

RECORDING REQUESTED BY, AND  
WHEN RECORDED RETURN TO:

Attn: Director of Property  
Real Estate Division  
City and County of San Francisco  
25 Van Ness Avenue, Suite 400  
San Francisco, CA 94102

No fee for recording pursuant to Government  
Code Section 27383

APN:

[Space Above for Recorder's Use]

**HUNTERS VIEW PHASE III  
PUBLIC IMPROVEMENT AGREEMENT**

This HUNTERS VIEW PHASE III PUBLIC IMPROVEMENT AGREEMENT (this “**Agreement**”) is entered into as of \_\_\_\_\_, 2021 (the “**Effective Date**”), by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation of the State of California (the “**City**”), and Hunters Point Affordable Housing, Inc., a California nonprofit public benefit corporation (“**HPAH**” or “**Subdivider**”).

RECITALS

A. Except as specifically defined herein, capitalized terms shall have the meanings given in (i) the San Francisco Subdivision Code and Subdivision Regulations (the “**Code**”), (ii) the Hunters View Design for Development Document (the “**D for D**”) and (iii) the Plans and Specifications (as defined below).

B. Whereas, pursuant to the Development and Disposition Agreement, by and between the Housing Authority of the City and County of San Francisco, a public body corporate and politic (“**SFHA**”), and Hunters View Associates, LP, a California limited partnership (“**HVA**”) dated January 28, 2021 (the “**Phase III DDA**”), SFHA has transferred all the responsibilities, obligations and liabilities for the construction of the Phase III Required Infrastructure (as defined below) on the land shown on Final Map Tract No. 9677 (the “**Final Map**”) to HVA as “Master Developer”, and has authorized HVA to be its representative.

C. Whereas, HPAH is the co-general partner of HVA and is the designated Subdivider under this Agreement, and pursuant to the terms of this Agreement, the Subdivider may assign to HVA and/or HV Partners 3, LP, a California limited partnership, (“**HVP3**”) the Subdivider’s obligations under this Agreement, provided that Subdivider, HVA and/or HVP3, as the case may be, shall be jointly and severally liable for the Subdivider’s obligations following such assignment.

D. Whereas, San Francisco Public Works (“**PW**”) acknowledges that as described above in Recital B, SFHA has transferred all of the responsibilities, obligations and liabilities for the construction of the Phase III Required Infrastructure from SFHA to HVA, HVP3 or their assignees and has authorized HVA, HVP3 or their assignees to be its representative.

E. Whereas, Owner (as defined below) is engaged in subdividing, and Subdivider and its affiliates are developing the land shown on the Final Map commonly known as Assessor's Block 4624, Lots 32 (the "**Property**"). A tentative map, entitled "Hunters View Phase III Tentative Subdivision Map" (the "**Tentative Map**"), for the proposed subdivision of the Property was approved by the PW Director, acting as the Advisory Agency (the "**Director**" or "**PW Director**"), subject to certain requirements and conditions contained in the section titled "Conditions" in the Director's Public Works Order No. 203737 regarding the Tentative Map application (the "**Conditions of Approval**").

F. Whereas, pursuant to the Code relating to the filing, approval, and recordation of subdivision maps and the Conditions of Approval, Owner submitted to the City, for approval and recordation, the Final Map which, upon approval by the City, will be filed in the Official Records of the City and County of San Francisco.

G. Whereas, Owner and Subdivider have requested that the Final Map be approved prior to the completion of construction and installation of the public improvements required by the Conditions of Approval of the Tentative Map and which are part of or appurtenant to the Property. Such public improvements are more particularly described in those certain improvement plans identified in Exhibit A-1 (as such plans may be revised from time to time, the "**Plans and Specifications**"). The Plans and Specifications provide for the construction, installation and completion of the public improvements identified therein (the "**Phase III Required Infrastructure**"), and include the specifications and details of such public improvements. The term "Phase III Required Infrastructure" also includes any interim or temporary facilities, if any, shown on the Plans and Specifications, and the Middle Point Repairs (as defined below in Recital I). The estimated costs of completing the Phase III Required Infrastructure are described on Exhibit B (the "**Estimated Costs**"). Copies of the Plans and Specifications are on file with the PW.

H. Whereas, the Code provides that before a final subdivision map or parcel map is approved by the City, Subdivider shall have either (i) installed and completed all of the public improvements required by the City and detailed in the plans and specifications approved by the Director, or (ii) entered into an agreement (the "**Public Improvement Agreement**" or "**PIA**") with the City to install and complete, free of liens, all of such public improvements within a definite period of time and provided improvement securities to secure satisfactory performance of such agreement.

I. Whereas, the parties had previously entered into that certain Hunters View Phase II Public Improvement Agreement dated October 27, 2014, for the construction, installation and completion of the Phase II Required Infrastructure (as defined therein); however, Subdivider has requested and the City has agreed to defer a portion of the Phase II Required Infrastructure relating to (i) the eastern curb ramps at Middle Point Road and Fairfax Avenue Intersection, (ii) the Middle Point Road concrete pavement from lip of gutter to lip of gutter from station 62+18.50 to 65+12, and (iii) eastern curb ramps at Middle Point Road and Hare Street, and concrete pavement, curb and gutter between Hare Street and Innes Avenue, all as more specifically provided in Instructional Bulletin – IB-15 dated October 15, 2020, and shown on Sheets 32, 33, 37, 39 and 40 of the "Hunters View Development Project, Phase II Infrastructure" Improvement Plans and Specifications dated September 5, 2014 (collectively, "**Middle Point Repairs**"), to be constructed, installed and completed concurrent with the construction and installation of the Phase III Required

Infrastructure. The Middle Point Repairs are more particularly described on Sheets 34-45 in the Plans and Specifications.

J. Whereas, in order to permit the approval and recordation of the Final Map by the City (including the dedications contained therein), to implement the Conditions of Approval, and to simultaneously satisfy the security provisions of the Code, the City and Subdivider desire to enter into this Agreement.

### AGREEMENT

NOW THEREFORE, in order to ensure satisfactory performance of Subdivider's obligations under the Code, and in consideration of the approval and recordation by the City of the Final Map (including the dedications contained therein), and to implement the Conditions of Approval, and other valuable consideration, Subdivider and the City agree as follows:

1. Definitions.

(a) SFHA means the Housing Authority of the City and County of San Francisco, a public body corporate and politic, who is the Fee Title holder of interest of the Property and signatory to the Final Map.

(b) Owner means SFHA.

(c) HVA means Hunters View Associates, L.P.

(d) HVP3 means HV Partners 3, LP.

(e) HPAH means Hunters Point Affordable Housing, Inc.

(f) Subdivider means HPAH.

(g) General Contractor means Cahill-Nibbi Joint Venture.

(h) Progress Payment means a payment made in compliance with the schedule of partial payment agreed upon in the contract for the work.

