

File No. 200976

Committee Item No. 8
Board Item No. 57

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date September 16, 2020

Board of Supervisors Meeting

Date September 22, 2020

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 checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
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| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER (Use back side if additional space is needed)

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Ground Lease</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Executed Option to Ground Lease</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Request for Proposals</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Department's Notice of Final Approval of an SB 35 Project</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Planning Commission Motion No. 19658</u> |
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Completed by: Linda Wong

Date September 9, 2020

Completed by: Linda Wong

Date September 18, 2020

1 [Loan Agreement and Ground Lease - 681 Florida Housing Associates, L.P. - 100%
2 Affordable Housing - 681 Florida Street - Loan Not to Exceed \$35,076,507 - Annual Ground
3 Lease Base Rent of \$15,000]

3

4 **Resolution approving and authorizing an Amended and Restated Loan Agreement in an**
5 **amount not to exceed \$35,076,507 for a minimum loan term of 57 years (“Loan**
6 **Agreement”)** to finance the construction of a 100% affordable, 130-unit multifamily
7 **rental housing development (plus one staff unit) at 681 Florida Street (the “Property”)**
8 **for low income households with space for Production, Design and Repair uses**
9 **(“Project”); approving and authorizing a Ground Lease to 681 Florida Housing**
10 **Associates, L.P., a California limited partnership for a lease term of 75 years and one**
11 **24-year option to extend, with an estimated commencement date of October 2020, and**
12 **an annual base rent of \$15,000 in order to construct and operate the Project; adopting**
13 **findings that the Loan Agreement and Ground Lease are consistent with the General**
14 **Plan, and the eight priority policies of Planning Code, Section 101.1; and authorizing**
15 **the Director of Property to execute the Ground Lease, and authorize Director of**
16 **Mayor’s Office of Housing and Community Development to execute the Loan**
17 **Agreement, make certain modifications to such agreements, and take certain actions in**
18 **furtherance of this Resolution, as defined herein.**

19

20 WHEREAS, The City and County of San Francisco (the “City”), acting through Mayor’s
21 Office of Housing and Community Development (MOHCD), administers a variety of housing
22 programs that provide financing for the development of new affordable housing and the
23 rehabilitation of single- and multi-family housing for low- and moderate-income households
24 and resources for homeowners in San Francisco; and

25

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

5 WHEREAS, On October 13, 2016, MOHCD issued a Request for Proposals (“RFP”),
6 seeking submittals from qualified respondents to develop the Property as affordable housing
7 for families and Production, Design and Repair (“PDR”) space; and

8 WHEREAS, In 2017, the Board of Supervisors approved the acquisition (Resolution
9 No. 258-17) of the Property from Bryant Street Holdings LLC (“Seller”) who owned 19,000
10 square feet of land within Assessor’s Parcel Block No. 4022, located at 2070 Bryant Street
11 (sometimes referred to as 681 Florida Street), San Francisco; and

12 WHEREAS, The Tenderloin Neighborhood Development Corporation (“TNDC”) and the
13 Mission Economic Development Agency (“MEDA”), California nonprofit public benefit
14 corporations, jointly responded to the RFP, and were selected to be the developer for the
15 Property; and

16 WHEREAS, TNDC and MEDA established 681 Florida Housing Associates,
17 L.P., a California limited partnership (“Developer”), as a separate entity under which to
18 develop the Project; and

19 WHEREAS, On August 9, 2019, the Developer entered into an Option to Ground
20 Lease with MOHCD for the Property (Lot 239, Block 4022) for the purpose of
21 developing the Project; and

22 WHEREAS, By motion dated June 2, 2016, the Planning Commission approved the
23 affordable housing project authorization for the Project, deeming the Project consistent with
24 the General Plan, and eight priority policies of Planning Code, Section 101.1. A copy of
25

1 Planning Commission Motion No. 19658 is on file with the Clerk of the Board of Supervisors in
2 File No. 200976, and is incorporated herein by reference; and

3 WHEREAS, MOHCD and the Director of Property have approved the form of the
4 Ground Lease between City and the Developer, pursuant to which the City will lease the
5 Property to the Developer for a term of 75 years and one 24-year option to extend and a base
6 rent of fifteen thousand dollar (\$15,000) per year, in exchange for the Developer's agreement,
7 among other things, to construct and operate the Project with rent levels affordable to
8 households up to 85% of unadjusted San Francisco Area Median Income (AMI), and a copy of
9 the Ground Lease in a form substantially approved is on file with the Clerk of the Board of
10 Supervisors in File No. 200976, and is incorporated herein by reference; and,

11 WHEREAS, The proposed rent of the Ground Lease is less than Market Rent (as
12 defined in Administrative Code, Section 23.2), but the lower rent will serve a public purpose by
13 providing affordable housing for low-income households in need; and

14 WHEREAS, MOHCD is also providing the Developer with new financial assistance to
15 leverage equity from an allocation of low-income housing tax credits, funds from the State of
16 California, and other funding sources in order for Developer to construct the Project; and

17 WHEREAS, On August 7, 2020, the Citywide Affordable Housing Loan Committee,
18 consisting of MOHCD, Department of Homeless and Supportive Housing, and the Office of
19 Community Investment and Infrastructure, recommended approval to the Mayor of a loan for
20 the Project in an amount not to exceed \$35,076,507; and

21 WHEREAS, The loan would be given under the Loan Agreement, which would be
22 entered into under the following material terms: (i) a minimum term of 57 years; (ii) an interest
23 rate of zero percent (0%); (iii) annual repayment of the Loan Agreement by Developer
24 through residual receipts from the Project; (iv) the Project shall be restricted for life of the
25 Project as affordable housing to low-income households with annual maximum rent and

1 income established by MOHCD; and (v) the Loan Agreement shall be secured by a deed of
2 trust recorded against the Developer's leasehold interest in the Property; and

3 RESOLVED, That the Board of Supervisors hereby finds that the Project (and
4 associated actions necessary to effectuate the Project) is consistent with the General Plan,
5 and with the eight priority policies of Planning Code, Section 101.1, for the same reasons as
6 set forth in the Planning Department Authorization, and hereby incorporates such findings by
7 reference as though fully set forth in this Resolution; and, be it

8 FURTHER RESOLVED, That in accordance with the recommendation of the Director
9 of MOHCD and the Director of Property, the Board of Supervisors approves the Ground
10 Lease, in substantially the form presented to the Board, and authorizes the Director of
11 Property (or the Director's designee, as used throughout), to execute and deliver the Ground
12 Lease, in substantially the form presented to the Board, and any such other documents that
13 are necessary or advisable to complete the transaction contemplated by the Ground Lease,
14 and to effectuate the purpose and intent of this Resolution, and determines that the less than
15 Market Rent payable under the Ground Lease will serve a public purpose by providing
16 affordable housing for low-income households in need; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors hereby approves the Loan
18 Agreement in substantially the form presented to the Board, and authorizes the Mayor and the
19 Director of MOHCD (or the Director's designee, as used throughout), to execute and deliver
20 the Loan Agreement and any such other documents that are necessary or advisable to
21 complete the transaction contemplated by the Loan Agreement and to effectuate the purpose
22 and intent of this Resolution; and, be it

23 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
24 Property and/or Director of MOHCD, in consultation with the City Attorney, to enter into any
25 additions, amendments, or other modifications to the Ground Lease, Loan Agreement, and

1 any other documents or instruments necessary in connection therewith (including, without
2 limitation, preparation and attachment or, or changes to, any of all of the exhibits and ancillary
3 agreements), that the Director of Property and/or Director of MOHCD determine are in the
4 best interests of the City, do not materially decrease the benefits to the City with respect to the
5 Property, do not materially increase the obligations or liabilities of the City, and are necessary
6 or advisable to complete the transactions contemplated in the Ground Lease and Loan
7 Agreement, and that effectuate the purpose and intent of this Resolution, such determination
8 to be conclusively evidenced by the execution and delivery by the Director of Property and/or
9 the Director of MOHCD of any such additions, amendments, or other modifications; 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, the authority to
12 undertake any actions necessary to protect the City's financial security in the Property and
13 enforce the affordable housing restrictions, which may include, without limitation, acquisition
14 of the Property upon foreclosure and sale at a trustee sale, acceptance of a deed in lieu of
15 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 Ground Lease, and Loan
20 Agreement being fully executed by all parties, MOHCD shall provide the final agreements to
21 the Clerk of the Board for inclusion into the official file.

22 ///
23 ///
24 ///
25 ///

Item 8 Files 20-0976	Department: Mayor's Office of Housing & Community Development
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would (1) approve and authorize an Amended and Restated Loan Agreement for an amount not to exceed \$35,076,507 for a term of 57 years between the City and 681 Florida Housing Associates, L.P., (2) approve a Ground Lease for a term of 75 years, with a 24-year option to extend and an annual base rent of \$15,000, and (3) that the Loan and Ground Lease are consistent with the City's General Plan and Planning Code. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The City is providing gap financing for the development of 130 affordable housing units and 9,250 square feet of arts-related Production, Design, and Repair (PDR) space at 681 Florida Street (previously known as 2070 Bryant Street). The site will be jointly developed and managed by the Tenderloin Neighborhood Development Corporation (TNDC) and Mission Economic Development Agency (MEDA). • The site was originally conveyed to City for \$1 in 2017 in order to satisfy Affordable Housing program requirements for a new 199-unit market-rate housing development at 2000 Bryant Street. Following a competitive solicitation process, TNDC and MEDA were selected in 2017 to develop and operate the affordable housing project. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The total development costs for the 130 units of affordable housing and 9,250 sq. ft. PDR space are \$90.3 million. Of the \$90.3 million, \$33.8 million are City funds and \$56.5 million are non-City funds. The Loan Agreement amount of \$35,076,507 includes funding for a \$1.25 million bridge loan for an approved, but pending, Federal Affordable Housing Program loan. • The total per unit development cost is estimated at \$694,902 or \$662 per square foot. City funds are expected to provide funding for 37 percent of total development costs, equal to a per unit subsidy of \$260,204 or \$249 per square foot. • According to the Amended and Restated Loan Agreement, the loan repayment is due on the 57th year of the loan. Loan repayment obligations are limited to the availability of residual receipts, or annual cash flow after operating costs have been paid. • MOHCD will also enter into a 20-year Local Operating Subsidy Program agreement with the project sponsor to subsidize rents for 39 units reserved for homeless or formerly homeless individuals, totaling \$9,400,146 or \$470,007 per year (\$12,051 per unit). The agreement will not be subject to Board of Supervisors approval per the Administrative Code. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed resolution. 	

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

681 Florida Street Affordable Housing Development Project

The City is providing gap financing for the development of 130 affordable housing units¹ and 9,250 square feet of arts-related Production, Design, and Repair space at 681 Florida Street (previously known as 2070 Bryant Street). The site will be jointly developed and managed by the Tenderloin Neighborhood Development Corporation (TNDC) and Mission Economic Development Agency (MEDA).

The housing project will include a mix of studio, 1-, 2-, and 3-bedroom housing units with affordability levels between 25 percent and 85 percent of Area Median Income (AMI),² as shown in Table 1 below. Thirty-nine of the units (30 percent) are reserved for homeless or formerly homeless individuals with rental subsidies to be provided by the Local Operating Subsidy Program (LOSP).³ Supportive housing services will also be provided to housing residents by the non-profit operators or a sub-contractor. Construction is expected to occur start by the end of 2020 and complete by 2023, with the first year of operation expected in 2023.

Table 1: Housing Units by Affordability Level (% of Area Median Income)

Affordability Level	No. of Units	% of Units	Maximum Income
25% of Median Income	39	30%	\$25,650
35% of Median Income	22	17%	\$35,900
40% of Median Income	11	8%	\$41,000
50% of Median Income	10	8%	\$51,250
60% of Median Income	12	9%	\$61,500
85% of Median Income	35	27%	\$87,150
Manager’s Unit	1	1%	N/A
Total	130	100%	-

Source: MOHCD and BLA Calculations

Note: MOHCD Unadjusted Area Median Income (AMI) based on two-person household.

¹ This includes one unit for an on-site manager/ staff.

² Based on MOHCD Inclusionary Income Limits for Area Median Income (AMI).

³ The Local Operating Subsidy Program is a General Fund subsidy to supportive housing developments serving formerly homeless individuals. In 2019, the Board of Supervisors adopted Ordinance 202-19, authorizing the MOHCD Director to enter into Local Operating Subsidy Program grant agreements that would otherwise be subject to Board of Supervisors approval under Charter Section 9.118.

Acquisition of 681 Florida Street

The property at 681 Florida Street was conveyed to the City in June 2017 for \$1 by a developer, Podell Corporation, in order to satisfy the City's Inclusionary Affordable Housing requirement for a new 199-unit market-rate housing development at 2000 Bryant Street.⁴ The land was appraised at a fair market value of \$21,200,000 in March 2016. At that time, the developer also agreed to provide \$955,267 towards the cost of transporting and disposing of contaminated soil identified on the property.⁵

Selection of Developers

The Mayor's Office of Housing and Community Development issued a Request for Proposals to develop affordable housing at 2070 Bryant Street (now 681 Florida Street) in October 2016. The RFP required the successful candidate to develop the site, conduct community outreach, and manage the property under a ground lease with the City. The RFP specified that the maximum affordability level would be 60 percent of AMI, however, the current project provides housing for those earning up to 85 percent of AMI. According to MOHCD, while the project provides for 35 units to be available to households with income up to 85 percent of AMI, the overall average household income is 60 percent of AMI or less, consistent with income averaging guidelines set by the California Tax Credit Allocation Committee. Two proposals were submitted and the highest scoring proposal, jointly by TNDC and MEDA, was selected to develop the site.⁶ The proposals were evaluated based on the proposer's prior experience, site concept, plan financing and cost controls, and services plan.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would (1) approve and authorize an Amended and Restated Loan Agreement for an amount not to exceed \$35,076,507 for a term of 57 years between the City and 681 Florida Housing Associates, L.P.,⁷ (2) approve a Ground Lease for a term of 75 years, with a 24-year option to extend and an annual base rent of \$15,000, and (3) find that the Loan and Ground Lease are consistent with the City's General Plan and Planning Code. The purpose of the Loan is to provide gap financing for the construction of 130 affordable housing units at 681 Florida Street.

⁴ See Resolution No. 258-17 (File No. 17-0602). Developer elected to satisfy the Inclusionary Affordable Housing Program requirements (Planning Code Section 415 and 419) by dedicating a portion of the development property to the City.

⁵ Following subsequent assessment, remediation costs are now estimated at \$961,849. A Site Mitigation Plan was conditionally approved by the Department of Public Health for the 2000 and 2070 Bryant Street properties in 2014 as required by San Francisco Health Code, Article 22A and Building Code, Sec. 106.3.2.4.

⁶ The RFP selection panel was appointed by the MOHCD Director and composed of three MOHCD staff, one Department of Homeless and Supportive Housing staff, and one Mission neighborhood community representative.

⁷ Under Internal Revenue Service (IRS) regulations and for the purpose of eligibility for low income housing tax credits, the non-profit (tax exempt) partner in the limited partnership serves as the general manager and retains a nominal percentage interest, and the investors (which are not tax exempt) serve as limited partners, obtaining the majority financial interest, including profits, losses, deductions, and credits.

Ground Lease & Affordability Restrictions

Affordability restrictions to preserve the affordability of the housing units in the proposed development are included in the Restated Loan Agreement, a Regulatory Agreement and Declaration of Restrictive Covenants, and in the Ground Lease between the City and the affordable housing operator. These agreements specify the affordability levels for each unit and require the non-profit housing operator to maintain these for the duration of the agreements unless agreed by the City.

The Ground Lease is for a term of 75 years with an option to extend an additional 24 years and restricts the lessee to operating the housing development as affordable housing only (aside from the 9,250 square feet of commercial PDR space mentioned above). The lessee must receive MOHCD approval before entering into any contracts related to use of the Production, Design and Repair commercial space. The Ground Lease includes a base rent of \$15,000 per year, plus residual rent of up to two-thirds of net income after operating costs, payments to credits, base rent, and replenishing operating reserves, consistent with MOHCD's Residual Receipts policy. According to MOHCD's cash flow projections, the project will generate sufficient income to pay residual rent on the Ground Lease. This residual rent will primarily be used to make payments on the City loan.

FISCAL IMPACT**Affordable Housing Development of 681 Florida Street**

The total estimated development costs for the 130 units of affordable housing and 9,250 sq. ft. commercial Production, Design and Repair (PDR) space are \$90.3 million. Of the \$90.3 million, \$33.8 million are City funds and \$56.5 million are non-City funds. Table 2 shows the sources and uses by City and Non-City Sources.

Table 2: Sources and Uses for Affordable Housing Development at 681 Florida Street

	City Sources	Non-City Sources	Total
Sources*			
Total Sources	33,826,507	56,510,801	90,337,308
Uses			
Acquisition Costs (Transfer Tax)	36,354	-	36,354
Construction Costs	12,073,650	53,974,135	66,047,785
Construction Contingency (6.1%)	3,618,639	-	3,618,639
Soft Costs			
Architecture & Design	3,903,866	-	3,903,866
Engineering & Environmental Studies	356,899	-	356,899
Financing costs	3,481,592	-	3,481,592
Permanent Financing Costs	42,600	-	42,600
Legal Costs	318,834	-	318,834
Other Development Costs	5,985,592	-	5,985,592
Soft Cost Contingency (5%)	710,000	-	710,000
<i>Soft Cost Subtotal</i>	<i>14,799,383</i>	<i>-</i>	<i>14,799,383</i>
Reserves	760,047	-	760,047
Developer Fees	2,538,434	2,536,666	5,075,100
Total Uses	33,826,507	56,510,801	90,337,308

Source: MOHCD

Notes: * See full breakdown by source in Table 3 below. City sources refer to funding from MOHCD and the Office of Community Investment & Infrastructure.

In 2017, MOHCD entered into a pre-development loan agreement for \$4,332,000 with TNDC and MEDA for pre-construction consulting and planning related to the project. The proposed resolution would increase the City's total loan for this project by \$29,494,507.⁸

According to the proposed Second Amended and Restated Promissory Note, the City's loan would not accrue interest. Any unpaid balance on the loan is due at the end of the fifty-seven-year term.

Funding Sources

Table 3 below shows the funding sources breakdown for City and non-City sources for the construction and development of the 130-unit housing project. Of the \$90.3 million in funding sources, \$33,826,507 are from City sources and \$56,510,801 are from non-City sources. The City Sources include \$32,767,632 from Education Revenue Augmentation Funds (ERAF) deposited in the Affordable Housing Production and Preservation Fund, and \$2,308,875 from a 2015 General Obligation Bond for affordable housing, which together total \$35,076,507. The project sponsor has applied for a \$1.25 million Federal Affordable Housing Program Loan, which it will use to pay down an equivalent portion of the City's loan. For this reason, the Federal Affordable Housing

⁸ This is exclusive of a \$1,250,000 bridge loan funded by the City to cover the expected disbursement of a Federal Affordable Housing Program loan. The total not to exceed amount for the loan with this bridge loan is \$35,076,507.

Program Loan is presented as a non-City source and deducted from the City source total presented in Table 3 below.

Table 3: Detailed Funding Sources

Funding Source	Amount	Description
City Sources		
Affordable Housing Production & Preservation Fund (ERAF)	\$32,767,632	
2015 General Obligation Bond for Affordable Housing	\$2,308,875	
Federal Home Loan Bank - Affordable Housing Program	(\$1,250,000)	
Total City Sources*	\$33,826,507	Excludes \$1.25 million of City funding, which is expected to be repaid by the Federal Affordable Housing Loan
Non-City Sources		
Federal LIHTC Tax Credit Equity	\$33,796,286	Low Income Housing Tax Credits allocated by the California Tax Credit Allocation Committee
California Housing & Community Development – Multifamily Housing Program	\$14,706,000	State loan program to assist in the construction or preservation of rental housing for low income households. Loans are for 55-years at 3% interest.
Permanent Mortgage Loan	\$3,260,000	
Deferred Developer Fee	\$2,536,566	
Federal Home Loan Bank - Affordable Housing Program**	\$1,250,000	Approved in June 2020. Expected to repay portion of City funding.
Podell Company	\$961,849	2000 Bryant Street developer contribution for soil remediation
General Partner Equity	\$100	
Total Non-City Sources	\$56,510,801	
Total Sources	\$90,337,308	

Source: MOHCD

* Excludes \$1,250,000 Federal Home Loan AHP Bridge Loan (included in “Non-City Sources”). According to MOHCD, the Affordable Housing Program loan was awarded in June 2020 and is expected to close in December 2020.

** Funding equal to the amount of the AHP Loan is included in the City’s loan with the expectation that the AHP loan will be used to reimburse the City upon closing. The AHP Loan is expected to close by December 31, 2021. Borrower assumes responsibility for repaying the AHP amount included in the City loan if the AHP Loan does not close.

City’s Subsidy of Housing Development Costs

The City’s total subsidy for the housing development costs is \$33,826,507 (not including the \$1,250,000 Federal Home Loan Bank AHP Bridge Loan), or 37.4 percent of the total development costs. This is equal to a per unit subsidy of \$260,204 or \$249 per square foot.

Table 4: Total and Per Unit City Subsidy for Affordable Housing Development

Project Information		
Number of Units		130
Total Residential Area (sq. ft.)		136,080
Cost Metric	Total Cost	City Subsidy
Total Development Costs	\$90,337,308	\$33,826,507
% of Total Cost	-	37.4%
Cost per Unit	\$694,902	\$260,204
Cost per Sq. Ft.	\$664	\$249

Source: MOHCD and BLA calculations

Operating Costs: Local Operating Subsidy Program

According to MOHCD, the Local Operating Subsidy Program will be used to provide subsidies for the 39 units reserved for homeless and formerly homeless individuals. The maximum income level for tenants in these units is 25 percent of Area Median Income (AMI). MOHCD will enter into a 20-year LOSP agreement with the project sponsor, totaling \$9,400,146 or \$470,007 per year (\$12,051 per unit per year). As noted above, the LOSP agreement will not be subject to Board of Supervisors approval per the Administrative Code.

RECOMMENDATION

Approve the proposed resolution.

**AMENDED AND RESTATED LOAN AGREEMENT
(CITY AND COUNTY OF SAN FRANCISCO
(EDUCATION REVENUE AUGMENTATION FUND, 2015 GENERAL OBLIGATION
BOND FOR AFFORDABLE HOUSING, AND INCLUSIONARY HOUSING PROGRAM))**

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

681 FLORIDA HOUSING ASSOCIATES, L.P.,
a California limited partnership

for

681 FLORIDA STREET
\$35,076,507

Educational Revenue Augmentation Fund: \$ 32,767,632
2015 General Obligation Bond for Affordable Housing: \$ 2,308,875

Dated as of October , 2020

TABLE OF CONTENTS

Page

* * * * *

EXHIBITS

A	Schedules of Income and Rent Restrictions
B-1	Table of Sources and Uses of Funds
B-2	Annual Operating Budget
B-3	20-Year Cash Flow Proforma
C	Form of Tenant Income Certification
D	First Source Hiring Requirements and Numerical
E	Governmental Requirements
F	Lobbying/Debarment Certification Form
G	Form of Annual Monitoring Report
H	Tenant Selection Plan Policy
I	MOHCD Tenant Screening Criteria Policy
J	Developer Fee Policy
K	Hold Harmless Policy
L	Insurance Requirements
M	Intentionally Omitted
N	Intentionally Omitted
O	MOHCD Commercial Underwriting Guidelines
P	MOHCD Residual Receipts Policy

AMENDED AND RESTATED LOAN AGREEMENT

(City and County of San Francisco
(Educational Revenue Augmentation Fund, 2015 General Obligation Bond for Affordable
Housing, and Inclusionary Affordable Housing Program)
(681 FLORIDA STREET)

THIS AMENDED AND RESTATED LOAN AGREEMENT (“Agreement”) is entered into as of October , 2020, 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 **681 FLORIDA HOUSING ASSOCIATES, L.P.**, a California limited partnership (“Borrower”).

RECITALS

A. Under San Francisco Administrative Code Section 10.100-11, the San Francisco Board of Supervisors established the Affordable Housing Production and Preservation Fund to receive appropriated excess Education Revenue Augmentation Fund (ERAF) revenues received by the City (“ERAF Fund”). MOHCD administers the ERAF Fund for the purpose of funding land acquisition and production of new 100% affordable housing projects and acquisition and preservation of existing housing to make that housing permanently affordable. MOHCD is authorized to provide funds from the ERAF Fund under this Agreement to Borrower for the development of affordable housing.

B. On November 3, 2015, the voters of the City and County of San Francisco approved Proposition A (Ordinance 121-15), 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 “2015 GO Bond”). The City is authorized to provide funds from the proceeds of the 2015 GO Bond amounts disbursed under this Agreement to Borrower for the development of affordable housing.

C. Under the Inclusionary Affordable Housing Program set forth in Sections 415.1 et seq. of the San Francisco Planning Code, the Citywide Affordable Housing Fund receives in-lieu Affordable Housing Fees (“Fees”) paid by housing developers to satisfy requirements of the Inclusionary Affordable Housing Program. The City may use the Fees received by the Citywide Affordable Housing Fund (the “Affordable Housing Fund”) to finance housing affordable to qualifying households. MOHCD administers the Affordable Housing Fund funds pursuant to Section 10.100-49 of the San Francisco Administrative Code and enforces agreements relating to them.

D. Borrower desires to use the Funds (defined in Section 1.1 below) to construct on the Site a development known as “681 Florida” (the “Project”) as follows: 130 Units of multifamily rental housing affordable to moderate-, low-, and very low-income households and include 44 studio units, 31 one-bedroom Units (one of which is reserved as a manager’s unit), 41 two bedroom Units, and 14 three-bedroom Units, with 39 Units set aside for families experiencing Homelessness, and the Commercial Space finished to warm shell of approximately 9,250 square feet for arts-related PDR uses (as defined in Section 102 of the San Francisco Planning Code).

E. Immediately before City made this Loan to Borrower, Borrower acquired a leasehold interest in the Site (defined in Section 1.1 below) located at 681 Florida Street, San Francisco, California under a Ground Lease dated October [REDACTED], 2020 (the “Ground Lease”), by and between Borrower and the City to construct and operate the Project.

F. The Site includes three (3) air-rights parcels, as shown on Parcel Map 9907 dated December 6, 2019, recorded in the San Francisco City and County Recorder’s Office as document number 2019-K870592-00 (the “Parcel Map”). Parcel 1 (as set forth on the Parcel Map) will be developed and built for affordable housing (the “Residential Parcel”). Parcel 2 and Parcel 3, each as set forth on the Parcel Map, will be developed and used for commercial space (the “Commercial Space”).

