

File No. 201365

Committee Item No. 6

Board Item No. 6

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date January 13, 2021

Board of Supervisors Meeting

Date January 26, 2021

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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Completed by: Linda Wong Date January 8, 2021

Completed by: Linda Wong Date January 15, 2021

1 [Amended and Restated Loan Agreement - BRIDGE-Potrero Community Associates LLC -
2 Potrero HOPE SF Development - Not to Exceed \$29,141,134]

3 **Resolution approving and authorizing the Director of the Mayor’s Office of Housing and**
4 **Community Development to execute an Amended and Restated Loan Agreement with**
5 **BRIDGE-Potrero Community Associates LLC, a California limited liability company, to**
6 **increase the loan amount to \$22,701,134 for a total loan amount not to exceed**
7 **\$29,141,134 to finance the second phase of infrastructure improvements and housing**
8 **development related to the revitalization and master development of up to 1,700 units**
9 **of replacement public housing, affordable housing and market rate housing, commonly**
10 **known as the Potrero HOPE SF Development; and adopting findings that the loan**
11 **agreement is consistent with the adopted Mitigation Monitoring and Reporting Program**
12 **under the California Environmental Quality Act, the General Plan, and the eight priority**
13 **policies of Planning Code, Section 101.1.**

14
15 WHEREAS, HOPE SF is the nation’s first large-scale public housing transformation
16 collaborative aimed at disrupting intergenerational poverty, reducing social isolation, and
17 creating vibrant mixed-income communities without mass displacement of current residents;
18 and

19 WHEREAS, HOPE SF, the City’s signature anti-poverty and equity initiative, is
20 committed to breaking intergenerational patterns related to the insidious impacts of trauma
21 and poverty, and to creating economic and social opportunities for current public housing
22 residents through deep investments in education, economic mobility, health and safety; and

23 WHEREAS, The Housing Authority of the City and County of San Francisco (“SFHA”)
24 owns and operates 619 units of public housing on the approximately 38-acre site, known as
25 Potrero Annex and Terrace; and

1 WHEREAS, The Potrero HOPE SF project, which is located in Potrero Hill, is generally
2 bounded by Missouri Street and Turner Terrace to the north, 23rd Street on the west, Texas
3 Street to the east, and 26th Street to the south, is a mixed-use, mixed-income development
4 with several different components: (i) construction of the public infrastructure to support
5 Potrero Annex and Terrace; (ii) development of private affordable housing on affordable
6 parcels in accordance with an affordable housing plan; (iii) development of private residential
7 projects on market rate parcels; and (iv) development of community improvements (e.g., open
8 space areas, community facilities) throughout Potrero-Velasco (the "Project"); and

9 WHEREAS, In 2007, SFHA issued a Request for Proposals (RFP), seeking submittals
10 from qualified respondents to develop the Project; and

11 WHEREAS, BRIDGE Housing Corporation, a California nonprofit public benefit
12 corporation ("BRIDGE"), responded to the RFP and was selected to be the developer for the
13 Project; and

14 WHEREAS, BRIDGE established a separate entity named BRIDGE-Potrero
15 Community Associates., LLC (the "Developer") under which to plan and develop the Project;
16 and

17 WHEREAS, The Potrero HOPE SF master plan consists of (i) a maximum of 1,700
18 units, of which 619 are replacement units for existing Potrero Annex and Terrace households,
19 approximately 181 are additional affordable housing units, and up to 800 units will be for
20 market rate homeownership or rental, (ii) all new streets and utility infrastructure, (iii) 3.5 acres
21 of new open spaces, and (iv) approximately 50,000 square feet of new neighborhood serving
22 spaces; and

23 WHEREAS, By Ordinance No. 15-17, the Board of Supervisors approved a
24 Development Agreement with the Developer relating to the Project Site (the "Development
25

1 Agreement") under Administrative Code, Chapter 56, which Ordinance is on file with the Clerk
2 of the Board of Supervisors in File No. 161161 and is incorporated herein by reference; and

3 WHEREAS, By Ordinance No. 19-17, the Board of Supervisors made findings under
4 the California Environmental Quality Act (Public Resources Code, Sections 21000 et seq.)
5 and findings of consistency with the General Plan, and the eight priority policies of Planning
6 Code Section 101.1, which Ordinance is on file with the Clerk of the Board of Supervisors in
7 File No. 161309 and is incorporated herein by reference; and

8 WHEREAS, The City, acting through the Mayor's Office of Housing and Community
9 Development ("MOHCD"), administers a variety of housing programs that provide financing for
10 the development of new affordable housing and the rehabilitation of single- and multi-family
11 housing for low- and moderate-income households and resources for homeowners in San
12 Francisco; and

13 WHEREAS, MOHCD enters into loan agreements with affordable housing developers
14 and operators; administers loan agreements; reviews annual audits and monitoring reports;
15 monitors compliance with affordable housing requirements in accordance with capital funding
16 regulatory agreements; and if necessary, takes appropriate action to enforce compliance; and

17 WHEREAS, MOHCD provided Developer with loans to commence predevelopment
18 activities for the Project; and

19 WHEREAS, The Developer desires to commence the second phase of the Project,
20 which will include infrastructure improvements to facilitate the construction of approximately
21 116 public housing replacement units and 41 new affordable rental units, one market rate
22 development, an extended street segment, and an electrical switchgear to serve the Project
23 ("Phase 2 Project"); and

1 WHEREAS, The Developer established a separate entity named BRIDGE-Potrero
2 Community Associates LLC (the “Infrastructure Developer”) to undertake the Phase 2 Project;
3 and

4 WHEREAS, On November 20, 2020, the Citywide Affordable Housing Loan
5 Committee, consisting of MOHCD, Department of Homelessness and Supportive Housing, the
6 Office of Community Investment and Infrastructure, Controller’s Office of Public Finance and
7 SFHA, recommended approval to the Mayor of a loan to the Infrastructure Developer for the
8 Phase 2 Project in a total amount not to exceed \$29,141,134; and

9 WHEREAS, In order for the Infrastructure Developer to construct the Phase 2 Project,
10 MOHCD desires to provide an additional loan in the amount not to exceed \$22,701,134, and a
11 total loan amount not to exceed \$29,141,134, to the Infrastructure Developer pursuant to an
12 Amended and Restated Loan Agreement (“Infrastructure Agreement”) in substantially the
13 form on file with the Clerk of the Board in File No. 201365, and in such final form as approved
14 by the Director of MOHCD and the City Attorney; and

15 WHEREAS, The material terms of the Infrastructure Agreement also include: (i) a
16 minimum term of 57 years; (ii) will bear no interest; and (iii) will be forgiven once the City
17 accepts the improvements and new streets; now, therefore, be it

18 RESOLVED, That the Board of Supervisors hereby adopts the findings contained in
19 Ordinance No. 15-17 regarding the California Environmental Quality Act for the Project, and
20 hereby incorporates such findings by reference as though fully set forth in this Resolution;
21 and, be it

22 FURTHER RESOLVED, That the Board of Supervisors hereby finds that the Project is
23 consistent with the General Plan, and with the eight priority policies of Planning Code, Section
24 101.1 for the same reasons as set forth in Ordinance No. 19-17, and hereby incorporates
25 such findings by reference as though fully set forth in this Resolution; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors hereby approves the
2 Infrastructure Agreement and authorizes the Director of MOHCD or his designee to enter into
3 any amendments or modifications to the Agreement (including, without limitation, preparation
4 and attachment or, or changes to, any of all of the exhibits and ancillary agreements) and any
5 other documents or instruments necessary in connection therewith that the Director
6 determines, in consultation with the City Attorney, are in the best interest of the City, do not
7 materially increase the obligations or liabilities for the City or materially diminish the benefits of
8 the City, are necessary or advisable to effectuate the purposes and intent of this Resolution
9 and are in compliance with all applicable laws, including the City Charter; and, be it

10 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes and
11 delegates to the Director of MOHCD and/or the Director of Property, and their designees, the
12 authority to undertake any actions necessary to protect the City's financial security in the
13 Property and enforce the affordable housing restrictions, which may include, without limitation,
14 acquisition of the Property upon foreclosure and sale at a trustee sale, acceptance of a deed
15 in lieu of foreclosure, or curing the default under a senior loan; and, be it

16 FURTHER RESOLVED, That all actions authorized and directed by this Resolution and
17 heretofore taken are hereby ratified, approved and confirmed by this Board of Supervisors;
18 and be it

19 FURTHER RESOLVED, That within thirty (30) days of the Infrastructure Agreement
20 being fully executed by all parties, MOHCD shall provide the final Infrastructure Agreement to
21 the Clerk of the Board for inclusion into the official file.

1 Recommended

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3 /s/

4 Eric D. Shaw, Director
5 Mayor's Office of Housing and Community Development

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<p>Item 6 Files 20-1365</p>	<p>Department: Mayor’s Office of Housing and Community Development</p>
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EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution approves an amended and restated loan agreement between the MOHCD and BRIDGE-Potrero Community Associates, LLC to finance Phase 2 infrastructure by increasing the loan by \$22,701,134 to a total not-to-exceed amount of \$29,141,134.

Key Points

- Potrero HOPE SF is a 38 acre site that will provide up to 1,700 units of housing by replacing the 619 units of public housing on the site, adding over 180 affordable residential units (up to 60 percent AMI), and developing up to 800 market rate units. MOHCD selected BRIDGE Housing as the non-profit developer of the Potrero site through a competitive process. Phase I infrastructure and construction of 72 units was completed in June 2019.
- Phase 2 Infrastructure of the Potrero HOPE SF project will construct infrastructure improvements on 3.96 acres of land along the southern part of the site that covers affordable housing (Block B) and market rate housing (Block A.) Funding for Phase 2 will be used for excavating and removing existing utilities, installing new utilities, demolishing and upgrading existing streets, and constructing a new public mini park.
- In November 2020, the Citywide Affordable Housing Loan Committee recommended a modification of the original loan to increase the loan amount by \$22,701,134 to a total not-to-exceed amount of \$29,141,134. To date the City had committed \$6,440,000.

Fiscal Impact

- HCD awarded BRIDGE grants totaling \$13.2 million for Phase 2 infrastructure costs. After BRIDGE receives this grant funding and repays MOHCD, the residual MOHCD loan will total \$15,942,134.
- Sources of the loan include: 2015 General Obligation Bonds, The Low and Moderate Income Housing Asset Fund, the Citywide Affordable Housing Fund, and Condo Conversion Fees.

Policy Consideration

- Project delays have contributed to an estimated increase in Phase 2 infrastructure costs. MOHCD is expected to close permanent financing on Potrero Block B between August and October of 2021 and will need to request gap loan approval from the Board of Supervisors. As part of that approval, the Board should request that MOHCD provide an update on Potrero HOPE SF financing and development, and BRIDGE compliance with Loan Agreement conditions to provide sufficient project management.

Recommendation

- The proposed Loan Agreement to provide permanent gap financing to Phase 2 of Potrero HOPE SF is consistent with prior Board actions, the Budget and Legislative Analyst recommends approval.

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND

In 2007, the San Francisco Housing Authority in partnership with the Mayor's Office of Housing and Community Development (MOHCD) launched the HOPE SF initiative to revitalize the City's most distressed public housing sites into mixed-income communities comprised of affordable housing, including replacement units for existing public housing and new affordable units, and production of market rate housing. Potrero Terrace and Annex ("Potrero") is one of the four HOPE SF sites undergoing revitalization as part of the HOPE SF initiative. Potrero is located on the south slope of Potrero Hill and was comprised of 619 units of public housing across 38 acres.

In 2007 the San Francisco Housing Authority released a Request for Qualifications for developers to develop the Potrero HOPE SF sites. In 2008, the Housing Authority selected BRIDGE Housing Corporation and BRIDGE Urban Infill Land Development LLP to develop the master development plan for the Potrero site. In 2010, the Master Plan for the site was finalized and the project began its environmental review and land use approval process with the Planning Department. BRIDGE established a separate entity named BRIDGE-Potrero Community Associates, LLC to plan and develop the project. In March 2015, BRIDGE-Potrero Community Associates, LLC entered into a Second Amended and Restated Exclusive Negotiating Rights Agreement with the San Francisco Housing Authority for exclusive rights to negotiate development of the Potrero project.

In 2017, the Board of Supervisors approved a development agreement (File No. 16-1164) and a master development agreement (File No. 16-1356) between the San Francisco Housing Authority, the City, and BRIDGE to develop the Potrero HOPE SF project. The proposed Potrero development will provide up to 1,700 units of housing by replacing the 619 units of public housing on the site, adding over 180 affordable residential units (up to 60 percent AMI), and developing up to 800 market rate units. The master plan also includes developing new street and utility infrastructure, 3.5 acres of new open spaces, and an estimated 50,000 square feet of new neighborhood space.

The Potrero HOPE SF project is being developed across five main phases over 25 years. In June 2019, the Phase I infrastructure and construction of 72 units of affordable housing development (1101 Connecticut) was completed.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution (i) approves and authorizes the Director of MOHCD to execute an amended and restated loan agreement with BRIDGE-Potrero Community Associates, LLC, to finance the second phase of the infrastructure improvements and housing development by

increasing the loan amount by \$22,701,134 to a total not-to-exceed amount of \$29,141,134; and, (ii) adopts findings that the loan agreement is consistent with the Mitigation Monitoring and Reporting Program under CEQA, the General Plan, and the eight priority policies of Planning Code, Section 101.1.

Phase 2 Infrastructure

Phase 2 Infrastructure (Phase 2) of the Potrero HOPE SF project will construct infrastructure improvements on 3.96 acres of land along the southern part of the site that covers affordable housing development on Block B (157 units) and market rate housing development on Block A (101 units).¹ Funding for Phase 2 will be used for relocation of residents within the Phase 2 footprint, predevelopment, design, engineering, permitting, bidding, construction and hazardous materials abatement related activities for the project. The scope of work for the infrastructure improvements includes but is not limited to excavating and removing existing utilities, installing new utilities (water, combined sewer, electric, etc.), installing a new retaining wall, installing an extension of Arkansas Street (25th Street through 26th Street), demolishing and upgrading existing streets, installing new irrigation and landscaping, grading to slopes matching the Master Improvement Plans, environmental screening and soil/dust management, and constructing a new public mini park.

According to MOHCD's report to the Citywide Affordable Housing Loan Committee, there were approximately eight buildings and 77 households on Phase 2 land. These households were relocated to new units completed under Phase 1 of the project or into renovated units in existing public housing on the site. In June 2020 the demolition of the eight buildings on Phase 2 land was completed and the land is now vacant and ready to begin infrastructure improvements.

According to the master development agreement, public financing for Phase 2 of the Potrero HOPE SF project was initially scheduled for FY 2017-18; however, MOHCD reports delays in the project due to development of Block X in Phase I requiring developer time and resources, project management staff turnover at BRIDGE, and delays due to infrastructure plan review and approvals and the permitting process. To help reduce any further delays due to staff turnover, the Loan Agreement includes a condition requiring BRIDGE Housing Corporation to hire a third party consultant within 30 days in the event that staff turnover continues. In the event that this is needed, BRIDGE will utilize funding from the developer fee to pay for the consultant. To date, MOHCD has been monitoring staffing monthly and has found that staffing levels are appropriate.

Gap Loan Amount

On November 20, 2020 the Citywide Affordable Housing Loan Committee recommended approval of a \$22,702,134 loan for infrastructure improvements for Phase 2 of the Potrero project. This increases the not-to-exceed loan amount to \$29,141,134.

¹ BRIDGE has proposed a joint venture with Strada Investment for Block A development and is seeking to increase the density of Block A to 238 market rate units (an additional 137 units than initially planned). This increased density is still under Planning Commission review and the transaction is under review.

To date, the City has committed \$6,440,000 in previously approved loans for predevelopment (\$2,640,000) and demolition and abatement work (\$3,800,000) related to Phase 2 of the project, as detailed in Table 1 below.

