under the HCAP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII's contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII's contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the HCAP to your covered employees, and will ensure that your subcontractors also subject to the HCAP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the HCAP, available from the OCII's Contract Compliance Department at: (415) 749-2400 or <http://sfocii.org/policies-and-procedures>.

Routing. Return this form to: Contact Compliance Department, Office of Community Investment and Infrastructure, 1 South Van Ness Avenue, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the HCAP to our covered employees, and will ensure that our subcontractors also subject to the HCAP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

EXHIBIT C
Insurance Requirements

Subject to approval by the OCII Risk Manager of the insurers and policy forms, Site Developer must obtain and maintain, or caused to be maintained, the insurance and bonds as set forth in this Exhibit C commencing with the Effective Date of this Agreement and thereafter throughout the duration of the Site Work, or in accordance with the timeframes stated herein, at no expense to OCII.

- A. Overview of Coverage Requirements. The following table summarizes required insurance policies and documentation. Please see Section B of this Exhibit C for more detailed descriptions of policy requirements.

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Commercial General Liability (see Section B.1)	\$1,000,000 per occurrence/ \$2,000,000 aggregate*	Site Developer's design and professional contractors; and Site Developer (prior to start of construction)	Additional insured (see Section G)
	\$10,000,000 per occurrence/ \$10,000,000 aggregate*	Site Developer (upon construction start), general contractor, and subcontractors to the general contractor	Completed Operations Coverage endorsement (on construction stage policy) (see Section G)
Automobile Liability (see Section B.2)	\$1,000,000 per accident*	Site Developer and Site Developer's contractors	Additional insured (see Section G)
	\$10,000,000 per accident*	Upon construction start – general contractor and subcontractors to the general contractor	
Worker's Compensation and Employer's Liability (see Section B.3)	As per statute for Workers Comp; \$1,000,000 per accident; \$1,000,000 per employee; and in aggregate for bodily injury by disease as respects Employers Liability*	Site Developer and Site Developer's contractors	Waiver of subrogation
Professional Liability (see Section B.4)	\$2,000,000 per claim/ \$2,000,000 aggregate	Site Developer if engaged in any eligible design-related activities; and Site Developer's design and professional contractors	None
Crime/Dishonesty (see Section B.5)	\$1,000,000 per loss	Site Developer	Loss payee endorsement

Insurance Type	Coverage Amount (Minimum)	Applicable Parties	Endorsement or Certificate Required
Pollution Liability/Asbestos – During Construction (see Section B.6)	\$1,000,000 per claim/ \$2,000,000 aggregate	Site Developer or Site Developer’s construction contractor(s)	Additional insured (see Section G)
Builder’s Risk – During Construction (see Section B.7a)	100% of replacement value	Site Developer	Loss payee endorsement
Property Insurance – After Construction Completion (see Section B.7b)	100% of replacement value	Site Developer or Site Developer’s property manager	Loss payee endorsement
Performance and Payment Bonds (see Section B.8)	100% of Agreement value	Site Developer’s construction contractors	OCII and Site Developer named as dual obligees

** Umbrella, excess liability policy, or owner controlled insurance program (OCIP) may be used to meet limits (see Section D)*

B. Minimum Scope and Limits of Insurance. Site Developer and/or Site Developer’s contractors must maintain insurance with limits no less than:

1) Commercial General Liability coverage, under Insurance Services Office occurrence form CG 00 01 or other form approved by OCII, with additional insured endorsement (form CG 20 10 or equivalent) (see Section G). Limits set forth below. Coverage must be included for Contractual liability; explosion, collapse and underground (XCU); products and completed operations. Umbrella, Excess Liability, or an Owner Controlled Insurance Policy may be used to meet the terms of this section.

a. Before the start of demolition/construction if the Site is unoccupied, Site Developer and Site Developer’s contractors will maintain coverage of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit. These limit requirements apply to Site Developer’s design and professional contractors throughout the required coverage period;

b. During demolition/construction and occupancy of the Site and ongoing operations of the Project, Site Developer and its Construction contractors and/or Property Manager will maintain coverage of not less than Ten Million Dollars (\$10,000,000) combined single limit per occurrence and Ten Million Dollars (\$10,000,000) general aggregate limit. For subcontractors to the Construction General contractor and the Property Manager, the Site Developer, in consultation with the Construction General contractor and the Property Manager, as appropriate, is required to assess the risks associated with such contractors and determine, authorize, and verify the appropriate level of coverage provided by the subcontractor or consultant;

c. The construction period general liability policy must include completed operations coverage for a minimum of ten (10) years. Site Developer must provide a completed operations coverage endorsement (form CG 20 37 or equivalent) and OCII must be named as an additional insured pursuant Section G below.

- 2) Automobile Liability coverage for all owned, non-owned, scheduled, and hired automobiles under Insurance Services Office form number CA 00 01 or other form approved by OCII, with additional insured endorsement (see Section G). If Site Developer does not own any automobiles, Site Developer must provide OCII a written statement confirming that no automobiles are owned, and OCII will accept an Automobile Insurance policy providing coverage for Symbol 8 (hired autos) and Symbol 9 (non-owned autos), with additional insured endorsement. One Million Dollars (\$1,000,000) per accident for bodily injury and property damage, combined single limit.
- 3) Worker's Compensation and Employer's Liability as required by the State of California. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us"). Employer's Liability coverage must provide limits of One Million Dollars (\$1,000,000) for bodily injury each accident; and not less than One Million Dollars (\$1,000,000) per employee; and One Million Dollars (\$1,000,000) in the annual aggregate for bodily injury by disease. If the Site Developer does not have any employees, then evidence of Workers' Compensation and Employers Liability coverage required herein must be provided by either the Project Sponsor(s) or the all general partners of the Partnership, in lieu of such coverage being provided by the Site Developer. Additionally, the Site Developer must provide a written statement confirming that the Site Developer does not have employees.
- 4) Professional Liability (Errors and Omissions) insurance, applicable to the Site Developer's licensed design and professional contractors (architects, engineers, surveyors and other eligible consultants) and to the Site Developer only if the Site Developer or Sponsor has any employees providing design or engineering services. Two Million Dollars (\$2,000,000) for each claim and in the annual aggregate limit covering negligent acts, errors or omissions in connection with professional services to be provided in connection with the Project. If the Professional Liability insurance is "claims made" coverage, these minimum limits shall be maintained for no less than five (5) years beyond completion of the scope of services performed. Any deductible over One Hundred Thousand Dollars (\$100,000) each claim must be reviewed by OCII Risk Management.

Design professionals who utilize the services of subcontractors or consultants to complete work in connection with this project are required to assess the risks associated with such contractors and, with the authorization of the Site Developer, determine and verify the appropriate level of coverage provided by the subcontractor or consultant. The design professional and the Site Developer shall assume costs and expenses that may be incurred in fulfilling any indemnity obligations as to itself or any subcontractors or consultants for whom the design professional and/or the Site Developer are legally liable in the absence of adequate subcontractor or consultant coverage.

- 5) Crime Policy or Fidelity Bond (Employee Dishonesty Coverage) covering Site Developer and Developer's officers and employees against employee dishonesty, forgery & alteration, theft of money & securities, and theft via electronic means, endorsed to cover third party fidelity, covering all officers and employees with respect to the Funding Amount. One Million Dollars (\$1,000,000) each loss, with any deductible not to exceed Fifty Thousand Dollars (\$50,000). Site Developer must provide an endorsement naming OCII as an additional obligee or loss payee.

Application of Crime Insurance Proceeds. Site Developer shall promptly notify OCII of any claim under the required Crime Insurance Policy. OCII may retain from the proceeds of the required Crime Insurance Policy, a sufficient amount of the proceeds to pay the Funding Amount, if any, and shall pay the balance to Site Developer. For the avoidance of doubt, OCII shall have no right or claim to the proceeds of the required Crime Insurance Policy in excess of the Funding Amount.

- 6) Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than One Million Dollars (\$1,000,000) per claim or occurrence and Two Million Dollars (\$2,000,000) aggregate per policy aggregate, this coverage shall be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Site Developer's construction contractor to maintain these minimum limits for no less than three (3) years beyond completion of the Project.
- 7) Property Insurance
- a. Builder's Risk Insurance during the course of any construction, 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 Site Developer or its contractor, including coverage in transit and storage off-site, with a deductible not to exceed Fifty Thousand Dollars (\$50,000) each loss, including OCII as loss payee. Builder's Risk must be maintained by the Site Developer or the Site Developer must cause its general contractor to maintain this insurance.
 - b. Property Insurance after completion of construction, special form coverage, excluding earthquake and flood, but including vandalism and malicious mischief, and including boiler and machinery insurance, 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 loss payee. A waiver of subrogation naming OCII is required (also known as "transfer of rights of recovery against others to us").
- 8) Performance and Payment Bonds for eligible construction contractors during construction and/or rehabilitation, each in the amount of one hundred percent (100%) of Agreement amounts, naming OCII and Site Developer as dual obligees, or other completion security approved by OCII in its sole discretion. OCII has approved issuance of a Completion

Guaranty by an affiliate of Site Developer to Site Developer's institutional lender as completion security.

- 9) Performance Insurance. Site Developer shall require its general contractor to obtain performance insurance that insures against delay in delivery of modules, up to the amount of Site Developer's or Site Developer's general contractor's Agreement amount for the delivery of modules for the construction of the Project. Site Developer shall limit general contractor's use of proceeds from the performance insurance policy to be used to solely to reduce cost overruns in the construction of the Project related to or caused by delay in the delivery of modules, and Site Developer shall, and shall require general contractor, to obtain OCII's approval prior to expending such proceeds.
- C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in excess of those required for policies stated herein must be declared to and approved by OCII. At the option of OCII, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees; or Site Developer shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- D. Umbrella, Excess Liability, and Owner Controlled Insurance Policies (OCIP). An Umbrella and/or Excess Liability policy(ies) or an OCIP may be used to reach the Commercial General Liability, Workers' Compensation, and/or Automobile Liability coverage limits required herein. The Umbrella/Excess Liability/OCIP policy(ies) must appropriately schedule any such underlying policy(ies).
- E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise approved by OCII's Risk Manager.
- F. General Requirements.
 - 1) If the Site Developer maintains additional coverages and/or higher limits than the minimums shown in this Exhibit C, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Site Developer.
 - 2) The policies required herein, with the exception of Professional Liability and Workers Compensation, shall be primary insurance and non-contributory as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees shall be in excess of Site Developer's insurance and shall not contribute with it.
 - 3) Each insurance policy required herein must be endorsed (if endorsement is available) to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by mail has been

given to OCII. Should the insurance carrier not be able to provide such notice, then the responsibility to provide the notice to OCII shall be borne by the policyholder.

- 4) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees.
- 5) Approval of Site Developer's insurance by OCII will not relieve or decrease the liability of Site Developer under this Agreement.
- 6) OCII and its officers, agents and employees will not be liable for any required premium under any policy maintained by Site Developer.
- 7) 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 five (5) years after recordation of a notice of completion for builder's risk or commencing with the Effective Date of this Agreement and thereafter throughout the duration of the Site Work for general liability and property insurance.

G. Verification of Coverage. Site Developer must furnish OCII with certificates of insurance and original endorsements evidencing coverage required by this clause. The certificates and applicable endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by OCII before work commences. OCII reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time. Site Developer shall require and verify that its contractors and consultants maintain the required policies as stated herein. Site Developer must furnish OCII with copies of certificates and endorsements upon request. All certificates shall include the following:

- 1) Identify the following as the certificate holder:
Successor Agency to the Redevelopment Agency of the City and
County of San Francisco
Office of Community Investment and Infrastructure
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
- 2) Identify the name of the insurance policy holder (Site Developer, Developer, or contractor), the Project name, and the Project address.
- 3) For policies in which OCII is required to be named as an additional insured, loss payee, dual obligee, or named on a waiver of subrogation, the policy shall name "Office of Community Investment and Infrastructure/Successor Agency to the Redevelopment Agency of the City and County of San Francisco, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees" on the certificate and on the attached endorsement or certificate.

- H. Review. OCII reserves the right to modify the insurance coverage under this Section, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances consistent with OCII's Risk Management Policy. The insurance coverage required under this Section shall be evaluated by OCII for adequacy from time to time. OCII may require Site Developer to increase the insurance limits and/or forms of coverage in its reasonable discretion provided that such limits and/or coverage is generally available at commercially reasonable rates.

EXHIBIT D

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 Agreement, 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 Agreement, 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 Agreement, 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 Loan Closing Date. The undersigned will review the list to ensure that any contractor or subcontractor who bids for a Agreement 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.

HSPY 52-52, LP, a California limited partnership

BY: _____

NAME: _____

TITLE: _____

DATE: _____

EXHIBIT E

SCHEDULE OF PERFORMANCE

	Performance Milestone	Estimated or Actual Date ¹	Contractual Deadline
1	Construction Closing	<u>5/1/2023</u>	<u>5/29/2023</u>
2	Notice to Proceed	<u>5/1/2023</u>	<u>5/29/2023</u>
3	Completion of Site Work	<u>11/1/2023</u>	

¹ Estimated Dates are the Site Developer's and OCII's best estimate for achieving milestones established herein, which estimates are established for project management purposes, but do not supersede contractual deadlines, which establish deadlines by which Site Developer is required to perform under this Agreement.

EXHIBIT F

Legal Description of the Site

ALL THAT CERTAIN REAL PROPERTY, SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1 (PORTION OF HUNTERS POINT SHIPYARD REDEVELOPMENT PLAN BLOCK 52):

ALL OF LOT 1 AS SAID LOT IS SHOWN AND SO DESIGNATED ON FINAL MAP NO. 10058, RECORDED MARCH 11, 2020, IN BOOK I OF FINAL MAPS, AT PAGES 8 - 10, IN THE OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO,

Assessor's Block 4591C, Lot 673

PARCEL 2 (PORTION OF HUNTERS POINT SHIPYARD REDEVELOPMENT PLAN BLOCK 54):

ALL OF LOT 201, AS SAID LOT IS SHOWN AND SO DESIGNATED ON FINAL MAP NO. 4231, RECORDED AUGUST 12, 2009, IN BOOK CC OF SURVEY MAPS, AT PAGE 165, IN THE OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO, AS AMENDED BY THAT CERTAIN CERTIFICATE OF CORRECTION RECORDED DECEMBER 23, 2011, AS INSTRUMENT NO. 2011-J324068-00 OF OFFICIAL RECORDS IN SAID OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO COUNTY, AND AS FURTHER AMENDED BY THAT CERTAIN LOT LINE ADJUSTMENT RECORDED AUGUST 5, 2013 AS INSTRUMENT NO. 2013-718775 OF OFFICIAL RECORDS IN SAID OFFICE OF THE COUNTY RECORDER OF SAN FRANCISCO COUNTY.

Assessor's Block 4591C, Lot 212

**RECORDING REQUESTED BY AND
WHEN RECORDED SEND TO:**

**Successor Agency to the Redevelopment
Agency of the City and County of San
Francisco
One South Van Ness, Fifth Floor
San Francisco, CA 94103
Attn: Real Estate Services**

*Record without fee pursuant to Government
Code Sections 6103 and 27383*

Block: 4591C Lots: 672, 673

Space above this line for Recorder's use only

SHORING, UNDERPINNING AND TIEBACK EASEMENT AGREEMENT

This SHORING, UNDERPINNING AND TIEBACK EASEMENT AGREEMENT (this “**Agreement**”) is entered into as of [•] [•], 2023 (the “**Effective Date**”) by and between HPS1 Block 52, LLC, a Delaware limited liability company (“**Grantor**”), and the Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public entity organized and existing under the laws of the State of California (“**OCII**” and, initially, “**Grantee**”).

WITNESSETH:

A. WHEREAS, Grantor owns certain real property within Phase 1 of the Hunters Point Shipyard Redevelopment Project Area located in San Francisco, California, identified as Assessor's Block 4591C Lot 672 and as more fully described in Exhibit A-1 (“**Grantor's Property**”);

B. WHEREAS, Grantee owns certain real property immediately adjacent to Grantor's Property, also within Phase 1 of the Hunters Point Shipyard Redevelopment Project Area located in San Francisco, California, identified as Assessor's Block 4591C Lot 673 and as more fully described in Exhibit A-2 (“**OCII's Property**”);

C. WHEREAS, that certain Disposition and Development Agreement between OCII and HPS Development Co., LP, a Delaware limited partnership that is an affiliate of Grantor (“**HPS1 Developer**”), dated as of December 2, 2003 (as amended, the “**DDA**”) and the Hunters Point Shipyard Redevelopment Plan (as such plan is currently amended) call for the development of affordable housing on or within certain Agency Parcels (as defined in the DDA), including on or within OCII's Property;

D. WHEREAS, Grantee has entered into an exclusive negotiations agreement and a predevelopment loan agreement with HPSY 52-54, LP, a California limited partnership

(“**Affordable Developer**”), for the design and construction of a 67-unit affordable multifamily housing development (the “**Project**”) pursuant to a leasehold interest within OCII’s Property (the “**Leasehold Property**”) created under a ground lease (the “**Ground Lease**”) to be entered into between OCII and Affordable Developer;

E. WHEREAS, under the Ground Lease, Affordable Developer will perform (or cause to be performed) excavation and construction activities on the Leasehold Property pursuant to design documents approved by OCII and one or more building permits issued by the San Francisco Department of Building Inspection (collectively, the “**Project Development Plans**”), to construct the Project;

F. WHEREAS, for Affordable Developer to perform and complete its construction and improvement work in accordance with the requirements of the DDA, Project Development Plans, the Ground Lease and California Civil Code Section 832, OCII, Affordable Developer and Grantor intend that Grantor provide a temporary Easement (as defined below) to allow entrance to Grantor’s Property for performance thereon of the Work (as defined below); and

G. WHEREAS, Grantee and Affordable Developer acknowledge that Grantor intends to convey the Grantor Property or a portion thereof to The Condominiums At The Shipyards Owners Association after the Effective Date and after such conveyance The Condominiums At The Shipyards Owners Association shall be Grantor hereunder, as more particularly set forth herein.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Easement for Sheeting, Shoring, Underpinning and Tiebacks. Grantor hereby grants to Grantee an easement appurtenant to OCII’s Property solely for the purpose of installing and maintaining sheeting, shoring, underpinning and tiebacks (including lateral and subjacent support on, under and within Grantor’s Property as necessary to meet Grantee’s obligations under California Civil Code Section 832 (the “**Shoring System**”)) in connection with the construction of the foundations and/or structural components of the Project (the “**Work**”), together with a right of access over, under across and upon such unrestricted portions of Grantor’s Property as are reasonably necessary solely to allow Grantee to undertake and complete the Work (collectively, the “**Easement**”). Grantee shall provide to Grantor reasonable notice prior to Grantee’s accessing Grantor’s Property and utilizing the Easement. Grantee’s use of the Easement shall only be permitted during normal construction hours, unless otherwise approved by Grantor.

2. Assignment and Assumption of Grantee’s Rights and Obligations. Grantor acknowledges that OCII’s role in the construction of the Project is solely as ground lessor and funder, and that Grantee intends to enter into the Ground Lease with Affordable Developer (or other affordable development entity identified in the Ground Lease, which entity shall be deemed Affordable Developer hereunder) permitting Affordable Developer to construct the Project on the Leasehold Property pursuant thereto. Thus, provided that such Affordable Developer shall execute the acknowledgement and assumption attached

to this Agreement, Grantor acknowledges that upon full execution, delivery and effectiveness of the Ground Lease and creation of Affordable Developer's rights to and in the Leasehold Property and notice thereof to Grantor (which shall include an assumption by Affordable Developer in the form attached hereto) (the date thereof, the "**Ground Lease Date**"), the Easement shall be considered appurtenant to the Leasehold Property and Affordable Developer shall be considered a transferee under Section 19 hereof and shall thereby assume all rights and obligations of Grantee hereunder, except OCII's guaranty obligations under Section 9, below, which shall remain an obligation of OCII surviving the foregoing transfer to Affordable Developer.

3. Grantor's Consent and Cooperation. Provided that no Grantor Party (as defined below) shall incur any cost or liability in connection therewith, Grantor hereby affirmatively consents, on behalf of itself and any and all successors-in-interest, to the submission of any and all applications for permits or approvals necessary to perform the Work, and Grantor covenants that it shall reasonably cooperate with OCII and Affordable Developer in obtaining said permits or approvals for the Work (including executing or endorsing any applications for same) all at no cost or liability to any of the Grantor Parties.

4. Structural Certification. Prior to commencing any Work (or, for the avoidance of doubt, any construction or entry on Grantor's Property), Grantee shall provide to Grantor, at Grantee's sole cost and expense, stamped and signed structural plans and a certification from a civil or structural engineer licensed in the State of California, which certification shall provide that upon the completion of construction, the Project will in no way be dependent upon the Shoring System and that upon the disconnection of the Shoring System on the Grantor's Property, as the case may be, the Project shall be an independent, self-supporting building, not reliant upon Grantor's Property for structural support or sufficiency (all such plans and the certification together being the "**Plans and Certification**") and the Plans and Certification shall have been approved by Grantor, pursuant to the Independent Professional Review (as defined below), such approval not to be unreasonably withheld, conditioned or delayed.

5. Independent Engineer and Legal Counsel Review. Grantor may engage an independent consulting engineer or other third-party consultants to review and advise Grantor on the Plans and Certification and its related documentation and correspondence, to monitor the Work, and to undertake legal review and advice on this Agreement and on the Escrow Agreement (the "**Independent Professional Review**"). Grantee agrees to pay (or cause to be paid) Grantor for Independent Professional Review costs up to \$83,500, to be paid to Grantor within forty-five (45) days of Grantee's receipt of Grantor's written submission of paid receipts, provided Grantor completes any Independent Professional Review within thirty (30) days of Grantee providing the Plans and Certification to Grantor

6. Performance of Work. Grantee shall perform all of the Work in a safe and workmanlike manner, in full compliance with (i) the professional standards of the trade and industry prevailing in San Francisco California, (ii) all applicable Laws, including California Civil Code Section 832, (iii) the Plans and Certification and (iv) this Agreement. Grantee shall obtain, or cause to be obtained, at no cost or expense to any of the Grantor Parties, any and all permits or approvals in connection with the Work necessary or desirable

under Law. Grantee shall give, or cause to be given, written notice to Grantor of (a) the commencement of the Work no less than one week and no more than two (2) weeks prior thereto, (b) the completion of the Work no less than one week and no more than two (2) weeks thereafter and (c) the completion of the Project (which notice shall include a copy of the certificate of occupancy for the Project from the City and County of San Francisco) promptly following such completion. Grantee shall meet with Grantor, upon reasonable request, to review the schedule of Work and any matters related to the performance of the Work. Grantee shall have the full, complete and exclusive responsibility for the design, construction and installation of the Shoring System in accordance with all of the terms of this Agreement.

7. Restoration of Grantor's Property. Upon completion of the Work and as reasonably feasible during the performance thereof, Grantee shall promptly return, or cause to be returned, Grantor's Property to a neat and orderly appearance to the extent performance of the Work disrupted such appearance and, as near as practicable, to its condition immediately prior to the commencement of the Work, including by removing all of Grantee's equipment, unused materials, rubbish and debris (all of which shall be deemed part of the "Work" hereunder).

8. Safety and Security. Grantee shall be solely responsible and liable for safety and security, and shall take all measures necessary and appropriate to provide security at Grantor's Property to the extent applicable to Grantee's Use of Grantor's Property. Promptly following Grantee's knowledge of any incident at the Grantor's Property related to the safety or security thereof (including theft, damage, a breach of security or injury to any person or property at the Grantor's Property), Grantee shall provide Grantor with a report detailing the incident and, if caused by Grantee's Use of Grantor's Property, the steps Grantee intends to take to prevent any further incidents. Grantor Parties shall not have any liability, and Grantee hereby expressly waives any liability of Grantor Parties, with respect to any such incident, except to the extent caused by the fraud or willful misconduct of a Grantor Party.

9. Damage. Grantee, at its own cost and expense, shall be responsible for repair of any damage to Grantor's Property (including the improvements thereon) caused by, or arising out of, in any manner, Grantee's Use of Grantor's Property. If Grantee fails to comply with any of the requirements of Section 6, Section 7, Section 8, or this Section 9 after Grantor provides notice of such failure to Grantee and affords Grantee reasonable opportunity to cure, Grantor may perform such work at Grantee's expense and Grantee shall reimburse all costs reasonably incurred in connection with performing such work ("**Grantor's Self-Help Costs**") within forty-five (45) days following delivery to Grantee of an invoice therefor (including reasonable documentation of the work performed and verification of payment for said work by Grantor). After Affordable Developer assumes all rights and obligations of Grantee pursuant to Section 2 above, (i) if Affordable Developer fails to reimburse Grantor's Self-Help Costs in accordance with the foregoing, then OCII shall reimburse Grantor's Self-Help Costs within thirty (30) days following delivery to OCII of an invoice therefor (including reasonable documentation of the work performed and verification of payment for said work by Grantor), and (ii) if Affordable Developer fails to reimburse or pay for any other amounts owed to Grantor under this

Agreement (including under Section 10), then OCII shall reimburse or pay Grantor within thirty (30) days following Grantor's delivery to Grantee of an invoice therefor.

10. Indemnification of Grantor. Grantee shall defend, indemnify, save and hold harmless Grantor and the other Grantor Parties from and against any and all Losses arising directly or indirectly out of or in any way relating to: (i) any act or omission of Grantee or its Representatives in Grantee's Use of Grantor's Property; (ii) any failure by Grantee to perform any of the terms, provisions, covenants or conditions of this Agreement on Grantee's part to be performed; (iii) any accident, injury or damage to persons or property caused by Grantee and/or any of its Representatives that shall happen at, in or upon Grantor's Property; and (iv) any other matter in connection with this Agreement or in connection with the Escrow Agreement; except, in any case, to the extent caused by the fraud or willful misconduct of such Grantor Party. For the avoidance of doubt, the foregoing indemnity shall cover any such Losses arising directly or indirectly out of or in any way relating to the performance of any soil disturbing work, regardless of whether approved by Grantor. Grantee may seek separate indemnification from Affordable Developer or any of Grantee's or Affordable Developer's Representatives, as it deems necessary; however, the existence or absence of any such indemnification shall not affect or limit Grantee's indemnification obligations under this Agreement. Any amounts due under this Section 10 shall be paid within thirty (30) days following demand therefor.

11. Removal. Grantee intends to abandon the Shoring System in place and it will therefore remain in and about the Grantor's Property after the expiration or termination of this Agreement, and Grantee shall not be obligated to remove the Shoring System. In the event that the Shoring System is abandoned in place, (i) the abandonment shall not in and of itself be deemed to create any liability of any kind on the part of Grantor Parties, (ii) Grantor Parties shall not be deemed to have waived any rights, and (iii) Grantor Parties shall not be deemed to have made any representations in connection with the Shoring System. Nothing in this Agreement shall prevent, prohibit or constrain Grantor Parties from cutting any tiebacks on Grantor's Property after the expiration or earlier termination of this Agreement; provided that Grantor shall obtain any necessary governmental approvals for such action and such action would not reasonably be expected to result in a materially unsafe condition on OCII's Property.

12. No Liens. Grantee shall (i) bear all costs and expenses of any kind or nature in connection Grantee's Use of Grantor's Property and (ii) keep Grantor's Property and the surrounding area free and clear of any liens, claims of lien or other form of encumbrances arising directly or indirectly out of or in any way relating to Grantee's Use of Grantor's Property (collectively, "**Liens**"). If any Liens are recorded and/or asserted upon Grantor's Property or the surrounding area or a stop notice is served on any person in connection with Grantee's Use of Grantor's Property, then Grantee shall, within seventy-two (72) hours following receipt of notice from Grantor of such Liens (or of otherwise obtaining knowledge thereof), provide Grantor with satisfactory written proof that release bonds and/or any other documentation necessary to release such Liens have been obtained.

13. Insurance. Prior to the commencement of the Work, Grantee shall obtain and maintain the insurance requirements found under Exhibit B; provided however, Grantor

agrees that OCII (with respect to itself only) may self-insure for the coverage and limits shown on Exhibit B.

14. Relationship with DDA, VDDA and Interim Lease. OCII acknowledges and agrees that Grantor and HPS1 Developer shall have no liabilities or obligations under the VDDA (as defined below), DDA (or, for the avoidance of doubt, the Interim Lease) or other related agreements affecting Grantor's Property or OCII's Property with respect to Grantee's Use of Grantor's Property, and their respective performance and rights under the foregoing agreements shall not be unreasonably hindered or delayed by Grantee's Use of Grantor's Property. For the sake of clarity, OCII acknowledges that costs associated with negotiating and implementing this Agreement shall not be considered Agency Costs under Article 10 of that certain Vertical Disposition and Development Agreement between Grantor and Grantee dated May 15, 2015 and as amended by that certain First Amendment to the VDDA dated March 11, 2020 (collectively, the "**VDDA**") or under the DDA. Notwithstanding the foregoing, Grantor Parties may offset amounts due to it hereunder from OCII for Agency Costs due under the VDDA (or permit any of its affiliates to offset against Agency Costs due under the DDA or any other vertical disposition and development agreement at the Hunters Point Shipyard) upon notice thereof to Grantee. This Section 14 shall survive any expiration or termination of this Agreement.

15. Term. This Agreement and the corresponding rights and obligations set forth herein shall automatically terminate and be of no further force or effect upon the date on which Grantee gives Grantor written notice that all of the Work described in this Agreement is completed by Grantee as determined in the reasonable discretion of Grantee provided, however, that the obligations of Grantee under Sections 5 through Section 13, inclusive, and other Sections as expressly set forth herein, shall survive the expiration or termination of this Agreement for the applicable statute of limitations period (or, with respect to Section 13, the periods set forth in Exhibit B). For the avoidance of doubt, termination of the Ground Lease shall not, in and of itself, terminate this Agreement. Without limiting the foregoing, upon termination of this Agreement, and at the request of any party to the other, each party shall execute and deliver an executed and acknowledged original of a quitclaim deed or other document required by such party's title company to reflect and confirm such termination, which quitclaim or other document shall be promptly recorded in the records of the County of San Francisco.

16. Governing Law. This Agreement and the rights of the parties hereunder shall be governed by and interpreted and construed in accordance with the laws of the State of California, without regard to any of its conflict of laws principles or provisions that would apply the laws of any other jurisdiction. This Agreement was negotiated between the parties and shall be construed without regard to any presumption or other rule requiring construction against the party causing the agreement to be drafted. With respect to any actions arising under this Agreement, each party, on behalf of itself and its successors and assigns, hereby mutually waives the right to request a trial by jury in any action or proceeding arising out of this Agreement or otherwise involving, arising out of or related to the work contemplated by this Agreement. Any action or proceeding under or relating to this Agreement may be brought in any state or federal court sitting in the City and County of San Francisco, California, and in no other court. Each party submits to the jurisdiction

of each of those courts in any such action or proceeding and agrees not to seek to change the venue of any such action or proceeding for any reason, provided that nothing in this Section 16 shall prevent a party from removing an action or proceeding from a state court sitting in such county to a federal court sitting in such county.

17. Attorneys' Fees. In any action or proceeding to enforce the terms and provisions of this Agreement, the prevailing party (as determined by the judge who presides over the action or proceeding) will be entitled to recover from the non-prevailing party all reasonable costs and expenses incurred by the prevailing party in connection with the action or proceeding (including reasonable attorneys' and paralegals' fees and costs incurred before and at any trial and with regard to any appellate proceedings), as well as all other relief that is granted or awarded in such action or proceeding, and the non-prevailing party shall pay all costs of any trial (including court costs).

18. Exhibits. Any exhibits attached to this Agreement are incorporated herein by this reference and deemed to be a substantive part of this Agreement.

19. Binding Effect. The term, conditions and provisions of this Agreement shall be deemed covenants running with Grantor's Property and OCII's Property and shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns, subject to termination pursuant to Section 15. Upon the transfer of title to Grantor's Property or OCII's Property to a successor or assign, such successor or assign shall thereafter be deemed to be "Grantor" or "OCII" hereunder, respectively. Upon the Ground Lease Date (and upon the subsequent assignment of the Ground Lease by Affordable Developer), Affordable Developer shall be deemed to be "Grantee" hereunder, as more particularly provided in Section 2. Every person who now or hereafter owns or acquires any right, title or interest in or to any portion of Grantor's Property or OCII's Property (including Affordable Developer's acquisition of the Leasehold Property under a Ground Lease) is and shall be conclusively deemed to have consented and agreed to every restriction, provision, covenant, condition, right and limitation contained herein and shall be deemed to have assumed all obligations of Grantor, OCII or Grantee hereunder, as applicable, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in Grantor's Property or OCII's Property, respectively. Any person that transfers Grantor's Property, OCII's Property or the Leasehold Interest (or any portion of either of them) shall upon the completion of such transfer (i) be relieved of all future liability that accrues under this Agreement with respect to the portion of Grantor's Property, OCII's Property or the Leasehold Property so transferred (and for the avoidance of doubt, creation and transfer of the Leasehold Property to Affordable Developer shall constitute full release of OCII from all future liability of Grantee that accrues under this Agreement, except as provided in Section 9), but such person shall not be relieved from such person's obligations under this Agreement that accrued and became due by such person prior to such transfer and (ii) with respect to Grantor, the transferor (and its other applicable Grantor Parties) shall continue to be an "Additional Insured" for all purposes under Exhibit B and indemnified party for all applicable indemnifications hereunder. Furthermore, the transferee of such person shall be deemed to have assumed the obligations under this Agreement and the Escrow Agreement accruing after the date of such transfer. The obligations and rights of Grantor,

OCII and Grantee hereunder shall not be separately assigned or be severable from Grantor's Property, OCII's Property or the Leasehold Property except as otherwise provided herein with respect to the Leasehold Property.

20. Entire Agreement. This Agreement and the Escrow Agreement contain all of the representations and warranties and the entire agreement between the parties with respect to the subject matter of this Agreement, and any prior correspondence, memoranda, agreements, confidentiality agreements, letters of intent, warranties or representations between the parties relating to such subject matter are superseded in total by this Agreement. Prior drafts of this Agreement and changes from those drafts to the executed version of this Agreement shall not be introduced as evidence in any litigation or other dispute resolution proceeding by the parties or any other person, and no court or other body shall consider such drafts or changes in interpreting this Agreement. The provisions of this Agreement are severable and the invalidity of one or more of the provisions shall not affect the validity or enforceability of any other provisions. Modifications, waivers and consents regarding this Agreement shall only be binding if in writing and signed by the party against whom such modification, waiver or consent is sought to be enforced.

21. Counterparts. This Agreement may be executed in one or more counterparts, by original or facsimile signature, and when executed by all parties shall constitute one and the same instrument.

22. Amendments. This Agreement shall not be modified or amended except by an instrument duly executed by Grantee and Grantor, which instrument shall be recorded in the property records of the County of San Francisco.

23. Estoppel Certificate. Within twenty (20) business days of a written request therefor, Grantor or Grantee shall issue an estoppel certificate to the other stating (i) whether such party knows of any defaults under this Agreement by the requesting party and, if there are known defaults, specifying the nature thereof and, if a default is monetary in nature, any amounts then due and owing and the party or entity to whom such amounts are owed; (ii) whether to such party's knowledge this Agreement has been assigned, modified or amended in any way (or if it has, then stating the nature thereof); (iii) whether to such party's knowledge this Agreement is in full force and effect; and (iv) such other matters as Grantor or Grantee may reasonably request.

24. Notices. Any notice or consent required to be given by or on behalf of any party hereto to any other party shall be in writing and sent by (i) registered or certified mail, return receipt requested or (ii) delivered personally, including by air carrier or overnight mail service, addressed at the addresses set forth below, or at such other address as any party may designate to the others in a writing properly delivered and addressed as aforesaid. Each party hereto shall also deliver a copy of any notice delivered hereunder to the mortgagee of the other party; provided only that the recipient party or its mortgagee shall have previously notified such party of its mailing address.

If to Grantee:

Prior to the Ground Lease Date:

Successor Agency to the Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, California 94103
Attention: Executive Director

With a copy to:

Successor Agency to the Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, California 94103
Attention: Legal Division

Following the Ground Lease Date:

HPSY 52-54, LP
c/o Jonathan Rose Companies
551 Fifth Avenue, 23rd Floor
New York, NY 10176
Attention:

With a copy to:

Klein Hornig LLP
101 Arch St., Suite 1101
Boston, Massachusetts 02110
Attention: Daniel M. Rosen

If to Grantor:

HPS1 Block 52, LLC
2603 Camino Ramon, Suite 525
San Ramon, California 94583
Attention: Michael Hochstoeger

With a copy to:

Paul Hastings LLP
101 California Street, 48th Floor
San Francisco, California 94111
Attention: David A. Hamsher

25. Recording. The parties agree that OCII will cause this Agreement to be recorded in the property records of the County of San Francisco promptly following the Effective

Date.

26. Hazardous Substances.

- a. Grantee acknowledge that Grantor's Property is designated for development of residential uses in accordance with the VDDA. Without limiting the other requirements hereof, Grantee shall undertake Grantee's Use of Grantor's Property in such a manner so as not to endanger future residential development and use of Grantor's Property.
- b. Grantee shall not, and shall cause its Representatives not to, (i) cause or knowingly permit any Hazardous Substances to be brought upon, stored, used, handled, generated, treated, released or disposed of on, in, under or about Grantor's Property, (ii) discharge into any sanitary sewer system serving Grantor's Property any toxic or hazardous sewage or waste other than normal domestic wastewater or (iii) perform or knowingly permit any acts that would disturb or otherwise aggravate any existing Hazardous Substances located on, in, under or about Grantor's Property. Grantee assumes sole responsibility for managing, removing and properly disposing of any waste that Grantee and/or its Representatives produce during or in connection with Grantee's Use of Grantor's Property, including preparing and executing any manifest or other documentation required for, or associated with, the removal, transportation and disposal of Hazardous Substances to the extent necessary in connection with managing, removing and properly disposing of such waste. Grantee shall promptly notify Grantor of any Release (as defined below) of Hazardous Substances in or on Grantor's Property of which Grantee becomes aware, whether caused by Grantee or any other person(s). In the event of any Release of Hazardous Substances in, on, under or about Grantor's Property caused by Grantee or any of its Representatives, Grantor Parties shall have the right, but not the obligation, to cause Grantee to immediately take all steps Grantor Parties deems necessary or appropriate to remediate such Release and prevent any future Release to the satisfaction of Grantor Parties. In the event of any Release of Hazardous Substances in, on, under or about Grantor's Property not caused by Grantee or any of its Representatives, Grantee shall not be responsible for remediation of such Release.
- c. Grantor hereby notifies Grantee that Grantor's Property may contain naturally-occurring asbestos and other Hazardous Substances. Grantee acknowledges on behalf of itself and its Representatives that Grantee and its Representatives may be working with, or exposed to, Hazardous Substances or other substances or conditions that are toxic or otherwise hazardous. Grantee acknowledges on behalf of itself and its Representatives that Grantor Parties give no representations or warranties with respect to the presence of such substances or conditions, and that Grantor's Property is accepted as described and subject to the qualifications provided in Section 27. Grantor Parties shall not be liable to Grantee or any

of its Representatives, and Grantee, on behalf of itself and all of its Representatives, and their respective successors and assigns, hereby releases, discharges and acquits Grantor Parties and its Representatives, from and of any and all Losses (as defined below) arising directly or indirectly out of or in any way relating to any such substances or conditions. Without limiting the foregoing, Grantee shall cause all of its Representatives to receive written notice of the possible presence of such substances or conditions. Without limiting the generality of the indemnification provided in Section 10, Grantee shall defend, indemnify, save and hold harmless Grantor Parties and its Representatives from and against any and all Losses that relate to the presence or alleged presence of any Hazardous Substances in Grantor's Property or surrounding areas and that arise directly or indirectly out of or in any way relating to Grantee's Use of Grantor's Property or any failure of Grantee to notify all of Grantee's Representatives of the possible presence of Hazardous Substances or other substances or conditions that are toxic or otherwise hazardous in accordance with this Section 26(c). Grantee shall not, and shall cause its Representatives not to, engage in any activity that would disturb any naturally-occurring asbestos or other Hazardous Substance in Grantor's Property, except as expressly contemplated herein and only to the extent such activities are conducted in strict accordance with all Environmental Laws (as defined below) and the requirements set forth herein. Grantee's indemnity obligations under this Section 26(c) arising prior to the expiration or earlier termination of this Agreement shall survive any such expiration or earlier termination.

27. "AS-IS". Grantee acknowledges on behalf of itself and its Representatives that (i) Grantor's Property and the surrounding areas are being redeveloped in connection with its conversion from a former naval shipyard to civilian use, (ii) Grantor's Property and the surrounding areas may be subject to ongoing investigation, remediation and removal by the United States Navy (and potentially others) of Hazardous Substances, including radiological materials, from within, under or about Grantor's Property and other portions of the Hunters Point Shipyard and (iii) certain portions of the Hunters Point Shipyard are under construction and have not been completed, which may involve extensive construction and demolition of buildings, roadways, public facilities and improvements, all of which may produce noise, dust and inconvenience (including road barricades). Grantor Parties make no representation or warranty, express or implied, regarding Grantor's Property or the surrounding areas or any portions thereof, including related to the physical, environmental, title or legal condition of Grantor's Property or the surrounding areas. Grantee on behalf of itself and its Representatives acknowledges and agrees that it is not relying on any representation, warranty or covenant of Grantor Parties (or any of its Representatives) in connection with Grantee's Use of Grantor's Property and acknowledges and agrees that Grantee acknowledges on behalf of itself and its Representatives that it assumes the risk that adverse matters, including adverse physical and environmental conditions, may exist at Grantor's Property and the surrounding areas. Grantee acknowledges on behalf of itself and its Representatives that it accepts Grantor's Property strictly "AS-IS, WHERE-IS" and "WITH ALL FAULTS" and assumes all risk

thereof, including any risk of bodily-injury or death or damage to property of a third party arising directly or indirectly out of or in any way relating to Grantee's Use of Grantor's Property, except to the extent such bodily injury or death or damage to property of a third party results from fraud or willful misconduct of Grantor or any other Grantor Party. This Section 27 shall survive any expiration or termination of this Agreement.