2. Subdivider's Obligations.

(a) Completion of Phase III Required Infrastructure; Completion of Middle Point Repairs. Subdivider shall, in good and workmanlike manner, furnish all necessary materials and complete construction of the Phase III Required Infrastructure, including the Middle Point Repairs, as set forth in Exhibit A-1 in accordance with the performance schedule(s) set forth in Exhibit A-2 provided, however, that the periods of time provided in this condition may be extended in accordance with Section 4(b) hereof.

(b) Delivery of As-Built Plans. Within three (3) months after Completion of the Phase III Required Infrastructure, or portion thereof, Subdivider shall furnish to PW and, if requested, the City Department of Building Inspection, as-built plans for such Phase III Required

Infrastructure, or portion thereof, in both electronic (in a reasonably current version of AutoCAD) and Mylar formats and any reports required in connection with such Phase III Required Infrastructure, or portion thereof, by the Plans and Specifications.

(c) Assignment of Subdivider's Obligations. Subdivider may assign to HVA and/or HVP3 the Subdivider's Obligations, which shall be in writing and clearly identify the scope of the rights and/or obligations assigned. Following any such assignment, Subdivider, HVA and/or HVP3, as the case may be, shall be jointly and severally liable for any and all of the Subdivider's Obligations.

3. Improvement Security.

(a) Security. Subject to Subdivider being a nonprofit corporation in the State of California, City agrees that Subdivider, as an eligible nonprofit corporation under Section 66499.3(c) of the Government Code, shall not be required to comply with the bonding requirements set forth in Section 66499.3(a) and (b) provided the following conditions are satisfied:

(i) Subdivider shall post with the City a performance bond that secures its faithful performance in an amount equal to 100 percent of the construction contract attached hereto as Exhibit C-1 (the "**Performance Bond**"), a payment bond required to secure the labor and materials in an amount equal to 100 percent of the construction contract for the payment of labor and materials attached hereto as Exhibit C-2 (the "**Labor and Materials Bond**"), and further a bond required to secure the survey monuments to be installed attached hereto as Exhibit C-3 (the "**Monument Bond**," and together with the Labor and Materials Bond and Performance Bond, the "**Bonds**"). The Bonds under this Section 3(a)(i), or other security deemed acceptable to the City in accordance with California Government Code Sections 66499 et seq., shall be provided to the City prior to the issuance of any Street Improvement Permit by the City. Any assignee of Subdivider shall be a co-obligee on the Bonds. The San Francisco Mayor's Office of Housing and Community Development ("**MOHCD**") shall be designated as the depository under Section 66499.3(c)(2) for moneys ultimately payable to the general contractor in the form of progress payments. The required Bonds, in the amounts that the City Engineer has certified, shall be as follows:

(A) Performance bonds in the amount of \$8,710,800 (100% of estimated cost of completion of the construction and installation of the Phase III Required Infrastructure as determined by the PW Director) to secure the satisfactory performance of Subdivider's obligations (Exhibit C-1); and

(B) A payment bond or other acceptable security in the amount of \$4,355,400 (50% of the estimated cost of completion of the Phase III Required Infrastructure as determined by the PW Director) as guarantee of payment for the labor, materials, equipment, and services required for Required Infrastructure (Exhibit C-2).

(C) Monument bonds in the total amount of \$37,500 for each of the 35 monuments to be installed, representing 100% of the cost of installation of the monuments

in as guarantee of payment for the labor, materials, equipment, and services required for the required monuments (Exhibit C-3).

(ii) All progress payments to the general contractor shall be conditioned on (i) the general contractor's certification to Subdivider that all labor performed in the work, and all materials furnished to and installed in the work, have been paid for in full to the date of certification, (ii) the written approval of Subdivider, and (iii) review and approval of progress payment billings by City. Subdivider shall require the general contractor to deliver all such certifications through the United States mail.

(iii) Final payment to the general contractor shall not be made until 30 days have expired after the filing and recording of the Notice of Completion of the work and acceptance of the work by, and a waiver of lien rights provided by the general contractor to, City in accordance with Section 6(a).

(b) Other Acceptable Security. In lieu of providing any of the security described in Section 3(a)(i) above, Subdivider may, subject to the approval of the Director, provide other security as described in Section 66499 of the Government Code. The Director has entered into a Memorandum of Agreement (“**MOA**”) with MOHCD that commits MOHCD to provide at least 20% of the financing for the Subdivider's Obligations. The Director determines that the MOA provides the equivalent security to that of Government Code Section 66499(a)(3) because both departments are constituent parts of the City and County of San Francisco, and therefore, such a MOA is acceptable security in lieu of an actual instrument of credit. A copy of this MOA is attached hereto as Exhibit C-4. When the Subdivider posts the security specified in Section 3(a)(i) with the City and copies of such bonds made part of this Agreement, the MOA shall automatically terminate and there shall be no requirement to amend this Agreement to reflect the change in security from that provided under this Section 3(b) to the bonds specified in Section 3(a)(i). Any security provided under Section 3(a)(i) or Section 3(b) shall be referred to collectively as the “**Security**”.

#### 4. Construction of Phase III Required Infrastructure.

(a) Permits and Fees. Subdivider shall not allow the performance of any work subject to this Agreement until all required permits have been obtained for the portion of work involved, and all applicable fees, including inspection and testing fees, have been paid.

Prior to the approval of the Final Map, and as requested by the City, Subdivider shall arrange for all easements to be granted to the City to allow for construction of the required public improvements on the Property and provide irrevocable Offers of Dedication in Fee Title of the portions of the Property where said public improvements will be constructed and used as future public right-of-way. The PW Director, in his or her discretion, may allow the Subdivider to defer this requirement until prior to approval of an improvement permit or to a later specified date. The PW Director shall issue such deferral in writing.

#### (b) Extensions.

(i) Requested Extensions. Subdivider may request extensions of the time periods specified in Section 2(a) by submission of a request(s) to the Director. A request shall

be in writing, state adequate evidence to justify the extension, and shall be made not less than thirty (30) days prior to expiration of this Agreement. The Director shall in good faith attempt to determine within such time whether an extension of time shall be granted. The Director's failure to respond within the time specified shall, however, not constitute either a grant or denial of the requested extension. The periods of time for performance under this Agreement shall be automatically extended for the period during which a request for an extension is pending a determination by the Director. The Director shall not unreasonably withhold, condition or delay a request for an extension. The Director may reasonably condition an extension subject to the terms of this Agreement and the conditions provided in the Code, including execution of an Extension Agreement.

(ii) Permit Processing. The periods of time for performance under this Agreement shall be extended for Unavoidable Delay as determined in Section 4(b)(iii) for the period of time associated with permit processing, including, without limitation, permit processing by and obtaining permits and approvals from all agencies with jurisdiction over the Phase III Required Infrastructure.