G. The City previously loaned Four Million Three Hundred Thirty-Two Thousand and No/100 Dollars (\$4,332,000.00) (the “Original Loan”) to Borrower to conduct predevelopment activities in support of the construction of the Project. The Original Loan is evidenced by the following documents: (1) a Loan Agreement dated as of August 31, 2017 as amended by a First Amendment to the Loan Agreement dated January 22, 2019 (the “Original Loan Agreement”), (2) an Amended and Restated Secured Promissory Note made by Borrower in an amount of the Original Loan to the order of the City dated as of January 22, 2019 (the “Original Note”).

H. 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 an amount up to Thirty-Five Million Seventy-Six Thousand Five Hundred Seven and No/100 Dollars (\$35,076,507.00) (the “Funding Amount”) under this Agreement to fund certain costs related to the Project. The Funding Amount is comprised of (i) Educational Revenue Augmentation Fund funds in the amount of Twenty-Six Million Three Hundred Five Thousand Nine Hundred Sixty-Five Dollars (\$26,305,965), (ii) 2015 GO Bonds in the amount of Four Million Four Hundred Thirty-Eight Thousand Five Hundred Forty-Two Dollars (\$4,438,542); and (iii) Affordable Housing Fund funds in the amount of Four Million Three Hundred Thirty-Two Thousand Dollars (\$4,332,000).

I. Borrower has secured the following additional financing for the Project (as defined below):

1. a senior tax exempt construction loan to Borrower in the amount of \$ [REDACTED] derived from a loan by Wells Fargo Bank, National Association to the City and County of San Francisco, a commitment to purchase up to [Three Million Two Hundred and Sixty Thousand and No/100 Dollars (\$3,260,000.00)] of such senior loan by California Community Reinvestment Corporation;

2. federal and/or state low income housing tax credits reserved or allocated to the Project by the California Tax Credit Allocation Committee (“TCAC”), pursuant to its Preliminary Reservation of Low Income Housing Tax Credits dated April 14, 2020;

3. a contribution from Podell Company (the “Podell Contribution”) under the Remediation and Demolition Funds Agreement between Podell Company and the City, which City will assign to Borrower at closing, in the amount of Nine Hundred Thousand Sixty-One Thousand Eight Hundred Forty-Nine and No/100 Dollars (\$961,849.00);

5. a State of California Housing and Community Development (“HCD”) Firm Commitment letter dated December 19, 2019 providing for Multifamily Housing Program (“MHP”) funding in the amount of Fourteen Million Seven Hundred Six Thousand and No/100 Dollars (\$14,706,000.00);

6. an equity contribution from the General Partner in the amount of One Hundred and No/100 Dollars (\$100.00); and

7. a deferred developer fee in the amount of [Two Million Five Hundred Thirty-Six Thousand Five Hundred Sixty-Six] and No/100 Dollars (\$[2,536,566]).

J. On the Agreement Date, this Agreement will amend, restate, supersede, and replace the Original Loan Agreement. Concurrently herewith, Borrower will also (i) execute a second amended and restated promissory note in favor of the City to supersede and replace the Original Note to evidence the Loan, (ii) execute and record a deed of trust to secure the second amended and restated note, and (iv) execute and record a declaration of restriction. As of the Agreement Date, the City will cancel and return the Original Note to Borrower.

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**.

“Affiliated Commercial Owner” has the meaning set forth in **Section 16.2** (Transfer of Commercial Space).

“Affordable Housing Fund” has the meaning set forth in **Recital C**.

“Agreement” means this Loan Agreement.

“Agreement Date” means the date first written in the preamble above.

“AHP” means the Affordable Housing Program, which provides funds from a Federal Home Loan Bank.

“AHP Bridge Loan” means the portion of the Funding Amount that is a loan of up to \$1,250,000 from the City to the Borrower for financing of the Project during the pendency of Borrower’s AHP loan application and until the Borrower is awarded an AHP loan.

“AHP Loan Amount” means the loan amount of \$1,250,000 from AHP awarded to Borrower for permanent financing of the Project.

“Annual Monitoring Report” has the meaning set forth in **Section 10.3**.

“Annual Operating Budget” means an annual operating budget for the Project attached hereto as **Exhibit B-2**, which may not be adjusted without the City's prior written approval.

“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 681 Florida Housing Associates, L.P., a California limited partnership, and its authorized successors and assigns.

“CFR” means the Code of Federal Regulations.

“Charter Documents” means: (a) in the case of a corporation, its articles of incorporation and bylaws; (b) in the case of a partnership, its partnership agreement and any certificate or statement of partnership; and (c) in the case of a limited liability company, its operating agreement and any LLC certificate or statement. The Charter Documents must be delivered to 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 Documents” means this Agreement, the Note, the Deed of Trust (if the Site is acquired by Borrower), the Declaration of Restrictions (if the Site is acquired by Borrower) and any other documents executed or, delivered in connection with this Agreement.

“CNA” means a 20-year capital needs assessment or analysis of replacement reserve requirements, as further described by CNA Policy.

“CNA Policy” means MOHCD’s Policy for Capital Needs Assessments dated November 5, 2013, as it may be amended from time to time.

“Commercial Income” means all receipts received by Borrower from the operation of the Commercial Space, including rents, fees, deposits (other than security deposits), any accrued interest disbursed from any reserve account authorized under this Agreement for a purpose other than that for which the reserve account was established, reimbursements and other charges paid to Borrower in connection with the Commercial Space.

“Commercial Shell” means all components of an unfinished Commercial Space as further defined by MOHCD’s commercial space policy, as it may be amended from time to time.

“Commercial Space” has the meaning set forth in **Recital E** and further defined in MOHCD’s commercial space policy as it may be amended from time to time. As used in this Agreement, the term excludes non-residential space in the Project to be used primarily for the benefit of the Tenants.

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

“Compliance Term” has the meaning set forth in **Section 3.2**.

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

“Contracting Manual” means the Contracting Manual (2006 Amendment) for Federally Funded Construction Projects Financed by the Mayor’s Office of Housing, issued by MOHCD on November 18, 2002, as amended on May 22, 2007, as the same may be further amended from time to time.

“Conversion Date” means the date on which construction financing for the Project is converted into permanent financing.

“Declaration of Restrictions” means a recorded declaration of restrictions in form and substance acceptable to the City that requires Borrower and the Project to comply with the use restrictions in this Agreement for the Compliance Term, even if the Loan is repaid or otherwise satisfied, this Agreement terminates or the Deed of Trust is reconveyed.

“Deed of Trust” means the deed of trust executed by Borrower granting the City a lien on the Site and the Project to secure Borrower's performance under this Agreement and the Note, in form and substance acceptable to the City. If Borrower conveys the Commercial Space as contemplated under this Agreement, the term “Deed of Trust” will only refer to the deed of trust on the portion(s) of the Site owned by Borrower.

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

“Developer” means collectively, Tenderloin Neighborhood Development Corporation, a California nonprofit public benefit corporation, and Mission Economic Development Agency, a California nonprofit public benefit corporation, and their authorized successors and assigns.

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

“Developer Fee Policy” means the MOHCD Policy on Development Fees for Tax Credit Projects dated July 29, 2016, as amended from time to time, attached hereto as **Exhibit J**.

“Development Expenses” means all costs incurred by Borrower and approved by the City in connection with the development of the Project, including: (a) hard and soft development costs; (b) deposits into required capitalized reserve accounts; (c) costs of converting Project financing, including bonds, into permanent financing; (d) the expense of a cost audit; and (e) allowed Developer Fees.

“Development Proceeds” means the sum of: (a) funds contributed or to be contributed to Borrower by Borrower's limited partner as capital contributions, equity or for any other purpose under Borrower's limited partnership agreement; and (b) the proceeds of all other financing for the Project.

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

“Distributions” has the meaning set forth in **Section 13.1**.

“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.

“Escrow Agent” has the meaning set forth in **Section 4.2**.

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

“Excess Proceeds” means Development Proceeds remaining after payment of Development Expenses. For the purposes of determining Excess Proceeds, no allowed Project Expenses may be included in Development Expenses.

“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 request have been paid or incurred by Borrower.

“Federal Funding” means funding provided by the federal government for capital improvements, operations or other direct financial assistance of the Project.

“Fees” has the meaning set forth in **Recital C**.

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

“Funds” means the funds provided under this Agreement. The Funds do not include any Federal Funding.

“GAAP” means generally accepted accounting principles in effect on the date of this Agreement and at the time of any required performance.

“General Partner” means, collectively, (i) the managing general partner of Borrower, 681 Florida TNDC GP LLC, a California limited liability company whose manager is Tenderloin Neighborhood Development Corporation; and (ii) the administrative general partner of Borrower, MEDA 681 Florida LLC, a California limited liability company, whose manager is Mission Economic Development Agency.

“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.

“Hold Harmless Policy” means the Hold Harmless Policy for MOHCD’s Income Limits & Maximum Rents dated May 3, 2019, as amended from time to time, attached hereto as **Exhibit K**.

“Homeless” means an individual or a family who lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence in one or more of the following categories: (a) Anyone staying in a mission or homeless or domestic violence shelter, i.e., a supervised public or private facility that provides temporary living accommodations; (b) Anyone displaced from housing due to a disaster situation; (c) Anyone staying outdoors; for example, street, sidewalk, doorway, park, freeway underpass; (d) Anyone staying in a car, van, bus, truck, RV, or similar vehicle; (e) Anyone staying in an enclosure or structure that is not authorized or fit for human habitation by building or housing codes, including abandoned buildings (“squats”) or sub-standard apartments and dwellings; (f) Anyone staying with friends and/or extended family members (excluding parents and children) because they are otherwise unable to obtain housing; (g) Any family with children staying in a Single Room Occupancy (SRO) hotel room (whether or not they have tenancy rights); (h) Anyone staying in temporary housing for less than 6 months where the accommodations provided to the person are substandard or inadequate (for example, in a garage a very small room, or an overly crowded space); (i) Anyone staying in a Single Room Occupancy (SRO) hotel room without tenancy rights; (j) Anyone formerly homeless (formerly in one of the above categories (a) through (i)) who is now incarcerated, hospitalized, or living in a treatment program, half-way house, transitional housing; or (k) Anyone formerly homeless (formerly in one of the above categories (a) through (i)) who has obtained and resided in supportive housing or permanent housing for less than 30 days.

“HSH” means the San Francisco Department of Homelessness and Supportive Housing, or any successor agency.

“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.

“Improvements” means all improvements that will be constructed on the Site.

“In Balance” means 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 acquisition/construction/rehabilitation of the Project, as determined by the City in its sole discretion.

“Income Restrictions” means the maximum household income limits for Qualified Tenants, as set forth in **Exhibit A**.

“Indemnitee” means, individually or collectively, (i) City, including MOHCD and all commissions, departments, agencies and other subdivisions of City; (ii) City's elected officials, directors, officers, employees, agents, successors and assigns; and (iii) all persons or entities acting on behalf of any of the foregoing.

“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.

“Life of the Project” means the period during which the Project continues to operate as a multi-family apartment project substantially similar to its current condition in terms of square footage and number of units, and in the event the Project is substantially damaged or destroyed by fire, the elements, an act of any public authority or other casualty, and is subsequently replaced by a multi-family residential project substantially similar to its current condition in terms of square footage and number of units, the life of such replacement project will be deemed to be a continuation of the life of the Project.

“Limited Partner” means Wells Fargo Affordable Housing Community Development Corporation, and its permitted successors and assigns.

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

“Loan Documents” means this Agreement, the Note, the Declaration, the Deed of Trust, the Developer Fee Agreement, and any other documents required by City related to the Loan.

“Local Operating Subsidy” means an operating subsidy provided to Borrower by the City, the amount of which is sufficient to permit Borrower to operate the Project in accordance with the terms of this Agreement with Qualified Tenants at income levels specified by MOHCD in writing which are below those set forth in **Exhibit A**.

“Local Operating Subsidy Program” or “LOSP” means the program administered by MOHCD that regulates the distribution of Local Operating Subsidy.

“Loss” or “Losses” includes any and all loss, liability, damage, obligation, penalty, claim, action, suits, judgment, fee, cost, expense or charge and reasonable attorneys' fees and costs, including those incurred in an investigation or 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.

“Marketing and Tenant Selection Plan” has the meaning set forth in **Section 6.1**.

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

“Median Income” means median income as published annually by MOHCD for the City and County of San Francisco, derived in part from the income limits and area median income

determined by HUD for the San Francisco area, adjusted solely for household size, but not high housing cost area, also referred to as “Unadjusted Median Income.”

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

“MOHCD Monthly Project Update” has the meaning set forth in **Section 10.2**.

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

“Official Records” means the official records of San Francisco County.

“Operating Reserve Account” has the meaning set forth in **Section 12.2**.

“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 partnership 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 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/rehabilitation of the Project, as determined by the City in its sole discretion.

“Partnership Agreement” means the Amended and Restated Agreement of Limited Partnership of the Borrower dated as of , 2020, as amended from time to time.

“Payment Date” means the first June 30th for the year following the year in which the Completion Date occurs and each succeeding June 30th until the Maturity Date.

“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.

“Preferences and Lottery Manual” means MOHCD’s Housing Preferences and Lottery Procedures Manual dated March 31, 2017, as amended from time to time.

“Preferences Ordinance” means Chapter 47 of the San Francisco Administrative Code, as amended from time to time.

“Project” means the development described in **Recital D**. If indicated by the context, “Project” means the Site and the improvements developed on the Site.

“Project Expenses” means the following costs, which may be paid from Project Income in the following order of priority to the extent of available Project Income: (a) all charges incurred in the operation of the Project for utilities, real estate taxes and assessments and premiums for insurance required under this Agreement or by other lenders providing secured financing for the Project; (b) salaries, wages and any other compensation due and payable to the employees or agents of Borrower employed in connection with the Project, including all related withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments; (c) required payments of interest and principal, if any, on any junior or senior financing secured by the Site and used to finance the Project that has been approved by the City; (d) all other expenses actually incurred to cover operating costs of the Project, including maintenance and repairs and the fee of any managing agent as indicated in the Annual Operating Budget; (e) credit adjustor payments including interest to the Limited Partner (f) annual Base Rent payments (as defined in the Ground Lease); (g) required deposits to the Replacement Reserve Account, Operating Reserve Account and any other reserve account required under this Agreement; (h) the approved annual asset management fees indicated in the Annual Operating Budget and approved by the City; (i) any extraordinary expenses approved in advance by the City (other than expenses paid from any reserve account); and (j) Supportive Services expenses. Project Fees are not Project Expenses.

“Project Fees” means (i) an annual asset management fee in the amount of \$27,131, increasing by 3.5% annually, payable to the Tenant’s General Partner, and (ii) an annual investor services fee in the amount of \$8,500, increasing by 3.5% annually. In no event will such fees exceed the maximum amount permitted by HCD so long as it is a Lender, as permitted by HCD’s regulations.

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

“Project Operating Account” has the meaning set forth in **Section 11.1**.

“Public Benefit Purposes” means activities or programs that primarily benefit low-income persons, are implemented by one or more nonprofit 501(c)(3) public benefit organizations, or have been identified by a City agency or a community planning process as a priority need in the neighborhood in which the Project is located.

“Qualified Tenant” means a Tenant household earning no more than the maximum permissible annual income level allowed under this Agreement as set forth in **Exhibit A**. The term “Qualified Tenant” includes each category of Tenant designated in **Exhibit A**.

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

“Replacement Cost” means all hard construction costs of the Project, not including the cost of site work and foundations but including construction contingency, for the purpose of establishing the amount of the Replacement Reserve Account. This defined term is not intended to affect any other calculation of replacement cost for any other purpose.

“Replacement Reserve Account” has the meaning set forth in **Section 12.1**.

“Residual Receipts” means Project Income remaining after payment of Project Expenses and Project Fees. The amount of Residual Receipts must be based on figures contained in audited financial statements.

“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.

“Section 8” means rental assistance provided under Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. § 1437f) or any successor or similar rent subsidy programs.

“Senior Lien” has the meaning set forth in **Section 22.1**.

“SFHA” means the San Francisco Housing Authority.

“Site” means the improvements existing as of the Agreement Date and real property described in **Recital B** of this Agreement.

“Supportive Services” means the intake and assessment of each Tenant at move-in and the following services to such Tenants, as needed: (a) case management, (b) culturally inclusive referrals and linkages, (c) crisis intervention and conflict resolution, (d) benefits counseling and advocacy, wellness checks, (e) vocational and educational related services, (f) housing stabilization and eviction prevention, (g) behavioral health counseling, (h) community building, and (i) fostering independence and self-sufficiency. See also **Section 3.9**.

“Surplus Cash” means Commercial Income remaining after payment of the sum of commercial debt service, operating expenses for the Commercial Space and reserve deposits for the Commercial Space but excludes depreciation, amortization, depletion, other non-cash expenses or expenditures from reserve accounts.

“Table” means: (a) the Table of Sources and Uses, (b) the Annual Operating Budget, and (c) the 20-Year Cash Flow Proforma.

“Table of Sources and Uses” means a table of sources and uses of funds attached hereto as **Exhibit B-1**, 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.

“TCAC” means the California Tax Credit Allocation Committee.

“Tenant” means any residential household in the Project, whether or not a Qualified Tenant.

“Tenant Screening Criteria Policy” has the meaning set forth in **Section 6.3**.

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

“20-Year Cash Flow Proforma” means the 20-year cash flow proforma for the Project attached as **Exhibit B-3**.

“Unit” means a residential rental unit within the Project.

“Waiting List” has the meaning set forth in **Section 6.5**.

“Work Product” has the meaning set forth in **Section 22.21**.

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 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 Funding and some City funds. 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 maximum principal amount equal to the Funding Amount in order to finance the development of the Site into a 130-unit affordable housing project, including 39 units for Homeless and formerly Homeless persons, and the Commercial Space. Borrower acknowledges and agrees that a portion of the Funding Amount is the AHP Bridge Loan. The Funding Amount will be disbursed according to the terms and subject to the conditions set forth in this Agreement. Borrower for itself and for the Lender(s) acknowledge that, at the time of the execution of the Loan Documents, it was intended by the parties that, subject to the consent of the MOHCD, the principal amount of the Loan might be adjusted to the extent necessary to meet the Borrower's pre-construction and construction financing needs. Pursuant to that understanding, the parties agree that the principal amount of the Loan may be increased to the Funding Amount, such increased principal amount to be reflected in the Note and Deed of Trust.

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. Notwithstanding anything to the contrary contained herein, City shall not approve expenditure of Funds for expenses incurred by Borrower prior to the Agreement Date.

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. With the exception of tenant security deposit trust accounts, any interest earned on funds in any Account must be used for the benefit of the Project.

2.4 Records. Borrower must maintain and provide to the 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 Conditions to Additional Financing. The City may grant or deny any application by Borrower for additional financing for the Project in its sole discretion.

2.6 Other Restrictions.

(a) Borrower may not use the budgeted \$310,000 for completion of the Commercial Space to warm shell until a lease approved by MOHCD has been executed with a Commercial Space tenant.

(b) Borrower must meet with MOHCD every three months during construction to provide an update on the Commercial Space development.

(c) The Project was awarded an AHP loan for permanent financing in June 2020 from the Federal Home Loan Bank of San Francisco. Borrower will work diligently to close the AHP loan not later than December 31, 2021. If the AHP loan fails to close through no fault of Borrower, then this condition will be deemed satisfied, provided MOHCD reviews and approves the reasons for the failure to close. On the closing of the AHP loan and subject to any requirements of the San Francisco Federal Home Loan Bank Affordable Housing Program, Borrower will use the AHP Loan Amount to repay the AHP Bridge Loan, or any portion thereof, as set forth in Article 3.

2.7 Allocation of Funding Amount. Upon transfer of the Commercial Space as contemplated in Section 16.2 (Transfer of Commercial Space), the Funding amount will be allocated between the Residential Parcel and the Commercial Space as provided in Section 16.2.

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. Borrower must repay all amounts owing under the City Documents on the date that is the later of (a) the fifty-seventh(57th) anniversary of the date the Deed of Trust is recorded in the Recorder's Office of San Francisco County or (b) the fifty-fifth (55th) anniversary of the Conversion Date, but in all events not later than December 31, 2077 (the "Maturity Date").

3.2 Compliance Term; Declaration of Restrictions. Borrower must comply with all provisions of the City Documents relating to the use of the Site and the Project as set forth in the Declaration of Restrictions to be recorded in the Official Records, for the period commencing on the date the Deed of Trust is recorded in the Official Records and continue for the Life of the Project (the "Compliance Term"), even if the Loan is repaid or otherwise satisfied or the Deed of Trust is reconveyed before the end of the Compliance Term.

3.3 Interest. Except as provided in **Section 3.4**, no interest will be charged on the Loan.

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 3.7 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. Notwithstanding the foregoing, if Borrower receives AHP funding, Borrower shall repay the AHP Bridge Loan to the City on the date that Borrower closes such loan for AHP funding and the AHP funds are disbursed to Borrower; provided, however, that if Borrower does not receive AHP funding or receives AHP funding sufficient for only partial repayment of the AHP Bridge Loan, the unpaid principal balance of the AHP Bridge Loan and unpaid costs and fees incurred shall be due and payable at the Maturity Date according to the terms set forth in full in the Note.

3.6 Changes In Funding Streams. The City's agreement to make the Loan on the terms set forth in this Agreement and the Note is based in part on Borrower's projected sources and uses of all funds for the Project, as set forth in the Table of Sources and Uses. Borrower covenants to give written notice to the City within thirty (30) days of any significant changes in budgeted funding or income set forth in documents previously provided to the City. Examples of significant changes include loss or adjustments (other than regular annual adjustments) in funding under Shelter + Care, Section 8 or similar programs.

3.7 Notification and Repayment of Excess Proceeds. Borrower must notify the City in writing within thirty (30) days after the later of the date on which Borrower receives its Form 8609 from the California Tax Credit Allocation Committee or the date on which Borrower receives Excess Proceeds from its limited partner or other financing sources. Borrower must repay all Excess Proceeds to the City no later than sixty (60) days after receipt of such notification, unless the City has elected to waive such payment. The City must use such Excess Proceeds to reduce the balance of the Loan.

3.8 Failure to Provide Budgeted Supportive Services. If Borrower fails to provide Supportive Services in the amount shown in the approved 20-Year Cash Flow Proforma, Borrower shall provide notice to the City within ten (10) business days of the date the Supportive Services were terminated, which notice shall include, at a minimum, a proposed plan to restore the Supportive Services within a reasonable period of time. If at the time such notice is provided, Borrower is unable to propose a feasible plan for restoring the Supportive Service, Borrower shall include in the notice a detailed explanation as to the cause of the termination of Supportive Services and the reasons why it would not be feasible to restore the Supportive Services within a reasonable period of time.

3.9 Recordation of the Deed of Trust and Declaration of Restrictions. Borrower shall cause each of the following requirements to be fully satisfied on or before the date it acquires Control of the Site:

(a) Borrower shall have delivered the Deed of Trust and the Declaration of Restrictions to City, duly executed and acknowledged by Borrower;

(b) Borrower shall have recorded the Deed of Trust and the Declaration of Restrictions in the Official Records, subject only to the Permitted Exceptions; and

(c) A title company shall have committed to issue the Title Policy to City, and Borrower shall have delivered all documents reasonably required by such title company to issue the Title Policy. Borrower shall pay all amounts charged by the title company for the issuance of the Title Policy; provided that such amounts may be included in a subsequent Expenditure Request.

3.10 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.

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. Unless otherwise agreed by the City and Borrower in writing, Borrower will establish an escrow account with the title company issuing the Title Policy, or any other escrow agent Borrower chooses, subject to the City's approval (the “Escrow Agent”). The parties will execute and deliver to the Escrow Agent written instructions consistent with the terms of this Agreement. In the event the escrow does not close on or before the expiration date

of escrow instructions signed by the City, or any other mutually agreed date, the City may declare this Agreement to be null and void. If Borrower does not satisfy all of the conditions to closing within a reasonable time, as determined by the City in its sole discretion, then 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 triplicate); (iii) the Deed of Trust; (iv) the Declaration of Restrictions; (v) the Opinion; (vi) the Authorizing Resolutions; (vii) the Developer Fee Agreement; and (viii) any other City Documents reasonably requested by the City.

(b) Borrower must have delivered to the City: (i) Borrower's Charter Documents; and (ii) a comprehensive maintenance and operating plan for the Project duly approved by Borrower's governing body that includes, but is not limited to, plans for emergencies and emergency maintenance, vacant unit turnover, preventive maintenance and inspection schedule, and marketing and resident selection.

(c) Borrower must have delivered to the City satisfactory evidence that Borrower has obtained commitments for any additional financing that may be required for the Project, in amounts and from lenders or investors satisfactory to the City in its sole discretion.

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

(e) Borrower must have delivered to the City a preliminary report on title for the Site dated no earlier than thirty (30) days before the Agreement Date.

(f) Borrower must have submitted a "Phase I" environmental report for the Site, or any other report reasonably requested by the City, prepared by a professional hazardous materials consultant acceptable to the City.

(g) The Declaration of Restrictions and Deed of Trust must have been recorded as valid liens in the official records of San Francisco County, subject only to the Permitted Exceptions.

(h) The Escrow Agent must have committed to provide to the City the Title Policy in form and substance satisfactory to the City.

(i) Borrower must have executed a letter of intent to lease the Commercial Space and an agreement that includes timing for development of the Commercial Space with Cultura Y Arte Nativa De Las Americas (CANNA), dba Carnaval San Francisco. If Borrower has

not done so, then Borrower must provide evidence to MOHCD that is in the process of finding an alternative commercial space tenant or tenants.

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

4.5 Disbursements. The City's obligation to approve any expenditure of Funds after Loan closing 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 E, Section 1**, if applicable.

(d) With respect to any Expenditure Request that covers travel expenses, Borrower's travel expenses must be reasonable and must comply with the following:

(i) Lodging, meals and incidental expenses shall not exceed the then-current per diem rates set forth by the United States General Services Administration for the County of San Francisco found at: <https://www.gsa.gov/portal/category/104711>.

(ii) Air transportation expenses must use fares for coach-class accommodations, provided that purchases for air travel must occur no less than one week before the travel day.

(iii) If ground transportation is required, the City urges the use of public transit or courtesy shuttles if provided by a lodging. If courtesy transportation is not provided by a lodging, ground transportation expenses for travel to or from regional airports must not exceed Fifty Dollars (\$50.00) each way. Other ground transportation expenses must not exceed then-current San Francisco taxi rates found at: <https://www.sfmta.com/getting-around/taxi/taxi-rates>. Ground transportation must not include any expenses for luxury transportation services, such as a limousine, or any expenses related to travel to or from Project site meetings by Borrower's employees.