28. No Dedication. Nothing in this Agreement or the Escrow Agreement shall be deemed to be a gift or dedication of (or an offer to dedicate) land or rights to the general public.

29. Escrow Agreement. Contemporaneously herewith, Grantor and Grantee have entered into Escrow Agreement in the form attached hereto as Exhibit C. Prior to commencing any Work (or, for the avoidance of doubt, any construction or entry on Grantor's Property), Grantee shall fund Two Hundred and Fifty Thousand Dollars (\$250,000) (the "**Escrow Funds**") into the Escrow Account (as defined in the Escrow Agreement) pursuant to the Escrow Agreement. Without limiting Grantee's obligations hereunder, subject to the procedures set forth in the Escrow Agreement, Grantor shall have the right to use any portion, or all of the Escrow Funds for any liability of Grantee under this Agreement.

30. Interpretation. Unless otherwise specified, whenever in this Agreement, including its Exhibits, reference is made to a Section or Exhibit, or any defined term, the reference shall be deemed to refer to the Section, Exhibit, Attachment or defined term of this Agreement. Any reference to a Section includes all subsections and subparagraphs of that Section. The use in this Agreement of the words "including", "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific statements, terms or matters, whether or not language of non-limitation, such as "without limitation" or "but not limited to", or words of similar import, is used with reference thereto. In the event of a conflict between the Recitals and the remaining provisions of this Agreement, the remaining provisions shall prevail.

31. Definitions.

(a) "**Environment**" means surface or subsurface soil or strata, surface waters and sediments, navigable waters, wetlands, groundwater, drinking water supply, ambient or indoor air, plants, animals, wildlife and natural resources.

(b) "**Environmental Laws**" includes all applicable present and future federal, State and local laws, statutes, rules, regulations, ordinances, standards, directives, and conditions of approval, all administrative or judicial orders or decrees and all permits, license approvals or other entitlements, or rules of common law pertaining to the Environment or to any Hazardous Substances, the protection of the environment, natural resources, wildlife, human health or safety, or employee or community right-to-know requirements related to the work being performed under this Agreement and to which the Leasehold Property is subject, each as has been and hereafter may be amended.

(c) **“Grantor Parties”** means Grantor and its affiliates, including (as of the Effective Date) HPS Development Co., LP, a Delaware limited partnership; CP/HPS Development Co. GP, LLC, a Delaware limited liability company; HPS1 Block 52, LLC, a Delaware limited liability company; HPS Vertical Development Co., LLC, a Delaware limited liability company; HPS Vertical Development Co.-B, LP, a Delaware limited partnership; CP/HPS Development Co.-C, LLC, a Delaware limited liability company; HPS Vertical Development Co.-D/E, LLC, a Delaware limited liability company; CPHP Development, LLC, a Delaware limited liability company; Lennar Homes of California, Inc., a California corporation; US Home Corporation, a Delaware corporation; LenFive, a Delaware limited liability company; and Lennar Corporation, a Delaware corporation, and each of such entities’ successors (including, following any applicable conveyance described above, The Condominiums At The Shipyards Owners Association, a California nonprofit company), affiliates, and assigns, representatives (excluding architects or engineers with whom Grantor Parties has contracted, as such), partners, stockholders, designees, officers, directors, agents, attorneys and employees, subsidiaries, partnerships, assigns, and their respective heirs, executors, administrators, members, servants, and joint ventures.

(d) **“Hazardous Substance”** means any material, waste, chemical, compound, substance, mixture, or byproduct that is identified, defined, designated, listed, restricted or otherwise regulated under Environmental Laws as a “hazardous constituent”, “hazardous substance”, “hazardous waste constituent”, “infectious waste”, “medical waste”, “biohazardous waste”, “extremely hazardous waste”, “pollutant”, “toxic pollutant”, or “contaminant”, or any other formulation intended to classify substances by reason of properties that are deleterious to the Environment, natural resources, wildlife or human health or safety, including ignitability, infectiousness, corrosiveness, radioactivity, carcinogenicity, toxicity and reproductive toxicity. Hazardous Substance includes any form of natural gas, petroleum products or any fraction thereof, asbestos, asbestos-containing materials, PCBs, PCB-containing materials, and any substance that, due to its characteristics or interaction with one or more other materials, wastes, chemicals, compounds, substances, mixtures or byproducts, damages or threatens to damage the Environment, natural resources, wildlife or human health or safety. The foregoing definition of Hazardous Substance(s) does not include commercially reasonable amounts of hazardous materials or substances used in the ordinary course of excavation and construction activities, provided they are used and stored in accordance with all applicable Laws.

(e) **“Laws”** means, whether currently in effect or hereafter enacted or rendered, (i) all laws, ordinances (including zoning ordinances and land use requirements), rules, regulations, regulatory approvals, restrictions, requirements and orders of any federal, state, county or municipal governments or any other public or quasi-public authority, and (ii) all declarations, covenants, restrictions, easements and agreements affecting Grantor’s Property.

(f) **“Losses”** means any and all claims, rights, demands, suits, actions or causes of action, injunctions, losses, damages, injuries, costs, obligations, liabilities, expenses, fines, penalties, debts and duties of every kind or nature, including reasonable

attorneys' fees and court costs, known or unknown, suspected or unsuspected, asserted or unasserted, fixed or contingent, at law, in contract or in equity.

(g) “**Release**” means any accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the air, land, surface water, groundwater or environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance).

(h) “**Representatives**” means a person’s affiliates and any and all officers, directors, partners, shareholders, visitors, licensees, contractors, employees, agents, invitees and/or representatives of such person or its affiliates.

(i) “**Use of Grantor’s Property**” and words of similar import means the entry upon, occupation, maintenance, alteration, repair, use and/or operation of Grantor’s Property under this Agreement by Grantee and/or its respective Representatives.

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IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Effective Date.

GRANTOR:

HPS1 BLOCK 52, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

GRANTEE:

**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: _____
Thurston Kaslofsky
Executive Director

Affordable Developer's Acknowledgement and Assumption

Pursuant to Sections 2 and 19 above, Affordable Developer hereby assumes all rights and obligations of Grantee under this Agreement.

Affordable Developer:

HPSY 52-54, LP,
a California limited partnership

By: Rose HPSY 52-54 GP, LLC,
a Delaware limited liability company,
its general partner

By: Rose GP Investors, LLC,
a Delaware limited liability company,
its managing member

By: Rose Company Holdings, LLC,
a Delaware limited liability company,
its managing member

By: _____

Name:

Title: Authorized Signatory

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
CITY AND COUNTY OF SAN FRANCISCO)

On _____, before me, _____, Notary Public,
personally appeared _____, who proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
CITY AND COUNTY OF SAN FRANCISCO)

On _____, before me, _____, Notary Public,
personally appeared _____, who proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

Exhibit A-1
Grantor's Property

ALL THAT CERTAIN REAL PROPERTY, SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOT A AS SHOWN ON THE FINAL MAP ENTITLED "FINAL MAP NO. 10058 HUNTERS POINT SHIPYARD, BLOCK 52" RECORDED IN THE OFFICE OF SAN FRANCISCO COUNTY RECORDER ON MARCH 11, 2020, IN BOOK 1 OF MAPS, AT PAGES 8 TO 10 OF SAID COUNTY.

Assessor's Parcel Numbers: Block 4591C, Lot 672

Exhibit A-2
OCII's Property

ALL THAT CERTAIN REAL PROPERTY, SITUATE IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

LOT 1 AS SHOWN ON THE FINAL MAP ENTITLED "FINAL MAP NO. 10058 HUNTERS POINT SHIPYARD, BLOCK 52" RECORDED IN THE OFFICE OF SAN FRANCISCO COUNTY RECORDER ON MARCH 11, 2020, IN BOOK 1 OF MAPS, AT PAGES 8 TO 10 OF SAID COUNTY.

Assessor's Parcel Numbers: Block 4591C, Lot 673

Exhibit B

Insurance Requirements

Grantee and Affordable Developer shall, and shall require its subcontractors, at a minimum, to carry and maintain the following insurance throughout the Agreement, or such longer time as stated below, at its sole cost and expense.

(A) Workers' Compensation Insurance

- (i) **Minimum Scope and Limits.** Workers' Compensation Insurance with employer's liability insurance with limits of the following:

Coverage A. Statutory Benefits - State of
Hire Coverage B. Employers' Liability
of not less than:

Bodily Injury by accident	\$1,000,000 each accident
Bodily Injury by disease	\$1,000,000 policy limit
Bodily Injury by disease	\$1,000,000 each employee

If there is an onsite exposure of injury to contractor's or its subcontractors' employees under the U.S. Longshore and Harbor Workers' Compensation Act, the Jones Act, or under laws, regulations or statutes applicable to maritime employees, coverage is required for such injuries or claims.

- (ii) **Waiver of Subrogation.** Worker's Compensation Insurance must contain a waiver of subrogation endorsement providing that each insurer waives any rights of recovery by subrogation, or otherwise, against The Condominiums at the Shipyard Owners Association and Grantor Parties.

(B) Automobile Liability

- (i) **Minimum Limits.** Commercial Automobile Liability insurance to include coverage equivalent in scope to ISO form CA 00 01 shall not be less than:

For contractors, limits shall not be less than \$5,000,000 combined single limit, each accident covering all owned, hired and non-owned autos, which insurance can be met by a combination of primary and excess insurance, provided the requirements below are met.

For subcontractors, limits shall not be less than \$2,000,000 combined single limit, each accident covering all owned, hired and non-owned autos, which insurance can be met by a combination of primary and excess insurance, provided the requirements below are met. If subcontractor(s) does not have any company-owned vehicles, a copy of the declaration page

from the personal auto liability policy of the principal(s) of subcontractor will be acceptable.

(ii) Minimum Scope

1. Hired and non-owned auto coverage of contractor and each subcontractor must be evidenced through a general liability policy or auto policy.
2. The Condominiums at the Shipyard Owners Association and Grantor Parties shall be named additional insured under the automobile insurance policy.
3. If work involves transportation of hazardous or regulated substances, wastes, or materials, broadened pollution liability coverage as provided by ISO endorsement form CA 99 48 or its equivalent is required.
4. If required by law, Motor Carrier Act Endorsement-hazardous materials clean-up (MCS-90) with endorsement specifically limiting the reimbursement provisions of the MCS-90 to the Named Insured is required.

(iii) Minimum Requirements

Waiver of Subrogation. Automobile liability insurance must contain a waiver of subrogation endorsement providing that each insurer waives any rights of recovery by subrogation, or otherwise, against The Condominiums at the Shipyard Owners Association and Grantor Parties.

(C) Property Insurance

(i) Coverages. Contractor and its subcontractors are required to maintain Property Insurance coverage for physical damage (including loss of use therefrom) of their property, supplies and equipment (whether or not owned by them). The policy should be maintained for the duration of the Agreement, or in the case of subcontractors, their subcontracts, and shall continue for so long as such property, supplies or equipment is at Grantor's Property site or used in connection with the Work.

(ii) Required Waivers. Contractor and its subcontractors shall have no recourse, and waive all rights of recovery, against The Condominiums at the Shipyard Owners Association and Grantor Parties (and any persons or entities claiming through them) for any physical damage to any property, supplies or equipment of contractor or its subcontractors. Each policy shall contain a provision requiring the insurance carriers to waive their rights of subrogation against The Condominiums at the Shipyard Owners

Association and Grantor Parties (and all persons and entities claiming through them), and against any other contractors or subcontractors for any monies paid under the said insurance policies. Contractor and its subcontractors shall cause their insurance carriers to consent to such waiver of subrogation.

(D) Commercial General Liability Insurance (“CGL”)

(i) Minimum Limits. CGL insurance (equivalent to ISO form CG 0001)

For Contractor, limits shall not be less than:

Each Occurrence Limit
\$25,000,000
Personal Advertising Injury Limit
\$25,000,000
Products Completed Operations Aggregate
\$25,000,000
General Aggregate Limit
\$25,000,000

For Subcontractors, limits shall not be less than:

Each Occurrence Limit
\$5,000,000
Personal Advertising Injury Limit
\$5,000,000
Products Completed Operations Aggregate
\$5,000,000
General Aggregate Limit
\$5,000,000

(ii) Minimum Scope. The policy must include the following provisions:

1. Standard ISO CG0001 10 01 Contractual Liability coverage, or its equivalent.
2. Separation of Insureds clause.
3. Broad Form Property Damage coverage, including completed operations, or its equivalent.
4. An Additional Insured Endorsement equivalent to ISO forms CG 2010 04 13 and CG 2037 04 13) naming as additional

insured: The Condominiums at the Shipyard Owners Association and the Grantor Parties.

5. A Waiver of Subrogation, to apply in favor of The Condominiums at the Shipyard Owners Association and the Grantor Parties.
6. Coverage must be on an “occurrence” form. “Claims Made” and “Modified Occurrence” forms are not acceptable.
7. Such coverage as is afforded by this policy for the benefit of the additional insured(s) is primary and any other coverage maintained by such additional insured(s) shall be non-contributing with the coverage provided under the policy(ies).
8. Subcontractor agrees to maintain this coverage for the greater of ten (10) years following completion of its work or the longest applicable statute of limitations and the statute of repose during which any action may be filed against the primary insured or additional insured.
9. The CGL policy may not be subject to a self-insured retention (“**SIR**”) or deductible that exceeds \$25,000. Any and all SIRs must be susceptible of being satisfied under the CGL policy through payments made by additional insured, co-insurers, and/or insured other than the First Named Insured. The policy must also state that the Allocated Loss Adjustment Expenses will satisfy the SIR or deductible.
10. General Liability insurance must contain a waiver of subrogation endorsement providing that each insurer waives any rights of recovery by subrogation, or otherwise, against The Condominiums at the Shipyard Owners Association and the Grantor Parties.

(E) Contractor’s Pollution Liability (CPL) (if applicable and available)

Grantee, Affordable Developer, its contractor, subcontractor and/or sub-contractors must maintain CPL coverage with the following minimum requirements. Such coverage must be maintained for a period of at least five (5) years after completion of the work.

Each Claim - \$5,000,000

Annual Aggregate - \$5,000,000

The policy of insurance shall contain or be endorsed to include the following:

1. Pollution coverage shall include asbestos and lead abatement (unless covered under an Asbestos and Lead Abatement Liability policy) and shall cover all phases of the remediation process. "Covered Operations" designated by the CPL policy must include all work performed under this contract.
2. An Additional Insured Endorsement containing the following provision:

"It is understood and agreed that coverage afforded by this policy shall also apply to The Condominiums at the Shipyard Owners Association and the Grantor Parties as additional insureds, but only with respect to legal liability or claims caused by, arising out of, or resulting from the work and/or acts of the named insured or of others performed on behalf of the named insured."

3. The CPL shall include a primary endorsement stating: "Such coverage as is afforded by this policy for the benefit of the additional insureds is primary and any other coverage maintained by such additional insured(s) shall be non-contributing with the coverage provided under this policy."
4. A non-owned disposal site endorsement must be included.
5. The policy may not be subject to a SIR or deductible that exceeds \$100,000. Any and all SIRs may be satisfied under the CGL policy through payments made by additional insured, and/or insureds other than the First Named Insured. The policy must also state that the Allocated Loss Adjustment Expenses will satisfy the SIR or deductible.
6. If coverage is reduced, canceled or non-renewed, and not replaced with another claims made or occurrence policy form with a retroactive date before the Effective Date of the Agreement or subcontract of the pollution contractor or the date such Work commences, whichever is later, the pollution contractor must purchase an extended period coverage for a minimum of five (5) years after completion of such work.

Additional Requirements for Pollution Remediation Contractors and all Subcontractors and Sub-subcontractors

Contractor, subcontractor and sub-subcontractor shall procure and maintain, at its sole cost and expense, the following additional insurance coverages.

A. Hazardous Waste Material Transporting Insurance.

Combined Single Limit/Each Occurrence shall be \$10,000,000. If transporting hazardous waste material, Grantee, Affordable Developer, contractor, subcontractor or sub-subcontractor shall procure and maintain this insurance, and provide proof of Hazardous Waste Hauler licensing from the applicable state Department of Health Services, or equivalent agency, including the hauler's identification number. Coverage must be on Insurance Services Office (ISO) form CA00 01 (0692) or its equivalent, and include all owned, hired and non-owned automobiles. Coverage must include pollution and clean-up while being transported or towed or handled for movement into, onto or from the covered automobiles. The Condominiums at the Shipyard Owners Association and Grantor Parties shall be added as an additional insureds; the policy shall be endorsed to specifically limit the reimbursement provision of the MCS-90 to the named insured. Coverage shall include transportation coverage for the hauling of waste from Grantor's Property to the final disposal location, as evidenced by the Subcontractor/vendor or waste hauler; and include non-owned disposal site endorsement with scheduled landfill included under the Commercial Automobile Policy.

1. Grantee, Affordable Developer, Contractor, subcontractor or sub-subcontractor must comply with all applicable D.O.T. and E.P.A. requirements.
2. The Hazardous Waste Material Transporter must submit to contractor a list of transfer and disposal sites to be used, along with their Environmental Protection Agency/California Department of Health Services license numbers, waste generation identification numbers, permits evidencing ability to accept the type of waste being delivered, and limits of financial responsibility, including any required bonds.

B. Asbestos and Lead Abatement Errors and Omissions Insurance: The limits of liability shall not be less than \$5,000,000 per claim. If the Grantee, Affordable Developer, contractor, subcontractor or sub-subcontractor performs asbestos and/or lead abatement consulting services, Grantee, Affordable Developer, contractor, subcontractor or sub-subcontractor shall procure and maintain errors and omissions insurance covering such consulting services. Grantee, Affordable Developer, contractor, subcontractor or sub-subcontractor shall also cause any asbestos and lead consultants subcontracted to comply with this Section E of Exhibit B.

(F) General Insurance Requirements

- (i) All insurance required under this Exhibit B shall be obtained at the sole cost and expense of Grantee, Affordable Developer, contractor and/or its subcontractors, and shall be maintained with

insurance carriers properly authorized to do business in the State of California having a general rating of not less than an "A(-)" and financial rating of not less than at least an "VIII" as rated in the most recent edition of A.M. Best's Insurance Reports. Grantee and Affordable Developer agrees to provide to The Condominiums at the Shipyard Owners Association and Grantor a full certified copy of any policy maintained by Grantee or Affordable Developer.

- (ii) All insurance policies must provide per the terms and conditions of the insurance policies a thirty (30) days' written notice to The Condominiums at the Shipyard Owners Association and Grantor of any cancellation, non-renewal or modification of any such policies and a ten (10) days' notice of cancellation for non-payment of premium. Grantee, Affordable Developer and contractor shall and shall require all of its subcontractors to provide The Condominiums at the Shipyard Owners Association and Grantor with a copy of any notice of reduction or cancellation that they receive within five (5) business days of receipt of such notice. Grantee, Affordable Developer, contractor and each subcontractor shall supply The Condominiums at the Shipyard Owners Association and Grantor with updated replacement certificates of insurance and/or copies of insurance policies that evidence the continuation of all of the terms and conditions of the coverage, limits of protection, and scope of coverage as required by this Exhibit B.
- (iii) No act or omission of any insurance agent, broker or insurance company representative shall relieve Grantee, Affordable Developer or any contractor of its obligations under this Exhibit B.
- (iv) Grantee, Affordable Developer, contractor and its subcontractors shall not take any actions that would suspend or invalidate any of the required coverages during the time period such coverages are required to be in effect.
- (v) Each insurance policy shall provide that any failure to comply with reporting provisions of the policies by First Named Insureds shall not affect coverage provided to The Condominiums at the Shipyard Owners Association and Grantor Parties and all additional insureds.
- (vi) The insurance limits herein are minimum levels of insurance only and nothing herein should be construed to limit the actual limits of insurance obtained by Contractor or its subcontractors. Should Grantee, Affordable Developer, contractor or its subcontractors obtain limits and coverages in excess of the minimum insurance requirements contained herein, then the limits in the policy shall apply to the Work.

(vii) The Condominiums at the Shipyard Owners Association and Grantor reserves the right, in its sole discretion, to require higher limits of liability coverage if, in their opinion, operations by or on behalf of Grantee, Affordable Developer or contractor and its subcontractors create higher than normal hazards, and, to require additional parties be named as additional insureds, and included in any required Waiver of Subrogation, Notice of Cancellation, or other endorsement.

(viii) Nothing in this Exhibit B shall reduce Grantee's, Affordable Developer's or Contractor's obligations under the Agreement. Grantee's, Affordable Developers and Contractors (or subcontractors') procurement and/or maintenance of insurance shall not be construed as a limitation of liability or as full performance of the indemnification and hold harmless provisions of the Agreement or subcontract.

(G) Certificates of Insurance Grantee, Affordable Developer, contractor and its subcontractors shall not commence any services or Work on Grantor's Property including bringing any equipment or personnel onto Grantor's Property, until such time as The Condominiums at the Shipyard Owners Association has received, reviewed and approved evidence satisfactory to Grantor that all mandatory insurance as specified in this Exhibit B has been obtained by such parties and that such insurance is in form and substance satisfactory to The Condominiums at the Shipyard Owners Association. Prior to the commencement of the Work, Grantee, Affordable Developer, contractor and each subcontractor are required to provide certificates of insurance with the required endorsements to The Condominiums at the Shipyard Owners Association as evidence that policies specified in this Exhibit B are in full force and effect. Acceptance and/or approval by The Condominiums at the Shipyard Owners Association of the insurance herein shall not be construed to waive or relieve Grantee, Affordable Developer, contractor or subcontractors from any obligations, responsibilities or liabilities under the Agreement or subcontract.

(H) Waiver of Right to Recovery Grantee, Affordable Developer, contractor and its subcontractors hereby waive all rights of recovery by subrogation, because of deductible or self-insured retention clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage, and for any other reasons, against each other, The Condominiums at the Shipyard Owners Association and Grantor Parties.

Exhibit C
Escrow Agreement

ESCROW AGREEMENT

This ESCROW AGREEMENT (this “**Agreement**”), is entered into as of _____, 2023 (the “**Effective Date**”), by and among HPS1 Block 52, LLC, a Delaware limited liability company (“**Grantor**”), Successor Agency to the Redevelopment Agency of the City and County of San Francisco, a public entity organized and existing under the laws of the State of California (“**Grantee**”), and Lennar Title, Inc., a California corporation (“**Escrow Holder**”).

WITNESSETH:

A. Contemporaneously herewith, Grantor and Grantee have executed that certain Shoring, Underpinning and Tieback Easement Agreement (as may be amended from time to time, the “**Easement and Shoring Agreement**”), a fully executed original copy of which has been provided to Escrow Holder together with this Agreement. All initially capitalized terms not otherwise defined in this Agreement shall have the meanings ascribed to such terms in the Easement and Shoring Agreement.

B. To secure payment and performance of Grantee’s obligations under the Easement and Shoring Agreement, Grantee has agreed to fund into an escrow account held by Escrow Holder the sum of Two Hundred and Fifty Thousand Dollars (\$250,000) (the “**Escrow Funds**”).

C. Grantor and Grantee desire to appoint Escrow Holder as the escrow holder under this Agreement, and Escrow Holder is willing to act as escrow holder hereunder.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties agree as follows:

1. **APPOINTMENT OF ESCROW HOLDER**

Grantor and Grantee hereby appoint Escrow Holder to act as escrow holder hereunder, and Escrow Holder hereby agrees to serve as escrow holder hereunder and to perform its other obligations hereunder, all upon the terms and conditions set forth herein.

2. **ESCROW**

2.1 Escrow. On or before April 28, 2023 (or other date confirmed to Escrow Holder in writing by Grantor and Grantee), Grantee shall deposit (or shall cause to be deposited) with Escrow Holder the Escrow Funds. Upon receipt of the Escrow Funds, Escrow Holder shall deposit the Escrow Funds into one or more government insured interest bearing accounts reasonably satisfactory to Grantor and Grantee (collectively, the “**Escrow Account**”). All interest earned on the Escrow Funds while in the Escrow Account shall be part of the Escrow Funds for all purposes hereunder. Escrow Holder shall not commingle the Escrow Funds with any funds of Escrow Holder or others, and shall within two (2) days of deposit provide Grantor and Grantee with written confirmation of the investments made. The Escrow Account shall have no penalty for early withdrawal. Escrow Holder shall hold and disburse the Escrow Funds only as provided under this Agreement. Grantee shall be responsible for payment of all income taxes associated with interest earned on the Escrow Funds while in the Escrow Account.

2.2 Use of Escrow Funds for Easement and Shoring Agreement Claims and Costs.
Grantor and Grantee wish to provide for a source of funds for the payment of amounts due to Grantor and unpaid under the Easement and Shoring Agreement.

If at any time Grantee has not paid to Grantor any amount due under the Easement and Shoring Agreement within fifteen (15) days after the due date therefor, then Grantor may notify Grantee and Escrow Holder in writing that all or any portion of such amount shall be paid from the Escrow Account (each, a “**Disbursement Request**”). Each Disbursement Request shall set forth the amount due, the provision of the Escrow and Shoring Agreement under which such amount is due, contain such additional supporting documentation with respect thereto as may be reasonably appropriate to verify the amount due, and set forth the amount requested from the Escrow Account in satisfaction (partial or full) of the amount due (the “**Claim Amount**”). Grantee shall have ten (10) business days after receipt of the Disbursement Request to object to the disbursement of the Escrow Funds requested by Grantor therein by delivering a written notice of objection (the “**Objection Notice**”) to Grantor and Escrow Holder, which Objection Notice shall state Grantee’s objection and the reasons therefor and shall contain appropriate supporting documentation with respect thereto. If Grantee timely delivers the Objection Notice, then Section 2.3 shall apply with respect to Escrow Holder’s disbursement of the Escrow Funds with respect to such Disbursement Request. If Grantee does not deliver the Objection Notice prior to the expiration of such ten (10) business day period, then (i) Grantee shall be deemed to have approved of the payment to Grantor of the Claim Amount contained in the Disbursement Request, and (ii) Escrow Holder shall disburse such Claim Amount to Grantor within three (3) business days following the expiration of the ten (10) business day period. Grantor shall have the right to deliver multiple Disbursement Requests and receive multiple disbursements from the Escrow Account.

2.2.1 Notwithstanding the foregoing, if Grantor and Grantee jointly submit a Disbursement Request with regard to all or any portion of the Escrow Funds, Escrow Holder shall disburse the requested amounts from the Escrow Account in accordance with the terms of the joint Disbursement Request.

2.2.2 Subject to Section 2.2, on the date that is five (5) business days following the Escrow Funds Release Date (as defined below), Escrow Holder shall disburse the entire remaining Escrow Funds held in the Escrow Account to Grantee in accordance with instructions provided by Grantee. However, if on or prior to the Escrow Funds Release Date Escrow Holder has received one or more Disbursement Requests from Grantor but has not yet released the Claim Amount(s) set forth therein to Grantor, then Escrow Holder shall retain all Escrow Funds in the Escrow Account until each Claim Amount has been finally determined and paid (as applicable) under this Agreement, after which any remaining funds in the Escrow Account shall be disbursed to Grantor. As used in this Agreement, “**Escrow Funds Release Date**” means the date that Grantee provides written notice to Grantor that the Project has been completed (which notice shall include a copy of the certificate of occupancy for the Project from the City and County of San Francisco).

2.3 Objection Notice Procedure. If Grantee timely provides an Objection Notice to Grantor and Escrow Holder under Section 2.2, the following shall apply:

- 2.3.1 During the period commencing on the date of Grantor's receipt of a timely delivered Objection Notice and continuing through the thirtieth (30th) day thereafter, Grantee and Grantor shall in good faith exchange relevant information regarding the matters at issue in the applicable Disbursement Request and Objection Notice. If during such thirty (30) day period any portion of the Claim Amount objected to in the Objection Notice is not in dispute, Grantor and Grantee shall promptly deliver a joint Disbursement Request to Escrow Holder: (i) identifying the portion that is not in dispute (the "**Approved Amounts**"); and (ii) confirming the portion that remains in dispute (the "**Disputed Amounts**").
- 2.3.2 If Grantor and Grantee are not able to resolve Grantee's objection to the Disbursement Request set forth in the Objection Notice within the thirty (30) day period described in Section 2.3.1, either Grantee or Grantor may commence an action (which action shall be limited to the issue of resolving Grantee's objection to the Disbursement Request set forth in the Objection Notice) in Superior Court of the State of California situated in the County of San Francisco or of the United States District Court situated in such County (the "**Court**").
- 2.3.3 Escrow Holder is authorized and instructed to comply with any final, unappealable order of the Court, and shall not be liable to either Grantee or Grantor by reason of such compliance.

2.4 Escrow Holder Fees. Grantee shall pay all of Escrow Holder's fees for performance of its obligations under this Agreement.

2.5 Termination. This Agreement shall automatically terminate following the Escrow Funds Release Date Escrow and Escrow Holder's subsequent disbursement of all of the Escrow Funds in accordance with the terms and conditions of this Agreement.

2.6 Top-Off. If at any time the balance of the Escrow Account drops below Two Hundred and Fifty Thousand Dollars (\$250,000), Grantee shall promptly (and in any event within ten (10) business days) deposit, pursuant to Escrow Holder's instructions, the amount of additional funds required in order to bring the total amount in the Escrow Account to Two Hundred and Fifty Thousand Dollars (\$250,000).

3. **LIABILITY OF ESCROW HOLDER**

3.1 Liability of Escrow Holder. Escrow Holder shall have no liability with respect to this Agreement except to the extent caused, contributed to or exacerbated by Escrow Holder's fraud, willful misconduct or gross negligence. Escrow Holder's sole responsibility shall be for the safekeeping and disbursement of the Escrow Funds in accordance with the terms of this Agreement. Escrow Holder shall have no implied duties or obligations and shall not be charged with knowledge or notice of any fact or circumstance not specifically set forth herein. Escrow Holder may rely upon any instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, that Escrow Holder in

good faith believes to be genuine, to have been signed or presented by the person or entities purporting to sign the same and to conform to the provisions of this Agreement. In no event shall Escrow Holder be liable hereunder for incidental, indirect, special, consequential or punitive damages. Escrow Holder shall not be obligated to take any legal action or commence any proceeding in connection with the Escrow Funds, any account in which the Escrow Funds is deposited, this Agreement or the Easement and Shoring Agreement, or to appear in, prosecute or defend any such legal action or proceeding.

3.2 Authorization of Escrow Holder. Escrow Holder is authorized and instructed to comply with orders issued or process entered by any court with respect to the Escrow Funds, without determination by Escrow Holder of such court's jurisdiction in the matter. If any portion of the Escrow Funds is at any time attached, garnished or levied upon under any court order, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such property or any part thereof, then and in any such event, Escrow Holder is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel selected by it is binding upon it without the need for appeal or other action; and if Escrow Holder complies with any such order, writ, judgment or decree, it shall not be liable to Grantor or Grantee or to any other person or entity by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

3.3 Indemnification of Escrow Holder. From and at all times after the date of this Agreement, Grantee shall, to the fullest extent permitted by law and to the extent provided herein, indemnify and hold harmless Escrow Holder and each director, officer, employee, attorney, agent and affiliate of Escrow Holder (collectively, the "**Indemnified Parties**") against any and all actions, claims (whether or not valid), losses, damages, liabilities, costs and expenses of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees, costs and expenses) incurred by or asserted against any of the Indemnified Parties from and after the date hereof, whether direct, indirect or consequential, as a result of or arising from or in any way relating to any claim, demand, suit, action or proceeding (including any inquiry or investigation) by any person, including, without limitation, Grantee and Grantor, whether threatened or initiated, asserting a claim for any legal or equitable remedy against any person under any statute or regulation or under any common law or equitable cause or otherwise, arising from or in connection with the negotiation, preparation, execution, performance or failure of performance of this Agreement, whether or not any such Indemnified Party is a party to any such action, proceeding, suit or the target of any such inquiry or investigation; provided, however, that no Indemnified Party shall have the right to be indemnified hereunder for any liability to the extent having resulted from the fraud, gross negligence or willful misconduct of any Indemnified Party or breach of this Agreement by Escrow Holder. The obligations of Grantee under this Section 3.3 shall survive any termination of this Agreement.

4. MISCELLANEOUS.

4.1 Assignment; Successors and Assigns; Third Parties. Except as provided herein, neither Escrow Holder, Grantor nor Grantee shall convey, assign or otherwise transfer any of its rights or obligations under this Agreement without the express written consent of the other parties.

Notwithstanding the foregoing, if either Grantor or Grantee assigns the Easement and Shoring Agreement as permitted thereunder, Grantor or Grantee, whichever is applicable, shall contemporaneously assign this Agreement to the assignee of the Easement and Shoring Agreement to the extent of such assignment without the requirement of obtaining consent hereunder from any other party. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement is not intended to benefit, and shall not run to the benefit of or be enforceable by, any other person or entity other than the parties and their successors and permitted assigns.

4.2 Entire Agreement. This Agreement and the Easement and Shoring Agreement contain all of the representations and warranties and the entire agreement between and among the parties with respect to the subject matter of this Agreement, and any prior correspondence, memoranda, agreements, confidentiality agreements, letters of intent, warranties or representations between and among the parties relating to such subject matter are superseded in total by this Agreement. Prior drafts of this Agreement and changes from those drafts to the executed version of this Agreement shall not be introduced as evidence in any litigation or other dispute resolution proceeding by the parties or any other person, and no court or other body shall consider such drafts or changes in interpreting this Agreement. The provisions of this Agreement are severable and the invalidity of one or more of the provisions shall not affect the validity or enforceability of any other provisions. Modifications, waivers and consents regarding this Agreement shall only be binding if in writing and signed by the party against whom such modification, waiver or consent is sought to be enforced. Notwithstanding anything to the contrary contained herein, this Agreement shall not narrow, limit or otherwise reduce in any way the obligations of Grantee under the Easement and Shoring Agreement except as expressly provided herein. In the event of any direct conflict of the terms of this Agreement with the terms of the Easement and Shoring Agreement, the terms of the Easement and Shoring Agreement shall control and prevail, except that Section 2 above shall prevail over any terms of the Easement and Shoring Agreement.

4.3 Notices. Any notice or consent required to be given by or on behalf of any party hereto to any other party shall be in writing and sent by (i) registered or certified mail, return receipt requested or (ii) delivered personally, including by air carrier or overnight mail service, addressed at the addresses set forth below, or at such other address as any party may designate to the others in a writing properly delivered and addressed as aforesaid. Each party hereto shall also deliver a copy of any notice delivered hereunder to the mortgagee of the other party; provided only that the recipient party or its mortgagee shall have previously notified such party of its mailing address.

If to Grantee:

Prior to the Ground Lease Date (as defined in the Easement and Shoring Agreement):

Successor Agency to the Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, California 94103
Attention: Executive Director

With a copy to:

Successor Agency to the Redevelopment Agency of the
City and County of San Francisco
One South Van Ness Avenue, Fifth Floor
San Francisco, California 94103
Attention: Legal Division

Following the Ground Lease Date:

HPSY 52-54, LP
c/o Jonathan Rose Companies
551 Fifth Avenue, 23rd Floor
New York, NY 10176
Attention: Yusef Freeman

With a copy to:

Klein Hornig LLP
101 Arch St., Suite 1101
Boston, Massachusetts 02110
Attention: Daniel M. Rosen

If to Grantor:

HPS1 Block 52, LLC
2603 Camino Ramon, Suite 525
San Ramon, California 94583
Attention: Michael Hochstoeger

With a copy to:

Paul Hastings LLP
101 California Street, 48th Floor
San Francisco, California 94111
Attention: David A. Hamsher

If to Escrow Holder:

Lennar Title, Inc.
[ESCROW HOLDER NOTICE INFORMATION TO BE INSERTED]

4.4 Governing Law. This Agreement and the rights of the parties hereunder shall be governed by and interpreted and construed in accordance with the laws of the State of California,

without regard to any of its conflict of laws principles or provisions that would apply the laws of any other jurisdiction. This Agreement was negotiated between and among the parties and shall be construed without regard to any presumption or other rule requiring construction against the party causing the agreement to be drafted. With respect to any actions arising under this Agreement, each party, on behalf of itself and its successors and assigns, hereby mutually waives the right to request a trial by jury in any action or proceeding arising out of this Agreement or otherwise involving, arising out of or related to the work contemplated by this Agreement. Subject to the terms of Section 2, any action or proceeding under or relating to this Agreement may be brought in any state or federal court sitting in the City and County of San Francisco, California, and in no other court. Each party submits to the jurisdiction of each of those courts in any such action or proceeding and agrees not to seek to change the venue of any such action or proceeding for any reason, provided that nothing in this Section 4.4 shall prevent a party from removing an action or proceeding from a state court sitting in such county to a federal court sitting in such county.

4.5 Counterparts. This Agreement may be executed in one or more counterparts, by original or facsimile signature, and when executed by all parties shall constitute one and the same instrument.

4.6 Attorneys' Fees. In any action or proceeding to enforce the terms and provisions of this Agreement, the prevailing party (as determined by the judge who presides over the action or proceeding) will be entitled to recover from the non-prevailing party all reasonable costs and expenses incurred by the prevailing party in connection with the action or proceeding (including reasonable attorneys' and paralegals' fees and costs incurred before and at any trial and with regard to any appellate proceedings), as well as all other relief that is granted or awarded in such action or proceeding, and the non-prevailing party shall pay all costs of any trial (including court costs).

4.7 Payment of Certain Amounts Under this Agreement. For the avoidance of doubt, any amounts required to be paid by Grantee hereunder to Escrow Holder (or the Indemnified Parties) shall not be paid from the Escrow Account or otherwise utilizing the Escrow Funds and shall instead be separately paid by Grantee from sources other than the Escrow Account and the Escrow Funds. Furthermore, unless otherwise approved by Grantor in its sole and absolute discretion, any amounts required to be paid by Grantee to Grantor under Section 4.6 in the event that Grantor is the prevailing party as described in Section 4.6 shall not be paid from the Escrow Account or otherwise utilizing the Escrow Funds and shall instead be separately paid by Grantee from sources other than the Escrow Account and the Escrow Funds.

4.8 Expenses. Except as otherwise provided for herein, each party shall be responsible for its own costs and expenses with respect to matters involving this Agreement.

4.9 Interpretation. Unless otherwise specified, whenever in this Agreement, including its Exhibits, reference is made to a Section or Exhibit, or any defined term, the reference shall be deemed to refer to the Section, Exhibit, Attachment or defined term of this Agreement. Any reference to a Section includes all subsections and subparagraphs of that Section. The use in this Agreement of the words "including", "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific statements, terms or matters, whether or not language of non-limitation, such as

“without limitation” or “but not limited to”, or words of similar import, is used with reference thereto. In the event of a conflict between the Recitals and the remaining provisions of this Agreement, the remaining provisions shall prevail.

4.10 Amendments. This Agreement shall not be modified or amended except by an instrument duly executed by Grantee, Grantor and Escrow Holder.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Effective Date.

GRANTOR:

HPS1 BLOCK 52, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

GRANTEE:

**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: _____
Name: Thurston Kaslofsky
Title: Executive Director

ESROW HOLDER:

LENNAR TITLE, INC.,
a California corporation

By: _____
Name: _____
Title: _____

[Signature Page to Escrow Agreement]

Citywide Affordable Housing Loan Committee
 San Francisco Mayor's Office of Housing and Community
 Development
 Department of Homelessness and Supportive Housing
 Office of Community Investment and Infrastructure
 Controller's Office of Public Finance

Hunters Point Shipyard Phase 1
Blocks 52 and 54
Up to \$2,638,088 in Additional Permanent
Funding

Evaluation of Request for:	Additional Funds including creation of a separate tranche to fund site prep work under a Site Development Agreement
Loan Committee Date:	March 17, 2023
Prepared By:	Jasmine Kuo, Development Specialist
MOHCD Asset Manager:	Scott Madden
Sources and Amounts of New Funds Recommended:	\$2,638,088 OCII Bond Proceeds
Sources and Amounts of Previous City Funds Committed:	\$59,200,732 OCII Bond Proceeds
Total Funding Amount:	\$61,838,820
OCII Permanent Loan:	\$57,000,430
Site Development Agreement:	\$4,838,390
ROPS LINE	ROPS 22/23 Line 395
NOFA/PROGRAM/RFP:	OCII Bond funds/RFP and RFQ
Applicant/Sponsor(s) Name:	The Jonathan Rose Companies/Bayview Hunters Point Multipurpose Senior Services Rose Community Development Company, LLC

EXECUTIVE SUMMARY

Sponsor Information:

Project Name:	Hunters Point Shipyard Blocks 52 & 54 Affordable Family Housing	Sponsor(s):	The Jonathan Rose Companies/Bayview Hunters Point Multipurpose Senior Services Rose Community Development Company, LLC
Project Address (w/ cross St):	151 and 351 Friedell Street (x Hudson Ave., Kirkwood Ave.) 94124	Ultimate Borrower Entity:	HPSY 52-54, LP

Project Summary:

The Jonathan Rose Companies ("JRC") and co-developer Bayview Hunters Point Multipurpose Senior Services ("BHPMSS" or, along with JRC, "Developer") request a commitment for additional permanent gap funding in the amount of up to \$2,638,088 for Hunters Point Shipyard ("HPS") Blocks 52 & 54, a 100% affordable family housing project located at 351 Friedell St. and 151 Friedell St., respectively ("Blocks 52/54" or the "Project"). The Project will include 112 one- to five-bedroom units serving households between 30% and 50% of San Francisco Area Median Income ("AMI") on two blocks in the Hunters Point Shipyard. The Project does not include any operating or rental subsidies.

