

**Memorandum of Understanding
(Reorganization of the San Francisco Housing Authority)**

This Memorandum of Understanding (this “**MOU**”), dated as of _____, 2019 (the “**Effective Date**”), is entered into by and between the City and County of San Francisco, a municipal corporation (the “**City**”) and the Housing Authority of the City and County of San Francisco, a public body, corporate and politic (the “**Authority**”) as a binding agreement. The City and the Authority are collectively referred to as the “**Parties**”, and may be referred to individually as a “**Party**”.

RECITALS

A. The City has approximately 12,000 residents that depend on housing subsidies from the Authority under the United States Department of Housing and Urban Development’s (“**HUD**”) Housing Choice Voucher and other voucher programs (“**HCV**”). In addition, the Authority owns in fee (1) an approximately 38-acre site in the Potrero Hill neighborhood, known as Potrero Annex and Terrace, originally improved with 620 units of public housing thereon (“**Potrero Site**”), and (2) an approximately 50-acre site in the Visitacion Valley neighborhood, known as Sunnydale-Velasco, originally improved with 785 units of public housing thereon (“**Sunnydale Site**,” and together with the Potrero Site, the “**Sites**”).

B. By a letter from HUD to the Authority dated March 7, 2019, attached as Exhibit A (the “**Default Letter**”), HUD determined that the Authority was in default under its Housing Choice Voucher Consolidated Annual Contributions Contract (“**HCV ACC**”) and its Low Rent Public Housing (“**LRPH**”) Consolidated Annual Contributions Contract (“**LRPH ACC**”) executed by and between the Authority and HUD on August 12, 1998, as amended, and April 29, 1996, as amended, respectively (the “**SFHA Default**”). In accordance with 42 USC Section 1437d(j)(3)(A)(iv) and (v), after a determination of default, HUD has the authority to take possession of all or a part of the Authority or require the Authority to make other arrangements consistent with HUD requirements that are in the best interests of the public housing residents and families assisted by HUD.

C. Under the Default Letter, HUD has determined that it is in the best interests of the Authority’s public housing residents and assisted families to allow the Authority the opportunity to cure the SFHA Default as follows: (i) the City’s assumption of responsibility of the programmatic and financial functions under the HCV ACC and LRPH ACC, including financial management, program management, wait list and admissions, inspections, eligibility determinations, and lease and grievance procedures, and (ii) outsourcing programmatic and financial administration of the HCV program and LRPH program, including continued outsourcing of Authority’s financial management.

D. In order to ensure the long-term preservation of the Authority’s LRPH sites, the City and the Authority engaged in the transformation and improvement of Twenty-Nine (29) LRPH sites under HUD’s Rental Assistance Demonstration (“**RAD**”) and the non-RAD Section 8 Project Based Voucher (“**PBV**”) program. The conversion of the Authority’s public housing units under the RAD PBV and non-RAD PBV program involved the long term financial investment by

the City and a transfer of ownership of the improvements from the Authority to private entities, which have commenced or completed the rehabilitation and recapitalization of such former public housing sites. Apart from 70 scattered sites approved by HUD for disposition and 608 units in mixed-finance developments owned and managed by private entities that are planned to be converted to RAD PBV units, the Sites are the Authority's last remaining public housing sites under the LRPB Program.

E. In order to transform four of SFHA's most distressed housing sites, the City and Authority launched the HOPE SF initiative in 2007. HOPE SF is the nation's first large-scale public housing transformation collaborative aimed at disrupting intergenerational poverty, reducing social isolation, and creating vibrant mixed-income communities without mass displacement of current residents. As the City's signature anti-poverty and equity initiative, HOPE SF is committed to breaking intergenerational patterns related to the insidious impacts of trauma and poverty, and to creating economic and social opportunities for current public housing residents through deep investments in education, economic mobility, health and safety. The Parties have commenced the revitalization of the Sites and are nearing the completion of the public housing rebuilding located at Alice Griffith and Hunters View.