(iv) Miscellaneous travel expenses must not exceed Fifty Dollars (\$50.00) without prior written approval of the City.

(v) Any Expenditure Request for travel expenses must include supporting documentation, including, without limitation, original itemized receipts showing rates and cost, air travel itinerary, proof of payment, and any written justification requested by the City.

For the purpose of this Section, the terms “lodging,” “meals” and “incidental expenses” shall have the same meanings defined in 41 CFR Part 300-3; the term “coach-class” shall have the same meaning defined in 41 CFR Part 301-10.121(a); and the term “miscellaneous” means copying services, printing services, communication services, or other services reasonably related to travel for the Project and approved by the City.

(e) The Loan must be In Balance.

4.6 Loan In Balance. 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 that the Loan is out of balance. When the City is satisfied that the Loan is again In Balance, the City will recommence making Disbursements for Expenditure Requests meeting the conditions set forth above.

4.7 Retention. In addition to the other conditions to Disbursements, Borrower acknowledges that the amount of hard costs or tenant improvements costs included in any Expenditure Request associated with rehabilitation or construction, when added to previously approved costs, may not exceed ninety percent (90%) of the approved budgeted costs on a line item basis. The remaining ten percent (10%) of approved budgeted hard costs or tenant improvement costs associated with rehabilitation or construction will 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 as follows:

(a) Early Retention Release. After fifty percent (50%) of the rehabilitation or construction of the Project is complete as determined by the City, Borrower may submit a written request to the City to release up to fifty percent (50%) of the Retention, provided that the following prerequisites have been met: (i) all work required to be performed by all parties for whom the City agrees to release the Retention (the “Early Retention Release Contractors”) has been completed in conformance with the terms of the applicable contract documents, the plans and specifications approved by the City and all applicable Laws; (ii) the applicable Early Retention Release Contractors have filed unconditional lien waivers satisfactory to the City; (iii) no liens or stop notices have been filed against the Project and no claims are pending; (iv) the City determines that the contingency is In Balance and adequate to complete the Project; (v) the Project is on schedule, and (vi) Expenditure Requests will not exceed 95% of the approved budgeted costs on a line item basis.

(b) Retention Release After Project Completion. Borrower may request disbursement of the remaining percentage amount of the Retention only upon the satisfaction of each of the following conditions, unless otherwise approved in writing by the City:

(i) completion of rehabilitation or construction of the Project in accordance with the plans and specifications approved by the City, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect's or engineer's certificate of completion; (ii) timely recordation of a notice of completion; and (iii) 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.

4.8 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.

ARTICLE 5 DEMOLITION, REHABILITATION OR CONSTRUCTION.

5.1 Selection Requirements. In the selection of all contractors and professional consultants for the Project, Borrower must comply with 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.

5.2 Plans and Specifications. Before starting any demolition, rehabilitation or construction on the Site, Borrower must have delivered to the City, and the City must have reviewed and approved, plans and specifications and the construction contract for the Project entered into between Borrower and Borrower's general contractor and approved by 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 Building Inspection (the "Department of Building Inspection") (collectively, the "Approved Plans") prior to the start of any demolition, rehabilitation or construction on the Site. The Approved Plans must be explicitly identified in the Construction Contract. The specifications approved by 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 of the Project, Borrower must retain the Approved Plans as well as "as-built" plans for the Project, the Approved Specifications and the Construction Contract, all of which Borrower must make available to the City upon request.

5.3 Change Orders. Borrower may not approve or permit any change orders to the plans and specifications approved by the City without the City's prior written consent. Borrower must provide adequate and complete justification for analysis of any change order request to the City. The City will provide any questions, comments or requests for additional information to Borrower within five (5) business days of receipt of a change order request. City will review and approve or disapprove of a change order request within ten (10) business days of a complete submission by Borrower. In the event the City fails to approve or disapprove the change order request within such ten (10) business day period, the change order shall be deemed approved. 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 L**. 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.

5.6 Commencement and Completion of Project. Unless otherwise extended in writing by the City, Borrower must: (a) commence demolition, rehabilitation or construction by a date no later than December 1, 2020; (b) complete demolition, rehabilitation or construction by a date no later than September 1, 2023, in accordance with the plans and specifications approved by the City, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect's or engineer's certificate of completion (the "Completion Date"); and (c) achieve occupancy of ninety five percent (95%) of the Units by a date no later than December 31, 2023.

5.7 Rehabilitation/Construction Standards. All rehabilitation or construction must be performed in a workerlike manner, substantially in accordance with final plans and specifications approved by the City and in accordance with all applicable codes.

ARTICLE 6 MARKETING.

6.1 Marketing and Tenant Selection Plan. No later than six (6) months before the Completion Date, Borrower must deliver to the City for the City's review and approval an affirmative plan for initial and ongoing marketing of the Units and a written Tenant selection procedure for initial and ongoing renting of the Units based on MOHCD's then-current form of marketing and tenant selection plan (the "Marketing and Tenant Selection Plan"), all in compliance with the restrictions set forth in **Exhibit A** and in form and substance acceptable to the City. Borrower must obtain the City's approval of reasonable alterations to the Marketing and Tenant Selection Plan. Borrower must market and rent the Units in the manner set forth in the Marketing and Tenant Selection Plan, as approved by the City.

6.2 Affirmative Marketing and Tenant Selection Plan Requirements. Borrower's Marketing and Tenant Selection Plan must address how Borrower intends to market vacant Units and any opportunity for placement on the Waiting List, as defined in 6.5. The Marketing and Tenant Selection Plan shall include as many of the following elements as are appropriate to the Project, as determined by the City:

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

(b) A plan that satisfies the requirement to give preference in occupying units in accordance with the Preferences and Lottery Manual and the Preferences Ordinance. Notwithstanding the foregoing, in the event of a conflict between these provisions and the provisions of Section 42 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated therewith, the provisions of such Section 42 (and the applicable regulations) shall control.

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

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

(e) Notices to SFHA.

(f) Notices to MOHCD

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

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

(i) Borrower must use access points and accept referrals from HSH, or its successor agencies.

6.3 Marketing and Tenant Selection Plan & Tenant Screening Criteria Requirements:

(a) Borrower's Marketing and Tenant Selection Plan shall comply with the requirements of the Tenant Selection Plan Policy as set forth in the attached Exhibit H. The Marketing and Tenant Selection Plan must be kept on file at the Project at all times.

(b) Borrower's tenant screening criteria must comply with the Tenant Screening Criteria Policy set forth in the attached Exhibit I.

6.4 Marketing Records. Borrower must keep records of: (a) activities implementing the Marketing and Tenant Selection Plan; (b) advertisements; and (c) other community outreach efforts.

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

ARTICLE 7 AFFORDABILITY AND OTHER LEASING RESTRICTIONS.

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

7.2 Borrower's Covenant.

(a) Borrower covenants to rent all Units (except one Unit reserved for the manager of the Project) at all times to households certified as Qualified Tenants at initial occupancy, as set forth in **Exhibit A**. In addition, thirty-nine (39) Units must be rented to those at risk of Homelessness during the period in which the City's Local Operating Subsidy Program is in operation and the City provides the Local Operating Subsidy to the Project.

(b) A Tenant who is a Qualified Tenant at initial occupancy may not be required to vacate the Unit due to subsequent rises in household income, except as provided in **Section 7.3**. After the over-income Tenant vacates the Unit, the vacant Unit must be rented only to Qualified Tenants as provided in this **Article 7**.

7.3 Rent Restrictions.

(a) The Rent charged to each Qualified Tenant may not exceed the amounts set forth in **Exhibit A**, *provided that* Rents may be adjusted annually, subject to the limitations below.

(b) Subject to the Hold Harmless Policy, rents for all Units may be increased once annually up to the maximum monthly rent by unit type as published by MOHCD.

(c) With the City's prior written approval, Rent increases for Units exceeding the amounts permitted under **Section 7.3(b)** may be permitted once annually in order to recover increases in approved Project Expenses, provided that: (i) in no event may single or aggregate increases exceed ten percent (10%) per year unless such an increase is contemplated in a City-approved temporary relocation plan or is necessary due to the expiration of Section 8 or other rental subsidies; and (ii) Rents for each Unit may in no event exceed the maximum Rent permitted under **Section 7.3(a)**. City approval for such Rent increases that are necessary to meet all approved Project Expenses shall not be unreasonably withheld.

(d) For any Qualified Tenant participating in a Rent or operating subsidy program where the Rent charged is calculated as a percentage of household income, adjustments to Rent charged may be made according to the rules of the relevant subsidy program. There is no limit on the increase/decrease in Rent charged under this provision, as long as it does not exceed the maximum Rent permitted under **Section 7.3(a)**. There is no limit on the number of Rent adjustments that can be made in a year under this provision.

(e) For any Qualified Tenant that becomes ineligible to continue participating in a rent or operating subsidy program, there is no limit on the increase in Rent charged as long as it does not exceed the maximum Rent permitted under **Section 7.3(a), (d) and (f)**.

(f) Unless prohibited under any applicable Laws, including without limitation Section 42 of the Internal Revenue Code of 1986, as amended, if the household income of a Qualified Tenant exceeds the maximum permissible income during occupancy of a Unit, then, upon no less than thirty (30) days' prior written notice to the Tenant or as otherwise required under the Tenant's lease or occupancy agreement, Borrower may adjust the charges for Rent for the previously Qualified Tenant to be equal to thirty percent (30%) of the Tenant's adjusted household income. Rents charged under this provision may exceed the Maximum Rent permitted under **Section 7.3(a)**.

7.4 Certification.

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

substantiate the prospective Tenant's income. Certifications provided to and accepted by the SFHA will satisfy this requirement.

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

(c) Income certifications with respect to each Qualified Tenant who resides in a Unit or resided therein during the immediately preceding calendar year must be maintained on file at Borrower's principal office, and Borrower must file or cause to be filed copies thereof with the City promptly upon request by the City.

7.5 Form of Lease. The form of lease for Tenants must provide for termination of the lease and consent to immediate eviction for failure to qualify as a Qualified Tenant if the Tenant has made any material misrepresentation in the initial income certification.

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

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

7.8 Commercial Space. At least sixty (60) days prior to the date that build-out of the Commercial Space begins, MOHCD must have reviewed and approved proposed leases and development plans for the Commercial Space. All leases of Commercial Space must be to bona fide third-party tenants capable of performing their financial obligations under their leases, which must reflect arms'-length transactions at the then-current market rental rate for comparable space, *provided that*, leases for Public Benefit Purposes may be at below-market rates so long as the sum of Project Income and Commercial Income meets approved cash flow requirements for the Project. Allowed uses of Commercial Space must be consistent with all applicable redevelopment plans and local planning and building codes and be reasonably compatible with the design and purpose of the Project. Each lease of Commercial Space must restrict its use to Public Benefit Purposes or all Surplus Cash generated as a result of a market-rate lease of the Commercial Space must be directed toward repayment of the Loan or used for a Public Benefit Purpose. All surplus cash shall be subject to the MOHCD Policy on the Use of Residual Receipts. Each lease of Commercial Space must comply with the MOHCD Commercial Underwriting Guidelines as set forth in **Exhibit O** hereof.

ARTICLE 8 MAINTENANCE AND MANAGEMENT OF THE PROJECT.

8.1 Borrower's Responsibilities.

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

(b) Borrower must take prudent measures to ensure the security of the Site. Measures may include erecting a fence; covering and securing all openings in any vacant building and hiring security guards, as appropriate for the circumstances.

8.2 Contracting With Management Agent.

(a) Borrower may contract or permit contracting with a management agent for the performance of the services or duties required in **Section 8.1(a)**, subject to the City's prior written approval of both the management agent and, at the City's discretion, the management contract between Borrower and the management agent, *provided, however*, that the arrangement will not relieve Borrower of responsibility for performance of those duties. Any management contract must contain a provision allowing Borrower to terminate the contract without penalty upon no more than thirty (30) days' notice. As of the Agreement Date, the City has approved Tenderloin Neighborhood Development Corporation (TNDC) as Borrower's management agent, subject to approval of the management contract.

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

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

ARTICLE 9 GOVERNMENTAL APPROVALS AND REQUIREMENTS.

9.1 Approvals. 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 17.2**, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

9.2 Borrower Compliance. Borrower must comply, and where applicable, require its contractors to comply, with all applicable Laws governing the use of Funds for the construction, rehabilitation and/or operation of the Project, including those set forth in **Exhibit E** and **Exhibit L**. Borrower acknowledges that its failure to comply with any of these requirements will constitute an Event of Default under this Agreement. Subject to **Section 17.2**, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

ARTICLE 10 PROJECT MONITORING, REPORTS, BOOKS AND RECORDS.

10.1 Generally.

(a) Borrower understands and agrees that it will be monitored by the City from time to time to assure compliance with all terms and conditions in this Agreement and all Laws. Borrower acknowledges that 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 any Project Income and Project Expenses. Borrower must maintain records of all income, expenditures, assets, liabilities, contracts, operations, tenant eligibility and condition of the Project. All financial reports must be prepared and maintained in accordance with GAAP as in effect at the time of performance.

(c) Borrower must provide written notice of the replacement of 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 “MOHCD Monthly Project Update”) describing progress toward developing the Project with respect to obtaining necessary approvals from other City departments, procuring architects, consultants and contractors, changes in scope, cost or schedule and significant milestones achieved in the past month and expected to be achieved in the coming month. The MOHCD Monthly Project Update must be submitted by email in substantially the form to be found in the Contracting Manual until such time as the Project Completion Report is submitted to the City pursuant to **Section 10.5** below.

10.3 Annual Reporting.

(a) From and after the Completion Date, Borrower must file with the City annual report forms (the “Annual Monitoring Report”) that include audited financial statements with an income and expense statement for the Project covering the applicable reporting period, a statement of balances, deposits and withdrawals from all Accounts, line item statements of Project Expenses, Project Income, Project Fees (if any), Residual Receipts and any Distributions made, evidence of required insurance, a description of marketing activities and a rent roll, no later than one hundred fifty (150) days after the end of Borrower’s fiscal year. The Annual Monitoring Report must be in substantially the form attached as **Exhibit G** or as later modified during the Compliance Term.

(b) If the source of Funds is Federal Funding, Borrower must also provide an annual accounting of program income, as defined in applicable federal regulations.

10.4 Capital Needs Assessment. In accordance with the CNA Policy, Borrower must deliver to MOHCD an updated CNA every five (5) years after the Completion Date for approval.

10.5 Project Completion Report. Within the specific time periods set forth below after the completion of rehabilitation or construction, the lease-up and/or permanent financing of the Project, as applicable, 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 must 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 the Completion Date, a draft cost certification (or other similar project audit performed by an independent certified public accountant identifying the sources and uses of all Project funds including the Funds;

(b) within one hundred-eighty (180) days after the Completion Date, a report on use of Small Disadvantaged Business Enterprises as defined in the SBE Manual, including the type of work and the dollar value of such work;

(c) within ninety (90) days after seventy-five percent (75%) occupancy, and one hundred percent (100%) occupancy, respectively, a report on the lease-up of the Units including number of leases by race, ethnicity and single-headed household by gender, to the extent available, location of previous residence, and also indicating the Units by income category; and

(d) within ninety (90) days after the Completion Date, a report demonstrating compliance with all requirements regarding relocation, including the names of all individuals or businesses occupying the Site on the date of the submission of the application for Funds, those moving in after that date, and those occupying the Site upon completion of the Project.

(e) within one hundred-eighty (180) days after the Completion Date, and if the Project has used Federal Funding, a report demonstrating compliance with all requirements regarding HUD Section 3, including documentation of total labor hours worked on the Project, total Section 3 hours worked, total wages paid, total Section 3 wages paid, and the names of all individuals employed to comply with the Section 3 and Section 3 goals, including the total hours worked for each individual and total wages paid to each individual.

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 income, expenditures, assets, liabilities, contracts, operations and condition of the Project, the status of any mortgage encumbering the Project and any other requested information with respect to Borrower or the Project.

10.7 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 general partner 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 and occupancy 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) subject to the rights of tenants, access to the Project throughout the Compliance Term 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 USE OF INCOME FROM OPERATIONS.

11.1 Project Operating Account.

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

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

ARTICLE 12 REQUIRED RESERVES.

12.1 Replacement Reserve Account.

(a) Commencing no later than sixty (60) days after the Conversion Date, or any other date the City designates in writing, Borrower must establish or cause to be established a segregated interest-bearing replacement reserve depository account (the "Replacement Reserve Account"). On or before the 15th day of each month following establishment of the Replacement Reserve Account, Borrower must make monthly deposits from Project Income into the Replacement Reserve Account in the amount necessary to meet the requirements of this Section. The City may review the adequacy of deposits to the Replacement Reserve Account periodically and require adjustments as it deems necessary.

(b) Monthly deposits must equal the lesser of: (i) 1/12th of 0.6% of Replacement Cost; or (ii) 1/12th of the following amount: \$65,000.

(c) Borrower may request adjustments every five (5) years based on its most recently approved CNA. If the Project is unable to make a required replacement reserve deposit due to unavailable cash flow, the Borrower must submit a plan for review and approval to MOHCD that addresses the cash flow shortfall.

(d) Borrower may withdraw funds from the Replacement Reserve Account solely to fund capital improvements for the Project, such as replacing or repairing structural elements, furniture, fixtures or equipment of the Project that are reasonably required to preserve the Project. Borrower may not withdraw funds (including any accrued interest) from the Replacement Reserve Account for any other purpose without the City's prior written approval, which approval shall not be unreasonably withheld, conditioned, or delayed.

12.2 Operating Reserve Account.

(a) Commencing no later than sixty (60) days after the Conversion Date, or any other date the City designates in writing, Borrower must establish or cause to be established a segregated interest-bearing operating reserve depository account (the “Operating Reserve Account”) by depositing funds in an amount equal to twenty-five percent (25%) of the approved budget for Project Expenses for the first full year of operation of the Project. The City may review the adequacy of deposits to the Operating Reserve Account periodically and require adjustments as it deems necessary.

(b) No less than annually after establishing the Operating Reserve Account and continuing until the Compliance Term has expired, Borrower must make additional deposits from Project Income, if necessary, to bring the balance in the Operating Reserve Account to an amount equal to twenty-five percent (25%) of the prior year's actual Project Expenses.

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

ARTICLE 13 DISTRIBUTIONS.

13.1 Definition. “Distributions” refers to cash or other benefits received as Project Income from the operation of the Project and available to be distributed to Borrower or any party having a beneficial interest in the Project, but does not include reasonable payments for property management, asset management and approved deferred Developer Fees or other services performed in connection with the Project.

13.2 Conditions to Distributions. The 20-Year Cash Flow Proforma attached hereto as Exhibit B-2 includes projections of annual Distributions. Exhibit B-2 is not intended to impose limits on the amounts to be annually distributed. Distributions for a particular fiscal year may be made only following: (a) City approval of the Annual Monitoring Report submitted for that year; (b) the City's determination that Borrower is not in default under this Agreement or any other agreement entered into with the City and County of San Francisco or the City for the Project; and (c) the City's determination that the amount of the proposed Distribution satisfies the conditions of this Agreement. The City will be deemed to have approved Borrower's written request for approval of a proposed Distribution unless the City delivers its disapproval or request for more information to Borrower within thirty (30) business days after the City's receipt of the request for approval.

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

- (a) when a written notice of default has been issued by any entity with an equitable or beneficial interest in the Project and the default is not cured within the applicable cure periods; or
- (b) when the City determines that Borrower or Borrower's management agent has failed to comply with this Agreement; or
- (c) if required debt service on all loans secured by the Project and all operating expenses have not been paid current; or
- (d) if the Replacement Reserve Account, Operating Reserve Account or any other reserve account required for the Project is not fully funded under this Agreement; or
- (e) if the Loan is to be repaid from Residual Receipts, Borrower failed to make a payment when due on a Payment Date and the sum remains unpaid; or
- (f) during the pendency of an uncured Event of Default (including Borrower's failure to provide its own funds at any time the City determines the Loan is out of balance) under any City Document.

13.4 Borrower's Use of Residual Receipts for Development. To the extent that making a Distribution is not inconsistent with any other financing agreement for the Project, and subject to the limitations in this Article, with the City's prior written approval Borrower may retain a portion of Residual Receipts in lieu of using them to repay the Loan in an amount consistent with the Residual Receipts Policy attached hereto as **Exhibit P**. Subject to the terms of this Agreement and the conditions to distribution of Residual Receipts set forth in Exhibit P, Borrower may retain 50% of Residual Receipts until the earlier of (i) the fifteenth (15th) anniversary of the first Payment Date; or (ii) the payment in full of the deferred development fee in the approved amount payable by the Borrower to Developer pursuant to the Development Agreement by and between the Borrower and Developer. Borrower acknowledges that the City may withhold its consent to a Distribution in any year in which Residual Receipts are insufficient to meet Borrower's payment obligations under the Note.

ARTICLE 14 SYNDICATION PROCEEDS.

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

ARTICLE 15 DEVELOPER FEES.

15.1 Amount. Subject to the terms and conditions set forth in full in the Developer Fee Agreement dated the date of this Agreement, between the City and Developer, Developer is

entitled to receive fees in an amount not to exceed Two Million Eight Hundred Thousand and No/100 Dollars (\$2,800,000.00) in fees for services related to development, construction and leasing of the Project (“Developer Fees”) under a Development Agreement dated , between Borrower and Developer. .

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) leases, subleases or occupancy agreements to occupants of Units and/or Commercial Space in the Project; (b) 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; (c) transfers from Borrower to a limited partnership or limited liability company formed for the tax credit syndication of the Project, where Borrower or an affiliated nonprofit public benefit corporation is the sole general partner or manager of that entity or is the manager of a limited liability company that is the sole general partner or manager of that entity; (d) transfers of the general partnership or manager's interest in Borrower to a nonprofit public benefit corporation approved in advance by the City; (e) transfers of any limited partnership or membership interest in Borrower to an investor pursuant to the tax credit syndication of the Project and/or as otherwise permitted by Borrower’s Partnership Agreement; (f) the grant or exercise of an option agreement between Borrower and Borrower's general partner or manager or any of its affiliates in connection with the tax credit syndication of the Project where such agreement has been previously approved in writing by the City; (g) to remove or replace the General Partner in accordance with the terms of the Partnership Agreement, a transfer of any general partnership interest to a new general partner reasonably approved in advance by the City; or (h) as provided in Section 16.2 (Transfer of Commercial Space) below. 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.

16.2 Transfer of Commercial Space. On or before the Conversion Date, Borrower may transfer the Commercial Space to an affiliated entity organized to own the Commercial Space, as reasonably approved by the City (the “Affiliated Commercial Owner”), and the City and the Borrower will amend the Loan Documents to the extent necessary to provide that the Loan applies to and the Deed of Trust encumbers only the Residential Parcel, and the Affiliated Commercial Owner and the City will enter into a commercial ground lease pursuant to MOHCD’s Commercial Underwriting Guidelines. Concurrently with execution of the ground lease for the Commercial Space with the Affiliated Commercial Owner, the City and the Affiliated Commercial Owner will enter into a loan agreement, and the Affiliated Commercial Owner will execute a Note and Deed of Trust on the same terms as set forth in the applicable Loan Documents (except as may be inapplicable to the Commercial Space) for a loan in an amount reasonably determined by MOHCD as applicable to the Commercial Space, which amount will be subtracted from the amount due under the Note due from Borrower to the City. As part of the terms of the loan agreement with the Affiliated Commercial Owner, the Affiliated

Commercial Owner will be required to obtain a loan from a third party to reduce the principal balance of the Note by the forgoing amount. The City will have no obligation to reduce the amount due under the Note if the City is unable to agree with the Affiliated Commercial Owner on the loan and/or the ground lease for the Commercial Space. City's obligations under this Section 16.2 are subject to City's receipt of all necessary approvals.

ARTICLE 17 INSURANCE AND BONDS; INDEMNITY.

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 L** from the date the Deed of Trust is recorded in the Recorder's Office of San Francisco County until the expiration of the Compliance Term at no expense to the City.

17.2 Borrower's Indemnity Obligations. Borrower must indemnify, protect, defend and hold harmless each of the Indemnitees from and 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 18** below); (b) any failure of any representation by Borrower to be correct in all 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, 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 any improvements or offsite 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, the Loan, the Site or the Project or any transaction contemplated by, or the relationship between Borrower and the City or any action or inaction by the City under, the City Documents; (f) the occurrence, until the expiration of the Compliance Term, of any Environmental Activity or any failure of Borrower or any other person to comply with all applicable Environmental Laws relating to the Project or the Site; (g) the occurrence, after the Compliance Term, of any Environmental Activity resulting directly or indirectly from any Environmental Activity occurring before the expiration of the Compliance Term; (h) any liability of any nature arising from Borrower's contest of or relating to the application of any Law, including any contest permitted under **Sections 9.1, 9.2 and 18.2**; or (i) any claim, demand or cause of action, or any investigation, inquiry, order, hearing, action or other proceeding by or before any Governmental Agency, whether meritorious or not, that directly or indirectly relates to, arises from or is based on the occurrence or allegation of any of the matters described in clauses (a) through (h) above, *provided that* no Indemnitee will be entitled to indemnification under this Section for matters caused solely by its own gross negligence or willful misconduct.

17.3 Duty to Defend. Borrower acknowledges and agrees that its obligation to defend the Indemnitees under **Section 17.2**: (a) is an immediate obligation, independent of its other obligations hereunder; (b) applies to any Loss which actually or potentially falls within the scope of **Section 17.2**, regardless of whether the allegations asserted in connection with such Loss are or may be groundless, false or fraudulent; and (c) arises at the time the Loss is tendered to

Borrower by the Indemnitee and continues at all times thereafter. 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 Indemnitee must give Borrower prompt notice of any Loss and Borrower has the right to defend, settle and compromise any such Loss; provided, however, that the Indemnitee has the right to retain its own counsel at the expense of Borrower if representation of such Indemnitee by the counsel retained by Borrower would be inappropriate due to conflicts of interest between such Indemnitee and Borrower. An Indemnitee's failure to notify Borrower promptly of any Loss does not relieve Borrower of any liability to such Indemnity under **Section 17.2**, unless such failure materially impairs Borrower's ability to defend such Loss. Borrower must seek the Indemnified Party's prior written consent to settle or compromise any Loss if Borrower contends that such Indemnitee shares in liability with respect thereto.

17.4 No Limitation. Borrower's obligations under **Section 17.2** are not limited by the insurance requirements under this Agreement.

17.5 Survival. The provisions of this Section will survive the repayment of the Loan and/or termination of this Agreement.

ARTICLE 18 HAZARDOUS SUBSTANCES.