On August 17, 2021, OCII Commission approved a permanent gap loan of \$59,200,732, to the Developer. With this current request, the Developer seeks a commitment for additional permanent gap funding from OCII due to delays and costs from multiple unsuccessful LIHTC and tax-exempt bond applications to the State as well as cost escalation from interest rate and construction cost increases during the delays. This request for additional funding will require OCII Commission approval as well.

After the third bond application to the State, the Developer restructured the Project's financing to be more competitive by removing approximately \$4.8M in site preparation work from the budget which allowed the Project to be successful in obtaining a bond allocation on November 30, 2022. To complete the site preparation work, OCII will enter into a Site Development Agreement ("Agreement") with Rose Community Development Company, LLC, an affiliated entity of JRC ("Site Developer"). Under the terms of the Agreement, OCII will provide funding to the Site Developer for site preparation work which will be carried out by the Site Developer. A portion of the OCII funds committed to this Project will be disbursed to the Site Developer pursuant to the Agreement, and the balance will be a soft debt loan from OCII to the Borrower.

This request increases total funding for the Project to \$61,838,820 to be divided into the following:

- \$57,000,430 OCII Permanent Loan
- \$4,838,390 Site Development Agreement

This Project represents older OCII commitments as it is included in the Hunters Point Shipyard Phase 1 Disposition and Development Agreement which limits the affordable housing units to a maximum of 50% AMI. Additionally, the Project is comprised of 2 smaller buildings, which were developed as one project to minimize soft costs, however the hard costs still reflect the costs of building 2 separate buildings. These limiting factors combined with the need to separate the site preparation work in order to be competitive for tax-exempt bonds, and the delays from waiting for a competitive bond allocation, has resulted in high development costs for this Project.

The final financial plan (“FFP”), including a final total funding amount that may be reduced based on the final sources and uses for this Project, will be approved by the OCII Executive Director and MOHCD Director closer to the start of construction of the Project. The only funds available to the Developer prior to the approval and execution of the ground lease and close of construction financing will be the remaining predevelopment funds from the Predevelopment Loan. The Project is in line with the affordable housing goals of the HPS Redevelopment Plan and the City’s Consolidated Plan. Construction on the Project will begin in May 2023 with a target completion by April 2025.

Project Description:

Construction Type:	Type V wood-frame construction over a Type I concrete podium	Project Type:	New Construction
Number of Stories:	Both Blocks: 5 (4 over podium)	Lot Size (acres and sf):	Block 52: 25,908 sf/.59 acres Block 54: 19,722 sf/.45 acres
Number of Units:	112 units total (Block 52: 67 units Block 54: 45 units)	Architect:	Mithun Solomon
Total Residential Area:	102,843 sf total	General Contractor:	Baines Nibbi JV
Total Commercial Area:	NA	Property Manager:	John Stewart Company
Total Building Area:	165,803 sf total	Supervisor and District:	Sup. Walton D10
Land Owner:	OCII		
Total Development Cost (TDC):	\$132,880,642	Total Acquisition Cost:	\$0
TDC/unit:	\$1,186,434	TDC less land cost/unit:	\$1,186,434
Loan Amount Requested:	\$61,838,820	Request Amount / unit:	\$552,132
HOME Funds?	N	Parking?	Y: 62 spaces 0.55/1 ratio

PRINCIPAL DEVELOPMENT ISSUES

- **Development Costs.** Total development costs are high at \$1,186,434 per unit, though not the highest among MOHCD and OCII projects in the pipeline. The previous request for permanent gap funding in July 2021 estimated \$971,000 per unit, representing a 22% increase in costs over the past 20 months due to delays in development, which resulted in significant increases in hard and soft costs. High hard cost drivers include two sites with two foundations and two sets of building systems, and a high proportion of larger family units (including some 4 and 5-BR units). For more details see Sections 4.3 and 6.4.
- **Site Development Agreement.** In order to be more competitive for Tax Credits, the Developer restructured the Project’s financing by excluding the site preparation work from the vertical construction. Instead, this scope of work will be completed by an affiliated entity of the Developer under a separate site development agreement with OCII, while the partnership will construct the housing improvements on the site under the terms of its ground lease and loan agreement with OCII. The General Contractor for the Project, Nibbi/Baines, will perform the site preparation work as such scope of work was included as part of the Project’s selection process for the General Contractor. The General Contractor’s scope of work will remain the same overall but will be performed under two contracts: the Site Development Agreement and the General Construction Contract for the housing improvements. For more details see Section 6.4.

- **Per Unit Subsidy.** Subsidy per unit is high at \$552,132 per unit. This is related to the high hard costs currently shown for the Project described above and in Section 6.4, lack of State subsidies, and to the relatively low AMLs in the Project, which result in low supportable hard debt. This is also attributable to the separate Site Development Agreement described above. Because the site development cost was subtracted from the partnership budget, that cost is not generating LIHTC equity, resulting in a larger gap in funding. Removal of the \$4.8 million site development cost from the LIHTC construction basis has resulted in the loss of \$2.4 million in equity. The Project is not competitive for MHP as there are no supportive housing units, or for AHSC because there is no associated transit project. For more details see Sections 4.3 and 6.4.

SOURCES AND USES SUMMARY

Predevelopment Sources	Amount	Per Unit	Terms	Status
OCII Loan	\$4,401,605	\$39,301	3 yrs @ 3% Def	Committed
Total	\$4,401,605	\$39,301		

Permanent Sources	Amount	Per Unit	Terms	Status
OCII Loan	\$57,000,430	\$508,932	55 yrs @ 0.5% / Res Rec	Committed
Perm Loan	\$2,410,462	\$21,522	30 yrs @ 6.10% / Amortized	Committed
Equity	\$61,915,175	\$552,814	\$0.985 per credit	Committed
Deferred Fee	\$802,284	\$7,163	Res Rec	Committed
OCII- Sitework Agreement	\$4,838,390	\$43,200	N/A	This request (\$2,200,302 was previously approved by LC on 7/16/21 as part of the OCII Loan)
IIG	\$5,913,900	\$52,803	Forgivable	Committed
Total	\$132,880,642	\$1,186,434		

Permanent Uses	Amount	Per Unit	Per SF
Acquisition	\$0	\$0	\$0.00
Hard Costs	\$105,098,447	\$938,379	\$633.88
Soft Costs	\$23,451,264	\$209,386	\$141.44
Reserves	\$1,508,647	\$13,470	\$9.10
Developer Fee	\$2,822,284	\$25,199	\$17.02
Total	\$132,880,642	\$1,186,434	\$801.44

1. BACKGROUND

1.1. Project History Leading to This Request.

On September 21, 2017, OCII released a Request for Proposals offering Blocks 52/54 for development. On March 20, 2018, the OCII Commission selected McCormack Baron Salazar ("MBS") as lead developer, Bayview Hunters Point Multipurpose Senior Services, Inc. ("BHPMSS") as co-developer and services lead, Mithun | Solomon ("Mithun") as architect and The John Stewart Company ("JSCo") as property manager. In August 2020, MBS informed OCII that MBS was withdrawing from the Development Team. In October 2020, OCII issued a Request for Qualifications ("RFQ") to replace MBS as lead developer. The remainder of the Development Team planned to remain in place along with the work product developed to date. Four developers responded to the RFQ and an evaluation panel ranked The Jonathan Rose Companies ("JRC", along with BHPMSS, "Developer") the highest. On April 6, 2021, OCII Commission approved an Exclusive Negotiations Agreement ("ENA") with the new development entity with JRC,

assigning the existing predevelopment loan (the “Predevelopment Loan”) to the new development entity and amending and restating the Predevelopment Loan to update the schedule of performance. On July 16, 2021, the Loan Committee recommended approval of a total OCII subsidy amount of \$59,200,732 and on August 17, 2021, OCII Commission approved a permanent gap loan to the Developer for \$59,200,732.

Since this Project was last brought to Loan Committee for permanent gap funding 20 months ago, a confluence of events has spurred a rise in Project costs and the need for additional gap funding: Soaring construction demand, inflation, pandemic-related restrictions, supply chain disruptions, and labor shortages have resulted in rising costs across the construction industry. Rising interest rates have impacted the amount of permanent debt the Project can support, and the multiple unsuccessful bond applications required the Developer to restructure their financing by removing site preparation from the tax credit partnership’s scope of work, resulting in a loss of equity.

For background information on OCII’s redevelopment activities in the Hunters Point Shipyard, see Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

- 1.2. Applicable NOFA/RFQ/RFP. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

- 1.3. Borrower/Grantee Profile. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

- 1.3.1. Borrower. HPSY 52-54, LP

- 1.3.2. Joint Venture Partnership. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

- 1.3.3. Demographics of Board of Directors, Staff and People Served. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

- 1.3.4. Racial Equity Vision. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

- 1.3.5. Relevant Experience. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

- 1.3.6. Project Management Capacity. JRC will be devoting 1.3 FTEs to the Project. Heading up JRC’s work on this project will be Yusef Freeman, Senior Managing Director for the West Coast. Mr. Freeman previously worked for MBS, where he worked on the first 3 phases of Alice Griffith, on Dr. George W. Davis Senior Residences and Senior Center and was responsible for assembling the development team for Blocks 52 and 54 before leaving MBS. Mr. Freeman will be spending 10% of his time on the Project.

Sarah White, Director, will be spending 25% of her time on the project. Prior to joining JRC, Sarah worked for TNDC from 2016-2019 and for BRIDGE from 2019-2021. Her past OCII project was Mission Bay Block 6E.

Alexis Campbell, Development Manager, will be spending 50% of her time on the Project. Chris Edwards, Managing Director of Construction and Eric Fauerbach, Director of Construction, will be spending 10% and 25% of their time, respectively on the Project.

Jonathan Rose, President, Lauren Zullo, Director of Sustainability, and members of the JRC Management Committee will collectively spend 10% of their time on the Project.

- 1.3.7. Past Performance. N/A. JRC is new to San Francisco and has not been assessed.

- 1.3.7.1. City audits/performance plans. N/A. JRC is new to San Francisco and has not been assessed.

- 1.3.7.2. Marketing/lease-up/operations. JRC does not have any projects currently in operations in San Francisco. However, BHPMSS and JSCo both have experience in marketing and lease up in San Francisco and JSCo has extensive operating experience in San Francisco. Because JRC is new to San Francisco, staff has included a loan condition that requires developing a comprehensive marketing and outreach strategy for the Project.

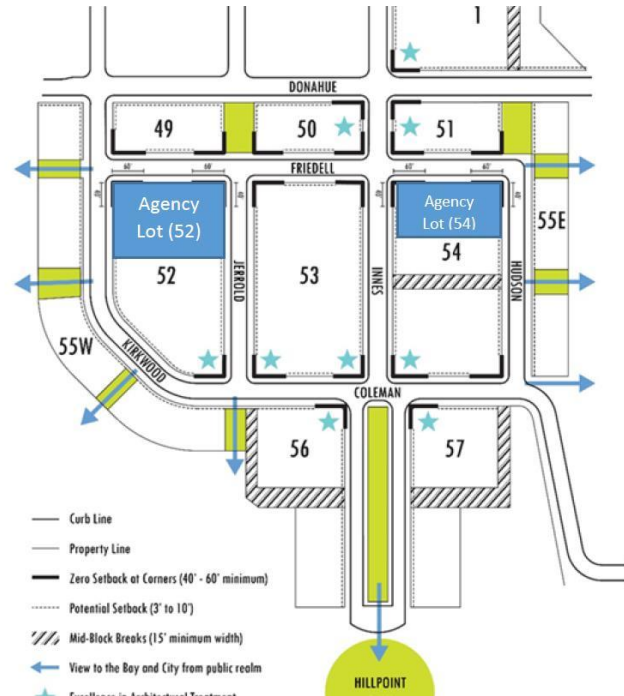
2. SITE (See Attachment E for Site map with amenities)

Site Description	
Zoning:	Moderate Density Residential, governed by Hunters Point Shipyard Redevelopment Project Phase 1 Design for Development ("D4D")
Maximum units allowed by current zoning (N/A if rehab):	100 DU/acre (not including density bonus) The D4D density bonus allows up to an additional 25% density increase by permitting adjustments to requisite D4D Development Controls (e.g., height, bulk, mid-block break location/construction) that allow for the larger project/density.
Number of units added or removed (rehab only, if applicable):	N/A
Seismic (if applicable):	Seismic Zone 4
Soil type:	Published geologic maps of the site and vicinity indicate that Parcel "A" (which includes the Hilltop area) is underlain by serpentinite, Franciscan chert, Franciscan sandstone, and shale. These maps show the Quaternary slope wash and ravine fill in swales on the northern corner of the Hillside area. According to existing reports the fill on the Hilltop site appears to have been placed to construct the existing building pads and roadways. The findings from subsurface exploration and the exploratory borings from maps and consultant studies in the 1990s through early 2000s indicate that the existing fills range up to about 15 feet in thickness. These existing fills generally include a mixture of native soil and bedrock derived materials as well as imported base rock type material. Minor amounts of broken glass and debris may also be present.
Environmental Review:	On June 3, 2010, the Former Redevelopment Agency Commission by Resolution No. 58-2010 and the Planning Commission by Motion No. 18096, acting as co-lead agencies, approved and certified the Environmental Impact Report for the HPS/CP Project. On the same date, both co-lead agencies adopted environmental findings, including the adoption of a mitigation monitoring and reporting program and a statement of overriding considerations, for the HPS/CP Project by Former Redevelopment Agency Commission Resolution No. 59-2010 and by Planning Commission Motion No. 18097. On July 14, 2010, the Board of Supervisors affirmed the certification and

	findings by Resolution No. 347-10 and found that various actions related to the HPS/CP Project complied with the California Environmental Quality Act ("CEQA"). Subsequent to the certification, the Commission and the Planning Commission approved Addenda 1 through 4 to the Environmental Impact Report for the HPS/CP Project analyzing certain HPS/CP Project modifications (together, the "HPS/CP EIR"). Project Phase II (along with elective soils testing not required for environmental review described in Section 2.5 below) was completed in 2022.
Adjacent uses (North):	Residential
Adjacent uses (South):	Residential, Shipyard Redevelopment
Adjacent uses (East):	Residential, Shipyard Redevelopment
Adjacent uses (West):	Residential
Neighborhood Amenities within 0.5 miles:	Super Save Grocery is 1.2 miles away, India Basin Shoreline Park 0.4 miles away, Malcolm X Academy 0.7 miles away
Public Transportation within 0.5 miles:	MUNI 19, 15 (Bayview Hunters Point Express)
Article 34:	Project is required to adhere to Article 34 requirements. Approval letter obtained June 29, 2021.
Article 38:	Exempt
Accessibility:	100% of units are adaptable and comply with the 2016 CBC. 15% of units (11 at Block 52, 7 at Block 54) will have added mobility features per TCAC standards. 10% of units (7 at Block 52, 5 at Block 54) will have added communication features per TCAC standards. This exceeds 2010 ADA standards and FHA guidelines.
Green Building:	The Developer currently estimates a 142 GPR rating for the Project. The Project will include the following features: • Zero VOC paints and low formaldehyde finishes • Low-emitting, environmentally preferred, durable flooring • Energy Star appliances, low-flow fixtures • High-efficiency lighting • High content recycled material
Recycled Water:	Not exempt
Storm Water Management:	PUC has approved the Preliminary Storm Water Management Plan for the Project.

- 2.1. Description. Blocks 52 and 54, located on the Hilltop in Hunters Point Shipyard Phase 1, are the first of 5 OCII sites considered for development. OCII's portion of Block 52 is bound by Friedell Street to the northwest, Kirkwood Avenue to the southwest, Jerrold Avenue to the northeast, and currently, a market-rate parcel being developed by Lennar on the same block to the southeast. OCII's portion of Block 54 is bound by Friedell Street to the northwest, Hudson Avenue to the northeast, Innes Avenue to the

southwest, and an existing market-rate housing development to the east. See map below.



2.2. Zoning. See chart.

2.3. Probable Maximum Loss. N/A

2.4. Local/Federal Environmental Review. See chart.

2.5. Environmental Issues.

- Phase I/II Site Assessment Status and Results. Based on the analytical results from Langan's 2020 geotechnical and 2021 environmental subsurface investigations, some of the subsurface material at the site contains soluble chromium and total and soluble nickel concentrations above offsite disposal criteria. This material must be removed and disposed of as Class I non-RCRA waste and the remaining material on-site to be excavated and removed must be disposed of as Class II material based on the asbestos concentrations.

An approved Asbestos Dust Mitigation Plan (ADMP) and DCP must be implemented due to the presence of endemic serpentine rock containing naturally occurring asbestos (NOA) confirmed in the samples collected at the site. Real-time NOA and PM-10 dust monitoring and third-party inspections must be conducted during potential dust generating activities such as grading, excavation, trenching, soil stockpiling, backfilling, soil handling and movement, and vehicular traffic on unpaved surfaces.

Per Article 31, a TDP, or soil disposal plan, must be submitted for SFDPH approval prior to construction because NOA, chromium, and nickel are present on-site above off-site disposal criteria. The TDP must provide guidance and protocols to the contractor for soil/rock handling, transport, and disposal according to the pertinent regulations in an environmentally sound and safe manner.

- Potential/Known Hazards. Some serpentine rock contains the fibrous mineral chrysotile, which is considered an asbestos mineral. Generally, the amount of chrysotile in the rock is low (less than one percent of the rock mass). Asbestos is

considered hazardous when it becomes airborne. Prior to preparation of final grading plans, testing of the serpentine rock should be performed to determine the chrysotile content of the rock and to develop recommendations to mitigate potential asbestos hazards, if needed. Typical mitigation measures include air quality monitoring during grading, extra dust control measures during grading, and capping of serpentine areas with non-serpentine material.

- 2.6. Elective soil testing. In the early 1990s, the Navy and the United States Environmental Protection Agency (“US EPA”) placed the Shipyard on the National Priorities List for environmental remediation (commonly called “Superfund”), in accordance with federal law. Thereafter, the Navy and the US EPA examined each parcel of the Shipyard to determine the extent of contamination, if any, and proposed an appropriate remedial approach to make the Shipyard safe for future intended uses. In 1995, the Navy determined, and the US EPA, the State of California and San Francisco Department of Public Health agreed, that HPS Phase 1 (which consisted of soldiers’ barracks and accessory activities during active base use) posed no threat to human health or the environment and required no further action, and in 1999, the US EPA removed HPS Phase 1 from the National Priorities (Superfund) List and confirmed that the site was safe for its intended use as a residential community.

In 2004, the Navy transferred Parcel A – the land now making up the Hilltop and Hillside of HPS Phase 1 – and began testing and remediating separate portions of the Shipyard (known as HPS Phase 2). The Navy remains responsible for any remediation required at HPS Phase 2. In 2016, the Navy and the US EPA became aware of anomalies in post-remediation testing at HPS Phase 2. Further investigation led to the Navy’s decision to disregard data provided by one of its former contractors. The Navy is currently in the process of retesting portions of Phase 2 that were the subject of the unreliable data. Although these activities are limited to HPS Phase 2, in July through November of 2018, in response to public concerns and at the request of the City and County of San Francisco (“City”) and Speaker Nancy Pelosi, the California Department of Public Health (“CDPH”) performed a phased-approach radiological survey to assess the health and safety of the public and the environment at HPS Phase 1.

CDPH completed its Final Report for the Hilltop on February 5, 2019, which concluded that no residents, workers or visitors are being exposed to radiological health and safety hazards. To address continued concerns and questions from the community regarding the testing conducted at the Shipyard, Mayor London Breed, then City Attorney Dennis Herrera, and Supervisor Shamann Walton asked experts from UC San Francisco and UC Berkeley to conduct an impartial analysis of CDPH’s procedures. The report concluded that CDPH’s health and safety scan was appropriate as a health and safety survey.

Out of an abundance of caution, OCII worked with the Development Team to establish a scope of additional radiological soil testing at OCII Block 52 and 54 to be conducted along with the standard site environmental testing. The Project’s environmental consultant, Langan, analyzed soil samples for eight radionuclides: Americium-241, Cesium-137, Cobalt-60, Plutonium-239, Radium-226, Strontium-90, Thorium-232, and Uranium-235. The soil samples were taken in 2021 and the results indicate that no contamination is present and there is no risk to construction workers, the public, or future residents.

- 2.7. Adjacent uses and neighborhood amenities. The Phase 1 DDA obligates HPS Dev Co to construct the infrastructure necessary to support the total vertical development of up to 1,428 housing units and 26 acres of open space and parks in HPS Phase 1. HPS Phase 1 is well underway. Horizontal infrastructure construction is complete. A variety of transit options will be available for residents of Blocks 52/54. In 2020 the 15 Bayview Hunters Point Express bus began providing service to the neighborhood with a stop within a ¼ of a mile of both Block 52 and 54. This will provide a connection between the Hilltop area and BART, Caltrain, etc. These additional transportation options were

developed in conjunction with the Planning Department and SFMTA to ensure a level and quality of transit service for the area. Because transit options are currently limited in the area we have required that the Project have a parking ratio of 0.6:1, which is higher than a typical family development in a more transit rich environment which would have a parking ratio of .25:1 or less.

- 2.8. Green Building. See chart. Both buildings incorporate design strategies that support the health and wellness of building occupants and residents. Environmentally preferable products are prioritized for incorporation throughout the building including: materials that are sourced locally and/or high in recycled content; non-toxic paints, as well as coating and materials that are free of volatile organic compounds ("VOC") and phthalates. Prioritization of healthy, non-toxic materials within the residential units, where people spend the most time and have the highest levels of exposure. Another area of emphasis is energy performance. In order to reduce energy usage, the buildings will be all-electric, with photovoltaic arrays on the roofs. Together with an upgraded envelope design, this is a cost-effective way to meet the energy goals and low-maintenance needs of affordable housing. The Project is required to achieve a minimum of 125 points (a gold rating) and is currently scoring 142 and 143 for Blocks 52 and 54 respectively.

3. COMMUNITY SUPPORT

- 3.1. Prior Outreach. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

Update since the Loan Committee last saw this project: Staff provided a development update to the Hunters Point Shipyard Community Advisory Committee (HPSCAC) on December 12, 2022 to relay the results of the elective soil testing to the HPSCAC.

- 3.2. Future Outreach. Staff and the development team will continue to ensure outreach is provided to HPS Phase 1 neighbors and the broader HPS and BVHP community to inform them of any relevant CAC meetings discussing this Project throughout development and operations, as necessary. In partnership with the Baines-Nibbi team, upcoming neighborhood outreach efforts will be focused around job and contracting opportunities. Leveraging partnerships with local non-profit organizations including the Dr. Davis Senior Center, meetings will take place in District 10 accessible spaces with translation services as-needed.

- 3.3. 1998 Proposition I Citizens' Right-To-Know. Not required

4. DEVELOPMENT PLAN

- 4.1. Site Control. Both lots are currently owned by OCII. At construction loan closing, the Limited Partnership and OCII will enter into a long-term ground lease of 75 years with an option to extend for an additional 24 years.

- 4.1.1. Proposed Property Ownership Structure OCII will retain fee interest in the land and ground lease the residential parcel to the Limited Partnership, which will own the improvements.

- 4.2. Proposed Design. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

- 4.3. Construction Supervisor/Construction Representative's Evaluation Update: GMP bids were due in January 2023; the Developer has vetted the bids and reached 90% schedule of values. The proposed construction budget reflects a total hard cost value of \$105,098,447 inclusive of the residential, parking, and site preparation work (no infrastructure). This total hard cost value reflects a cost of approximately \$634 per SF or \$938,379 per unit. The per unit cost is significantly higher than the average construction costs for MOHCD and OCII funded projects in predevelopment, though Sunnydale Blocks 7 and 9 are currently higher at \$964k and \$984k respectively. The per bedroom costs and per square foot costs are also higher than the average of projects in

predevelopment. This is likely a reflection of the high number of larger bedroom count units with 3, 4- and 5-bedroom units making up nearly 30% of the units, in addition to the scattered site nature of the project, where all major building systems are doubled given there are two separate buildings that comprise the project (e.g. two sets of elevators, exterior skin, foundations, shoring, parking structures, and common areas). Adding larger units diminishes cost savings as it results in fewer units in the same footprint and it creates an irregular building footprint, therefore not allowing for efficient stacking.

As discussed in Section 2.7 above, because transit options are currently limited in the area, the Project has a parking ratio roughly 50% higher than a typical family development in a more transit rich environment. The increased garage space requires additional excavation for the added parking stalls which adds to the construction budget. Cost escalation for certain construction materials including gypsum concrete, structural steel, and building insulation have also contributed to the increased construction budget.

The site preparation scope of work includes demolition, soil improvement, off-hauling and disposing of onsite soils, and grading. Site preparation work and vertical construction is anticipated to commence simultaneously in May 2023.

4.4. Commercial Space. N/A

4.5. Service Space. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

4.6. Infrastructure. N/A

4.7. Communications Wiring and Internet Access. The Project team will provide free internet to residents through City Fiber. Additionally, JRC has a company-wide directive to provide low-cost internet access across its portfolio. Should the City Fiber program end, JRC is committed to continuing to provide internet access to residents at low or no cost.

4.8. Public Art Component. N/A. Not a requirement in Hunters Point Shipyard Project Area

4.9. Marketing, Occupancy, and Lease-Up. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

5. DEVELOPMENT TEAM

Development Team			
Consultant Type	Name	SBE/LBE	Outstanding Procurement Issues
Architect	Mithun Solomon	N	N
JV/other Architect	Kerman Morris	Y	N
General Contractor	Baines Nibbi JV	Y (JV partner)	N
Owner's Rep/Construction Manager	TBD	TBD	
Legal	Klein Hornig	N	N
Property Manager	John Stewart Co.	N	N (Development Team Member)
Services Provider	BHPMSS	N	N (Development Team Member/ nonprofit)

5.1. Procurement Plan. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

5.2. Opportunities for BIPOC-Led Organizations. See Attachment M for Previous Permanent Funding Loan Evaluation from July 16, 2021 Loan Committee.

6. FINANCING PLAN (See Attachment F for Cost Comparison of City Investment in Other Housing Developments; See Attachment G and H for Sources and Uses)

6.1. Prior MOHCD/OCII Funding:

Loan Source	Loan Date	Loan Amount	Interest Rate	Repayment Terms	Maturity Date	Outstanding Principal Balance	Accrued Interest to Date
OCII Bond Proceeds (Amended and Restated with the new Lead Developer)	8/17/2021	\$59,200,732	3.00%	Residual receipts	12/31/2074	\$4,039,150.24	\$255,259.25
Total:		\$59,200,732			Total:	\$4,039,150.24	\$255,259.25

6.2. Disbursement Status. The Developer can continue to spend predevelopment funds until the close of construction financing. However, the gap loan proceeds may not be drawn prior to the close of construction financing and execution of the Ground Lease.

The \$362,454.76 in remaining initial Predevelopment funds (as of February 10, 2023) have an approved date of November 17, 2017 per the loan evaluation approved on June 15, 2018.

6.3. Fulfillment of Loan Conditions. Below is the status of Loan Conditions since this project was last at Loan Committee for Permanent Financing on July 16, 2021:

- Borrower will conduct ongoing outreach to the Hunters Point Shipyard community to solicit input, address concerns, and educate community members on various aspects of the project. **Status: Ongoing.**
- Borrower will continue to utilize the services of the architect, general contractor, and other SBE consultants hired by Shipyard 5254, L.P. and shall inform and cooperate with OCII to effectuate a change in the team's makeup should a change be necessary. Borrower will obtain cost estimates from the selected contractor and will work with their architectural team to ensure that the site's development costs are managed to OCII's approval. Furthermore, Borrower shall cooperate with OCII and continue to require the general contractor to exercise good faith efforts to select subcontractors who are either SBEs or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs. **Status: Ongoing.**
- Borrower to apply for Federal Home Loan Bank's Affordable Housing Program at the next round. If successful, the final OCII loan will be reduced at FFP. **Status: Satisfied. Because the Project does not include any PSH units and the Borrower does not have non-profit ownership greater than 50%, it is not competitive for AHP.**
- Borrower to evaluate if Project will be competitive for State Infill and Infrastructure Grant and, if so, apply at the next round. Borrower to analyze and propose how to make project more aligned with state priorities for IIG and other state sources and thus competitive with CDLAC for bond allocation. **Status: Complete. Borrower submitted an IIG application in Summer 2022 and received notification of award on February 2, 2023.**
- Borrower must provide operating and development budgets (including contractor budgets) that meet MOHCD underwriting guidelines and are sufficient to cover anticipated operating expenses. **Status: Complete**

- Borrower must provide OCII with a services plan and proposed staffing levels that meet OCII underwriting standards prior to submission of the CDLAC and TCAC application. **Status: Complete.**
- Borrower must provide OCII with information outlining cost containment, efficiencies, and innovation strategies to reduce overall project costs and maximize efficiency of OCII gap loans. **Status: Complete**
- Borrower must explore opportunities to increase above eight units that serve households below 50% AMI, if financially feasible. If Borrower is unable to increase the number of units below 50%, Borrower must provide additional strategies to serve COP holders at 50% AMI. **Status: Complete. See Section 7.4 for the updated unit breakdown.**
- Borrower must: a) provide for OCII review of the Request for Proposals (RFP) for equity investors and lenders before it is finalized and distributed; b) provide for OCII review of all raw financial data from developer or financial consultant prior to selection; c) provide for OCII review and approval of all selected investors and lenders; and, d) provide for OCII review and approval of all Letters of Intent from financial partners. **Status: Complete**
- Borrower will provide information regarding marketing (including the reflection of the lease-up team to that of the applicants) and operations (i.e., does on-site staff reflect the property residents) in existing portfolio and work with OCII and MOHCD to establish a marketing and outreach plan for the Project focusing on preference populations. **Status: Not yet due**
- Borrower must review operating cost assumptions with JSCo prior to submission of the CDLAC application to ensure the operating budget is sufficient given the anticipated lease up-date of the Project. **Status: Complete**
- Borrower must provide an Early Outreach Plan 1 month after the start of construction and initial draft marketing plan within 12 months of anticipated TCO, outlining the affirmative steps they will take to market the project to OCII's preference program participants, including COP Holders, Displaced Tenants, and Neighborhood Residents. **Status: Not yet completed**
- Borrower must provide quarterly updated response to any letters requesting corrective action. **Status: Ongoing**

6.4. Permanent Financing

- Private mortgage (\$2,410,462): Bank of America, 30-year term/30 year amortization, 6.10% fixed interest rate
- 4% Tax Credit Equity (\$61,915,175): Bank of America, \$0.985 per credit pay-in rate.
- OCII Loan (\$57,000,430): This amount includes \$2,638,088 in new OCII funds as well as \$4,401,605 in current predevelopment funds. The loan will have a term of 55 years, and staff is currently anticipating an interest rate of 0.5%. At the time of FFP, staff may recommend that the OCII Executive Director and MOHCD Director decrease the interest rate, should the Project need it at the time of the close of construction financing to meet IRS requirements related to true debt.
- Site Development Agreement (\$4,838,390): To maximize the Project's competitiveness, costs for site preparation work were excluded from the application for tax credits and bonds. This scope of work will be completed by an affiliated entity of the Developer under a separate site development agreement with OCII, to be executed concurrently with the long-term ground lease but funded under this same permanent gap funding request. Site preparation work and vertical construction will commence concurrently in May 2023.
- Infill Infrastructure Grant (\$5,913,900)

- Deferred Developer Fee (\$802,284): The proposed Deferred Developer Fee is consistent with the Underwriting Guidelines. This fee generates a net amount of \$160,142 in additional equity after paying for the fee itself and the loss of cash flow associated with the deferred fee. See Section 6.5.5 for more information.
- General Partner Equity (\$0): The Developer is proposing no GP Equity at this time to minimize project costs. This is not consistent with MOHCD's guideline to incorporate as much Equity as possible to reduce MOHCD/OCII debt.
- Construction Loan (\$63,000,000): While not a permanent source, the construction loan terms include a 7.66% interest rate and a 36-month term.

6.5.2 CDLAC Tax-Exempt Bond Application: The Project received a bond allocation on November 30, 2022.

6.4.1. Permanent Uses Evaluation:

Development Budget		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Hard Cost per unit is within standards	N	\$938,379/unit This estimate is high when compared to similar Projects on a per unit basis (though there are no real comparable Projects with 2 new construction buildings being built on non-contiguous parcels). A higher per unit cost is warranted for this Project as it is comprised of two separate, non-contiguous buildings therefore it does not benefit from the same economies of scale as other similarly sized projects do. Additionally, there are a high number of large bedroom count units in the Project. On a cost per bedroom basis, the Project is 25% higher than the average of projects in predevelopment but is not the highest cost project in predevelopment. On a cost per square foot basis, the Project is 14% higher than the average of projects in predevelopment. See Section 4.3 Const. Representative's Evaluation Section and Attachment H Comparison of City Investment in Other Housing Developments.
Construction Hard Cost Contingency is at least 5% (new construction) or 15% (rehab)	N	Hard Cost Contingency is 5.3% Loan condition added to ensure the final budget, including hard cost contingency, will comply with MOHCD Underwriting Guidelines
Architecture and Engineering Fees are within standards	Y	Since Loan Committee last saw this Project in 2021, the Architecture Fees have increased from \$3,440,509 to

		\$4,367,968 and Engineering Fees have increased from \$490,000 to \$613,250. The increase is due to several factors: (a) project schedule delays; (b) an overestimation of efficiencies of documenting two buildings as one project in the Construction Documents phase; (c) a number of unanticipated third-party reviews.
Construction Management Fees are within standards	Y	Construction management fees are estimated at \$180,000
Developer Fee is within standards, see also disbursement chart below	N	Project management fee: \$900,000 At risk fee: \$1,120,000 Deferred fee: \$802,284 Total fee: \$2,822,284 The Project does not currently include GP Equity. See Section 6.4 above
Consultant and legal fees are reasonable	Y	Financial consultant fees are \$98,000 and Legal costs are \$1,120,000. The Legal costs include HOA and City of San Francisco legal.
Entitlement fees are accurately estimated	Y	Entitlement and permit fees are \$1,507,050
Construction Loan interest is appropriately sized	Y	The construction loan is \$63,000,000 with 7.66% interest rate (includes a 0.5% cushion)
Soft Cost Contingency is 10% per standards	Y	Soft Cost Contingency is 10%
Capitalized Operating Reserves are a minimum of 3 months	Y	Capitalized Operating Reserve is equal to 3 months

6.5.4 Developer Fee Evaluation: The milestones for the payment of the developer fee to the sponsor are specified below:

Total Developer Fee:	\$2,822,284	
Project Management Fee Paid to Date:	\$150,000	
Amount of Remaining Project Management Fee:	\$750,000	
Amount of Fee at Risk (the "At Risk Fee"):	\$1,120,000	\$1M plus \$10K per unit for each unit over 100 units per Developer Fee Policy
Amount of Fee Deferred (the "Deferred Fee"):	\$802,284	Sized to maximize equity and maintain competitive CDLAC application. This Deferred Fee increases equity by \$160,142 and does increase the OCII loan amount
Amount of General Partner Equity Contribution (the "GP Equity"):	\$0	No GPE recommended to maintain lower costs for CDLAC application

Milestones for Disbursement of that portion of Developer Fee remaining and payable for Project Management	Amount Paid at Milestone	Percentage Project Management Fee
Acquisition/Predevelopment	\$135,000	15%
Predevelopment Close	\$315,000	35%
Construction close	\$180,000	20%
Construction Completion	\$180,000	20%
Project close-out	\$90,000	10%
Milestones for Disbursement of that portion of Developer Fee defined as At Risk Fee		Percentage At Risk Fee
95% lease up and draft cost certification	\$224,000	20%
Permanent conversion	\$560,000	50%
Project close-out	\$336,000	30%

7. PROJECT OPERATIONS (See Attachment I and J for Operating Budget and Proforma)

7.1. Annual Operating Budget. The Project includes no operating or rental subsidies. Expenses are slightly lower than average compared to similar Projects in MOHCD's portfolio. See the chart below for more information.

7.2. Annual Operating Expenses Evaluation.

Operating Proforma		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Debt Service Coverage Ratio is minimum 1.1:1 in Year 1 and stays above 1:1 through Year 17	N	DSCR is 2.286 at Year 1, exceeding MOHCD's standard of 1.15. Cash flow declines quickly therefore the higher DSCR is necessary to ensure it does not dip below 1:1 by Year 20. DSCR is 1.352 at Year 17.
<i>For TCAC projects:</i> Vacancy rate meets TCAC Standards	Y	Vacancy rate is 5%
Annual Income Growth is increased at 2.5% per year or 1% for LOSP tenant rents	Y	Income escalation factor is 2.5%
<i>For TCAC projects:</i> Annual Operating Expenses are increased at 3.5% per year	Y	Expenses escalation factor is 3.5%
Base year operating expenses per unit are reasonable per comparables	Y	Total Operating Expenses are \$12,372 per unit The costs are slightly lower than average among similar completed projects. Comparable projects from the Operating Budget Cost Comps Tool range from \$10,800 to \$21,400 per unit.
Property Management Fee is at allowable HUD Maximum	Y	Total Property Management Fee is \$87,360 or \$65 PUPM
Property Management staffing level is reasonable per comparables	Y	Proposed staffing:

		\$88,820 for 1 FTE Property Manager (PM) \$55,450 for 1 FTE Assistant PM \$102,030 payroll for 1.5 FTE Maintenance \$302,500 assumed in maintenance/ground contracts
Asset Management and Partnership Management Fees meet standards	Y	Annual AM Fee is \$26,909/yr Annual PM Fee is \$26,909/yr *AM Fee and PM Fee stated above is for the first full year of operations (2026)
<i>For TCAC projects:</i> Replacement Reserve Deposits meet or exceed TCAC minimum standards	Y	Replacement Reserves are \$500 per unit per year
Limited Partnership Asset Management Fee meets standards	Y	LP Asset Management Fee is \$5,000 per year, no escalation.

7.4. Income Restrictions for All Sources.

UNIT SIZE		MAXIMUM INCOME LEVEL	
LOTTERY	No. of Units	MOHCD	TCAC
1 BR	1	30% MOHCD AMI	30% TCAC AMI
1 BR	4	40% MOHCD AMI	30% TCAC AMI
1 BR	44	50% MOHCD AMI	40% TCAC AMI
Sub-Total	49		
2 BR	2	30% MOHCD AMI	30% TCAC AMI
2 BR	1	40% MOHCD AMI	30% TCAC AMI
2 BR	9	50% MOHCD AMI	40% TCAC AMI
2 BR	17	50% MOHCD AMI	45% TCAC AMI
Sub-Total	29		
3 BR	1	30% MOHCD AMI	30% TCAC AMI
3 BR	2	40% MOHCD AMI	30% TCAC AMI
3 BR	20	50% MOHCD AMI	40% TCAC AMI
Sub-Total	23		
4 BR	1	40% MOHCD AMI	30% TCAC AMI
4 BR	7	50% MOHCD AMI	45% TCAC AMI
Sub-Total	8		
5 BR	1	40% MOHCD AMI	30% TCAC AMI
Sub-Total	1		
STAFF UNITS			
2 BR	2		
TOTAL	112		
PROJECT AVERAGE		40%	40%
AVERAGE FOR LOTTERY UNITS ONLY		40%	40%

Updates since the Loan Committee last saw this project: The Project previously included one manager's unit to serve both buildings. The total number of units in the Project remains unchanged at 112 units, but an additional manager's unit has been added so that each building will have its own manager's unit. This change in unit designations is needed because this Project is considered a scattered sites project by TCAC, not a single project, with the two non-contiguous parcels for this Project being separated by another parcel in between.

The Project now includes 9 units at 40% MOHCD AMI; previously there were 4 units at 40% MOHCD AMI. The Developer took advantage of rent layering to deepen the affordability and therefore be competitive for TCAC. The AMIs were maximized as much as possible while still being competitive for TCAC points scoring. As shown in the table above, some units will be able to rent at 40% TCAC AMI, providing more rent than previously anticipated.

7.5. MOHCD Restrictions.

Unit Size	No. of Units	Maximum Income Level
1 BR	1	30% of Median Income
1 BR	4	40% of Median Income
1 BR	44	50% of Median Income
2 BR	2	30% of Median Income
2 BR	1	40% of Median Income
2 BR	26	50% of Median Income
3 BR	1	30% of Median Income
3 BR	2	40% of Median Income
3 BR	20	50% of Median Income
4 BR	1	40% of Median Income
4 BR	7	50% of Median Income
5 BR	1	40% of Median Income
2 BR	2	Manager's Unit

Note: The Redevelopment Plan restricts affordability at or below 50% MOHCD AMI. Any changes are subject to approval by the OCII Executive Director and the MOHCD Director through the FFP. In no event shall the restrictions on any unit exceed 50% of MOHCD AMI.