F. The Parties desire to develop and revitalize the Sites as mixed-use, mixed-income developments with several different components: (i) public infrastructure to support the Sites; (ii) RAD and non-RAD PBV units that also may be supported by low-income housing tax credits and will replace public housing units as part of the Sunnydale HOPE SF Project and the Potrero HOPE SF Project, as defined in Recital G ("**Replacement Units**"); (iii) low-income housing tax credit units other than Replacement Units ("**LIHTC Units**"); (iv) market-rate housing; and (v) community improvements (e.g., open space areas, community facilities) throughout the Sites.

G. On January 31, 2017, the City's Board of Supervisors approved of the following (1) a Development Agreement and Master Development Agreement with the Authority and the Sunnydale Development Co. LLC (the "**Sunnydale Developer**") for the development of the Sunnydale HOPE SF master plan consisting of approximately 1,715 units (785 are Replacement Units, approximately 200 are LIHTC Units, and 730 units are for market rate homeownership or rental), all new streets and utility infrastructure, 3.6 acres of new open spaces, and approximately 60,000 square feet of new neighborhood serving spaces ("**Sunnydale HOPE SF Project**"); and (2) a Development Agreement and Master Development Agreement with the Authority and BRIDGE Potrero Community Associates, LLC (the "**Potrero Developer**," and together with the Sunnydale Developer, the "**Developers**") for development of the Potrero HOPE SF master plan consisting of approximately 1,600 units (approximately 800 are Replacement Units and LIHTC Units, and up to 800 units are for market rate homeownership and rental), all new streets and utility infrastructure, 3.5 acres of new open spaces, and approximately 50,000 square feet of new neighborhood serving spaces (the "**Potrero HOPE SF Project**," and together with the Sunnydale HOPE SF Project, the "**Projects**").

H. In recognition of limited off-site relocation options and to assure program viability, the Authority has proposed to HUD the accelerated disposition of on-site public housing units that would be rehabilitated to allow for the commitment of PBVs and then operated on an interim basis until their demolition.

I. To protect San Francisco residents served by the Authority and continue the revitalization of the Sites, the Parties desire to cure the SFHA Default and enter into this MOU to set forth their respective obligations.

NOW THEREFORE, the Parties agree as follows:

1. Definitions.

“Act” means the United States Housing Act of 1937.

“Board of Supervisors” means the elected Board of Supervisors of the City.

“Board Appointee” has the same meaning set forth in **Section 2.2(a)**.

“Commission” means the Authority’s Board of Commissioners.

“Controller” means the appointed Controller of the City.

“Default Letter” has the same meaning set forth in **Recital B**.

“Developers” has the same meaning set forth in **Recital G**.

“Development Agreements” means, collectively, the Sunnydale Development Agreement and the Potrero Development Agreement.

“Effective Date” means the date first written above.

“Essential Functions” means the programmatic and financial functions under the HCV ACC and LRPH ACC, including financial management, program management, wait list and admissions, housing quality standards inspections, eligibility determinations, and lease and grievance procedures.

“Executive Management” means executive managerial oversight of the Authority for all Essential Functions, including, but not limited to leadership and overall management of the Authority, development of policy and procedure, and compliance with HUD requirements, City procedures, and this MOU.

“Financial Management” means management of the HCV HUD voucher management system reporting, Two Year Tool HCV utilization forecasting, year-end close, audit preparation, budgeting, general accounting, and any other aspects of the Authority’s budget and finances.

“HCV” means the Authority’s Housing Choice Voucher program and other voucher programs, including PBVs, authorized by Section 8(o) of the Act.

“LIHTC Units” has the same meaning set forth in **Recital F**.

“LRPH” means the Authority’s public housing program authorized by Title I of the Act other than by Section 8 of Title I of the Act.

“Master Development Agreements” means, collectively, the Sunnydale Master Development Agreement and the Potrero Master Development Agreement.

“Mayor” means the elected Mayor of the City, or her designee.

“Mayor Appointee” has the same meaning set forth in **Section 2.2(a)**.

“Non-Housing Asset” has the same meaning set forth in **Section 2.7**.

“Potrero Developer” has the same meaning set forth in **Recital G**.

“Potrero Development Agreement” means the Development Agreement dated March 3, 2017, by and between the City, the Authority, and the Potrero Developer regarding revitalization and development of the Potrero Site approved by the Board of Supervisors under Ordinance 15-17 and on file with the Clerk of the Board of Supervisors in File No. 161161, and approved by the Commission under Resolution 0093-16.