Table 1. Phase 2 Infrastructure Loan Funding

Phase 2 MOHCD Loan	Amount	Terms	Status
<u>Committed to Date</u>			
Predevelopment	\$2,640,000	55 years @ 0% Interest, deferred	Committed February 2018
Abatement/Demolition	3,800,000	55 years @ 0% Interest, deferred	Committed May 2019
Subtotal	6,440,000		
<u>Current Request</u>			
Infrastructure Improvements	22,701,134	55 years @ 0% Interest, deferred	Under consideration
Total	\$29,141,134		

Source: MOHCD

Environmental Compliance

The proposed resolution also reaffirms findings that the project is consistent with the adopted Mitigation Monitoring and Reporting Program under the California Environmental Quality Act, the General Plan, and the eight priority policies of Planning Code, Section 101.1. The Board of Supervisors affirmed these findings previously in early 2017 (File No. 16-1308).

FISCAL IMPACT

Table 2 below details the uses of the \$29,141,134 in total loans for Phase 2 infrastructure construction of the Potrero project.

Table 2. Uses of Loan for Potrero Phase 2 Infrastructure

Hard Costs	
Demolition & Abatement	\$4,065,000
Infrastructure Improvements	14,296,414
General Conditions, Contingency, Escalation, Insurance Program and Fees	5,543,600
Subtotal Hard Costs	23,905,014
Soft Costs	
Soft Costs*	2,792,727
Soft Cost Contingency	844,193
Developer Overhead & Profit	1,250,000
Construction Management Fees	349,200

	Subtotal Soft Costs	5,236,120
Total Uses		\$29,141,134

*Soft Costs include: Civil Engineering, Landscape Architect, Lighting Consultant, Electrical Engineer, Structural Engineer, Utility Design & Join Trench, Architecture Phase Application Preparations, Geo Tech, Special Inspections, Environmental Consulting/Monitoring, Hazmat Testing & Reports, Relocation, Permits & City Inspections, Insurance, Legal, and Other (bird nesting survey & tree removal hearing support).

Source: MOHCD

While the overall infrastructure costs for the Phase 2 project are higher than the approximately \$12.5 million spent on infrastructure costs during Phase 1, the land area in Phase 2 is over 5 times larger than Phase 1. According to Ms. Sara Amaral, Senior Project Manager at MOHCD, Phase 1 covered roughly 30,000 square feet, where Phase 2 covers 172,498 square feet, resulting in an overall lower cost per square foot for Phase 2 (\$169) compared with Phase 1 (\$417). Higher costs for Phase 2 are also a result of higher structural engineer costs due to the number of retaining walls and accessible public spaces that will be provided, lighting and electrical calculations for the development of the public mini park, and additional funds for coordination with the Public Utilities Commission on the electrical plan and coordinating electrical upgrades.

According to Ms. Amaral, the project anticipates beginning infrastructure construction in February 2021 with substantial infrastructure construction completed by August 2021 after which construction on the 157 unit affordable housing development (Block B) will begin. Infrastructure construction will be completed once the affordable housing development is completed in March 2023 upon which the City acceptance process of the utilities and improved rights of way begins.

Sources of Funding

Table 3 below details the sources of funding for the \$29,141,134 in Phase 2 infrastructure construction costs.

Table 3. Sources of Phase 2 Infrastructure Loan

Sources	Amount
<i>MOHCD Sources</i>	
2015 General Obligation Bond (this request) ²	\$21,853,000
Condo Conversion Fees (this request)	848,134
Subtotal This Request	22,701,134

² In November 2015, voters of the City of San Francisco approved Proposition A, which provided for the issuance of up to \$310 million in general obligation bonds to finance the construction, acquisition, improvement, rehabilitation, preservation and repair of certain affordable housing improvements.

Citywide Affordable Housing Fund – CPMC Fund (previously committed) ³	2,300,000
Low Moderate Income Housing Asset Funds (previously committed) ⁴	4,140,000
Subtotal Previously Committed	6,440,000
<hr/>	
Total MOHCD Sources	29,141,134
<hr/>	
<i>HCD Grant Award Sources for MOHCD Loan Repayment</i>	
Infill Infrastructure Grant	11,699,000
Affordable Housing and Sustainable Communities	1,500,000
Total HCD Grants	13,199,000
<hr/>	
Residual MOHCD Loan Amount	\$15,942,134

Source: MOHCD

The California Department of Housing and Community Development (HCD) has awarded BRIDGE two grants to be used to cover Phase 2 infrastructure costs: \$11.7 million from the Infill Infrastructure Grant program and \$1.5 million from the Affordable Housing and Sustainable Communities grant. These funds will not be available until after infrastructure construction starts, requiring that MOHCD bridge this amount until these funds can be accessed. The proposed loan agreement includes two conditions requiring BRIDGE to work with MOHCD and HCD to draw down these grant funds around August and September 2021. After BRIDGE receives grant funding and repays MOHCD, the residual MOHCD loan will total \$15,942,134. The term of the loan is for 55 years at zero percent interest and is payable in-kind through the completion and acceptance of the public infrastructure improvements. In the event that the residual amount can garner more tax credit equity for Block B, and thereby decrease Block B's request from the City, MOHCD may elect to assign a portion of this loan to Block B.

According to the loan conditions in the agreement, BRIDGE will continue its work to contain costs and if updated costs estimated come in below what is approved, the MOHCD loan will be reduced.

³ In July 2013, the Board of Supervisors approved an ordinance that required Sutter West Bay Hospital to deposit funds into the Citywide Affordable Housing Fund (CPMC Fund) (File 12-0366). The CPMC Fund funds are to be used for predevelopment and development expenses and administrative costs associated with acquisition, construction, or rehabilitation of permanently affordable housing units in San Francisco. MOHCD is authorized to administer the CPMC Fund and enforce agreements relating to them.

⁴ The Low and Moderate Income Housing Asset Fund ("LMIHAF") was created in response to California Assembly Bill 1484 following the dissolution of the San Francisco Redevelopment Agency in February 2012. The LMIHAF is used to collect proceeds from former redevelopment agency housing assets transferred to the City and County of San Francisco. Monies in the LMIHAF are derived from loan repayments and other housing asset program income and must be used in accordance with California Redevelopment Law.

Sale of Block A, Market Rate Parcel

Phase 2 infrastructure improvements are on land that includes both affordable (Block B) and market rate (Block A) housing development. The Block A market rate parcel will be sold to a market rate developer. BRIDGE is currently partnered with Strada Investment Group to develop Block A. The proceeds from the sale of Block A will be distributed to MOHCD through SFHA to subsidize the Potrero HOPE SF project as outlined in the Master Development Agreement. The terms of the sale of Block A are currently being negotiated with MOHCD, the Office of Economic and Workforce Development, SFHA, Strada and BRIDGE.

Total Project Costs

Current estimated development costs as of 2020 for Potrero HOPE SF infrastructure and affordable housing are \$1.3 billion, which is an increase of approximately 59 percent from the original estimated development costs in 2017 of \$821 million. According to MOHCD staff, the increase in development costs are due to an increase in costs for Phase 1 development of Block X, and an increase in Phase 2 infrastructure costs due the San Francisco's high construction costs and project delays.

The current estimated MOHCD subsidy as of 2020 for Potrero HOPE SF infrastructure and affordable housing development is \$334 million, an increase of approximately 6 percent from the original estimated MOHCD subsidy in 2017 of \$314 million. According to Ms. Amaral, project cost increases aren't reflected in a dollar-for-dollar increase to MOHCD subsidy, since increased costs will also generate additional tax credit equity.

Ms. Amaral also notes that schedules and estimated costs for all affordable developments are updated annually to reflect market assumptions of that time, namely, changes in equity pricing, which would increase or decrease the MOHCD subsidy amount, changes in overall rents, operating and services costs changes, interest rates for construction and permanent loans. Future phasing also assumes and inflation adjustor on the total development costs.

POLICY CONSIDERATION

Project Costs and Public Funding Sources

The original Development Agreement between the City, San Francisco Housing Authority, and BRIDGE estimated affordable housing development costs of \$821 million, which include infrastructure costs, as noted above, of which \$314 million was to be financed by City sources and \$507 million was to be financed by private sources. The \$314 million in estimated City financing included financing for Block X (1101 Connecticut Street), which was Phase 1 of Potrero HOPE SF but was not part of the Development Agreement.⁵ Estimated City financing for

⁵ Block X was previously owned by the San Francisco Unified School District (SFUSD). The Board of Supervisors approved purchase of Block X from SFUSD in February 2016 (File 16-0069) and ground leasing the parcel to Potrero Housing Associates I, LP, a California limited partnership formed by BRIDGE Housing Corporation, in June 2016 (File 16-0555). Development of Block X was completed as Phase 1 of Potrero HOPE SF.

affordable housing development and infrastructure costs covered by the Development Agreement (Phases 2 through 5) was \$257.7 million, of which \$138.9 million was to be sourced from the sale of market rate parcels.

The City financing of Phases 2 through 5 is now \$296 million, an increase of approximately \$38.2 million, from the prior estimate of \$257.7 million. According to Ms. Amaral, the \$296 million in City financing will be offset by additional sources of funds, including from state and federal sources as they become available, such as the funds awarded from HCD on Phase 2.

Private Financing Sources

Under the original Development Agreement estimates, private financing for affordable housing development of \$507 million was to be sourced from private mortgages, deferred developer fees, and Federal Low Income Housing Tax Credits. As noted above, total estimated Potrero HOPE SF affordable housing development costs for Phases 1 through 5 increased from \$821 million in 2017 to the current estimate of \$1.3 billion. As a result, estimated required private financing sources (net of the City financing of \$296 million) are now approximately \$294.7 million. As noted above, while costs increased overall, MOHCD subsidy amount increased by 6 percent. The Sponsor and MOHCD will continue to apply for other financing sources, as funds become available, in order to offset the City contribution to the project.

Project Delays

Permanent gap financing of Phase 2 of Potrero HOPE SF, which was originally scheduled for FY 2017-18, is delayed by approximately three years, as noted above. Project delays have contributed to the estimated increase in Phase 2 infrastructure costs, as well as some infrastructure costs originally being assigned to Block B. For the future project cost increase, the Sponsor has assumed a market inflator on all costs from 2017. MOHCD is expected to close permanent financing on Potrero Block B between August and October of 2021 and will need to request gap loan approval from the Board of Supervisors. As part of that approval, the Board should request that MOHCD provide an update on Potrero HOPE SF financing and development, and BRIDGE compliance with Loan Agreement conditions to provide sufficient project management.

Because the proposed Loan Agreement to provide permanent gap financing to Phase 2 of Potrero HOPE SF is consistent with prior Board actions, the Budget and Legislative Analyst recommends approval.

RECOMMENDATION

Approve the proposed resolution.

**AMENDED AND RESTATED LOAN AGREEMENT
(CITY AND COUNTY OF SAN FRANCISCO
2015 GENERAL OBLIGATION BOND FOR AFFORDABLE HOUSING BOND, CPMC
FUND, LOW MODERATE INCOME HOUSING ASSET FUND, CONDO
CONVERSION FUNDS)**

By and Between

THE CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation, represented by the Mayor,
acting by and through the Mayor's Office of Housing and Community Development,

and

BRIDGE-POTRERO COMMUNITY ASSOCIATES LLC ,
a California Limited Liability Company

for

**POTRERO HOPE SF – PHASE II -- Infrastructure
San Francisco, CA
up to \$29,141,134**

Dated as of _____, 20__

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AMENDED AND RESTATED INFRASTRUCTURE LOAN AGREEMENT
(City and County of San Francisco 2015 General Obligation Affordable Housing Bond, CPMC
Funds, Low Moderate Income Housing Asset Fund, Condo Conversion Fees)
Potrero HOPE SF

THIS AMENDED AND RESTATED INFRASTRUCTURE LOAN AGREEMENT (“Agreement”) is entered into as of _____, 20__, by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation (the “City”), represented by the Mayor, acting by and through the Mayor’s Office of Housing and Community Development (“MOHCD”), and **BRIDGE-POTRERO COMMUNITY ASSOCIATES LLC**, a California Limited Liability Company (“Borrower”).

RECITALS

A. On November 3, 2015 the voters of the City approved Proposition A, which provided for the issuance of up to \$310 million in general obligation bonds to finance the construction, acquisition, improvement, rehabilitation, preservation and repair of certain affordable housing improvements (the “Bond”). To the extent permitted by law, the City intends to reimburse with proceeds of the Bond amounts disbursed under this Agreement.

B. Under the Exhibit G -Housing Program of the Development Agreement by and between the City and County of San Francisco and Sutter West Bay Hospitals, which was approved by the San Francisco Board of Supervisors on July 9, 2013 under Ordinance 138-13, Sutter West Bay Hospital is required to deposit funds into the Citywide Affordable Housing Fund (the “CPMC Fund”). The CPMC Fund funds are to be used for predevelopment and development expenses and administrative costs associated with acquisition, construction, or rehabilitation of permanently affordable housing units in San Francisco. Under Ordinance 138-13, MOHCD is authorized to administer the CPMC Fund and enforce agreements relating to them.

C. Francisco Subdivision Code, the Citywide Affordable Housing Fund receives fees relating to the conversion of dwelling units into condominiums ("Fees"). The City may use the Fees received by the Citywide Affordable Housing Fund (the "Funds") to finance housing affordable to qualifying households. MOHCD administers the Funds pursuant to Section 10.100-49 of the San Francisco Administrative Code and enforces agreements relating to them.

D. The San Francisco Board of Supervisors designated the Mayor’s Office of Housing and Community Development the Successor Housing Agency of the San Francisco Redevelopment Agency, effective February 1, 2012, upon dissolution of state redevelopment agencies. Pursuant to California Assembly Bill 1484, the Successor Housing Agency was required to create a fund called the Low and Moderate Income Housing Asset Fund (“LMIHAF”) to collect proceeds from former redevelopment agency housing assets transferred to the City and County of San Francisco. Monies in the “LMIHAF” are derived from loan repayments and other housing asset program income and must be used in accordance with California Redevelopment Law. The Potrero Annex and Terrace site consists of an approximately 38 acre site currently improved with 619 public housing units located in Potrero Hill , generally bound 23rd Street and Missouri Street to

the north, Texas Street to the east, 25th Street and 26th Street to the south, and Wisconsin Street to the west, which is owned and operated by the San Francisco Housing Authority (the “Housing Authority Site”).

E. On March 3, 2017 BRIDGE Housing Corporation (“BRIDGE”), the City and the San Francisco Housing Authority (“SFHA”) entered into a Development Agreement (the “Development Agreement”) for a proposed larger master development that will demolish the 619 existing public housing units and construct up to approximately 1,700 new units of replacement public housing, affordable housing, and market rate housing, commonly known as the Potrero HOPE SF development (the “Master Development”). The Development Agreement included, amongst other things, the agreed upon Phasing Plan and Master Infrastructure Plan for the Master Development.

F. This Agreement provides for the development of a portion of the Master Development, including Phase II infrastructure improvements (the “Public Infrastructure Improvements”) to facilitate the construction of approximately 116 units of Public Housing Replacement Units and 40 new affordable rental units, one market rate development, a new street segment, and open space (“Phase II”). Borrower intends to enter into a short term ground lease with the SFHA (the “Ground Lease”) in order to complete the Public Infrastructure Improvements (the “Project”), including preparing of the Market Rate Parcel known as Block A and the Affordable Parcel known as Block B. Borrower has submitted to SFHA, and received approval from SFHA, of a relocation plan for the Master Development.

G. The City has reviewed Borrower's application for funds and, in reliance on the accuracy of the statements in that application, has agreed to make a loan of funds to Borrower (the “Loan”) in the amount up to Twenty Nine Million One Hundred Forty One Thousand One Hundred Thirty Four and No/100 Dollars (\$29,141,134) (the “Funding Amount”) under this Agreement to fund certain Infrastructure work related to the Project. This Agreement is comprised of the total of the Four Million One Hundred Forty Thousand (\$4,140,000) Low Moderate Income Housing Asset Funds and Two Million Three Hundred Thousand (\$2,300,000) from CPMC, One Million Five Hundred Thousand (\$1,500,000) from AHSC Funds (defined below) Eleven Million Six Hundred Ninety Nine Thousand (\$11,699,000) from IIG Funds (defined below) and another \$9,502,134 for Gap financing (together, the “Gap Funds”), which Gap Funds are to be used for construction of the infrastructure of the Site. The City previously provided Borrower \$6,440,000 in funds for predevelopment, abatement and demolition costs pursuant to: (i) that certain Loan Agreement dated February 9, 2018, (ii) that certain First Amendment to Loan Agreement dated May 3, 2019, and (iii) that certain First Amended and Restated Promissory Note dated May 3, 2019 (together, the “First Amended and Restated Loan Documents”). This Agreement amends and restates the First Amended and Restated Loan Documents in their entirety.