(iii) Unavoidable Delay. The periods of time for performance under this agreement shall be automatically extended for Unavoidable Delay which is a delay in a Party's performance of its obligations hereunder that is caused by (a) acts of God, enemy action, civil commotion, fire, flood, earthquake or other casualty, (b) strikes or other labor disputes (to the extent not resulting from the labor practices of the Party claiming the benefit of Unavoidable Delay), (c) material shortages of or inability to obtain labor or materials beyond the reasonable control of the Party claiming the benefit of Unavoidable Delay, (d) lawsuits brought by plaintiffs unaffiliated with the Party claiming the benefit of Unavoidable Delay, (e) delays by governmental or quasi-governmental entities in issuing requisite approvals or consents beyond the reasonable control of the Party claiming the benefit of Unavoidable Delay, including without limitation failure of the City to respond to Subdivider's submissions within the time periods set forth in this Agreement, (f) quarantine or other restrictions on operations or activities as a result of epidemic, disease, contagion or other health conditions, including the COVID-19 pandemic in effect as of the Effective Date and any subsequent force majeure events caused by or resulting from such COVID-19 pandemic, including measures taking by any governmental authority that prohibits or makes it reasonably impractical for a party to perform any obligation hereunder or for any governmental body or authority to conduct any operations or work necessary to permit a party to perform its obligations hereunder, or (g) any other event beyond the reasonable control of the Party claiming the benefit of Unavoidable Delay. Delays beyond a Party's reasonable control exclude delays to the extent caused by the negligent act or omission or willful misconduct of the Party claiming the benefit of Unavoidable Delay. This Unavoidable Delay provision shall not apply, however, unless (g) the party seeking to rely upon such provisions shall have given notice to the other party, within thirty (30) days after obtaining actual knowledge of the beginning of an enforced delay, of such delay and the cause or causes thereof, to the extent known, and (h) a party claiming the Unavoidable Delay must at all times be acting diligently and in good faith to avoid foreseeable delays in performance, to remove the cause of the delay or to develop a reasonable alternative means of performance.

(iv) Extensions Generally. The provisions in this Section 4(b) are in addition to and not a limitation of any other provision for extensions in this Agreement or in the

Plans and Specifications. No extension approved hereunder shall relieve the surety's liability under the Security.

(c) Revisions to Plans and Specifications. Requests by Subdivider or its agent for revisions, modifications or amendments to the approved Plans and Specifications (each, a "**Plan Revision**") shall be submitted in writing to the Director (or the Director's designee). If the Plan Revision is acceptable to the Director (or the Director's designee), the Director (or the Director's designee) shall approve proposed Plan Revisions which are substantially consistent with the Plans and Specifications and the Final Map. Construction of any proposed Plan Revision shall not commence without prior approval pursuant to this Section 4(c). Construction of any Plan Revision prior to approval shall be at the Subdivider's risk. Plan Revisions shall be accompanied by drawings and specifications and other related documents showing the proposed Plan Revision so as to adequately describe the proposed change and the cost and effect thereof.

(d) Subdivider shall, at no cost to the City, cause all new or replacement electricity distribution facilities, telephone, community cable, and other distribution facilities located as part of the work in Exhibit A-1 to be placed underground. The Plans and Specifications must demonstrate that underground utilities and structures are designed to accommodate future settlement. All utilities, vaults, splice boxes and appurtenances shall be placed underground, subject to approval of the Director.

5. Release of Security. The Security, or any portions thereof, not required to secure completion of Subdivider's obligation for construction or installation of the Phase III Required Infrastructure; to satisfy claims by contractors, subcontractors, and/or persons furnishing materials or equipment; or for setting monuments, set forth on the Final Map, shall be released to the general contractor, or its successors in interest, or reduced, as follows:

(a) Release of Security.

One Year Warranty Bond. Upon the Director's determination of completion of the Phase III Required Infrastructure in accordance with Section 6(a), the Security shall be reduced to ten percent (10%) of the original amount for the purpose of warranting repair of any defect of the Phase III Required Infrastructure which occurs within one year of when: (i) the Phase III Required Infrastructure (or portion thereof), and specifically including each of the respective Phase III Required Infrastructure described on Exhibit A-1 has been completed to the satisfaction of the Director in accordance with Section 6(a) below and provided that the one year warranty period for plant materials, and trees shall commence after the Director receives certification from the City Construction Manager that the plant materials and trees have passed a plant establishment period as set forth in the Plans and Specifications, and (ii) the Clerk of the Board of Supervisors (or the Clerk's designee) certifies that no claims by any contractor, subcontractor or person furnishing labor, materials or equipment for the Phase III Required Infrastructure have been filed against the City within the one hundred (100) day period following completion of the Phase III Required Infrastructure as determined upon review by the Director in accordance with Section 6(a). If any claims by any contractor, subcontractor or person furnishing labor, materials or equipment to the Subdivider have been filed against the City, then the Security applicable to such Phase III Required Infrastructure shall be reduced to an amount equal to the greater of (i) the amount of all such claims filed or (ii) ten percent (10%) of the original amount.



(i) Partial Release of Security. Notwithstanding the release provisions in Section 5(a), the Security may be reduced in conjunction with completion of any portion of the Phase III Required Infrastructure to the satisfaction of the Director and may be reduced in connection and conjunction with completion of each of the respective Phase III Required Infrastructure separately described on Exhibit A-1 upon review in accordance with Section 6(a) hereof, by an amount determined by the Director that is not less than the actual cost of the completed portion of the Phase III Required Infrastructure. In no event, however, shall the amount of the Security be reduced below the greater of (i) the amount required to guarantee the completion of the remaining portion of the Phase III Required Infrastructure and any other obligation imposed by the Subdivision Map Act, the Code, this Agreement, the Street Improvement Permit or any other agreement relating to the completion of the Phase III Required Infrastructure or (ii) ten percent (10%) of the original amount of the Security.

(ii) Release of Remaining Security. The remaining Security shall be released when all of the following have occurred:

(A) One (1) year following the date of Acceptance (as defined in Section 6(b)) of the Phase III Required Infrastructure, or portion thereof, by the Board of Supervisors, or, with respect to street trees and park trees one year after the commencement of the warranty period as described in Section 8(a), or, with respect to any specific claim of defects or deficiency in the Phase III Required Infrastructure, one (1) year following the date that any such deficiency which the Director identified in the Phase III Required Infrastructure in accordance with Section 4(a) has been corrected or waived in writing; and

(B) the Clerk of the Board of Supervisors (or the Clerk's designee) certifies that no claims by any contractor, subcontractor or person furnishing labor, materials or equipment for the Phase III Required Infrastructure have been filed against the City, all such claims have been satisfied, withdrawn, or otherwise secured by bond or other security approved by the Director (or the Director's designee).