“Potrero HOPE SF Project” has the same meaning set forth in **Recital E**.

“Potrero Master Development Agreement” means the Master Development Agreement dated March 3, 2017, by and between the City, the Authority, and the Potrero Developer regarding disposition, revitalization and development of the Potrero Site approved by the Board of Supervisors under Resolution 19-17 and on file with the Clerk of the Board of Supervisors in File No. 161355, and approved by the Commission under Resolution 0093-16.

“Property Owner” means the Sunnydale Developer, the Potrero Developer, or other legal entity approved by HUD.

“PBV” has the same meaning set forth in **Recital D**.

“RAD” has the same meaning set forth in **Recital D**.

“Replacement Units” has the same meaning set forth in **Recital F**.

“SFHA Default” has the same meaning set forth in **Recital B**.

“Sunnydale Developer” has the same meaning set forth in **Recital G**.

“Sunnydale Development Agreement” means the Development Agreement dated March 3, 2017, by and between the City, the Authority, and the Sunnydale Developer regarding revitalization and development of the Sunnydale Site approved by the Board of Supervisors under Ordinance 18-17 and on file with the Clerk of the Board of Supervisors in File No. 161164, and approved by the Commission under Resolution 0094-16.

“Sunnydale HOPE SF Project” has the same meaning set forth in **Recital E**.

“Sunnydale Master Development Agreement” means the Master Development Agreement dated March 3, 2017, by and between the City, the Authority, and the Sunnydale Developer regarding disposition, revitalization and development of the Sunnydale Site approved by the Board

of Supervisors under Resolution 20-17 and on file with the Clerk of the Board of Supervisors in File No. 161356, and approved by the Commission under Resolution 0094-16.

“Voucher Shortfall” has the same meaning set forth in **Section 2.10**.

2. Reorganization of the Authority. Pursuant to 42 U.S.C. 1437d(j)(3)(A)(v) of the Act, HUD has agreed that the City will assume responsibility and oversight of the Authority, including the Essential Functions. The Authority will remain a public body, corporate and politic, which is governed by Health and Safety Code Section 34200 *et seq.* and is a separate legal entity from the City. The Authority will retain its responsibilities under the HCV ACC and the LRPH ACC. The Authority will comply with all aspects of the Default Letter and implement best practices for the overall management of the Authority’s operations under the oversight of the City. All actions by any Party under this MOU are subject to any HUD or other federal requirements generally applicable to the Authority.

2.1 City Oversight of the Authority. The Authority agrees that the City will have oversight authority over certain matters governed by the Authority, including the Commission, as follows:

a. Annual Budget. The Authority will submit its proposed annual budget for review by the Mayor and Board of Supervisors each year, on a timeline and in a format consistent with HUD requirements and established in consultation with the Controller, the Mayor’s Budget Office, and the Board of Supervisors Budget & Legislative Analyst. The Board of Supervisors will retain its authority under the San Francisco Charter to review, amend, and adopt any proposed allocation of City funds to support the Authority and to authorize City staff positions assigned to support the Authority’s operations.

b. Contracts. The Authority will approve all contracts and actions related to implementing the obligations in the Default Letter, necessary to adhere to HUD requirements, or related to the disposition of the Sites in accordance with the Development Agreements and Master Development Agreements approved by the Board of Supervisors and the Commission. In addition, the Authority will obtain a third-party appraisal regarding the lease or sale of any non-housing real property, and if such real property has a fair market value of over \$200,000 related to a sale or \$60 per square foot related to a lease, the Authority will obtain a third-party review of the appraisal; provided however, no appraisal or appraisal review will be required if a sale or lease of real property is conveyed at a below market rate for the purpose of developing affordable housing as defined in the San Francisco Administrative Code Section 23A.4. Each year as part of the budget submission described above and solely for the purpose of reporting, the Authority will submit a list of contracts that are expected to be extended or authorized in the budgetary period and that: (i) exceed \$10 million in anticipated expenditures, (ii) have a term in excess of 10 years, or (iii) generate in excess of \$1 million in revenue. Additionally, the Authority will submit a list of any modifications or amendments to such contracts that have an impact of more than \$500,000. The foregoing provisions do not supersede the Authority’s obligation to comply with any HUD requirements under 24 CFR part 970, 2 CFR part 200, or otherwise.

c. Issuance of Debt. Any issuance of debt by the Authority must be approved by the Authority and the Board of Supervisors.

d. MOU. Any material amendments or modifications to this MOU under Section 4.2 are subject to the prior approval of the Board of Supervisors and HUD.