18.1 Borrower's Representations. Borrower represents and warrants to the City that, to the best of Borrower's actual knowledge, without independent investigation or inquiry as of the Agreement Date, the following statements are true and correct except as disclosed in the Phase I, Phase II and Asbestos and Lead Survey Report or otherwise in writing: (a) the Site is not in violation of any Environmental Laws; (b) the Site is not now, nor has it been, used for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Substances, except in limited quantities customarily used in residences and offices and in compliance with Environmental Laws; (c) the Site does not consist of any landfill or contain any underground storage tanks; (d) the improvements on the Site do not consist of any asbestos-containing materials or building materials that contain any other Hazardous Substances; (e) no release of any Hazardous Substances in the improvements on the Site has occurred or in, on, under or about the Site; and (f) the Site is not subject to any claim by any Governmental Agency or third party related to any Environmental Activity or any inquiry by any Governmental Agency (including the California Department of Toxic Substances Control and the Regional Water Quality Control Board) with respect to the presence of Hazardous Substances in the improvements on the Site or in, on, under or about the Site, or the migration of Hazardous Substances from or to other real property.

18.2 Covenant. Unless the City otherwise consents in writing, at all times from and after the date of this Agreement, at its sole expense, Borrower must: (a) comply with all

applicable Environmental Laws relating to the Site and the Project, and not engage in or otherwise permit 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 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) Any lien is recorded against all or any part of the Site or the Project without the City's prior written consent, whether prior or subordinate to the lien of the Deed of Trust or Declaration of Restrictions, and the lien is not removed from title or otherwise remedied to the 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; 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) 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 determined upon restoration or repair that the security of the Deed of Trust has been impaired or that the repair, restoration or replacement of the improvements in accordance with the requirements of the Deed of Trust is not economically practicable or is not completed within two (2) years of the receipt of insurance proceeds; or all or a substantial or material portion of the improvements is condemned, seized or appropriated by any non-City Governmental Agency or subject to any action or other proceeding

instituted by any non-City Governmental Agency for any purpose with the result that the improvements cannot be operated for their intended purpose; 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; 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) Either the Deed of Trust or the Declaration of Restrictions ceases to constitute a valid and indefeasible perfected lien on the Site and improvements, subject only to Permitted Exceptions; or

(k) Borrower is subject to an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature or makes an assignment for the benefit of creditors; or Borrower applies for or consents to the appointment of any receiver, trustee or similar official for Borrower or for all or any part of its property (or an appointment is made without its consent and the appointment continues undischarged and unstayed for 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

(l) Any material adverse change occurs in the financial condition or operations of Borrower, such as a loss of services funding or rental subsidies, that has a material adverse impact on the Project, provided that, if the Borrower provides an alternate funding source to cover a loss of funding or rental subsidy that is reasonably satisfactory to the City, a material adverse impact shall not be deemed to have occurred; or

(m) 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 occupancy or equivalent certification is issued for the Project, Borrower ceases rehabilitation or construction of the Project for a period of twenty-five (25) consecutive calendar days, and the cessation is not excused under **Section 19.3**; or

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

(p) Borrower is in default of its obligations under any other agreement entered into with the City and County of San Francisco, and the default remains uncured following the expiration of any applicable cure periods.

Notwithstanding the foregoing, the Limited Partner shall have the right to cure any Event of Default, and City shall accept or reject such cure on the same terms as if rendered by Borrower.

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 to release the Site from the Deed of Trust or Declaration of Restrictions, or, without waiving the Event of Default, the City may determine to make further Disbursements or to release all or any part of the Site from the Deed of Trust or Declaration of Restrictions 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; pandemics, 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.

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

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, to Borrower's knowledge, 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 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 been suspended, disciplined or prohibited from contracting with any Governmental Agency.

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

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

(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

To Borrower: 681 Florida Housing Associates, L.P.
c/o Tenderloin Neighborhood Development Corporation
201 Eddy Street
San Francisco, CA 94102
Attn: Donald S. Falk, Chief Executive Officer

And to: 681 Florida Housing Associates, L.P.
c/o Mission Economic Development Agency
2301 Mission St #301
San Francisco, CA 94110
Attn: Luis Granados, Chief Executive Officer

With a copy to
Borrower's Limited
Partner at: Wells Fargo Affordable Housing Community Development
Corporation
MAC #D1053-170
301 South College Street
Charlotte, North Carolina 28288-0170
Attention: Director of Tax Credit Asset Management

and Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
Attention: Philip C. Spahn

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 to Limited Partner. The City agrees to deliver a copy of any notice of default to Borrower's limited partner at the address set forth above at the same time and in the same manner as notice is delivered to Borrower.

ARTICLE 22 GENERAL PROVISIONS.

22.1 Subordination. The Deed of Trust may be subordinated to other financing secured by and used for development of the Project (in each case, a “Senior Lien”), and any lien representing a loan necessary to refinance the principal amount of the Senior Lien upon its maturity date but only if MOHCD determines in its sole discretion that subordination is necessary to secure adequate acquisition, construction, rehabilitation and/or permanent financing to ensure the viability of the Project. Following review and approval by MOHCD and approval as to form by the City Attorney's Office, the Director of MOHCD or his/her successor or designee will be authorized to execute any approved subordination agreement without the necessity of any further action or approval.

22.2 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.

22.3 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.

22.4 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.

22.5 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. 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.

22.6 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.

22.7 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.

22.8 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.

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

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

22.11 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.

22.12 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.

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

22.14 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.

22.15 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.

22.16 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.

22.17 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.

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

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

22.20 Borrower's Board of Directors. Borrower, or Borrower's manager or general partner, as applicable, shall at all times be governed by a legally constituted and fiscally responsible board of directors. Such board of directors shall meet regularly and maintain appropriate membership, as established in the bylaws and other governing documents of Borrower, Borrower's manager or Borrower's general partner, as applicable, and shall adhere to applicable provisions of federal, state and local laws governing nonprofit corporations. Such board of directors shall exercise such oversight responsibility with regard to this Agreement as is necessary to ensure full and prompt performance by Borrower of its obligations under this Agreement.

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

EXHIBITS

- A Schedules of Income and Rent Restrictions
- B-1 Table of Sources and Uses of Funds
- B-2 Annual Operating Budget
- B-3 20-Year Cash Flow Proforma
- C Form of Tenant Income Certification
- D First Source Hiring Requirements and Numerical Goals
- E Governmental Requirements
- F Lobbying/Debarment Certification Form

- G Form of Annual Monitoring Report
- H Tenant Selection Plan Policy
- I MOHCD Tenant Screening Criteria Policy
- J Developer Fee Policy
- K Hold Harmless Policy
- L Insurance Requirements
- M Intentionally omitted
- N Intentionally omitted
- O MOHCD Commercial Underwriting Guidelines
- P MOHCD Residual Receipts Policy

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: _____
 Deputy City Attorney

BORROWER:

681 FLORIDA HOUSING ASSOCIATES, L.P.,
a California limited partnership

By: MEDA 681 Florida LLC,
a California limited liability company
its administrative general partner

By: Mission Economic Development Agency, a
California nonprofit public benefit
corporation, its manager

By: _____
Name: _____
Its: _____

By: 681 Florida TNDC LLC,
a California limited liability company
its managing general partner

By: Tenderloin Neighborhood Development
Corporation, a California nonprofit public
benefit corporation, its manager

By: _____
Name: _____
Its: _____

EXHIBIT A
Schedules of Income and Rent Restrictions

1. **Income and Rent Restrictions.** Maximum rent is 30% of maximum income level. As used in this Agreement, the term “Qualified Tenant” includes each category of Tenant included below:

Unit Size	No. of Units	Maximum Income Level (MOHCD AMI)	Add LOSP units
Studio	21	85% of Median Income	
1BR	4	85% of Median Income	
2BR	8	85% of Median Income	
3BR	2	85% of Median Income	
Studio	5	60% of Median Income	
1BR	3	60% of Median Income	
2BR	3	60% of Median Income	
3BR	1	60% of Median Income	
Studio	4	50% of Median Income	
1BR	1	50% of Median Income	
2BR	3	50% of Median Income	
3BR	2	50% of Median Income	
Studio	2	40% of Median Income	
1BR	2	40% of Median Income	
2BR	5	40% of Median Income	
3BR	2	40% of Median Income	
Studio	12	35% of Median Income	
1BR	2	35% of Median Income	
2BR	5	35% of Median Income	
3BR	3	35% of Median Income	
1BR	18	25% of Median Income	LOSP
2BR	17	25% of Median Income	LOSP
3BR	4	25% of Median Income	LOSP
1BR	1	Manager’s Unit	

2. Thirty-nine (39) units must be rented at all times to tenants receiving vouchers or other subsidy through the LOSP Agreement. If the LOSP is terminated, discontinued or reduced at no fault of Borrower with respect to the Project, then the rent restrictions above may be altered but only to the extent necessary for the Project to remain financially feasible, as determined in City’s reasonable discretion; provided that:

- (a) Borrower diligently pursues an additional or alternative source of income or subsidy acceptable to the City to replace the rental subsidies.

(b) One hundred percent (100%) of the Units must at all times be occupied by Qualified Households whose adjusted income does not exceed eighty percent (80%) of Median Income, and the monthly rent paid by the Qualified Tenants may not exceed (a) thirty percent (30%) of eighty percent (80%) of Median Income (b) less utility allowance. The maximum initial occupancy income level restrictions when averaged for all Residential Units in the Project may not exceed sixty percent (60%) of Median Income and subject to any applicable regulatory agreement, restrictive covenant, or other encumbrance. To the extent financially feasible, as mutually determined by the Parties, any such rent increase will be limited to (or will be first implemented with) any vacant units.

(c) If the Project continues to demonstrate financial infeasibility after the rent alterations above, to the extent financially feasible as determined in City's reasonable discretion, the City will waive the average income restriction of sixty percent (60%) of Median Income for all Residential Units, and increase rents to the extent necessary for Project to remain financially feasible (not past TCAC maximums); provided that one hundred percent (100%) of the Units must at all times be occupied by Qualified Tenants whose adjusted income does not exceed eighty percent (80%) of area median income, as published by TCAC (the "TCAC Median Income"), and the monthly rent paid by the Qualified Households may not exceed (a) thirty percent (30%) of eighty percent (80%) of TCAC Median Income (b) less utility allowance. On an annual basis, Borrower will convert to the TCAC Median Income and maximum rent to the corresponding published MOHCD maximum income level and maximum rent level, respectively, and provide MOHCD with supporting documentation. The maximum initial occupancy income level restrictions when averaged for all Residential Units in the Project may not exceed sixty percent (60%) of TCAC Median Income and subject to any applicable regulatory agreement, restrictive covenant, or other encumbrance.

In such event, the City will use good faith efforts to meet with Borrower within fifteen (15) days after Borrower's request to meet. The relief provided by the foregoing will not be construed as authorizing Borrower to exceed any income or rent restriction imposed on the Project by CDLAC, CTCAC, or under any other agreement. Borrower covenants and warrants that it will obtain all necessary approvals or relief from any other applicable income or rent limitations before implementing the relief provided above.

3. The total amount for rent and utilities (with the maximum allowance for utilities determined by the San Francisco Housing Authority) charged to a Qualified Tenant may not exceed the greater of:

(a) thirty percent (30%) of the applicable maximum income level, adjusted for household size; or

(b) the tenant paid portion of the contract rent as determined by the San Francisco Housing Authority for Qualified Tenants holding Section 8 vouchers or certificates.

Rents may be increased as permitted pursuant to Section 7.3 of this Agreement.

4. To the extent the Borrower needs to repay the full outstanding loan balance by the Maturity Date, the rent restrictions above may be altered, but only to the extent necessary for the Project to refinance and repay the full outstanding loan balance by the Maturity Date, as determined in City's reasonable discretion. One hundred percent (100%) of the Units must at all times be occupied by Qualified Households whose adjusted income does not exceed eighty-five percent (85%) of Median Income, and the monthly rent paid by the Qualified Tenants may not exceed (a) thirty percent (30%) of eighty-five percent (85%) of Median Income (b) less utility allowance. The maximum initial occupancy income level restrictions when averaged for all Residential Units in the Project may not exceed sixty percent (60%) of Median Income and subject to any applicable regulatory agreement, restrictive covenant, or other encumbrance. In such event, Borrower will provide the City with a written request no less than one year prior to the Maturity Date, and the City will use good faith efforts to meet with Borrower within fifteen (15) days after Borrower's request to meet. To the extent financially feasible, as mutually determined by the Parties, any such rent increase will be limited to (or will be first implemented with) any vacant units.

EXHIBIT B-1

Table of Sources and Uses of Funds

EXHIBIT B-2
Annual Operating Budget

EXHIBIT B-3

20-Year Cash Flow Proforma

[This Proforma must include the same line items as the Annual Operating Budget shown in Exhibit B-2.]

EXHIBIT C
Tenant Income Certification Form

EXHIBIT D
First Source Hiring Requirements and Numerical Goals

Borrower's use of Funds triggers the following hiring requirements imposed by the City's First Source Hiring Ordinance (San Francisco Administrative Code Chapter 83) as incorporated into MOHCD's Section 3 Plan.

1. Section 3 Requirements.

(a) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (“Section 3”), based on Borrower's receipt of City funds under MOHCD's Section 3 Plan. The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing, to the greatest extent feasible.

(b) The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

(c) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and to post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference and set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions and the qualifications for each, the name and location of the person(s) taking applications for each of the positions and the anticipated date work will begin.

(d) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

(e) The contractor will certify that any vacant employment positions, including training positions, that are filled: (i) after the contractor is selected but before the contract is executed; and (ii) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

(f) Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.

2. Recommended Minimum Numerical Goals. Contractors may demonstrate compliance with the "greatest extent feasible" requirement of Section 3 by meeting the numerical goals set forth below for training, employment and contracting opportunities to Section 3 residents and Section 3 business concerns, which represent minimum numerical goals.

(a) Training and Employment of Section 3 Residents (24 CFR § 135.30(b)). Contractors and subcontractors may demonstrate compliance by committing to employ Section 3 residents as thirty percent (30%) of the aggregate number of new hires (full-time employees for permanent, temporary or seasonal employment) and an overall goal of thirty percent (30%) of total work hours for the entire project.

(b) Contracts with Section 3 Business Concerns (24 CFR § 135.30). Contractors and subcontractors may demonstrate compliance with the requirements of this part by committing to award to Section 3 business concerns:

(i) At least ten percent (10%) of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction and other public construction; and

(ii) At least three percent (3%) of the total dollar amount of all other Section 3 covered contracts.

EXHIBIT E
Governmental Requirements

1. **Prevailing Wages and Working Conditions.** Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 6.1. Every contract for the rehabilitation or construction of housing assisted with Funds must contain a provision requiring: (1) the payment of not less than the Prevailing Rate of Wage in accordance with Administrative Code Section 6.22(e)(3) to all laborers and mechanics employed in the development of any part of the housing, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 6.22(n), (collectively, “Prevailing Wage Requirements”). The Prevailing Wage Requirements of this Section apply to all laborers and mechanics employed in the development of the Project, including portions other than the assisted Units. Borrower agrees to cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements. If applicable, Borrower must include, and require its Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Chapter 6.

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 Units and common areas of the Project.

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

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. Low-Income Hiring Requirements. The use of Funds triggers compliance with certain hiring requirements imposed by the City's First Source Hiring Ordinance (S.F. Admin. Code Chapter 83). To ensure compliance with those requirements, Borrower must include the provisions attached as **Exhibit D** 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**.

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/manager 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 open its meetings and records to the public in the manner set forth in Sections 12L.4 and 12L.5 of the San Francisco Administrative Code. Borrower further agrees to make good faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 12L.6 of the Administrative Code. Borrower acknowledges that its material failure to comply with any of the provisions of this paragraph shall constitute a material breach of this Agreement. Borrower further acknowledges that such material breach of the Agreement shall be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

(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 12M.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.

21. Public Power. From and after the effective date of the Ground Lease, Borrower must procure water and sewer service from the City and electricity, telephone, natural gas, and any other utility service from the City or utility companies providing such services, and must pay all connection and use charges imposed in connection with such services. From and after the effective date of the Ground Lease, as between the City and Borrower, Borrower will be responsible for the installation and maintenance of all facilities required in connection with such utility services to the extent not installed or maintained by the City or the utility providing such service. All electricity necessary for operations on the Site must be purchased from the San Francisco Public Utilities Commission ("PUC"), at PUC's standard rates charged to third parties, unless PUC determines, in its sole judgment, that it is not feasible to provide such service to the Premises. PUC is the provider of electric services to City property, and the Interconnection Services Department of SFPUC's Power Enterprise coordinates with Pacific Gas and Electric Company and others to implement this service. To arrange for electric service to the Site, Borrower must contact the Interconnection Services Department in the Power Enterprise of the SFPUC.

EXHIBIT F
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.

681 FLORIDA HOUSING ASSOCIATES, L.P.,
a California limited partnership

By: MEDA 681 Florida LLC,
a California limited liability company
its administrative general partner

By: Mission Economic Development Agency,
a California nonprofit public benefit corporation,
its manager

By: _____

Name: _____
Its: _____

By: 681 Florida TNDC LLC,
a California limited liability company
its managing general partner

By: Tenderloin Neighborhood Development Corporation,
a California nonprofit public benefit corporation,
its manager

By: _____
Name: _____
Its: _____

DATE: _____

EXHIBIT G
Form of Annual Monitoring Report

EXHIBIT H

Tenant Selection Plan Policy

This policy is in addition to the obligations to comply with applicable federal, state and local civil rights laws, including laws pertaining to reasonable accommodation and limited English proficiency (LEP),¹ **and the applicable provision of the Violence Against Women Act, Pub. Law 109-62 (January 5, 2006), as amended.**

Application Process

- **Application Materials.** MOHCD shall provide an application to be used prior to the housing lottery. The housing provider agrees to use this application to determine lottery eligibility. The housing provider's written and/or electronic application materials should:
 - outline the screening criteria that the housing provider will use;
 - be in compliance with San Francisco Police Code Article 49 or the Fair Chance Ordinance,
 - outline how an applicant may request a modification of the admission process and/or a change in admission policies or practices as a reasonable accommodation;
 - be written in language that is clear and readily understandable,
- **First Interview.** In accordance with the housing provider policies, an initial interview is required to assess each applicant's minimum eligibility requirements for housing units. All applicants shall be offered the opportunity for an interview in lottery rank order.
- **Second Interview.** Before issuing a denial, the housing provider should consider offering a second interview to resolve issues and inconsistencies, gather additional information, and assist as much as possible with a determination to admit the applicant.
- **Confidentiality.** All information provided will be kept confidential and be used only by the housing provider, the referring agency and the funding agency for the purpose of assisting and evaluating the applicant in the admission process. All applicant information shall be retained for 12 months after the final applicant interview.
- **Delays in the Process.** If delays have occurred or are likely to occur in the application and screening process or the process exceeds the housing provider's normal timeline for application and screening, the housing provider must immediately inform the referring agency and the funding agency, of the status of the application, the reason for the delay and the anticipated time it will take to complete the application process.
- **Problems with the Referring Agency.** If at any point the housing provider has difficulty reaching or getting a response from the applicant and referring agency, the

¹See for e.g., Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), 42 U.S.C. §§ 3601, et seq.; 24 C.F.R. Part 100; Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d-2000d-7; Executive Order 13,166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000); Department of Housing and Urban Development Limited English Proficiency Guidance, 72 Fed. Reg. 2732 (Jan. 22, 2007); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; 24 C.F.R. Parts 8 and 9; Title II of the Americans with Disabilities Act of 1990, as amended; California Fair Employment and Housing Act, Gov't Code §§ **12,955-12,956.2**; **Unruh Civil Rights Act, Civil Code § 51**; **California Disabled Persons Act, Civil Code § 51.4**; Dymally-Alatorre Bilingual Services Act, Gov't Code §**7290-7299.8**; **San Francisco Language Access Ordinance, No. 202-09 (April 14, 2009)**

housing provider must immediately contact the referring agency, if possible, and the funding agency, DPH or HSA.

- **Limited English Proficiency Policy.** Throughout the application process, the housing provider must comply with City policy for language access requirements for applicants with limited English proficiency.

Reasonable Accommodation and Modification Policy

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

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

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

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

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

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

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

Notice of Denial and Appeal Process

- The housing provider shall:
 - Hold a comparable unit for the household during the entire appeal process.

- promptly send a written and electronic notice (to the addresses provided) to each applicant denied admission with a written and/or electronic copy to the referring agency and the funding agency. The notice should:
 - list all the reasons for the rejection, including the particular conviction or convictions that led to the decision in cases where past criminal offenses were a reason for rejection;
 - explain how the applicant can request an in person appeal to contest the decision;
 - state that an applicant with a disability is entitled to request a reasonable accommodation to participate in the appeal;
 - inform the applicant that he or she is entitled to bring an advocate or attorney to the in person appeal;
 - provide referral information for local legal services and housing rights organizations;
 - describe the evidence that the applicant can present at the appeal;
 - give applicants denied admission a date within which to file the appeal, which shall be at least ten (10) business days from the date of the notice;
 - unless an extension is agreed to by the applicant and the housing provider, hold the appeal within ten (10) business days of the request for the appeal;
 - confine the subject of the appeal to the reason for denial listed in the notice;
 - give the applicant a chance to present documents and/or witnesses showing that he or she will be a suitable tenant;
 - have an impartial supervisor or manager from the housing provider, but who is not the person who made the initial decision or a subordinate of the person who made the initial decision, conduct the appeal;
 - within 5 business days of the in person appeal, provide the applicant with a written decision that states the reason for the decision and the evidence relied upon. A copy of the written decision must be sent (electronically or otherwise) to the referring agency and the funding agency.
- If the rejection is based on a criminal background check obtained from a tenant screening agency, the Fair Chance Ordinance imposes additional notice requirements.

EXHIBIT I

Tenant Screening Criteria Policy

The screening criteria and considerations outlined below encourage providers to “screen in” rather than “screen out” applicants. These requirements are also designed to satisfy the requirements of San Francisco Police Code Article 49, Sections 4901-4920 or the Fair Chance Ordinance. This policy describes a minimum level of leniency; providers are encouraged to adopt less restrictive policies and processes whenever appropriate. For example, providers may opt not to review or consider applicant criminal records at all.

Screening Criteria

- Housing providers shall not automatically bar applicants who have a criminal record² in recognition of the fact that past offenses do not necessarily predict future behavior, and many applicants with a criminal record are unlikely to re-offend.
- Housing providers shall not consider:
 - arrests that did not result in convictions, except for an open arrest warrant;
 - convictions that have been expunged or dismissed under Cal. Penal Code § 1203.4 or 1203.4a;³
 - juvenile adjudications.
- Housing providers shall consider:
 - the individual circumstances of each applicant; and
 - the relationship between the offense, and
 - (1) the safety and security of other tenants, staff and/or the property; and
 - (2) mitigating circumstances such as those listed below.
 - only those offenses that occurred in the prior 7 years, except in exceptional situations, which must be documented and justified, such as where the housing provider staff is aware that the applicant engaged in violent criminal activity against staff, residents or community members and/or that the applicant intentionally submitted an application with materially false information regarding criminal activity.
 - mitigating factors, including, but not limited to:
 - (1) the seriousness of the offense;
 - (2) the age and/or circumstances of the applicant at the time of the offense;
 - (3) evidence of rehabilitation, such as employment, participation in a job training program, continuing education, participation in a drug or alcohol treatment program, or letters of support from a parole or probation officer, employer, teacher, social worker, medical professional, or community leader;

² The policy recognizes that some housing may be subject to mandatory laws that require the exclusion of an applicant based upon certain types of criminal activity.

³ The purpose of the statute is allow a petitioner to request a dismissal of the criminal accusations, a change in plea or setting aside of a verdict and to seek to have certain criminal records sealed or expunged and a release “from all penalties and disabilities resulting from the offense.”

- (4) if the offense is related to acts of domestic violence committed against the applicant;
- (5) if the offense was related to a person's disability.

EXHIBIT J

Developer Fee Policy

EXHIBIT K

Hold Harmless Policy

EXHIBIT L
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 of this Agreement or other applicable date set forth below throughout the Compliance Term at no expense to the City:

1. **Liability Insurance.** Borrower must obtain and maintain, or cause its contractors, subcontractors, property managers and/or agents, as appropriate for each, to obtain and maintain, insurance and bonds as follows:

(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 Two Million Dollars (\$2,000,000) combined single limit per occurrence and Four Million Dollars (\$4,000,000) 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 Two Million Dollars (\$2,000,000) per claim and Four Million Dollars (\$4,000,000) 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) as applicable, pollution liability and/or asbestos pollution liability covering the work being performed with a limit no less than Two Million Dollars (\$2,000,000) 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. Commercial Space. Borrower must require that all nonresidential tenants' liability insurance policies include Borrower and the City as additional insureds, as their respective interests may appear. Throughout the term of any lease of Commercial Space in the Project, Borrower must require commercial tenants to maintain insurance as follows:

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

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

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

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

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

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

4. 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. The endorsement must provide the City with the same rights as the named insured in the event of cancellation or intended non-renewal.

(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 M
Intentionally Omitted

EXHIBIT N
Intentionally Omitted

EXHIBIT O
Commercial Underwriting Guidelines

EXHIBIT P
Residual Receipts Policy

GROUND LEASE

This Ground Lease is dated as of, October , 2020, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the “**City**” or “**Landlord**”), represented by the Mayor, acting by and through the Mayor's Office of Housing and Community Development (“**MOHCD**”), and 681 Florida Housing Associates, L.P., a California limited partnership, as tenant (the “**Tenant**”).

RECITALS

A. The City is the fee owner of the land located at 681 Florida Street, San Francisco, and legally described in Attachment 1 and the existing improvements located thereon (the “**Site**”). The Site is held under MOHCD’s jurisdiction.

B. The Site is comprised of the land and three (3) air-rights parcels, as shown on Parcel Map 9907 dated December 6, 2019, recorded in the San Francisco City and County Recorder’s Office as document number 2019-K870592-00 (the “**Parcel Map**”). Parcel 1 (as set forth on the Parcel Map) will be developed and built for affordable housing. Parcel 2 and Parcel 3, each as set forth on the Parcel Map, will be developed and used for commercial space (the “**Commercial Parcels**”).

C. Mission Economic Development Agency, a California nonprofit public benefit corporation (“**MEDA**”) and Tenderloin Neighborhood Development Corporation, a California nonprofit public benefit corporation (“**TNDC**” and, together with MEDA, the “**Developer**”) were selected as joint venture partners by the City to develop the Site under a Request for Proposals issued by the City on October 13, 2016. MEDA and TNDC have formed Tenant to undertake the development of the Property. The Tenant will develop the Site in with 130 units of affordable housing for low-income persons consisting of 44 studios, 31 one-bedroom units (including one manager’s unit), 41 two-bedroom units and 14 three-bedroom units, with one of the one-bedroom units serving as an unrestricted manager’s unit (the “**Residential Project**”), and 9,250 square feet of ground floor space intended to be PDR space (the “**Commercial Project**,” and collectively with the Residential Project, the “**Project**”).