8. SUPPORT SERVICES

- 8.1. Services Plan. At this property, BHPMSS will staff one full-time Resident Services Coordinator (RSC), who will focus on linking tenants to services available out in the community. It will be their job to coordinate with community service providers, including BHPMSS case managers, who can provide more intensive case management services to residents. BHPMSS' supportive services are based on providing compassionate, individualized, culturally and linguistically competent, and voluntary services designed to help families meet individual and community goals for self-sufficiency and well-being. Through their partnership with property management, the RSC will work with families and individuals to continue improving or maintaining a higher quality of life, access quality services, and maintain housing stability. All BHPMSS support services will be free, on-site, voluntary, and confidential.

Residents of this property will be surveyed upon move-in to gather a broader understanding of the services they require to remain stable in their housing. The on-site services office will include office and meeting space for the RSC as well as visiting partner agency case managers. It is anticipated that residents could benefit from services that include, but are not limited to, crisis management, financial assistance, assistance accessing medical and dental care, mental health or substance abuse services, services for children, and academic/vocational assistance.

Summary of Services:

- Employment – holding on-site workshops with YCD to train and inform residents of job opportunities
- Health – organizing on-site health and wellness classes with the Bayview Y
- Mental Health – providing on-site space for Bayview Hunters Point Foundation counselors and organizing group sessions
- Education – organizing on-site homework help for students with volunteer tutors
- Finance – work with SFHDC to offer financial empowerment workshops
- Housing retention – referrals to mediation and legal support services with support from Bayview Senior Services housing navigation team
- Community building – work on disaster preparedness, holiday family events, food giveaways, game nights, etc. based on resident input
- Seniors and persons with disabilities – access to meals and programs through Bayview Senior Services

8.2. Services Budget. The current operating budget of \$90,000 includes 1 FTE Resident Services Coordinator at \$75,000 with \$10,000 for benefits, and \$5,000 for events and programming. BHPMSS has proposed partnerships with several providers including YCD, Bayview Y, SFHDC, and Bayview Senior Services.

8.3. HSR Assessment of Service Plan and Budget. N/A

9. STAFF RECOMMENDATIONS

9.1. Proposed Loan/Grant Terms

Financial Description of Proposed OCII Loan	
Total Loan Amount:	\$57,000,430*
Loan Term:	55 years
Loan Maturity Date:	2077
Loan Repayment Type:	Residual Receipts
Loan Interest Rate:	The Developer anticipates an interest rate of 0.5% (This loan may be recast to conform with any future true debt test need for an interest rate between 0% and 3% to be determined prior to the permanent loan closing with approval of the OCII Executive Director and MOHCD Director pursuant to the FFP)
Date Loan Committee approves prior expenses can be paid (this applies only to the new funds recommended in this loan evaluation).	July 1, 2020

Financial Description of Proposed Site Development Agreement	
Additional Amount Requested	\$2,638,088*
Prior Amount Approved	\$2,200,302 (previously approved by LC on 7/16/21 as part of the OCII Loan)
Total Loan Amount:	\$4,838,390
Loan Repayment Type:	Forgivable

* Note that the amounts between the Proposed OCII Loan and Site Development Agreement may be adjusted prior to loan closing in order to maximize equity to the Project and comply with the 50% test, as long as total OCII funding for the Project does not exceed \$61,838,820, subject to approval of the FFP by the OCII Director and MOHCD Executive Director.

9.2. Recommended Funding Conditions

9.2.1 Prior to Construction Loan Closing

1. Sponsor must provide final operating and development budgets (including contractor budgets) that meet MOHCD underwriting guidelines and are sufficient to cover anticipated operating expenses.

2. Sponsor must provide OCII with information outlining cost containment, efficiencies to reduce overall project costs and maximize efficiency of OCII gap loan and Site Development Agreement. Sponsor must maximize equity and debt and reduce Site Development Agreement amount as much as possible.
3. Sponsor must update marketing budget and lease-up staffing costs to be consistent with current practices.

9.2.2 Marketing Conditions

1. Nine to twelve months prior to TCO, Sponsor will provide information regarding marketing (including the reflection of the lease-up team to that of the applicants) and operations (i.e., does on-site staff reflect the property residents) in existing portfolio and work with OCII and MOHCD to establish a marketing and outreach plan for the Project focusing on preference populations.
2. Sponsor must provide an Early Outreach Plan 1 month after the start of construction and initial draft marketing plan within 12 months of anticipated TCO, outlining the affirmative steps they will take to market the project to OCII's preference program participants, including COP Holders, Displaced Tenants, and Neighborhood Residents

9.2.3 Ongoing Conditions

1. Sponsor will conduct ongoing outreach to the Hunters Point Shipyard community to solicit input, address concerns, and educate community members on construction progress and marketing of the affordable units.
2. Sponsor shall cooperate with OCII and continue to require the general contractor to exercise good faith efforts to select subcontractors who are either SBEs or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs.

10. LOAN COMMITTEE MODIFICATIONS

LOAN COMMITTEE RECOMMENDATION

Approval indicates approval with modifications, when so determined by the Committee.

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Eric D. Shaw, Director
Mayor's Office of Housing and Community Development

Date: _____

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Salvador Menjivar, Director of Housing
Department of Homelessness and Supportive Housing

Date: _____

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Thor Kaslofsky, Executive Director
Office of Community Investment and Infrastructure

Date: _____

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Anna Van Degna, Director
Controller's Office of Public Finance

Date: _____

Attachments: A. Project Milestones/Schedule
B. Borrower Org Chart – See Attachment M
C. Developer Resumes – See Attachment M
D. Asset Management Analysis of Sponsor – See Attachment M
E. Threshold Eligibility Requirements and Ranking Criteria – See Attachment M
F. Site Map with amenities – See Attachment M
G. Elevations and Floor Plans, if available – See Attachment M
H. Comparison of City Investment in Other Housing Developments
I. Predevelopment Budget – N/A
J. Development Budget
K. 1st Year Operating Budget
L. 20-year Operating Pro Forma
M. Previous Permanent Funding Loan Evaluation from July 16, 2021
Loan Committee

REQUEST FOR GAP FUNDING FOR HUNTER'S POINT SHIPYARD BLOCK 52 & 54

Shaw, Eric (MYR) <eric.shaw@sfgov.org>

Fri 3/17/2023 11:27 AM

To: Amaya, Vanessa (MYR) <Vanessa.Amaya@sfgov.org>

Approve

Eric D. Shaw

Director/ Interim Director HopeSF

Mayor's Office of Housing and Community Development

City and County of San Francisco

1 South Van Ness Avenue, 5th Floor

RE: REQUEST FOR GAP FUNDING FOR HUNTER'S POINT SHIPYARD BLOCK 52 & 54

Kaslofsky, Thor (CII) <Thor.Kaslofsky@sfgov.org>

Tue 3/21/2023 3:48 PM

To: Amaya, Vanessa (MYR) <Vanessa.Amaya@sfgov.org>

Cc: Colomello, Elizabeth (CII) <elizabeth.colomello@sfgov.org>

Approved, thanks!

Best Regards,
Thor



Thor Kaslofsky
Executive Director

One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
415.749.2588

thor.kaslofsy@sfgov.org

www.sfcii.org

*Please note that if you are receiving this email outside of your normal working hours there is no urgent need to respond unless there is a specific request to do so.

From: Amaya, Vanessa (MYR) <Vanessa.Amaya@sfgov.org>

Sent: Tuesday, March 21, 2023 1:24 PM

To: Kaslofsky, Thor (CII) <Thor.Kaslofsky@sfgov.org>

Cc: Colomello, Elizabeth (CII) <elizabeth.colomello@sfgov.org>

Subject: Re: REQUEST FOR GAP FUNDING FOR HUNTER'S POINT SHIPYARD BLOCK 52 & 54

Hi Thor,

Please reply with your vote for the subject matter of this email from 3/17 Loan Committee Meeting.

Thank you.

Vanessa Amaya

Assistant Housing Loan Administrator

San Francisco Mayor's Office of Housing and Community Development

1 South Van Ness Ave, 5th Floor, San Francisco, CA 94103

(628) 652-5967

REQUEST FOR GAP FUNDING FOR HUNTER'S POINT SHIPYARD BLOCK 52 & 54

Katz, Bridget (CON) <bridget.katz@sfgov.org>

Fri 3/17/2023 11:26 AM

To: Amaya, Vanessa (MYR) <Vanessa.Amaya@sfgov.org>

Cc: Shaw, Eric (MYR) <eric.shaw@sfgov.org>

Approve

Bridget Katz

Development Finance Specialist, Office of Public Finance

Controller's Office | City & County of San Francisco

Office Phone: (415) 554-6240

Cell Phone: (858) 442-7059

E-mail: bridget.katz@sfgov.org

Attachment A: Project Milestones and Schedule

No.	Performance Milestone	Estimated or Actual Date	Notes
A.	Prop I Noticing (if applicable)	<u>N/A</u>	
1	Acquisition/Predev Financing Commitment	<u>COMPLETED</u>	
2.	Site Acquisition	<u>N/A</u>	
3.	Development Team Selection		
a.	Architect	<u>COMPLETE</u>	
b.	General Contractor	<u>COMPLETE</u>	
c.	Owner's Representative	<u>COMPLETE</u>	
d.	Property Manager	<u>COMPLETE</u>	
e.	Service Provider	<u>COMPLETE</u>	
4.	Design		
a.	Submittal of Schematic Design & Cost Estimate	<u>COMPLETE</u>	
b.	Submittal of Design Development & Cost Estimate	<u>COMPLETE</u>	
c.	Submittal of 50% CD Set & Cost Estimate	<u>COMPLETE</u>	
d.	Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs)	<u>COMPLETE</u>	
5.	Commercial Space		
a.	Commercial Space Plan Submission	<u>N/A</u>	
b.	LOI/s Executed	<u>N/A</u>	
6.	Environ Review/Land-Use Entitlements		
a.	SB 35 Application Submission	<u>N/A</u>	
b.	CEQA Environ Review Submission	<u>COMPLETE</u>	
c.	NEPA Environ Review Submission	<u>N/A</u>	
d.	CUP/PUD/Variances Submission	<u>COMPLETE</u>	
7.	PUC/PG&E		
a.	Temp Power Application Submission	<u>COMPLETE</u>	
b.	Perm Power Application Submission	<u>COMPLETE</u>	
8.	Permits		
a.	Building / Site Permit Application Submitted	<u>COMPLETE</u>	

b.	Addendum #1 Submitted	<u>COMPLETE</u>	
c.	Addendum #2 Submitted	<u>COMPLETE</u>	
9.	Request for Bids Issued	<u>12/8/2022</u>	
10.	Service Plan Submission		
a.	Preliminary	<u>COMPLETE</u>	
b.	Final	<u>7/1/2023</u>	
11.	Additional City Financing		
a.	Preliminary Gap Financing Application	<u>N/A</u>	
b.	Gap Financing Application	<u>COMPLETE</u>	
12.	Other Financing		
a.	HCD Application	<u>7/11/2022</u>	<u>IIG</u>
b.	Construction Financing RFP	<u>11/1/2022</u>	
c.	AHP Application	<u>N/A</u>	
d.	CDLAC Application	<u>7/7/2022</u>	
e.	TCAC Application	<u>8/9/2022</u>	
f.	Other Financing Application	<u>N/A</u>	
g.	LOSP Funding Request	<u>N/A</u>	
13.	Closing		
a.	Construction Loan Closing	<u>5/1/2023</u>	
b.	Conversion of Construction Loan to Permanent Financing	<u>5/1/2026</u>	
14.	Construction		
a.	Notice to Proceed	<u>5/1/2023</u>	
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>3/7/2025</u>	
15.	Marketing/Rent-up		
a.	Marketing Plan Submission	<u>3/7/2024</u>	
b.	Commence Marketing	<u>6/1/2024</u>	
c.	95% Occupancy	<u>12/30/2025</u>	
16.	Cost Certification/8609	<u>10/1/2025</u>	
17.	Close Out MOH/OCII Loan(s)	<u>11/1/2025</u>	

Attachment B: Borrower Org Chart

See Attachment M

Attachment C: Development Staff Resumes

See Attachment M

Attachment D: Asset Management Evaluation of Project Sponsor

See Attachment M

Attachment E: Threshold Eligibility Requirements and Ranking Criteria

See Attachment M

Attachment F: Site Map with amenities

See Attachment M

Attachment G: Elevations and Floor Plans

See Attachment M

**Attachment H: Comparison of City Investment in Other Housing
Developments**

Updated 3/10/2023

		Acquisition by Unit/Bed/\$F			Construction by Unit/Bed/\$F			Soft Costs by Unit/Bed/\$F			Total Development Cost (incl. Land)			Subsidy	
		Acquit	AcqB/R	Acquit sq.ft	Constant	ConstB/R	Const sq.ft	Softunit	SoftB/R	Soft sq.ft	Gross TDC/B/R	Gross TDC/ sq.ft	Subsidy/ unit	Leveraging	
	Delta of Subject and Comparable Projects	\$ (12,142)	\$ (7,393)	(39)	\$ 301,326	\$ 96,452	\$ 80	\$ 95,643	\$ 35,232	\$ 35	\$ 384,827	\$ 124,291	\$ 105	\$ 333,927	13.2%
	Delta Percentage	-100%	-100%	-100%	47%	25%	14%	63%	38%	26%	48%	25%	15%	153%	18%
	Average:	\$ -	\$ -	-	\$ 938,379	\$ 484,325	\$ 634	\$ 248,055	\$ 128,029	\$ 168	\$ 1,186,434	\$ 612,353	\$ 801	\$ 552,132	53.5%
	Comparable Projects	\$ 12,142	\$ 7,393	\$ 34.61	\$ 637,053	\$ 387,873	\$ 554	\$ 152,412	\$ 92,797	\$ 133	\$ 801,807	\$ 485,062	\$ 697	\$ 216,206	72.8%

Costs <u>lower</u> than comparable average (within 10%)	Costs <u>higher</u> than comparable average (within 10%)

	Lot sold	Completion start date	# of Units	# of BR's	Building Square Footage			Total Project Costs			Total Dev. Cost w/o land	Local Subsidy	Notes on Financing	Building Type	Stories	Comments
					Res. Sq. ft.	Non-Res. Sq. ft.	Total sq. ft.	Acq. Cost ²	Const. Cost ²	Soft Cost						
ALL PROJECTS	Average:	43,798	125	205	143,688	130,335	17,215	143,688	\$ 79,524,214	\$ 19,025,849	\$ 100,065,733	\$ 27,238,921	\$ 98,550,063			
Comparable Projects Completed (filled)	Average:	43,980	112	182	127,598	111,206	16,336	\$1,987,004	\$67,967,294	\$13,615,668	\$83,563,966	\$20,332,389	\$67,576,962			
Comparable Projects Under Construction (filled)	Average:	52,613	155	252	160,364	22,197	170,022	\$2,389,343	\$96,615,235	\$25,437,356	\$124,441,934	\$36,386,410	\$122,052,591			
Comparable Projects in Predevelopment (filled)	Average:	34,800	107	181	120,035	130,035	13,111	\$170,664	\$73,996,112	\$18,024,522	\$92,191,298	\$24,997,964	\$92,020,635			
Total Comparable Projects	Average:	43,798	125	205	143,688	130,335	17,215	\$1,515,670	\$79,524,214	\$19,025,849	\$100,065,733	\$27,238,921	\$98,550,063			
HPV Bldg 3254 - 351 and 151 Filled	45,630	5/1/2023	112	217	102,843	62,960	165,803	\$ -	\$ 105,098,447	\$ 27,782,195	\$ 132,880,642	\$ 61,838,820	\$ 132,880,642	4% credits bond	Type V over I	\$
Delta of Subject and Comp Project	1,832		-13	12	-27,692	22,215	45,745	22,215	(\$1,515,670)	\$25,674,233	\$8,756,346	\$32,814,909	\$34,330,579			
Delta Percentage	4%		-10%	6%	-21%	21%	15%	-100%	32%	46%	33%	127%	35%			

Building Square Footage

[illegible]

Building Square Footage

[illegible]

Building Square Footage

PROPOSED PRELIMINARY PROJECT COSTS																
BUILDING PROJECT COSTS										TOTAL PROJECT COSTS						
Project Name	Address	Let 1st	# of Units	# of BR*	Res.†	Total	Non-Res.	Acq. Cost‡	Constr. Cost§	Soft Cost	Total Dev. Cost w/out	Local Subsidy	Notes on Financing	Building Type	Stories	Comments
Sampleville Block 3B	1501 Sampleville Avenue	Feb-23	30	178	113,438	34,493		\$ 20,001	\$ 71,871,748	\$ 18,352,088	\$ 90,423,837	\$ 8,468,742	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3C	Sampleville Block 3C	Mar-24	80	164	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	8	check coming in 1/2/23 - parking
Sampleville Block 3D	Sampleville Block 3D	Apr-23	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3E	Sampleville Block 3E	May-23	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3F	Sampleville Block 3F	Jun-23	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3G	Sampleville Block 3G	Jul-23	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3H	Sampleville Block 3H	Aug-23	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3I	Sampleville Block 3I	Sep-23	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3J	Sampleville Block 3J	Oct-23	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3K	Sampleville Block 3K	Nov-23	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3L	Sampleville Block 3L	Dec-23	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3M	Sampleville Block 3M	Jan-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3N	Sampleville Block 3N	Feb-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3O	Sampleville Block 3O	Mar-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3P	Sampleville Block 3P	Apr-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3Q	Sampleville Block 3Q	May-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3R	Sampleville Block 3R	Jun-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3S	Sampleville Block 3S	Jul-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3T	Sampleville Block 3T	Aug-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3U	Sampleville Block 3U	Sep-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3V	Sampleville Block 3V	Oct-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3W	Sampleville Block 3W	Nov-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3X	Sampleville Block 3X	Dec-24	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3Y	Sampleville Block 3Y	Jan-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3Z	Sampleville Block 3Z	Feb-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AA	Sampleville Block 3AA	Mar-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AB	Sampleville Block 3AB	Apr-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AC	Sampleville Block 3AC	May-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AD	Sampleville Block 3AD	Jun-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AE	Sampleville Block 3AE	Jul-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AF	Sampleville Block 3AF	Aug-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AG	Sampleville Block 3AG	Sep-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AH	Sampleville Block 3AH	Oct-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AI	Sampleville Block 3AI	Nov-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AJ	Sampleville Block 3AJ	Dec-25	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AK	Sampleville Block 3AK	Jan-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AL	Sampleville Block 3AL	Feb-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AM	Sampleville Block 3AM	Mar-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AN	Sampleville Block 3AN	Apr-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AO	Sampleville Block 3AO	May-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AP	Sampleville Block 3AP	Jun-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AQ	Sampleville Block 3AQ	Jul-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AR	Sampleville Block 3AR	Aug-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AS	Sampleville Block 3AS	Sep-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AT	Sampleville Block 3AT	Oct-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AU	Sampleville Block 3AU	Nov-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AV	Sampleville Block 3AV	Dec-26	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AW	Sampleville Block 3AW	Jan-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AX	Sampleville Block 3AX	Feb-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AY	Sampleville Block 3AY	Mar-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3AZ	Sampleville Block 3AZ	Apr-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3BA	Sampleville Block 3BA	May-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3BB	Sampleville Block 3BB	Jun-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3BC	Sampleville Block 3BC	Jul-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3BD	Sampleville Block 3BD	Aug-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3BE	Sampleville Block 3BE	Sep-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3BF	Sampleville Block 3BF	Oct-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3BG	Sampleville Block 3BG	Nov-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3BH	Sampleville Block 3BH	Dec-27	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD 65, 3% Type VA over 1A	3	5	check coming in 1/2/23 - parking
Sampleville Block 3BI	Sampleville Block 3BI	Jan-28	30	178	94,295	19,013		\$ 22,430,936	\$ 20,001	\$ 95,715,007	\$ 95,735,008	\$ 26,044,393	4% Credits, HUD			

Attachment I: Predevelopment Budget

N/A

Attachment J: Development Budget

Application Date: January 18 2023 # Units: 112
 Project Name: Hunters Point Shipyard Blocks 52&54 # Bedrooms: 217
 Project Address: 151 & 351 Friedell St
 Project Sponsor: Rose Companies Holdings N/A

	57,000,430	2,410,462	61,915,175	802,284	4,838,390	5,913,900	132,880,642	Total Sources	Comments
USES	MOHCD/OCII	Perm Loan	Equity	Deferred Fee	OCII-	IFG	-		

ACQUISITION

Acquisition cost or value							0		
Legal / Closing costs / Broker's Fee							0		
Holding Costs							0		
Transfer Tax							0		
TOTAL ACQUISITION	0	0	0	0	0	0	0		

CONSTRUCTION (HARD COSTS)

* Unit Construction/Rehab	26,486,674	1,916,315	46,979,961		3,006,801	5,913,900	84,305,651	Include FF&E	
* Commercial Shell Construction							0		
* Demolition							0		
* Environmental Remediation							0		
* Onsite Improvements/Landscaping							0		
* Offsite Improvements							0		
* Infrastructure Improvements							0	HOPE SF/OCII costs for streets etc.	
* Parking							0		
* GC Bond Premium/GC Insurance/GC Taxes	7,545,318				625,237		8,170,555		8.2%
* GC Overhead & Profit	1,538,321		1,538,321		341,849		3,418,491		3.4%
* GC General Conditions	1,769,733		1,769,733		393,274		3,932,741		3.9%
Sub-total Construction Costs	37,340,046	1,916,315	50,288,015	0	4,367,167	5,913,900	99,827,437		
Escalation	0		0		0		0	\$45MM+	0.0%
Bid Contingency (remove at bid)							0	\$45MM+	0.0%
Plan Check Contingency (remove/reduce during Plan Review)	4,831,453						0	\$45MM+	0.0%
Hard Cost Construction Contingencies	4,831,453	0	0	0	439,556	0	5,271,009	8% new construction / 15% rehab	5.3%
Sub-total Construction Contingencies	4,831,453	0	0	0	439,556	0	5,271,009		
TOTAL CONSTRUCTION COSTS	42,171,499	1,916,315	50,288,015	0	4,806,717	5,913,900	105,098,447		

SOFT COSTS**Architecture & Design**

Architect design fees	3,031,893						3,031,893	See MOHCD A&E Fee Guidelines: http://sfmohcd.org/documents-reports-and-forms	
Design Subconsultants to the Architect (incl. Fees)	668,277						668,277		
Architect Construction Admin							0		
Reimbursables	40,000		200,000				240,000		
Additional Services	427,736						427,736		
Sub-total Architect Contract	4,167,968	0	200,000	0	0	0	4,367,968		
Other Third Party design consultants (not included under Architect contract)							0	Consultants not covered under architect contract; name consultant type and contract amount	
Total Architecture & Design	4,167,968	0	200,000	0	0	0	4,367,968		

Engineering & Environmental Studies

Survey	23,500						23,500		
Geotechnical studies	228,500						228,500		
Phase I & II Reports	183,900						183,900		
CEQA / Environmental Review consultants							0		
NEPA / 106 Review							0		
CNA/PMA (rehab only)							0		
Other environmental consultants	177,350						177,350	Name consultants & contract amounts	
Total Engineering & Environmental Studies	613,250	0	0	0	0	0	613,250		

Financing Costs

Construction Financing Costs									
Construction Loan Origination Fee			1,105,401		31,674		1,137,074		
Construction Loan Interest			7,888,221				7,888,221		
Title & Recording			200,000				200,000		
CDLAC & CDIAAC fees			27,050				27,050		
Bond Issuer Fees	136,750						136,750		
Other Bond Cost of Issuance							0		
Other Lender Costs (specify)	50,000		48,000				98,000		
Sub-total Const. Financing Costs	188,750	0	9,268,671	0	31,674	0	9,489,095		
Permanent Financing Costs									
Permanent Loan Origination Fee			49,657				49,657		
Credit Enhance. & Appl. Fee							0		
Title & Recording			20,000				20,000		
Sub-total Perm. Financing Costs	0	20,000	49,657	0	0	0	69,657		
Total Financing Costs	188,750	20,000	9,318,328	0	31,674	0	9,558,752		

Legal Costs

Borrower Legal fees	200,000						200,000		
Land Use / CEQA Attorney fees	100,000						100,000		
Tax Credit Counsel							0		
Bond Counsel			80,000				80,000		
Construction Lender Counsel			50,000				50,000		
Permanent Lender Counsel			65,000				65,000		
Other Legal (specify)	625,000						625,000		
Total Legal Costs	925,000	65,000	130,000	0	0	0	1,120,000		

Other Development Costs

Appraisal	10,000						10,000		
Market Study	10,000						10,000		
Insurance	1,444,764						1,444,764		
Property Taxes	150,000						150,000		
Accounting / Audit	42,500						42,500		
Organizational Costs	25,000						25,000		
Entitlement / Permit Fees	1,507,050						1,507,050		
Marketing / Rent-up			702,000				702,000		
Furnishings			380,000				380,000		
PGE / Utility Fees							0		
TCAC App / Alloc / Monitor Fees	45,100						45,100		
Financial Consultant fees	50,000						50,000		
Construction Management fees / Owner's Rep	180,000						180,000		
Security during Construction							0		
Relocation							0		
Adjacent Property	250,000						250,000		
Special Inspections / Site camera, Final Cleaning AI QAC	759,000						759,000		
IMB Coordinator and Tax Credit fees	92,364						92,364		
Total Other Development Costs	4,565,778	0	1,082,000	0	0	0	5,647,778		

Soft Cost Contingency

Contingency (Arch, Eng, Fin, Legal & Other Dev)	1,238,184	8,500	896,632	0	0	0	2,143,516	Should be either 10% or 5% of total soft costs.	
TOTAL SOFT COSTS	11,898,930	\$5,500	11,627,160	0	31,674	0	23,491,264		16.1%

RESERVES

* Operating Reserves		398,647					398,647		
* Replacement Reserves							0		
* Tenant Improvements Reserves							0		
* CFD fee reserve & Master HOA Reserve	1,110,000						1,110,000		
* Other (specify)							0		
* Other (specify)							0		
TOTAL RESERVES	1,110,000	398,647	0	0	0	0	1,508,647		

DEVELOPER COSTS

Developer Fee - Cash-out Paid at Milestones	2,020,000						2,020,000		
Developer Fee - Cash-out At Risk							0		
Commercial Developer Fee							0		
Developer Fee - SP Equity (also show as source)							0		
Developer Fee - Deferred (also show as source)				802,284			802,284		
Development Consultant Fees							0	Need MOHCD approval for this cost, N/A for most projects	
Other (specify)							0		
TOTAL DEVELOPER COSTS	2,020,000	0	0	802,284	0	0	2,822,284		

TOTAL DEVELOPMENT COST

57,000,430	2,410,462	61,915,175	802,284	4,838,390	5,913,900	132,880,642		

Development Cost/Unit by Source	508,932	21,522	552,814	7,163	43,200	52,803	1,186,434		
Development Cost/Unit as % of TDC by Source	42.9%	1.8%	46.6%	0.6%	3.6%	4.5%	100.0%		

Acquisition Cost/Unit by Source

0	0	0	0	0	0	0	0		

Construction Cost (inc Const Contingency)/Unit by Source

376,531	17,128	449,000	0	42,917	52,803	938,379		

Construction Cost (inc Const Contingency)/SF

254.35	11.57	303.30	0.00	26.99	35.67	633.86		

***Possible non-eligible GO Bond/COP Amount:**

29,897,438									

City Subsidy/Unit

508,932									

Tax Credit Equity Pricing:

0.98%									

Construction Bond Amount:

63,000,000									

Construction Loan Term (in months):

36 months									

Construction Loan Interest Rate (as %):

7.66%									

Attachment K: 1st Year Operating Budget

Application Date: 18 2023		Project Name: Hunters Point Shipyard Blocks 52&54	
Total # Units: 112		Project Address: 151 &351 Friedell St	
First Year of Operations (provide data assuming that Year 1 is a full year, i.e. 12 months of operations): 2025		Project Sponsor: Rose Companies Holdings	
INCOME		Total	Comments
Residential - Tenant Rents	1,805,700		Links from 'New Proj - Rent & Unit Mix Worksheet
Residential - Tenant Assistance Payments (Non-LOSP)	0		Links from 'New Proj - Rent & Unit Mix Worksheet
Commercial Space	0		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
Residential Parking	0		Links from 'Utilities & Other Income' Worksheet
Miscellaneous Rent Income	0		Links from 'Utilities & Other Income' Worksheet
Supportive Services Income			
Interest Income - Project Operations	0		Links from 'Utilities & Other Income' Worksheet
Laundry and Vending	40,768		Links from 'Utilities & Other Income' Worksheet
Tenant Charges	0		Links from 'Utilities & Other Income' Worksheet
Miscellaneous Residential Income	0		Links from 'Utilities & Other Income' Worksheet
Other Commercial Income	0		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
Withdrawal from Capitalized Reserve (deposit to operating account)	0		
Gross Potential Income	1,846,468		
Vacancy Loss - Residential - Tenant Rents	(92,323)		Vacancy loss is 5.1% of Tenant Rents.
Vacancy Loss - Residential - Tenant Assistance Payments	0		#DIV/0!
Vacancy Loss - Commercial	0		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
EFFECTIVE GROSS INCOME	1,754,145	PUPA: 15,662	
OPERATING EXPENSES			
Management			
Management Fee	87,360		1st Year to be set according to HUD schedule.
Asset Management Fee	26,909		
Sub-total Management Expenses	114,269	PUPA: 1,020	
Salaries/Benefits			
Office Salaries	55,450		
Manager's Salary	98,620		
Health Insurance and Other Benefits			
Other Salaries/Benefits	73,940		
Administrative Rent-Free Unit	33,720		
Sub-total Salaries/Benefits	251,930	PUPA: 2,249	
Administration			
Advertising and Marketing	850		
Office Expenses	41,303		
Office Rent			
Legal Expenses - Property	10,000		
Audit Expense	32,472		
Bookkeeping/Accounting Services			
Bad Debts			
Miscellaneous			
Sub-total Administration Expenses	84,625	PUPA: 756	
Utilities			
Electricity	60,000		
Water	100,000		
Gas			
Sewer	50,000		
Sub-total Utilities	210,000	PUPA: 1,875	
Taxes and Licenses			
Real Estate Taxes	8,000		
Payroll Taxes			
Miscellaneous Taxes, Licenses and Permits			
Sub-total Taxes and Licenses	8,000	PUPA: 71	
Insurance			
Property and Liability Insurance	125,000		
Fidelity Bond Insurance			
Worker's Compensation			
Director's & Officers' Liability Insurance			
Sub-total Insurance	125,000	PUPA: 1,116	
Maintenance & Repair			
Payroll	102,030		
Supplies	23,300		
Contracts	47,500		Fire Protection & landscaping
Garbage and Trash Removal	40,000		
Security Payroll/Contract	150,000		
HVAC Repairs and Maintenance	45,000		
Vehicle and Maintenance Equipment Operation and Repairs	20,000		Elevator
Miscellaneous Operating and Maintenance Expenses			
Sub-total Maintenance & Repair Expenses	427,830	PUPA: 3,820	
Supportive Services	90,000		
Commercial Expenses	0		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
TOTAL OPERATING EXPENSES	1,311,654	PUPA: 11,711	
Reserves/Ground Lease Base Rent/Bond Fees			
Ground Lease Base Rent	15,000		Ground lease with MOHCD Provide additional comments here, if needed.
Bond Monitoring Fee	3,013		
Replacement Reserve Deposit	56,000		
Operating Reserve Deposit			
Other Required Reserve 1 Deposit			
Other Required Reserve 2 Deposit			
Required Reserve Deposits, Commercial	0		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
Sub-total Reserves/Ground Lease Base Rent/Bond Fees	74,013	PUPA: 661	
TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)	1,385,667	PUPA: 12,372	
NET OPERATING INCOME (INCOME minus OP EXPENSES)	368,478	PUPA: 3,290	
DEBT SERVICE/MUST PAY PAYMENTS (hard debt/amortized loans)			
Hard Debt - First Lender	161,173		First Mortgage
Hard Debt - Second Lender (HCD Program 0.42% pymt. or other 2nd)	0		Provide additional comments here, if needed.
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)	0		Provide additional comments here, if needed.
Hard Debt - Fourth Lender	0		Provide additional comments here, if needed.
Commercial Hard Debt Service	0		from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
TOTAL HARD DEBT SERVICE	161,173	PUPA: 1,439	
CASH FLOW (NOI minus DEBT SERVICE)	207,305		
USES OF CASH FLOW BELOW (This row also shows DSCR.)	2.29		
USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL			
"Below-the-line" Asset Mgt fee (uncommon in new projects, see policy)			
Partnership Management Fee (see policy for limits)	26,909		4th
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)	7,500		3rd
Other Payments			
Non-amortizing Loan Pmtnt - Lender 1 (select tender in comments field)			Provide additional comments here, if needed.
Non-amortizing Loan Pmtnt - Lender 2 (select tender in comments field)			Provide additional comments here, if needed.
Deferred Developer Fee (Enter amt <= Max Fee from cell I130)	86,448		Def. Develop. Fee split: 50% Provide additional comments here, if needed.
TOTAL PAYMENTS PRECEDING MOHCD	120,857	PUPA: 1,079	
RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)	86,448		
Residual Receipts Calculation			
Does Project have a MOHCD Residual Receipt Obligation?	Yes	Project has MOHCD ground lease?	Yes
Will Project Defer Developer Fee?	Yes		
Max Deferred Developer Fee/Borrower % of Residual Receipts in Y1	50%	Max Deferred Developer Fee Amt (Use for data entry above. Do not link.)	86,448
% of Residual Receipts available for distribution to soft debt lenders	50%		
Soft Debt Lenders with Residual Receipts Obligations (Select lender name/program from drop down)			
MOHCD/OOCL - Soft Debt Loans		Total Principal Amt	Distrib. of Soft Debt Loans
MOHCD/OOCL - All MOHCD/OOCL Loans payable from res. recs		\$57,000,430	66.74%
MOHCD/OOCL - Ground Lease Value or Land Acq Cost		\$150,000	0.26%
HCD (soft debt loan) - Lender 3			0.00%
Other Soft Debt Lender - Lender 4			0.00%
Other Soft Debt Lender - Lender 5			0.00%
MOHCD RESIDUAL RECEIPTS DEBT SERVICE			
MOHCD Residual Receipts Amount Due	86,448	50% of residual receipts, multiplied by 100% -- MOHCD's pro rata share of all soft debt	
Proposed MOHCD Residual Receipts Amount to Loan Repayment	86,448	Enter/override amount of residual receipts proposed for loan repayment.	
Proposed MOHCD Residual Receipts Amount to Residual Ground Le	0	If applicable, MOHCD residual receipts amt due LESS amt proposed for loan repaym	
REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE			
DEBT SERVICE	0		
NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE			
HCD Residual Receipts Amount Due	0		
Lender 4 Residual Receipts Due	0		
Lender 5 Residual Receipts Due	0		
Total Non-MOHCD Residual Receipts Debt Service	0		
REMAINDER (Should be zero unless there are distributions below)			
Owner Distributions/Incentive Management Fee	0		
Other Distributions/Uses	0		
Final Balance (should be zero)	0		

Attachment L: 20-year Operating Proforma

Total # Units:

Hunters Point Shipyard Blocks 52&54

Year		2025		2026		2027		2028		2029		2030		2031		2032		2033		2034		2035		2036		2037		2038		2039		2040		2041		2042		2043		2044	
		Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total
INCOME		1,057,700	1,850,443	1,897,114	1,894,541	1,953,185	2,042,984	2,084,098	2,148,410	2,200,070	2,255,072	2,311,449	2,369,235	2,428,168	2,487,177	2,551,407	2,615,162	2,680,917	2,747,586	2,816,216	2,886,885																				
% Annual Increase		2.5%																																							
Commercial Space		2.5%																																							
Other Income																																									
Grand Potential Income																																									
1,646,468		1,897,639	1,939,646	1,888,444	1,938,146	2,069,169	2,154,337	2,154,876	2,249,742	2,305,066	2,364,635	2,425,726	2,488,754	2,554,377	2,620,914	2,689,610	2,759,660	2,830,606	2,902,611	2,976,611	3,052,611																				
1,629,323		1,881,597	1,923,604	1,872,322	1,921,968	2,052,992	2,137,122	2,137,661	2,232,536	2,292,860	2,353,435	2,414,010	2,474,585	2,535,160	2,595,735	2,656,310	2,716,885	2,777,460	2,838,035	2,898,610	2,959,185																				
1,646,468		1,897,639	1,939,646	1,888,444	1,938,146	2,069,169	2,154,337	2,154,876	2,249,742	2,305,066	2,364,635	2,425,726	2,488,754	2,554,377	2,620,914	2,689,610	2,759,660	2,830,606	2,902,611	2,976,611	3,052,611																				
1,629,323		1,881,597	1,923,604	1,872,322	1,921,968	2,052,992	2,137,122	2,137,661	2,232,536	2,292,860	2,353,435	2,414,010	2,474,585	2,535,160	2,595,735	2,656,310	2,716,885	2,777,460	2,838,035	2,898,610	2,959,185																				
1,646,468		1,897,639	1,939,646	1,888,444	1,938,146	2,069,169	2,154,337	2,154,876	2,249,742	2,305,066	2,364,635	2,425,726	2,488,754	2,554,377	2,620,914	2,689,610	2,759,660	2,830,606	2,902,611	2,976,611	3,052,611																				
1,629,323		1,881,597	1,923,604	1,872,322	1,921,968	2,052,992	2,137,122	2,137,661	2,232,536	2,292,860	2,353,435	2,414,010	2,474,585	2,535,160	2,595,735	2,656,310	2,716,885	2,777,460	2,838,035	2,898,610	2,959,185																				
1,646,468		1,897,639	1,939,646	1,888,444	1,938,146	2,069,169	2,154,337	2,154,876	2,249,742	2,305,066	2,364,635	2,425,726	2,488,754	2,554,377	2,620,914	2,689,610	2,759,660	2,830,606	2,902,611	2,976,611	3,052,611																				
1,629,323		1,881,597	1,923,604	1,872,322	1,921,968	2,052,992	2,137,122	2,137,661	2,232,536	2,292,860	2,353,435	2,414,010	2,474,585	2,535,160	2,595,735	2,656,310	2,716,885	2,777,460	2,838,035	2,898,610	2,959,185																				
1,646,468		1,897,639	1,939,646	1,888,444	1,938,146	2,069,169	2,154,337	2,154,876	2,249,742	2,305,066	2,364,635	2,425,726	2,488,754	2,554,377	2,620,914	2,689,610	2,759,660	2,830,606	2,902,611	2,976,611	3,052,611																				
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**Attachment M: Previous Permanent Funding Loan Evaluation from July 16,
2021 Loan Committee**

Citywide Affordable Housing Loan Committee

San Francisco Mayor's Office of Housing and Community Development
Department of Homelessness and Supportive Housing
Office of Community Investment and Infrastructure
Controller's Office of Public Finance

Hunters Point Shipyard Phase 1

Blocks 52 and 54

**\$55,550,732 Permanent Funding Amount
including \$751,605 in Additional Predevelopment
Funding**

Evaluation of Request for:	Permanent Loan including Additional Predevelopment funds
Loan Committee Date:	July 16, 2021
Prepared By:	Elizabeth Colomello, Senior Development Specialist
MOHCD Asset Manager:	Scott Madden
Sources and Amounts of New Funds Recommended:	\$55,550,732 OCII Bond Proceeds (this amount includes \$751,605 in Additional Predevelopment funds)
Sources and Amounts of Previous City Funds Committed:	\$3,650,000 OCII Bond Proceeds
Total Funding Recommended	\$59,200,732 OCII Bond Proceeds
ROPS Line	ROPS 21/22 Line 395
NOFA/PROGRAM/RFP:	OCII Bond funds/RFP and RFQ
Applicant/Sponsor(s) Name:	The Jonathan Rose Companies/Bayview Hunters Point Multipurpose Senior Services

EXECUTIVE SUMMARY

Sponsor Information:

Project Name:	Hunters Point Shipyard Blocks 52 & 54 Affordable Family Housing	Sponsor(s):	The Jonathan Rose Companies/Bayview Hunters Point Multipurpose Senior Services
Project Address (w/ cross St):	151 and 351 Friedell Street (x Hudson Ave., Kirkwood Ave) 94124	Ultimate Borrower Entity:	HPSY 52-54, LP

Project Summary:

Hunters Point Shipyard ("HPS") Blocks 52 & 54 is a 100% affordable family housing project and will include 112 one to five-bedroom units serving households between 30% and 50% of AMI on two blocks in the Hunters Point Shipyard ("Blocks 52/54" or the "Project"). The Project does not include any operating or rent subsidies. On September 21, 2017, OCII released a Request for Proposals ("RFP") offering Blocks 52/54 for development. On March 6, 2018, the OCII Commission selected McCormack Baron Salazar ("MBS") as lead developer, Bayview Hunters Point Multipurpose Senior Services ("BHPMSS") as co-developer and services lead, Mithun | Solomon ("Mithun") as architect and The John Stewart Company ("JSCo") as property manager. In July 2020, MBS informed OCII that MBS was withdrawing from the Development Team. To replace MBS as lead developer, in October 2020 OCII issued a Request for Qualifications ("RFQ"). The remainder of the Development Team planned to remain in place along with the work product developed to date. Four developers responded to the RFQ and an evaluation panel ranked The Jonathan Rose Companies ("JRC" or, along with BHPMSS, "Developer") the highest. On April 6, 2020, OCII Commission approved an Exclusive Negotiations Agreement ("ENA") with the new development entity with JRC, assigning the existing predevelopment loan (the "Loan") to the new development entity and amending and restating the Loan to update the schedule of performance. The Project fulfills affordable housing goals of the HPS Redevelopment Plan and the City's Consolidated Plan. With this request, the Developer seeks a commitment for a permanent gap loan from OCII to apply for CDLAC and TCAC financing for the Project. The final financial plan ("FFP"), including a final loan amount that may be reduced based on the final sources and uses for this Project, will be approved by the OCII Executive Director and MOHCD Director closer to the start of construction of the Project. The only funds available to the Developer prior to the approval and execution of the ground lease and close of construction financing will be the remaining predevelopment funds from the Predevelopment Loan plus \$751,605 in Additional Predevelopment funds described in this evaluation and the attached Predevelopment Budget. If awarded the Project will begin construction in May 2022 with a target completion by May 2024.