Any matter implemented or executed by the Authority without the approval of the Board of Supervisors, Mayor, or HUD as applicable, that requires such approval under this MOU, will constitute an Event of Default under this MOU at the City's election.

2.2 Appointment and Removal of Commissioners.

a. Appointments. The Mayor will appoint the members of the Commission in accordance with Health and Safety Code Section 34270.1, as follows: (i) four (4) members at the sole discretion of the Mayor ("**Mayor Appointees**"); and (ii) three (3) members at the sole discretion and recommendation by motion of the Board of Supervisors ("**Board Appointees**"). In addition, pursuant to Health and Safety Code Section 34270.1, of the four Mayor Appointees, at least one (1) will be a tenant of the Authority, and of the three Board Appointees, at least one (1) will be a tenant of the Authority aged 62 years or older. The Mayor will appoint Board Appointees no later than ten (10) days after a motion for a recommendation is approved by the Board of Supervisors.

b. Initial Appointments. In order to ensure continuity of the Authority's operations, current members of the Commission may hold over and continue to serve under their existing terms. No later than sixty (60) days after the Effective Date, and in accordance with Section 2.2(a), the Board of Supervisors will recommend for the Mayor's appointment the Board Appointees for any vacant seats, and if there are other vacant or expired seats on the Commission, the Mayor will appoint the Mayor Appointees. To stagger the terms of the members, the initial appointments under Section 2.2(a) to the Commission will be as follows: (i) for Board Appointees, the Board of Supervisors will recommend one member to serve a term of four years, one member to serve a term of three years, and one member to serve a term of two years; and (ii) as vacancies occur, for Mayor Appointees, the Mayor will appoint two members to serve terms of four years, one member to serve a term of three years, and one member to serve a term of two years. Thereafter, each member will be appointed for a term of four years.

c. Removal. The Mayor may remove any Mayor Appointee in his or her sole discretion. The Mayor will not remove any Board Appointee without the prior recommendation of the Board of Supervisors by motion. If the Board of Supervisors recommends by motion to remove a Board Appointee, the Mayor will remove such Board Appointee no later than ten (10) days after such motion is approved by the Board of Supervisors. In accordance with Health and Safety Code Section 34282, any member of the Commission will be removed only after he or she has been given a copy of the charges at least ten (10) days prior to a hearing by the Authority and has had an opportunity to be heard in person or by counsel, and if such member of the Commission is removed, a record of the proceedings and the charges and findings on them will be filed with the Authority.

2.3 Executive Management. Under a services agreement between the Parties, the City will provide staff to perform Executive Management, which, at a minimum, will include the functions of chief executive officer (the "**Chief Executive Officer**"). The Chief Executive Officer will report directly to the Mayor or her designee and will provide support to the Commission under

the services agreement. In accordance with Health & Safety Code Sections 34278 and 34280, the Commission will confirm the appointment of the Chief Executive Officer under the services agreement. The Commission will not terminate the services agreement or require replacement of the Chief Executive Officer without the prior written consent of the Mayor. The Commission will delegate all personnel decisions to the Chief Executive Officer.

2.4 Essential Functions. Pursuant to the Default Letter, and in accordance with California Health & Safety Code Section 34280, the Authority will outsource the Essential Functions to third-party contractors with sufficient expertise and selected through a process consistent with HUD requirements.

a. HCV Program. The HCV program outsourcing will be undertaken by contracting with a third party (or parties) expert for programmatic and financial administration. Pursuant to Section 2.5, such third parties will be solicited and selected through the RFP process or other process consistent with HUD requirements. The Authority will assist and cooperate in every respect with implementation of third-party management of the HCV program. The Authority will also maintain daily or weekly, as necessary, communication with the selected HCV program contractor to comply with the requirements of this MOU and ensure that the HCV program is implemented at a high standard.