## 6. Completion and Acceptance.

(a) Director's Inspection. No sooner than ninety (90) days prior to the date that Subdivider intends to request the Director issue a Notice of Completion, Subdivider shall make a written request to the Director of the Subdivider's intent to initiate the Notice of Completion process ("**Letter of Intent to Request Notice of Completion**"). Upon written request from the Subdivider for a "**Notice of Completion**" as defined in the Code, accompanied with any and all materials that are required as listed in Exhibit E related to the Notice of Completion, the Director shall initiate the inspection. If the Subdivider fails to submit a Letter of Intent to Request Notice of Completion, the Director need not consider the Subdivider's request for the Director's issuance of a Notice of Completion until such a Letter of Intent to Request Notice of Completion is submitted to the Director and ninety (90) days have passed from the submission of the Letter; provided, however, that the Director, in his or her discretion, may agree in writing to a period of less than ninety (90) days from receipt of the Letter to consider issuance of a Notice of Completion. If the Director determines that the Phase III Required Infrastructure has not been completed or does not satisfy the above requirements, Director shall notify Subdivider of such determination



together with a statement setting forth with particularity the basis for that determination. If the Director determines that the Phase III Required Infrastructure has been completed and meets the above requirements, the Director shall issue the Notice of Completion.

(b) Acceptance. “**Acceptance**” by the City of the Phase III Required Infrastructure, or portion thereof, for public use and maintenance shall be deemed to have occurred when:

(i) The Director has issued a Notice of Completion for the Phase III Required Infrastructure, or portion thereof, in accordance with Section 6(a);

(ii) The Subdivider submits all the documents required pursuant to Exhibit F to the Director to initiate acceptance legislation or other appropriate action, before the Board of Supervisors as appropriate; and

(iii) The Board of Supervisors by ordinance or other appropriate action accepts the Phase III Required Infrastructure, or portion thereof; for public use and maintenance, in accordance with the provisions of San Francisco Administrative Code Section 1.52 and Subdivider’s maintenance and warranty obligations under Sections 7 and 8(a), respectively hereof.

(c) Offers of Dedication. The owners’ statements of the Final Map include or shall include to the extent applicable certain irrevocable offers of dedication of improvements, easements shown only on the map, easements by agreement, and real property in fee simple. In addition, the offers of dedication of improvements shall be made by separate instrument(s); the offers of dedication of real property in fee simple shall be made by separate instrument(s) and separate quitclaim deed(s); and the offers of dedication of easements shall be made by separate instrument(s). The Board of Supervisors shall accept, conditionally accept or reject such offers. The City, at its discretion, may accept these easements at its convenience through formal action of the Board of Supervisors or as otherwise provided in local law. The Board of Supervisors shall also by ordinance accept, conditionally accept, or reject for public right of way and utility purposes the lots designated for public streets and the Phase III Required Infrastructure (or portions thereof) in accordance with Section 6(b). The Final Map includes certain offers of dedication as more particularly set forth therein. Upon the Director’s issuance of a Notice of Completion for the Phase III Required Infrastructure, or portion thereof, in accordance with Section 6(a) of this Agreement, the Board of Supervisors shall by ordinance or other appropriate action accept, conditionally accept, or reject such offers. Subdivider will coordinate with the City and assist in the City’s process for dedication and Acceptance of Phase III Required Infrastructure by (i) providing necessary deeds, maps, legal descriptions and plats for street openings, easements and/or dedications for right of way or utility purposes and for relinquishment of existing rights of access and utilities associated with on-site and off-site development; (ii) executing easement agreements consistent with the Conditions of Approval for the Tentative Map; and (iii) providing easement agreement documents consistent with the Conditions of Approval of the Tentative Map and the completion and Acceptance of the Phase III Required Infrastructure as follows: easements for emergency vehicle access and emergency exiting, private easements for those uses described in the master declarations and the declaration of restrictions, and public service easements for access by the City and for public utilities.

(d) No Acceptance of Interim or Temporary Facilities. The City shall not be obligated to accept or maintain any Interim or Temporary Facilities shown on the Plans and Specifications for the Phase III Required Infrastructure. Parties acknowledge that Subdivider shall continue to maintain all Interim or Temporary Facilities until such time as the final Public Infrastructure that will replace the need for the Interim or Temporary Facilities as determined by the Director is completed unless the parties, by mutual written instrument and any necessary City Approvals, agree otherwise.

(e) Termination of Existing Access and Utility Easements. Existing access and utility easements in any proposed right of way areas that are included as part of the Phase III Required Infrastructure shall be terminated, quitclaimed, vacated or relinquished, in whole or in part, in accordance with the terms of such easements upon: (1) the provision of alternative facilities; (2) the determination by the Director that such utility or access rights are no longer required; or (3) the City's Acceptance of dedicated public streets and associated utility facilities. The City shall not be obligated to accept any such right of way area unless and until any easements that could interfere or conflict with such facilities have been addressed to the City's satisfaction.

7. Maintenance of Phase III Required Infrastructure.

(a) Maintenance Prior to Acceptance. Prior to Acceptance, Subdivider shall be responsible for the maintenance and repair of the Phase III Required Infrastructure.

(b) Maintenance Following Acceptance. Following Acceptance, the City shall assume the responsibility of operating and maintaining the Phase III Required Infrastructure, or portion thereof subject to the limitations in Section 6(b)(iii) above, and Subdivider's obligations under Section 8(a) of this Agreement. The City shall have no obligation to accept or maintain any Interim or Temporary Facilities.

8. Warranty and Indemnity.

(a) Warranty. Acceptance of Phase III Required Infrastructure, or portion thereof, by the City shall not constitute a waiver of defects by the City. Subdivider covenants that all Phase III Required Infrastructure constructed or installed by Subdivider shall be free from defects in material or workmanship and shall perform satisfactorily for a period of one (1) year following the completion of the Phase III Required Infrastructure (or portion thereof), except that the Warranty period for the plant materials and trees planted pursuant to the Phase III Required Infrastructure shall not commence until the Director receives a certification from the City's Construction Manager that the trees have passed a plant establishment period set in accordance with the Plans and Specifications (the "**Warranty Period**"). During the Warranty Period, Subdivider shall, as necessary, and upon receipt of a request in writing from the Director that the work be done, correct, repair or replace any defects in the Phase III Required Infrastructure at its own expense. During the Warranty Period, should Subdivider fail to act with reasonable promptness to make such correction, repair or replacement, or should an emergency require that correction, repair or replacement be made before Subdivider can be notified (or prior to Subdivider's ability to respond after notice), City may, at its option, provided that notice thereof is provided to Subdivider, make the necessary correction, repair or replacement or otherwise perform the necessary work and Subdivider shall reimburse the City for the actual cost thereof.

During the Warranty Period, the City shall hold Subdivider's reduced performance bond (or separate warranty bond in the same amount) as described in Section 5, to secure performance of Subdivider's foregoing warranty obligations.