H. Grant funding by State of California Department of Housing and Community Development (“HCD”) from the Infill Infrastructure Grant Program established by HCD (the “IIG Program”) and from the Affordable Housing & Sustainable Communities Program established by HCD (the “AHSC Program”) have been awarded to the Project. The grant funds awarded by HCD with respect to the Project pursuant to the IIG Program are referred to herein as the “IIG Funds” and the grant funds awarded by HCD with respect to the Project pursuant to the AHSC Program

are referred to herein as the “AHSC Funds.” In order to obtain the IIG Funds and AHSC Funds, the City, BRIDGE and HCD will be entering into a standard agreement and a disbursement agreement for each of the IIG Program and AHSC Program (collectively, the “HCD Documents”).

I. The Borrower will assign a portion of its obligation to repay the Phase II Infrastructure Gap Funds (“Assigned Funds”) to Potrero Housing Associates II, L.P., a California limited partnership (the “Block B Developer”) through an Infrastructure Reimbursement and Assignment Agreement (the “Assignment Agreement”), attached hereto as **Exhibit H**, in substantially final form. The Assigned Funds will be evidenced by a new note (the “Assigned Promissory Note”) which substantially final form is attached hereto as **Exhibit I**.

J. Any future funding from the City to Borrower in connection with the Project will be loaned through and evidenced by an amendment to this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement, the parties agree as follows:

ARTICLE 1 DEFINITIONS.

1.1 **Defined Terms.** As used in this Agreement, the following words and phrases have the following meanings:

“Accounts” means all depository accounts, including reserve and trust accounts, required or authorized under this Agreement or otherwise by the City in writing. All Accounts must be maintained in accordance with **Section 2.3**.

“Agreement” means this Loan Agreement.

“Agreement Date” means the date first written above.

“Approved Plans” has the meaning set for in **Section 5.2**.

“Approved Specifications” has the meaning set forth in **Section 5.2**.

“Authorizing Resolutions” means: (a) in the case of a corporation, a certified copy of resolutions adopted by its board of directors; (b) in the case of a partnership (whether general or limited), a certificate signed by all of its general partners; and (c) in the case of a limited liability company, a certified copy of resolutions adopted by its board of directors or members, satisfactory to the City and evidencing Borrower's authority to execute, deliver and perform the obligations under the City Documents to which Borrower is a party or by which it is bound.

“Borrower” means and Bridge-Potrero Community Associates LLC, a California Limited Liability Company, and its authorized successors and assigns.

“Certificate of Completion” has the meaning set forth in the definition of Completion.

“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 the City in their original form and as amended from time to time and be accompanied by a certificate of good standing for Borrower issued by the California Secretary of State and, if Borrower is organized under the laws of a state other than California, a certificate of good standing issued by the Secretary of State of the state of organization, issued no more than ninety (90) days before the Agreement Date.

“City” means the City and County of San Francisco, a municipal corporation, represented by the Mayor, acting by and through MOHCD. Whenever this Agreement provides for a submission to the City or an approval or action by the City, this Agreement refers to submission to or approval or action by MOHCD unless otherwise indicated.

“City Acceptance” means the City’s acceptance of the Public Improvements for public use and/or maintenance which shall be deemed to have occurred when (i) the Public Improvements, which the Borrower, as Subdivider, requests for acceptance have been completed, the City Engineer has issued the Notice of Completion, and the Clerk of the Board of Supervisors certifies all payments have been made in accordance with Section 8 of the Public Improvement Agreement; (ii) The City Engineer has certified to the Board of Supervisors that the Public Improvements have been deemed complete and are ready for their intended use; and (iii) The Board of Supervisors, by ordinance, Accepts the Public Improvements, or portion thereof, for public use, maintenance, and liability purposes in accordance with the provisions of San Francisco Administrative Code Sections 1.51 et seq. and Borrower’s, as Subdivider, maintenance and warranty obligations under Public Improvement Agreement Sections 7, 9, and 10.

“City Documents” means this Agreement, the Note, and any other documents executed or, delivered in connection with this Agreement.

“City Project” has the meaning set forth in **Exhibit E, Section 13(c)**.

“Completion” means the completion of the construction of the Project in substantial accordance with the Approved Plan and the Approved Specifications, as evidenced by issuance of the City engineer’s “Notice of Completion.”

“Completion Date” has the meaning set forth in **Section 5.6**.

“Construction Contract” has the meaning set forth in **Section 5.2**.

“Contracting Manual” means the Contracting Implementation Manual (CIM) issued by MOHCD and dated July 2013, as the same may be amended from time to time.

“Control of the Site” means execution of the Ground Lease by Borrower and SFHA as ground lessor of the Site.

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

“DPW” has the meaning set forth in **Section 5.2**.

“Developer Fees” has the meaning set forth in **Section 15.1**.

“Development Agreement” has the meaning set forth in Recital C.

“Disbursement” means the disbursement of all or a portion of the Funding Amount by the City as described in **Article 4**.

“Early Retention Release Contractors” means contractors who will receive retention payments upon satisfaction of requirements set forth in **Section 4.7**.

“Environmental Activity” means any actual, proposed or threatened spill, leak, pumping, discharge, leaching, storage, existence, release, generation, abatement, removal, disposal, handling or transportation of any Hazardous Substance from, under, into or on the Site.

“Environmental Laws” means all present and future federal, state, local and administrative laws, 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.

“Event of Default” has the meaning set forth in **Section 19.1**.

“Expenditure Request” means a written request by Borrower for a Disbursement from the Funding Amount, which must certify that the Project costs covered by the Expenditure Request have been paid or incurred by Borrower.

“Funding Amount” has the meaning set forth in **Recital F**.

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

“Hazardous Substance” means any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any Governmental Agency to pose a present or potential hazard to human health or safety or to the environment. Hazardous Substance includes any material or substance listed, defined or otherwise identified as a “hazardous substance,” “hazardous waste,” “hazardous material,” “pollutant,” “contaminant,” “pesticide” or is listed as a chemical known to cause cancer or reproductive toxicity or is otherwise identified as “hazardous” or “toxic” under any Environmental Law, as well as any asbestos, radioactive materials, polychlorinated biphenyls and any materials containing any of them, and petroleum, including crude oil or any fraction, and natural gas or natural gas liquids. Materials of a type and quantity normally used in the construction, operation or maintenance of developments similar to the Project will not be deemed “Hazardous Substances” for the purposes of this Agreement if used in compliance with applicable Environmental Laws.

“HOPE SF Monthly Report” has the meaning set forth in **Section 10.2**.

“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.

“In Balance” means, to the extent that the Project is financed with multiple funding sources, that the sum of undisbursed funds and any other sources of funds that Borrower has closed or for which Borrower has firm commitments will be sufficient to complete construction of the Project, as determined by the City in its sole discretion.

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

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

“Indemnitor” has the meaning set forth in the definition of “Indemnify.”

“IPA” means the Infrastructure Permitting Agreement between the Borrower, as subdivider, and the City, providing for the construction and installation of the Public Improvements on the Site. The Infrastructure Permitting Agreement will be superseded by the Public Improvement Agreement.

“Land” means the real property owned by the SFHA on which the Site is located.

“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.

“Loan” has the meaning set forth in **Recital F**.

“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 the City's rights or in defense of any action in a bankruptcy proceeding.

“Master Development Agreement” means that agreement executed March 3, 2017 between the SFHA, City and Bridge-Potrero Community Associates LLC for the Potrero HOPE SF master development.

“Master Infrastructure Plan” means that certain Potrero HOPE SF Master Infrastructure Plan dated November 21, 2016, which is an exhibit to the Development Agreement.

“Maturity Date” has the meaning set forth in **Section 3.1**.

“MOHCD” means the Mayor’s Office of Housing and Community Development or its successor.

“Note” means the promissory note executed by Borrower in favor of MOHCD in the original principal amount of the Funding Amount.

“Notice of Completion” means the written notice issued by the City Engineer determining that the Public Improvements are ready for their intended use and are completed in strict uniformity with the Approved Plans and Approved Specification and applicable City regulations.

“Opinion” means an opinion of Borrower's California legal counsel, satisfactory to the City and its legal counsel, that Borrower is a duly formed, validly existing California limited liability company in good standing under the laws of the State of California, has the power and authority

to enter into the City Documents and will be bound by their terms when executed and delivered, and that addresses any other matters the City reasonably requests.

“Out of Balance” means, to the extent that the Project is financed with multiple funding sources, that the sum of undisbursed funds and any other sources of funds that Borrower has closed or for which Borrower has firm commitments will not be sufficient to complete acquisition/construction of the Project, as determined by the City in its sole discretion.

“Permitted Exceptions” means liens in favor of the City, real property taxes and assessments that are not delinquent, and any other liens and encumbrances the City expressly approves in writing in its escrow instructions.

“Plans and Specifications” has the meaning given in **Section 5.2**.

“Project” has the meaning set forth in **Recital E**. If indicated by the context, “Project” means the Site and the Public Improvements developed on the Site.

“Public Improvement Agreement” means the agreement between the Borrower, as subdivider, and the City, providing for the construction and installation of the Public Improvements on the Site.

“Public Infrastructure Improvements” or “PII” shall mean the facilities, both on- and off-site, to be improved, constructed and dedicated to the City by Borrower. Public Infrastructure Improvements include streets within the Project, sidewalks (and associated street trees), furniture, fixtures and equipment, Public Stormwater Management Improvements, all public utilities within the public right of way (such as electricity, water, street lights, pedestrian lights, joint trenches and sewer lines but excluding any non-municipal utilities), bicycle lanes and paths in the public right of way, off-site intersection improvements (including, but not limited to, curbs, medians, signaling, traffic controls devices, signage, and striping), SFMTA infrastructure, and possibly parks. All Public Infrastructure Improvements shall be built in accordance with the Implementing Approvals (i.e., improvement plans) (as defined in the Development Agreement) approved by the City. Sufficient construction bonds or guarantees, based on the amount required to complete the Public Infrastructure Improvements as determined from the approved Street Improvement Plans for the Project must also be submitted as required by the City consistent with the Subdivision Map Act and the San Francisco Subdivision Code.

“Publication” means any report, article, educational material, handbook, brochure, pamphlet, press release, public service announcement, webpage, audio or visual material or other communication for public dissemination, which relates to all or any portion of the Project or is paid for in whole or in part using the Funding Amount.

“Retention” has the meaning set forth in **Section 4.7**.

“SBE Manual” means that certain Small Business Enterprise Program manual dated July 1, 2015, as the same may be amended from time to time.

“Senior Lien” has the meaning set forth in **Section 24.1**.

“SFHA” means the San Francisco Housing Authority.

“Site” means the Land and the infrastructure improvements located thereon.

“Table” means: the Table of Sources and Uses

“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 the City’s prior written approval, which shall not be unreasonably withheld or conditioned.

“Work Product” has the meaning set forth in **Section 24.21**.

“Workforce MOU” means that certain Memorandum of Understanding dated March 3, 2017 between SFHA, MOHCD, the Mayor’s Office of Economic and Workforce Development and the City’s Contract Monitoring Division for the Potrero HOPE SF Master Project’s Workforce Compliance, Development and Training.

1.2 Interpretation. The following rules of construction will apply to this Agreement and the other City 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 City 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 City 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 City

Documents. The language of this Agreement must be construed as a whole according to its fair meaning.

1.3 Websites for Statutory References. The statutory and regulatory materials listed below may be accessed through the following identified websites.

- (a) CFR provisions: www.access.gpo/nara/cfr
- (b) OMB circulars: www.whitehouse.gov/OMB/circulars
- (c) S.F. Administrative Code:
www.sfgov.org/site/government_index.asp#codes

1.4 Contracting Manual. Borrower shall use the Contracting Manual as a guide to Borrower's responsibilities under Laws and regulations regarding soliciting, awarding and administering contracts associated with projects assisted by federal funds, to the extent applicable. In the event of a conflict between the terms of the Contracting Manual and this Agreement, the terms of the Agreement shall prevail.

ARTICLE 2 FUNDING.

2.1 Funding Amount. The City agrees to lend to Borrower a principal amount equal to the Funding Amount in order to finance relocation, predevelopment, design, engineering, permitting, bidding, construction and hazardous materials abatement related activities for the Project. The Funding Amount will be disbursed according to the terms and subject to the conditions set forth in this Agreement. The City and Borrower hereby acknowledge and agree that the work being performed in accordance with this Agreement is work to prepare for the construction of the Public Infrastructure Improvements, the demolition of existing buildings and the construction, management, execution, security, testing, operation, maintenance and insurance of the Public Infrastructure Improvements through City Acceptance. The City's loan of the Funding Amount is evidenced by a Promissory Note to be executed by the Borrower. The First Amended and Restated Loan Documents are hereby superseded and replaced by this Agreement and the prior First Amended and Restated Promissory Note dated May 3, 2019 executed by the Borrower will be cancelled and returned to the Borrower on the date this Agreement is executed.

2.2 Use of Funds. Borrower acknowledges that the City's agreement to make the Loan is based in part on Borrower's agreement to use the funds solely for the purpose set forth in **Section 2.1** and agrees to use the funds solely for that purpose in accordance with the approved Table of Sources and Uses. Expenses incurred by Borrower prior to the Agreement Date may be reimbursed using the funds, so long as such expenses are included in the approved Table of Sources and Uses attached hereto as Exhibit A and are not incurred prior to March 17, 2017.

2.3 Accounts; Interest. Each Account to be maintained by Borrower under this Agreement must be held in a bank or savings and loan institution acceptable to the City 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 Project.

2.4 Records. Borrower must maintain and provide to the City upon request records that accurately and fully show the date, amount, purpose and payee of all expenditures from each Account authorized under this Agreement or by the City in writing and keep all estimates, invoices, receipts and other documents related to expenditures from each Account. In addition, Borrower must provide to the City promptly following Borrower's receipt, complete copies of all monthly bank statements, together with a reconciliation, for each Account until all funds (including accrued interest) in each Account have been disbursed for eligible uses.

2.5 Loan Conditions.

- 1) BRIDGE to provide update to October 2020 organizational and project management hiring plan.
- 2) BRIDGE to provide board of directors' approval to execute loan by BOS approval date.
- 3) The Sponsor will work with MOHCD and HCD to request IIG award around August 2021.
- 4) The Sponsor will work with MOHCD and HCD to request AHSC award around September 2021.
- 5) In the event that staff turnover continues, Sponsor will hire a third party consultant within 30 days to mitigate any further delays to this Project or Block B. The Sponsor will use Developer fee to pay the third party consultant.
- 6) The Sponsor will continue to contain costs and in the event that updated cost estimates come in below what is approved by Loan Committee, the MOHCD loan will be reduced accordingly, including removing escalation.

ARTICLE 3 TERMS.

Borrower's repayment obligations with respect to the Funding Amount will be evidenced and governed by the Note, which will govern in the event of any conflicting provision in this Agreement.

3.1 Maturity Date; Repayment of the Loan. Subject to Section 3.9 below, Borrower must repay all amounts owing under the City Documents on the fifty-seventh (57th) anniversary of MOHCD authorization of the issuance of the Notice to Proceed for the Block B phase of the Project, but in no event later than December 31, 2078 (the "Maturity Date"). Notwithstanding the foregoing, Borrower's Loan repayment obligations may be satisfied through the following options: (1) partially, or in full, by assignment of such partial or full obligations, through the assignment of the Note or a portion of the obligation thereof, to the developer of any Affordable Parcel (as defined in the Development Agreement) and/or (2) at Borrower's election, Borrower's obligation to repay the Loan may be deemed satisfied upon delivery of the Completed Public Infrastructure Improvements at the time of City Acceptance and/or (3) if Borrower obtains other funds to pay for all or a portion of the Public Infrastructure Improvements, Borrower shall use such funds to the extent available in lieu of drawing down on the Loan or, if the Loan has already been fully drawn, to repay amounts drawn on account of the Loan and/or (4) to the extent that (a) Borrower is not able to commence construction of the

Public Infrastructure Improvements and such inability is caused in whole or in part by the unavailability of funding from the City, and provided that such unavailability is not based on Borrower's non-compliance or non-performance with the provisions of Exhibit O of the Development Agreement or under this Agreement and Borrower is not in default under this Agreement, or (b) a determination of infeasibility is made pursuant to Section 3.9 or 3.10 of this Agreement, delivery by Borrower of the Work Product to the City shall constitute full and complete satisfaction of Borrower's obligations hereunder. In any such event, the Note shall be deemed satisfied with respect to the amount of the applicable repayment obligation and Borrower shall be released from all obligation or liability with respect to this Agreement as it relates to such amount. Upon Borrower's request, this Agreement and the Note shall be amended to reflect the new Loan amount as reduced by the satisfied amount.