Project Description:

Construction Type:	Type III wood-frame construction over a Type I concrete podium	Project Type:	New Construction
Number of Stories:	Both Blocks: 5 (4 over podium)	Lot Size (acres and sf):	Block 52: 25,100 sf/.58 acres Block 54: 19,660 sf/.45 acres
Number of Units:	112 Total (Block 52: 67 units; Block 54: 45 units)	Architect:	Mithun Solomon
Total Residential Area:	100,891 sf	General Contractor:	Baines Nibbi JV
Total Commercial Area:	NA	Property Manager:	John Stewart Company
Total Building Area:	168,731 sf	Supervisor and District:	Sup. Walton D10
Land Owner:	OCII		
Total Development Cost (TDC):	\$108,717,617	Total Acquisition Cost:	\$0
TDC/unit:	\$970,693	TDC less land cost/unit:	\$970,693
Loan Amount Requested:	\$59,200,732	Request Amount / unit:	\$528,578
HOME Funds?	N	Parking?	Y: 62 spaces 0.6/1 ratio

PRINCIPAL DEVELOPMENT ISSUES

- **Development Costs.** Estimated development costs are high at \$971k/unit, though not the highest, among MOHCD and OCII projects in the pipeline. Maintaining a reasonable cost and minimizing OCII subsidy given the current financial climate with rising costs and more modest tax credit equity assumptions will be a challenge for this Project. The Project benefits from economies of scale by combining the two sites into one project and saves on soft costs. On the other hand, high hard cost drivers include two sites with two foundations and a high proportion of larger family units (including some 4 and 5-BR units). For more details see Section 6.5.
- **Per Unit Subsidy.** Anticipated per unit subsidy is high at \$528K per unit. This is related to the high hard costs currently shown for the Project described above and in Section 6.5. See also Attachment H Comparison of City Investment in Other Housing Developments. The following Project details further exacerbate the issues driving up the OCII subsidy:
 - the lack of sources outside of standard tax-exempt bond and tax credit equity
 - the maximum income restriction of City 50% AMI per the Hunters Point Shipyard Redevelopment Plan, limits ability to leverage more permanent debt
 - small number of units targeted at City 30% and 40% AMI to ensure opportunities for preference populations including Certificate of Preference holders, but limits NOI
For more details see Sections 4.5 and 6.5.
- **Competitive Tax-Exempt Bond Allocation Process.** Starting in 2020, for the foreseeable future, tax exempt bonds will be allocated competitively and are expected to be oversubscribed. The Developer is planning to submit a bond application for the Project in September 2021 (Round 3). However, based on the current anticipated tie-breaker score, the Project is very unlikely to receive an allocation, unless there are changes to the tie-breaker calculation. The City is continuing to advocate for changes to the tie-breaker scoring calculation and increases to the Bay Area pool that could benefit this Project. In the event of not receiving a competitive allocation, the project would have to reapply until successful and could result in development delay. Staff and Sponsor will track this issue and any changes or

refinements to the new competitive allocation process closely during the remaining predevelopment period. This is a critical issue as access to proposed LIHTC equity is dependent on securing a tax-exempt bond allocation. For more details see Section 6.5.2.

- **Change in Lead Developer** In July 2020, the previous lead developer chose to withdraw from the Project. The remainder of the development team chose to stay with the Project. OCII then underwent an RFQ process to select a new lead developer. OCII Commission approved The Jonathan Rose Companies as new lead developer in April 2021. The delay has resulted in increased construction costs and some duplication of efforts to bring the new lead developer up to speed and restart the Project after a period of inactivity. For more information see Section 1.1 and Attachment E.
- **Elective Soil Testing** The development team and OCII have agreed to do elective additional radiological soil testing on the Site concurrent with the Project's Phase II environmental testing at the request of District 10 Supervisor Shamann Walton. This additional scope is elective since the site has been deemed safe for residential use by State and Federal regulators. Based on these previous environmental clearances and previous identified uses at the site staff is confident that there will not be any issues. However, if testing were delayed or took longer than anticipated, it could delay construction. For more details see Section 2.5.

SOURCES AND USES SUMMARY

Predevelopment Sources	Amount	Terms	Status
OCII Loan	\$3,650,000	3 yrs @ 3% Def	Committed
Additional OCII Loan Amount	\$751,605	55 yrs @ 3% / Res Rec	This request (included in OCII Loan shown below)
Total	\$3,650,000		
Permanent Sources	Amount	Terms	Status
OCII Loan	\$59,200,732	55 yrs @ 3% / Res Rec	Not Committed
Tax Exempt Permanent Loan	\$7,316,068	30 yrs @ 3.75% /Amortized	Not Committed
Deferred Fee	\$1,158,147	Res Rec	Not Committed
Tax Credit Equity	\$41,042,670	0.96/per credit	Not Committed
Total	\$108,717,617		
Uses	Amount	Per Unit	Per SF
Acquisition	\$0	0	\$0
Hard Costs	\$91,878,228	820,341	\$545
Soft Costs	\$13,661,242	121,975	\$81
Developer Fee	\$3,178,147	28,376	\$19
Total	\$108,717,617	970,693	\$644

1. BACKGROUND

1.1. Project History Leading to This Request.

The Hunters Point Shipyard ("HPS" or "Shipyard") and Candlestick Point together form approximately 780 acres along the southeastern waterfront of San Francisco. The San Francisco Board of Supervisors originally adopted the HPS Redevelopment Plan in 1997 and amended it in 2010 along with the Bayview Hunters Point Redevelopment Plan (which covers Candlestick Point) to provide for the integrated planning and development of the HPS and Candlestick Point. Properties within the Shipyard transfer from the U.S. Department of the Navy (the "Navy") to OCII after any necessary environmental remediation and determination from federal, state and local regulators that the property is safe for its intended purpose. HPS Phase 1 is located on Navy Parcel A ("Parcel A"), which the Navy transferred to the former Redevelopment Agency in 2004. Historically, the Navy used Parcel A (subdivided into Parcel A-1, or the Hilltop, and Parcel A-2, or the Hillside) as

barracks and related personnel uses. In 2004, the federal and state environmental regulatory agencies with oversight over the Shipyard cleanup determined that Parcel A did not require environmental remediation and was safe for transfer for its intended residential use (see Environmental Remediation and Testing below for further discussion). See the map below showing the Hilltop and Hillside, which make up Hunters Point Shipyard Phase 1 along with the remainder of the Shipyard, which makes up Phase 2.



The HPS Phase 1 Disposition and Development Agreement, dated December 2003 (“Phase 1 DDA”) between OCII and master developer, HPS Development Co, LP an affiliate entity of Lennar Urban (“Master Developer”), implements the development on the Hilltop and Hillside areas of HPS Phase 1 (described in more detail below). The Phase 1 DDA has been amended six times since its approval in 2003.

The HPS Phase 1 development program includes the construction of infrastructure, 26 acres of parks and open space, and up to 1,428 housing units, of which approximately 29% will be affordable to low- and moderate-income households. HPS Phase 1 is divided into two areas, the Hilltop and Hillside. Under the Phase 1 DDA, Vertical Developers have built 505 units, including 43 inclusionary homeownership units within market rate buildings, across multiple blocks in HPS Phase 1, and 59 inclusionary rental units in a 100% affordable project on Block 49 (Pacific Pointe at 350 Friedell). The Master Developer has built approximately 47% of the Infrastructure within HPS Phase 1, including 12 acres of park space and approximately 40% of the roadways. OCII has three stand-alone affordable housing sites on Hilltop (Blocks 52, 54, and 56), which will provide approximately 183 BMR units at up to 50 percent AMI. Blocks 52 and 54, located on the Hilltop, are the first OCII sites considered for development. OCII’s portion of Block 52 is bounded by Friedell Street to the northwest, Kirkwood Avenue to the southwest, Jerrold Avenue to the northeast, and currently, a private market-rate parcel being developed by Lennar on the same block, to the southeast and is under construction. Block 54 is bounded by Friedell Street to the

northwest, Hudson Avenue to the northeast, Innes Avenue to the southwest, and an existing market-rate housing development to the east.

Blocks 52/54 Project Background

- **September 2017:** Original RFP Issued
 - **February 2018:** MBS/BHPMSS team recommended by evaluation panel (OCII, MOHCD, and the Hunters Point Shipyard Citizens Advisory Committee (“HPSCAC”) recommendation endorsed by full HPSCAC
 - **March 2018:** OCII Commission approves MBS/BHPMSS team
 - **August 2018:** OCII Commission approval of Exclusive Negotiations Agreement and predevelopment loan with the MBS/BHPMSS team
 - **July 2019:** OCII Commission approval of schematic design
 - **July 2020:** MBS withdraws from Project as Lead Developer
 - **October 2020:** OCII issues RFQ seeking new lead developer
 - **February 2021:** The Jonathan Rose Companies recommended by evaluation panel (OCII, MOHCD, and the Hunters Point Shipyard Citizens Advisory Committee (“HPSCAC
 - **April 2021:** OCII Commission approval of The Jonathan Rose Companies as new lead developer, a new ENA, and assignment of the remaining predevelopment loan
- 1.2. Applicable NOFA/RFQ/RFP. Hunters Point Shipyard Blocks 52/54 RFP September 2017 and Hunters Point Shipyard RFQ October 2020. For more information see Attachment E.
- 1.3. Borrower/Grantee Profile. (See Attachment B for Borrower Org Chart; See Attachment C for Developer Resume and Attachment D for Asset Management Analysis, see Attachment E for more on the selection process for the original development team and the new lead developer)
- 1.3.1. Borrower. HPSY 52-54, LP
- 1.3.2. Joint Venture Partnership. BHPMSS and JRC will act as co-developers for the Project. BHPMSS is an established services provider in the neighborhood and acted as co-developer with MBS for the Dr. George W. Davis Senior Residences and Center. BHPMSS will act as co-developer of the Project and Managing General Partner of the Limited Partnership (“LP”) that will be established for the development and ownership of the Project. JRC will act as co-developer of the Project and act as General Partner of the LP. BHPMSS will design and implement Marketing and Community Outreach Services to assist in making community residents, including Certificate of Preference holders, aware of the availability of Project units during lease up phase in accordance with City, State, and Federal regulations. BHPMSS will receive 15% of the paid developer fee and 30% of the deferred fee for the project. The JRC affiliate will receive the balance. Each will receive a pro rata share of each installment of the developer fee when the fee is paid. BHPMSS will serve as the lead service provider in planning and operations and will coordinate other local service providers. It is anticipated the BHPMSS and JRC affiliates will remain in the partnership in their original capacities for the entire duration of the project. BHPMSS will receive an option and/or first right of refusal to purchase property after the 15-year compliance period.
- 1.3.3. Demographics of Board of Directors and Staff. JRC does not have a Board of Directors, however they do have a Management Committee. Below are demographics for the Management Committee, Corporate Staff and All Staff (Corporate Staff are all staff that work in their New York, California and Ohio offices on development, Asset Management etc....All staff includes those staff that work on site at their housing developments):

Management Committee	No.	%
Black or African American	1	14.29%
Not specified	3	42.86%
White	3	42.86%
<i>Grand Total</i>	7	
Corporate Staff		
Asian	18	11%
Black or African American	21	12%
Hispanic or Latino	8	5%
Not specified	15	9%
Two or more races	6	4%
White	101	60%
<i>Grand Total</i>	169	
All Staff		
American Indian/Alaskan Native	1	0.20%
Asian	26	5.90%
Black or African American	108	24.50%
Hispanic or Latino	76	17.20%
Native Hawaiian or Other Pacific Islander	2	0.50%
Not specified	24	5.40%
Two or more races	11	2.50%
White	193	43.80%
<i>Grand Total</i>	441	

1.3.4. Racial Equity Vision. The Jonathan Rose Companies have made a commitment to work toward becoming an antiracist organization, looking at everything they do through the lens of racial equity and racial justice. With an understating of the national reach of JRC, ability to leverage and direct large sums of capital, develop the field's next leaders and have direct contact with diverse low-income residents in JRC-managed communities, the Antiracism Committee established three pillars for the company to focus efforts (Internal, External, Within JRC Communities) for its initiatives and have contracted and are working with third-party consultant, Frontline Solutions, for guidance around strategy and implementation. Below are the preliminary areas of focus identified by the Committee:

Internal

- Culture
- Hiring
- Onboarding
- Retention
- Pay Equity
- Leadership/Board
- Ownership
- Professional Development

External

- Partners
- Contractors
- Consultants
- Where and How we Invest
- Investors
- Suppliers

JRC Communities

- Communities of Opportunity
- Exposure to Real Estate Industry
- Neighborhood/Community Organizations
- Police Engagement

1.3.5. Relevant Experience. Please see Attachment C Developer Resume including Experience and Capacity.

1.3.6. Project Management Capacity. JRC will be devoting 2.4 FTE's to the Project. Heading up JRC's work on this project will be Yusef Freeman, Managing Director for the West Coast. Mr. Freeman previously worked for MBS, where he worked on the first 3 phases of Alice Griffith, on Dr. Davis Senior Community and was responsible for assembling the development team for Blocks 52 and 54 before leaving MBS. Mr. Freeman will be spending 50% of his time on the Project. Alexis Campbell, Development Manager will be spending 80% of her time on the Project. Chris Edwards, Director of Construction and Tom Sadlowski, Senior Construction Manager will be spending 20% and 70% of their time, respectively on the Project. Jonathan Rose, President and Lauren Zullo, Director of Sustainability will each spend 10% of their time on the Project.

1.3.7. Past Performance. N/A

1.3.7.1. City audits/performance plans. N/A

1.3.7.2. Marketing/lease-up/operations. JRC does not have any Projects currently in operations in San Francisco. However, BHPMSS and JSCo both have experience in marketing and lease up in San Francisco and JSCo has extensive operating experience in San Francisco. Because JRC is new to San Francisco, staff has included loan condition number 10 in Section 9.2 that requires developing a comprehensive marketing and outreach strategy for the Project starting during the predevelopment period.

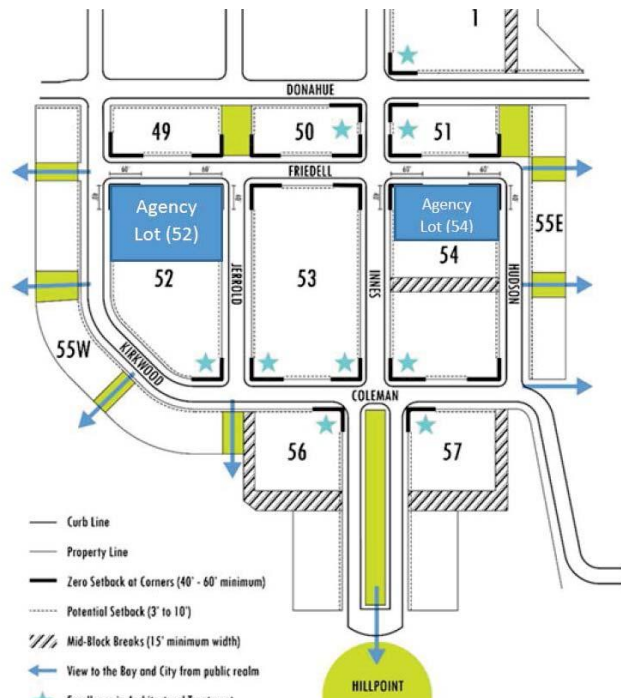
2. SITE (See Attachment E for Site map with amenities)

Site Description	
Zoning:	Moderate Density Residential, governed by Hunters Point Shipyard Redevelopment Project Phase 1 Design for Development ("D4D")
Maximum units allowed by current zoning (N/A if rehab):	80 DU/acre (not including density bonus) The D4D density bonus allows up to an additional 25% density increase by permitting adjustments to requisite D4D Development Controls (e.g., height, bulk, mid-block break location/construction) that allow for the larger project/density.
Number of units added or removed (rehab only, if applicable):	N/A
Seismic (if applicable):	Seismic Zone 4
Soil type:	Published geologic maps of the site and vicinity indicate that Parcel "A" (which includes the Hilltop area)

	is underlain by serpentinite, Franciscan chert, Franciscan sandstone, and shale. These maps show the Quaternary slope wash and ravine fill in swales on the northern portions of the Hilltop site and the southwest corner of the Hillside area. According to existing reports the fill on the Hilltop site appears to have been placed to construct the existing building pads and roadways. The findings from subsurface exploration and the exploratory borings from maps and consultant studies in the 1990's through early 2000's indicate that the existing fills range up to about 15 feet in thickness. These existing fills generally include a mixture of native soil and bedrock derived materials as well as imported base rock type material. Minor amounts of broken glass and debris may also be present.
Environmental Review:	On June 3, 2010, the Former Redevelopment Agency Commission by Resolution No. 58-2010 and the Planning Commission by Motion No. 18096, acting as co-lead agencies, approved and certified the Environmental Impact Report for the HPS/CP Project. On the same date, both co-lead agencies adopted environmental findings, including the adoption of a mitigation monitoring and reporting program and a statement of overriding considerations, for the HPS/CP Project by Former Redevelopment Agency Commission Resolution No. 59-2010 and by Planning Commission Motion No. 18097. On July 14, 2010, the Board of Supervisors affirmed the certification and findings by Resolution No. 347-10 and found that various actions related to the HPS/CP Project complied with the California Environmental Quality Act ("CEQA"). Subsequent to the certification, the Commission and the Planning Commission approved Addenda 1 through 4 to the Environmental Impact Report for the HPS/CP Project analyzing certain HPS/CP Project modifications (together, the "HPS/CP EIR"). Project Phase II (along with elective soils testing not required for environmental review described in Section 2.5 below) is not yet complete; target completion by Fall 2021.
Adjacent uses (North):	Residential
Adjacent uses (South):	Residential, Shipyard Redevelopment
Adjacent uses (East):	Residential, Shipyard Redevelopment
Adjacent uses (West):	Residential
Neighborhood Amenities within 0.5 miles:	Super Save Grocery is 1.2 miles away, India Basin Shoreline Park .4 miles away, Malcolm X Academy .7 miles away,
Public Transportation within 0.5 miles:	MUNI 19, 15 (Bayview Hunters Point Express)
Article 34:	Not exempt, application submitted, confirmation letter expected before CDLAC application needs to be submitted.

Article 38:	Exempt
Accessibility:	100% of units are adaptable and comply with the 2016 CBC. 10% (12) of units will have added mobility features per 2010 ADA and FHA guidelines. 4% (5) of the units will have added communication features per 2010 ADA and FHA standards. This meets TCAC standards.
Green Building:	The Developer currently estimates a 149 GPR rating for the Project. The Project will include the following features: • Zero VOC paints and low formaldehyde finishes • Low-emitting, environmentally preferred, durable flooring • Energy star appliances, low flow fixtures • High-efficiency lighting • High content recycled material
Recycled Water:	Not exempt
Storm Water Management:	PUC has approved the Preliminary Storm Water Management Plan for the Project.

2.1. Description. Blocks 52 and 54, located on the Hilltop in Hunters Point Shipyard Phase 1, are the first of 5 OCII sites considered for development. OCII's portion of Block 52 is bounded by Friedell Street to the northwest, Kirkwood Avenue to the southwest, Jerrold Avenue to the northeast, and currently, a private market-rate parcel being developed by Lennar on the same block, to the southeast. OCII's portion of Block 54 is bounded by Friedell Street to the northwest, Hudson Avenue to the northeast, Innes Avenue to the southwest, and an existing market-rate housing development to the east. See map below.



2.2. Zoning. See chart

2.3. Probable Maximum Loss. N/A

2.4. Local/Federal Environmental Review. See chart

2.5. Environmental Issues.

- Phase I/II Site Assessment Status and Results. It is anticipated that this testing will happen in September/October 2021 with results expected by February 2022.
- Potential/Known Hazards. Some serpentinite rock contains the fibrous mineral chrysotile, which is considered an asbestos mineral. Generally, the amount of chrysotile in the rock is low (less than one percent of the rock mass). Asbestos is considered hazardous when it becomes airborne. Prior to preparation of final grading plans, testing of the serpentinite rock should be performed to determine the chrysotile content of the rock and to develop recommendations to mitigate potential asbestos hazards, if needed. Typical mitigation measures include air quality monitoring during grading, extra dust control measures during grading, and capping of serpentinite areas with non-serpentinite material.
- Elective soil testing. In the early 1990s, the Navy and the United States Environmental Protection Agency (“US EPA”) placed the Shipyard on the National Priorities List for environmental remediation (commonly called “Superfund”), in accordance with federal law. Thereafter, the Navy and the US EPA examined each parcel of the Shipyard to determine the extent of contamination, if any, and proposed an appropriate remedial approach to make the Shipyard safe for future intended uses. In 1995, the Navy determined, and the US EPA, the State of California and San Francisco Department of Public Health agreed, that HPS Phase 1 (which consisted of soldiers’ barracks and accessory activities during active base use) posed no threat to human health or the environment and required no further action, and in 1999, the US EPA removed HPS Phase 1 from the National Priorities (Superfund) List and confirmed that the site was safe for its intended use as a residential community. In 2004, the Navy transferred Parcel A – the land now making up the Hilltop and Hillside of HPS Phase 1 – and began testing and remediating separate portions of the Shipyard (known as HPS Phase 2). The Navy remains responsible for any remediation required at HPS Phase 2.

In 2016, the Navy and the US EPA became aware of anomalies in post-remediation testing at HPS Phase 2. Further investigation led to the Navy’s decision to disregard data provided by one of its former contractors. The Navy is currently in the process of retesting portions of Phase 2 that were the subject of the unreliable data. Although these activities are limited to HPS Phase 2, in July through November of 2018, in response to public concerns and at the request of the City and County of San Francisco (“City”) and Speaker Nancy Pelosi, the California Department of Public Health (“CDPH”) performed a phased-approach radiological survey to assess the health and safety of the public and the environment at HPS Phase 1.

CDPH completed its Final Report for the Hilltop on February 5, 2019, which concluded that no residents, workers or visitors are being exposed to radiological health and safety hazards. To address continued concerns and questions from the community regarding the testing conducted at the Shipyard, Mayor London Breed, City Attorney Dennis Herrera, and Supervisor Shamann Walton asked experts from UC San Francisco and UC Berkeley to conduct an impartial analysis of CDPH’s procedures. The report concluded that CDPH’s health and safety scan was appropriate as a health and safety survey.

Out of an abundance of caution, OCII will work with the Development Team (including the new Lead Developer) to establish a scope of additional radiological soil testing at OCII Block 52 and 54 to be conducted along with the standard site environmental testing. It is anticipated that this testing will happen in September/October 2021 with results expected by February 2022.

- 2.6. Adjacent uses and neighborhood amenities. The Phase 1 DDA obligates HPS Dev Co to construct the infrastructure necessary to support the total vertical development of up to 1,428 housing units and 26 acres of open space and parks in HPS Phase 1. HPS Phase 1 is well underway. Horizontal infrastructure construction is complete. See Section 1.1 above for a description of the development completed and underway at HPS Phase 1. A variety of transit options will be available for residents of Blocks 52/54. In 2020 the 15 Bayview Hunters Point Express bus began providing service to the neighborhood with a stop within a ¼ of a mile of both Block 52 and 54. This will provide a connection between the Hilltop area and BART, Caltrain, etc. These additional transportation options were developed in conjunction with the Planning Department and SFMTA to ensure a level and quality of transit service for the area. Because transit options are currently limited in the area we have required that the Project have a parking ratio of .6:1, which is higher than a typical family development in a more transit rich environment which would have a parking ratio of .25:1 or less.
- 2.7. Green Building. See chart. Both buildings incorporate design strategies that support the health and wellness of building occupants and residents. Environmentally preferable products are prioritized for incorporation throughout the building including: materials that are sourced locally and/or high in recycled content; non-toxic paints, as well as coating and materials that are free of volatile organic compounds (“VOC”) and phthalates. Prioritization of healthy, non-toxic materials within the residential units, where people spend the most time and have the highest levels of exposure. Another area of emphasis is energy performance. In order to reduce energy usage, the buildings will be all-electric, with photovoltaic arrays on the roofs. Together with an upgraded envelope design, this is a cost-effective way to meet the energy goals and low-maintenance needs of affordable housing. The Project is required to achieve a minimum of 125 points (a gold rating) and is currently scoring 142 and 143 for Blocks 52 and 54 respectively.
3. COMMUNITY SUPPORT
- 3.1. Prior Outreach. Staff presented the original RFP to the CAC Housing Subcommittee of the HPSCAC and to the full HPSCAC in July and August 2017. In September 2017, staff convened an informational meeting about the RFP for Hilltop homeowners. Staff presented an update on the selection process to the HPSCAC Housing Subcommittee in January 2018 and presented the developer selection recommendation to the HPSCAC in February 2018. The CAC voted to recommend that Commission select the MBS/BHPMSS team to develop Blocks 52/54.
- Staff presented an update on the proposed Schematic Design to the Hilltop neighbors in March 2019. The design team made some adjustments to the building design for Block 54 where it abuts the existing market rate building based on input from the neighbors. They adjusted one lightwell for better alignment with the market rate building and recessed the portion of the building adjacent to the open space of the market rate block. Staff then presented the proposed Schematic Design to the HPSCAC Housing Subcommittee in March 2019 and to the HPSCAC in April 2019. The CAC voted unanimously to recommend that Commission approve the Schematic Design for the Project.
- Staff provided a development update to the HPSCAC on October 19, 2020. This update included information regarding the RFQ seeking a new lead developer. On February 8, 2021, staff presented the results of the evaluation process to the HPSCAC and they voted to recommend that OCII Commission select JRC as the new lead developer for the Project.
- 3.2. Future Outreach. Staff and the development team will continue to ensure outreach is provided to HPS Phase 1 neighbors and the broader HPS and BHVP community to inform them of any relevant CAC meetings discussing this Project throughout development and operations, as necessary. In partnership with the Baines-Nibbi team, upcoming neighborhood outreach efforts will be focused around job and contracting opportunities. Leveraging partnerships with local non-profit organizations including the Dr. Davis Center,

meetings will take place in District 10 accessible spaces with translation services as-needed.

3.3. Proposition I. Not required

4. DEVELOPMENT PLAN

4.1. Site Control. Both lots are currently owned by OCII. Block 52 is an approximately 25,860 square-foot site bounded by Friedell Street to the northwest, Kirkwood Avenue to the southwest, Jerrold Avenue to the northeast, and the private market-rate portion of Block 52 to the southeast. Block 54 is an approximately 19,720 square foot site bound by Friedell Street to the northwest, Innes Avenue to the southwest, Hudson Avenue to the northeast, and Avocet Way to the southeast.

4.1.1. Proposed Property Ownership Structure. OCII will retain fee interest in the land and ground lease the residential parcel to the Limited Partnership, which will own the improvements.

4.2. Proposed Design.

The Project covers non-contiguous parcels at the heart of the new Hilltop neighborhood. However, the buildings on these two parcels are designed to function as a single community. Because the two sites have different dimensions the most efficient layouts are substantially different on each of the sites. For this reason, community, management and services functions will be clustered in the larger building on Block 52. That allows for the Block 54 building layout to be as efficient as possible while still providing for all the important functions and shared spaces necessary to serve residents. Both buildings use strong proportions and simple framing, finishes and details to both complement the existing architecture on the Hilltop and to create their own character to foster the shared community between the two blocks. Each block incorporates 1 Family Childcare unit.

Unit Type	Block 52	Block 54	Total
1 BDRM	31	18	49
2 BDRM	16	15	31
3 BDRM	12	11	23
4 BDRM	8	0	8
5 BDRM	0	1	1
TOTAL	67	45	112

Block 52

The identity of the building on Block 52 is established by a trellised entry court garden at grade on Friedell Street. This space is defined by a landscaped space in a paved plaza that also provides for adjacent outdoor space to the Community Room. The 1,718 square foot Community Room includes a kitchen and is adjacent to a Fitness Room.

Flush-to-grade bio-retention planter areas and an exterior stair lead to the second-floor (podium level) courtyards. The podium level courtyards provide more outdoor landscaped spaces, with seating areas adjacent to residential units and a laundry/lounge space and informal and formal children's play areas. In total, the design provides over 5,500 square feet of open space for residents to enjoy. All of the administrative functions for both buildings, management and tenant services, are clustered on the southwest side of the

entry court garden. To protect the privacy of patrons of tenant services, the circulation and entrances to these functions are separated from one another.

The garage entrance for the parking is on Friedell Street, integrated and largely concealed in the massing of the building. A ground floor parking area within the building podium includes 34 parking spaces. A bike parking and maintenance room located at the corner of Friedell Street and Kirkwood Avenue provides space for 48 bikes.

Block 54

On Block 54, the opportunity of an expansive view of downtown San Francisco is a key design driver. The entry and main vertical circulation of the building are located to take advantage of a roof deck with informal seating and play areas and a communal table at the northeast corner of the property, highlighting the view. On the ground floor off the main lobby is an amenity space including a lounge and laundry room that are connected to the street level courtyard which also includes informal play and seating areas. There is also a podium level courtyard surrounded by residential units that incorporates informal seating areas and play areas. In total, the design includes over 4,000 square feet of open space for residents. The massing responds to the adjacent neighbors to the south by stepping down at the Hudson Avenue façade. Lightwells at the southern property line align with those of the adjacent buildings, and break up the massing of the building.

Parking and utilities are all at the southern edge of the property. The garage entrance is on Hudson Ave. A ground floor parking area within the building podium includes 28 parking spaces and 28 bike parking spaces.

Accessibility

Block 52

All units will be adaptable for people living with disabilities. Seven mobility accessible units will be provided. Three visual and hearing-impaired units will also be provided.

Block 54

All units will be adaptable for people living with disabilities. Five mobility accessible units will be provided. Two visual and hearing-impaired units will also be provided.

Building Materials

Both buildings will be constructed of Type V, residential wood-frame construction over a Type I concrete podium supported by grade beams and footings. The building on Block 52 will have five stories over a one-story podium and the building on Block 54 will have four stories over a one-story podium.

Proposed exterior finish materials include painted cement plaster, painted box rib metal panels, and glazed thin brick tile (or comparable material). Colors are chosen to be compatible with the neighboring buildings while simultaneously providing a separate identity for each building of this Project and are subject to final approval by OCII staff.

Avg Unit SF by type:	Average unit sizes exceed TCAC minimums 1-brdm avg sf: 589 2-brdm avg sf: 824 3-brdm avg sf: 1,082 4-brdm avg sf: 1,358 5-brdm avg sf: 1,661

Residential SF:	100,891
Circulation SF:	30,241
Parking Garage SF:	21,541
Common Area SF:	5,418
Management/Resident Services	2,951
Service/Mechanical	7,690
Building Total SF:	168,731

- 4.3. Construction Supervisor/Construction Representative's evaluation The proposed construction budget reflects a total hard cost value of \$91,878,228 inclusive of the residential, parking, site improvements (no infrastructure), and bid and design contingencies (held by the developer). This total hard cost value reflects a cost of approximately \$545 per SF or \$820,341 per unit. The per unit cost is significantly higher than the *average* construction costs for MOHCD and OCII funded projects in predevelopment-though it is not the highest, the per bedroom costs are also higher than the average of projects in predevelopment (though less so than the per unit costs) and per square foot costs are lower than the average. This is likely a reflection of the high number of larger bedroom count units with 3, 4- and 5-bedroom units making up nearly 30% of the units. Adding larger units diminishes cost savings as it results in fewer units in the same footprint and it creates an irregular building foot print, therefore not allowing for efficient stacking. Regularity saves costs. This is also a reflection of the lack of economies of scale related to the construction of 2 buildings vs one larger 112-unit building, therefore multiple lobbies, elevators and means of egress are required. The new lead developer is currently undergoing a value engineering process with OCII to continue to refine and contain costs. The new lead developer is using the design build method for mechanical, electrical, plumbing and fire protection building systems. One company builds the drawing set and executes construction, minimizing errors and confusion in the build and reducing overall costs (see Section 6.4.2 for more information on MEPF design build). Construction is anticipated to commence in 2022.
- 4.4. Service Space. The services suite is 1,536 sf and is located on Block 52. It includes enough space for 3 small offices and 2 larger meeting or activity rooms. The proposed services space is adequate for the target population and proposed services plan. While both management and services are clustered on the Southwest corner of Block 52, the circulation and entrances to these functions are separate from each other to protect residents' privacy.
- 4.5. Marketing, Occupancy, and Lease-Up. All units (except the manager's unit) will be restricted and affordable to households earning no more than 50% of the Area Median Income as defined by MOHCD. Occupancy priorities will follow the HPS Redevelopment Plan, the Phase 1 DDA, and OCII Commission action approving City Housing Preferences (Reso. 09-2019), as follows: 1) Hunters Point Certificate of Preference Holders; 2) other Certificate of Preference Holders; 3) Displaced Tenant Housing Preference ("DTHP"); 4) Neighborhood Residential Preference; 5) San Francisco Residents or Workers; 6) Members of the General Public.

These preference referrals must meet the Developer's established screening requirements for the project, and final selection will lie with the Developer. Any authorized preference shall be permitted only to the extent that such preference: (a) does not have the purpose or effect of delaying or otherwise denying access to a housing development or unit based on race, color, ethnic origin, gender, religion, disability, age, sexual orientation, or other protected characteristic of any member of an applicant household; and (b) is not based on

how long an applicant has resided or worked in the area. OCII (and/or its agent) will work with the selected developer teams to resolve potential occupancy conflicts and determine additional occupancy preferences and marketing requirements and to ensure adherence to OCII occupancy preferences and marketing requirements. If more applicants apply than the number of units available, the Developer shall conduct a public lottery.

4.6. Relocation. N/A

5. DEVELOPMENT TEAM

Development Team			
Consultant Type	Name	SBE/LBE	Outstanding Procurement Issues
Architect	Mithun Solomon	N	N
Associate Architect	Kerman Morris	Y	N
General Contractor	Baines Nibbi JV	Y (JV partner)	N
Owner's Rep/Construction Manager	TBD	TBD	N
Legal	Klein Hornig Bocarsly Emden	N	N
Property Manager	John Stewart Co.	N	N (Development Team Member)
Services Provider	BHPMSS	N	N (Development Team Member/nonprofit)

5.1. Procurement Plan. Pursuant to the new ENA with JRC, they have agreed to continue to work with all SBE consultants and contractors already working on the Project. The Developer is required to comply with the Bayview Hunters Point Employment and Contracting Policy, OCII's Nondiscrimination in Contracts, Minimum Compensation and Health Care Accountability policies and will work closely with contract compliance staff to comply with the Small Business Enterprise ("SBE") Policy and the Construction Workforce Policy on this development.

During the construction phase of this project, the Developer is committed to meeting OCII's requirements and goals which include the 50% SBE participation goal on all contract dollars, payment of prevailing wages and the 50% local construction workforce hiring goal. As a result of a competitive general contractor selection process, the previous (MBS) Developer selected Baines Nibbi, a joint venture between the general contractor Nibbi Brothers and General Contractor Baines Group, an OCII-recognized SBE and Minority-Owned Business Enterprise.

The previous Development Team secured the following SBE percentages on the Project through Professional Services contracts thus far: SBE 87.8%, San Francisco-Based (SF) LBE 79.7%, Minority-Owned Business Enterprise (MBE) 6.5%, Woman-Owned Business Enterprise (WBE) 68.5%.

5.2. Opportunities for BIPOC-Led Organizations. The development team is committed to providing opportunities for BIPOC-Led organizations and individuals for the project. Maintaining the Baines-Nibbi JV after the procurement of the new lead developer is critical to exceeding project goals and consistent with JRC's approach to racial equity. In addition, JRC has committed a BIPOC-led staff for the day to day management of the development project and to exceed goals associated with subcontracting for the construction of the project described in Section 5.1 above.

6. FINANCING PLAN (See Attachment F for Cost Comparison of City Investment in Other Housing Developments; See Attachment G and H for Sources and Uses)

6.1. Prior MOHCD/OCII Funding:

Loan Type/ Program	Loan Date	Loan Amount	Interest Rate	Maturity Date	Repayment Terms	Outstanding Principal Balance
OCII Bond Proceeds (Amended and Restated with the new Lead Developer)	April 6, 2021	\$3,650,000	3%	April 6, 2024 or until the perm loan is executed	Deferred	\$2,085,772.98
Total:		\$3,650,000				\$2,085,772.98

6.2. Disbursement Status. Developer can continue to spend predevelopment funds until the close of construction financing, including the additional predevelopment amount in this current request. However, the gap loan proceeds (\$ 54,799,127) may not be drawn prior to the close of construction financing and execution of the Ground Lease.

The \$2,085,772.98 in remaining initial Predevelopment funds have an approved date of November 17, 2017 per the loan evaluation approved on June 15, 2018. The \$751,605 in Additional Predevelopment and permanent funding recommended in this evaluation can be spent on eligible expenses dating back to July 1, 2020.

6.3. Fulfillment of Loan Conditions. Below is the status of Loan Conditions since this project was last at Loan Committee for Predevelopment Financing on June 15, 2018:

- Borrower will provide an analysis of potential sources and strategies and provide a revised recommended financing plan within ninety (90) days of the date of this Agreement. **Status: Complete.**
- Borrower will work with OCII and MOHCD to evaluate costs and propose cost containment strategies throughout the design phase of the Project. **Status: Ongoing.**
- Borrower will refine the services plan and budget and provide an updated preliminary plan and budget consistent with the original RFP response and anticipated resident needs to OCII staff within ninety (90) days of the date of the Amended and Restated Predevelopment Loan Agreement. **Status: In process.**
- Borrower will conduct ongoing outreach to the Hunters Point Shipyard community to solicit input, address concerns, and educate community members on various aspects of the project. **Status: Ongoing.**
- Borrower will continue to utilize the services of the architect, general contractor, and other SBE consultants hired by Shipyard 5254, L.P. and shall inform and cooperate with OCII to effectuate a change in the team's makeup should a change be necessary. Borrower will obtain cost estimates from the selected contractor, and will work with their architectural team to ensure that the site's development costs are managed to OCII's approval. Furthermore, Borrower shall cooperate with OCII and continue to require the general contractor to exercise good faith efforts to select subcontractors who either are SBEs or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs. **Status: Ongoing.**

6.4. Proposed Additional Predevelopment Financing

6.4.1. Additional Predevelopment Sources Evaluation Narrative. OCII is providing all predevelopment funding to the Project and they are sufficient to bring the Project to the

start of construction. The Developer has requested an additional \$751,605 during predevelopment, which will come from this request for funding. See description below.

6.4.2. Additional Predevelopment Uses Evaluation: The Developer is requesting these additional funds to be used during predevelopment to cover the costs related to Mechanical, Engineering, Plumbing, and Fire Protection ("MEPF") components of the Project. The Developer has determined that completing this work as design build would be the most cost-efficient overall for the Project, however it requires more up-front expenditures. The design build MEPF sub contractors have been brought on-line to build out their design during the design document phase. Having the design build subs on board early allows the team to confirm sub pricing that typically makes up for 25-30% of the total contract. Under a design build model, the Developer is able to leverage sub-contractors for Value Engineering ideas to meet code minimums. The contractor is able to bring all sub-contractors together to work through scope gaps. This process helps mitigate large change orders that are typically seen during construction in the alternative "bid-build" model.

Additionally, the architect has requested \$15,000 in additional funds to cover costs related to the transfer of developers and the associated RFQ.

6.5. Proposed Permanent Financing. No funding, other than the OCII Predevelopment Loan, has been secured for this Project. The terms described below are based on the current debt and equity environment and are reasonably conservative. The Developer will work with OCII and potential lenders and investors to secure the best possible terms of all financing for the Project. This final financial plan ("FFP") will be approved by the OCII Executive Director and MOHCD Director.

6.5.1. Permanent Sources Evaluation Narrative: The Borrower proposes to use the following sources to permanently finance the project:

- Private mortgage (\$7,316,068): This loan is modeled at an interest rate of 3.75% and a 30-year term.
- 4% Tax Credit Equity (\$41,042,670): The equity amount assumes a \$.96 per credit pay-in rate and a 4% credit rate based on an estimate provided by Wells Fargo Bank.
- OCII Loan (\$59,200,732): This amount is comprised of \$55,550,732 in new OCII funds (including \$751,605 in Additional Predevelopment funds) plus \$3,650,000 in current predevelopment funds. The loan will have a term of 55 years, and staff is currently anticipating an interest rate of 3%. At the time of FFP, staff may recommend that the OCII Executive Director and MOHCD Director decrease the interest rate, should the Project need it at the time of the close of construction financing to meet IRS requirements related to true debt. At the time of FFP staff may also recommend that the OCII loan amount be reduced if other sources are obtained or better terms on anticipated sources are secured.
- AHP (not included at this time): AHP is not currently included in the sources for this Project as the new developer was brought on after this year's AHP round, however, staff believes that the Project may be competitive and has included loan condition number 3 in Section 9.2 that requires the Developer to apply for these funds, unless it is determined that the Project cannot be successful in the first round of 2022. If successful, the final OCII loan will be reduced at FFP.
- Deferred Developer Fee (\$1,158,147): The proposed Deferred Developer Fee is consistent with the Underwriting Guidelines. This fee generates a net

amount of \$266,821 in additional equity after paying for the fee itself and the loss of cash flow associated with the deferred fee. See Section 6.5.6 for more information.