b. LRPH Program. The LRPH program outsourcing will be undertaken by contracting with a third party (or parties) expert for programmatic and financial administration. The Parties intend for the LRPH program outsourcing to be accomplished substantially through a transfer of the Sites to Property Owners and/or through contracting with a third party (or parties) expert for property management. If required, the Parties intend that any contractor will be solicited through the RFP process pursuant to Section 2.5, or other process consistent with HUD requirements. The Parties and the Developers will implement revitalization of the Sites consistent with the respective Development Agreements approved by the Board of Supervisors by Ordinances 18-17 and 15-17, respectively, and on file with the Clerk of the Board of Supervisors in File Nos. 161164 and 161161, and the Commission by Resolutions 0093 and 0094, respectively, and the respective Master Development Agreements approved by the Board of Supervisors by Resolutions 20-17 and 19-17, respectively, and on file with the Clerk of the Board of Supervisors in File Nos. 161356 and 161355, and the Commission by Resolutions 0093 and 0094, respectively.

c. Financial Management. To the extent required by the City, the Authority's Financial Management will be outsourced to a third-party contractor with sufficient expertise and selected through a process consistent with HUD requirements. The Parties acknowledge that the Authority has outsourced its Financial Management under a contract with BDO USA LLP.

2.5. Procurement and Contract Management. The Authority will work with City staff to procure third-party contractors with sufficient expertise and through procurements consistent with any applicable HUD requirements under 2 CFR part 200 and 24 CFR Part 905. The Authority will ensure that the Mayor's Office of Housing and Community Development, the City Purchaser, and/or the Controller's Office are provided opportunities to participate in procurement processes, as each deems necessary to perform their oversight responsibilities, unless otherwise directed by the Mayor. As directed by the Controller and the City Purchaser, the Authority will follow the City's practices and procedures over the management of contracts consistent with HUD

requirements. Such practices and procedures are subject to review and audit on an as-needed basis determined by the Controller's Office and are subject to review and audit as required by HUD.

2.6. Shared Services. The Authority will transition to a shared services model in which City departments provide the Authority with services and expertise that support the Essential Functions, which may include, but is not limited to, Information Technology, Human Resources, Purchasing, Real Estate, and Financial Systems & Oversight. In consultation with MOHCD, the Controller's Office, and City's General Services Agency, the Authority intends to develop a specific timeline for integrating systems, processes, and policies with the City by no later than one year after the Effective Date. City will offer technical assistance to the Authority regarding management best practices, including guidance on transitioning to a shared services model with City departments.

2.7 Non-Housing Assets. Pursuant to the restructuring set forth in this Section 2, the Authority will take an inventory of its non-housing real property, vehicles, supplies, equipment, and any other non-housing assets used to support its operations ("**Non-Housing Assets**"). In consultation with the City's General Services Agency, the Authority will develop a plan for utilizing any City property for the Authority's restructured operations. By no later than one year after the Effective Date, the Authority intends to develop and submit to the Controller's Office a specific timeline for establishing Non-Housing Assets needed for its restructured operations, disposition of Non-Housing Assets that are no longer needed for the restructured operations, and execution of any agreements needed to utilize the City's property. Upon disposition of any Non-Housing Assets, subject to compliance with 2 CFR part 200 or 24 CFR part 970 as applicable, the Authority will repay City loans with any unrestricted surplus funds from such disposition or use such funds as approved by the City.

2.8 Bylaws. By no later than ninety (90) days after the Effective Date, the Authority will approve of an amendment to the Authority Bylaws to reflect the requirements of this Section 2, in a form acceptable to the City.

2.9 Employee Transition. The Authority will provide all legally required notices to affected employees and their exclusive bargaining representatives, and, in collaboration with the City, develop and offer severance packages and assistance in identifying and accessing appropriate job opportunities with the City. The Authority will negotiate with bargaining representatives in a timely manner and will coordinate with the City on job pathways and support to current employees seeking employment with the City. In consultation with the City, the Authority will develop a plan for any necessary operations that are not Essential Functions or a shared service with the City.