(b) Indemnity. Subdivider, its successors and assigns shall indemnify, defend and hold the City and each of the City's Agencies harmless for, from and against any and all Losses arising out of the breach of this Agreement by the Subdivider, the Subdivider's or any of its contractors', agents', consultants' or representatives' negligent or defective construction of the Phase III Required Infrastructure, constructed or installed by the Subdivider under this Agreement, the Subdivider's nonpayment under contracts between the Subdivider and its consultants, engineers, advisors, contractors, subcontractors or suppliers in the provision of such Phase III Required Infrastructure, or any claims of persons employed by the Subdivider or its contractors, agents, consultants or representatives to construct such Phase III Required Infrastructure, all subject to the terms, conditions, and exceptions of the Phase III DDA, provided, however, that Subdivider's obligations to indemnify, defend and hold the City harmless shall not extend to any claims to the extent arising out of or relating to the negligence or willful misconduct of the City or its agents, and further provided that any demand for indemnification hereunder with respect to negligent or defective construction must be brought, if at all, within one (1) year after the related Phase III Required Infrastructure, or portion therefore, is determined to be complete by the Director in accordance with Section 6(a) hereof. The City shall not be an insurer or surety for the design or construction of the Phase III Required Infrastructure pursuant to the Plans and Specifications, nor shall any officer or employee thereof be liable or responsible for any accident, loss, or damage happening or occurring during the construction of the Phase III Required Infrastructure as specified in this Agreement, except as may arise due to the negligence or willful acts or omissions of the City.

9. Other Items.

(a) Private Roadway Funding Mechanisms. All private roadways shown on the Final Map shall be constructed by the Subdivider or its affiliate.

10. Miscellaneous.

(a) Final Map Recordation. The City, in accordance with the Code, shall record the Final Map with the County Recorder in the Official Records of the City and County of San Francisco. The City shall notify Subdivider and Owner of the time of recordation of the Final Map. In the event the Final Map is not recorded, this Agreement shall be null and void.

(b) Independent Contractor. In performing its obligations under this Agreement, Subdivider is not an agent or employee of the City.

(c) Notices.

(i) A notice or communication under this Agreement by any party to the other (or by or to the Director) shall be sufficiently given or delivered if dispatched by hand or by registered or certified mail, postage prepaid, addressed as follows:

In the case of a notice or communication to the City or the Director:

Director of Public Works  
City and County of San Francisco  
49 South Van Ness Avenue  
San Francisco, CA 94103  
Attn: Infrastructure Task Force Manager  
Telefacsimile: (415) 581-2569

With copies to:

Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102  
Attn: Land Use Team  
Reference: Hunters View Phase III Project  
Telefacsimile: (415) 554-4757

And in the case of a notice or communication to Subdivider at:

Hunters Point Affordable Housing, Inc.  
c/o John Stewart Company  
1388 Sutter Street, 11th Floor  
San Francisco, CA 94109  
Attn: Jack D. Gardner  
Telefacsimile: (415) 614-9175

With copies to:

Lubin Olson & Niewiadomski LLP  
600 Montgomery Street, 14<sup>th</sup> Floor  
San Francisco, CA 94111  
Attn: Charles R. Olson, Esq.  
Telefacsimile: (415) 981-4343

HOUSING AUTHORITY OF THE CITY AND COUNTY OF SAN FRANCISCO  
1815 Egbert Avenue  
San Francisco, CA 94124  
Attn: Executive Director  
Telefacsimile: (415) 715-3211

For the convenience of the parties, copies of notice may also be given by telefacsimile.

Every notice given to a party hereto, pursuant to the terms of this Agreement, must state (or must be accompanied by a cover letter that states) substantially the following:

(A) the section of this Agreement pursuant to which the notice is given and the action or response required, if any;

(B) if applicable, the period of time within which the recipient of the notice must respond thereto;

(C) if approval is being requested, shall be clearly marked "Request for Approval under the Hunters View Phase III Public Improvement Agreement"; and

(D) if a notice of disapproval or an objection which requires reasonableness, shall specify with particularity the reasons therefor.

(ii) Any mailing address or telefacsimile number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. All notices under this Agreement shall be deemed given, received, made or communicated on the date personal receipt actually occurs or, if mailed, on the delivery date or attempted delivery date shown on the return receipt. A party may not give official or binding notice by telefacsimile.

(iii) Any notice or request for review, consent or other determination or action by the Director that could be subject to deemed approval under any provision of this Agreement shall display prominently on the envelope enclosing such request (if any) and the first page of such request, substantially the following words: "HUNTERS VIEW INFRASTRUCTURE: IMMEDIATE ATTENTION REQUIRED; FAILURE TO RESPOND COULD RESULT IN THE REQUEST BEING DEEMED APPROVED."

(d) Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto, and upon such transfer, Owner or Subdivider shall be released from its obligations hereunder upon providing written evidence of a proper Assignment and Assumption Agreement. Any such assignment shall be in writing, shall clearly identify the scope of the rights and/or obligations assigned and shall be subject to the reasonable approval of the Director.

(e) Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist upon and demand strict compliance by the other party with the terms of this Agreement thereafter.

(f) Parties in Interest. Nothing in this Agreement, expressed or implied, is intended to or shall be construed to confer upon or to give to any person or entity other than the parties hereto any rights, remedies or claims under or by reason of this Agreement or any covenants, conditions or stipulations hereof; and all covenants, conditions, promises, and agreements in this Agreement contained by or on behalf of the City or Subdivider shall be for the sole and exclusive benefit of such parties.

(g) Amendment. This Agreement may be amended, from time to time, by written supplement or amendment hereto and executed by the City and Subdivider. The Director is authorized to approve and execute on behalf of the City any amendment that the Director

determines is in the City's best interests and does not materially increase the City's obligations or materially diminish the City's rights under this Agreement.

(h) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

(i) Interpretation of Agreement. Unless otherwise provided in this Agreement, whenever approval, consent or satisfaction is required of Subdivider or the City pursuant to this Agreement, it shall not be unreasonably withheld or delayed. Captions used in this Agreement are for convenience or reference only and shall not affect the Interpretation or meaning of this Agreement. This Agreement shall in no way be construed to limit or replace any other obligations or liabilities which the parties may have under the Plans and Specifications, any permit to enter, Street Improvement Permit or any other agreement entered into in accordance therewith.

11. Insurance. At all times prior to Acceptance of the Phase III Required Infrastructure, Subdivider shall comply with the insurance requirements as required by applicable City regulations. Subdivider shall furnish to the City, from time to time upon request by the City's Risk Manager, a certificate of insurance (and/or, upon request by the City's Risk Manager, a complete copy of any policy) regarding each insurance policy required to be maintained by Subdivider as by the City.

12. Recording.

(a) Recording Agreement. The parties to this Agreement acknowledge that this Agreement shall be recorded against the title of the Property.

(b) Purpose and Effect of Recording. This Agreement shall be recorded for the purpose of providing constructive notice to any future owner of the Property of Subdivider's obligations and responsibilities under Section 2. This Agreement shall not be interpreted as creating a lien or security interest against any parcel against which it is recorded, or to effect any secured interest now or in the future, as the obligations hereunder are personal to Subdivider and its successors and assigns as may be authorized pursuant to Sections 2(c) and 10(d).