- General Partner Equity (\$0): The Developer is proposing no GP Equity at this time to minimize project costs. This is not consistent with MOHCD's guideline to incorporate as much Equity as possible to reduce MOHCD/OCII debt. The Developer will explore ways to incorporate it into the Project without jeopardizing financial feasibility. If successful, GP Equity will be incorporated into the FFP and subject to approval by the MOHCD Director and OCII Executive Director.
- Construction Loan (\$56,533,151): While not a permanent source, the construction loan terms include a 3.25% interest rate and a 24-month term.

6.5.2 CDLAC Tax-Exempt Bond Application: Based on the anticipated tie-breaker score, the Project will not be funded in the upcoming CDLAC/TCAC funding rounds. However, staff and the Developer are recommending proceeding with the application to demonstrate need and readiness, and in the unlikely event there is a change to the tie-breaker calculation that would benefit this Project. Since any further delays to this Project will likely result in additional increased costs, staff and the Developer recommend applying for financing now as the Project will be ready. The Developer will analyze Project adjustments that may make the Project more competitive assuming the Project remains uncompetitive for the 2022 funding rounds.

CDLAC Self-Score	
Opportunity Map Resource Level	Low
TCAC Housing Type (new construction only)	Large Family
Bond Allocation Request Amount	\$63,000,000
Total Self-Score (out of 120 points)	119
Tiebreaker Score	\$285,880.95

6.5.3. Permanent Uses Evaluation:

Development Budget		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Hard Cost per unit are within standards	Y	\$820,341/unit This estimate is high when compared to similar Projects on a per unit basis (though there are no real comparable Projects with 2 new construction buildings being built on non-contiguous parcels). A higher per unit cost is warranted for this Project as it is comprised of two separate, non-contiguous buildings therefore it does not benefit from the same economies of scale as other similarly-sized projects

		do. Additionally, there are a high number of large bedroom count units in the Project. The Project is 9% higher than the average of projects in predevelopment and is not the highest cost of those projects in predevelopment on a per bedroom basis and is lower on a per sf basis. See Section 4.3 Const Representative's Evaluation Section and Attachment H Comparison of City Investment in Other Housing Developments
Construction Hard Cost Contingency is at least 5% (new construction) or 15% (rehab)	Y	Hard Cost Contingency is 5%
Architecture and Engineering Fees are within standards	Y	
Construction Management Fees are within standards	Y	
Developer Fee is within standards, see also disbursement chart below	N*	Project management fee: \$900,000 At risk fee: \$1,120,000 Deferred fee: \$1,158,147 Total fee: \$3,178,147 *The Project does not currently include GP Equity. See section 6.5.4 below.
Soft Cost Contingency is 10% per standards	Y	Soft Cost Contingency is 10%
Capitalized Operating Reserves are a minimum of 3 months	Y	Capitalized Operating Reserve is equal to 3 months
Capitalized Replacement Reserves are a minimum of \$1,000 per unit (Rehab only)	NA	
Other Soft Costs	Y	Other soft costs are reasonable

6.5.4 Developer Fee Evaluation: The proposed Developer Fee does not include the \$350,000 that was paid to the previous developer to bring the Project to an approved schematic design. This amount was also removed from the loan at assignment to the new lead developer. Staff proposes that in recognition of the work done by the previous developer, the Project Management Fee be reduced by \$100,000 to \$900,000. JRCo requests the additional developer fee to cover the staff time associated with getting up to speed on a project that is in the middle of DD, the additional risk associated with not being a part of schematic design and the beginning of design development, and the uncapped guarantees and liquidity requirements typically required by the lenders and investor. Staff believes this is a fair proposal that recognizes the work done by the previous developer and also the added work required for a new developer to step into the Project, including reengaging and contracting with the rest of the development team, updating all aspects of the Project and engaging in a value engineering process after a period of almost a year with no predevelopment activity all within a challenging and highly competitive financing environment, that will likely require multiple applications for bonds and tax credits.

The milestones for the payment of the developer fee to the sponsor are specified below

Total Developer Fee:	\$3,178,147	
Project Management Fee Paid to Date:	\$0	No fee has been paid to the new Development Team.
Amount of Remaining Project Management Fee:	\$900,000	
Amount of Fee at Risk (the "At Risk Fee"):	\$1,120,000	\$1M plus \$10K per unit for each unit over 100 units per Developer Fee Policy
Amount of Fee Deferred (the "Deferred Fee"):	\$1,158,147	Sized to maximize equity and maintain competitive CDLAC application. This Deferred Fee increases equity by \$109,735 and does not increase the OCII loan amount
Amount of General Partner Equity Contribution (the "GP Equity"):	\$0	No GPE recommended to maintain lower costs for CDLAC application
Milestones for Disbursement of that portion of Developer Fee remaining and payable for Project Management	Amount Paid at Milestone	Percentage Project Management Fee
Close of Permanent Loan w/Additional Predevelopment financing	\$75,000	8%
At submission of CDLAC and TCAC applications through Construction Close	\$75,000	8%
Execution of Ground Lease	\$65,000	7%
Construction close	\$147,500	16%
During Construction	\$347,500	39%
Construction Completion	\$90,000	10%
Project close-out	\$100,000	11%
Milestones for Disbursement of that portion of Developer Fee defined as At Risk Fee		Percentage At Risk Fee
100% lease up and draft cost certification	\$224,000	20%
Permanent conversion	\$560,000	50%
Project close-out	\$336,000	30%

7. PROJECT OPERATIONS (See Attachment I and J for Operating Budget and Proforma)

7.5. Annual Operating Budget. The Project includes no operating or rental subsidies. Expenses are on the low side compared to similar Projects in MOHCD's portfolio comparable to other similar projects. See the chart below for more information.

7.6. Annual Operating Expenses Evaluation.

Operating Proforma		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Debt Service Coverage Ratio is minimum 1.1:1 in Year 1 and stays above 1:1 through Year 17	Y	
Vacancy meets TCAC Standards	Y	Vacancy is 5%

Annual Income Growth is increased at 2.5% per year	Y	Income escalation factor is 2.5%
Annual Operating Expenses are increased at 3.5% per year	Y	Expenses escalation factor is 3.5%
Base year operating expenses per unit are reasonable per comparables	Y	Total Operating Expenses are \$10,339 per unit JSCo has used comparable projects in District 10 with some adjustments made due to their higher janitorial costs as they are all public housing replacement projects and have higher janitorial and security costs than other Projects in their portfolio. Staff has included loan condition number 11 in Section 9.2 requiring a re-assessment of the operating budget prior to the submission of the CDLAC application. Any adjustments will be made in the FFP.
Property Management Fee is at allowable HUD Maximum	Y	Total Property Management Fee is \$69,888 or \$52 PUPM
Property Management staffing level is reasonable per comparables	Y	\$82,300 for 1 FTE Property Manager, \$52,000 for 1 FTE Assistant Property Manager \$67,000 payroll for 1.5 FTE maintenance \$83,200 assumed in maintenance/ground contracts
Asset Management and Partnership Management Fees meet standards	Y	Annual AM Fee is \$25,124/yr Annual PM Fee is \$25,124/yr
Replacement Reserve Deposits meet or exceed TCAC minimum standards	Y	Replacement Reserves are \$400 per unit per year
Limited Partnership Asset Management Fee meets standards	Y	LP Asset Management Fee is \$5,000 per year, no escalation.

7.7. Income Restrictions for All Sources.

UNIT SIZE		MAXIMUM INCOME LEVEL			
No. of Units		MOHCD	TCAC	HCD	
LOTTERY					
1 BR	1	30%	23%	NA	
2 BR	1	30%	21%	NA	
3 BR	1	30%	21%	NA	
4 BR	1	30%	20%	NA	
5 BR	0	30%	19%	NA	
Sub-Total	4				
1 BR	1	40%	31%	NA	
2 BR	1	40%	29%	NA	
3 BR	1	40%	28%	NA	
4 BR	1	40%	27%	NA	
5 BR	0	40%	26%	NA	
Sub-Total	4				
1 BR	47	50%	38%	NA	
2 BR	28	50%	36%	NA	
3 BR	21	50%	35%	NA	
4 BR	6	50%	33%	NA	
5 BR	1	50%	33%	NA	
Sub-Total	103				
STAFF UNITS					
2 BR	1	N/A	N/A		
TOTAL	112				
AVERAGE FOR LOTTERY UNITS ONLY	111	49%	36%		

7.8. MOHCD Restrictions

Unit Type	Proposed Number of Units	Proposed Avg. Sq. Feet	Max. Rent (at Target AMI)	Net Rent (including Utility Allowance)	Max % AMI OCII	Rent or Operating Subsidies
1BR	1	589	\$799	\$697	30%	none
1BR	1	589	\$1,065	\$963	40%	none
1BR	47	589	\$1,333	\$1,231	50%	none
2BR	1	824	Mgr	Mgr	Mgr	none
2BR	1	824	\$899	\$755	30%	none
2BR	1	824	\$1,199	\$1,055	40%	none
2BR	28	824	\$1,499	\$1,355	50%	none
3BR	1	1082	\$999	\$813	30%	none
3BR	1	1082	\$1,333	\$1,147	40%	none
3BR	21	1082	\$1,665	\$1,479	50%	none
4BR	1	1358	\$1,079	\$847	30%	none
4BR	1	1358	\$1,439	\$1,207	40%	none
4BR	6	1358	\$1,799	\$1,567	50%	none
5BR	1	1661	\$1,931	\$1,646	50%	none
Total Units	112					

Note: That the income tiering with 8 units below 50%, is consistent with the Redevelopment Plan requirement that affordability cannot exceed 50% AMI and MOHCD AMI ensures Project feasibility. While at the time of predevelopment financing the Project was modeling up to 30 units below 50% AMI, it was anticipated at that time that the Project may need to include a lower number of units below 50% AMI to maintain feasibility give the restriction on affordability at 50% AMI versus 60% AMI. More than 8 units at 30% and 40% results is too negative impact on cash flow. However, the Developer will explore ways to increase income tiering below 50% AMI and the final mix may shift prior to the close of construction financing. Any changes are subject to approval by the OCII Executive Director and the MOHCD Director through the FFP. In no event shall the restrictions on any unit exceed 50% of City AMI.

8. SUPPORT SERVICES

8.5. Services Plan. At this property, BHPMSS and their Resident Services Coordinator will work in partnership with, the San Francisco Department of Public Health and JSCo property management as well as community services providers to ensure residents have access linkages and referrals to appropriate services. BHPMSS' supportive services are based on providing compassionate, individualized, culturally and linguistically competent, and voluntary services designed to help families meet individual and community goals for self-sufficiency and well-being. Through their partnership with property management, the Resident Service Coordinator is able to work with families and individuals to continue to improve or maintain a higher quality of life and have access to quality housing and services. The Developer will provide an updated Services Plan and Budget prior to submitting the CDLAC/TCAC applications.

- 8.6. Service Budget. The current operating budget includes 1 FTE Resident Services Coordinator. However, BHPMSS has proposed providing a wider array of services at the site, through partnerships with other local services providers including Hunters Point Family, Bayview Hunters Point Foundation, Young Community Developers and Rafiki Wellness. The Developer will provide an updated Services Plan and Budget prior to submitting the CDLAC/TCAC applications.

9. STAFF RECOMMENDATIONS

9.5. Proposed Loan/Grant Terms

Financial Description of Proposed Loan	
Loan Amount:	\$59,200,732
Loan Term:	55 years
Loan Maturity Date:	2076
Loan Repayment Type:	Residual Receipts
Loan Interest Rate:	3% (This loan may be recast to conform with any future true debt test need for an interest rate between 0% and 3% to be determined prior to the permanent loan closing with approval of the OCII Executive Director and MOHCD Director pursuant to the FFP)
Date Loan Committee approves prior expenses can be paid (this applies only to the new funds recommended in this loan evaluation, remaining \$2,085,772.98 in initial Predevelopment funds have an approved date of November 17, 2017 per the loan evaluation approved on June 15, 2018):	July 1, 2020

9.6. Recommended Loan Conditions

1. Sponsor will conduct ongoing outreach to the Hunters Point Shipyard community to solicit input, address concerns, and educate community members on various aspects of the project.
2. Sponsor will continue to utilize the services of the architect, general contractor, and other SBE consultants hired by Shipyard 5254, L.P. and shall inform and cooperate with OCII to effectuate a change in the team's makeup should a change be necessary. Borrower will obtain cost estimates from the selected contractor, and will work with their architectural team to ensure that the site's development costs are managed to OCII's approval. Furthermore, Borrower shall cooperate with OCII and continue to require the general contractor to exercise good faith efforts to select subcontractors who either are SBEs or, if they are not SBEs, are willing to create joint ventures or similar partnership opportunities with SBEs.
3. Sponsor to apply for Federal Home Loan Bank's Affordable Housing Program at the next round. If successful, the final OCII loan will be reduced at FFP.
4. Sponsor to evaluate if Project will be competitive for State Infill and Infrastructure Grant and, if so, apply at the next round. Sponsor to analyze and propose how to

make project more aligned with state priorities for IIG and other state sources and thus competitive with CDLAC for bond allocation.

5. Sponsor must provide operating and development budgets (including contractor budgets) that meet MOHCD underwriting guidelines and are sufficient to cover anticipated operating expenses.
6. Sponsor must provide OCII with a services plan and proposed staffing levels that meet OCII underwriting standards prior to submission of the CDLAC and TCAC application.
7. Sponsor must provide OCII with information outlining cost containment, efficiencies and innovation strategies to reduce overall project costs and maximize efficiency of OCII gap loans.
8. Sponsor must explore opportunities to increase above eight units that serve households below 50% AMI, if financially feasible. If Sponsor is unable to increase the number of units below 50%, Sponsor must provide additional strategies to serve COP holders at 50% AMI.
9. Sponsor must: a) provide for OCII review of the Request for Proposals (RFP) for equity investors and lenders before it is finalized and distributed; b) provide for OCII review of all raw financial data from developer or financial consultant prior to selection; c) provide for OCII review and approval of all selected investors and lenders; and, d) provide for OCII review and approval of all Letters of Intent from financial partners.
10. Sponsor will provide information regarding marketing (including the reflection of the lease-up team to that of the applicants) and operations (i.e., does on-site staff reflect the property residents) in existing portfolio and work with OCII and MOHCD to establish a marketing and outreach plan for the Project focusing on preference populations.
11. Sponsor must review operating cost assumptions with JSCo prior to submission of the CDLAC application to ensure the operating budget is sufficient given the anticipated lease up date of the Project.
12. Sponsor must provide an Early Outreach Plan 1 month after the start of construction and initial draft marketing plan within 12 months of anticipated TCO, outlining the affirmative steps they will take to market the project to OCII' preference program participants, including COP Holders, Displaced Tenants, and Neighborhood Residents.
13. Sponsor must provide quarterly updated response to any letters requesting corrective action.

10. LOAN COMMITTEE MODIFICATIONS

LOAN COMMITTEE RECOMMENDATION

Approval indicates approval with modifications, when so determined by the Committee.

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Eric D. Shaw, Director
Mayor's Office of Housing

Date: _____

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Salvador Menjivar, Director of Housing
Department of Homelessness and Supportive Housing

Date: _____

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Sally Oerth, Acting Executive Director
Office of Community Investment and Infrastructure

Date: _____

☐ APPROVE. ☐ DISAPPROVE. ☐ TAKE NO ACTION.

Anna Van Degna, Director
Controller's Office of Public Finance

Date: _____

- Attachments:
- A. Project Milestones/Schedule
 - B. Borrower Org Chart
 - C. Developer Resumes including Experience and Capacity
 - D. Asset Management Analysis of Sponsor
 - E. Threshold Eligibility Requirements and Ranking Criteria
 - F. Site Map with amenities
 - G. Elevations and Floor Plans, if available
 - H. Comparison of City Investment in Other Housing Developments
 - I. Sources and Uses
 - J. Additional Predevelopment Budget
 - K. 1st Year Operating Budget
 - L. 20-year Operating Pro Forma

Chavez, Rosanna (MYR)

From: Ely, Lydia (MYR)
Sent: Tuesday, July 20, 2021 4:18 PM
To: Chavez, Rosanna (MYR)
Subject: HPS1 Block 52-54 Loan - 7.16.21 Loan Committee

Hi Rosie,
I approve the loan request for the HPS1 Block 52-54 project, as presented at the 7.16.21 Loan Committee.
Thank you,
Lydia

Lydia Ely
Deputy- Housing
Mayor's Office of Housing and Community Development
Work from home: (415) 225 2936

My work hours may not be your work hours. Please do not feel obligated to respond to my email if you receive it outside of your regular work hours.

Chavez, Rosanna (MYR)

From: Guttirez, Alan (HOM)
Sent: Tuesday, July 20, 2021 4:24 PM
To: Chavez, Rosanna (MYR)
Subject: Re: Vote from Loan Committee held on 7/16

Hi Rosie,

My vote is to approve the action from Loan Committee last Friday.

Thank you,
Alan

Get [Outlook for iOS](#)

From: Chavez, Rosanna (MYR) <rosanna.chavez@sfgov.org>
Sent: Tuesday, July 20, 2021 4:10:00 PM
To: Guttirez, Alan (HOM) <alan.guttirez@sfgov.org>
Subject: Vote from Loan Committee held on 7/16

Hi Alan,

If you could please provide your vote from last weeks Loan Committee.

Thank you,

Rosie Chavez

Assistant Housing Loan Administrator
Mayor's Office of Housing and Community Development
1 South Van Ness, 5th Floor, San Francisco, CA 94103

Chavez, Rosanna (MYR)

From: Oerth, Sally (CII)
Sent: Friday, July 16, 2021 11:40 AM
To: Chavez, Rosanna (MYR)
Cc: Ely, Lydia (MYR); Colomello, Elizabeth (CII)
Subject: HPS1 Block 52-54 Loan - 7.16.21 Loan Committee

I approve the loan request for the HPS1 Block 52-54 project, as presented at the 7.16.21 Loan Committee.



Sally Oerth
Interim Executive Director

📍 One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
📞 415.749.2588
🏠 www.sfocii.org

Chavez, Rosanna (MYR)

From: Van Degna, Anna (CON)
Sent: Friday, July 16, 2021 11:39 AM
To: Chavez, Rosanna (MYR)
Cc: Ely, Lydia (MYR)
Subject: HPS 52/54

approved

Anna Van Degna

Director, Controller's Office of Public Finance
City & County of San Francisco
1 Dr. Carlton B. Goodlett Place
City Hall, Room 336
San Francisco, CA 94102
Phone: (415) 554-5956
Email: anna.vandegna@sfgov.org

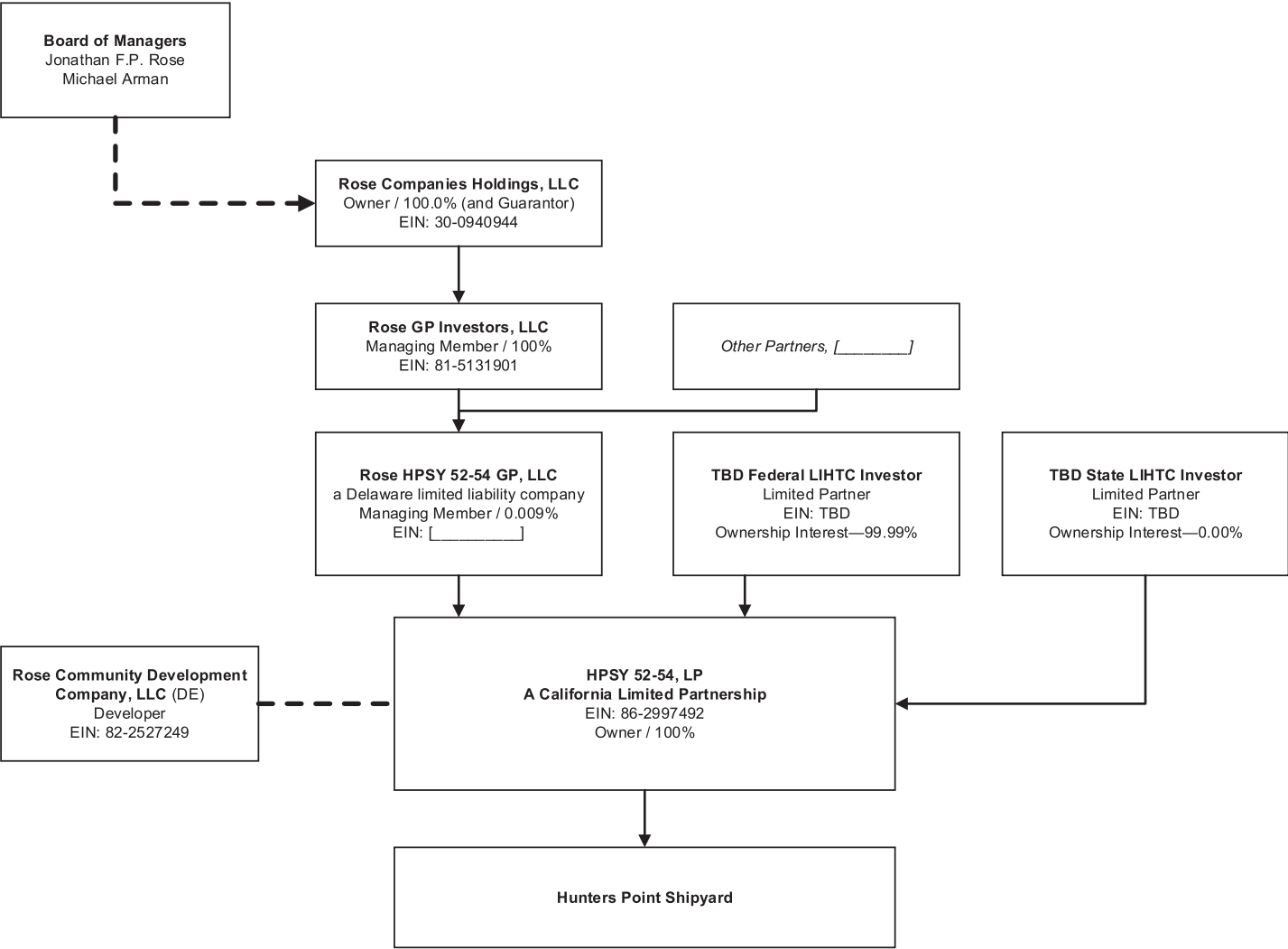
Attachment A: Project Milestones and Schedule

	Performance Milestone	Estimated or Actual Date¹	Contractual Deadline
1	Design		
2	Submittal of Updated Design Development & Cost Estimate	<u>5/1/2021</u>	<u>6/1/2021</u>
3	Submittal of 50% CD Set & Cost Estimate	<u>7/15/2021</u>	<u>10/15/2021</u>
4	Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs)	<u>12/15/2021</u>	<u>3/15/2022</u>
5	Permits		
6	Building / Site Permit Application Submitted	<u>10/8/2019</u> <u>Issued 4/2020</u>	
7	Addendum #1 Submitted	<u>8/15/2021</u>	<u>1/15/2022</u>
8	Addendum #2 Submitted	<u>12/15/2021</u>	<u>3/29/2022</u>
9	Request for Bids Issued	<u>12/2021</u>	<u>3/2022</u>
10	Service Plan Submission		
11	Update	<u>7/1/2023</u>	<u>12/10/2023</u>
	Additional City Financing		
	Predevelopment Financing Application #2	<u>N/A</u>	
12	Gap Financing Application	<u>7/2021</u>	<u>4/2022</u>
	Other Financing		
13	Construction Financing RFP	<u>9/2/2021</u>	<u>4/1/2022</u>
14	AHP Application	<u>3/2022</u>	<u>3/2023</u>

¹ Estimated Dates are the Borrower's and OCII's best estimate for achieving milestones established herein, which estimates are established for project management purposes, but do not supersede contractual deadlines, which establish deadlines by which Borrower is required to perform under this Agreement.

15	CDLAC Application CDLAC Award (based on 2021 dates)	<u>9/2021</u> <u>12/2021</u>	<u>2/4/2022</u> <u>4/28/2022</u>
16	TCAC Application TCAC Award (based on 2020 dates)	<u>9/2021</u> <u>12/2021</u>	<u>2/4/2022</u> <u>4/28/2022</u>
	Other Financing Application		
	Closing		
17	Construction Closing	<u>5/1/2022</u>	<u>10/1/2022</u>
18	Permanent Financing Closing	<u>2/1/2025</u>	<u>8/1/2025</u>
	Construction		
19	Notice to Proceed	<u>5/1/2022</u>	<u>10/1/2022</u>
20	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>5/1/2024</u>	<u>10/1/2024</u>
21	Marketing/Rent-up		
22	Early Outreach Plan Submission	<u>6/1/2022</u>	<u>11/1/2022</u>
23	Marketing Plan Submission	<u>12/2023</u>	<u>6/2024</u>
24	Commence Marketing	<u>2/1/2024</u>	<u>6/1/2024</u>
25	95% Occupancy	<u>10/1/2024</u>	<u>6/1/2024</u>
26	Cost Certification/8609	<u>6/1/2025</u>	<u>12/1/2025</u>
	Close Out MOH/OCII Loan(s)		

Attachment B: Borrower Org Chart



Attachment C: Developer Resume

Developer Experience and Capacity



Jonathan Rose Companies is a national development and investment management firm. The company's mission is to strengthen communities of opportunity by developing innovative real estate solutions that build value, enhance resilience, and cultivate wellbeing. Jonathan Rose Companies is one of the largest owners and developers of affordable housing in the country, with nearly 15,000 units developed and owned in 18 states and the District of Columbia. Since its founding in 1989, the firm has completed over \$3.2 billion of community enhancing work. The company is widely recognized as a leader for design excellence, green and affordable buildings and creating successful community development models that enrich the ability of their residents, communities and cities to thrive.

In 2017, Jonathan Rose Companies opened an office in Los Angeles, which serves as the headquarters for Rose Community Capital and earlier this year brought on Yusef Freeman to lead its ground up development and acquisitions in the western US out of the newly opened office in Oakland. Jonathan Rose Companies are uniquely positioned for success to step into this project as lead developer as Yusef put together and led the team selected for this development while serving as Managing Director for McCormack Baron Salazar. His experience includes the successful completion of OCII-sponsored work with both the selected general contractor and managing general partner in the Bayview neighborhood as well as managing Mithun design work in San Francisco. Jonathan Rose Companies have included him in the management committee for the entire firm and looks to him for leadership and decision-making for West Coast development and acquisitions.

Jonathan Rose Companies believes in building communities of opportunity in balance with nature. For over 30 years, most of which has been co-created in partnership with cities and nonprofit institutions. Jonathan Rose Companies is recognized as a pioneer in developing green, affordable and mixed-income housing, and is committed to ensuring that every project provides residents with access to jobs, education, health services, and other elements of opportunity that nurture the common good.

Meeting and creating rigorous environmental criteria for our projects have been part of our ethos from the earliest days of the company. In the early 1990s, Jonathan Rose recognized the need for a comprehensive, structured approach to developing buildings that had a positive impact on the natural environment by creating a set of principles to guide projects in responsible development. The guide that was created led to the development of the Enterprise Green Communities certification program. Over the last 30 years we have developed some of the country's most environmentally friendly affordable housing projects using innovative design, financing, and partnerships to lead the field in delivering healthy, sustainable, transit-oriented housing, which are values consistent with San Francisco's innovative building code and OCII's Design for Development approach in the Shipyard.



Throughout Jonathan Rose Companies' history we have hired third-party General Contractors ("GC") and Construction Managers ("CM") to execute most of our work. This strategy allowed us to fortify strong relationships with subcontractors across many markets in the country while simultaneously building a team of in-house construction professionals who provided oversight of the third-party GCs and CMs. Each member of our team has vast construction knowledge and experience on complex ground up construction as well as rehabilitation projects. All members have worked in the General Contracting arena and furthered their skills while working at Jonathan Rose Companies. Our in-house construction experts participate in the design development process to ensure that key constructability, budget and green considerations are incorporated into the project design. Once construction has commenced, we track construction progress, make regular site visits, and continue to manage all team members to deliver the project on-time and on-budget. We are confident in our ability to meet our goals and honored to continue the important work of strengthening communities of opportunity.

Jonathan Rose Companies' has a wealth of experience working with public agencies to deliver and operate complex, master-planned mixed-use developments featuring a wide range of uses. State and Federal agency relationships include but are not limited to CDLAC, CTCAC, California Department of Housing and Community Development, and the U.S. Department of Housing and Urban Development.

JRCo leads in competing for 4% and 9% Low Income Housing Tax Credits (LIHTC) and has successfully completed over 21 projects utilizing 4% and 9% LIHTC equity for both new construction and preservation of affordable housing. In June 2019, JRCo closed on a \$70.2 million equity investment from Bank of America priced at \$1.07 per credit for the first phase of Sendero Verde, 361 units in East Harlem, the highest known tax credit pricing in New York City that year. JRCo is also one of the largest owners of Section 8 projects in the country, with over 5,581 units in its portfolio. In 2019, Jonathan Rose closed on the acquisition and preservation of 286 units of Project-Based Section 8 in California. In 2019, Jonathan Rose Companies closed on \$55 million in tax-exempt bonds with California Statewide Communities Development Authority (CSCDA) to acquire and preserve 286 units of affordable senior housing. Our experience with the largest LIHTC investors and affordable housing lenders in the country coupled with our direct relationships with the San Francisco and greater California-based leaders of those finance partners will yield the most competitive pricing and terms available in the market for the project.

Our team has experience stepping into a project with a local government sponsor that the initially awarded developer did not complete. During his time at McCormack Baron Salazar, Yusef Freeman led their work in New Orleans after Hurricane Katrina. After completing 460 units of mixed-income housing in partnership with the Housing Authority of New Orleans, the LIHTC equity investor for a nearby community going through a similar revitalization asked MBS to step in for KBK Enterprises, who was unable to move the project forward. Yusef led the effort to transition the project and the closing of the initial phase of development on the site. This took place during the same period when he led the team to secure the Choice Neighborhoods grant for the redevelopment of Alice Griffith in partnership with OCII and secured the Project-Based Vouchers for the development of the Dr. Davis Senior building in partnership with BVHPMSS, both projects in the Bayview with the Baines/Nibbi JV as general contractor.

In October of this year, Jonathan Rose Companies closed on a \$525 Million affordable housing preservation fund, our fifth multifamily acquisition fund pairing equity with agency and traditional debt to extend the affordability of regulated and unregulated affordable housing throughout the country. The latest fund has been active in San Francisco and the surrounding Bay Area searching for opportunities to preserve affordability in the region without leveraging tax credits or local capital subsidies.



Jonathan Rose Companies also has a subsidiary Community Development Entity, the Rose Urban Green Fund, which makes NMTC investments across the country. In 2017, Rose Urban Green Fund, which was awarded an NMTC allocation of \$45 million by the U.S. Department of the Treasury.



DEVELOPER'S EXPERIENCE IN COMPARABLE PROJECTS



Caesura

Jonathan Rose Companies was designated as the winner of an RFP process run by NYC Department of Housing Preservation and Development to develop the last un-programmed vacant site in the Downtown Brooklyn Cultural District. Caesura consists of 123 rental apartment units designed to accommodate a range of modern urban households. Twenty percent of the apartments will be affordable to households earning 80% of AMI, twenty percent will be affordable to households earning 130% of AMI, with the balance rented at market rates. Unique to the area are the 34 micro-unit apartments, which are efficiencies under 400 SF in size that optimize living space and reduce clutter and the apartment footprint.



Metro Green Terrace

Metro Green Terrace consists of 131 apartment units in an eleven-story building. The site is located in a Smart Growth neighborhood, one block from the Stamford Train Station and within walking distance of downtown Stamford's business district, entertainment, and shopping. Apartments are available in a range of prices including 58 apartments available at market rates, 43 apartments available to households earning at or below 60% of AMI and 30 apartments available to households earning at or below 50% of AMI.



Portner Flats

The Rose Green Cities Fund, in a joint-venture (the "JV") between the Fund and Portner Development Partners, acquired Portner Place. The property is a 100% affordable Section 8 project located in Washington, D.C. and consists of 48 family-designated apartments in three similar garden-style four-story buildings. The JV received entitlements and Planned Unit Development (PUD) approval to increase the site's density and create a new mixed-income residential community with retail space. The pre-negotiated development agreement with the existing tenants calls for temporary relocation of residents off-site, while the new 96 unit affordable property was developed, which doubled the existing affordability and capitalize on the strong demand for housing on this well-located site.



Biographies



Jonathan F.P. Rose
President

Jonathan F.P. Rose is the Founder and President of the Jonathan Rose Companies LLC, a multi-disciplinary real estate development, planning, consulting and investment firm. The firm is a leading national developer of green affordable and mixed income communities and is implementing affordable housing investment funds to preserve and enhance affordable housing. Mr. Rose is a thought leader in a wide range of urban issues, and the development of communities of opportunity. He has received MIT's Visionary Leadership Award, The Urban Land Institute's global award for Excellence and many other awards for his work.

Mr. Rose's book on how to create resilient cities, *The Well-Tempered City: What Modern Science, Ancient Civilizations and Human Nature Teach Us About the Future of Urban Life*, was published by Harper Wave in 2016, and won the 2017 PROSE Award for Outstanding Scholarly Work by a Trade Publisher.

Mr. Rose is a Trustee of Enterprise Community Partners and the Brooklyn Academy of Music. He is an Honorary Member of the American Institute of Architects and Honorary Trustee of the American Museum of Natural History and Jazz at Lincoln Center. Mr. Rose plays bass and blues harp.

Mr. Rose graduated from Yale University in 1974 with a B.A. in Psychology and Philosophy, and received a Masters in Regional Planning from the University of Pennsylvania in 1980.



Yusef Freeman
Managing Director, West Coast

Yusef Freeman is the Managing Director of California for the Jonathan Rose Companies, leading ground up development and acquisitions on the West Coast out of the Companies' Oakland, CA office.

Prior to joining the Rose Companies, Yusef was a Vice President of Investments in the transactions group at PGIM Real Estate, sourcing investment opportunities for the real estate private equity funds of the company.

Prior to joining PGIM in 2018, Yusef was the Managing Director for McCormack Baron Salazar, leading west coast operations and new business development nationally for the company and a Graduate Program lecturer in the Department of City and Regional Planning at the University of California, Berkeley.

Yusef holds a bachelor's degree from the University of California, Berkeley where he spent one year studying abroad at the American University in Cairo, Egypt; a Master of Public Administration from New York University, where he majored in public finance as a Public Policy and International Affairs Fellow; and an alum of the Center for Urban Redevelopment Excellence Fellowship Program at the University of Pennsylvania.



Biographies



Alexis Campbell
Development Manager

Ms. Campbell joined Jonathan Rose Companies as an Assistant Project Manager in the Development and Culture, Health, and Education practices in 2017. Ms. Campbell is involved with all aspects of project development from design to stabilization.

Prior to joining Jonathan Rose Companies Alexis received her Master's in Real Estate Development from Columbia University and a Bachelor's degree in International Development and Urban Planning at the University of California, Los Angeles. After graduating UCLA, Alexis joined Concord Real Estate Services and assisted in the rehabilitation, and management of apartment complexes in redevelopment areas of Southern California.

Ms. Campbell has always had a strong belief in helping people in underserved communities. She has been involved in various capacities with the Jackie Robinson Foundation and has spent time volunteering with Homes for Hope and strongly believes that adequate, safe housing for all should be the standard regardless of race, nationality or socio-economic status.



Lori Stanlick
Director, Social Services

In this newly created role of Director of Social Service, Lori Stanlick, a licensed social worker, will implement the Communities of Opportunity Program. The multiyear project, founded by Jonathan Rose Companies and Enterprise Community Partners, has been designed to gather concrete evidence that comprehensive housing-based approaches result in substantially improved outcomes for residents. Lori will leverage community resources in order to provide additional support to residents of the company's national developments. She will also take the lead in measuring the efficiency and efficacy of programming as well as developing best practices for each region.

Most recently, Stanlick was an Associate Executive Director at the YWCA of White Plains where she spent the last 13 years as a vital team member overseeing five YWCA mission-based programs, including a 193-unit residence. She has been practicing social work for over twenty years and has dedicated her career to serving formerly homeless and vulnerable populations.

Lori obtained her Bachelor of Arts Degree in Psychology from Clark University and a Master of Social Work from Columbia University. She obtained her Low-Income Tax Credit Certification in 2010. Stanlick currently is a member of the Weill Cornell/NYPH Psychiatric/Geriatric Mental Health Coalition and has joined the Women and Housing Finance Group, based in Manhattan.



Biographies



Christopher Edwards
Managing Director of Design and Construction

As Managing Director of Design and Construction, Mr. Edwards is involved in all aspects of the design and construction processes at Jonathan Rose Companies. Mr. Edwards instills a collaborative team approach in each project to ensure the client's needs are met, risks are identified and mitigated, and the project is completed on time, on budget and with the highest standard of quality. He brings more than 18 years of experience in the fields of development and construction management and has overseen over \$1 billion of work throughout his career.

Prior to joining Jonathan Rose Companies, Mr. Edwards was a Project Manager for The Dermot Company, a private developer, where he managed new construction and renovation projects ranging from \$1.5 million to \$186 million. Earlier in his career, Mr. Edwards was a Project Management Cost Systems Engineer and an Assistant Project Manager at Turner Construction where he worked on core and shell commercial buildings, office renovations/office fit-outs, and educational facilities.

Mr. Edwards is a LEED Accredited Professional who received his Bachelor of Science in Civil and Environmental Engineering from Bucknell University in Lewisburg, PA. His unique qualifications of field experience and project cost analysis allow him to identify and mitigate risks early in the design and construction process, which results in project success.



Lauren Zullo
Director of Sustainability

As Director of Sustainability, Lauren Zullo is responsible for leading environmental and healthy building initiatives across the portfolio. Working closely with our Asset Management, Development, and Construction practices, she identifies and implements green retrofit opportunities and advances environmental innovation in new development. She also tracks building performance metrics and develops environmental reporting for investors and other stakeholders.

Ms. Zullo brings 10 years of experience in planning and implementation of green real estate strategy for owners, tenants, and local governments. Most recently, she was with the Natural Resources Defense Council (NRDC), a leading environmental non-profit, where she served as the Director of Partnerships and Strategic Planning for the City Energy Project (CEP). As part of CEP, she worked to establish replicable, market-based policies and programs to improve energy and water performance of existing buildings and reduce the carbon footprint of the built environment. She joined NRDC as an Environmental Innovation Fellow for NRDC's Center for Market Innovation, leading high-performance commercial tenant design projects.

Previously, Zullo worked for Washington, DC-based commercial real estate development and management firm, Greenebaum & Rose Associates, where she focused on sustainability initiatives, development, and property management. Lauren received her A.B. from Bowdoin College and has served on USGBC's LEED Advisory Committee since 2013.

Staff Name/Position Title	Total FTE %	% F T E B y T a s k								
		Projects (1) (2)							Other	
		Hunters Point Block 52& 54	New Miramar	Miramar Towers (Rehab)	JRco Southeast	JRco East Coast	Acquisiton / Preservation	Administration	Business Development	Miscellaneous
Jonathan F.P. Rose, President	100%	10%			10%	10%	20%	10%	40%	
Yusef Freeman, Managing Director	100%	50%	15%				30%		5%	
Alexis Campbell, Development Manager	100%	80%		10%				10%		
Chris Edwards, Director of Construction	100%	20%	10%	10%	10%	10%		20%		20%
Tom Sadlowski, Senior Construction Manager	100%	70%	10%	10%						10%
Lauren Zullo, Director of Sustaiability	100%	10%						90%		

(1) List all development projects, including the subject site, (existing or contemplated) that each person is expected to spend time on, [from Start predev date to Start of Construction]

(2) Attach additional sheets if necessary

NOTE: This form will be posted along with the RFP on OCII's website and can be downloaded and filled out electronically. However, the completed form must be submitted as a hard copy along with all other proposal materials as outlined in the RFP.

Attachment D: Asset Management Evaluation of Project Sponsor

JRC's portfolio consists of 88 projects, 17,000 units under the asset management portfolio. An Asset Management Organizational Chart is included in this attachment. 93.9% of JRC's portfolio (both existing and pipeline projects) is affordable. We don't have an only "market rate" property. All JRC properties are either affordable, or mixed-income. The Asset Management Team (the "Team") monitors the performance, leasing and operations of investment and development properties, in a portfolio of over 4.5 million sf. of commercial and residential properties, including new construction, green retrofits and completed projects implementing green operations. The practice provides financial oversight of the property in context of the overall portfolio, including drafting the initial business plan, provide guidance on operating budgets and 5-year capital expense plans to meet or exceed business plan goals, monitors the monthly financials to assess performance, acts swiftly to address budget variances, and fully understands the economics of a deal, while continuously seeking to optimize value.

As the liaison between ownership and property management the Team ensures property management is operating to the budget. The Asset Management Team leads the refinancing and disposition processes of properties and is responsible for the successful completion of the transactions.

JRC owns 17,000 units and plan to be at least 25,000 by end of strategic plan period. We have established offices coast to coast nationally, with HQ in NYC and Management and Operations in Cleveland, and we staff according to need by region as portfolio grows.