2.10 Voucher Shortfall. The Authority will continue to work as needed with HUD to improve the operations of the Authority. The Authority will take every reasonable action to obtain funding from HUD to address any shortfall of voucher funding under the HCV Program that occurs or is projected to occur ("**Voucher Shortfall**") despite its sound management efforts. The Authority acknowledges and agrees that the City has no obligation under law or this MOU to provide financial assistance for the Authority's financial deficits. Only if necessary, and subject to both the availability of funds appropriated by the Board of Supervisors and prior approval by the Commission, the Authority may request the City to provide financial assistance for a Voucher Shortfall, provided that the following conditions are satisfied:

- (i) MOHCD and the Controller must be satisfied that the Authority has reasonably mitigated any Voucher Shortfall;
- (ii) the Authority must have complied with all aspects of this MOU, including review and approval of the Authority's annual budget by the Board of Supervisors; and
- (iii) the Authority will take any necessary actions so that any such City contribution to cover a Voucher Shortfall will be included in the funding base for future renewal funding calculations by HUD.

3. Default/Remedies.

3.1 Events of Default. Any material breach by a Party 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." Applicable notice and cure periods will be thirty (30) days after the Authority's receipt of written notice from the City to cure the default, or, if the default cannot be cured within a 30-day period, the Authority will have sixty (60) days to cure the default, or any longer period of time deemed necessary by the City, provided that the Authority commences to cure the default within the 30-day period and diligently pursues the cure to completion.

3.2 Remedies. During the pendency of an uncured Event of Default, the City may exercise any right or remedy available under this MOU or at law or in equity. Notwithstanding any exercise of rights or remedies by the City, HUD maintains all of its available rights under the Act and HUD regulations. All of the City's rights and remedies following an Event of Default are cumulative, including:

- (a) The City may perform any of the Authority's obligations in any manner, in the City's reasonable discretion.
- (b) the City, either directly or through an agent, may take control of the Authority and enter into contracts and take any other action the City deems appropriate.
- (c) The City may apply to any court of competent jurisdiction for specific performance, or an injunction against any violation, of this MOU or for any other remedies or actions necessary or desirable to correct the Authority's noncompliance with this MOU.

4. Miscellaneous Provisions.

4.1 Term. The term of this MOU will begin on the Effective Date and will continue unless and until expressly terminated by the Parties. The Parties intend this Agreement to be the basis of a long-term restructuring of the Authority and not solely to remain in place to address the performance concerns specified in the Default Letter.

4.2 Amendments. The Parties agree that no amendment, modification, alteration or variation of the terms of this MOU shall be valid unless in writing, approved by HUD, and signed by the Parties. This MOU constitutes the entire agreement of the Parties and no oral understandings or agreement not incorporated herein shall be binding on either party. This MOU supersedes and replaces any prior written materials used by the Parties in negotiating this MOU.

4.3 Severability. Except as otherwise specifically provided in this MOU, a judgment or court order invalidating any provision of this MOU, or its application to any person, will not affect any other provision of this MOU or its application to any other entity or person or circumstance, and the remaining portions of this MOU will continue in full force and effect, unless enforcement of this MOU as invalidated would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the purposes of this MOU.

4.4 Compliance with Laws. All actions and transactions described in this MOU are subject to and must be conducted in accordance with the applicable requirements of the City's Charter and other applicable City codes and all transactions on behalf of the Authority must be conducted in accordance with applicable state and/or federal requirements.

4.5 No Third-party Beneficiaries. There are no third-party beneficiary rights with respect to this Agreement.

4.6 Incorporation of Recitals and Exhibits; Definitions and Interpretation. The preamble paragraph, Recitals, and Exhibits, and all defined terms contained therein, are hereby incorporated into this Agreement as if set forth in full.

SIGNATURES ON THE NEXT PAGE

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed as of the date set forth below.

AUTHORITY:

CITY:

HOUSING AUTHORITY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body corporate and politic

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____

By: _____

Date: _____

Date: _____

APPROVED AS TO FORM AND LEGALITY:

APPROVED AS TO FORM:

By: _____
Counsel to Authority

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

Authority Resolution No. _____

City Resolution No. _____

Adopted _____

Adopted _____

EXHIBIT A

Default Letter