3.2 Reimbursement and Assignment of Loan Funds. The Borrower will assign its obligation to repay the Assigned Funds to the Block B Developer through an Infrastructure Reimbursement and Assignment Agreement ("Assignment Agreement"), a form of which is attached hereto as **Exhibit H**. The Assigned Funds will be evidenced by a new note (the "Assigned Promissory Note") which form is attached hereto as **Exhibit I**. Notwithstanding anything to the contrary contained herein, the obligation to repay the Assigned Funds and Assigned Promissory Note shall be secured by the deed of trust that will secure MOHCD's gap loan to the Block B Developer for the Block B development. The Assigned Promissory Note executed by the Block B Developer will be administratively attached to this Agreement after it is executed. Additionally, the City and the Borrower will execute a Form of Acknowledgement of the Reduced Note Amount memorializing the new reduced principal amount of the Loan Amount in the form attached hereto as **Exhibit K** which will be administratively attached to this Agreement after it is executed.

3.3 Interest. The outstanding principal balance of the Loan will not bear interest, as provided in the Note unless and until the obligation to repay all or a portion of the Funding Amount is assigned to a limited partnership in accordance with Section 3.1 above, after which time, the assigned principal and interest shall continue to bear no interest provided, however, that, if required by such limited partnership's investor limited partner, the assigned principal and interest shall accrue interest at a rate equal to the long-term applicable federal rate in effect on the date such obligation is assigned.

3.4 Default Interest Rate. Upon the occurrence of an Event of Default under any City Document, the principal balance of the Loan will bear interest at the default interest rate set forth in the Note, with such default interest rate commencing as of the date an Event of Default occurs and continuing until such Event of Default is fully cured. In addition, the default interest rate will apply to any amounts to be reimbursed to the City under any City Document if not paid when due or as otherwise provided in any City Document.

3.5 Repayment of Principal and Interest. Except as set forth in Section 3.9 below, the outstanding principal balance of the Loan, together with all accrued and unpaid interest, if any, will be due and payable on the Maturity Date according to the terms set forth in full in the Note.

3.6 Intentionally Omitted.

3.7 Intentionally Omitted.

3.8 Additional City Approvals. Borrower understands and agrees that City is entering into this Agreement in its proprietary capacity and not as a regulatory agency with certain police powers. Borrower understands and agrees that neither entry by City into this Agreement nor any approvals given by City under this Agreement shall be deemed to imply that Borrower will obtain any required approvals from City departments, boards or commissions which have jurisdiction over the Property. By entering into this Agreement, City is in no way modifying or limiting the obligations of Borrower to develop the Property in accordance with all local laws. Borrower understands that any development of the Property shall require approvals, authorizations and permits from governmental agencies with jurisdiction over the Property, which may include, without limitation, the San Francisco City Planning Commission and the San Francisco Board of Supervisors. Notwithstanding anything to the contrary in this Agreement, no party is in any way limiting its discretion or the discretion of any department, board or commission with jurisdiction over the Project, including but not limited to a party hereto, from exercising any discretion available to such department, board or commission with respect thereto, including but not limited to the discretion to (i) make such modifications deemed necessary to mitigate significant environmental impacts, (ii) select other feasible alternatives to avoid such impacts, including the “No Project” alternative; (iii) balance the benefits against unavoidable significant impacts prior to taking final action if such significant impacts cannot otherwise be avoided, or (iv) determine not to proceed with the proposed Project.

3.9 Determination of Infeasibility.

(a) Notwithstanding anything to the contrary contained herein, the determination permitted pursuant to Section 12.2 of the City DA for a Phase or the Project (as defined in the City DA) shall be considered an infeasibility determination under this Agreement. Additionally, Borrower may provide a Notice of Infeasibility (as defined in the City DA) as related to the Public Infrastructure Improvements or any portion thereof.

(b) Notwithstanding anything to the contrary contained herein, if Borrower provides a Notice of Infeasibility (pursuant to Section 3.9 herein) regarding the sufficiency of funds to: (1) complete such Public Infrastructure Improvements due to unforeseen changes in the scope of the work, or (2) operate, maintain, repair, or replace such Public Infrastructure Improvements during the period between completion and City Acceptance, the City and Borrower shall promptly meet and confer to identify potential funding sufficient for Borrower to complete construction of the Public Improvements and pay for the operation, maintenance and insurance (including, without limitation, payment of insurance premiums and deductibles) of such Public Improvements prior to City Acceptance. In the event that City and Borrower are unable to identify and obtain such funding despite their good faith efforts, Borrower shall deliver the Work Product to the City, the Note shall be deemed satisfied with respect to the amount of the applicable repayment obligation, and Borrower shall be released from all obligation or liability with respect to this Agreement as it relates to such amount provided that such infeasibility or unavailability of funding is not based on Borrower’s non-compliance with non-performance of the provisions of Exhibit O of the Development Agreement or this Agreement and Borrower is not in default under this Agreement. Notwithstanding the foregoing, any release of Borrower’s obligations under this Agreement shall

not release Borrower from its obligations under the Public Improvement Agreement and any obligations under the Public Improvement Agreement shall remain operative until such time such obligations are satisfied or released pursuant to the terms of the Public Improvement Agreement.

3.10 Compliance with IIG Program, AHSC Program and HCD Documents. Borrower covenants and agrees to comply with all applicable requirements of the IIG Program, AHSC Program and the HCD Documents as to the use of the IIG Funds and AHSC Funds, construction of the Project, and all other matters related thereto.

ARTICLE 4 CLOSING; DISBURSEMENTS.

4.1 Generally. Subject to the terms of this Agreement, the City will make Disbursements in an aggregate sum not to exceed the Funding Amount to or for the account of Borrower in accordance with this Agreement and the approved line item budget contained in the Table of Sources and Uses.

4.2 Closing. In the event Borrower does not satisfy all of the conditions to closing within a reasonable time, as determined by the City in its sole discretion, or any other mutually agreed date, the City may declare this Agreement to be null and void.

4.3 Conditions Precedent to Closing. The City will authorize the close of the Loan upon satisfaction of the conditions in this Section.

(a) Borrower must have delivered to the City fully executed (and for documents to be recorded, acknowledged) originals of the following documents, in form and substance satisfactory to the City: (i) the Note; (ii) this Agreement (in duplicate); (iii) Opinion; (iv) Authorizing Resolutions; and (v) any other City Documents reasonably requested by the City.

(b) Borrower must have delivered to the City: (i) Borrower's Charter Documents;

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

4.4 Disbursement of Funds. In addition to satisfaction of the conditions in **Section 4.3**, City's obligation to approve any additional expenditure of funds is subject to Borrower's satisfaction of the following conditions precedent.

(a) Borrower must have delivered to the City an Expenditure Request in form and substance satisfactory to the City, together with: (i) copies of invoices, contracts or other documents covering all amounts requested; (ii) a line item breakdown of costs to be covered by the Expenditure Request; and (iii) copies of checks issued to pay expenses covered in the previous Expenditure Request. The City may grant or withhold its approval of any line item contained in the Expenditure Request that, if funded, would cause it to exceed the budgeted line

item as previously approved by the City. Additionally, the City must approve all requested reallocations of funds for line items previously approved by the City.

(b) 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.

(c) With respect to any Expenditure Request that covers rehabilitation or construction costs, Borrower must have certified to the City that the Project complies with the labor standards set forth in **Exhibit D, Section 1**, if applicable.

4.5 Loan In Balance. To the extent that the Project is financed with multiple funding sources, the City may require Borrower to pay certain costs incurred in connection with the Project from sources of funds other than the Loan at any time the City determines in its reasonable discretion that the Loan is out of balance. When the City is satisfied in its reasonable discretion that the Loan is again in balance, the City will recommence making Disbursements for Expenditure Requests meeting the conditions set forth above.

4.6 Limitations on Approved Expenditures. The City may refuse to approve any expenditure: (a) during any period in which an event that, with notice or the passage of time or both, would constitute an Event of Default remains uncured, or during the pendency of an uncured Event of Default; or (b) for disapproved, unauthorized or improperly documented expenses. The City is not obligated to approve expenditure of the full Funding Amount unless approved Expenditure Requests support disbursement of the full Funding Amount, and in no event may the aggregate amount of all funds disbursed to Borrower under this Agreement exceed the Funding Amount.

4.7 Retention.

(a) In addition to the other conditions to Disbursements, Borrower 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. After fifty percent (50%) of the construction of the Project is complete as determined by the City, and upon Borrower's written request, the City may but shall not be obligated to permit Borrower to increase such amount to ninety five percent (95%) of the approved budgeted costs on a line item basis, provided that the following prerequisites have been met: (a) all work required to be performed by 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 City; (c) no liens or stop notices have been filed against the Project and no claims are pending; (d) the City determines that the contingency is in balance and adequate to complete the Project; and (e) the Project is on schedule.

(b) The remaining percentage of hard costs associated with construction may be held by the City and/or other Project lenders (the "Retention") and may be released only upon

satisfaction of all requirements listed in the Construction Manager’s Checklist for Release of Retention included in the Contracting Manual and, other than release of Retention to Early Retention Release Contractors, each of the following conditions, unless otherwise approved in writing by the City: (a) achievement of Completion in accordance with the Approved Plans and Approved Specifications; (b) timely recordation of a Certificate of Completion; and (c) either expiration of the lien period and the absence of any unreleased mechanics' liens or stop notices or recordation of the lien releases of all contractors, subcontractors and suppliers who provided labor or materials for the Project.

(c) Release of any Retention to Early Retention Release Contractors will be subject to the satisfaction of all requirements listed in the Construction Manager’s Checklist for Release of Retention as given in writing by MOHCD to the Borrower and each of the following conditions, unless otherwise approved in writing by the City: (a) the work to be performed by the applicable Early Retention Release Contractor 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 Contractor has filed unconditional lien waivers satisfactory to the City; and (c) no liens or stop notices have been filed against the Project in connection with the work performed by the applicable Early Retention Release Contractor and no claims are pending.

ARTICLE 5 DEMOLITION OR CONSTRUCTION.

This Article will apply only if the Borrower or its affiliate acquires Control of the Site. Notwithstanding the foregoing, the parties agree that abatement and demolition of existing buildings on the Site (the “Demolition Work”) may be undertaken pursuant to a license agreement between Borrower and SFHA (the “License Agreement”) and after a demolition permit is issued by the City and County of San Francisco’s Department of Building Inspection (the “Department of Building Inspection”) for the Demolition Work.

5.1 Selection Requirements. In the selection of all contractors and professional consultants for the Project, Borrower must comply with the City’s procurement requirements and procedures as described in the Contracting Manual and with the requirements of the Small Business Enterprise Program (“SBE Program”) as set forth in the SBE Manual according to the procedures established by the City's Contract Monitoring Division and with the provisions of the Workforce MOU.

5.2 Plans and Specifications. Before starting any Project work on the Site, Borrower must have delivered to the City, and the City must have reviewed and approved, plans and specifications (the “Plans and Specifications”) and the construction contract for the Project entered into between Borrower and Borrower’s general contractor and approved by the City (the “Construction Contract”). The plans approved by the City must also be approved by the City and County of San Francisco’s Department of Public Works (the “DPW”) (collectively, the “Approved Plans”) which Approved Plans shall be consistent with the requirements of the Master Infrastructure Plan and the Public Improvement Agreement, prior to the start of any demolition (but not including demolition conducted as part of the Demolition Work) or construction on the Site. Additionally, any necessary demolition permits for the existing buildings carried out as part of the Project work must be approved by the Department of Building

Inspection The Approved Plans must be explicitly identified in the Construction Contract. The specifications approved by the City, 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. The Contracting Manual provides further guidance to Borrower regarding the City’s policies for the review and approval of plans, specifications and construction contracts. After Completion, Borrower must retain the Approved Plans as well as “as-built” plans for the Project, the Approved Specifications and the Construction Contract, all of which Borrower must make available to the City upon request, and submitted to DPW consistent with the requirements of the Public Improvement Agreement.

5.3 Change Orders. Borrower may not approve or permit any change orders to the Approved Plans and Approved Specifications approved by the City without the City's prior written consent. Borrower acknowledges that the City's approval of any change order will not constitute an agreement to amend the Table of Sources and Uses or to provide additional funds for the Project, unless the City agrees in its sole discretion to amend the Table of Sources and Uses or provide additional funds for that purpose.

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

5.5 Notice to Proceed. No demolition, rehabilitation or construction may commence until Borrower has issued a written notice to proceed with the City's approval, which approval shall be provided in writing upon completion of items listed in the Notice To Proceed Checklist.

5.6 Commencement and Completion of Project. Unless otherwise extended in writing by the City, Borrower must: (a) commence demolition or construction by a date no later than February 1, 2021 and (b) subject to force majeure, achieve Completion by a date no later than, December 31, 2022 in accordance with the Approved Plans and Approved Specifications (the “Completion Date). Notwithstanding the foregoing, if Borrower fails to meet such dates despite Borrower’s good faith efforts or as a result of the City’s failure to provide timely approvals, and if Borrower is otherwise in compliance with the terms of this Agreement, such failure shall not be a default under this Agreement.

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

ARTICLE 6 RELOCATION.

As applicable, prior to commencement of demolition of any occupied residential units in accordance with the timing set forth in Section 5.6(a) above, Borrower shall: (1) complete required relocation plan approval by SFHA pursuant to the Master Development Agreement and (2) submit a Services Plan related to relocation and tenant readiness to MOHCD and receive approval from MOHCD and the HOPE SF Director.

ARTICLE 7 Intentionally Omitted.

ARTICLE 8 MAINTENANCE AND MANAGEMENT OF THE PROJECT.

Prior to City Acceptance of the Public Improvements, Borrower, as subdivider, under the Public Improvement Agreement and IPA, shall be responsible for the care, sweeping, maintenance and repair of the Public Infrastructure Improvements consistent with the requirements of the Public Improvement Agreement; provided, however, the costs for all such obligations shall be included as Project costs to be funded by City to Borrower, subject to Borrower's compliance with all requirements necessary to apply for, secure and continue to receive such funding from the City consistent with the terms included in Exhibit O of the Development Agreement and this Agreement. Following City Acceptance, the City shall assume the responsibility of maintaining the Public Improvements consistent with the terms of the Public Improvement Agreement.

ARTICLE 9 GOVERNMENTAL REQUIREMENTS.

9.1 Borrower Compliance. If Borrower acquires Control of the Site, Borrower must comply, and where applicable, require its contractors to comply, with all applicable Laws governing the use of funds for the construction of the Project, including those set forth in **Exhibit C** and **Exhibit D**. Borrower acknowledges that its failure to comply with any of these requirements will constitute an Event of Default under this Agreement. Subject to **Section 23.1**, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings. Construction-related requirements will not apply until Borrower has acquired Control of the Site; *provided that*, construction-related requirements will apply to the Project whether or not the City approves and provides additional financing for the Project.

9.2 Additional Federal Requirements. If Borrower obtains any federal funds with respect to its acquisition of Control of the Site or the construction of the Project or any other project thereon, Borrower shall comply with the requirements specified in this Section.

(a) Compliance With Laws. Borrower agrees to abide by all applicable Laws, including HUD regulations, pertaining to this Agreement and to any contracts pertaining to the Project. In the event HUD formally amends, waives or repeals any HUD administrative regulation previously applicable to Borrower's performance under this Agreement, MOHCD expressly reserves the right, upon giving notice to HUD and Borrower, to require Borrower's performance as though the regulation were not amended, waived or repealed, subject only to written and binding objection by HUD.