(c) Notice of Termination. At the time all the obligations and requirements specified in this Agreement are fully satisfied as determined by the Director in consultation with affected City departments, the parties shall record a Notice of Termination, the form of which is contained in Exhibit G. Alternatively, Subdivider may request the Director's authorization to record a Notice of Termination with respect to an individual parcel. In evaluating such a request, approval of which shall be in the Director's reasonable discretion, the Director shall consider with respect to Phase III Required Infrastructure necessary to serve the parcel, whether: (i) all Phase III Required Infrastructure has been completed and accepted by the City, as applicable; (ii) all corresponding bond amounts have been released; (iii) all defects and punch list items have been addressed; and (iv) all warranty and guarantee periods have terminated.

**[REMAINDER OF PAGE INTENTIONALLY BLANK]**

IN WITNESS WHEREOF, Subdivider and the City have executed this Agreement as of the Effective Date.

**Subdivider:**

HUNTERS POINT AFFORDABLE HOUSING, INC.,  
A California nonprofit public benefit corporation

By:   
Regina Coleman  
Its President

**City:**

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation of the State of California

Approved as to Form:

By:   
Name: CHRISTOPHER TOM  
Title: Deputy City Attorney

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Director of Public Works



**HUNTERS POINT AFFORDABLE HOUSING, INC. ACKNOWLEDGEMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California  
County of San Francisco

On April 29, 2021 before me, Linda Daggs  
(here insert name and title of officer), personally appeared Regina Coleman, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Linda M. Daggs (seal)



**NOTARY ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California            )

  ) ss

County of San Francisco )

On \_\_\_\_\_, before me, \_\_\_\_\_, a notary public in and for said State, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

\_\_\_\_\_

## **LIST OF EXHIBITS**

Exhibit A-1 – Plans and Specifications

Exhibit A-2 – Performance Schedule

Exhibit B – Estimated Costs

Exhibit C-1 – Performance Bond

Exhibit C-2 – Labor and Materials Bond

Exhibit C-3 – Monument Bond

Exhibit C-4 – Memorandum of Agreement between MOHCD and Public Works Regarding Security

Exhibit D – Reserved

Exhibit E – List of Documents Required by City in Order to Issue a Notice of Completion

Exhibit F – List of Documents Required by the City in Order to Make a Request for Acceptance

Exhibit G – Form of Notice of Termination

1. Permanent Improvements included in Improvement Plans and Specifications prepared by Carlile Macy entitled "Hunters View Development Project, Phase III Infrastructure," Permit Number 21IE-00193, dated April 23, 2021 and approved by or on behalf of the Director, on April 23, 2021.

<b>ACTION</b>	<b>DATE</b>
1. Issue Notice to Proceed for Phase III Required Infrastructure Improvements.	No later than September 1, 2021
2. Complete Phase III Required Infrastructure Improvements including As-Built Drawings and secure the Notice of Completion from the Department of Public Works.	No later than November 30, 2023
3. Dedicate Phase III Public Right of Way Improvements to the City of San Francisco.	No later than two months after the Board of Supervisors' Acceptance of Improvements is received.

**EXHIBIT B**

**Estimated Costs**

See attached schedule of values.

**Hunter View - Phase 3**  
**Sample Cost Estimate**  
**Engineer's Construction Cost Estimate**  
**Based on on 100% Improvement Plans Dated 4-8-21**  
**May 3, 2021**

<b>Item</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Amount</b>	<b>Totals</b>
<b>A) <u>Earthwork</u></b>						
1	Clear & Grub	1	LS	200,000.00	200,000	
2	Demolition	1	LS	500,000.00	500,000	
3	Cut	9,578	CY	15.00	143,670	
4	Fill	9,578	CY	15.00	143,670	
<b>Subtotal</b>						<b>\$987,340</b>
<b>B) <u>Street Work &amp; Miscellaneous</u></b>						
5	0.67 ft. Concrete Paving	45,414	SF	13.00	590,382	
6	0.5 ft. Class II Aggregate Base	33,178	SF	6.00	199,068	
7	0.166 ft. ACWS	33,178	SF	4.00	132,712	
8	Edge Grind AC (10 ft. wide)	524	SF	50.00	26,200	
8	Std. Curb	2,538	LF	50.00	126,900	
10	Std. Gutter (24" Gutter)	2,563	LF	70.00	179,410	
10	Sidewalk & Driveway Apron	20,841	SF	8.00	166,728	
12	Handicap Ramps	18	EA	5,000.00	90,000	
13	Paving Markings	1	LS	15,000.00	15,000	
14	Monuments	5	EA	1,000.00	5,000	
15	Street Signs	34	EA	500.00	17,000	
16	Street Light-Pedestrian	25	EA	10,000.00	250,000	
15	Concrete Retaining Walls	172	LF	1,500.00	258,000	
17	Collapsible Bollards	4	EA	500.00	2,000	
18	Bus shelter	1	EA	15,000.00	15,000	
21	Temp. Tree Protection Fence	135	LF	5.00	675	
21	Fire Call Box	1	EA	10,000.00	10,000	
<b>Subtotal</b>						<b>\$2,084,075</b>



**Hunter View - Phase 3**  
**Sample Cost Estimate**  
**Engineer's Construction Cost Estimate**  
**Based on on 100% Improvement Plans Dated 4-8-21**  
**May 3, 2021**

<b>Item</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Amount</b>	<b>Totals</b>
<b>C) <u>Combined Sewer System</u></b>						
22	10" VCP Combined Sewer Main	97	LF	400.00	38,800	
23	12" VCP Combined Sewer Main	257	LF	450.00	115,650	
24	12" Private Combined Sewer Main	25	LF	450.00	11,250	
25	15" VCP Combined Sewer Main	553	LF	500.00	276,500	
26	48" CS Manholes	11	EA	22,000.00	242,000	
27	Sewer & Storm Drain Lateral	4	EA	5,000.00	20,000	
28	Sewer Lateral	4	EA	300.00	1,200	
Subtotal						<b>\$705,400</b>
<b>D) <u>Storm Drainage</u></b>						
29	4" Perforated Pipe	3	LF	50.00	150	
30	8" Storm Drains	87	LF	100.00	8,700	
31	10" PVT Storm Drains	30	LF	110.00	3,300	
32	12" PVT Storm Drains	1,168	LF	115.00	134,320	
33	15" Storm Drains	110	LF	120.00	13,200	
34	Storm Drain Lateral	3	EA	5,000.00	15,000	
35	Catch Basin-SF STD	6	EA	8,000.00	48,000	
36	DI (24"x24")	3	EA	3,000.00	9,000	
37	DI w/ Sand Trap (24"x24")	7	EA	3,200.00	22,400	
38	FD (24"x24")	14	EA	3,000.00	42,000	
39	FD w/Sand trap (24"x24")	7	EA	3,200.00	22,400	
40	Storm Water Infiltration Basin (IB)	1	EA	250,000.00	250,000	
41	48" SD Manhole	3	EA	22,000.00	66,000	
42	Storm Drain Treatment Unit	1	EA	89,700.00	89,700	
43	Earth Swale	1,271	LF	5.00	6,355	
44	Fabric Lined Swale	445	LF	8.00	3,560	
45	Rock Lined Swale	1,178	LF	10.00	11,780	
Subtotal						<b>\$745,865</b>