D. On _____, the San Francisco Board of Supervisors and the Mayor approved Resolution No. X-XX, authorizing the City to enter into a ground lease with the Tenant for the purpose of developing the Project.

E. On August 7, 2019, the City and the Tenant entered into that certain Option to Lease Agreement pursuant to which City granted Tenant an option to ground lease the Site (the “**Option**”), as extended through December 31, 2020.

F. The Tenant is now exercising its Option to enter this Ground Lease, pursuant to which City will lease the Site to Tenant to develop the Project. It is the Tenant’s intent to serve the needs of the low income residents.

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

ARTICLE 1 DEFINITIONS

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

1.01 **Agreement Date** means the date first set forth above.

1.02 **Annual Rent** has the meaning set forth in the Section 4.01(a).

1.03 **Area Median Income** (or **AMI**) means median income as published annually by MOHCD, derived from the income limits determined by the United States Department of Housing and Urban Development for the San Francisco area, adjusted solely for household size, but not high housing cost area, also referred to as “Unadjusted Median Income.”

1.04 **Change** has the meaning set forth in Section 12.02.

1.05 **Commercial Ground Lease** is defined in Section 14.03.

1.06 **Commercial Income** means all Project Income attributable solely to the Commercial Unit.

1.07 **“Commercial Tenant”** means an entity affiliated with Borrower formed to own the leasehold estate in the Commercial Parcel, own the leasehold improvements on the Commercial Parcel, and operate and maintain the improvements on the Commercial Parcel under a ground lease from City, as contemplated under Section 14.03.

1.08 **Commercial Units** has the meaning set forth in Section 9.01.

1.09 **Commercial Use** means any non-residential use that is not a Public Benefit Use or a Community-serving Commercial Use.

1.10 **Community-serving Commercial Use** means a non-residential use that provides a direct benefit to the community in which the Project is located.

1.11 **Effective Date** means the date the City records the Memorandum of Ground Lease against the Site, but in no event will the date be before the approval of the Ground Lease by the City’s Board of Supervisors and the Mayor.

1.12 **First Lease Payment Year** means the year in which the Project receives a Certificate of Occupancy for all residential units.

1.13 **First Mortgage Lender** means any lender and its successors, assigns, and participants or other entity holding the first deed of trust on the Leasehold Estate.

- 1.14 **Ground Lease** means this Ground Lease, as amended from time to time.
- 1.15 **HCD** means the California Department of Housing and Community Development.
- 1.16 **Improvements** means all physical construction, including all structures, fixtures, and other improvements, to be constructed on the Site.
- 1.17 **Laws** means all statutes, laws, ordinances, regulations, rules, orders, writs, judgments, injunctions, decrees, or awards of the United States or any state, county, municipality, or governmental agency.
- 1.18 **Lease Year** means each calendar year during the Term, beginning on January 1 and ending on December 31, provided that the “First Lease Year” will commence on the Effective Date and continue through December 31st of that same calendar year. Furthermore, the “Last Lease Year” will end upon the expiration of the Term.
- 1.19 **Leasehold Estate** means the estate held by the Tenant created by and pursuant to this Ground Lease.
- 1.20 **Leasehold Mortgage** means any mortgage, deed of trust, trust indenture, letter of credit, or other security instrument, and any assignment of the rents, issues, and profits from the Site, or any portion thereof, that constitutes a lien on the Leasehold Estate and is approved in writing by the City.
- 1.21 **Lender** means any entity holding a Leasehold Mortgage.
- 1.22 **Loan Documents** means those certain loan agreements, notes, deeds of trust, declarations, and any other documents executed and delivered in connection with the predevelopment, construction, and permanent financing for the Project.
- 1.23 **MOHCD** means the Mayor’s Office of Housing and Community Development for the City.
- 1.24 **Non-residential Occupant** means any person or entity authorized by Tenant to occupy a Commercial Unit or other unit for non-residential purposes on the Site, or any portion thereof.
- 1.25 **PDR** means production, distribution, and repair uses under the San Francisco Planning Code.
- 1.26 **Permitted Limited Partner** means Wells Fargo Affordable Housing Community Development Corporation, as investor limited partner, and its successors and assigns as approved by City.
- 1.27 **Premises** means the Site and all Improvements.

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

1.29 **Project** is defined in **Recital C**. If indicated by context, Project means the Leasehold Estate and the fee interest in the Improvements on the Site.

1.30 **Project Expenses** means the following costs, which may be paid from Project Income to the extent of available Project Income: (a) all charges incurred in the operation of the Project for utilities, real estate and/or possessory interest taxes, assessments, and liability, fire, and other hazard insurance premiums; (b) salaries, wages, and other compensation due and payable to the employees or agents of Tenant who maintain, administer, operate, or provide services in connection with the Project, including all withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments required for such employees; (c) payments of required interest, principal, or annual servicing fees, if any, on any construction or permanent financing secured by the Project; (d) annual monitoring fee and all other expenses actually incurred by Tenant to cover routine operating and services provision costs of the Project, including maintenance and repair and the reasonable fee of any managing agent; (e) credit adjustor payments including interest to the Limited Partner; (f) annual Base Rent payments; (g) approved annual supportive services expenses; (h) any extraordinary expenses as approved in advance by the City; and (i) deposits to reserves accounts required to be established under the Loan Documents and/or as required by Permitted Limited Partner. Project Fees are not Project Expenses.

1.31 **Project Fees** means (i) a combined annual asset management and partnership management fee in the amount of \$27,131, increasing by 3.5% annually, payable to the Tenant's general partner, and (ii) an annual investor services fee in the amount of \$8,500, increasing by 3.5% annually, payable to Tenant's limited partner. Notwithstanding the foregoing, for so long as HCD is providing financing to the Project, HCD maximums shall apply to the total allowed Project Fees.

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

1.33 **Qualified Households** means households whose income does not exceed eighty percent (80%) of AMI, subject to ARTICLE 9 below.

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

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

1.36 **Site** means the real property as more particularly described in the Site Legal Description, Attachment 1.

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

1.38 **Surplus Cash** means all Project Income in any given Lease Year remaining after payment of Project Expenses and Project Fees. The amount of Surplus Cash will be based on figures contained in audited financial statements. All permitted uses and distributions of Surplus Cash will be governed by Section 6.02(g) of this Ground Lease.

1.39 **Tenant** means 681 Florida Housing Associates, L.P., a California limited partnership and its successors and assigns (or a Subsequent Owner, where appropriate).

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

ARTICLE 2 TERM

2.01 Initial Term. The term of this Ground Lease will commence on [REDACTED], 2020 and will end seventy-five (75) years from that date ("**Term**"), unless extended under Section 2.02 below or earlier terminated as provided in this Ground Lease.

2.02 Option for Extension. Provided that the Tenant is not in default under the terms of this Ground Lease and the Loan Documents beyond any notice, grace, or cure period either at the time of giving of an Extension Notice (as defined below), as described in Section 2.03 below, or on the last day of the Term (the "**Termination Date**"), the Term may be extended at the option of the Tenant for one twenty-four (24) year period, as provided in this Article below. If the Term is extended pursuant to this Section, all references in this Ground Lease to the "Term" will mean the Term as extended by this extension period.

2.03 Notice of Extension. Not later than one hundred eighty (180) days before the Termination Date, the Tenant may notify the City in writing that it wishes to exercise its option to extend the term of this Ground Lease (an "**Extension Notice**"). Upon Tenant's exercise of this option, the Initial Term will be extended for twenty-four (24) years from the Termination Date for a total Ground Lease term not to exceed ninety-nine (99) years.

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

2.05 Holding Over. Any holding over after expiration or earlier termination of the Term without the City's written consent will constitute a default by Tenant and entitle the City to exercise any or all of its remedies as provided in this Ground Lease, even if the City elects to accept one or more payments of Annual Rent. Failure to surrender the Site in the condition required by this Ground Lease will constitute holding over until the conditions of surrender are satisfied.

ARTICLE 3 FINANCIAL ASSURANCE

Tenant will submit to the City in accordance with the dates specified in the Schedule of Performance, Attachment 2, for approval by the City, evidence satisfactory to the City that Tenant has sufficient equity capital and commitments for construction and permanent financing, and/or such other evidence of capacity to proceed with the construction of the Improvements in accordance with this Ground Lease, as is acceptable to the City.

ARTICLE 4 RENT

4.01 Annual Rent

4.01(a) Tenant will pay to the City and No/100 Dollars (\$) (the "**Annual Rent**") per year for each year of the Term of this Ground Lease. Annual Rent consists of Base Rent and Residual Rent, as defined in Section 4.02 below, without offset of any kind (except as otherwise permitted by this Ground Lease) and without necessity of demand, notice or invoice. Annual Rent will be re-determined on the fifteenth (15th) anniversary of the date of the first payment of Base Rent pursuant to Section 4.02(a) below and every fifteen (15) years thereafter, and will be equal to ten percent (10%) of the appraised fair market value of the Site as determined by an MAI appraiser selected by and at the sole cost of the Tenant. Any such adjustment will be made to the Residual Rent and not to the Base Rent.

4.01(b) If the Tenant elects to extend the term of this Ground Lease pursuant to ARTICLE 2 above, Annual Rent (along with any potential future adjustments) during any such extended term will be set by mutual agreement of the parties; provided, however, that Annual Rent during the extended term will in no event be less than the Annual Rent set forth in Section 4.01(a) above. If the parties cannot agree on Annual Rent for the extended term, either party may invoke a neutral third-party process and the parties will agree on a neutral third-party appraiser to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. Notwithstanding the foregoing, after the neutral third party process, Tenant, in its sole discretion, may rescind the Extension Notice if it does not wish to extend the Term of this Ground Lease.

4.02 Base Rent

4.02(a) "**Base Rent**" means, in any given Lease Year, Fifteen Thousand Dollars (\$15,000) per annum; provided, however, that if the Tenant or any Subsequent Owner fails, after notice and opportunity to cure, to comply with the provisions of Section 9.01, then

Base Rent will be increased to the full amount of Annual Rent. Base Rent will be due and payable in arrears on January 31st of each Lease Year; but no Base Rent will be due until after the earlier of (i) the date a certificate of occupancy for the Project is issued or (ii) the fourth (4th) anniversary of the Effective Date. The first Base Rent payment will be due on the January 31st of the calendar year following the First Lease Payment Year. Additionally, if a Subsequent Owner elects under Section 26.06(b) to operate the Project without being subject to Section 9.01, then Annual Rent will be adjusted as provided in Section 26.07.

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

4.02(c) If Tenant has not provided City with the required written notice and documentation under Section 4.02(b) in connection with its claim that it cannot pay Base Rent due to insufficient Project Income, and/or the City has reasonably determined that Tenant's claim that it is unable to pay Base Rent is not supported by such documentation, the City will assess a late payment penalty of two percent (2%) for each month or any part thereof that any Base Rent payment is delinquent. This penalty will not apply to Base Rent Accrual that has been previously approved by the City under Section 4.02(b). The Tenant may request in writing that the City waive such penalties by describing the reasons for Tenant's failure to pay Base Rent and Tenant's proposed actions to ensure that Base Rent will be paid in the future. The City may, in its sole discretion, waive in writing all or a portion of such penalties if it finds that Tenant's failure to pay Base Rent was beyond Tenant's control and that Tenant is diligently pursuing reasonable solutions to such failure to pay.

4.03 Residual Rent. "**Residual Rent**" means, in any given Lease Year, [REDACTED] and No/100 Dollars (\$ [REDACTED]), subject to any periodic adjustments under Section 4.01(a). Residual Rent will be due in arrears on May 15th following each Lease Year. Except as otherwise provided in Section 26.07(a), Residual Rent will be payable only to the extent of Surplus Cash as provided in Section 6.02(g) below, and any unpaid Residual Rent will not accrue. In the event that in any year Surplus Cash is insufficient to pay the full amount of the Residual Rent, Tenant will certify to the City in writing by May 15 that available Surplus Cash is insufficient to pay Residual Rent and Tenant will provide to City any supporting documentation reasonably requested by City to allow City to verify the insufficiency.

4.04 Triple Net Lease. This Ground Lease is a triple net lease and the Tenant will be responsible to pay all costs, charges, taxes, impositions, and other obligations related to the Premises accruing after the Effective Date. If the City pays any such amounts, whether to cure a default or otherwise protect its interests hereunder, the City will be entitled to be reimbursed by

Tenant the full amount of such payments as additional rent within thirty (30) days of written demand by City. Failure to timely pay the additional rent will be a default by Tenant of this Ground Lease. No occurrence or situation arising during the Term, or any Law, whether foreseen or unforeseen, and however extraordinary, relieves Tenant from its liability to pay all of the sums required by any of the provisions of this Ground Lease, or otherwise relieves Tenant from any of its obligations under this Ground Lease, or gives Tenant any right to terminate this Ground Lease in whole or in part.

4.05 Commercial Revenue Sharing. Tenant is not required to pay to City percentage rent for or other revenue sharing for Community-Serving Commercial Uses in the Commercial Unit(s).

ARTICLE 5 CITY COVENANTS

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

ARTICLE 6 TENANT COVENANTS

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

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

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

6.02(a) Permitted Uses. Except as provided in Sections 26.06 and 26.07 of this Ground Lease, Tenant will devote the Site to, exclusively and in accordance with, the uses specified in this Ground Lease, as specified in ARTICLE 9 below, which are the only uses permitted by this Ground Lease. Tenant acknowledges that a prohibition on the change in use contained in Section 9.01 is expressly authorized by California Civil Code section 1997.230 and is fully enforceable.

6.02(b) Non-Discrimination. Tenant will not discriminate against or segregate any person or group of persons on account of race, color, creed, religion, ancestry, national origin, sex, gender identity, marital or domestic partner status, sexual orientation, or disability (including HIV or AIDS status) in the sale, lease, rental, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site or the Improvements, or any part thereof, and Tenant or any person claiming under or through it will not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy, of Residential Occupants Non-residential Occupants, subtenants or vendees on the Site or Improvements, or any part thereof, except to the extent permitted by Law or required by

funding source. Tenant will not discriminate against tenants with certificates or vouchers under the Section 8 program or any successor rent subsidy program.

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

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

6.02(e) Equal Opportunity Marketing Plan. Tenant will submit a Fair Housing Marketing Plan to be approved by the City. Any Fair Housing Marketing Plan must follow the City’s marketing requirements for such plans.

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

6.02(g) Permitted Uses of Surplus Cash. All annual Project Income, before the calculation of Surplus Cash, will be used to pay Project Expenses, including but not limited to Base Rent, and Project Fees. If the Tenant is in compliance with all applicable requirements and agreements under this Ground Lease, Tenant will then use any Surplus Cash to make the following payments in the following order of priority:

- i. First to Base Rent Accrual payments, if any;
- ii. Second, to replenish the operating reserve account, if necessary, up to the amount required by Lenders or the Permitted Limited Partner;
- iii. Third, two-thirds (2/3) of remaining Surplus Cash to the City; provided, however, if the Project includes a deferred developer fee and Tenant is in compliance with the City Loan documents and MOHCD's policies, then fifty percent (50%) of remaining Surplus Cash to the City beginning on the initial Payment Date (as such term is defined in the City Loan documents) until and including the earlier of the year (i) of the fifteenth (15th) Payment Date, or (ii) in which all deferred developer fees have been paid to Developer. For so long as HCD is a Lender, the City’s one-half (1/2) portion of Surplus Cash will be split on a pro rata basis with HCD. The City’s portion of Surplus Cash will be applied first to repayment of all City loans according to the terms of the City loan documents, then to annual Residual Rent; and
- iv. Then, any remaining Surplus Cash may be used by Tenant for any purposes permitted under the amended and restated limited partnership agreement of Tenant, as it may be amended from time to time.

Notwithstanding the foregoing, Tenant and City agree that the distribution of Surplus Cash may be modified based on the requirements of other Lenders.

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

ARTICLE 7 ANNUAL INCOME COMPUTATION, AND CERTIFICATION

Forty-five (45) days after recordation of an NOC (as defined in Section 10.15) by the Tenant for the Improvements, Tenant will furnish to the City a list of the persons who are Residential Occupants of the Improvements, the specific unit that each person occupies, the household income of the Residential Occupants of each unit, the household size and the rent being charged to the Residential Occupants of each unit along with an income certification, in the form set forth in Attachment 6, for each Residential Occupant. In addition, each Residential Occupant must be required to provide any other information, documents, or certifications deemed necessary by the City to substantiate the Residential Occupant's income. If any state or federal agency requires an income certification for Residential Occupants of the Improvements containing the above-referenced information, the City agrees to accept such certification in lieu of Attachment 6 as meeting the requirements of this Ground Lease. In addition to such initial and annual list and certification, Tenant agrees to provide the same information and certification to the City regarding each Residential Occupant of the Improvements not later than twenty (20) business days after such Residential Occupant commences occupancy.

ARTICLE 8 CONDITION OF SITE—"AS IS"

8.01 Acknowledgment, Represents, Warrants of Site. Tenant acknowledges and agrees that Tenant is familiar with the Premises, the Premises is being leased and accepted in its "as-is" condition, without any improvements or alterations by the City, without representation or warranty of any kind, and subject to all applicable Laws governing their use, development, occupancy, and possession. Tenant further represents and warrants that Tenant has investigated and inspected, either independently or through agents of Tenant's own choosing, the condition of the Premises and the suitability of the Premises for Tenant's intended use. Tenant acknowledges and agrees that neither City nor any of its agents have made, and City hereby disclaims, any representations or warranties, express or implied, concerning the rentable area of the Premises, the physical or environmental condition of the Premises, or the present or future suitability of the Premises for Tenant's use, or any other matter whatsoever relating to the Premises, including,

without limitation, any implied warranties of merchantability or fitness for a particular purpose; it being expressly understood that the Premises is being leased in an "AS IS" condition with respect to all matters.

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

8.03 Presence of Hazardous Substances. California law requires landlords to disclose to tenants the presence of certain Hazardous Substances. Tenant is advised that the Premises may contain Benzo anthracene, Benzo fluoroanthene, Benzo pyrene, Dibenzo anthracene, Indeno pyrene, Phenol, Lead, Lead California soluble threshold limit concentration (STLC), Lead Federal toxicity characteristic leaching procedure (TCLP), Total petroleum hydrocarbons as diesel (TPHd), Chloroform, and Tetrachloroethene (PCE).

ARTICLE 9 PERMITTED AND PROHIBITED USES

9.01 Permitted Uses and Occupancy Restrictions. The permitted uses of the Project are limited to 130 units of affordable rental housing plus one manager’s unit (collectively, the “**Residential Units**”), 9,250 square feet of commercial space (“**Commercial Units**”) to be used only for Community-Serving Commercial Uses, and common areas. Upon the completion of construction, one hundred percent (100%) of the Residential Units, with the exception of the manager’s unit, in the Project will be leased to households certified as Qualified Households, as set forth in MOHCD’s Declaration of Restrictions and any amendments thereto mutually agreed upon by the parties; provided, however that the maximum initial occupancy income level restrictions when averaged for all Residential Units in the Project may not exceed sixty percent (60%) of AMI and subject to any applicable regulatory agreement, restrictive covenant, or other encumbrance. Residential Units must be occupied and rented in accordance with all applicable restrictions imposed on the Project by this Ground Lease and by Lenders for so long as the restrictions are required by the applicable Lender. In addition, Tenant will enter into a Local Operating Subsidy Program (“LOSP”) grant agreement with MOHCD, applicable to thirty-nine (39) Residential Units, and such Residential Units will be subject to the terms of the LOSP grant agreement and applicable Laws. Commercial Units may be used for Public Benefit Use, Community-serving Commercial Use, or, with the approval of the City, which may not be unreasonably withheld, for Commercial Use. All leases of Commercial Space must be approved in advance by MOHCD, which approval will not be unreasonably withheld.

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

9.02(a) any activity, or the maintaining of any object, that is not within the Permitted Use;

9.02(b) any activity, or the maintaining of any object, that will in any way increase the existing rate of, affect or cause a cancellation of, any fire or other insurance policy covering the Premises, any part thereof or any of its contents;

9.02(c) any activity or object that will overload or cause damage to the Premises;

9.02(d) any activity that constitutes waste or nuisance, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any objectionable odors, noises, or lights onto adjacent properties, or the use of loudspeakers or sound or light apparatus that can be heard or seen outside the Premises;

9.02(e) any activity that will in any way injure, obstruct, or interfere with the rights of owners or occupants of adjacent properties, including, but not limited to, rights of ingress and egress;

9.02(f) any auction, distress, fire, bankruptcy or going out of business sale on the Premises without the prior written consent of City, which consent may be granted, conditioned, or withheld in the sole and absolute discretion of City;

9.02(g) any vehicle and equipment maintenance, including but not limited to, fueling, changing oil, transmission or other automotive fluids;

9.02(h) the storage of any and all excavated materials, including but not limited to, dirt, concrete, sand, asphalt, and pipes, except to the extent necessary during construction of the Project;

9.02(i) the storage of any and all aggregate material, or bulk storage, such as wood or of other loose materials, except to the extent necessary during construction of the Project; or

9.02(j) the washing of any vehicles or equipment, except to the extent necessary during construction of the Project; and

9.02(k) bars, retail liquor sales, marijuana sales, or any other uses that cater exclusively to adults.

ARTICLE 10 CONSTRUCTION OF IMPROVEMENTS

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

10.02 Reserved.

10.03 General Requirements and Rights of City. All construction documents, including but not limited to preliminary and final plans and specifications for the construction of the Improvements by Tenant (collectively the “**Construction Documents**”) must be prepared by a

person registered in and by the State of California to practice architecture and must be in conformity with this Ground Lease, including any limitations established in the City's reasonable approval of the schematic drawings, if any, preliminary construction documents, and final construction documents for the Premises, and all applicable Laws. The architect will use, as necessary, members of associated design professions, including engineers and landscape architects. Notwithstanding anything to the contrary contained in this ARTICLE 10, the City hereby acknowledges that for purposes of this Ground Lease, the Final Construction Documents for the Project have been approved as of the Agreement Date.

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

10.04(a) Compliance with Ground Lease. The City's approval with respect to the Construction Documents is limited to determination of their compliance with this Ground Lease. The Construction Documents will be subject to general architectural review and guidance by the City as part of this review and approval process.

10.04(b) MOHCD Does Not Approve Compliance with Construction Requirements. City's approval is not directed to engineering or structural matters or compliance with local building codes and regulations, the Americans with Disabilities Act, or any other applicable Law relating to construction standards or requirements. Tenant further understands and agrees that City is entering into this Ground Lease in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this Ground Lease will limit in any way Tenant's obligation to obtain any required approvals from City officials, departments, boards, or commissions having jurisdiction over the Premises. By entering into this Ground Lease, City is in no way modifying or limiting Tenant's obligation to cause the Premises to be used and occupied in accordance with all applicable Laws.

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

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

10.05(b) Compliance with Local, State and Federal Law. The construction must be in strict compliance with all applicable Laws. Tenant understands and agrees that Tenant's use of the Premises and construction of the Improvements permitted under this Ground Lease will require authorizations, approvals, or permits from governmental regulatory agencies with jurisdiction over the Premises, including, without limitation, City agencies. Tenant will be solely responsible for obtaining any and all such regulatory approvals. Tenant may not seek any regulatory approval without first obtaining the written consent of City as Landlord under this Ground Lease. Tenant will bear all costs associated with applying for and obtaining any necessary or appropriate regulatory approval and will be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval; provided, however, any such condition that could affect use or occupancy of the Project or City's interest therein must first be approved by City in its sole discretion. Any fines or penalties levied as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval will be immediately paid and discharged by Tenant, and City will have no liability, monetary or

otherwise, for any such fines or penalties. Tenant will indemnify, defend, and hold harmless the City and the other Indemnified Parties hereunder against all Claims (as such terms are defined in ARTICLE 21 below) arising in connection with Tenant's failure to obtain or failure by Tenant, its agents, or invitees to comply with the terms and conditions of any regulatory approval, except to the extent such Claims are caused by the City's or an Indemnified Party's (acting in its or their proprietary capacity as or related to City as landlord under this lease) gross negligence or willful misconduct.

10.06 Approval of Construction Documents by City. Tenant will submit and City will approve or disapprove the Construction Documents referred to in this Ground Lease within the times established in the Schedule of Performance, so long as each set of the applicable Construction Documents are complete and properly submitted within the time frames set forth in the Schedule of Performance. Failure by City either to approve or disapprove within the times established in the Schedule of Performance will entitle Tenant to a day for day extension of time for completion of any activities delayed as a direct result of City's failure to timely approve or disapprove the Construction Documents. City hereby acknowledges that, as Landlord under this Ground Lease, as of the Agreement Date, City has approved the Construction Documents for the Project.

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

10.08 Issuance of Building Permits. Tenant will have the sole responsibility for obtaining all necessary building permits and will make application for such permits directly to the City's Department of Building Inspection. The City understands and agrees that Tenant may use the Fast Track method of permit approval for construction of the Improvements.

10.09 Performance and Payment Bonds. Before commencement of construction of the Improvements, Tenant will deliver to City performance and payment bonds, each for the full value of the cost of construction of the Improvements, which bonds will name the City as co-obligee, or such other completion security which is acceptable to the City. The payment and performance bonds may be obtained by Tenant's general contractor and name Tenant and City as co-obligees.

10.10 City Approval of Changes after Commencement of Construction. Tenant may not approve or permit any change to the Construction Documents approved by the City without the City's prior written consent. Tenant must provide adequate and complete backup documentation for analysis of the appropriateness of the change order request to the City. Questions, comments or requests for additional information shall be issued by the City within five (5) business days of receipt of change order request. City shall promptly review and approve or disapprove change order requests within ten (10) days of a complete submission by Borrower. In the event the City

fails to approve or disapprove the change order request within such ten (10) day period, the change order shall be deemed approved. If the City disapproves the change order request, it shall specify the reasons for the disapproval in writing.

10.11 Times for Construction. Tenant agrees for itself, and its successors and assigns to or of the Leasehold Estate or any part thereof, that Tenant and such successors and assigns will promptly begin and diligently prosecute to completion the construction of the Improvements upon the Site, and that such construction will be completed no later than the dates specified in the Schedule of Performance, subject to force majeure, unless such dates are extended by the City.

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

10.13 Reports. Commencing when construction of the Improvements commences and continuing until completion of construction of the Improvements, Tenant will make a report in writing to the City every month, in such detail as may reasonably be required by the City, as to the actual progress of the Tenant with respect to the construction. The MOHCD Monthly Project Update required under the MOHCD Loan Documents will satisfy this requirement.