(b) Drug-Free Workplace. Borrower acknowledges that under the Federal Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701 *et seq.*), the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited on its premises. Borrower agrees that any violation of this prohibition by Borrower, its employees, agents or assigns will be deemed an Event of Default under this Agreement.

(c) Restrictions on Lobbying Activities.

(i) This Agreement is subject to 31 U.S.C. Section 1352, which provides in part that, with specified exceptions, no appropriated funds may be expended by the recipient of a federal contract, grant, loan or cooperative agreement to pay 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 any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

(ii) If the Funding Amount exceeds \$100,000, Borrower must file with MOHCD at or prior to the date of this Agreement and promptly after the occurrence of any change in the facts certified or disclosed:

(A) a certification substantially the same as that attached hereto as **Exhibit E**, and otherwise, in form and content satisfactory to the City and to HUD, that Borrower, its employees, officers and agents have not made, and will not make, any payment prohibited by **Subsection (i)** above; and

(B) a disclosure form, Federal Standard Form-LLL, "Disclosure of Lobbying Activities," if Borrower, its employees, officers or agents have made or agreed to make any payment using funds from a source other than the funds that would be prohibited under **Subsection (i)** above if payment were made with funds. The City will file the disclosure form with HUD and retain the certification for the City's records as required by Law.

(d) Debarment or Suspension. Borrower must certify in form and content substantially the same as that attached hereto as **Exhibit E** that neither it nor any of its principals is listed by the General Services Administration as debarred, suspended, ineligible or voluntarily excluded from receiving the funds on the Agreement Date. In addition, Borrower will review the list to ensure that any contractor or subcontractor who bids for a contract in excess of \$100,000 is not debarred, suspended, ineligible or voluntarily excluded from participating in federal programs and activities in addition to obtaining the certification of each contractor or subcontractor whose bid is accepted.

ARTICLE 10 PROJECT MONITORING, REPORTS, BOOKS AND RECORDS.

10.1 Generally.

(a) Borrower understands and agrees that it will be monitored by the City from time to time to assure compliance with all terms and conditions in this Agreement and all Laws. Borrower acknowledges that, if and after Borrower acquires Control of the Site, the City may also conduct periodic on-site inspections of the Project. Borrower must cooperate with the monitoring

by the City and ensure full access to the Project and all information related to the Project as reasonably required by the City.

(b) Borrower must keep and maintain books, records and other documents relating to the receipt and use of all funds, including all documents evidencing Project Expenses. Borrower must maintain records of all expenditures, assets, liabilities, contracts, operations, and condition of the Project. All financial reports must be prepared and maintained in accordance with GAAP as in effect at the time of performance.

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

10.2 Monthly Reporting. Borrower must submit monthly reports (the “HOPE SF Monthly Report”) in the form attached hereto as Exhibit F describing progress toward developing the Project with respect to obtaining necessary approvals from other City departments, procuring architects, consultants and contractors, changes in scope, cost or schedule and significant milestones achieved in the past month and expected to be achieved in the coming month. The HOPE SF Report must be submitted by email in substantially the form to be provided by the City until such time as the Project Completion Report is submitted to the City pursuant to **Section 10.5** below.

10.3 Intentionally Omitted.

10.4 Intentionally Omitted.

10.5 Project Completion Report. Within the specific time periods set forth below after the completion of construction of the Public Infrastructure Improvements, Borrower must provide to the City the reports listed below certified by Borrower to be complete and accurate. Subsequent to the required submission of the reports listed below, Borrower shall provide to the City information or documents reasonably requested by the City to assist in the City’s review and analysis of the submitted reports:

(a) within ninety (90) days after City Acceptance, a project completion audit performed by an independent certified public accountant identifying the sources and uses of all Project funds;

(b) compliance with all reporting requirements of the Workforce MOU within the time frames and in the forms required of the Borrower pursuant to the Workforce MOU; and

10.6 Response to Inquiries. At the request of the City, its agents, employees or attorneys, Borrower must respond promptly and specifically to questions relating to the expenditures, assets, liabilities, contracts, operations and condition of the Project, and any other requested information with respect to Borrower or the Project.

10.7 Delivery of Records. At the request of the City, made through its agents, employees, officers or attorneys, Borrower must provide the City with copies of each of the following documents, certified in writing by Borrower to be complete and accurate:

(a) all tax returns filed with the United States Internal Revenue Service, the California Franchise Tax Board and/or the California State Board of Equalization on behalf of Borrower and any general partner or manager of Borrower;

(b) all certified financial statements of Borrower and, if applicable, its members or manager, the accuracy of which must be certified by an auditor satisfactory to the City; and

(c) any other records related to Borrower's ownership structure and the use of the Site.

10.8 Access to the Project and Other Project Books and Records. In addition to Borrower's obligations under **Sections 2.4, 10.1, 10.2, 10.3, 10.4 10.5, 10.6 and 10.7** and any other obligations to provide reports or maintain records in any City Document, Borrower agrees that duly authorized representatives of the City will have: (a) access to the Project after Borrower obtains Control of the Site and until City Acceptance to monitor the progress of work on the Project and compliance by Borrower with the terms of this Agreement; and (b) access to and the right to inspect, copy, audit and examine all books, records and other documents Borrower is required to keep at all reasonable times, following reasonable notice, for the retention period required under **Section 10.9**

10.9 Records Retention. Borrower 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 DEVELOPER FEES.

15.1 Amount. Borrower is entitled to receive fees from the Loan in an amount not to exceed One Million Two Hundred Fifty Thousand and No/100 Dollars (\$1,250,000.00) for developing the Project ("Developer Fees").

15.2 Payment Schedule. Developer Fees shall be disbursed according to the following schedule, in accordance with **Exhibit J** HOPE SF Developer Fee Policy, provided however that if at the time of the scheduled payment there is an existing uncured default under any of the City Documents, Borrower shall not be permitted to disburse any Developer Fees until such default has been cured:

- (a) 15% of fee at completion of 60% construction documents infrastructure drawings (\$187,500)
- (b) 25% of fee at Construction commencement (\$312,500)
- (c) 20% of fee at 50% Construction Completion of Phase (\$250,000)
- (d) 30% of fee at DPW Determination of Completion (\$375,000)
- (e) 10% of fee at BOS Acceptance (\$125,000)

ARTICLE 16 TRANSFERS.

16.1 Permitted Transfers/Consent. Borrower may not cause or permit any voluntary transfer, assignment or encumbrance of its interest in the Site or Project or of any ownership interests in Borrower, or lease or permit a sublease on all or any part of the Project, other than: (a) security interests for the benefit of lenders securing loans for the Project as approved by the City on terms and in amounts as approved by City in its reasonable discretion, (b) transfers of Borrower's obligation hereunder to repay all or a portion of the Loan to a limited partnership developer of any Affordable Parcel (as defined in the Development Agreement) in Phase II. Upon a transfer contemplated in Section (b) of the preceding sentence, Borrower shall be released from any and all liability relating to the assigned obligations. Borrower anticipates assigning its obligation hereunder to repay all or a portion of the Loan to one or more limited partnerships formed to develop an Affordable Parcel in Phase II and intends to enter into agreements pursuant to which the limited partnership will agree to assume Borrower's obligation to repay all or a portion of the Loan as compensation for Borrower's construction of the Project on the limited partnership's behalf. Any other transfer, assignment, encumbrance or lease without the City's prior written consent will be voidable and, at the City's election, constitute an Event of Default under this Agreement. The City'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 the City's rights under this Agreement.

ARTICLE 17 INSURANCE AND BONDS.

17.1 Borrower's Insurance. Subject to approval by the City's Risk Manager of the insurers and policy forms, Borrower must obtain and maintain, or cause to be obtained and maintained, insurance and bonds as set forth in **Exhibit G** from the date of this Agreement until City Acceptance.

ARTICLE 18 GOVERNMENTAL APPROVALS.

18.1 Compliance. Borrower covenants that it has obtained or will obtain in a timely manner and comply with all federal, state and local governmental approvals required by Law to be obtained for the Project. Subject to **Section 23.1**, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

ARTICLE 19 DEFAULT.

19.1 Event of Default. Any material breach by Borrower of any covenant, agreement, provision or warranty contained in this Agreement or in any of the City Documents that remains uncured upon the expiration of any applicable notice and cure periods contained in any City Document will constitute an “Event of Default,” including the following:

(a) Borrower fails to make any payment required under this Agreement within ten (10) days after the date when due; or

(b) After Borrower obtains Control of the Site, any lien is recorded against all or any part of the Site or the Project without the City's prior written consent, and the lien is not removed from title or otherwise remedied to the City's satisfaction within thirty (30) days after Borrower's receipt of written notice from the City to cure the default, or, if the default cannot be cured within a 30-day period, Borrower will have sixty (60) days to cure the default, or any longer period of time deemed necessary by the City, *provided that* Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion and further provided that provision of bonding or insurance over a lien during a contest period constitutes satisfaction to the City; or

(c) Borrower fails to perform or observe any other term, covenant or agreement contained in any City Document, and the failure continues for thirty (30) days after Borrower's receipt of written notice from the City to cure the default, or, if the default cannot be cured within a 30-day period, Borrower will have sixty (60) days to cure the default, or any longer period of time deemed necessary by the City, *provided that* Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion; or

(d) Any representation or warranty made by Borrower in any City Document proves to have been incorrect in any material respect when made; or

(e) If and after Borrower acquires Control of the Site, all or a substantial or material portion of the improvements on the Site is damaged or destroyed by fire or other casualty, and the City has reasonably determined upon restoration or repair that the Site has been impaired or that the repair, restoration or replacement of the improvements is not economically practicable or is not completed within two (2) years of the receipt of insurance proceeds; or all or a substantial or material portion of the improvements is condemned, seized or appropriated by any non-City Governmental Agency or subject to any action or other proceeding instituted by any non-City Governmental Agency for any purpose with the result that the improvements cannot be operated for their intended purpose; or

(f) Borrower is dissolved or liquidated or merged with or into any other entity; or, if Borrower is a corporation, partnership, limited liability company or trust, Borrower ceases to exist in its present form and (where applicable) in good standing and duly qualified under the laws of the jurisdiction of formation and California for any period of more than ten (10) days after receipt of written notice; or, if Borrower is an individual, Borrower dies or becomes incapacitated; or all or substantially all of the assets of Borrower are sold or otherwise transferred except as permitted under **Section 16.1**; or

(g) Without the City's prior written consent, Borrower assigns or attempts to assign any rights or interest under any City Document, whether voluntarily or involuntarily, except as permitted under **Section 16.1**; or

(h) Without the City's prior written consent, Borrower voluntarily or involuntarily assigns or attempts to sell, lease, assign, encumber or otherwise transfer all or any portion of the ownership interests in Borrower or of its right, title or interest in the Project or the Site except as permitted under **Article 16**; or

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

(j) Intentionally omitted; or

(k) Borrower is subject to an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature or makes an assignment for the benefit of creditors; or Borrower applies for or consents to the appointment of any receiver, trustee or similar official for Borrower or for all or any part of its property (or an appointment is made without its consent and the appointment continues undischarged and unstayed for sixty (60) days); or Borrower institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to Borrower or to all or any part of its property under the laws of any jurisdiction (or a proceeding is instituted without its consent and continues undismissed and unstayed for more than sixty (60) days); or any judgment, writ, warrant of attachment or execution or similar process is issued or levied against the Site, the improvements or any other property of Borrower and is not released, vacated or fully bonded within sixty (60) days after its issue or levy; or

(m) If applicable, to the extent that the Project is financed with multiple funding sources, from and after the closing date of Borrower's financing for construction or rehabilitation of the Project, Borrower fails to make any payments or disbursements required to bring the Loan in balance after the City determines that the Loan is out of balance; or

(n) Before a Certificate of Completion is issued for the Project, Borrower ceases construction of the Project for a period of fifteen (15) consecutive working days, and the cessation is not due to accommodate vertical construction on the Site or excused under **Section 19.3**; or

(o) Borrower is in default of its obligations with respect to the Ground Lease (but only after the Ground Lease has been executed) or any funding obligation (other than the Loan) for the Project, and the default remains uncured following the expiration of any applicable notice and cure periods; or

(p) Borrower is in default of its obligations under any other agreement entered into with the City and County of San Francisco or the SFHA, including but not limited to the Development Agreement, MDA, SFHA license or SFHA Ground Lease, and the default remains uncured following the expiration of any applicable cure periods.

Notwithstanding the foregoing, to the extent a notice and cure period is not provided for any of the foregoing defaults, such default shall be subject to a cure period equal to thirty (30) days after Borrower's receipt of written notice from the City to cure the default, or, if the default cannot be cured within a 30-day period, Borrower will have sixty (60) days to cure the default, or any longer period of time deemed necessary by the City, *provided that* Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion.

19.2 Remedies. During the pendency of an uncured Event of Default, the City may exercise any right or remedy available under this Agreement or any other City Document or at law or in equity. All of the City's rights and remedies following an Event of Default are cumulative, including:

(a) The City at its option may declare the unpaid principal balance of the Note, together with default interest as provided in the Note and any other charges due under the Note and the other City Documents, immediately due and payable without protest, presentment, notice of dishonor, demand or further notice of any kind, all of which Borrower expressly waives.

(b) The City at its option may terminate all commitments to make Disbursements, or, without waiving the Event of Default, the City may determine to make further Disbursements upon terms and conditions satisfactory to the City in its sole discretion.

(c) The City may perform any of Borrower's obligations in any manner, in the City's reasonable discretion.

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

(e) The City may apply to any court of competent jurisdiction for specific performance, or an injunction against any violation, of this Agreement or for any other remedies or actions necessary or desirable to correct Borrower's noncompliance with this Agreement.

(f) Upon the occurrence of an Event of Default described in **Section 19.1(k)**, the unpaid principal balance of the Note, together with default interest as provided in the Note and any other charges due under the Note and the other City Documents, will become due and payable automatically.

(g) All costs, expenses, charges and advances of the City in exercising its remedies or to protect the Project will be deemed to constitute a portion of the principal balance of the Note, even if it causes the principal balance to exceed the face amount of the Note, unless Borrower reimburses the City within ten (10) days of the City's demand for reimbursement.

19.3 Force Majeure. The occurrence of any of the following events will excuse performance of any obligations of the City or Borrower rendered impossible to perform while the event continues: strikes; lockouts; labor disputes; acts of God; inability to obtain labor, materials or reasonable substitutes for either; governmental restrictions, regulations or controls; judicial orders; enemy or hostile governmental actions; civil commotion; fire or other casualty and other causes beyond the control of the party obligated to perform. The occurrence of a force majeure event will excuse Borrower's performance only in the event that Borrower has provided notice to the City within thirty (30) days after the occurrence or commencement of the event or events, and Borrower's performance will be excused for a period ending thirty (30) days after the termination of the event giving rise to the delay.

ARTICLE 20 REPRESENTATIONS AND WARRANTIES.

20.1 Borrower Representations and Warranties. As a further inducement for the City to enter into this Agreement, Borrower represents and warrants as follows:

(a) The execution, delivery and performance of the City Documents will not contravene or constitute a default under or result in a lien upon assets of Borrower under any applicable Law, any Charter Document of Borrower or any instrument binding upon or affecting Borrower, or any contract, agreement, judgment, order, decree or other instrument binding upon or affecting Borrower.

(b) When duly executed, the City Documents will constitute the legal, valid and binding obligations of Borrower. Borrower hereby waives any defense to the enforcement of the City Documents related to alleged invalidity of the City Documents.

(c) No action, suit or proceeding is pending or threatened that might affect Borrower or the Project adversely in any material respect.

(d) Borrower is not in default under any agreement to which it is a party, including any lease of real property.

(e) None of Borrower, Borrower's principals or Borrower's general contractor, if applicable, has been suspended or debarred by the Department of Industrial Relations or any Governmental Agency, nor has Borrower, any of its principals or its general contractor, if applicable, been suspended, disciplined or prohibited from contracting with any Governmental Agency.

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

(h) The Borrower is duly organized and in good standing under applicable laws of the State of California and is qualified to do business in the City and County of San Francisco.