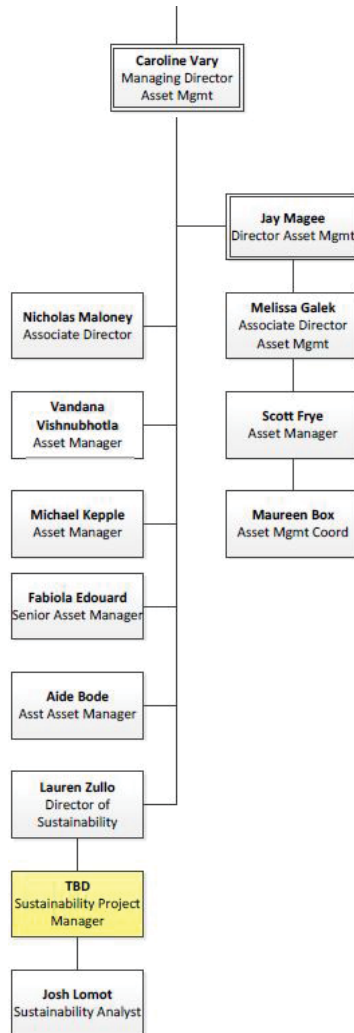
JRC's California Asset Management staffing plan, including Blocks 52/54 is as follows:

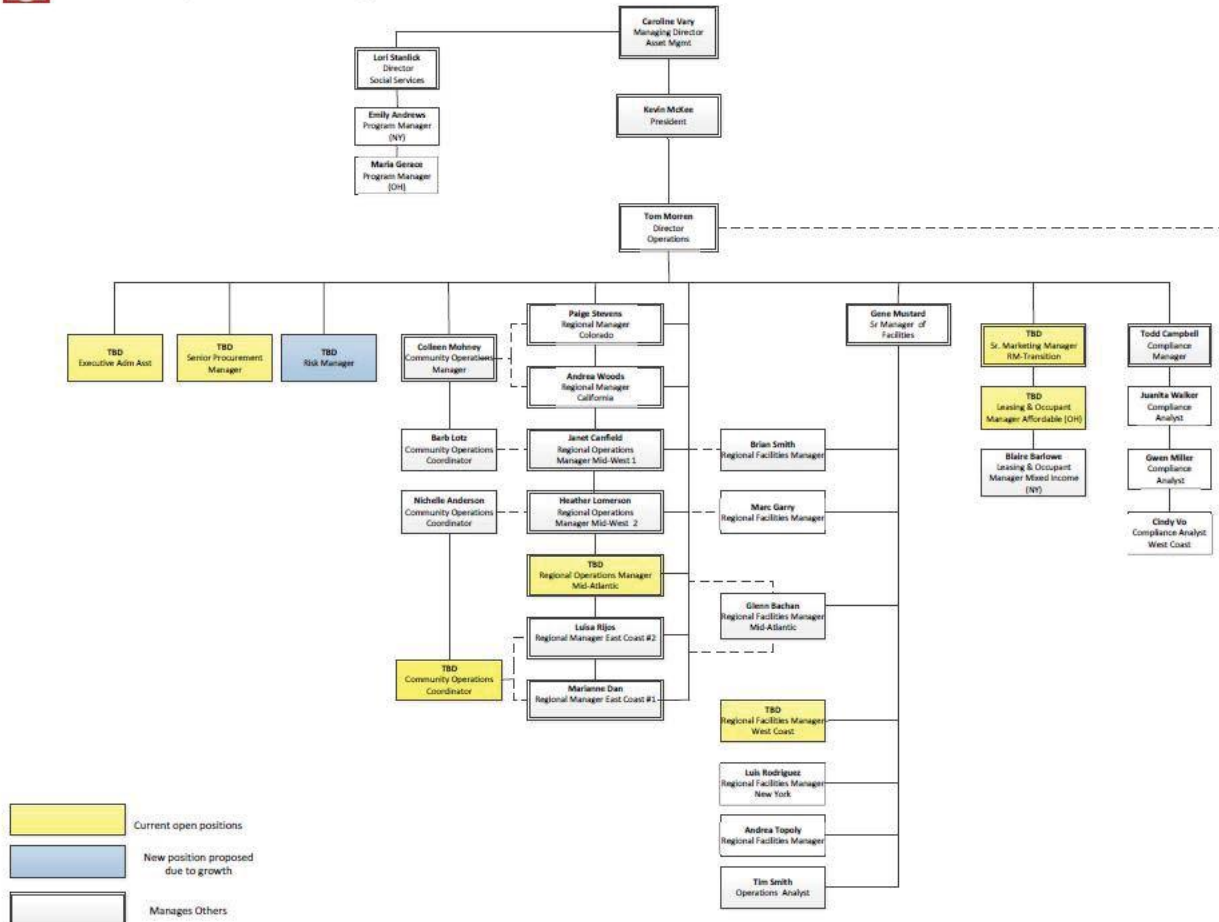
Jay Magee – FTE – Director, Asset Management
Melissa Galek – FTE – Director, Asset Management
Scott Frye – FTE – Asset Manager
Evan Finley – FTE – Asset Management Analyst
Alex Canitano – FTE - Asset Management Analyst
Kristen Hennings – FTE – Asset Management Coordinator

Dulce Pineda – FTE – Regional Vice President for RCM who reports to AM
Tia Rameriz – FTE – Regional Manager

Our other California property assignments are the following:

La Mesa Springs
Miramar Towers
The Grove
Casa Panorama
Glendora Gardens
Golden West Tower
Piedmont Apartments





Attachment E: Threshold Eligibility Requirements and Ranking Criteria

Original 2017 RFP Process

On September 21, 2017, OCII released an RFP offering two Agency Lots for development (two of the OCII stand-alone 100% affordable sites). This will be the first affordable housing developed on Agency Lots in Phase 1. Block 52 is bounded by Friedell Street to the northwest, Kirkwood Avenue to the southwest, Jerrold Avenue to the northeast, and currently, the private market-rate parcel to the southeast.

The Request for Proposals defined minimum threshold requirements to be considered for selection. All three respondents to the RFP satisfied the minimum requirements for review and consideration. The RFP asked that applicant teams propose a high quality project that:

- maximizes affordable housing opportunities in the Project Area serving very low-income households at a variety of income levels;
- delivers a robust early outreach and marketing plan to maximize participation of households meeting Project Area occupancy preferences, including Certificate of Preference Holders, Rent Burdened households, and Displaced Tenants Housing Preference households; and
- effectively balances excellence in architectural design with feasible development costs.

Block 52/54 Program Requirement Summary	
Number of units	Approximately 100 assuming the realigned Block 52 described above
Area Median Income and General population	Up to 50% AMI families. Use of income tiers encouraged.
Unit mix	2 five-bedroom units* 8 four-bedroom units* Remaining mix of one, two- and three-bedroom units
Family Child Care units	2 units
Parking	Assume a .6:1 parking ratio

*OCII specified in the RFP that 8 four-bedroom and 2 five-bedroom units be included in the design submittals in order to comply with California Redevelopment Law's requirement that an exact unit mix be replicated within a neighborhood undergoing redevelopment. These 4- and 5-bedroom units are being built in to accommodate the replacement of similar sized units that currently exist in the Alice Griffith Public Housing project but cannot be accommodated within the Alice Griffith revitalization project currently underway. If necessary for Project feasibility, the number of 4- and 5-bedroom units in the Project may be reduced.

OCII received three submittals, all of which met the minimum threshold for completeness. The submittals are as follows (in alphabetical order):

- BRIDGE Housing ("BRIDGE") and San Francisco Housing Development Corporation ("SFHDC") as co-developers
 - Architect: Pyatok
 - Property Manager: BRIDGE
 - Services Provider: SFHDC
- McCormack Baron Salazar ("MBS") and Bayview Hunters Point Multipurpose Senior Services ("BHPMSS") as co-developers
 - Architect: Mithun | Solomon
 - Property Manager: John Stewart Company
 - Services Provider: BHPMSS
- Tenderloin Neighborhood Development Corporation ("TNDC") and Young Community Developers ("YCD") as co-developers
 - Architect: Van Meter Williams Pollack and YA Studio
 - Property Manager: TNDC
 - Services Provider: TNDC/YCD

RANKING CRITERIA

All three teams were interviewed by an evaluation panel consisting of representatives from the OCII Housing and Design Review teams, MOHCD and the CAC. The evaluation panel selected the team including MBS and BHPMSS with John Stewart Company as Property Manager, design by Mithun | Solomon.

Ranking Criteria for the proposals is as follows:

POINTS		CRITERIA
50		Proposed Development Concept
	20	Proposed Massing Concept: strength and constructability of proposed massing concept, number of units, conformance with the Redevelopment Plan, Major Phase, and the Design for Development
	20	Financial Feasibility & Level of OCII Subsidy
	5	Proposed Services Plan
	5	Proposed Marketing Plan
50		Developer Team Experience and Capacity
	10	Developer experience marketing affordable housing comparable to the housing proposed in this RFP <i>and in accordance and in good standing with current OCII/MOHCD standards related to marketing and tenant selection</i>
	10	Developer experience with government assisted affordable housing programs and financing sources and/or “green” housing; Developer Workload Capacity. <i>Developer experience delivering affordable housing on budget (defined as maintaining or reducing a project’s per unit cost between RFP response, approval of a predevelopment loan/schematic design approval and construction loan closing).</i>
	5	Workforce and Contracting Action Plan
	10	Architect experience & capacity, including “green” housing <i>Architect experience delivering affordable housing on budget (defined as maintaining or reducing a project’s per unit cost between RFP response, approval of a predevelopment loan/schematic design approval and construction loan closing).</i>
	5	Services provider experience & capacity
	10	Property Manager experience & capacity, including retail operation
100	100	Total Points

Scoring for each of the proposals is as follows:

Applicant Team	Total Score	Average Score
MBS BHPMSS	579.0	96.5
TNDC YCD	542.0	90.3
BRIDGE SFHDC	489.0	81.5

The MBS/BHPMSS development concept proposal envisioned the following development program for Blocks 52/54:

MBS/BHPMSS Development Concept	
Number of Units	100 (including 1 manager's unit)
Architect	Mithun Solomon
Services Provider	BHPMSS
Property Manager	John Stewart Company
Building Amenities	• Ground Level Courtyard • Open Air Lobby • Community Room with Kitchen • Fitness Room • Teen Room • Tenant Services Office and Conference Room • Podium Garden and Courtyard • Podium Laundry/Lounge adjacent to courtyard and "informal children's play space"

2020 RFQ Process for New Lead Developer

On October 22, 2020 OCII issued an RFQ seeking a new lead developer. Notification of the RFP was provided to developers (including Small Business Enterprises and minority- and woman-owned contractors), and other community stakeholders through OCII's Citizens Advisory Committees email lists, Mayor's Office of Housing and Community Development's ("MOHCD") RFP/RFQ interest email list and newspaper advertising. The RFP was also available on OCII's website.

On November 20, 2020, OCII received 4 responses to the RFQ from the following developers:

- Jonathan Rose Companies
- Freebird Development Company
- The John Stewart Company
- San Francisco Housing Development Corporation and Tableau Development

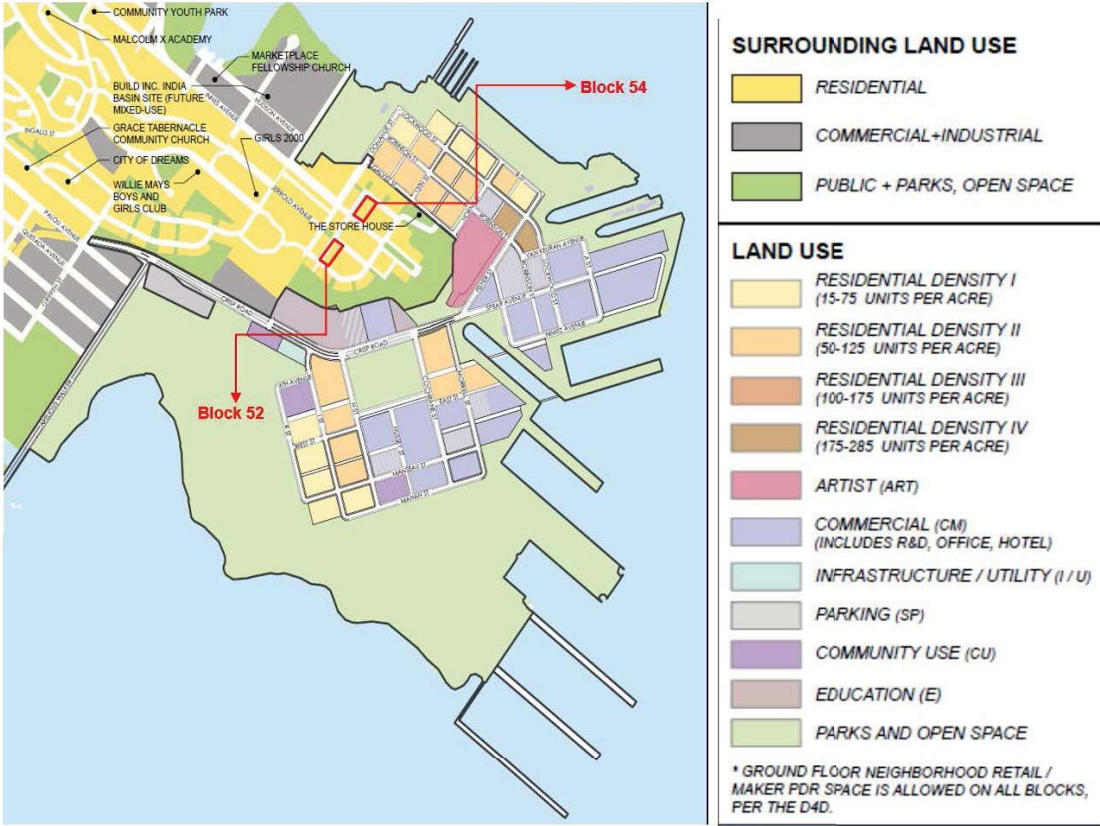
All four responses were deemed complete. On January 11, 2021, OCII staff convened an Evaluation Panel consisting of: Jeff White, OCII Housing Program Manager, Robert Baca, Joint Development Director for the Mayor's Office of Housing and Community Development ("MOHCD"), and Pastor Josiah Bell with the Hunters Point Shipyard Citizens Advisory Committee ("HPSCAC"). The applicants were evaluated based on the following criteria:

POINTS		SELECTION CRITERIA
50		Lead Developer Experience and Capacity
	15	Developer experience marketing affordable housing comparable to the housing proposed in this RFQ <i>and in accordance and in good standing with current OCII/MOHCD standards related to marketing and tenant selection</i>
	60	Demonstrated experience in and/or ability to successfully: ➤ Complete projects on time and on budget (15 points) ➤ Maximize leverage through multiple local, state and federal financing sources (10 points) ➤ Develop Type V/I or III/I construction (10 points) ➤ Develop affordable family housing (10 points) ➤ Work in District 10 (10 points) ➤ Build community support through outreach (5 points)
	10	Experience implementing Workforce and Contracting Action Plan
	15	Input of the three Development Team members (BHPMSS, Mithun, John Stewart)
100	100	Total Points

The Evaluation Panel ranked JRC the highest. JRC has been operating for the last 30 years and are a national owner, developer and manager specializing in low and mixed-income properties. They are known for working on complex multi-party development projects like this Project, and have a history of securing and creating unique financing structures with favorable terms. They are committed to anti-racism work and view all of their projects and work through the lens of racial equity and justice. Also, heading up their work on this project will be Yusef Freeman, Managing Director for the East Coast. Mr. Freeman previously worked for MBS, where he worked on the first 3 phases of Alice Griffith, on Dr. Davis Senior Community and was responsible for assembling the development team for Blocks 52 and 54 before leaving MBS. The JRC team showed the most staff capacity and dedicated the most staffing of all the applicants to completing the development of Blocks 52/54.

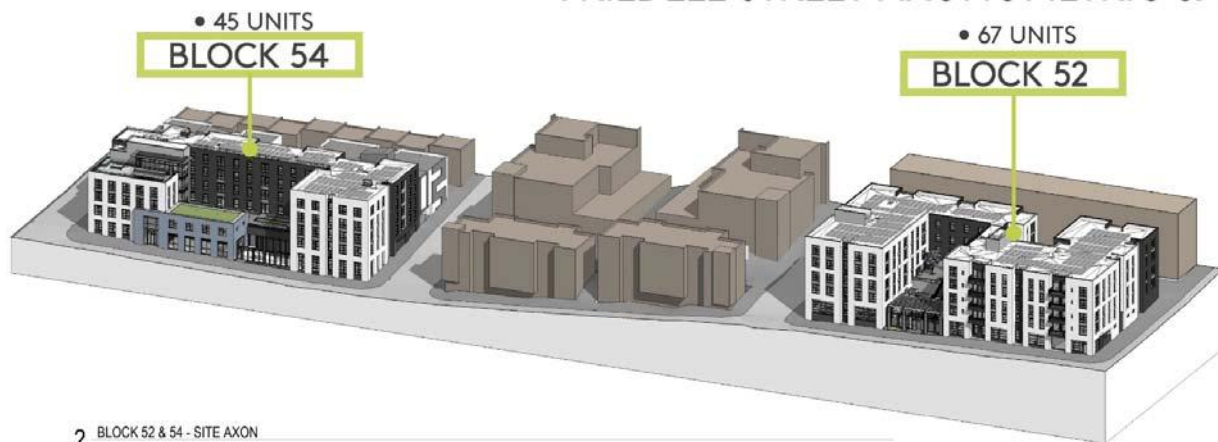
Attachment F: Site Map with amenities

Site Location



Attachment G: Elevations and Floor Plans

FRIEDELL STREET AXONOMETRIC & SITE PLAN



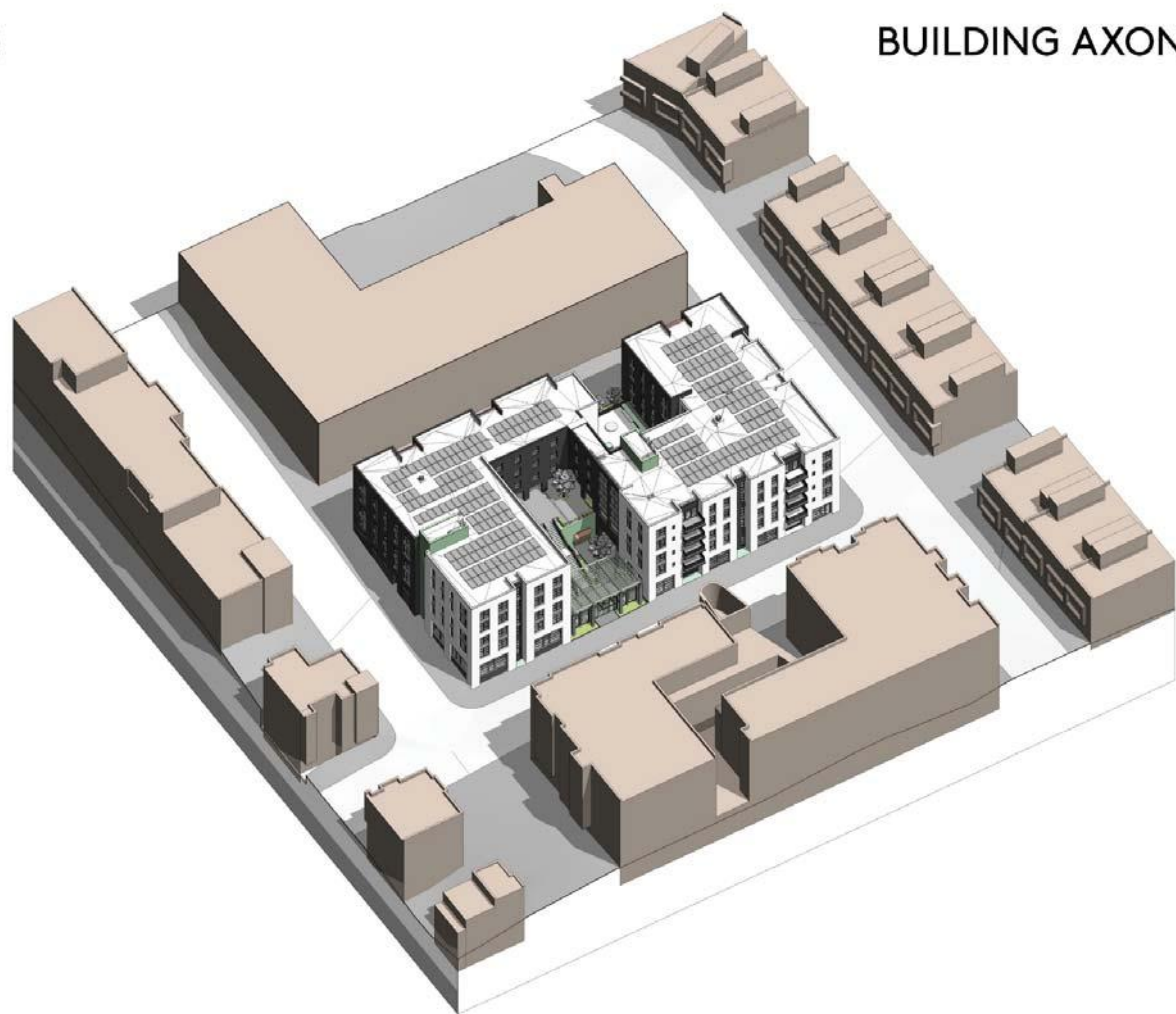
2 BLOCK 52 & 54 - SITE AXON



4 BLOCK 52 & 54 - SITE PLAN

BLOCK 52

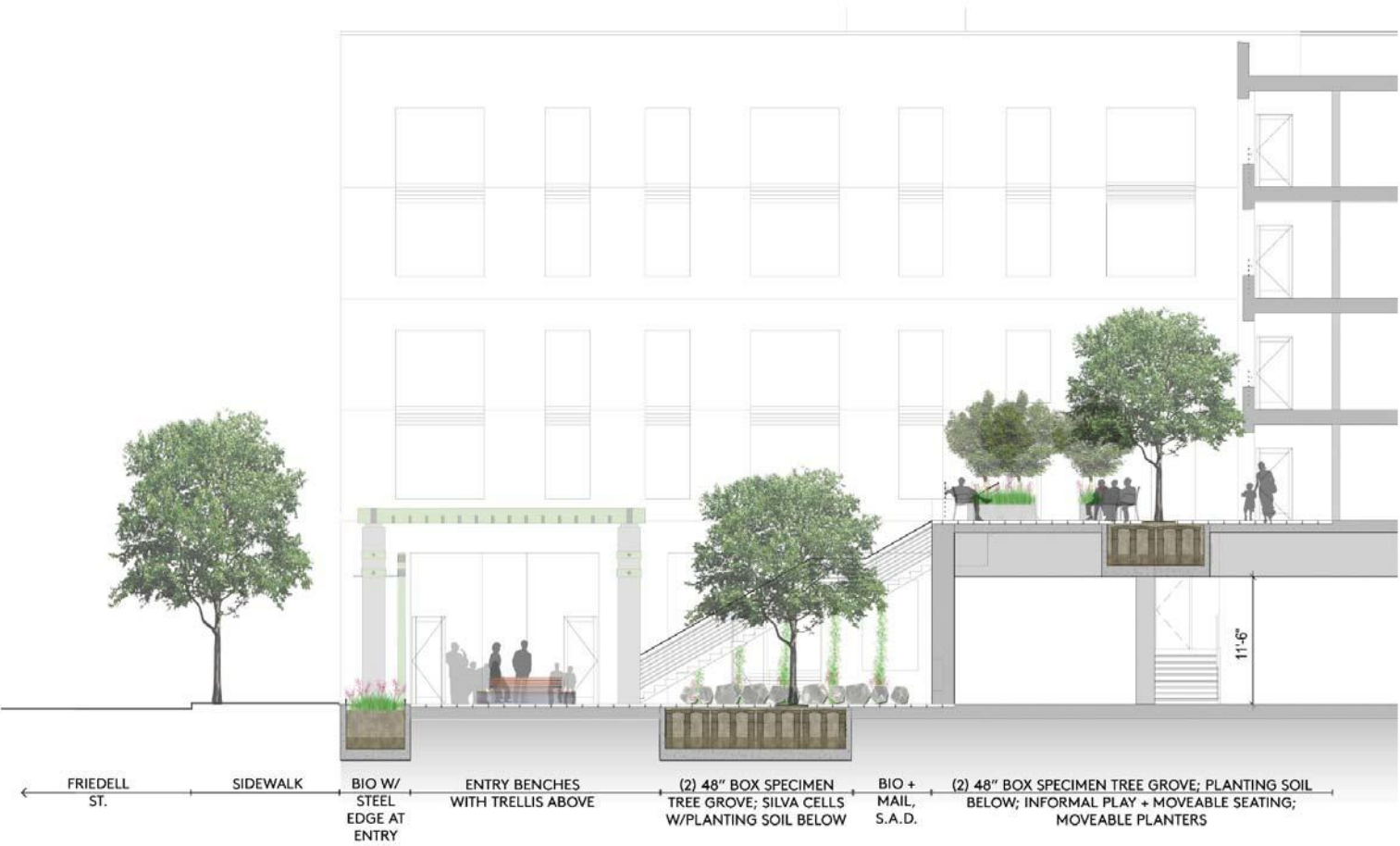
BUILDING AXONOMETRIC





BLOCK 52

LANDSCAPE DESIGN



BLOCK 52

BUILDING PLANS - LEVEL 02



BLOCK 52

STREET VIEWS
CORNER OF FRIEDEL & JERROLD



BLOCK 52

STREET VIEWS
BUILDING ENTRY ACROSS FRIEDEL





BLOCK 52

STREET VIEWS
CORNER OF FRIEDEL & KIRKWOOD



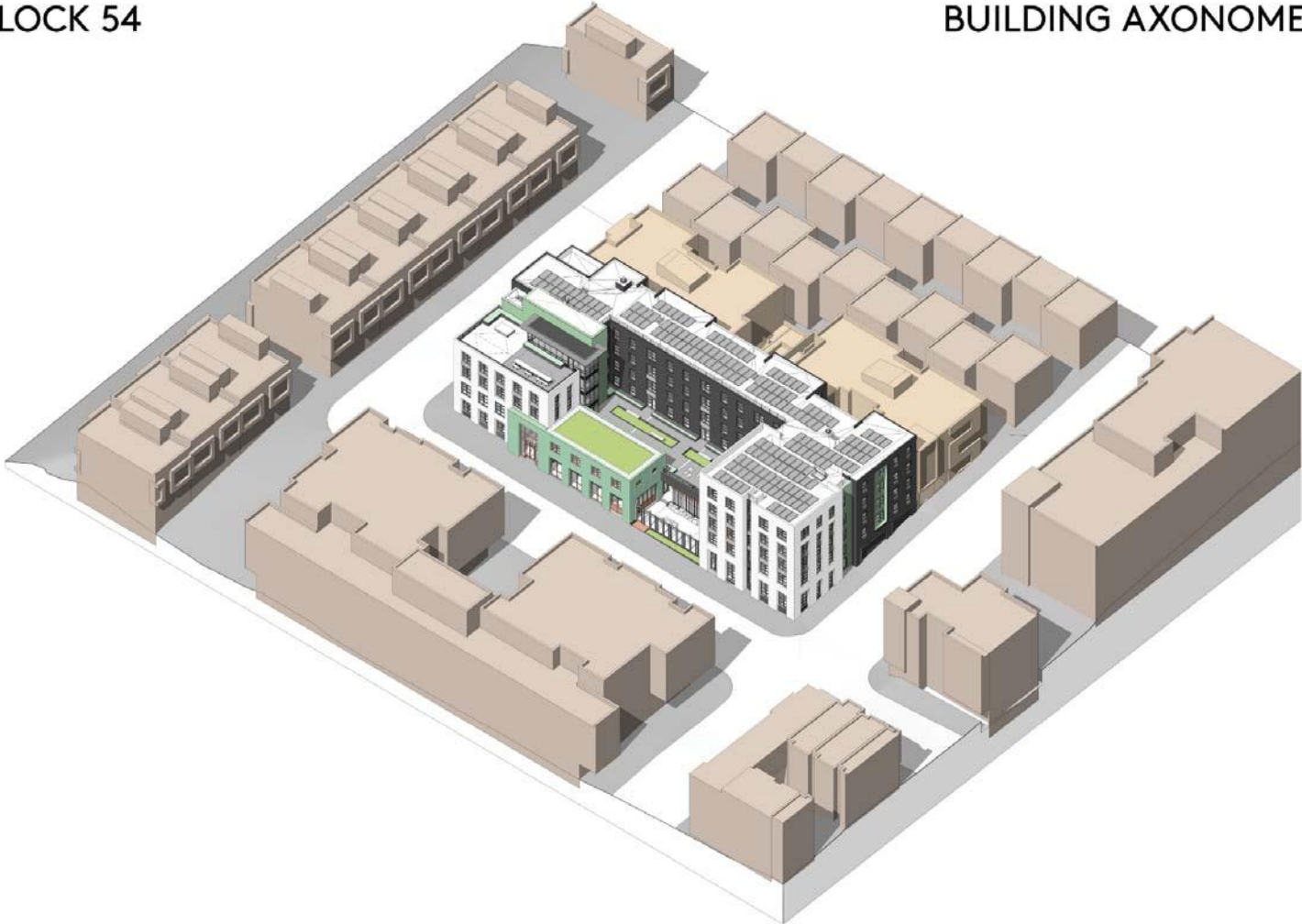
BLOCK 52

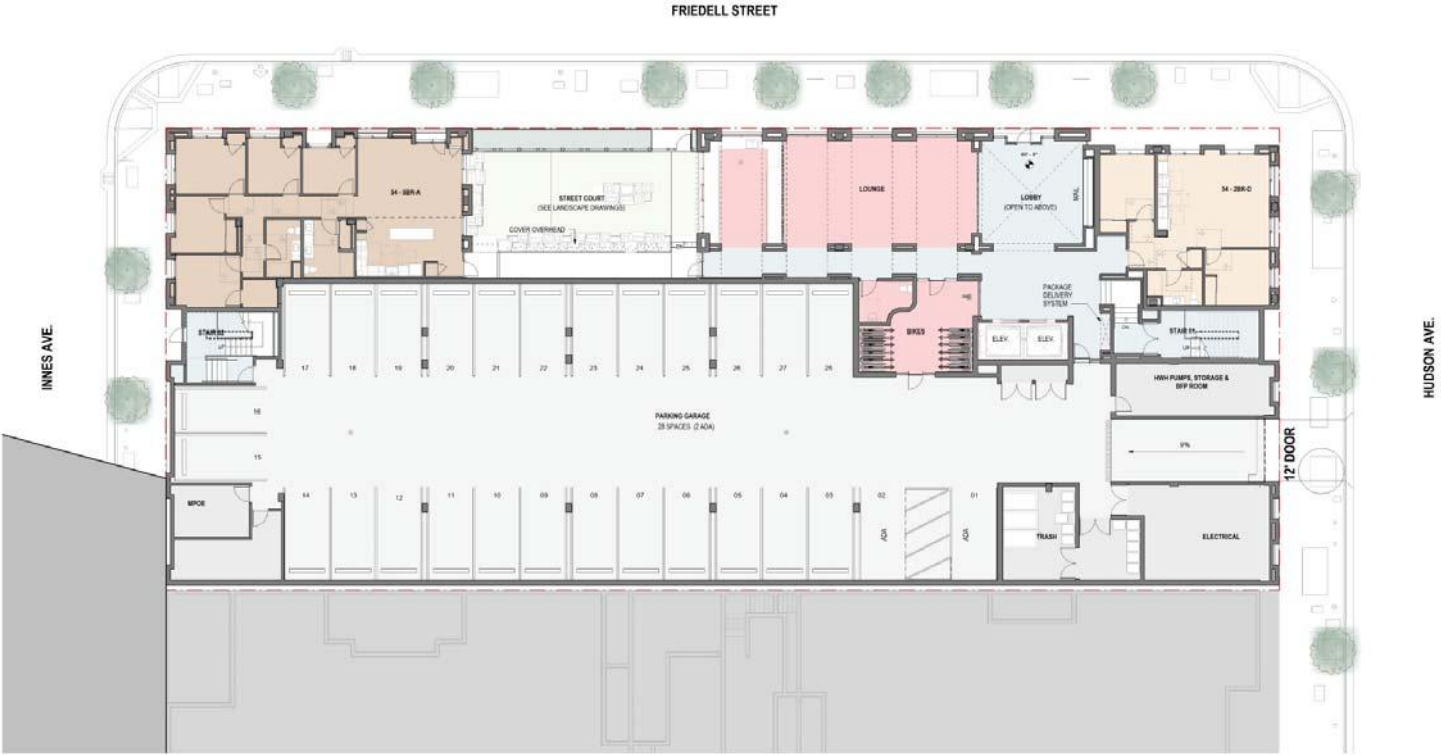
STREET VIEWS
VIEW DOWN AVOCET FROM KIRKWOOD



BLOCK 54

BUILDING AXONOMETRIC





BLOCK 54

BUILDING PLANS - LEVEL 02
REVISED DESIGN



*DESIGN REVISION FOLLOWING MEETING WITH NEIGHBORS ON 03/14/2019

BLOCK 54

BUILDING PLANS - LEVEL 05
REVISED DESIGN



*DESIGN REVISION FOLLOWING MEETING WITH NEIGHBORS ON 03/14/2019

BLOCK 54

VIEWS
ROOF TERRACE VIEW



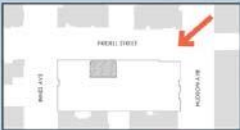
BLOCK 54

STREET VIEWS
FRIEDEL & INNES



BLOCK 54

STREET VIEWS
FRIEDEL & HUDSON



BLOCKS 52 & 54



SAMPLE UNIT LAYOUTS



BLOCKS 52 & 54

EXTERIOR MATERIALS

PAINTED CEMENT PLASTER



PHOTO: JAMES



PHOTO: JAMES

METAL BALCONY & GUARDRAIL WITH DENSE MESH BACKING



FENCE WITH LOW IRON GLASS INFILL PANELS



PAINTED BOX RIB METAL PANEL



PHOTO: JAMES



PHOTO: JAMES



PHOTO: JAMES

GLAZED THIN BRICK TILE



ALUMINUM WINDOW & METAL PAINT COLORS



PHOTO: JAMES

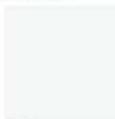


PHOTO: JAMES



PHOTO: JAMES



PHOTO: JAMES

GLAZING TYPES



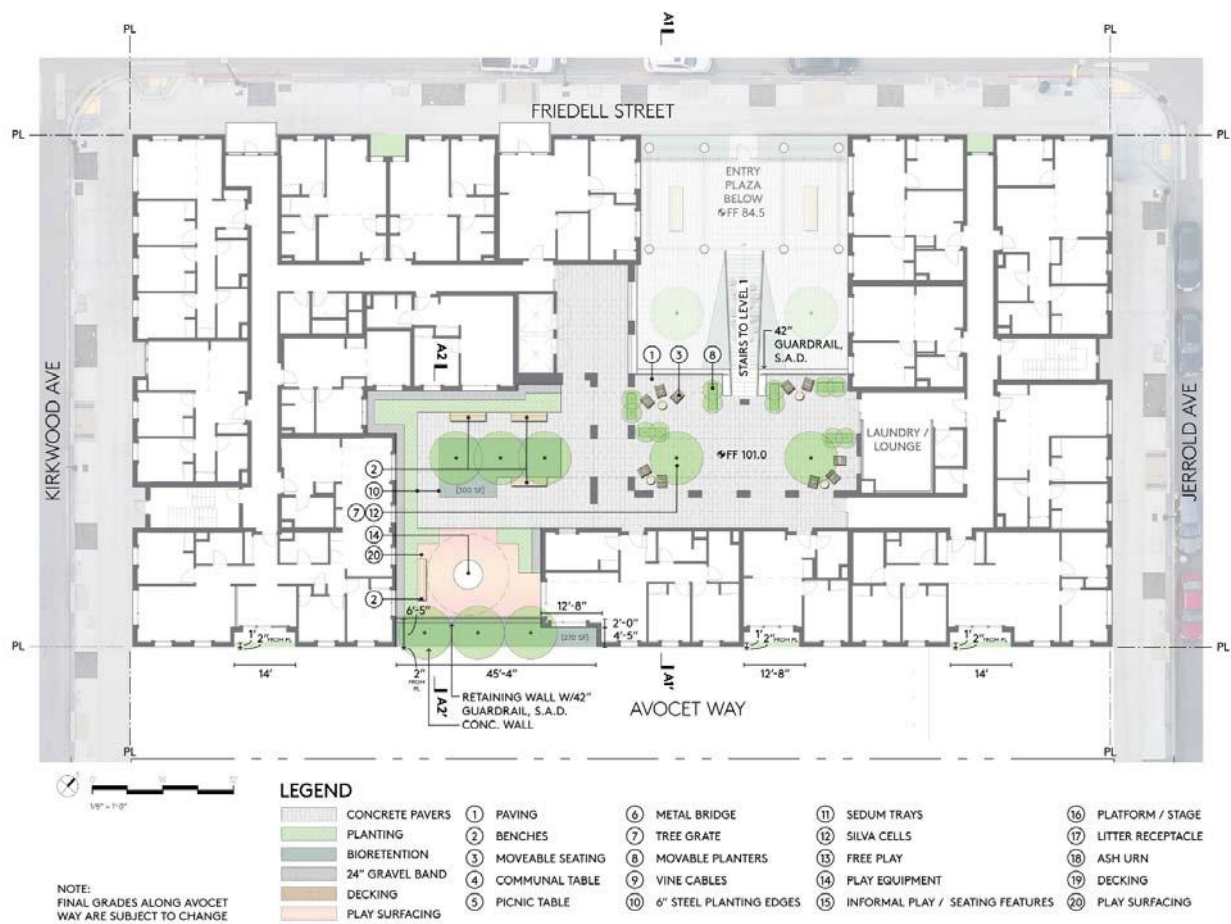
PHOTO: JAMES

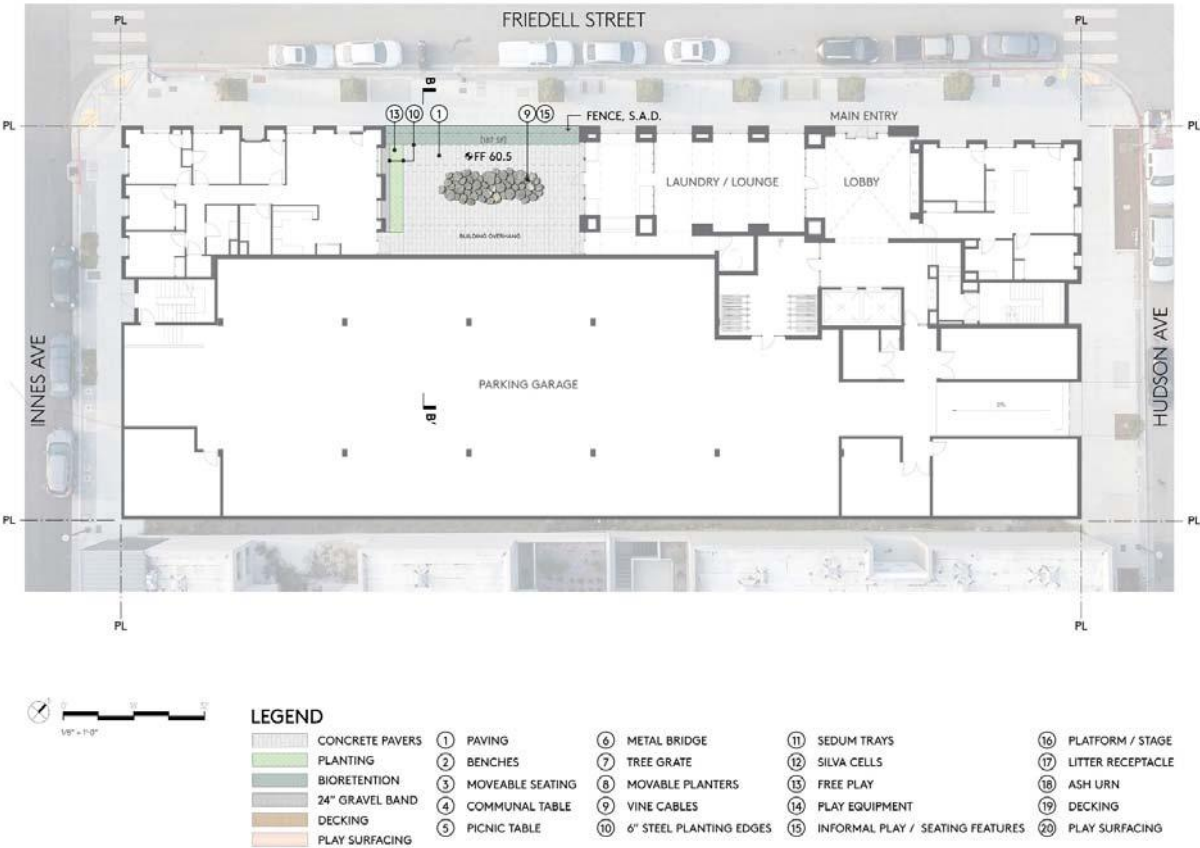


PHOTO: JAMES

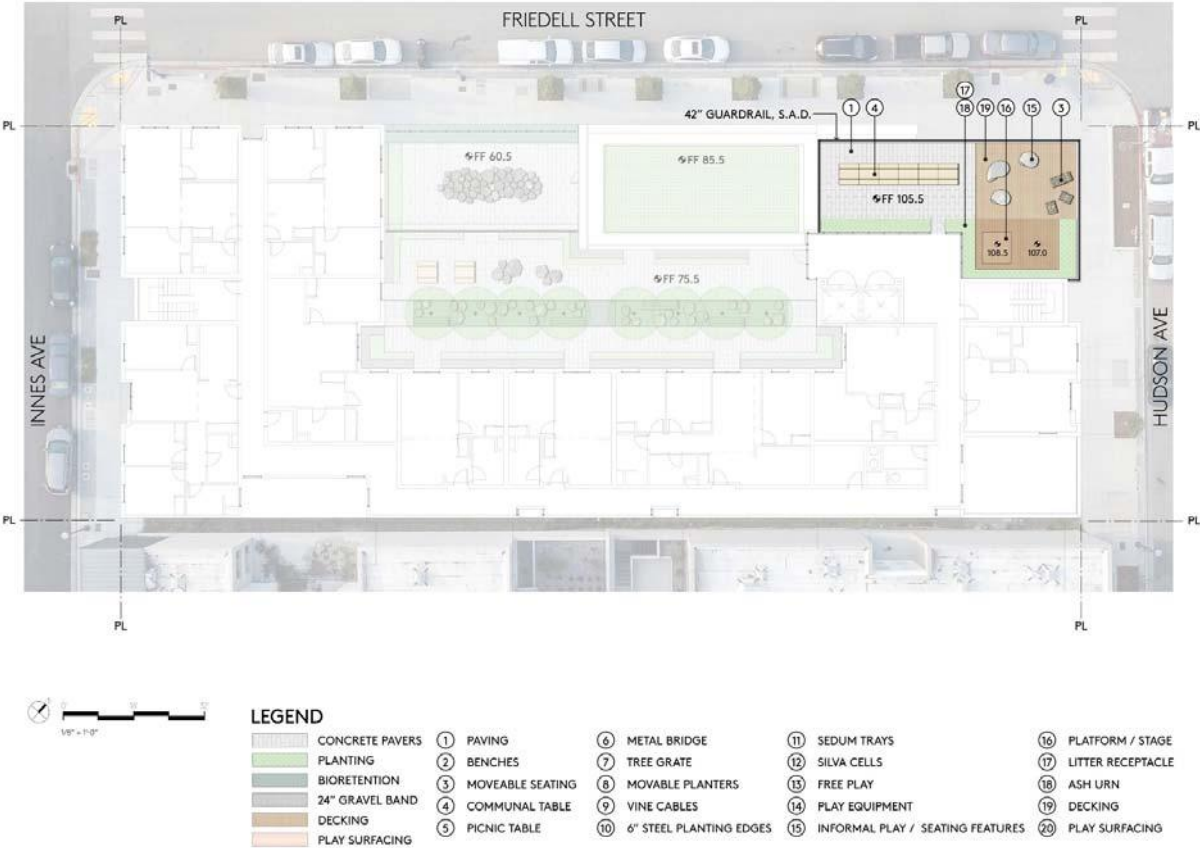


PHOTO: JAMES











BLOCK 54

BUILDING PLANS - LEVELS 03-04



*DESIGN REVISION FOLLOWING MEETING WITH NEIGHBORS ON 03/14/2019

**Attachment H: Comparison of City Investment in Other Housing
Developments**

Affordable Multifamily Housing New Construction Cost Comparison

Updated 7/7/2021													
PROJECTS COMPLETED						Building Square Footage			Total Project Costs				
Project Name	Address	Lot sq ft	Compl. Date	# of Units	# of BR ¹	Res. ²	Non-Res.	Total	Acq. Cost3	Constr. Cost4	Soft Cost	Total Dev. Cost w/land	Local Subsidys
Hunters View Phase II - B1 7 & 11	227-229 West Point Rd	82,703	May-17	107	239	117,023	23,887	140,980	\$ -	\$ 61,433,986	\$ 9,272,003	\$ 76,705,989	\$ 18,737,243
Hunters View Phase II - Block 10	148 West Point Road	82,333	Jun-18	72	144	90,274	13,339	103,603	\$ -	\$ 47,595,146	\$ 1,341,324	\$ 49,348,542	\$ 18,737,243
Mission Bay B1 E East	826 Mission Bay Blvd. No.	83,290	Nov-18	143	276	162,080	9,719	171,799	\$ 148,125	\$ 82,737,779	\$ 16,222,987	\$ 98,108,811	\$ 35,789,000
Pottery Block K (Vertical)	20th and Connecticut	24,004	Sep-19	72	144	96,596	28,452	125,048	\$ 115,521	\$ 26,789	\$ 12,766,256	\$ 75,484,714	\$ 17,688,000
Completed Projects:	Average:	57,872		99	200	113,987	18,984	132,951	\$ 42,206	\$ 63,609,874	\$ 9,004,959	\$ 72,617,039	\$ 21,229,393