10.14 Access to Site. As of the Effective Date and until the completion of construction, Tenant will permit access to the Site to the City whenever and to the extent necessary to carry out the purposes of the provisions of this Ground Lease, at reasonable times and upon reasonable advance notice, and on an emergency basis without notice whenever City believes that emergency access is required. After the completion of construction, access to the Premises will be governed by ARTICLE 24, below.

10.15 Notice of Completion. Promptly upon completion of the construction of the Improvements in accordance with the provisions of this Ground Lease, Tenant will file a Notice of Completion (“**NOC**”) and record the approved NOC in the San Francisco Recorder’s Office. Tenant will provide the City with a copy of the recorded NOC.

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

ARTICLE 11 INTENTIONALLY OMITTED

ARTICLE 12 CHANGES TO THE IMPROVEMENTS

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

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

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

ARTICLE 13 TITLE TO IMPROVEMENTS

City acknowledges that fee title to the Improvements will be vested in Tenant for the Term of this Ground Lease. It is the intent of the Parties that this Ground Lease and the Memorandum of Lease will create a constructive notice of severance of the Improvements from the land without the necessity of a deed from Lessor to Lessee. City and Tenant hereby agree that fee title to the Improvements will remain vested in Tenant during the Term, subject to Section 14.01 below; provided, however, that, subject to the rights of any Lenders and as further consideration for the City entering into this Ground Lease, at the expiration or earlier termination of this Ground Lease, fee title to all the Improvements will vest in the City without further action of any party, without any obligation by the City to pay any compensation to Tenant, and without the necessity of a deed from Tenant to the City. Notwithstanding the foregoing, if requested by the City, upon expiration or sooner termination of this Ground Lease, Tenant will execute and deliver to the City an acknowledged and good and sufficient grant deed conveying to the City Tenant's fee interest in the Improvements. Tenant shall have the exclusive right to deduct, claim retain and enjoy any and all rental income appreciation, gain, depreciation, amortization, and tax credits for federal and State tax purposes relating thereto, substitution therefor, fixtures therein and other property relating thereto.

ARTICLE 14 ASSIGNMENT, SUBLEASE, OR OTHER CONVEYANCE

14.01 Assignment, Sublease, or Other Conveyance by Tenant. Tenant may not sell, assign, convey, sublease, or transfer in any other mode or form all or any part of its interest in this Ground Lease or in the Improvements or any portion thereof, other than to Lender(s) or affiliates of Lender(s) (or, in the case of the Commercial Parcel, to the Commercial Tenant under Section 14.3 below) as provided in this Ground Lease, or allow any person or entity to occupy or use all or any part of the Site, other than leases to Residential Occupants and Non-Residential Occupants in the ordinary course of business, and it may not contract or agree to do any of the same, without the prior written approval of the City, which approval will not be unreasonably withheld or delayed. Tenant will provide any background or supporting documentation that the City may require in assessing Tenant's request for approval. Notwithstanding the foregoing, Tenant will submit to the City for review, comment, and approval any leases to Non-residential Occupants, together with any supporting documentation as the City may request.

14.02 Assignment, Sublease, or Other Conveyance by City. The parties acknowledge that any sale, assignment, transfer, or conveyance of all or any part of the City's interest in the Site, the Improvements, or this Ground Lease, is subject to this Ground Lease. The City will require that any purchaser, assignee, or transferee expressly assume all of the obligations of the City under this Ground Lease by a written instrument recordable in the Official Records of the City. This Ground Lease will not be affected by any such sale, and Tenant will attorn to any such purchaser or assignee.

14.03 Transfer of Commercial Parcel. Subject to City's receipt of all necessary approvals, City and Tenant contemplate that before Tenant's conversion of its construction financing to permanent financing, Tenant will convey to Commercial Tenant the Commercial Parcels. As part of the conveyance, subject to City's receipt of all necessary approvals, City and Tenant will amend this Ground Lease to remove the Commercial Parcels from the Leasehold

Estate, and City and Commercial Tenant will enter into a ground lease for the Commercial Parcels allowing for commercial uses of the Commercial Parcel, in accordance with all approvals and MOHCD's Commercial Underwriting Guidelines (the "**Commercial Ground Lease**"). Basic terms for the Commercial Ground Lease will include:

14.03(a) The Commercial Ground Lease will terminate on the same date as this Ground Lease.

14.03(b) The Commercial Ground Lease will provide the same option to extend as this Ground Lease.

14.03(c) Upon the Effective Date of the Commercial Ground Lease, the Annual Rent and Residual Rent of this Ground Lease shall be reduced by the amount of the annual rent in the Commercial Lease. All terms of the Commercial Lease must be in compliance with MOHCD's Commercial Underwriting Guidelines, including the cash flow split. Rent will be reappraised and readjusted every ten (10) years.

14.03(d) The Commercial Ground Lease will otherwise contain terms substantially similar to this Ground Lease (except for terms not reasonably related to commercial purposes). Payment of the rent under the Commercial Ground Lease by the Commercial tenant will not be deemed to reduce the Rent under this Lease.

ARTICLE 15 TAXES

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

ARTICLE 16 UTILITIES

From and after the Effective Date, Tenant will procure water and sewer service from the City and electricity, telephone, natural gas, and any other utility service from the City or utility companies providing such services, and will pay all connection and use charges imposed in connection with such services. From and after the Effective Date, as between the City and Tenant, Tenant will be responsible for the installation and maintenance of all facilities required in connection with such utility services to the extent not installed or maintained by the City or the utility providing such service. All electricity necessary for operations in the Premises must be purchased from San Francisco Public Utilities Commission (“SFPUC”), at SFPUC's standard rates charged to third parties, unless SFPUC determines, in its sole judgment, that it is not feasible to provide such service to the Premises. SFPUC is the provider of electric services to City property, and the Interconnection Services Department of SFPUC’s Power Enterprise coordinates with Pacific Gas and Electric Company and others to implement this service. To arrange for electric service to the Premises, Tenant will contact the Interconnection Services Department in the Power Enterprise of the SFPUC.

ARTICLE 17 MAINTENANCE AND OPERATION

17.01 Maintenance. Tenant, at all times during the Term, will maintain or cause to be maintained the Premises in good condition and repair to the reasonable satisfaction of the City, including the exterior, interior, substructure, and foundation of the Improvements and all fixtures, equipment, and landscaping from time to time located on the Premises or any part thereof. The City will not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description whatsoever to the Site or any buildings or improvements now or hereafter located thereon. Tenant will, at its sole expense, maintain any sidewalk and sidewalk area adjacent to the Premises in a good and safe condition in accordance with San Francisco Public Works Code Section 706 or any successor ordinance concerning the sidewalk maintenance within the City and County of San Francisco. Tenant will be considered an “owner” under Public Works Code Section 706 regarding such the maintenance of any sidewalk and sidewalk area adjacent to the Premises. Tenant hereby waives all rights to make repairs at the City's expense under Sections 1932(1), 1941 and 1942 of the California Civil Code or under any similar Law now or hereafter in effect.

17.02 City’s Consent for Work Requiring a Permit. Tenant will not make, or cause or suffer to be made, any repairs or other work for which a permit is required by any applicable building code, standard, or regulation without first obtaining the City's prior written consent and a permit therefor.

17.03 Capital Needs Assessment. Every five (5) years beginning on the fifth anniversary date of the issuance of the Certificate of Completion, Tenant will deliver to MOHCD a 20-year capital needs assessment or analysis of the Premises and replacement reserve requirements as set forth in MOHCD’s Policy For Capital Needs Assessments dated November 5, 2013, as it may be amended from time to time. In accordance with the CNA Policy, Borrower must deliver to MOHCD an updated CNA every five (5) years after the Completion Date for approval.

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

17.05 City's Right to Repair. If Tenant fails to maintain or to promptly repair any damage as required by this Ground Lease, the City may repair the damage at Tenant's sole cost and expense and Tenant will immediately reimburse the City for all costs of the repair.

17.06 Operation. Following completion of the Improvements, Tenant will maintain and operate the consistent with the maintenance and operation of a first-class mixed use residential/commercial project located in San Francisco. Tenant will be exclusively responsible, at no cost to City, for the management and operation of the Premises. In connection with managing and operating the Premises, Tenant will provide (or require others to provide), services as necessary and appropriate to the uses to which the Project are put, including (a) repair and maintenance of the Improvements; (b) utility and telecommunications (including internet/Wi-Fi) services to the extent, if any, customarily provided by equivalent projects located in San Francisco; (c) cleaning, janitorial, pest extermination, recycling, composting, and trash and garbage removal; (d) landscaping and groundskeeping; (e) security services with on-site personnel for the Premises; and (f) sufficient lighting at night for pedestrians along pathways. Tenant will use commercially reasonable efforts to ensure that all of the Premises are used continuously during the Term for the Permitted Use and not allow any portion of the Premises to remain unoccupied or unused without the prior written consent of City, which consent may be withheld in City's sole and absolute discretion.

ARTICLE 18 LIENS

Tenant will use its best efforts to keep the Site free from any liens arising out of any work performed or materials furnished by itself or its subtenants. If Tenant does not cause a lien to be released of record or bonded around within twenty (20) days following written notice from the City of the imposition of the lien, the City will have, in addition to all other remedies provided in this Ground Lease and by Law, the right (but not the obligation) to cause the lien to be released by any means as it deems proper, including payment of the claim giving rise to such lien. All sums paid by the City for such purpose, and all reasonable expenses incurred by it in connection therewith, will be payable to the City by Tenant on demand. Notwithstanding the foregoing, Tenant will have the right, upon posting of an adequate bond or other security, to contest any lien, and the City will not seek to satisfy or discharge the lien unless Tenant has failed so to do within ten (10) days after the final determination of the validity of the lien. If Tenant contests a lien, then Tenant will protect, defend, and indemnify the City against all Claims resulting therefrom. The provisions of this Section will not apply to any liens arising before the Effective Date that are not the result of Tenant's contractors, consultants, or activities.

ARTICLE 19 GENERAL REMEDIES

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

19.02 Breach by City. If Tenant believes that the City has materially breached this Ground Lease, Tenant must first notify the City in writing of the purported breach, giving the City sixty (60) days from receipt of such notice to cure the breach. If the City does not cure the breach within the 60-day period, or, if the breach is not reasonably susceptible of cure within that sixty (60) day period, begin to cure within sixty (60) days and diligently prosecute then cure to completion, then Tenant will have all of its rights at law or in equity by taking any or all of the following remedies: (i) terminating in writing this entire Ground Lease with the written consent of each Lender; (ii) prosecuting an action for damages; (iii) seeking specific performance of this Ground Lease; or (iv) any other remedy available at law or equity.

19.03 Breach by Tenant.

19.03(a) Default by Tenant

Subject to the notice and cure rights under Sections 19.03(b) and 19.04, the following events each constitute a basis for the City to take action against Tenant:

(i) Tenant fails to comply with the Permitted Uses and Occupancy Restrictions set forth in Section 9.01;

(ii) Tenant voluntarily or involuntarily assigns, transfers, or attempts to transfer or assign this Ground Lease or any rights in this Ground Lease, or in the Improvements, except as permitted by this Ground Lease or otherwise approved by the City;

(iii) From and after the Effective Date, Tenant, or its successor in interest, fails to pay real estate taxes or assessments on the Premises or any part thereof before delinquency, or places on the Site any encumbrance or lien unauthorized by this Ground Lease, or suffers any levy or attachment, or any material supplier's or mechanic's lien or the attachment of any other unauthorized encumbrance or lien, and the taxes or assessments have not been paid, or the encumbrance or lien removed or discharged within the time period provided in ARTICLE 18; provided, however, that Tenant has the right to contest any tax or assessment or encumbrance or lien as provided in ARTICLE 15 and ARTICLE 18;

(iv) Tenant is adjudicated bankrupt or insolvent or makes a transfer to defraud its creditors, or makes an assignment for the benefit of creditors, or brings or is brought against Tenant any action or proceeding of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy, or reorganization act and, in the event such proceedings are involuntary, Tenant is not dismissed from the proceedings within sixty (60) days thereafter; or, a receiver is appointed for a substantial part of the assets of Tenant and such receiver is not discharged within sixty (60) days;

(v) Tenant breaches any other material provision of this Ground Lease;

(vi) Tenant fails to pay any portion of Annual Rent when due in accordance with the terms and provisions of this Ground Lease.

19.03(b) Notification and City Remedies. Upon the happening of any of the events described in Section 19.03(a) above, and before exercising any remedies, the City will notify Tenant, the Permitted Limited Partners, and each Lender in writing of the Tenant's purported breach, failure, or act in accordance with the notice provisions of ARTICLE 38, giving Tenant sixty (60) days from the giving of the notice to cure such breach, failure, or act. The City agrees to accept cure by the Permitted Limited Partner as if such cure were made by Tenant. If Tenant, the Permitted Limited Partner, or any Lender does not cure or, if the breach, failure, or act is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and diligently prosecute such cure to completion, then, subject to the rights of the Permitted Limited Partner and any Lender and subject to Section 19.04 and ARTICLE 26, the City will have all of its rights at law or in equity, including, but not limited to

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

(ii) the City may terminate Tenant's right to possession of the Premises at any time. No act by the City other than giving notice of termination to Tenant will terminate

this Ground Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on the City's initiative to protect the City's interest under this Ground Lease will not constitute a termination of Tenant's right to possession. If the City elects to terminate this Ground Lease, then the City has the rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including the right to terminate Tenant's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Annual Rent and any additional charges for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that Tenant proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2. The City's efforts to mitigate the damages caused by Tenant's breach of this Ground Lease will not waive the City's rights to recover damages upon termination. If the City pursues the remedies provided under this Section 19.03(b)(ii), notwithstanding anything to the contrary in this Agreement, the Base Rent due under this Lease will remain at \$15,000 per annum if the City operates the Premises for affordable housing purposes in accordance with Section 9.01;

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

(iv) seeking specific performance of this Ground Lease; or

(v) in the case of default under Section 19.03(a)(i), increasing the Base Rent to the full amount of the Annual Rent.

Notwithstanding the foregoing, during the 15-year tax credit "compliance period" (as defined in Section 42 of the Internal Revenue Code, as amended) for the Project, the City may only terminate this Ground Lease for a default by Tenant under Section 19.03(a)(vi) above (subject to applicable notice and cure provisions) that remains uncured after expiration of the applicable cure period; provided however, that the City will have the right to seek specific performance for any default by Tenant under Section 19.03(a)(i) that remains uncured after expiration of the applicable cure period.

19.04 Rights of Permitted Limited Partner.

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

19.04(b) Notwithstanding Section 19.03(b), the City will not exercise its remedy to terminate this Ground Lease if a Permitted Limited Partner is attempting to cure the default and the cure requires removal of the general partner, so long as the Permitted Limited Partner is proceeding diligently to remove the general partner in order to effect a cure of the default, subject to Section 49 below.

19.04(c) Unless otherwise provided for in this Ground Lease, any limited partner that is not the Permitted Limited Partner identified in ARTICLE 38 wishing to become a Permitted Limited Partner must provide five (5) days written notice to the City in accordance

with the notice provisions of this Ground Lease, setting forth a notice address and providing a copy of such notice to the Tenant and all of the Tenant's partners. The limited partner will become a Permitted Limited Partner upon the expiration of the five-day period. A limited partner will not be afforded the protections of this Section with respect to any default occurring before the limited partner becomes a Permitted Limited Partner.

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

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

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

ARTICLE 20 DAMAGE AND DESTRUCTION

20.01 Insured Casualty. If the Improvements or any part thereof are damaged or destroyed by any cause covered by any policy of insurance required to be maintained by Tenant under this Ground Lease, Tenant will promptly commence and diligently complete the restoration of the Improvements as nearly as possible to the condition thereof before such damage or destruction; provided, however, that if more than fifty percent (50%) of the Improvements are destroyed or are damaged by fire or other casualty and if the insurance proceeds do not provide at least ninety percent (90%) of the funds necessary to complete the restoration, then Tenant, with the written consent of Lender and the Permitted Limited Partner, may terminate this Ground Lease within thirty (30) days after the later of (i) the date of such damage or destruction, or (ii) the date on which Tenant is notified of the amount of insurance proceeds available for restoration. If Tenant is required or elects to restore the Improvements, then all proceeds of any policy of insurance required to be maintained by Tenant under this Ground Lease will, subject to any applicable rights of Lenders and Permitted Limited Partner, be used by Tenant for that purpose and Tenant will make up from its own funds or obtain additional financing as reasonably approved by the City any deficiency between the amount of insurance

proceeds available for the work of restoration and the actual cost. If Tenant elects to terminate this Ground Lease as provided under this Section 20.01, or elects not to restore the Improvements, then the insurance proceeds will be divided in the order set forth in Section 20.03.

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

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

20.03(a) First to the Lenders, in order of their priority, to control, disburse or apply to any outstanding loan amounts in accordance with the terms their respective Leasehold Mortgages and applicable Law;

20.03(b) Second, to pay for the cost of removal of all debris from the Site or adjacent and underlying property, and for the cost of any work or service required by any Law, for the protection of persons or property from any risk, or for the abatement of any nuisance, created by or arising from the casualty or the damage or destruction caused thereby;

20.03(c) Third, to compensate City for any diminution in the value (as of the date of the damage or destruction) of the Site caused by or arising from the damage or destruction; and

20.03(d) The remainder to Tenant.

20.04 Clean-up of Housing Site. If Tenant terminates this Ground Lease under the provisions of Sections 20.01 or 20.02, then Tenant must clean up and remove all debris from the

Site and adjacent and underlying property and leave the Site in a clean and safe condition and in compliance with all Laws upon surrender, as described in in Section 20.03(b). If the proceeds of any insurance policy are insufficient to pay the clean-up and other costs described in Section 20.03(b), then Tenant must pay the portion of the costs not covered by the insurance proceeds.

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

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

21.01 Damage to Person or Property—General Indemnification. City will not in any event whatsoever be liable for any injury or damage to any person happening on or about the Site, for any injury or damage to the Premises, or to any property of Tenant, or to any property of any other person, entity, or association on or about the Site, unless arising from the active gross negligence or willful misconduct of the City or any of its commissioners, officers, agents, or employees. Tenant will defend, hold harmless, and indemnify the City including, but not limited to, its boards, commissions, commissioners, departments, agencies, and other subdivisions, officers, agents, and employees (each, an “**Indemnified Party**” and collectively the “**Indemnified Parties**”), of and from all claims, loss, damage, injury, actions, causes of action, and liability of every kind, nature and description (collectively, “**Claims**”) incurred in connection with or directly or indirectly arising from the Site, this Ground Lease, Tenant’s tenancy, its or their use of the Site, including adjoining sidewalks and streets, and any of its or their operations or activities thereon or connected thereto; all regardless of the active or passive negligence of, and regardless of whether liability without fault is imposed or sought to be imposed on, the Indemnified Parties, except to the extent that the indemnity is void or otherwise unenforceable under applicable Law in effect on or validly retroactive to the date of this Ground Lease and further excepting only such Claims that are caused exclusively by the willful misconduct or active gross negligence of the Indemnified Parties. The foregoing indemnity will include, without limitation, reasonable fees of attorneys, consultants, and experts and related costs and the City’s costs of investigating any Claim. Tenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend the City from any claim that actually or potentially falls within any indemnity provision set forth in this Ground Lease even if such allegation is or may be groundless, fraudulent, or false, which obligation arises at the time such claim is tendered to Tenant by the City and continues at all times thereafter. Notwithstanding the foregoing, this Article 21 shall not be deemed or construed to and shall not impose any obligation to indemnify and save harmless the Indemnified Parties from any claim, loss, damage, liability or expense of any nature whatsoever, arising from or in any way related to or connected with any willful misconduct or gross negligence by an Indemnified Party. Tenant’s obligations under this Article will survive the termination or expiration of this Ground Lease.

21.02 Hazardous Substances—Indemnification.

21.02(a) Tenant will indemnify, defend, and hold the Indemnified Parties harmless from and against any and all Claims of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to violation of any Environmental Law, or any Release, threatened Release, and any condition of pollution, contamination or Hazardous Substance-related nuisance on, under or from the Site, provided, however that this Section 21.02(a) shall not be deemed or construed to, and shall not impose any obligation on Tenant to indemnify and save harmless the Indemnified Parties from any claim, loss, damage, liability or expense of any nature whatsoever, arising from or in any way related to or connected with any willful misconduct or active gross negligence by any Indemnified Party.

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

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

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

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

21.03 Exculpation and Waiver. Tenant, as a material part of the consideration to be rendered to the City, hereby waives any and all Claims against the City related to its approval of this Ground Lease or rights or obligations as landlord under this Ground Lease, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, but excluding any Claims caused solely by the Indemnified Parties' willful misconduct or active gross negligence. The Indemnified Parties will not be responsible for or liable to Tenant, and Tenant hereby assumes the risk of, and waives and releases the Indemnified Parties from all Claims against the City related to its approval of this Ground Lease

or rights or obligations as landlord under this Ground Lease for, any injury, loss, or damage to any person or property in or about the Premises by or from any cause whatsoever occurring on or after the Effective Date including, without limitation, (a) any act or omission of persons occupying adjoining premises or any part of the Premises adjacent to or connected with the Premises, (b) theft, (c) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (d) stopped, leaking, or defective building systems, (d) construction or Site defects, (f) damages to goods, wares, goodwill, merchandise, equipment, or business opportunities, (g) Claims by persons in, upon or about the Premises or any other City property for any cause arising at any time, (h) alleged facts or circumstances of the process or negotiations leading to this Ground Lease before the Effective Date and (i) any other acts, omissions, or causes.

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

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

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

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

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

ARTICLE 22 INSURANCE

22.01 Insurance. The Tenant must maintain insurance meeting the requirements of this Article.

22.01(a) Insurance Requirements for Tenant. During the term of this Ground Lease, Tenant will procure and maintain insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of any work hereunder by the Tenant, its agents, representatives, employees or subcontractors and the Tenant's use and occupancy of the Site and the Improvements.

22.01(b) Minimum Scope of Insurance. Coverage must be at least as broad as:

(i) Insurance Services Office Commercial General Liability coverage (form CG 00 01—“Occurrence”) or other form approved by the City’s Risk Manager.

(ii) Insurance Services Office Automobile Liability coverage, code 1 (form CA 00 01—“Any Auto”) or other form approved by the City’s Risk Manager.

(iii) Workers' Compensation insurance as required by the State of California and Employer’s Liability insurance.

(iv) Professional Liability Insurance: Tenant will require that all architects, engineers, and surveyors for the Project have liability insurance covering all negligent acts, errors, and omissions. Tenant will provide the City with copies of consultants’ insurance certificates showing that coverage.

(v) Insurance Services Office Property Insurance coverage (form CP 10 30 60 95—“Causes of Loss—Special Form”) or other form approved by the City’s Risk Manager.

(vi) Crime Policy or Fidelity Bond covering the Tenant’s officers and employees against dishonesty with respect to the use of City funds.

22.01(c) Minimum Limits of Insurance. Tenant must maintain limits no less than:

(i) General Liability: Commercial General Liability insurance with no less than Two Million Dollars (\$2,000,000) combined single limit per occurrence and Four Million Dollars (\$4,000,000) annual aggregate limit for bodily injury and property damage, including coverage for blanket contractual liability (including tort liability and of another party and Tenant’s liability of injury or death to persons and damage to property set forth in Section 21.01 above); 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 Tenant is conducting any activity on, alteration or improvement to the Site with risk of explosion, collapse, or underground hazards.

(ii) Automobile Liability: Business Automobile Liability insurance with no less than One Million Dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage, including owned, hired, and non-owned auto coverage, as applicable.

(iii) Workers’ Compensation and Employers Liability: Workers’ Compensation, in statutory amounts, with Employers’ Liability limits not less than One Million Dollars (\$1,000,000) each accident, injury, or illness.

(iv) Professional Liability: 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 Tenant’s architects, engineers, and surveyors. If the Professional Liability Insurance provided by the architects, engineers, or surveyors is “claims made” coverage, Tenant must assure that these minimum limits are maintained for no less than three (3) years beyond completion of the construction or remodeling.

(v) Crime Policy or Fidelity Bond: Crime Policy or Fidelity Bond 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.

(vi) Pollution Liability and/or Asbestos Pollution Liability: Pollution Liability and/or Asbestos Pollution Liability applicable to the work being performed, with a limit no less than \$1,000,000 per claim or occurrence and \$2,000,000 aggregate per policy period of one year; this coverage must be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Tenant’s contractor, provided that the policy must be “claims made” coverage and Tenant must require Tenant’s contractor to maintain these minimum limits for no less than three (3) years beyond completion of the Project.

(vii) Property Insurance:

(1) Before construction:

a. Property insurance, excluding earthquake[and flood], in the amount no less than One Hundred Percent (100%) of the then-current replacement cost of all improvements before commencement of construction and City property in the care, custody, and control of the Tenant 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; 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 then-current replacement cost of all completed improvements and City property in the care, custody, and control of the Tenant 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; 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 Twenty-Five Thousand Dollars (\$25,000) 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 Tenant as dual obligees or other completion security approved by the City in its sole discretion.

(2) Upon completion of construction:

a. Property insurance, excluding earthquake and flood, in the amount no less than One Hundred Percent (100%) of the then-current replacement value of all improvements and City property in the care, custody, and control of the Tenant or its contractor. Tenant must obtain Property Insurance by the date that the project receives a Certificate of Substantial Completion.

b. Boiler and machinery insurance, comprehensive form, covering damage to, loss or destruction of machinery and equipment located on the Site that is used by Tenant for heating, ventilating, air-conditioning, power generation, and similar purposes, in an amount not less than one hundred percent (100%) of the actual then-current replacement value of such machinery and equipment.

22.01(d) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in excess of \$25,000 must be declared to and approved by City's Risk Manager. At the option of City's Risk Manager, either: the insurer will reduce or eliminate the deductibles or self-insured retentions with respect to the City and County of San Francisco, and their respective commissioners, members, officers, agents, and employees; or the Tenant must procure a financial guarantee satisfactory to the City's Risk Manager guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

22.01(e) Other Insurance Provisions. The policies must contain, or be endorsed to contain, the following provisions:

(i) General Liability and Automobile Liability Coverage: The "City and County of San Francisco and their respective commissioners, members, officers, agents, and employees" are to be covered as additional insured with respect to: liability arising out of activities performed by or on behalf of the Tenant related to the Project; products and completed operations of the Tenant, premises owned, occupied or used by the Tenant related to the Project; and automobiles owned, leased, hired, or borrowed by the Tenant for the operations related to the Project. The coverage may not contain any special limitations on the scope of protection afforded to the City and its Commissioners, members, officers, agents, or employees.