**Hunter View - Phase 3**  
**Sample Cost Estimate**  
**Engineer's Construction Cost Estimate**  
**Based on on 100% Improvement Plans Dated 4-8-21**  
**May 3, 2021**

<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Amount</u>	<u>Totals</u>
<b>E) <u>Water System</u></b>						
46	12" Low Point Water Main	883	LF	600.00	529,800	
47	8" Reclaimed Water	932	LF	400.00	372,800	
48	8" Gate Valves	3	EA	2,000.00	6,000	
49	12" Gate Valves	4	EA	3,000.00	12,000	
50	Fire Hydrant Assembly	4	EA	15,000.00	60,000	
51	8" Blowoff & Tie-in to Ex W	4	EA	3,000.00	12,000	
52	12" Blowoff & Tie-in to Ex W	6	EA	3,500.00	21,000	
53	2" Air Release Valve	9	EA	3,000.00	27,000	
54	1" Water Service	1	EA	2,000.00	2,000	
55	3" Water Service	7	EA	2,000.00	14,000	
56	3" Reclaimed Water Service	9	EA	2,000.00	18,000	
57	6" Fire Service	7	EA	6,000.00	42,000	
<b>Subtotal</b>						<b>\$1,116,600</b>
<b>F) <u>Utilities</u></b>						
58	Joint Trench	2,108	LF	500.00	1,054,000	
59	Gas line	1,362	LF	200.00	272,400	
<b>Subtotal</b>						<b>\$1,326,400</b>
<b>G) <u>Landscape &amp; Irrigation</u></b>						
60	Landscape Pavers	11,518	SF	18.00	207,324	
61	Street trees	86	EA	1,000.00	86,000	
<b>Subtotal</b>						<b>\$293,324</b>
<b>Total</b>						<b>\$7,259,004</b>
<b>20% Contingency</b>						<b>\$1,451,801</b>
<b>Grand Total</b>						<b>8,710,800</b>

The above figures prepared by the Engineer are an OPINION OF PROBABLE COST of items, including labor and materia costs, noted and are supplied as a guide only. The above figures are NOT a guarantee of maximum cost. The Engineer is n responsible for fluctuations in cost of materials or labor.

**EXHIBIT C-1**

**Performance Bond**

**[To be added when the Subdivider posts such bond.]**

**Copies of such bond will be on file with San Francisco Public Works and/or Subdivider.]**

**EXHIBIT C-2**

**Labor and Materials Bond**

**[To be added when the Subdivider posts such bond.**

**Copies of such bond will be on file with San Francisco Public Works and/or Subdivider.]**

**EXHIBIT C-3**

**Monument Bond**

**[To be added when the Subdivider posts such bond.**

**Copies of such bond will be on file with San Francisco Public Works and/or Subdivider.]**

**EXHIBIT C-4**

**Mayor's Office of Housing and Community Development/Public Works**

**Memorandum of Agreement Concerning Improvement Security**

## MEMORANDUM OF AGREEMENT

(Hunters View Phase 3 Public Improvement Security)  
(Exhibit C-4 to Public Improvement Agreement)

This Memorandum of Agreement ("**MOA**") is dated as of \_\_\_\_\_ by and between the Mayor's Office of Housing and Community Development ("**MOHCD**") and San Francisco Public Works ("**SFPW**"). MOHCD and SFPW are both departments of the City and County of San Francisco, a municipal corporation ("**City**").

### RECITALS

A. In 2003, San Francisco Housing Authority ("**SFHA**") issued a Request for Qualifications for a developer to redevelop the Hunters View public housing site, which totaled 22.56-acres. In August 2005, SFHA selected the development team originally formed as Hunters View Community Partners, and now currently formed as Hunters View Associates, a California nonprofit public benefit corporation ("**Developer**"). Developer is comprised of the John Stewart Company ("**JSCo**"), Devine & Gong, Incorporated ("**DGI**"), and Hunters Point Affordable Housing, Inc., a California nonprofit public benefit corporation ("**HPAP**" or "**Subdivider**").

B. Hunters View is a public housing development owned by the San Francisco Housing Authority in the City and County of San Francisco, California, which originally consisted of 267 rental units and is undergoing a multiphase renovation to create a new viable mixed-finance project ("**Hunters View**"). In addition, Hunters View was the first project developed under the City and the SFHA under the City's HOPE SF Program ("**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. The entire Hunters View development will consist of the demolition of the original 267 public housing apartment units on the property, and new construction of (a) 267 replacement public housing units, (b) up to an additional 533 mixed-income housing units, (c) off-street parking, new roadways, and sidewalks, (d) up to 6,500 square feet of neighborhood servicing retail space, and (d) up to 8,500 square feet of child care space, community parks, and landscaping.

C. Hunters View Phase 3 is 5.98-acres (260,489 square feet) (the "**Site**") within Hunters View. The Site is bordered to the south by residential homes on Innes Avenue, to the west by Middle Point Road, and to the north and east by PGE sites. Infrastructure improvements for Hunters View Phase 3 will support two new affordable buildings, Block 14 and Block 17 at the Site, as well as future market rate developments on Blocks 12, 13, 15, 16, and 18 adjacent to the Site. Blocks 14 and 17 will contain a total of 118 units of affordable housing, including 53 public housing replacement units. Block 14 and 17 will be situated on a new drive, currently named Hunters Point Drive. A garage entry to Block 14 will also be located on Hunters View Drive. No off-street parking will be provided at Block 17. The Site will also include a new 0.71-acre park, situated between Blocks 14 and 17.



D. In cooperation with SFHA and residents, MOHCD is leading the development and financing plan for the Site. In preparation for the development of new permanently affordable rental housing on the Site, MOHCD, SFPW and other City agencies are supporting subdivision actions for the Site. The Hunters View Phase 3 Final Subdivision Map (the “**Final Map**”) is anticipated to be reviewed by the San Francisco Board of Supervisors on May 11, 2021. Subdivider is a party to a Public Improvement Agreement with City (“**PIA**”) that will be approved and recorded concurrently with the Final Map. This MOA is an exhibit to the PIA and part of the PIA.

E. The Subdivision Map Act and the City’s 2015 Subdivision Regulations, Section 2.c require that security (performance bond or other acceptable security as provided in Section 66499 of the California Government Code) be posted at the time of Board of Supervisors’ approval of the Final Map to cover the cost of all required public improvements.

H. Subdivider is unable to provide a payment and performance bond until it has a contract with a general contractor (“**GC**”) to construct the Subdivider’s Obligations (as defined in the PIA) in late 2021. MOHCD and SFPW have agreed to the terms of this MOA in order to provide adequate security for City to approve the Final Map.