PROJECTS UNDER CONSTRUCTION													
PROJECTS UNDER CONSTRUCTION						Building Square Footage			Total Project Costs				
Project Name	Address	Lot sq ft	Compl. Date	# of Units	# of BR ¹	Res. ²	Non-Res.	Total	Acq. Cost3	Constr. Cost4	Soft Cost	Total Dev. Cost w/land	Local Subsidys
88 Broadway - Family Housing	88 Broadway	36,192	Jun-21	125	221	140,279	8,700	148,979	\$ 14,900,000	\$ 69,461,939	\$ -	\$ 84,361,939	\$ 27,908,676
Casa de la Misión	3001 24th Street	6,715	Apr-21	45	45	26,439	1,239	27,678	\$ 3,225,000	\$ 17,049,794	\$ 7,106,021	\$ 27,380,815	\$ 1,313,604
891 China Basin (MB South SW)	891 China Basin St	49,437	Mar-21	152	284	178,090	7,068	185,148	\$ -	\$ 83,617,432	\$ 27,507,082	\$ 121,124,534	\$ 47,361,690
Under Construction:	Average:	31,445		107	187	114,923	7,999	122,922	\$ 7,450,000	\$ 60,441,061	\$ 20,790,443	\$ 81,672,504	\$ 25,629,029

PROJECTS IN PREDEVELOPMENT													
PROJECTS IN PREDEVELOPMENT						Building Square Footage			Total Project Costs				
Project Name	Address	Lot sq ft	Start Date (anticipated)	# of Units	# of BR ¹	Res. ²	Non-Res.	Total	Acq. Cost3	Constr. Cost4	Soft Cost	Total Dev. Cost w/land	Local Subsidys
T1 Parcel C3.1	Yosemite Island C3.1	66,487	Jan-21	128	316	140,883	62,000	192,883	\$ 25,000	\$ 101,556,444	\$ 21,841,279	\$ 123,432,723	\$ 33,014,900
Shirley Chisholm Village Ed Hsg	1851 44th	60,000	Feb-22	130	203	137,635	11,322	148,957	\$ -	\$ 86,201,784	\$ 16,803,978	\$ 105,805,762	\$ 28,469,902
Sunnyvale Block 3B	TBD	73,000	Feb-22	30	176	125,800	3,400	129,200	\$ 20,001	\$ 69,268,860	\$ 16,750,167	\$ 86,038,947	\$ 8,466,742
Pottery Block B	TBD	34,400	Aug-20	80	164	63,339	19,461	82,800	\$ 20,001	\$ 60,017,754	\$ 16,564,063	\$ 76,581,817	\$ 7,161,137
Pottery Block B	29th and Connecticut	74,311	Aug-20	157	348	225,001	43,174	268,175	\$ -	\$ 124,918,896	\$ 35,517,065	\$ 160,435,921	\$ 19,097,404
HSTV Block 50	11 Inlet Court	26,252	Aug-21	72	145	95,172	35,021	130,193	\$ -	\$ 49,263,594	\$ 13,814,818	\$ 63,078,412	\$ 25,000,000
4200 Geary	4200 Geary	67,336	Feb-22	98	98	78,530	1,197	79,727	\$ 11,064,369	\$ 52,739,654	\$ 20,038,595	\$ 83,842,622	\$ 27,670,369
Hunters View Ph. 3 Block 14 & 17	889 & 863 Hunters View Dr	39,365	Oct-21	118	286	172,645	3,881	176,526	\$ -	\$ 99,528,920	\$ 23,897,677	\$ 123,226,602	\$ 37,735,027
Reservoir Building E	26 Adams	31,008		144	180	128,180	1,068	129,248	\$ 177,707	\$ 73,996,663	\$ 30,263,265	\$ 104,448,631	\$ 13,648,128
In Predevelopment	Average:	43,233	44,490	113	215	130,833	18,828	149,661	\$ 607,249	\$ 79,720,770	\$ 22,838,602	\$ 103,789,648	\$ 21,133,734

ALL PROJECTS													
Average:	44,583		106	200	119,921	15,230	134,411	\$ 2,699,925	\$ 67,791,235	\$ 17,478,001	\$ 87,773,752	\$ 23,297,050	\$ 85,172,205

SUBJECT PROJECT	151 and 351 Friedriell St	45,580	May-22	112	217	147,190	21,541	168,731	\$ -	\$ 91,878,228	\$ 16,839,389	\$ 108,717,617	\$ 59,200,732	\$ 108,717,617	4% credits, bonds	Type III over Type 1, 2 buildings built on separate non-contiguous parcels. Parking ratio 8:1

PROJECTS COMPLETED													
PROJECTS COMPLETED		Acquisition by Unit/Bed/SF			Construction by Unit/Bed/SF			Soft Costs by Unit/Bed/SF			Total Development Cost (Incl. Land)		
Project Name	Compl. Date	Acq/Unit	Acq/BR	Acq/lot sq ft	Const/Unit	Const/BR	Const/lot sq ft	Soft/Unit	Soft/BR	Soft/lot sq ft	Gross TDC/Unit	Gross TDC/BR	Gross TDC/lot sq ft
Hunters View Phase II - B1 7 & 11	May-17	-	-	-	\$ 374,142	\$ 327,046	\$ 1,536	\$ 86,504	\$ 38,795	\$ 49	\$ 661,854	\$ 305,841	\$ 902
Hunters View Phase II - Block 10	Jun-18	-	-	-	\$ 650,871	\$ 330,486	\$ 459	\$ 117,240	\$ 8,620	\$ 112	\$ 643,731	\$ 321,866	\$ 447
Mission Bay B1E	Nov-18	1,038	807	2	\$ 578,586	\$ 299,778	\$ 402	\$ 106,454	\$ 65,156	\$ 69	\$ 686,076	\$ 356,467	\$ 871
Pottery Block K (Vertical)	Sep-19	208	146	1	\$ 270,525	\$ 460,919	\$ 543	\$ 177,309	\$ 97,343	\$ 111	\$ 1,048,121	\$ 542,912	\$ 653
Completed Projects:	Average:	662	343	2	\$ 671,058	\$ 334,556	\$ 480	\$ 88,294	\$ 44,293	\$ 63	\$ 759,683	\$ 379,021	\$ 543

PROJECTS UNDER CONSTRUCTION													
PROJECTS UNDER CONSTRUCTION		Acquisition			Construction			Soft Costs			Total Development Cost (Incl. Land)		
Project Name	Compl. Date	Acq/Unit	Acq/BR	Acq/lot sq ft	Const/Unit	Const/BR	Const/lot sq ft	Soft/Unit	Soft/BR	Soft/lot sq ft	Gross TDC/Unit	Gross TDC/BR	Gross TDC/lot sq ft
88 Broadway - Family Housing	Jun-21	119,200	97,421	390	\$ 595,895	\$ 314,307	\$ 496	\$ 222,096	\$ 129,893	\$ 169	\$ 896,961	\$ 507,331	\$ 750
Casa de la Misión	Jun-21	71,697	71,697	450	\$ 375,894	\$ 375,894	\$ 916	\$ 157,912	\$ 157,912	\$ 227	\$ 628,653	\$ 308,463	\$ 893
891 China Basin (MB South SW)	Mar-21	-	-	-	\$ 615,904	\$ 318,427	\$ 508	\$ 180,960	\$ 93,562	\$ 149	\$ 796,872	\$ 411,588	\$ 654
Under Construction:	Average:	59,600	33,710	195	\$ 516,828	\$ 337,206	\$ 529	\$ 186,982	\$ 125,692	\$ 197	\$ 787,432	\$ 509,281	\$ 799

PROJECTS IN PREDEVELOPMENT													
PROJECTS IN PREDEVELOPMENT		Acquisition			Construction			Soft Costs			Total Development Cost (Incl. Land)		
Project Name	Start Date (anticipated)	Acq/Unit	Acq/BR	Acq/lot sq ft	Const/Unit	Const/BR	Const/lot sq ft	Soft/Unit	Soft/BR	Soft/lot sq ft	Gross TDC/Unit	Gross TDC/BR	Gross TDC/lot sq ft
T1 Parcel C3.1	Jan-21	581	78	1	\$ 735,916	\$ 318,399	\$ 527	\$ 158,270	\$ 68,469	\$ 113	\$ 894,368	\$ 386,905	\$ 640
2 SR (Ludovist) Housing	Feb-22	-	-	-	\$ 638,532	\$ 424,619	\$ 510	\$ 145,215	\$ 86,711	\$ 110	\$ 783,746	\$ 521,211	\$ 626
Sunnyvale Block 3B	Feb-22	222	112	0	\$ 773,207	\$ 360,948	\$ 529	\$ 214,427	\$ 119,568	\$ 153	\$ 987,634	\$ 501,864	\$ 691
Sunnyvale Block 3A	Aug-22	250	122	1	\$ 750,272	\$ 365,987	\$ 590	\$ 229,507	\$ 111,879	\$ 160	\$ 979,829	\$ 477,986	\$ 770
Pottery Block B	Aug-20	-	-	-	\$ 195,662	\$ 358,962	\$ 495	\$ 235,223	\$ 102,981	\$ 132	\$ 631,865	\$ 487,553	\$ 597
HSTV Block 50	Aug-21	-	-	-	\$ 674,848	\$ 339,751	\$ 546	\$ 180,614	\$ 95,964	\$ 151	\$ 860,462	\$ 435,715	\$ 700
4200 Geary	Feb-22	112,800	112,800	691	\$ 526,180	\$ 538,160	\$ 692	\$ 214,455	\$ 204,455	\$ 251	\$ 840,617	\$ 465,117	\$ 658
Hunters View Ph. 3 Block 17	Oct-21	-	-	-	\$ 817,771	\$ 437,304	\$ 583	\$ 202,523	\$ 83,528	\$ 134	\$ 1,044,283	\$ 530,845	\$ 698
Reservoir Building E	-	4,136	2,390	15	\$ 595,701	\$ 366,793	\$ 531	\$ 148,299	\$ 169,507	\$ 221	\$ 869,995	\$ 464,510	\$ 706
In Predevelopment	Average:	3,747	2,390	15	\$ 704,897	\$ 385,426	\$ 546	\$ 202,762	\$ 114,949	\$ 162	\$ 921,817	\$ 513,557	\$ 727

All Projects:	AVERAGE	21,336	12,149	70	\$ 630,927	\$ 352,396	\$ 519	\$ 159,346	\$ 94,978	\$ 141	\$ 816,310	\$ 467,413	\$ 690	\$ 206,748	74.3%

SUBJECT PROJECT		-	-	-	\$ 820,341	\$ 423,402	\$ 546	\$ 150,352	\$ 77,801	\$ 100	\$ 970,693	\$ 501,003	\$ 644	\$ 528,578	45.5%

Attachment I: Sources and Uses

Application Date: 6/2/21
 Project Name: Hunters Point Shipyard Blocks 52&54
 Project Address: 151 & 351 Friedelt St
 Project Sponsor: Rose Community Development Corporation

Units: 112
 # Bedrooms: 217
 # Beds: n/a

SOURCES	59,200,732	7,316,068	41,042,670	1,158,147	-	-	108,717,617	Comments

USES	Name of Sources:	MOHCD/OOI	First Mortgage	LIHTC	FEDERAL	Deferred dev Fee		

ACQUISITION

Acquisition cost or value							0	
Legal / Closing costs / Broker's Fee							0	
Holding Costs							0	
Transfer Tax							0	
TOTAL ACQUISITION	0	0	0	0	0	0	0	0

CONSTRUCTION (HARD COSTS)

Unit Construction/Rehab	26,788,305	7,316,068	41,042,670				75,147,043	Include FF&E
Commercial Shell Construction							0	
Demolition							0	
Environmental Remediation							0	
Drainage Improvements/Landscaping							0	
Offsite Improvements							0	
Infrastructure Improvements							0	HOPE SF/OOI costs for streets etc.
Parking							0	
GC Bond Premium/GC Insurance/GC Taxes	1,813,059						1,813,059	
GC Overhead & Profit	3,005,882						3,005,882	
CG General Conditions	961,724						961,724	
Sub-total Construction Costs	32,568,970	7,316,068	41,042,670	0	0	0	80,927,708	
Design Contingency (remove at DD)	2,818,014						2,818,014	9 months of escalation not Design contingency
Bid Contingency (remove at bid)	2,254,411						2,254,411	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+
Plan Check Contingency (remove/reduce during Plan Rev)	1,502,941						1,502,941	4% up to \$30MM HC, 3% \$30-\$45MM, 2% \$45MM+
Hard Cost Construction Contingency	4,375,154						4,375,154	5% new construction /
Sub-total Construction Contingencies	10,950,520	0	0	0	0	0	10,950,520	
TOTAL CONSTRUCTION COSTS	43,519,490	7,316,068	41,042,670	0	0	0	91,878,228	

Construction line item costs as a % of hard costs
 2.2%
 3.7%
 1.2%
 3.5%
 2.8%
 1.9%
 5.4%

SOFT COSTS

Architecture & Design

Architect design fees	3,440,509						3,440,509	See MOHCD A/E Fee Guidelines: http://relmohcd.org/documents-reports-and-forms
Design Subconsultants to the Architect (incl. Fees)							0	
Architect Construction Admin							0	
Reimbursables							0	
Additional Services							0	
Sub-total Architect Contract	3,440,509	0	0	0	0	0	3,440,509	
Other Third Party design consultants (not included under Architect contract)							0	Consultants not covered under architect contract; name consultant type and contract amount
Total Architecture & Design	3,440,509	0	0	0	0	0	3,440,509	

Engineering & Environmental Studies

Survey	40,000						40,000	
Geotechnical studies	92,500						92,500	
Phase I & II Reports	70,000						70,000	
CEQA / Environmental Review consultants	133,500						133,500	
NEPA / TIE Review							0	
CNA/PNA (rehab only)							0	
Other environmental consultants	154,000						154,000	ENGEO - Super structure Special Inspections & sitco (Scaffolding)
Total Engineering & Environmental Studies	490,000	0	0	0	0	0	490,000	

Financing Costs

Construction Financing Costs								
Construction Loan Origination Fee	550,000						550,000	Bridge loan & lender origination
Construction Loan Interest	3,073,798						3,073,798	
Title & Recording	15,000						15,000	
CDLAC & CDAC fees	5,000						5,000	
Bond Issuer Fees	283,600						283,600	
Other Bond Cost of Issuance							0	
Other Lender Costs (specify)	81,250						81,250	Appraisal PCR/PCNA & Seismic, Underwriting and Inspection costs, Insurance review, Flood zoning, credit reports, lender inspection
Sub-total Const. Financing Costs	4,008,638	0	0	0	0	0	4,008,638	
Permanent Financing Costs								
Permanent Loan Origination Fee	487,999						487,999	
Credit Enhance. & Appl. Fee							0	
Title & Recording	80,000						80,000	
Sub-total Perm. Financing Costs	567,999	0	0	0	0	0	567,999	
Total Financing Costs	4,576,637	0	0	0	0	0	4,576,637	

Legal Costs

Borrower Legal fees	350,000						350,000	
Land Use / CEQA Attorney fees							0	
Tax Credit Counsel							0	
Bond Counsel							0	
Construction Lender Counsel							0	
Permanent Lender Counsel							0	
Other Legal (specify)							0	
Total Legal Costs	350,000	0	0	0	0	0	350,000	

Other Development Costs

Appraisal	10,000						10,000	
Market Study	10,000						10,000	
* Insurance	1,102,503						1,102,503	
* Property Taxes							0	
Accounting / Audit							0	
Organizational Costs	5,000						5,000	
Entitlement / Permit Fees	770,000						770,000	
* Marketing / Rent-up	169,601						169,601	
* Furnishings	224,000						224,000	\$2,000/unit. See MOHCD U/W Guidelines on: http://relmohcd.org/documents-reports-and-forms
PGE / Utility Fees	35,000						35,000	
TCAC App / Alloc / Monitor Fees	77,920						77,920	
Financial Consultant fees	82,500						82,500	Novogradac + Hudnbroten and Consulting lines
Construction Management fees / Owner's Rep	138,500						138,500	
Security during Construction							0	
Relocation							0	
Section 3 MBE coordinator	25,000						25,000	
Expeditor	75,000						75,000	
Vibration & adjacent property monitoring	475,000						475,000	
Sub-total Other Development Costs	3,200,023	0	0	0	0	0	3,200,023	

Soft Cost Contingency

Contingency (Arch, Eng, Fin, Legal & Other Dev)	1,205,717						1,205,717	Should be either 10% or 5% of total soft costs.
TOTAL SOFT COSTS	13,262,886	0	0	0	0	0	13,262,886	10.0%

RESERVES

* Operating Reserves	398,356						398,356	
Replacement Reserves							0	
* Tenant Improvements Reserves							0	
Other (specify)							0	
Other (specify)							0	
Other (specify)							0	
TOTAL RESERVES	398,356	0	0	0	0	0	398,356	

DEVELOPER COSTS

Developer Fee - Cash-out Paid at Milestones	2,020,000						2,020,000	
Developer Fee - Cash-out At Risk							0	
Commercial Developer Fee							0	
Developer Fee - GP Equity (also show as source)							0	
Developer Fee - Deferred (also show as source)				1,158,147			1,158,147	
Development Consultant Fees							0	Need MOHCD approval for this cost, N/A for most projects
Other (specify)							0	
TOTAL DEVELOPER COSTS	2,020,000	0	0	1,158,147	0	0	3,178,147	

TOTAL DEVELOPMENT COST

Development Cost/Unit by Source	528,578	65,322	366,452	10,341	0	0	970,693	
Development Cost/Unit as % of TDC by Source	54.5%	6.7%	37.8%	1.1%	0.0%	0.0%	100.0%	

Acquisition Cost/Unit by Source

Construction Cost (inc Const Contingency)/Unit By Source	388,567	65,322	366,452	0	0	0	820,341	
Construction Cost (inc Const Contingency)/SF	262.48	44.13	247.54	0.00	0.00	0.00	554.14	

*Possible non-eligible GO Bond/COP Amount:
 City Subsidy/Unit

Tax Credit Equity Pricing: 0.960
 Construction Bond Amount: 56,533,161
 Construction Loan Term (in months): 24 months
 Construction Loan Interest Rate (as %): 3.25%

Attachment J: Additional Predevelopment Budget

Application Date: 6/2/21 # Units: 112
 Project Name: Hunters Point Shipyard Blocks 52&54 # Bedrooms: 217
 Project Address: 151 8351 Friedell St n/a
 Project Sponsor: Rose Community Development Corporation

SOURCES		3,650,000	751,605	-	-	-	-	-	Total Sources	Comments
USES	Name of Sources:	MOHCD/CCL							4,401,605	

ACQUISITION

Acquisition cost or value									0	
Legal / Closing costs / Broker's Fee									0	
Holding Costs									0	
Transfer Tax									0	
TOTAL ACQUISITION		0	0	0	0	0	0	0	0	

CONSTRUCTION (HARD COSTS)

Unit Construction/Rehab									0	Include FF&E
Commercial Shell Construction									0	
Demolition									0	
Environmental Remediation									0	
Onsight Improvements/Landscaping									0	
Offsite Improvements									0	
Infrastructure Improvements									0	HOPE SF/OCL costs for streets etc.
Parking									0	
GC Bond Premium/GC Insurance/GC Taxes									0	
GC Overhead & Profit									0	
CG General Conditions									0	
Sub-total Construction Costs		0	0	0	0	0	0	0	0	
Design Contingency (remove at DD)									0	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+
Bid Contingency (remove at bid)									0	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+
Plan Check Contingency (remove/reduce during Plan Review)									0	4% up to \$30MM HC, 3% \$30-\$45MM, 2% \$45MM+
Hard Cost Construction Contingency									0	5% new construction / 15% rehab
Sub-total Construction Contingencies		0	0	0	0	0	0	0	0	
TOTAL CONSTRUCTION COSTS		0	0	0	0	0	0	0	0	

Construction
line item costs
as a % of hard
costs

SOFT COSTS

Architecture & Design

Architect design fees	2,140,000	15,000							2,155,000	See MOHCD A&E Fee Guidelines: http://sfmohcd.org/documents-reports-and-forms
Design Subconsultants to the Architect (incl. Fees)									0	
Architect Construction Admin									0	
Reimbursables									0	
Additional Services									0	
Sub-total Architect Contract	2,140,000	15,000	0	0	0	0	0	0	2,155,000	
Other Third Party design consultants (not included under Architect contract)		668,277							668,277	MEPF Design Build
Total Architecture & Design	2,140,000	683,277	0	0	0	0	0	0	2,823,277	

Engineering & Environmental Studies

Survey	40,000								40,000	
Geotechnical studies	60,000								60,000	
Phase I & II Reports	70,000								70,000	
CEQA / Environmental Review consultants									0	
NEPA / 106 Review									0	
CNA/PNA (rehab only)									0	
Other environmental consultants	20,000								20,000	Name consultants & contract amounts
Total Engineering & Environmental Studies	180,000	0	0	0	0	0	0	0	180,000	

Financing Costs

Construction Financing Costs										
Construction Loan Origination Fee	100,000								100,000	
Construction Loan Interest									0	
Title & Recording	15,000								15,000	
CDLAC & CDIAAC fees	5,000								5,000	
Bond Issuer Fees	5,000								5,000	
Other Bond Cost of Issuance									0	
Other Lender Costs (specify)									0	
Sub-total Const. Financing Costs	125,000	0	0	0	0	0	0	0	125,000	
Permanent Financing Costs										
Permanent Loan Origination Fee	10,000								10,000	
Credit Enhance. & Appl. Fee									0	
Title & Recording									0	
Sub-total Perm. Financing Costs	10,000	0	0	0	0	0	0	0	10,000	
Total Financing Costs	135,000	0	0	0	0	0	0	0	135,000	

Legal Costs

Borrower Legal fees	125,000								125,000	
Land Use / CEQA Attorney fees									0	
Tax Credit Counsel									0	
Bond Counsel									0	
Construction Lender Counsel									0	
Permanent Lender Counsel									0	
Other Legal (specify)									0	
Total Legal Costs	125,000	0	0	0	0	0	0	0	125,000	

Other Development Costs

Appraisal	10,000								10,000	
Market Study	10,000								10,000	
Insurance									0	
Property Taxes									0	
Accounting / Audit									0	
Organizational Costs	5,000								5,000	
Entitlement / Permit Fees	500,000								500,000	
Marketing / Rent-up									0	
Furnishings									0	
PGE / Utility Fees	5,000								5,000	
TCAC App / Alloc / Monitor Fees	32,000								32,000	
Financial Consultant fees									0	
Construction Management fees / Owner's Rep	40,000								40,000	
Security during Construction									0	
Relocation									0	
Other (specify)									0	
Other (specify)									0	
Other (specify)									0	
Total Other Development Costs	602,000	0	0	0	0	0	0	0	602,000	

Soft Cost Contingency

Contingency (Arch, Eng, Fin, Legal & Other Dev)	318,000	68,328	0	0	0	0	0	0	386,328	Should be either 10% or 5% of total soft costs.
TOTAL SOFT COSTS	3,500,000	751,605	0	0	0	0	0	0	4,251,605	19.8%

RESERVES

Operating Reserves									0	
Replacement Reserves									0	
Tenant Improvements Reserves									0	
Other (specify)									0	
Other (specify)									0	
TOTAL RESERVES	0	0	0	0	0	0	0	0	0	

DEVELOPER COSTS

Developer Fee - Cash-out Paid at Milestones	150,000								150,000	
Developer Fee - Cash-out At Risk									0	
Commercial Developer Fee									0	
Developer Fee - GP Equity (also show as source)									0	
Developer Fee - Deferred (also show as source)									0	
Development Consultant Fees									0	Need MOHCD approval for this cost, N/A for most projects
Other (specify)									0	
TOTAL DEVELOPER COSTS	150,000	0	0	0	0	0	0	0	150,000	

TOTAL DEVELOPMENT COST

Development Cost/Unit by Source	32,589	6,711	0	0	0	0	0	0	39,300	
Development Cost/Unit as % of CDC by Source	82.9%	17.1%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	100.0%	

Acquisition Cost/Unit by Source

Acquisition Cost/Unit by Source	0	0	0	0	0	0	0	0	0	

Construction Cost (inc Const Contingency)/Unit By Source

Construction Cost (inc Const Contingency)/Unit By Source	0	0	0	0	0	0	0	0	0	

Construction Cost (inc Const Contingency)/SF

Construction Cost (inc Const Contingency)/SF	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

Possible non-eligible GO Bond/COP Amount:

Possible non-eligible GO Bond/COP Amount:	5,000									

City Subsidy/Unit

City Subsidy/Unit	32,589									

Tax Credit Equity Pricing:

Tax Credit Equity Pricing:	0.00									

Construction Bond Amount:

Construction Bond Amount:	0									

Construction Loan Term (in months):

Construction Loan Term (in months):	0 months									

Construction Loan Interest Rate (as %):

Construction Loan Interest Rate (as %):	0.00%									

Attachment K: 1st Year Operating Budget

Application Date: 6/2/2021
 Total # Units: 112
 First Year of Operations (provide data assuming that Year 1 is a full year, i.e. 12 months of operations): 2024

Project Name: Hunters Point Shipyard Blocks 52&54
 Project Address: 151 &351 Friedell St
 Project Sponsor: Rose Community Development Corporation

INCOME	Total	Comments
Residential - Tenant Rents	1,760,916	Links from 'New Proj - Rent & Unit Mix' Worksheet
Residential - Tenant Assistance Payments (Non-LOSP)	0	Links from 'New Proj - Rent & Unit Mix' Worksheet
Commercial Space	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
Residential Parking	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Rent Income	0	Links from 'Utilities & Other Income' Worksheet
Supportive Services Income	0	
Interest Income - Project Operations	0	Links from 'Utilities & Other Income' Worksheet
Laundry and Vending	3,203	Links from 'Utilities & Other Income' Worksheet
Tenant Charges	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Residential Income	0	Links from 'Utilities & Other Income' Worksheet
Other Commercial Income	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
Withdrawal from Capitalized Reserve (deposit to operating account)	0	
Gross Potential Income	1,764,119	
Vacancy Loss - Residential - Tenant Rents	(88,046)	Vacancy loss is 5% of Tenant Rents.
Vacancy Loss - Residential - Tenant Assistance Payments	0	#DIV/0!
Vacancy Loss - Commercial	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
EFFECTIVE GROSS INCOME	1,676,073	PUPA: 14,865

OPERATING EXPENSES

Management		
Management Fee	69,888	1st Year to be set according to HUD schedule.
Asset Management Fee	25,124	Asset management fee from Operating fee policy
Sub-total Management Expenses	95,012	PUPA: 846
Salaries/Benefits		
Office Salaries	127,000	
Manager's Salary	82,300	
Health Insurance and Other Benefits	0	
Other Salaries/Benefits	0	
Administrative Rent-Free Unit	16,260	
Sub-total Salaries/Benefits	225,560	PUPA: 2,014
Administration		
Advertising and Marketing	5,600	
Office Expenses		
Office Rent		
Legal Expense - Property	20,000	
Audit Expense	45,000	
Bookkeeping/Accounting Services		
Bad Debts		
Miscellaneous		
Sub-total Administration Expenses	70,600	PUPA: 630
Utilities		
Electricity	224,000	INCLUDES ALL UTILITIES NEED BREAKOUT FROM JSCO
Water		
Gas		
Sewer		
Sub-total Utilities	224,000	PUPA: 2,000
Taxes and Licenses		
Real Estate Taxes	0	
Payroll Taxes	74,884	
Miscellaneous Taxes, Licenses and Permits	0	
Sub-total Taxes and Licenses	74,884	PUPA: 669
Insurance		
Property and Liability Insurance	123,500	
Fidelity Bond Insurance		
Worker's Compensation		
Director's & Officers' Liability Insurance		
Sub-total Insurance	123,500	PUPA: 1,103
Maintenance & Repair		
Payroll	83,200	
Supplies		
Contracts		
Garbage and Trash Removal		
Security Payroll/Contract	159,520	Maintenance & Security
HVAC Repairs and Maintenance	20,000	Includes Elevators
Vehicle and Maintenance Equipment Operation and Repairs		
Miscellaneous Operating and Maintenance Expenses	71,680	Ground maintenance
Sub-total Maintenance & Repair Expenses	334,400	PUPA: 2,986
Supportive Services	10,000	Reserve
Commercial Expenses	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%
TOTAL OPERATING EXPENSES	1,157,956	PUPA: 10,339

Reserves/Ground Lease Base Rent/Bond Fees

Ground Lease Base Rent	15,000	Ground lease with MOHCD	Provide additional comments here, if needed.
Bond Monitoring Fee			
Replacement Reserve Deposit	44,800	\$400 Per unit	
Operating Reserve Deposit			
Other Required Reserve 1 Deposit			
Other Required Reserve 2 Deposit			
Required Reserve Deposits, Commercial	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	
Sub-total Reserves/Ground Lease Base Rent/Bond Fees	59,800	PUPA: 534	

TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)	1,217,756	PUPA: 10,873	
NET OPERATING INCOME (INCOME minus OP EXPENSES)	458,317	PUPA: 4,092	

DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)

Hard Debt - First Lender	375,670	First Mortgage	Provide additional comments here, if needed.
Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Lender)	N/A	OCII	Provide additional comments here, if needed.
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)	0		Provide additional comments here, if needed.
Hard Debt - Fourth Lender	0		Provide additional comments here, if needed.
Commercial Hard Debt Service	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100%	
TOTAL HARD DEBT SERVICE	375,670	PUPA: 3,354	

CASH FLOW (NOI minus DEBT SERVICE)

CASH FLOW (NOI minus DEBT SERVICE)	82,647	

USES OF CASH FLOW BELOW (This row also shows DISCR.)

USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL		
"Below-the-line" Asset Mgt fee (uncommon in new projects; see policy)		
Partnership Management Fee (see policy for limits)	25,124	2nd
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)	5,000	end
Other Payments		
Non-amortizing Loan Pmt - Lender 1 (select lender in comments field)		Provide additional comments here, if needed.
Non-amortizing Loan Pmt - Lender 2 (select lender in comments field)		Provide additional comments here, if needed.
Deferred Developer Fee (Enter amt <= Max Fee from cell I130)	26,262	Def. Develop. Fee split: 50% Provide additional comments here, if needed.

TOTAL PAYMENTS PRECEDING MOHCD	56,386	PUPA: 503

RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)

RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)	26,261	

Residual Receipts Calculation		
Does Project have a MOHCD Residual Receipt Obligation?	Yes	Project has MOHCD ground lease?
Will Project Defer Developer Fee?	Yes	
Max Deferred Developer Fee/Borrower % of Residual Receipts in Yr 1	50%	Max Deferred Developer Fee Amt (Use for data entry above. Do not link):
% of Residual Receipts available for distribution to soft debt lenders if	50%	

Soft Debt Lenders with Residual Receipts Obligations	(Select lender name/program from drop down)	Total Principal Amt	Distrib. of Soft Debt Loans
MOHCD/OCII - Soft Debt Loans	All MOHCD/OCII Loans payable from res. rects	\$59,200,732	99.75%
MOHCD/OCII - Ground Lease Value or Land Acq. Cost	Ground Lease Value	\$150,000	0.25%
HCD (soft debt loan) - Lender 3			0.00%
Other Soft Debt Lender - Lender 4			0.00%
Other Soft Debt Lender - Lender 5			0.00%

MOHCD RESIDUAL RECEIPTS DEBT SERVICE

MOHCD Residual Receipts Amount Due	26,261	50% of residual receipts, multiplied by 100% -- MOHCD's pro rata share of all soft debt
Proposed MOHCD Residual Receipts Amount to Loan Repayment	26,261	Entire/overdue amount of residual receipts proposed for loan repayment.
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease	0	If applicable, MOHCD residual receipts amt due LESS amt proposed for loan repaymt.

REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE

REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE	0	

NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE

HCD Residual Receipts Amount Due	0	
Lender 4 Residual Receipts Due	0	
Lender 5 Residual Receipts Due	0	
Total Non-MOHCD Residual Receipts Debt Service	0	

REMAINDER (Should be zero unless there are distributions below)

Owner Distributions/Incentive Management Fee	0	
Other Distributions/Uses	0	
Final Balance (should be zero)	0	

Attachment L: 20-year Operating Proforma

MOHCD Proforma - 20 Year Cash Flow Summary

Hunters Point Shipyard Blocks 32&34

Total # Units: 112

INCOME	Year 1		Year 2		Year 3		Year 4		Year 5		Year 6		Year 7		Year 8		Year 9		Year 10		Year 11		Year 12		Year 13		Year 14		Year 15		Year 16		Year 17		Year 18		Year 19		Year 20	
	2024		2025		2026		2027		2028		2029		2030		2031		2032		2033		2034		2035		2036		2037		2038		2039		2040		2041		2042		2043	
	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total	Total
Deferred Developer Fee Earned in Year	26,262		26,509		26,555		26,588		26,595		26,583		24,477		23,323		21,686		20,150		18,097		15,711		12,974		9,865													
Developer Fee Remaining Balance	1,131,885	1,105,376	1,078,821	1,052,433	1,026,438	1,001,075	976,598	953,275	931,389	911,239	893,142	877,431	864,457	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	854,592	

Memo Attachment G

SBE Consultant Summary (HPSY Blocks 52 and 54)

					<i>For Informational Purposes Only</i>		
Consultant	Discipline	FEES	SBE	SF-SBE	MBE	WBE	Ethnicity**
CSDA Design Group	Acoustic Consultant	\$24,500	\$24,500				
Mithun (association with Kerman Morris	Architect	\$2,310,114	\$2,310,114	\$2,310,114		\$2,310,114	
Sitco	Building Maintenance	\$26,500	\$26,500				
KPFF	Civil Engineer	\$60,000					
STOK LLC	Energy Modeling/Green Point	\$76,400	\$76,400	\$76,400			
Mithun	Landscape Architect	\$126,325					
Weller Design	Lighting Designer	\$69,240	\$69,240	\$69,240		\$69,240	
Engineering 350	Mechanical, Electrical &	\$258,500	\$258,500	\$258,500			
Mar Structural Design	Structural Engineer	\$220,000	\$220,000		\$220,000		Asian Pac
Mithun Solomon	Subconsultant management	\$203,832					
Steelhead Engineers	Waterproofing Consultant	\$57,680					
Total Fees		\$3,433,091	\$2,985,254	\$2,714,254	\$220,000	\$2,379,354	
% of Total Fees			87.0%	79.1%	6.4%	69.3%	

*Full SBE credit is granted to joint ventures and associations where the SBE partner performs at least 35% of the joint venture or association agreement.

** Ethnicity and/or gender data was taken from third-party sources and presented for informational purposes only. Such data have not been verified.

Memo Attachment H: Consultant Biographies

KERMAN MORRIS ARCHITECTS LLP (Associate Architect)

Established in 1994, Kerman Morris Architects is a small, woman-owned business recognized by the City and County of San Francisco as a Green Business. The firm brings a deep commitment to excellence in design and creating responsive, well-crafted places for living and working. Our practice specializes in a range of residential developments, including infill housing, affordable housing, custom homes, and mixed-use projects as well as developing projects themselves.

Weller Design Architectural Lighting (WDAL) (Architectural Lighting)

Weller Design Architectural Lighting is a woman-owned business with over 20 years of expertise to both residential and commercial lighting projects. The LEED certified team has experience which encompasses architectural lighting and construction management as well as electrical engineering. It is this understanding of the built environment that allows us to have a unique and efficient approach to each project.

MAR STRUCTURAL DESIGN (Structural Engineer)

The minority firm was founded in 2008 to provide collaborative and innovative engineering solutions for the built environment. MAR Structural Design is a mission driven firm on the forefront of performance based seismic and sustainable design.

STOK LLC (Sustainability Consultant)

Stok is a small business and integrated service driven consultancy that focuses on enhancing the occupant experience, optimizing resources efficiency, embedding resiliency, and minimizing environmental impacts. As a team of interdisciplinary experts in the built environment, Stok ensures real estate owners and occupiers invest wisely. We are committed to a radically better world for all.

ENGINEER 350

Is small business and collaborative, interdisciplinary firm of innovative building services engineers and consultants. As the party responsible for energy modeling in the early stages of design Engineering 350 seeks to communicate concepts and facilitate understanding of the interplay of daylight, solar radiation, thermal comfort, ventilation, and acoustics. Engineer 350 understands that early collaboration with the owner, the architect, the wider design team, and the community leads to successful and enduring buildings and to communities that are valued by all stakeholders.

CSDA DESIGN GROUP

CSDA's mission is to advance the wellbeing of team and community. CSDA believes collaborating is the process of working together and building a cohesive team. It focuses on sharing knowledge and experience, learning together, gaining consensus, and working toward a collective vision with mutual ownership of outcomes. They listen carefully to understand each client's goals and challenges. They collaborate with stakeholders to define a shared vision. They are then able to create thoughtful, inspiring, innovative, cost-effective and sustainable solutions.