(ii) Workers' Compensation and Property Insurance: The insured will agree to waive all rights of subrogation against the "City and County of San Francisco, and their respective commissioners, members, officers, agents, and employees" for any losses in connection with this Project.

(iii) Claims-made Coverage: If any of the required insurance is provided under a claims-made form, Tenant will maintain such coverage continuously throughout the term of this Ground Lease and, without lapse, for a period of three years beyond the expiration of this Ground Lease, to the effect that, if occurrences during the contract term give rise to claims made after expiration of the Ground Lease, then those claims will be covered by the claims-made policies.

(iv) All Coverage. Each insurance policy required by this Article must:

(1) Be endorsed to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice has been given to City, except in the event of suspension for nonpayment of premium, in which case ten (10) days' notice will be given.

(2) Contain a clause providing that the City and its officers, agents and employees will not be liable for any required premium.

(3) For any claims related to this Ground Lease, the Tenant's insurance coverage will be primary insurance with respect to the City and its commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by the City or its commissioners, members, officers, agents, or employees will be in excess of the Tenant's insurance and will not contribute with it.

(4) The Tenant's insurance will apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(5) Any failure to comply with reporting provisions of the policies will not affect coverage provided to the City and its commissioners, members, officers, agents, or employees.

(6) Approval of Tenant's insurance by the City will not relieve or decrease the liability of Tenant under this Ground Lease.

(7) The City reserves the right to require an increase in insurance coverage if the City determines that conditions (including, but not limited to, property conditions, market conditions, or commercially reasonable practice) show cause for an increase, unless Tenant demonstrates to the City's satisfaction that the increased coverage is commercially unreasonable and unavailable to Tenant.

22.01(f) Acceptability of Insurers. All insurers must have a Best's rating of no less than A-VIII or as otherwise approved by the City's Risk Manager.

22.01(g) Verification of Coverage. Tenant will furnish City with certificates of insurance and with original endorsements effecting coverage required by this clause at the commencement of this Ground Lease and annually thereafter. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time.

22.01(h) Contractor, Subcontractors, and Consultants Insurance. Tenant must include all subcontractors and consultants as additional insureds under its policies or furnish separate certificates and endorsements for each. Tenant will require the subcontractor(s) and consultants to provide all necessary insurance and to name the City and County of San

Francisco, and their respective commissioners, members, officers, agents, and employees and the Tenant as additional insureds. All coverage for subcontractors and consultants will be subject to all of the requirements stated herein unless otherwise approved by the City's Risk Manager.

ARTICLE 23 COMPLIANCE WITH SITE-RELATED AND LEGAL REQUIREMENTS

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

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

Tenant understands that the construction of the Improvements on the Premises and development of the Project will require approval, authorization, or permit by governmental agencies with jurisdiction, which may include the City's Planning Commission and/or Zoning Administrator and the Department of Building Inspection. Tenant must use good faith efforts to obtain and will be solely responsible for obtaining any approvals required for the Project in the manner set forth in this Section. Tenant will not seek any regulatory approval without first obtaining MOHCD's approval, which approval may not be unreasonably withheld or delayed. Throughout the permit process for any regulatory approvals, Tenant will consult and coordinate with MOHCD in Tenant's efforts to obtain permits. MOHCD will cooperate reasonably with Tenant in its efforts to obtain permits; provided, however, Tenant may not agree to the imposition of conditions or restrictions in connection with its efforts obtain a permit from any other regulatory agency if the City is required to be a co-permittee under the permit or the conditions or restrictions could create any financial or other material obligations on the part of the City whether on or off of the Premises, unless in each instance MOHCD has approved the conditions previously in writing and in MOHCD's reasonable discretion. No approval by MOHCD will limit Tenant's obligation to pay all the costs of complying with conditions under this Section. Tenant must bear all costs associated with applying for and obtaining any necessary regulatory approval, as well as any fines, penalties or corrective actions imposed as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval.

With MOHCD's prior written consent, Tenant will have the right to appeal or contest any condition in any manner permitted by Law imposed upon any regulatory approval. In addition to

any other indemnification provisions of this Ground Lease, Tenant must indemnify, defend, and hold harmless the City and its commissioners, officers, agents or employees from and against any and all Claims that may arise in connection with Tenant's failure to obtain or comply with the terms and conditions of any regulatory approval or with the appeal or contest of any conditions of any regulatory approval, except to the extent damage arises out of the active gross negligence or willful misconduct of the City or any other Indemnified Parties.

ARTICLE 24 ENTRY

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

24.01(a) to determine whether the Premises is in good condition and to inspect the Premises (including soil borings or other Hazardous Substance investigations);

24.01(b) to determine whether Tenant is in compliance with its Ground Lease obligations and to cure or attempt to cure any Tenant default;

24.01(c) to serve, post, or keep posted any notices required or allowed under any of the provisions of this Ground Lease;

24.01(d) to do any maintenance or repairs to the Premises that the City has the right or the obligation, if any, to perform hereunder; and

24.01(e) to show the Premises to any prospective purchasers, brokers, Lenders, or public officials, or, during the last year of the Term of this Ground Lease, exhibit the Premises to prospective tenants or other occupants, and to post any reasonable "for sale" or "for lease" signs in connection therewith.

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

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

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

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

ARTICLE 25 MORTGAGE FINANCING

25.01 No Encumbrances Except for Development Purposes. Notwithstanding any other provision of this Ground Lease and subject to the prior written consent of the City in the form attached hereto as Attachment 3, which consent will not be unreasonably withheld, conditioned, or delayed, Leasehold Mortgages are permitted to be placed upon the Leasehold Estate only for the purpose of securing loans of funds to be used for financing the acquisition of the Project; refinancing of financing used to acquire or rehabilitate the Project; design, construction, renovation, or reconstruction of the Improvements; and any other expenditures reasonably necessary and appropriate to acquire, own, develop, construct, renovate, or reconstruct the Improvements under this Ground Lease and in connection with the operation of the Improvements; and costs and expenses incurred or to be incurred by Tenant in furtherance of the purposes of this Ground Lease. The City, acting solely in its capacity as landlord under this Ground Lease and not in its capacity as a Project Lender, hereby acknowledges and accepts Wells Fargo Bank, N.A. and California Community Reinvestment Corporation as a Lender, and consents to the Leasehold Mortgage associated with Lender's construction and permanent loan to Tenant for the Project.

25.02 Holder Not Obligated to Construct. The holder of any mortgage, deed of trust, or other security interest authorized by Section 25.01 ("**Holder**" or "**Lender**"), including the successors or assigns of the Holder, is not obligated to complete any construction of the Improvements or to guarantee such completion; and no covenant or any other provision of this Ground Lease may be construed to obligate the Holder. However, if the Holder undertakes to complete or guarantee the completion of the construction of the Improvements, except as provided in Section 26.06(b), nothing in this Ground Lease will be deemed or construed to permit or authorize the Holder or its successors or assigns to devote the Site or any portion thereof to any uses, or to construct any Improvements on the Site, other than those uses or Improvements authorized under Section 9.01 and any reasonable modifications in plans proposed by the Holder or its successors in interest proposed for the viability of the Project approved by the City in its reasonable discretion under Section 10.16. Except as provided in Section 26.06(b), to the extent any Holder or its successors in interest wish to change such uses or construct different improvements, Holder or its successors in interest must obtain the advance written consent of the City.

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

25.04 Default by Tenant and City's Rights.

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

25.04(b) Notice of Default to City. Tenant will use its best efforts to require Lender to give the City prompt written notice of any default or breach of the Leasehold Mortgage and each Leasehold Mortgage will provide for that notice to the City and s contain the City's right to cure as above set forth.

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

ARTICLE 26 PROTECTION OF LENDER

26.01 Notification to City. Promptly upon the creation of any Leasehold Mortgage and as a condition precedent to the existence of any of the rights set forth in this ARTICLE 26, Tenant will cause each Lender to give written notice to the City of the Lender's address and of the existence and nature of its Leasehold Mortgage. Execution of Attachment 3 will constitute City's acknowledgement of Lender's having given such notice as is required to obtain the rights and protections of a Lender under this Ground Lease. The City hereby acknowledges that each Wells Fargo Bank, N.A. as construction lender, and California Community Reinvestment Corporation, as permanent lender, is a First Mortgage Lender and is deemed to have given such written notice as First Mortgage Lender.

26.02 Lender's Rights to Prevent Termination. Each Lender has the right, but not the obligation, at any time before termination of this Ground Lease and without payment of any penalty other than the interest on unpaid rent, to pay all of the rents due under this Ground Lease, to effect any insurance, to pay any taxes and assessments, to make any repairs and improvements, to do any other act or thing required of Tenant or necessary and proper to be done

in the performance and observance of the agreements, covenants and conditions of this Ground Lease to prevent a termination of this Ground Lease to the same effect as if the same had been made, done, and performed by Tenant instead of by Lender.

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

26.03(a) If the event of default is a failure to pay a monetary obligation of Tenant (not including indemnification obligations of Tenant (“**Indemnification Obligations**”), Lender will have sixty (60) days from the date of written notice from the City to Lender to cure the default; or

26.03(b) If the event of default is not a failure to pay a monetary obligation of Tenant, Lender will have sixty (60) days of receipt of the written notice, to either (a) to remedy such default; or (b) to obtain title to Tenant's interest in the Site in lieu of foreclosure; or (c) to commence foreclosure or other appropriate proceedings in the nature thereof (including the appointment of a receiver) and thereafter diligently prosecute such proceedings to completion, in which case such event of default will be remedied or deemed remedied in accordance with Section 26.04 below.

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

26.04 Default That Cannot be Remedied by Lender. Any event of default under this Ground Lease that in the nature thereof cannot be remedied by Lender will be deemed to be remedied as it pertains to Lender or any Subsequent Owner if (a) within sixty (60) days after receiving notice from the City setting forth the nature of such event of default, Lender has acquired Tenant's Leasehold Estate or has commenced foreclosure or other appropriate proceedings in the nature of foreclosure, (b) Lender is diligently prosecuting any such proceedings to completion, (c) Lender has fully cured any event of default arising from failure to pay or perform any monetary obligation (other than Indemnification Obligations) in accordance with Section 26.03, and (d) after gaining possession of the Improvements, Lender diligently proceeds to perform all other obligations of Tenant as and when due in accordance with the terms of this Ground Lease.

26.05 Court Action Preventing Foreclosure. If Lender is prohibited by any process or injunction issued by any court or because of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure, the times specified in Sections 26.03 and 26.04 above for commencing or prosecuting such foreclosure or other

proceedings will be extended for the period of such prohibition. If this Ground Lease is terminated or rejected by Tenant in bankruptcy, then the City agrees to enter into a new ground lease with the Lender on the same terms set forth in this Ground Lease. For purpose of this Article, if there is more than one Lender, the City will offer the new lease to each Lender in the order of priority until accepted.

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

26.06(a) the Lender may cause its Leasehold Mortgage to be recorded and enforced, and upon foreclosure, sell and assign the Leasehold Estate to an assignee from whom it may accept a purchase price; subject, however, to Lender's first securing written approval from City, which approval will not be unreasonably withheld, and if the Subsequent Owner has elected to maintain the use restrictions of ARTICLE 9, the Subsequent Owner must be controlled by a California nonprofit public benefit corporation exempt from tax under Section 501(c)(3) of the Internal Revenue Code so that the Premises receive an exemption from state property taxes as provided under Section 214 of the California Revenue and Taxation Code (to the extent such exemption is then generally available). Furthermore, Lender may acquire title to the Leasehold Estate in any lawful way, and if the Lender becomes the assignee, then Lender may sell and assign said Leasehold Estate subject to City approval (which may not be unreasonably withheld) and to the City's rights under Section 25.04.

26.06(b) each Subsequent Owner must take said Leasehold Estate subject to all of the provisions of this Ground Lease, and must, so long as and only so long as it is the owner of the Leasehold Estate, except as provided elsewhere in this Ground Lease, assume all of the obligations of Tenant under this Ground Lease; provided, however, that, subject to the rent provisions of Section 26.07 below, the Subsequent Owner may operate and maintain 108 residential units without any limitations on the rents charged or the income of the occupants thereof, subject to any applicable regulatory agreement, restrictive covenant, or other encumbrance;

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

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

26.07 Ground Lease Rent after Lender Foreclosure or Assignment. From and after the time that the Subsequent Owner acquires title to the Leasehold Estate, Annual Rent will be set as follows:

26.07(a) Any accrued Annual Rent at the time of foreclosure will be forgiven by the City, and will not be an obligation of the Lender, its assignee, or the Subsequent Owner. After foreclosure or assignment of the Leasehold Estate to the Lender in lieu of

foreclosure, if the Lender continues to operate the Project subject to the use and occupancy restrictions of Section 9.01, then Annual Rent otherwise due may, at the option of the Lender, be deferred until the earlier of the date of the Lender's sale or assignment of the Project to a Subsequent Owner that does not agree to operate the Project subject to such restrictions or the date that is sixty (60) days after Lender ceases to operate the Project in accordance with those restrictions. All deferred Annual Rent will accrue, with simple interest at six percent (6%) per annum until paid.

26.07(b) If the Subsequent Owner exercises its rights under Section 26.06(b) to operate the Project without being subject to Section 9.01, then Annual Rent will be set at the then fair market rental value taking into account any affordability restrictions agreed to by the Subsequent Owner, if any, and the Base Rent will be increased to the new fair market rent under this Section 26.07(b) and the provisions of Section 6.02(g) will be suspended; provided, however, that the City will be entitled to reduce Annual Rent by any dollar amount (but not below zero) in its sole discretion and, in such case, the Subsequent Owner will be required to reduce rent charged to tenants on a dollar for dollar basis, with respect to such aggregate units occupied by Qualified Households as the City and the Subsequent Owner may agree. The fair market rental value will be determined by a jointly-commissioned appraisal (instructions prepared jointly by the Subsequent Owner and the City, with each party paying one half of the appraiser's fee) that will include a market land valuation, as well as a market land lease rent level. Absent a market land lease rent determination, the Annual Rent will be set at an amount equal to ten percent (10%) of the then appraised market land value. If the parties cannot agree on the joint appraisal instructions, either party may invoke a neutral third-party process to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. But, after the neutral third party process, the Lender, in its sole discretion, may rescind its written notification of intent to not comply with Section 9.01 of this Ground Lease.

26.08 Permitted Uses After Lender Foreclosure. Notwithstanding the above, in the event of a foreclosure and transfer to a Subsequent Owner, the Premises must be operated in accordance with the uses specified in the building permit with all addenda, as approved by the City's Department of Building Inspection.

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

26.09(a) That subject to Section 19.03(b) the City will not voluntarily cancel or surrender this Ground Lease, or accept a voluntary cancellation or surrender of this Ground Lease by Tenant, or amend this Ground Lease to materially increase the obligations of the Tenant or the rights of the City under this Ground Lease, without the prior written consent of the Permitted Limited Partner and the Lender (which may not be unreasonably withheld or delayed);

26.09(b) That the City will not enforce against a Lender any waiver or election made by the Tenant under this Ground Lease that has a material adverse effect on the

value of the Leasehold Estate without the prior written consent of the Lender (which will not be unreasonably withheld or delayed);

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

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

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

26.11 City Bankruptcy.

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

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

26.11(c) If a bankruptcy proceeding is filed by or on behalf of the City, the City agrees as follows:

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

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

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

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

ARTICLE 27 CONDEMNATION AND TAKINGS

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

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

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

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

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

27.06 Restoration of Improvements. If there is a partial taking of the Improvements and this Ground Lease remains in full force and effect under Section 27.04, then Tenant may, subject

to the terms of the Leasehold Mortgage, use the proceeds of the taking to accomplish all necessary restoration to the Improvements.

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

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

27.07(b) Second, to the Tenant in an amount equal to the then fair market value of Tenant's interest in the Improvements and its leasehold interest in the Site (including, but not limited to, the value of Tenant's interest in all subleases to occupants of the Site), such value to be determined as it existed immediately preceding the earliest taking or threat of taking of the Site; and;

27.07(c) Third, to the Landlord.

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

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

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

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

ARTICLE 28 ESTOPPEL CERTIFICATE

The City or Tenant, as the case may be, will execute, acknowledge, and deliver to the other and/or any Lender or a Permitted Limited Partner, promptly upon request, its certificate certifying (a) that this Ground Lease is unmodified and in full force and effect (or, if there have been modifications, that this Ground Lease is in full force and effect, as modified, and stating the modifications), (b) the dates, if any, to which rent has been paid, (c) whether there are then existing any charges, offsets, or defenses against the enforcement by the City or Tenant to be performed or observed and, if so, specifying them, and (d) whether there are then existing any defaults by Tenant or the City in the performance or observance by Tenant or the City of any agreement, covenant, or condition on the part of Tenant or the City to be performed or observed under this Ground Lease, and whether any notice has been given to Tenant or the City of any default that has not been cured and, if so, specifying the uncured default. Tenant will use commercially reasonable efforts (by inserting a provision similar to this one into the leases of its Non-residential Occupants) to cause the Non-residential Occupants to execute and deliver to the City a certificate as described above with respect to its sublease within thirty (30) days after request.

ARTICLE 29 SURRENDER AND QUITCLAIM

29.01 Surrender.

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

29.01(b) If the Premises is not surrendered at the end of the Term or sooner termination of this Ground Lease, and in accordance with the provisions of this ARTICLE 29, Tenant will continue to be responsible for the payment of Annual Rent until the Premises is surrendered in accordance with this ARTICLE 29., and Tenant will indemnify, defend and hold harmless the Indemnified Parties from and against any and all Claims resulting from delay by Tenant in so surrendering the Premises including, without limitation, any costs of the City to obtain possession of the Premises; any loss or liability resulting from any Claim against the City made by any succeeding tenant or prospective tenant founded on or resulting from such delay and losses to the City due to lost opportunities to lease any portion of the Premises to any such

succeeding tenant or prospective tenant, together with, in each instance, reasonable attorneys' fees and costs.

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

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

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

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

ARTICLE 30 EQUAL OPPORTUNITY

In the selection of all contractors and professional consultants for the Project, Tenant must comply with the City's procurement requirements and procedures as described in the Contracting Manual (2006 Amendment) for Federally Funded Construction Projects Financed by the Mayor's Office of Housing, issued by MOHCD on November 18, 2002, as amended on May 22, 2007, as the same may be further amended from time to time, and with the requirements of the Small Business Enterprise Program ("**SBE Program**") as set forth in that certain Small Business Enterprise Program manual dated July 1, 2015, as it may be amended from time to time, according to the procedures established by the City's Contract Monitoring Division. The Project must comply with the training, hiring, and contracting requirements of Section 3 of the Housing and Community Development Act of 1968 and of the San Francisco Section 3 program as administered by MOHCD. Federal Section 3 requirements state that contracts and opportunities for job training and employment be given, to the greatest extent feasible, to local low-income residents. Local residents for this project are San Francisco residents. In addition, this project will be required

to comply with hiring requirements as incorporated into the local Section 3 program and in conjunction with the City's low-income hiring requirements under San Francisco's First Source Hiring Ordinance (San Francisco Administrative Code Chapter 83).

ARTICLE 31 CITY PREFERENCE PROGRAMS

To the extent permitted by applicable Law, Tenant agrees to comply with the requirements of the City's current housing preference programs, as amended from time to time; provided, however, that such requirements will apply only to the extent permitted by the requirements of non-City funding or benefits (including but not limited to requirements for low-income housing tax credits under Sections 42 and 142 of the Internal Revenue Code of 1986, as amended, and any rules or restrictions promulgated in connection therewith or related thereto) approved by the City for the Project.

ARTICLE 32 LABOR STANDARDS PROVISIONS

Although the Parties acknowledge that the development of the Project is a private work of improvement, Tenant agrees that any person performing labor in the construction of the Project and any Change to the Premises that Tenant performs or causes to be performed under this Ground Lease, will be paid not less than the highest prevailing rate of wages as required by Section 6.22(E) of the San Francisco Administrative Code, will be subject to the same hours and working conditions, and will receive the same benefits as in each case are provided for similar work performed in San Francisco, California. Tenant will include in any contract for construction or demolition of the Project a requirement that all persons performing labor under the contract will be paid not less than the highest prevailing rate of wages for the labor so performed. Tenant will require any contractor to provide, and will deliver to City upon request, certified payroll reports for all persons performing labor in the construction of the Project or any Change to the Premises.

ARTICLE 33 CONFLICT OF INTEREST

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

ARTICLE 34 NO PERSONAL LIABILITY

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

ARTICLE 35 ENERGY CONSERVATION

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

ARTICLE 36 WAIVER

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

ARTICLE 37 TENANT RECORDS

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

ARTICLE 38 NOTICES AND CONSENTS

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

If to Tenant at: 681 Florida Housing Associates, L.P.
 c/o Tenderloin Neighborhood Development Corporation
 201 Eddy Street
 San Francisco, CA 94102

with a copy to the Permitted Limited Partner at:

Wells Fargo Affordable Housing Community Development

Corporation
MAC #D1053-170
301 South College Street
Charlotte, North Carolina 28288-0170
Attention: Director of Tax Credit Asset Management Re.,
681 Florida Housing Associates, L.P.

and a copy to: Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
Attention: Philip C. Spahn

If to First Mortgagee:

Prior to Conversion: Wells Fargo Bank, National Association
Community Lending and Investment
333 Market Street, 17th Floor
MAC #A0119-177
San Francisco, California 94105
Attention: Loan Administration
Loan No. _____

Following Conversion: California Community Reinvestment Corporation
100 West Broadway, Suite 1000
Glendale, California 91210
Attention: President

to the City at: San Francisco Mayor's Office of Housing and
Community Development
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn.: Director

or to such other address with respect to either party as that party may from time to time designate by notice to the other given under the provisions of this ARTICLE 38. Any notice given under this ARTICLE 38 will be effective on the date of delivery or the date delivery is refused as shown on the delivery receipt. Courtesy copies of notices may be delivered by email.

ARTICLE 39 HEADINGS

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

ARTICLE 40 SUCCESSORS AND ASSIGNS

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

ARTICLE 41 TIME

Time is of the essence in the enforcement of the terms and conditions of this Ground Lease.

ARTICLE 42 PARTIAL INVALIDITY

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

ARTICLE 43 APPLICABLE LAW; NO THIRD PARTY BENEFICIARY

This Ground Lease is governed by and construed under the laws of the State of California. Other than the benefits and rights expressly afforded to the Permitted Limited Partner and the Lenders, this Ground Lease is entered into solely among, between, and for the benefit of, and may be enforced only by, the parties hereto and does not create rights in any other third party.

ARTICLE 44 ATTORNEYS' FEES

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

charges, hiring of experts, and fees billed for law clerks, paralegals, and others not admitted to the bar but performing services under the supervision of an attorney.

ARTICLE 45 EXECUTION IN COUNTERPARTS

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

ARTICLE 46 BROKERS

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

ARTICLE 47 RECORDATION OF MEMORANDUM OF GROUND LEASE

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

ARTICLE 48 SURVIVAL

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

ARTICLE 49 TRANSFER OF PARTNERSHIP INTERESTS IN TENANT

Tenant may not cause or permit any voluntary transfer, assignment, or encumbrance of its interest in the Site or Project or of any ownership interests in Tenant, or lease or permit a sublease on all or any part of the Project, other than: (a) leases, subleases, or occupancy agreements to Residential Occupants and Non-residential Occupants; or (b) 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, (c) transfers from Tenant to a limited partnership or limited liability company formed for the tax credit syndication of the Project, where Tenant or an affiliated nonprofit public benefit corporation is the sole general partner or manager of that entity; (d) transfers of the general partnership or manager's interest in Tenant to a

nonprofit public benefit corporation approved in advance by the City; (e) transfers of any limited partnership or membership interest in Tenant to an investor under the tax credit syndication of the Project and/or as otherwise permitted by Tenant's amended and restated partnership agreement; (f) any transfer by foreclosure or deed in lieu of foreclosure or (g) the grant or exercise of an option agreement between Borrower and Borrower's general partner or manager or any of its affiliates in connection with the tax credit syndication of the Project where such agreement has been previously approved in writing by the City; or (g) to remove or replace the General Partner in accordance with the terms of the Tenant's amended and restated partnership agreement, a transfer of any general partnership interest to a new general partner approved in advance by the City. Further, City shall not unreasonably withhold or delay its approval of the removal or replacement of a General Partner by the Permitted Limited Partner, pursuant to the terms of the Tenant's partnership agreement. Any other transfer, assignment, encumbrance, or lease without the City's prior written consent will be voidable and, at the City's election, constitute a 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 Ground Lease.

ARTICLE 50 CITY PROVISIONS

50.01 Non-Discrimination.

50.01(a) Covenant Not to Discriminate. In the performance of this Ground Lease, Tenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability, weight, height, or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Tenant, in any of Tenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant.

50.01(b) Subleases and Other Subcontracts. Tenant must include in all subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to the subtenant or other subcontractor in substantially the form of Section 50.01(a) above. In addition, Tenant must incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)–(k), and 12C.3 of the San Francisco Administrative Code and must require all subtenants and other subcontractors to comply with those provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Ground Lease.

50.01(c) Non-Discrimination in Benefits. Tenant does not as of the date of this Ground Lease and will not during the Term, in any of its operations in San Francisco or with respect to its operations under this Ground Lease elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, or travel benefits (collectively "**Core Benefits**"), as well as any benefits other than Core Benefits, between employees with domestic partners and employees with spouses, and/or between the

domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity under state or local Law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

50.01(d) Condition to Lease. As a condition to this Ground Lease, Tenant must execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” (Form CMD-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Commission.

50.01(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by Parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Ground Lease as though fully set forth herein. Tenant must comply fully with and be bound by all of the provisions that apply to this Ground Lease under those Chapters of the Administrative Code, including, but not limited to, the remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that under Section 12B.2(h) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Ground Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

50.02 MacBride Principles—Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1 *et seq.* The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Tenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

50.03 Conflicts of Interest. Tenant states that it is familiar with the provisions of Section 15.103 of the San Francisco Charter, Article III, Chapter 2 of the City's Campaign and Governmental Conduct Code, and Section 87100 *et seq.* and Section 1090 *et seq.* of the Government Code of the State of California, certifies that it knows of no facts that would constitute a violation of those provisions and agrees that if Tenant becomes aware of any such fact during the term of this Ground Lease Tenant will immediately notify the City. Tenant further certifies that it has made a complete disclosure to the City of all facts bearing on any possible interests, direct or indirect, that Tenant believes any officer or employee of the City presently has or will have in this Ground Lease or in the performance thereof or in any portion of the profits thereof. Willful failure by Tenant to make such disclosure, if any, will constitute grounds for City's termination and cancellation of this Ground Lease.