#### AGREEMENT

MOHCD and SFPW hereby agree as follows:

1. MOHCD Assurances. MOHCD has budgeted and allocated at least 20% of the costs of Subdivider’s Obligations, and will keep such funds allocated until Subdivider’s Obligations under the PIA are complete. If Subdivider fails to complete Subdivider’s Obligations or stops work on them and fails to cure after notice of default, MOHCD will terminate or modify the loan agreement with Subdivider that provides the funding for Subdivider’s Obligations, will keep such funds allocated to the Subdivider Obligations, and if needed, will transfer the remaining funds to the appropriate City department to complete the Subdivider’s Obligations.

2. Adequate Security. SFPW affirms that the provisions of this MOA provide assurances of security in accordance with California Government Code Section 66499(a)(3), and therefore it is acceptable security under California Government Code Section 66499(a)(5).

4. Term. This MOA shall be effective on the date that (a) it is fully executed, and (b) the PIA is effective. This MOA will terminate when (a) Subdivider posts the security specified in Section 3(a) of the PIA and (b) copies of such bonds are made part of the PIA. Such termination shall occur automatically, and there shall be no requirement to amend the PIA to reflect any change in security from this MOA to the bonds specified in Section 3(a) of the PIA. Once terminated, MOHCD and SFPW will cooperate to take any action reasonably necessary to remove this MOA as a lien or charge against the Site.

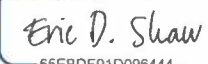
6. Authority; Amendments. Unless otherwise required, all matters requiring MOHCD’s approval shall be approved by the Director of MOHCD or his or her designee, and all matters requiring

SFPW's approval shall be approved by the Director of SFPW or his or her designee. This MOA may be amended or modified only by a writing signed by the Director of SFPW and the Director of MOHCD. No waiver by any party of any of the provisions of this MOA will be effective unless in writing and signed by an authorized representative, and only to the extent expressly provided in such waiver.

7. Applicable Laws. All actions described herein are subject to and must be conducted in accordance with the applicable requirements of the City's Charter and codes and applicable state and federal laws.

IN WITNESS WHEREOF the Parties have caused this MOA to be executed by their duly appointed representatives this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

Mayor's Office of Housing and Community Development

Signed by:  
  
65EBDF91D006444  
By: Eric D. Shaw  
Its: Director  
Date: 5/1/2021 | 3:35 PM PDT

San Francisco Public Works

\_\_\_\_\_  
By: Alaric Degrafinried  
Its: Director  
Date: \_\_\_\_\_

**EXHIBIT D**

**Reserved**

## EXHIBIT E

### **List of Documents Required by the City in Order to Issue a Notice of Completion**

1. Developer Request Letter for Determination of Completeness (“DOC”)
2. Contractor Substantial Completion Letter
3. Civil Engineer Completion Notice
4. Geotechnical Engineer Completion Letter
5. Landscape Architect Completion Notice
6. Construction Manager Completion Notice
7. City Final Punch-list Approval
8. Utility Conformance Letter
9. As-Built Plan Approval
10. Recorded Notice of Completion
11. Survey Monuments
12. Test Reports
13. Joint Trench Conduits Mandrel Test
14. Confirmation of removal of all Non-Compliance Reports (“NCR”)
15. Confirmation of all Change Orders/Instructional Bulletins
16. Confirmation from City that spare parts have been provided (as applicable)
17. Operation and Maintenance Manuals
18. Notice of Completion Recommendation from Public Works

## **EXHIBIT F**

### **List of Documents Required by the City in Order to Make a Request for Acceptance**

1. Developer Request for Acceptance Letter
2. Lien Notification to General Contractor and Subs
3. Utility Bill of Sale
4. 3<sup>rd</sup> Party Reimbursement Checks-Copies
5. Assignment of Warranties and Guaranties
6. License Agreements (as applicable)
7. Mechanic's Lien Guarantee
8. Modified Offers of Improvements (as applicable)
9. Updated Grant Deeds (as applicable)

**EXHIBIT G**

**Form of Notice of Termination**

RECORDING REQUESTED BY:

James M. Ryan  
Acting City and County Surveyor  
San Francisco Public Works  
49 South Van Ness Avenue, STE 300  
San Francisco, CA 94103-3795  
Attn: 9<sup>TH</sup> Floor

WHEN RECORDED MAIL TO:

James M. Ryan  
Acting City and County Surveyor  
San Francisco Public Works  
49 South Van Ness Avenue, STE 300  
San Francisco, CA 94103-3795  
Attn: 9<sup>TH</sup> Floor

---

Space Above This Line for Recorder's Use

NOTICE OF TERMINATION AND RELEASE  
OF  
Public Improvement Agreement  
(DOC-\_\_\_\_\_)

[Insert Date]

NOTICE OF TERMINATION AND RELEASE  
OF  
Public Improvement Agreement  
(DOC-\_\_\_\_\_)

Notice is hereby given that the Public Improvement Agreement dated \_\_\_\_\_ and recorded \_\_\_\_\_ (Document No. \_\_\_\_\_, Receipt No. \_\_\_\_\_, Reel \_\_\_\_\_ Image \_\_\_\_\_) is hereby TERMINATED and RELEASED as it pertains to the real property situated on Assessor's Block \_\_\_\_\_ Lot \_\_\_\_\_ commonly known as [insert street address] (AKA \_\_\_\_\_) between \_\_\_\_\_ Street and \_\_\_\_\_ Street in the City and County of San Francisco (the "City"), State of California, and more fully described in Exhibit "A" to this Notice of Termination and Release (hereinafter referred to as the "Property").

The Public Improvement Agreement ("Agreement") was recorded to provide notice to future owners of the Property that the Subdivider, as defined therein is subject to certain public improvement and maintenance obligations relating to Final Map No. 9677 filed in Book \_\_\_\_\_, Pages \_\_\_\_\_ through \_\_\_\_\_ of Maps, and recorded \_\_\_\_\_, 202\_ in the Official Records of the City, as Document No. \_\_\_\_\_. Subdivider has completed the aforementioned public improvement obligations and satisfied the maintenance obligations per the Agreement as confirmed by the Director of Public Works based on \_\_\_\_\_. The Agreement is attached hereto as Exhibit "B".

The Agreement is hereby terminated.

Dated: \_\_\_\_\_ in San Francisco, California

OWNER

By: \_\_\_\_\_  
[Note owner's signatures need to be notarized.]

APPROVED  
San Francisco Public Works [or other affected Department]

By: \_\_\_\_\_  
Director

APPROVED AS TO FORM  
Dennis J. Herrera, City Attorney

By: \_\_\_\_\_  
John Malamut  
Deputy City Attorney



EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

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

[INSERT LEGAL DESCRIPTION]

Assessor's Lot \_\_\_\_; Block \_\_\_\_\_

EXHIBIT "B"

[ATTACH AGREEMENT]