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 a nationally recognized courier that obtains receipts, facsimile (if followed within one (1) business day by first class mail) or by United States certified mail, postage prepaid, return receipt requested. Delivery will be deemed complete as of the earlier of actual receipt (or refusal to accept proper delivery) or five (5) days after mailing, *provided that* any notice that is received after 5 p.m. on any day or on any weekend or holiday will be deemed to have been received on the next succeeding business day. Notices must be addressed as follows:

To the City: Mayor's Office of Housing and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attn: Director
Re: Potrero HOPE SF – Phase II Infrastructure

To Borrower: BRIDGE-POTRERO COMMUNITY ASSOCIATES LLC
600 California Street #900
San Francisco, CA 94108
Attn.: President

w/copy to: BRIDGE Housing Corporation
600 California Street #900
San Francisco, CA 94108
Attn.: General Counsel

or any other address a party designates from time to time by written notice sent to the other party in manner set forth in this Section.

21.2 Required Notices. Borrower agrees to provide notice to the City in accordance with **Section 21.1** of the occurrence of any change or circumstance that: (a) will have an adverse effect on the physical condition or intended use of the Project; (b) causes the Loan to be out of balance; or (c) will have a material adverse effect on Borrower's operation of the Property or ability to repay the Loan.

21.3 Notice and Cure Rights of Investor Limited Partner. If an Event of Default occurs, the City shall give Investor Limited Partner the same written notice given to the Borrower a required herein. Investor Limited Partner shall have the right, but not the obligation, to cure defaults within the time periods provided to Borrower herein. With respect to any right of cure provided herein, performance of a cure by Investor Limited Partner shall have the same

effect as would like performance by Borrower. Unless the City is otherwise notified, notices to Investor Limited Partner shall be sent to the address set forth in Section 21.1 above.

ARTICLE 22 HAZARDOUS SUBSTANCES.

22.1 Intentionally Omitted.

22.2 Covenant. Unless the City otherwise consents in writing, at all times from and after the date Borrower acquires Control of the Site, at its sole expense, Borrower must: (a) comply with all applicable Environmental Laws relating to the Site and the Project, and not engage in or otherwise permit the occurrence of any Environmental Activity in violation of any applicable Environmental Laws or that is not customary and incidental to the intended use of the Site, *provided that* nothing contained in this Section will prevent Borrower from contesting, in good faith and by appropriate proceedings, any interpretation or application of Environmental Laws; and (b) deliver to the City notice of the discovery by Borrower of any event rendering any representation contained in this Section incorrect in any respect promptly following Borrower's discovery.

ARTICLE 23 INDEMNITY.

23.1 Borrower's Obligations. Borrower must Indemnify the City and its respective officers, agents and employees (individually or collectively, an "Indemnitee") against any and all Losses arising out of: (a) any default by Borrower in the observance or performance of any of Borrower's obligations under the City Documents (including those covenants set forth in Article 22 above); (b) any failure of any representation by Borrower to be correct in all material respects when made; (c) injury or death to persons or damage to property or other loss occurring on or in connection with the Site or the Project after such time as Borrower has acquired Control of the Site and for the Public Infrastructure Improvements prior to, but not subsequent to, City Acceptance, whether caused by the negligence or any other act or omission of Borrower or any other person or by negligent, faulty, inadequate or defective design, building, construction, rehabilitation or maintenance or any other condition or otherwise; (d) any claim of any surety in connection with any bond relating to the construction or rehabilitation of the Public Infrastructure Improvements; (e) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee that relates to or arises out of the City Documents or the Loan; (f) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee that relates to or arises out of the Site (after such time as Borrower has acquired Control of the Site) and prior to City acceptance); (g) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee that relates to or arises out of the Public Infrastructure Improvements (prior to, but not subsequent to, City Acceptance); (h) any failure of Borrower's demolition or abatement activities to comply with all applicable Environmental Laws relating to the Project or the Site (prior to the time Borrower has acquired Control of the Site); (i) the failure of Borrower to comply with all applicable Environmental Laws relating to the Project or the Site (after such time as Borrower has acquired Control of the Site and prior to City Acceptance); (j) the occurrence of any Environmental Activity resulting directly or indirectly from any

Environmental Activity occurring from and after the date Borrower acquires Control of the Site and prior to City Acceptance; (k) any liability of any nature arising from Borrower's contest of or relating to the application of any Law, including any contest permitted under **Sections 9.1, 18.1 and 22.2**; or (l) 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 (l) above, *provided that no* Indemnitee will be entitled to indemnification under this Section for matters caused by its own gross negligence or willful misconduct. In the event any action or proceeding is brought against an Indemnitee by reason of a claim arising out of any Loss for which Borrower has indemnified the Indemnitees, upon written notice, Borrower must answer and otherwise defend the action or proceeding using counsel approved in writing by the Indemnitee at Borrower's sole expense. Each Indemnitee will have the right, exercised in its sole discretion, but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt, demand, suit or judgment against the Indemnitee in connection with the matters covered by this Agreement. The provisions of this Section will survive the repayment of the Loan and/or termination of this Agreement; provided, however, notwithstanding anything to the contrary contained in this Article 23, Borrower shall be liable only for those Losses related to the Public Infrastructure Improvements suffered by an Indemnitee which were incurred or which arose prior to City Acceptance of the applicable Public Infrastructure Improvements and Borrower shall have no liability for any Losses related to the Public Infrastructure Improvements suffered by an Indemnitee which were incurred as a result of the City's exercise of its remedy under Section 19.2 of this Agreement to cause the construction of the Public Infrastructure Improvements which construction was not performed in accordance with the approved plans or was performed negligently.

23.2 No Limitation. Borrower's obligations under **Section 23.1** are not limited by the insurance requirements under this Agreement.

ARTICLE 24 GENERAL PROVISIONS.

24.1 Intentionally Omitted.

24.2 No Third Party Beneficiaries. Nothing contained in this Agreement, nor any act of the City, may be interpreted or construed as creating the relationship of third party beneficiary, limited or general partnership, joint venture, employer and employee, or principal and agent between the City and Borrower or Borrower's agents, employees or contractors.

24.3 No Claims by Third Parties. Nothing contained in this Agreement creates or justifies any claim against the City by any person or entity with respect to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the Project. Borrower must include this requirement as a provision in any contracts for the development of the Project.

24.4 Entire Agreement. This Agreement and its Exhibits incorporate the terms of all agreements made by the City and Borrower with regard to the subject matter of this Agreement.

No alteration or variation of the terms of this Agreement will be valid unless made in writing and signed by the parties hereto. No oral understandings or agreements not incorporated herein will be binding on the City or Borrower.

24.5 City Obligations. The City's sole obligation under this Agreement is limited to providing the funds as described in this Agreement, up to the Funding Amount and as otherwise contemplated under Section 2.1. Under no circumstances, including breach of this Agreement, will the City be liable to Borrower for any special or consequential damages arising out of actions or failure to act by the City in connection with any of the City Documents.

24.6 Borrower Solely Responsible. Borrower is an independent contractor with the right to exercise full control of employment, direction, compensation and discharge of all persons assisting in the performance contemplated under this Agreement. Borrower is solely responsible for: (a) its own acts and those of its agents, employees and contractors and all matters relating to their performance, including compliance with Social Security, withholding and all other Laws governing these matters and requiring that contractors include in each contract that they will be solely responsible for similar matters relating to their employees; (b) any losses or damages incurred by Borrower, any of its contractors or subcontractors and the City and its officers, representatives, agents and employees on account of any act, error or omission of Borrower in the performance of this Agreement or any other City Document and the development and operation of the Project; and (c) all costs and expenses relating to Borrower's performance of obligations under the City Documents, the delivery to the City of documents, information or items under or in connection with any of the City Documents and taxes, fees, costs or other charges payable in connection with the execution, delivery, filing and/or recording of any City Document or document required under any City Document.

24.7 No Inconsistent Agreements. Borrower warrants that it has not executed and will not execute any other agreement(s) with provisions materially contradictory or in opposition to the provisions of this Agreement.

24.8 Inconsistencies in City Documents. In the event of any conflict between the terms of this Agreement and any other City Document, the terms of this Agreement control unless otherwise stated; *provided, however*, that any provision in this Agreement in conflict with any Law will be interpreted subject to that Law.

24.9 Governing Law. This Agreement is governed by California law without regard to its choice of law rules.

24.10 Joint and Several Liability. If more than one person or entity is identified as "Borrower", each is jointly and severally liable to the City for the faithful performance of this Agreement.

24.11 Successors. Except as otherwise limited herein, the provisions of this Agreement bind and inure to the benefit of the undersigned parties and their heirs, executors, administrators, legal representatives, successors and assigns. This provision does not relieve Borrower of its obligation under the City Documents to obtain the City's prior written consent to any assignment

or other transfer of Borrower's interests in the Loan, the Site or the ownership interests in Borrower.

24.12 Attorneys' Fees. If any legal action is commenced to enforce any of the terms of this Agreement or rights arising from any party's actions in connection with this Agreement, the prevailing party will have the right to recover its reasonable attorneys' fees (including allocated fees of the City Attorney's Office) and costs of suit from the other party, whether incurred in a judicial, arbitration, mediation or bankruptcy proceeding or on appeal. For the purposes of this Agreement, reasonable fees of attorneys in the City Attorney's office will be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter of law for which the City Attorney's services were rendered, who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. An award of attorneys' fees and costs will bear interest at the default rate under the Note from the date of the award until paid.

24.13 Severability. The invalidity or unenforceability of any one or more provisions of this Agreement will in no way affect any other provision.

24.14 Time. Time is of the essence in this Agreement. Whenever the date on which an action must be performed falls on a Saturday, Sunday or federal holiday, the date for performance will be deemed to be the next succeeding business day.

24.15 Further Assurances. Borrower agrees to: (a) pursue in an effective and continuous manner; (b) use best efforts to achieve; and (c) take all actions reasonably required by the City from time to time to confirm or otherwise carry out the purpose of this Agreement.

24.16 Binding Covenants. The provisions of the City Documents constitute covenants running with the land and will be binding upon Borrower and Borrower's successors and assigns, and all parties having or acquiring any right, title or interest in whatever form, including leasehold interests (other than Tenants and approved commercial tenants), in or to any part of the Property, except that the same will terminate and become void automatically at the expiration of the Compliance Term of this Agreement. Any attempt to transfer any right, title or interest in the Property in violation of these covenants will be void.

24.17 Consent. Except as expressly provided otherwise, whenever consent or approval of a party is required in any City Document, that party agrees not to withhold or delay its consent or approval unreasonably.

24.18 Counterparts. This Agreement may be executed in any number of counterparts, all of which will constitute but one agreement.

24.19 Borrower's Personnel. The Project shall be implemented only by competent personnel under the direction and supervision of Borrower.

24.20 Intentionally Omitted.

24.21 Ownership of Results. Any interest of Borrower or any sub-borrower, in drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, or other documents or Publications prepared by or on behalf of Borrower or any sub-borrower in connection with this Agreement, the implementation of the Project, the services to be performed under this Agreement, or acquired through the use of any Loan proceeds (“Work Product”), is hereby pledged to City as security for Borrower's obligations under this Agreement and the Note, and upon an Event of Default, shall become the property of and be promptly transmitted by Borrower to the City. Notwithstanding the foregoing, Borrower may retain and use copies for reference and as documentation of its experience and capabilities.

This Agreement constitutes a security agreement under the California Uniform Commercial Code, as it may be amended from time to time, and Borrower authorizes City to file any financing statements City elects and deems necessary to perfect its security interest in the Work Product.

24.22 Works for Hire. If, in connection with this Agreement or the implementation of the Project, Borrower or any sub-borrower creates artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship or Publications, such creations shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such creations shall be the property of the City. If it is ever determined that any such creations are not works for hire under applicable law, Borrower hereby assigns all copyrights thereto to the City, 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 the City, Borrower may retain and use copies of such creations for reference and as documentation of its experience and capabilities. Borrower shall obtain all releases, assignments or other agreements from sub-borrowers or other persons or entities implementing the Project to ensure that the City obtains the rights set forth in this Section.

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

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

EXHIBITS

- A. Table of Sources and Uses of Funds
- B. Operating Budget
- C. Potrero Interagency Workforce MOU
- D. Governmental Requirements
- E. Lobbying/Debarment Certification Form
- F. Form of HOPE SF Monthly Report
- G. Insurance Requirements
- H. Form of Assignment Agreement
- I. Form of Assigned Promissory Note
- J. HOPE SF Developer Fee Policy

K. Form of Acknowledgement of Reduced Note Amount

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

THE CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
London N. Breed
Mayor

By: _____
Eric D. Shaw
Director, Mayor's Office of Housing
and Community Development

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _____
Heidi J. Gewertz
Deputy City Attorney

BORROWER:

BRIDGE-Potrero Community Associates, LLC,
a California Limited Liability Company

By: BRIDGE Regional Partners, Inc.,
a California nonprofit public benefit corporation,
its managing member

By: _____
Kimberly McKay, Vice President

EXHIBIT A

Sources and Uses of Funds

EXHIBIT B
Operating Budget

EXHIBIT C
Potrero Interagency Workforce MOU

EXHIBIT D
Governmental Requirements

1. **Prevailing Wages.** Every contract for the rehabilitation or construction of housing assisted with Funds must contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. §§ 276a-276a-5), to all laborers and mechanics employed in the development of any part of the housing, and contracts involving their employment will be subject to the provisions, as applicable, of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-332). The prevailing wage requirements of this Section apply to all laborers and mechanics employed in the development of the Project.

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.

3. **Conflict of Interest.**

(a) Except for approved eligible administrative or personnel costs, no employee, agent, consultant, officer or official of Borrower or the City 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, Borrower must incorporate, or cause to be incorporated, in all contracts, subcontracts and agreements relating to activities assisted under the Agreement, a provision similar to that of this Section. Borrower will be responsible for obtaining compliance with conflict of interest provisions by the parties with whom it contracts and, in the event of a breach, Borrower must take prompt and diligent action to cause the breach to be remedied and compliance to be restored.

(b) Borrower represents that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the San Francisco Campaign and Governmental Conduct Code, and Sections 1090 through 1097 and 87100 *et seq.* of the California Government Code, all of which relate to prohibited conflicts of interest in connection with government contracts. Borrower certifies that it knows of no facts that constitute a violation of any of these provisions and agrees to notify the City immediately if Borrower at any time obtains knowledge of facts constituting a violation.

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

4. Disability Access. Borrower must comply with all applicable disability access Laws, including the Americans With Disabilities Act (42 U.S.C. §§ 1201 *et seq.*), Section 504 of the Rehabilitation Act (29 U.S.C. § 794) and the Fair Housing Amendments Act (42 U.S.C. §§ 3601 *et seq.*). Borrower is responsible for determining which disability access Laws apply to the Project, including those applicable due to the use of Funds. In addition, before occupancy of the Project, Borrower must provide to the City a written reasonable accommodations policy that indicates how Borrower will respond to requests by disabled individuals for accommodations in appropriate (?) areas of the Project.

5. Lead-Based Paint. Borrower must satisfy the requirements of Chapter 36 of the San Francisco Building Code (“Work Practices for Exterior Lead-Based Paint”) and the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821 *et seq.*) and implementing regulations at 24 CFR part 35. Borrower must also comply with the provisions contained in 17 CCR 350000 *et seq.*, and 8 CCR 1532.1 and all other applicable Laws governing lead-based hazards.

6. Relocation. Borrower 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. Interagency Workforce MOU Requirements. The use of Funds for the Project triggers compliance with the Interagency Workforce MOU. To ensure compliance with those requirements, Borrower must include the provisions attached as Exhibit D and the Interagency Workforce MOU attached as **Exhibit C** in its contract with the general contractor for the Project. Borrower will be responsible to the City for ensuring compliance with the requirements listed on Exhibit D and the requirements of the Interagency Workforce MOU

8. Non-Discrimination in City Contracts and Benefits Ordinance.

(a) Borrower Shall Not Discriminate. In the performance of this Agreement, Borrower agrees not to discriminate against any employee, City and County employee working with Borrower or any subcontractor, applicant for employment with Borrower or any subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services or membership in all business, social or other establishments or organizations operated by Borrower 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), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) Subcontracts. Borrower shall incorporate by reference in all subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code. Borrower’s failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) Non-Discrimination in Benefits. Borrower does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco or where the work is being performed for the City 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 entity pursuant to 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 Contract. As a condition to this Agreement, Borrower shall execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (Form CMD-12B-101) with supporting documentation and secure the approval of the executed form by the San Francisco Contract Monitoring Division.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B (“Nondiscrimination in Contracts”) and 12C (“Nondiscrimination in Property Contracts”) of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Borrower shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including the remedies provided in such Chapters. Without limiting the foregoing, Borrower understands that pursuant to Sections 12B.2(h) and 12C.3(g) 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 Agreement may be assessed against Borrower and/or deducted from any payments due Borrower.

9. MacBride Principles. Pursuant to San Francisco Administrative Code Section 12F.5, City urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Borrower acknowledges and agrees that he or she has read and understood this Section.

10. Tropical Hardwood & Virgin Redwood Ban. Pursuant to § 804(b) of the San Francisco Environment Code, City urges all grantees and borrowers not to import, purchase, obtain or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

11. Preservative-Treated Wood Containing Arsenic. Borrower may not purchase preservative-treated wood products containing arsenic until the Deed of Trust has been fully reconveyed unless an exemption from the requirements of Chapter 13 of the San Francisco

Environment Code is obtained from the Department of Environment under Section 1304 of the Code. The term “preservative-treated wood containing arsenic” shall mean 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. Borrower 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 Borrower from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” shall mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

12. Submitting False Claims; Monetary Penalties. Any borrower, grantee, contractor, subcontractor or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. A borrower, grantee, contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the borrower, grantee, contractor, subcontractor or consultant:

(a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval;

(b) knowingly makes, uses or causes to be made or used a false record or statement to get a false claim paid or approved by the City;

(c) conspires to defraud the City by getting a false claim allowed or paid by the City;

(d) knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the City; or

(e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

13. Sunshine Ordinance.

(a) Borrower acknowledges and agrees that this Agreement and the Application Documents are subject to Section 67.24(e) of the San Francisco Administrative Code, which provides that contracts, including this Agreement, grantee's bids, responses to Requests for Proposals (RFPs) and all other records of communications between City and persons or entities seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in such Section 67.24(e) (as it exists on the date hereof) requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All information provided by Borrower that is covered by such Section 67.24(e) (as it may be amended from time to time) will be made

available to the public upon request. Further, Borrower specifically agrees that any meeting of the governing body of its general partner that addresses any matter relating to the Project or to Borrower's performance under this Agreement will be conducted as a passive meeting.

(b) By executing this Agreement, Borrower agrees to comply with the provisions of Chapter 12L of the San Francisco Administrative Code to the extent applicable.

(c) In accordance with the Citizen's Right to Know Act of 1998 (S. F. Admin. Code Chapter 79), no officer, department, board or commission of the City may approve a City Project, as defined in Chapter 79, unless a sign has been posted on the applicable property at least fifteen (15) days before approval. A City Project is a project that involves new construction, a change in use or a significant expansion of an existing use where the City funding for the project is \$50,000 or more. If the Loan will be used for a City Project, this Agreement will not become effective until fifteen (15) days following the posting of the requisite sign, or, in the alternative, thirty (30) days following the delivery of written notices to residents and owners within 300 feet of the Site, and the City will have the right to nullify or revoke this Agreement without cost or liability of any sort whatsoever at any time before that date. If Borrower believes that this Agreement relates to a City Project and that the requisite sign has not been posted, Borrower must notify the City so that the City may determine the applicability of Chapter 79, and, if necessary, post the requisite sign.

14. Prohibition on Use of Public Funds for Political Activities. Borrower shall comply with San Francisco Administrative Code Chapter 12G, which prohibits funds appropriated by the City for this Agreement from being expended to participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure. Borrower is subject to the enforcement and penalty provisions in Chapter 12G.

15. Nondisclosure of Private Information. Borrower has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12.M.2, "Nondisclosure of Private Information", and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Borrower agrees that any failure of Borrower to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of the Agreement. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Agreement, bring a false claim action against Borrower pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar Borrower.

16. Graffiti Removal. 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 the 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.

(a) Borrower shall remove all graffiti from any real property owned or leased by Borrower in the City and County of San Francisco within forty eight (48) hours of the earlier of Borrower'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 a Borrower 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 sites, 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" shall 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 Sections 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.).

(b) Any failure of Borrower to comply with this section of this Agreement shall constitute an Event of Default of this Agreement.

17. Resource-Efficient Building Ordinance. Borrower 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. Borrower hereby agrees it shall comply with the applicable provisions of such code sections as such sections may apply to the Property.

18. Consideration of Criminal History in Hiring and Employment Decisions.

(a) Borrower agrees to comply fully with and be bound by all of the provisions of Chapter 12T "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code (Chapter 12T), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at www.sfgov.org/olse/fco. A partial listing of some of Borrower's obligations under Chapter 12T is set forth in this Section. Borrower is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

(b) The requirements of Chapter 12T shall only apply to a Borrower's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, shall apply only when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco, and shall not apply when the application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

(c) Borrower shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Borrower's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(d) Borrower or Subcontractor shall not inquire about, require disclosure of, or if such information is received base an Adverse Action on an applicant's or potential applicant for employment, or employee's: (1) Arrest not leading to a Conviction, 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.

(e) Borrower or Subcontractor shall 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 subsection 16.16(d), above. Borrower or Subcontractor shall 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.

(f) Borrower or Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Agreement, that the Borrower or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

(g) Borrower and Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under the Borrower or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Agreement. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.

(h) Borrower understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, 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 Agreement.

19. Food Service Waste Reduction Requirements. Borrower agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, Borrower agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Borrower agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur

based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Borrower's failure to comply with this provision.

20. Bottled Drinking Water. Unless exempt, Borrower agrees to comply fully with and be bound by all of the provisions of the San Francisco Bottled Water Ordinance, as set forth in San Francisco Environment Code Chapter 24, including the administrative fines, remedies, and implementing regulations provided therein, as the same may be amended from time to time. The provisions of Chapter 24 are incorporated herein by reference and made a part of this Agreement as though fully set forth.

EXHIBIT E
Lobbying/Debarment Certification Form

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

This lobbying certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

3. Neither the undersigned nor its principals is listed by the General Services Administration as debarred, suspended, ineligible or voluntarily excluded from receiving the Funds on the Agreement Date. The undersigned will review the list to ensure that any contractor or subcontractor who bids for a contract in excess of \$100,000 is not debarred, suspended, ineligible or voluntarily excluded from participating in federal programs and activities and will obtain the certification of each contractor or subcontractor whose bid is accepted that such contractor or subcontractor is not debarred, suspended, ineligible or voluntarily excluded from participating in federal programs and activities.

Potrero entity name

BY: _____

NAME: _____

TITLE: _____

DATE: _____

Exhibit F
Form of HOPE SF Monthly Report

EXHIBIT G
Insurance Requirements

Subject to approval by the City's Risk Manager of the insurers and policy forms, Borrower must obtain and maintain, or caused to be maintained, the insurance and bonds as set forth below from the date Borrower acquires Control of the Site throughout the Compliance Term at no expense to the City: Any reduction in coverage is subject to approval by Risk Manager, Project Manager and City Attorney.

1. **Borrower, Contractors.**

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

(b) commercial general liability insurance, with limits no less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit for bodily injury and property damage, including coverage for contractual liability; personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; products and completed operations; broad form property damage; and explosion, collapse and underground (XCU) coverage during any period in which Borrower is conducting any activity on, alteration or improvement to the Site with risk of explosions, collapse, or underground hazards;

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

(d) professional liability insurance of no less than One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) annual aggregate limit covering all negligent acts, errors and omissions of Borrower’s architects, engineers and surveyors. If the professional liability insurance provided by the architects, engineers, or surveyors is “Claims made” coverage, Borrower shall assure that these minimum limits are maintained for no less than three (3) years beyond completion of the constructions or remodeling. Any deductible over Fifty Thousand Dollars (\$50,000) each claim must be reviewed by Risk Management; and

(e) a crime policy or fidelity bond covering Borrower's officers and employees against dishonesty with respect to the Funds of no less than Seventy Five Thousand Dollars (\$75,000) each loss, with any deductible not to exceed Five Thousand Dollars (\$5,000) each loss, including the City as additional obligee or loss payee;

(f) 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) annual aggregate per policy. This coverage shall be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided

by the Borrower's contractor, provided that the policy must be "claims made" coverage and Borrower must require Borrower's contractor to maintain these minimum limits for no less than three (3) years beyond completion of the construction or remodeling.

2. Property Insurance.

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

(a) Prior to construction:

(i) Property insurance, excluding earthquake and flood, in the amount no less than One Hundred Percent (100%) of the replacement value of all improvements prior to commencement of construction and City property in the care, custody and control of the Borrower or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such perils, resulting damage and any applicable law, ordinance or regulation; start up, testing and machinery breakdown including electrical arcing; and with a deductible not to exceed Ten Thousand Dollars (\$10,000) each loss, including the City and all subcontractors as loss payees.

(b) During the course of construction:

(i) Builder's risk insurance, special form coverage, excluding earthquake and flood, for one hundred percent (100%) of the replacement value of all completed improvements and City property in the care, custody and control of the Borrower or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such covered perils, resulting damage and any applicable law, ordinance or regulation; start up, testing and machinery breakdown including electrical arcing, copy of the applicable endorsement to the Builder's Risk policy, if the Builder's Risk policy is issued on a declared-project basis; and with a deductible not to exceed Ten Thousand Dollars (\$10,000) each loss, including the City and all subcontractors as loss payees.

(ii) Performance and payment bonds of contractors, each in the amount of One Hundred Percent (100%) of contract amounts, naming the City and Borrower as dual obligees or other completion security approved by the City in its sole discretion.

(c) Upon completion of construction:

(i) Property insurance, excluding earthquake and flood, in the amount no less than One Hundred Percent (100%) of the replacement value of all completed improvements and City property in the care, custody and control of the Borrower or its contractor. For rehabilitation/construction projects that are unoccupied by residential or commercial tenants, Tenant must obtain Property Insurance by the date that the project receives a Certificate of Substantial Completion.

(ii) Boiler and machinery insurance, comprehensive form, covering damage to, loss or destruction of machinery and equipment located on the Site that is used by Borrower for heating, ventilating, air-conditioning, power generation and similar purposes, in an

amount not less than one hundred percent (100%) of the actual replacement value of such machinery and equipment with a deductible not to exceed Ten Thousand Dollars (\$10,000) each loss, including the City as loss payee.

The following notice is provided in accordance with the provisions of California Civil Code Section 2955.5: Under California law, no lender shall require a borrower, as a condition of receiving or maintaining a loan secured by real property, to provide hazard insurance coverage against risks to the improvements on that real property in an amount exceeding the replacement value of the improvements on the property.

3. General Requirements.

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

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

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

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

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

(f) The City reserves the right to require an increase in insurance coverage in the event the City determines that conditions show cause for an increase, unless Borrower demonstrates to the City's satisfaction that the increased coverage is commercially unreasonable and unavailable to Borrower.

(g) All liability policies must provide that the insurance is primary to any other insurance available to the additional insureds with respect to claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought and that an act of omission of one of the named insureds that would void or otherwise reduce coverage will not void or reduce coverage as to any other insured, but the inclusion of more than one insured will not operate to increase the insurer's limit of liability.

(h) Any policy in a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs are included in the general

annual aggregate limit must be in amounts that are double the occurrence or claims limits specified above.

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

(j) Borrower must provide the City with copies of endorsements for each required insurance policy and make each policy available for inspection and copying promptly upon request.

Exhibit H
Assignment Agreement

**INFRASTRUCTURE REIMBURSEMENT
AND ASSIGNMENT AGREEMENT**

THIS INFRASTRUCTURE REIMBURSEMENT AND ASSIGNMENT AGREEMENT (“Agreement”) is entered into as of the ____ day of _____ by and between [tax credit partnership] (“Owner”), and BRIDGE-Potrero Community Associates, LLC, a California limited liability company (“Developer”).

RECITALS

- A. Owner has been formed for the purpose of acquiring, developing, constructing, owning and operating a low-income residential complex consisting of _____ units located at _____ (the “Project” [or “Projects”]).
- B. Certain infrastructure improvements are required to be constructed in order to serve the needs of the Project (the “Infrastructure Improvements”).
- C. Developer shall construct the Infrastructure Improvements on behalf of Owner and in consideration for such services, Owner has agreed to reimburse Developer as stated more specifically stated herein.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Construction Services.** Developer shall, on behalf of Owner, oversee the development, and cause the construction, of the Infrastructure Improvements. The scope of the Infrastructure Improvements is more specifically described on Exhibit A hereto.

2. **Reimbursement.** Owner shall reimburse Developer for costs associated with the construction of the Infrastructure Improvements in an amount equal to _____ Dollars (\$_____) (the “Reimbursement Amount”). Owner shall reimburse Developer through the assumption by the Owner of all rights, title and obligations of Developer, in its capacity as borrower, of a portion of that certain loan made by The City and County of San Francisco, a municipal corporation, represented by the Mayor, acting by and through the Mayor’s Office of Housing and Community Development (the “Lender”) to the Developer on _____ (the “Loan”). The assigned portion of the Loan shall be equal to the Reimbursement Amount. Owner’s assumption of a portion of Developer’s obligations relating to the Loan shall be memorialized in that certain Promissory Note to be executed concurrently herewith by Owner in favor of Lender, which Promissory Note shall be in the original principal amount of the Reimbursement Amount.

3. **Best Efforts.** Developer shall use all reasonable efforts to cause the contractor to complete the construction of the Infrastructure Improvements on or before _____.

4. **Assignment.** Neither of the parties hereto shall assign, transfer or otherwise convey this Agreement or its rights, obligations or duties hereunder, whether in whole or in part, to any other person or entity, without the prior written consent of each other party hereto.

5. **Termination.** This Agreement may be terminated upon sixty (60) days prior written notice, provided, however, that any fees, payments, other obligations, rights or remedies due or arising under or pursuant to this Agreement, as of the date such termination becomes effective, shall be payable regardless of such termination.

6. **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of California.

7. **Waiver, Modification or Amendment.** This Agreement may not be waived, modified or amended unless pursuant to a signed writing executed by each of the parties hereto. Failure of either party hereto to enforce any provision of this Agreement shall not be construed to be a waiver of such provision or its right thereafter to enforce such provision or any other provision contained herein.

8. **Nature of Agreement.** Nothing contained in this Agreement or in the relationship of Owner and Developer shall be deemed to constitute a partnership, joint venture, employer/employee or any other relationship.

9. **Severability.** If any one or more of the provisions of this Agreement shall for any reason be held invalid, illegal or unenforceable, the remaining provisions of this Agreement shall remain unimpaired and shall continue in full force and effect.

10. **Headings.** Headings used in this Agreement are for purposes of convenience of reference only and shall in no way limit or affect the meaning or interpretation of any of the terms hereof.

11. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter as of the date hereof and supersedes all prior understandings, representations, proposals, discussions and negotiations whatsoever, whether oral or written, between the parties hereto.

12. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first above written.

OWNER:

By: _____

By: _____

DEVELOPER:

BRIDGE-Potrero Community Associates, LLC,
a California Limited Liability Company

By: BRIDGE Regional Partners, Inc.,
a California nonprofit public benefit
corporation, its managing member

By: _____
Kimberly McKay, Vice President

The undersigned, in its capacity as Lender of the Loan, hereby consents to and approves of the assumption by Owner of a portion of the Loan in the amount of the Reimbursement Amount, and agrees that Developer's obligations with respect to the Loan shall hereinafter be deemed to be reduced by the amount of the Reimbursement Amount assumed by Owner hereunder.

THE CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
London N. Breed
Mayor

By: _____
Eric D. Shaw
Director, Mayor's Office of Housing and Community Development

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _____
Heidi J. Gewertz
Deputy City Attorney

Exhibit I
Assignment Note

ASSIGNMENT PROMISSORY NOTE
(Affordable Housing Bond Program
[HOME Program/CDBG Program/Hotel Tax Fund/Jobs-Housing Linkage Program])

Principal Amount: \$

San Francisco, CA

Date:

FOR VALUE RECEIVED, the undersigned, **POTRERO HOUSING ASSOCIATES II, L.P.**, a California limited, ("Maker"), hereby promises to pay to the order of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, or holder (as the case may be, "Holder"), the principal sum of _____ and No/100 Dollars (\$) (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, as provided in this Assignment Promissory Note.

1. **Agreement.** This Assignment Promissory Note ("Note") is given under the terms of that certain Infrastructure Reimbursement and Assignment Agreement by and between Maker and BRIDGE-Potrero Community Associates, LLC , a California limited liability company ("Infrastructure LLC") (the "Assignment Agreement") dated as of the date set forth above, which Assignment Agreement is incorporated herein by reference. Maker's obligations under this Note and the Assignment Agreement are secured by the pledge of Work Product contained in that certain Amended and Restated Loan Agreement by and between Holder and Infrastructure LLC dated _____, 20__ (the "Infrastructure Loan Agreement") and by that certain Deed Of Trust, Assignment Of Rents, Security Agreement And Fixture Filing made by Maker for the benefit of Holder, to be recorded pursuant to that certain Amended and Restated Loan Agreement between Maker and Holder dated as of the date set forth above (the "Deed of Trust"). Definitions and rules of interpretation set forth in the Infrastructure Loan Agreement apply to this Note. In the event of any inconsistency between the Infrastructure Loan Agreement and this Note, this Note will control.

2. **Interest.** Except as provided in **Section 3**, no interest will accrue on the Funding Amount.

3. **Default Interest Rate.** Upon the occurrence of an Event of Default under any City 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 the Funding Amount is disbursed 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 City 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 City Document.

4. Repayment of Funding Amount. The entire principal balance of the Loan, together with all accrued and unpaid interest and other unpaid fees and costs incurred (all together, the "Payment"), will be due and payable on the fifty-seventh (57th) anniversary of MOHCD authorization of the issuance of the Notice to Proceed for the Block B phase of the Project, but in no event later than December 31, 2078 (the "Maturity Date") If the Maturity Date falls on a weekend or holiday, it will be deemed to fall on the next succeeding business day.

5. Security. Maker's obligations under this Note are secured by the pledge of Work Product and by the 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. 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, 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 City Documents are not valid and enforceable under California law. This provision does not limit in any way Holder's right to recover sums arising under any obligation of Maker to indemnify Holder of 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 Except as otherwise set forth herein or in the Agreement, no prepayment of this Note shall be permitted without Holder's prior written consent.

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 Project.

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 City 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"

Potrero Housing Associates II, L.P.,
a California limited partnership

By: Potrero Housing II LLC,
a California limited liability company,
its general partner

By: MCB Family Housing, Inc.
a California nonprofit public benefit corporation,
its sole member/manager

By:

By: _____
Name: _____
Its: _____

EXHIBIT J
HOPE SF Developer Fee Policy

EXHIBIT K

Form of Acknowledgement of the Reduced Note Amount

ACKNOWLEDGMENT OF REDUCED PRINCIPAL AMOUNT OF NOTE

This Acknowledgment of Reduced Principal Amount of Note (the "Acknowledgment") is made as of _____, 20__, by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, represented by the Mayor, acting through the Mayor's Office of Housing and Community Development (the "City"), and **BRIDGE-Potrero Community Associates, LLC**, a California limited liability company (the "Borrower").

RECITALS

A. The City previously loaned [AMOUNT] and No/100 Dollars (\$[AMOUNT]) to Borrower (the "Loan") as evidenced by the following documents: (1) an Amended and Restated Loan Agreement (the "Agreement"), by and between the City and the Borrower, dated _____, 20__, and (2) a Promissory Note made by Borrower to the order of the City dated _____, 20__ (the "Note", and together with the Agreement, the "Loan Documents"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Loan Documents.

B. Pursuant to the Loan Documents, upon execution of an assigned note, the principal amount of the Note shall be reduced by the amount of Loan assigned thereunder. The purpose of this Acknowledgment is to memorialize the new reduced principal amount of the Note.

C. The Borrower has assigned a portion of the Loan in an amount equal to \$_____ (the "Assigned Principal and Interest") to _____ pursuant to the terms of _____, dated _____ (the "Assigned Note"). The City acknowledged such assignment pursuant to the terms of _____, dated _____.

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

1. As of the Effective Date, the principal amount of the Loan, as evidenced by the Loan Documents, is hereby now _____ and No/100 Dollars (\$_____) (the "New Principal Amount"). The New Principal Amount shall hereby be incorporated into the Loan Documents. The Borrower shall have no further liability for the repayment of any of the Assigned Principal or Interest.
2. The effective date of this Acknowledgement shall be the date the Assigned Note is executed (the "Effective Date").
3. Miscellaneous.
 - (a) References. No reference to this Acknowledgment is necessary in any instrument or document at any time referring to the Agreement, the Note, or any other document. Any reference to such documents shall be deemed a reference to such documents as amended by this Acknowledgment.

- (b) Counterparts. This Acknowledgment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument.
- (c) Successors and Assigns. The terms, covenants and conditions contained in this Acknowledgment shall bind and inure to the benefit of Borrower and the City and, except as otherwise provided herein, their personal representatives and successors and assigns.
- (d) 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 Acknowledgment.

(Document continues on following page)

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

THE CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
London N. Breed
Mayor

By: _____
Eric D. Shaw
Director, Mayor's Office of Housing
and Community Development

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

BORROWER:

BRIDGE-Potrero Community Associates, LLC,
a California Limited Liability Company

By: BRIDGE Regional Partners, Inc.,
a California nonprofit public benefit
corporation,
its managing member

By: _____
Kimberly McKay, Vice President

UNSECURED PROMISSORY NOTE

(2015 General Obligation Bond, Housing Trust Fund, Low Moderate Income Housing Asset Fund, Condo Conversion Fees)

Principal Amount: \$29,141,134

San Francisco, CA

Date:

FOR VALUE RECEIVED, the undersigned, **BRIDGE-POTRERO COMMUNITY ASSOCIATES LLC**, a California limited liability company ("Maker"), hereby promises to pay to the order of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, or holder (as the case may be, "Holder"), the principal sum of Twenty Nine Million One Hundred Forty One Thousand, One Hundred Thirty Four and No/100 Dollars (\$29,141,134) (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, as provided in this Note.

1. Agreement. This Unsecured Promissory Note ("Note") is given under the terms of the Amended & 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. Maker's obligations under this Note and the Agreement are secured by the pledge of Work Product contained in the Agreement. 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.

2. Interest. Except as provided in **Section 3**, no interest will accrue on the Funding Amount.

3. Default Interest Rate. Upon the occurrence of an Event of Default under any City 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 the Funding Amount is disbursed 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 City 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 City Document.

4. Repayment of Funding Amount. Subject to Section 3.9 of the Agreement, the entire principal balance of the Loan, together with all accrued and unpaid default interest (if any) and other unpaid fees and costs incurred (all together, the "Payment"), will be due and payable as set forth in Section 3.1 of the Agreement.

5. Security. Maker's obligations under this Note are secured by the pledge of Work Product.

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. 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'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 City Documents are not valid and enforceable under California law. This provision does not limit in any way Holder's right to recover sums arising under any obligation of Maker to indemnify Holder of sums incurred by Holder as a result of Maker's fraud, willful misrepresentation, misapplication of funds, waste or negligent or intentional damage to the collateral for the Loan.

6.6 Except as otherwise set forth herein or in the Agreement, no prepayment of this Note shall be permitted without Holder's prior written consent.

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 Project.

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 City 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"

BRIDGE-Potrero Community Associates, LLC,
a California Limited Liability Company

By: BRIDGE Regional Partners, Inc.,
a California nonprofit public benefit corporation,
its managing member

By: _____
Kimberly McKay, Vice President

Potrero Phase 2 Infrastructure Gap Financing

Board of Supervisors Budget and Finance Committee

January 13, 2020

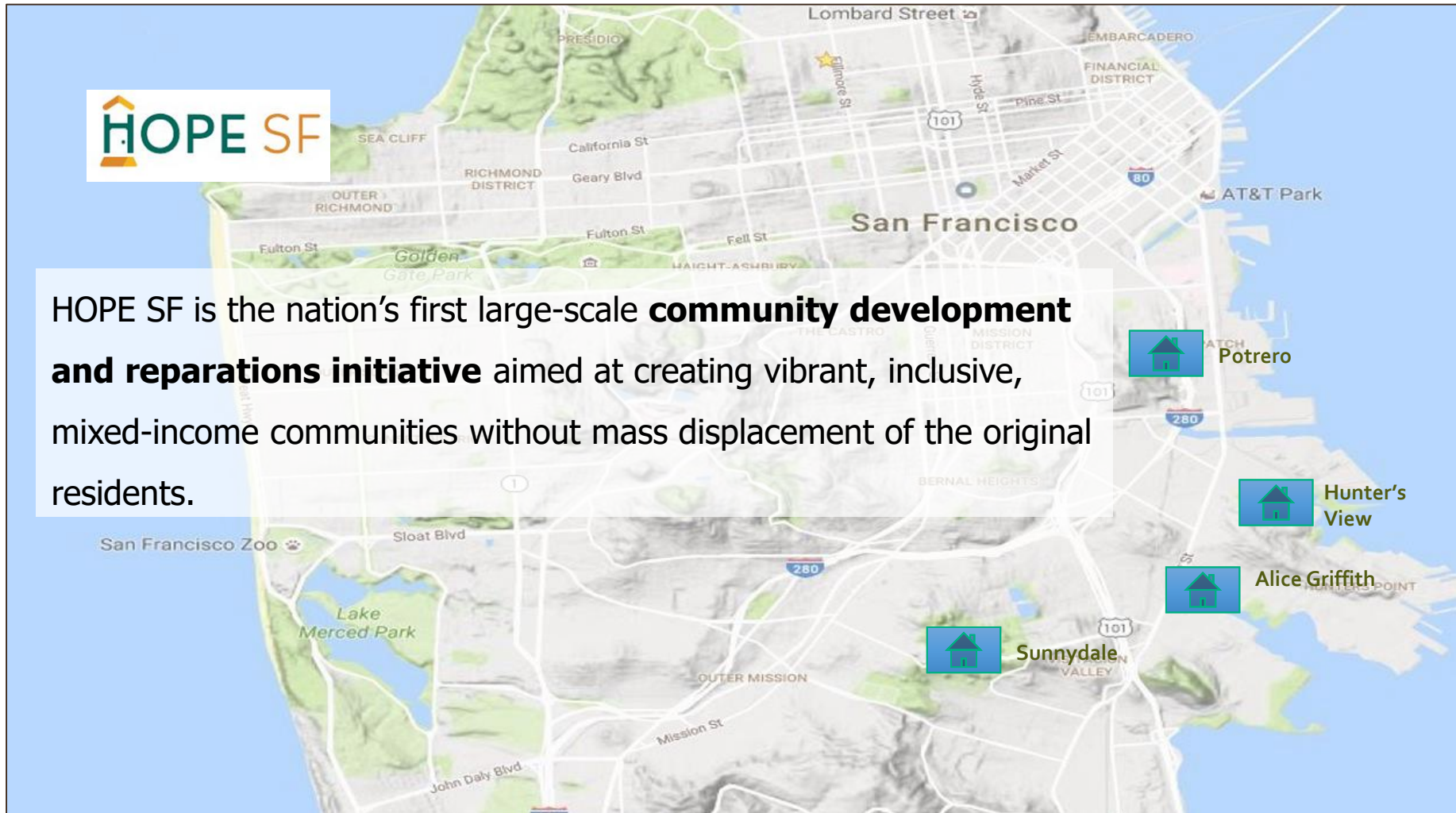
Item #6, Files 20-1365



HOPE SF – A Reparations Approach to Infrastructure and Replacement Public Housing



What is "HOPE SF"?



HOPE SF is the nation's first large-scale **community development and reparations initiative** aimed at creating vibrant, inclusive, mixed-income communities without mass displacement of the original residents.

HOUSED. CONNECTED. THRIVING.



“Reparations”: Defined

HOPE SF defines reparations as a **durable and enduring** approach to acknowledging, reconciling and **healing systemic harm** and inequities experienced by communities historically and currently impacted by racism and oppression, particularly **black and indigenous** people.

The Partnership for HOPE SF
Racial Equity and Reparations
Guide (March 2020)





HOUSED. CONNECTED. THRIVING.



Potrero HOPE SF Master Plan

- 5 Phases
- New Infrastructure
 - Realigned street grid
 - New wet/dry utilities
 - New streetscapes, sidewalks, lighting, greenery
 - Public open spaces
 - Community Services and Commercial Spaces
- Housing
 - 619 public housing replacement units
 - 200 more units of affordable housing
 - ~700 market rate units



Potrero Phase 2

- 3.96 Acres
- 74 Households
- 8 buildings
- Grade over 20%



Potrero Phase 2 Infrastructure

- New streets; extension of Arkansas from 25th to 26th
- New wet/dry utilities
- Construction to completion – 8 months
- City Acceptance after Block B completed

- Block B – 157 units of affordable housing.
- Block A – 100-200 units of market rate housing.





Uses	Costs
Predevelopment	\$2,640,000
Abatement/Demo	\$3,800,000
Infrastructure Improvements	\$22,701,134
Total	\$29,141,134
Sources	Amount
Total MOHCD	\$29,141,134
HCD Infill Infrastructure Grant Program	\$11,699,000
HCD AHSC Sustainable Transportation Grant	\$1,500,000
Residual MOHCD Loan	\$15,942,134



San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102

Phone: 415.252.3100 . Fax: 415.252.3112

ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #: 201365

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING (for amendment only)
Original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Shamann walton

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
office of the clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Sara Amara1	4157015614
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
MYR Mayor's Office of Housing and Community	sara.amara1@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR BRIDGE-Potrero Community Associates, LLC	TELEPHONE NUMBER 415-989-1111
STREET ADDRESS (including City, State and Zip Code) 600 California St., Suite 900 San Francisco, CA 94108	EMAIL mdebor@bridgehousing.com

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 201365
DESCRIPTION OF AMOUNT OF CONTRACT \$29,141,134		
NATURE OF THE CONTRACT (Please describe) Contract amount of \$29,141,134 is for Potrero Phase II Infrastructure improvements, which include new streets, wet and dry utilities improvements, sidewalks, etc. Sponsor will complete improvements so new housing can be built within the Phase II footprint.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Parker	Cynthia	CEO
2	Johnson	Susan	COO
3	McKay	Kim	Board of Directors
4	Hlebasko	Rebecca	Board of Directors
5	Sherman	Delphine	CFO
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
39			
40			
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50			

Check this box if you need to include additional names. Please submit a separate form with complete information. Select “Supplemental” for filing type.

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

<p>SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK</p> <p>BOS Clerk of the Board</p>	<p>DATE SIGNED</p>
---	---------------------------

From: [Peacock, Rebecca \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Kittler, Sophia \(MYR\)](#); [Chan, Amy \(MYR\)](#); [Amaral, Sara \(MYR\)](#)
Subject: Mayor -- [Resolution] -- [Potrero HOPE SF –Loan Agreement not to exceed \$29,141,134 for Infrastructure]
Date: Tuesday, December 8, 2020 4:21:58 PM
Attachments: [\(3\) Reso MOHCD Potrero Block 2.zip](#)

Attached for introduction to the Board of Supervisors is a **resolution approving and authorizing the Director of the Mayor’s Office of Housing and Community Development to execute (i) an Amended and Restated Loan Agreement with BRIDGE-Potrero Community Associates LLC, a California limited liability company, for a total loan amount not to exceed \$29,141,134 to finance the second phase of infrastructure improvements and housing development related to the revitalization and master development of up to 1700 units of replacement public housing, affordable housing and market rate housing, commonly known as the Potrero HOPE SF Development (“Potrero Project”); and adopting findings that the loan agreement is consistent with the adopted Mitigation Monitoring and Reporting Program under the California Environmental Quality Act, the City’s General Plan, and the priority policies of Planning Code Section 101.1.**

Please let me know if you have any questions.

Rebecca Peacock ([they/them](#))
(415) 554-6982 | Rebecca.Peacock@sfgov.org
Office of Mayor London N. Breed
City & County of San Francisco