50.04 Charter Provisions. This Ground Lease is governed by and subject to the provisions of the Charter of the City and County of San Francisco. Accordingly, Tenant acknowledges and agrees that no officer or employee of the City has authority to commit the City to this Ground Lease unless and until a resolution of the City's Board of Supervisors has been duly enacted approving this Ground Lease. Therefore, any obligations or liabilities of the City under this Ground Lease are contingent upon enactment of a resolution, and this Ground

Lease will be null and void unless the City's Mayor and the Board of Supervisors approve this Ground Lease, in their respective sole and absolute discretion, and in accordance with all applicable Laws. Approval of this Ground Lease by any City department, commission, or agency may not be deemed to imply that a resolution will be enacted or create any binding obligations on the City.

50.05 Tropical Hardwood/Virgin Redwood Ban. Under Section 804(b) of the San Francisco Environment Code, the City and County of San Francisco urges companies not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product. Except as permitted by the application of Sections 802(b) and 803(b) of the San Francisco Environment Code, Tenant will not use any items in the rehabilitation, development, or operation of the Premises or otherwise in the performance of this Ground Lease that are tropical hardwoods, tropical hardwood wood products, virgin redwood, or virgin redwood wood products.

50.06 Tobacco Product Advertising Ban. Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products will be allowed on the Premises. The foregoing prohibition includes the placement of the name of a company producing, selling, or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product, or on any sign. The foregoing prohibition will not apply to any advertisement sponsored by a state, local, or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

50.07 Pesticide Ordinance. Tenant must comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "**Pesticide Ordinance**"), which (a) prohibit the use of certain pesticides on City property, (b) require the posting of certain notices and the maintenance of certain records regarding pesticide usage, and (c) require Tenant to submit to the City's Department of the Environment an integrated pest management ("**IPM**") plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the Term of this Ground Lease, (ii) describes the steps Tenant will take to meet the City's IPM Policy described in Section 39.1 of the Pesticide Ordinance, and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Tenant's primary IPM contact person with City. In addition, Tenant must comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing in this Ground Lease will prevent Tenant, acting through the City, from seeking a determination from the City's Commission on the Environment that Tenant is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 307 thereof.

50.08 Compliance with City's Sunshine Ordinance. Tenant understands and agrees that under the City's Sunshine Ordinance (S.F. Admin. Code, Chapter 67) and the State Public Records Law (Cal. Gov. Code §§ 6250 *et seq.*), this Ground Lease and any and all records, information and materials submitted to the City hereunder are public records subject to public disclosure. Tenant hereby authorizes the City to disclose any records, information, and materials submitted to the City in connection with this Ground Lease as required by Law. Further, Tenant specifically agrees to conduct any meeting of its governing board that addresses any matter relating to the Project or to Tenant's performance under this Ground Lease as a passive meeting.

50.09 Notification of Limitations on Contributions. Through its execution of this Ground Lease, Tenant acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing any land or building to or from the City whenever such transaction would require approval by a City elective officer or the board on which that City elective officer serves, from making any campaign contribution to the officer at any time from the commencement of negotiations for such contract until the termination of negotiations for such contract or three (3) months has elapsed from the date the contract is approved by the City elective officer, or the board on which that City elective officer serves.

50.10 Requiring Health Benefits for Covered Employees. Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (the "HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated in this Ground Lease by reference and made a part of this Ground Lease as though fully set forth. The text of the HCAO is available on the web at www.sfgov.org/oca/lw/h.htm. Capitalized terms used in this Section and not defined in this Ground Lease have the meanings assigned to them in Chapter 12Q. Notwithstanding this requirement, City recognizes that the residential housing component of the Improvements is not subject to the HCAO.

50.10(a) For each Covered Employee, Tenant must provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Tenant chooses to offer the health plan option, the health plan must meet the minimum standards set forth by the San Francisco Health Commission.

50.10(b) If Tenant is a small business as defined in Section 12Q.3(d) of the HCAO, Tenant will have no obligation to comply with Section 50.10(a) above.

50.10(c) Tenant's failure to comply with the HCAO will constitute a material breach of this Ground Lease. If Tenant fails to cure its breach within thirty (30) days after receiving the City's written notice of a breach of this Ground Lease for violating the HCAO or, if the breach cannot reasonably be cured within the 30-day period and Tenant fails to commence efforts to cure within the 30-day period, or thereafter fails diligently to pursue the cure to completion, then the City will have the right to pursue the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies will be exercisable individually or in combination with any other rights or remedies available to the City.

50.10(d) Any sublease entered into by Tenant for commercial space in the Project must require the subtenant to comply with the requirements of the HCAO and must contain contractual obligations substantially the same as those set forth in this Section. Tenant must notify the City's Purchasing Department when Tenant enters into a sublease and must certify to the Purchasing Department that Tenant has notified the subtenant of the obligations under the HCAO and has imposed the requirements of the HCAO on subtenant through the sublease. Tenant will be responsible for its subtenants' compliance with this Chapter. If a subtenant fails to comply, the City may pursue the remedies set forth in this Section against

Tenant based on the subtenant's failure to comply, provided that City has first provided Tenant with notice and an opportunity to obtain a cure of the violation.

50.10(e) Tenant may not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying the City with regard to Tenant's compliance or anticipated compliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

50.10(f) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

50.10(g) Tenant must keep itself informed of the current requirements of the HCAO.

50.10(h) Tenant must provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on subtenants, as applicable.

50.10(i) Tenant must provide City with access to records pertaining to compliance with HCAO after receiving a written request from the City to do so and being provided at least five (5) business days to respond.

50.10(j) The City may conduct random audits of Tenant to ascertain its compliance with HCAO. Tenant agrees to cooperate with the City when it conducts audits.

50.10(k) If Tenant is exempt from the HCAO when this Ground Lease is executed because its amount is less than \$25,000 (\$50,000 for nonprofits), but Tenant later enters into an agreement or agreements that cause Tenant's aggregate amount of all agreements with the City to reach \$75,000, all the agreements will be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Tenant and MOHCD to be equal to or greater than \$75,000 in the fiscal year.

50.11 Public Access to Meetings and Records. If Tenant receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Tenant must comply with and will be bound by all the applicable provisions of that Chapter. By executing this Ground Lease, Tenant agrees to open its meetings and records to the public in the manner set forth in Sections 12L.4 and 12L.5 of the Administrative Code. Tenant further agrees to make good-faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 12L.6 of the Administrative Code. Tenant acknowledges that its material failure to comply with any of the provisions of this paragraph will constitute a material breach of this Ground Lease. Tenant further acknowledges that such material breach of this Ground Lease will be grounds for City to terminate and/or not renew this Ground Lease, partially or in its entirety.

50.12 Resource-Efficient Building Ordinance. Tenant acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Chapter 7 relating to

resource-efficient City buildings and resource-efficient pilot projects. Tenant will comply with the applicable provisions of such code sections as those sections may apply to the Premises.

50.13 Drug Free Work Place. Tenant acknowledges that under the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession, or use of a controlled substance is prohibited on City premises. Tenant agrees that any violation of this prohibition by Tenant, its agents, or assigns will be deemed a material breach of this Ground Lease.

50.14 Preservative Treated Wood Containing Arsenic. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Ground Lease unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" means wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Tenant may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

50.15 Nondisclosure of Private Information. Tenant agrees to comply fully with and be bound by all of the provisions of Chapter 12M of the San Francisco Administrative Code (the "**Nondisclosure of Private Information Ordinance**"), including the remedies provided. The provisions of the Nondisclosure of Private Information Ordinance are incorporated and made a part of this Ground Lease as though fully set forth. Capitalized terms used in this section and not defined in this Ground Lease have the meanings assigned to those terms in the Nondisclosure of Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:

50.15(a) Neither Tenant nor any of its subcontractors will disclose Private Information, unless one of the following is true:

- (i) The disclosure is authorized by this Ground Lease;
- (ii) Tenant received advance written approval from the Contracting Department to disclose the information; or
- (iii) The disclosure is required by law or judicial order.

50.15(b) Any disclosure or use of Private Information authorized by this Ground Lease must be in accordance with any conditions or restrictions stated in this Ground Lease. Any disclosure or use of Private Information authorized by a Contracting Department must be in accordance with any conditions or restrictions stated in the approval.

50.15(c) Private Information means any information that: (1) could be used to identify an individual, including, without limitation, name, address, social security number, medical information, financial information, date and location of birth, and names of relatives; or (2) the law forbids any person from disclosing.

50.15(d) Any failure of Tenant to comply with the Nondisclosure of Private Information Ordinance will be a material breach of this Ground Lease. In such an event, in addition to any other remedies available to it under equity or law, City may terminate this Ground Lease, debar Tenant, or bring a false claim action against Tenant.

50.16 Graffiti. Graffiti is detrimental to the health, safety, and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities, and the enjoyment of life; is inconsistent with City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

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

50.17 Incorporation. Each and every provision of the San Francisco Administrative Code described or referenced in this Ground Lease is hereby incorporated by reference as though fully set forth herein. Failure of Tenant to comply with any provision of this Ground Lease relating to any such code provision will be governed by ARTICLE 19 of this Ground Lease, unless (i) such failure is otherwise specifically addressed in this Ground Lease or (ii) such failure is specifically addressed by the applicable code section.

50.18 Food Service Waste Reduction. Tenant agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in the San Francisco Environment Code, Chapter 16, including the remedies provided therein, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Ground Lease as though fully set forth herein. Accordingly, Tenant acknowledges that City contractors and lessees may not use Disposable Food Service Ware that contains Polystyrene Foam in City Facilities and while performing under a City contract or lease, and shall instead use suitable Biodegradable/ Compostable or Recyclable Disposable Food Service Ware. This provision is a material term of this Ground Lease. By entering into this Ground Lease, Tenant agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine. Without limiting City's other rights and remedies, Tenant agrees that the sum of One Hundred Dollars (\$100.00) liquidated damages for the first breach, Two Hundred Dollars (\$200.00) liquidated damages for the second breach in the same year, and Five Hundred Dollars (\$500.00) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Ground Lease was made. Those amounts will not be considered a penalty, but rather agreed upon monetary damages sustained by City because of Tenant's failure to comply with this provision.

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

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

50.20 Criminal History in Hiring and Employment Decisions.

50.20(a) Unless exempt, Tenant agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; "**Chapter 12T**"), which are hereby incorporated as may be

amended from time to time, with respect to applicants and employees of Tenant who would be or are performing work at the Site.

50.20(b) Tenant will incorporate by reference the provisions of Chapter 12T in all subleases of a portion or all of the Site, if any, and will require all subtenants to comply with its provisions. Tenant's failure to comply with the obligations in this subsection will constitute a material breach of this Ground Lease.

50.20(c) Tenant and subtenants (if any) may not inquire about, require disclosure of, or if such information is received base an Adverse Action (as defined in Chapter 12T) on an applicant's or potential applicant for employment, or employee's: (1) Arrest (as defined in Chapter 12T) not leading to a Conviction (as defined in Chapter 12T), unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

50.20(d) Tenant and subtenants (if any) may not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in Section 50.20(c) above. Tenant and subtenants (if any) may not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

50.20(e) Tenant and subtenants (if any) will state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Site, that the Tenant or subtenant will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

50.20(f) Tenant and subtenants (if any) will post the notice prepared by the Office of Labor Standards Enforcement ("**OLSE**"), available on OLSE's website, in a conspicuous place at the Site and at other workplaces within San Francisco where interviews for job opportunities at the Site occur. The notice will be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the Site or other workplace at which it is posted.

50.20(g) Tenant and subtenants (if any) understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City will have the right to pursue any rights or remedies available under Chapter 12T or this Ground Lease, including but not limited to a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant, or other person as to whom a violation occurred or continued, termination, or suspension in whole or in part of this Ground Lease.

50.20(h) If Tenant has any questions about the applicability of Chapter 12T, it may contact the City's Real Estate Division for additional information. City's Real Estate Division may consult with the Director of the City's Office of Contract Administration who may also grant a waiver, as set forth in Section 12T.8.

50.21 Prevailing Wages and Working Conditions. Any undefined, initially-capitalized term used in this Section has the meaning given to that term in San Francisco Administrative Code Section 23.61. Tenant will require its Contractors and Subcontractors performing (i) labor in connection with a "public work" as defined under California Labor Code Section 1720 *et seq.* (which includes certain construction, alteration, maintenance, demolition, installation, repair, carpet laying, or refuse hauling work if paid for in whole or part out of public funds) or (ii) Covered Construction, at the Premises to (1) pay workers performing such work not less than the Prevailing Rate of Wages, (2) provide the same hours, working conditions, and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with San Francisco Administrative Code Section 23.61 (collectively, "**Prevailing Wage Requirements**"). Tenant agrees to cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements.

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

50.22 Consideration of Salary History Tenant shall comply with San Francisco Administrative Code Chapter 12K, the Consideration of Salary History Ordinance or "Pay Parity Act." For each employment application to Tenant for work that relates to this Agreement or for work to be performed in the City or on City property, Tenant is prohibited from considering current or past salary of an applicant in determining whether to hire the applicant or what salary to offer the applicant. Tenant shall not (1) ask such applicants about their current or past salary or (2) disclose a current or former employee's salary history without that employee's authorization unless the salary history is publicly available. Tenant is subject to the enforcement and penalty provisions in Chapter 12K. Information about Chapter 12K is available on the web at <https://sfgov.org/olse/consideration-salary-history>.

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

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

50.24(a) Tenant recognizes and understands that this Ground Lease may create a possessory interest subject to property taxation and that Tenant may be subject to the payment of property taxes levied on such interest.

50.24(b) Tenant will pay taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the Leasehold Estate created and to pay all other taxes, excises, licenses, permit charges, and assessments based on Tenant's usage of the Premises that may be imposed upon Tenant by law, all of which must be paid when the same become due and payable and before delinquency.

50.24(c) Tenant will not allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Tenant, if so desiring, may have reasonable opportunity to contest the validity of the same.

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

50.25 Vending Machines; Nutritional Standards. Tenant may not install or permit any vending machine on the Premises without the prior written consent of Landlord. Any permitted vending machine must comply with the food nutritional and calorie labeling requirements set forth in San Francisco Administrative Code section 4.9-1(c), as may be amended from time to time (the "**Nutritional Standards Requirements**"). Tenant will incorporate the Nutritional Standards Requirements into any contract for the installation of a vending machine on the Premises or for the supply of food and beverages to that vending machine. Failure to comply with the Nutritional Standards Requirements or to otherwise comply with this Section 50.25 will be deemed a material breach of this Ground Lease. Without limiting Landlord's other rights and remedies under this Ground Lease, Landlord will have the right to require the immediate removal of any vending machine on the Premises that is not permitted or that violates the Nutritional Standards Requirements.

50.26 San Francisco Packaged Water Ordinance. Tenant will comply with San Francisco Environment Code Chapter 24 ("**Chapter 24**"). Tenant will not sell, provide or otherwise distribute Packaged Water, as defined in Chapter 24 (including bottled water), in the performance of this Agreement or on City property unless Tenant obtains a waiver from the City's Department of the Environment. If Tenant violates this requirement, the City may exercise all remedies in this Agreement and the Director of the City's Department of the Environment may impose administrative fines as set forth in Chapter 24.

50.27 All-Gender Toilet Facilities. If applicable, Tenant will comply with San Francisco Administrative Code Section 4.1-3 requiring at least one all-gender toilet facility on each floor of any new building on City-owned land and within existing buildings leased by the City where extensive renovations are made. An “all-gender toilet facility” means a toilet that is not restricted to use by persons of a specific sex or gender identity by means of signage, design, or the installation of fixtures, and “extensive renovations” means any renovation where the construction cost exceeds 50% of the cost of providing the toilet facilities required by this section. If Tenant has any question about applicability or compliance, Tenant should contact MOHCD for guidance.

ARTICLE 51 COMPLETE AGREEMENT

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

ARTICLE 52 AMENDMENTS

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

ARTICLE 53 ATTACHMENTS

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

1. Legal Description of Site
2. Schedule of Performance
3. City Consent to Leasehold Mortgage
4. Reserved

5. Memorandum of Ground Lease

6. Form of Income Certification Form

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

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

TENANT:

681 FLORIDA HOUSING ASSOCIATES, L.P.,
a California limited partnership

By: MEDA 681 Florida LLC,
a California limited liability company,
its administrative general partner

By: Mission Economic Development Agency
a California nonprofit public benefit corporation, its sole member/manager

By: _____
Luis Granados
Executive Director

681 Florida TNDC LLC,
a California limited liability company,
its managing general partner

By: Tenderloin Neighborhood Development Corporation,
a California nonprofit public benefit corporation, its manager

By: _____
Donald S. Falk
Chief Executive Officer

CITY AS LANDLORD:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Q. Penick
Director of Property

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

ATTACHMENT 1

LEGAL DESCRIPTION OF THE SITE

(681 Florida Street,)

REAL PROPERTY DESCRIPTION

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

All that certain real property as shown on that certain map entitled "Parcel Map 9907", filed for Record December 6, 2019, in Book 50 of Parcel Maps, Page 11, San Francisco County Records.

Assessor's Lots 239, 240 and 241 (formerly Lot 028); Block 4022

ATTACHMENT 2

SCHEDULE OF PERFORMANCE

1. Demolition and/or construction must commence by a date no later than December 1, 2020; and
2. Construction must be completed by a date no later than September 1, 2023; and
3. Ninety five percent (95%) occupancy of the Units must be achieved by a date no later than December 21, 2023.

ATTACHMENT 3

CITY CONSENT TO LEASEHOLD MORTGAGE

Date: _____

Mayor's Office of Housing and Community Development of the
City and County of San Francisco
Attn: Director
One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103

RE: 681 Florida Street, San Francisco (LEASEHOLD MORTGAGE)

Dear Sir or Madam:

Under Section 25.01 of the Ground Lease, dated _____, 20__, between the City and County of San Francisco ("City") and 681 FLORIDA HOUSING ASSOCIATES, L.P., a California limited partnership, we are formally requesting the City's consent to our placing a leasehold mortgage upon the leasehold estate of the above referenced development. The following information is provided in order for the City to provide its consent:

Lender:

Principal Amount:

Interest:

Term:

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

Sincerely,

681 FLORIDA HOUSING ASSOCIATES, L.P.,
a California limited partnership

By: MEDA 681 Florida LLC
a California limited liability company, its administrative general partner

By: Mission Economic Development Agency
a California nonprofit public benefit corporation,
its sole member / manager

By: _____
Luis Granados
Executive Director

681 Florida TNDC LLC,
a California limited liability company,
its managing general partner

By: Tenderloin Neighborhood Development Corporation,
a California nonprofit public benefit corporation, its manager

By: _____
Donald S. Falk
Chief Executive Officer

By signing this letter, the City consents to the leasehold mortgage, under the terms and conditions of Section 25.01 of the _____ Ground Lease, dated _____, 20__.

Mayor's Office of Housing and Community Development

Eric D. Shaw, Director

ATTACHMENT 4

Reserved

ATTACHMENT 5

MEMORANDUM OF LEASE

Free Recording Requested under
Government Code Section 27383

When recorded, mail to:

Mayor's Office of Housing and Community Development
of the City and County of San Francisco
1 South Van Ness Avenue, Fifth Floor
San Francisco, California.94103
Attn: Director

APN: 4022-239, 240 & 241 (formerly Lot 028)

MEMORANDUM OF GROUND LEASE

This Memorandum of Ground Lease ("Memorandum") is entered into as of _____, 20____, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "City"), acting by and through the Mayor's Office Of Housing and Community Development ("City"), and 681 FLORIDA HOUSING ASSOCIATES, L.P., a California limited partnership ("Tenant"), with respect to that certain Ground Lease (the "Lease") dated _____, 20__, between City and Tenant.

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

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

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

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

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

Executed as of _____, 20__ in San Francisco, California.

TENANT:

681 FLORIDA HOUSING ASSOCIATES, L.P.,
a California limited partnership

By: MEDA 681 Florida LLC
A California limited liability company, its administrative general partner

By: Mission Economic Development Agency
a California nonprofit public benefit corporation, its sole member / manager

By: _____
Luis Granados
Executive Director

681 Florida TNDC LLC,
a California limited liability company,
its managing general partner

By: Tenderloin Neighborhood Development Corporation,
a California nonprofit public benefit corporation, its manager

By: _____
Donald S. Falk
Chief Executive Officer

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Q. Penick
Director of Property

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

ATTACHMENT 6
FORM OF TENANT INCOME CERTIFICATION

OPTION TO LEASE AGREEMENT

This Option to Lease Agreement (this "**Agreement**") is entered into as of this 7 day of August 2019, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("**City**"), acting by and through the Mayor's Office of Housing and Community Development ("**MOHCD**"), and 681 FLORIDA HOUSING ASSOCIATES, L.P., a California Limited Partnership, and its permitted successors and assigns hereunder (the "**Optionee**"), with reference to the following facts:

RECITALS

A. The City is the fee owner of that certain real property and the improvements thereon, located at 681 Florida Street, San Francisco and more particularly described in Exhibit A attached hereto (the "**Property**").

B. Mission Economic Development Agency and Tenderloin Neighborhood Development Corporation were selected as joint venture partners by the City to develop the Property under a Request for Proposals issued by the City on October 13, 2016. They formed the Optionee to undertake development of the Property. As the selected developer of the Property, the Optionee has the exclusive rights to negotiate with the City regarding development of the Property.

C. Optionee desires to develop the Property with approximately 130 units (consisting of studio, 1-BR, 2-BR, and 3-BR units) for low income families and formerly homeless families with ground floor public benefit uses (the "**Project**"). In order to develop the Project, Optionee desires to enter into a ground lease with the City in which the City will lease to Optionee the Property subject to certain conditions as provided herein.

D. Optionee intends to develop the Project with Multifamily Housing Program loan proceeds, 4% Low Income Housing Tax Credits and other sources.

E. In order to apply for Project financing, Optionee desires to obtain from the City, and the City desires to grant to Optionee, upon the specific terms and conditions set forth in this Agreement, the exclusive right and option to lease the Property.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, THE PARTIES AGREE AS FOLLOWS:

AGREEMENT

Section 1. Grant of Option. The City grants to Optionee the option to lease the Property and construct improvements to be located thereon for the consideration and under the terms and conditions set forth in this Agreement (the "**Option**"). Notwithstanding anything to the contrary contained in this Agreement, Optionee acknowledges and agrees that no officer or employee of the City has authority to commit City under any lease of the Property unless and until appropriate legislation of the City's Board of Supervisors shall have first been duly enacted approving such lease agreement and authorizing the transactions contemplated under this Agreement. Therefore, the Option and any obligations or liabilities of City hereunder are

contingent upon the due enactment of legislation by the City's Board of Supervisors and Mayor, in each their respective sole discretion.

Section 2. Term of Option: Exercise.

a. Term and Extension of Term. The term of the Option (the "Term") shall be for a period commencing on the date of this Agreement and ending June 30, 2020, (the "Initial Term") unless extended. So long as the Optionee is not then in default, Optionee may request an extension of the Term for an additional six (6) months (the "Extended Term") by giving written notice to the City between the date that is thirty (30) days prior to the expiration of the Initial Term and at any time before the expiration of the Initial Term. The Extended Term shall commence on 12:01 A.M. on the day immediately following the expiration of the Initial Term and shall end on December 31, 2020. All references in this Agreement to the Term shall mean the Initial Term, and if extended as set forth above, the Extended Term. During the Term, Optionee and City staff agree to negotiate in good faith to complete all of the terms and conditions of the ground lease of the Property from the City to Optionee consistent with this Agreement (upon completion of such negotiations, the "Ground Lease"). The Ground Lease and the transactions contemplated under this Agreement must be first approved and authorized by City's Board of Supervisors and Mayor by resolution before Optionee's exercise of the Option. The Term shall end on the date set forth above or, if earlier, on the effective date of the Ground Lease.

b. Exercise of Option. Before the expiration of the Term and at any time following approval of the Ground Lease and authorization of the transactions contemplated under this Agreement by (i) the City's Board of Supervisors and Mayor, each in their respective sole discretion, (ii) the City's Director of Property, and (iii) the MOHCD Director and, and so long as the Optionee is not then in default under this Agreement or any other agreements with the City, Optionee may exercise the Option by giving written notice to the City (the "Option Notice").

c. Expiration. The Option shall expire at midnight on the last day of the Term. If the expiration of the Term falls on a Saturday, Sunday or legal holiday in the State of California, then the Option may be exercised on the next following business day. Upon termination of the Option and a written request by the City, Optionee shall sign and deliver a quitclaim deed or such other document as may be reasonably required by the City to evidence the termination of the Option.

d. CEQA. In addition, the Parties acknowledge and agree that as a condition precedent to Optionee's right to exercise the Option, all applicable environmental review must be completed, including but not limited to review under the California Environmental Quality Act (CEQA). 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 Property, 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 Ground Lease for the Property.

Section 3. Option Consideration. The Option is granted in consideration of Optionee's obligation to negotiate in good faith for the Ground Lease and for advancement of the Project. The Option consideration is related to the Option only and in no way relates to Ground Lease payments that will be owed to MOHCD.

Section 4. Ground Lease of the Property. MOHCD staff shall prepare the initial form of ground lease substantially in the form used by MOHCD for projects in which MOHCD is the fee owner of property that will be developed for affordable housing. The Ground Lease shall be in accordance with the following:

- i. Term of Ground Lease. The Ground Lease shall become effective immediately following the full execution by the parties and shall end seventy-five (75) years from the date of construction completion of the Project, provided that the tenant shall have an option to extend the term for an additional twenty-four (24) years for no additional consideration (but rent shall continue during any extended term as set forth below).
- ii. Taxes and Assessments. The tenant shall be responsible for the payment of any and all property taxes and assessments levied against the leasehold estate and the Property during the term of the Ground Lease subject to any abatement available therefrom.
- iii. Project Use. The Property shall be used during the term of the Ground Lease only for affordable housing, with the maximum average rent and income levels set at no greater than 60% Area Median Income ("AMI") as determined by the United States Department of Housing and Urban Development for the San Francisco area, adjusted solely for household size, but not high housing cost area, and approved ancillary uses, including community serving uses. If required by the Project's tax credit investor based on the Project's residual value analysis test, and if approved by the MOHCD Director in his or her reasonable discretion, the Ground Lease may permit an increase in the maximum average rent and income levels after the 55th year of the Ground Lease term, but such increases shall be limited only to the extent necessary to satisfy the Project's residual value analysis test.
- iv. Rent. The tenant shall pay the landlord annual rent in the amount of ten percent (10%) of the land value of the Property (as determined by a MAI appraiser selected by, and at the sole cost of, the tenant, and set forth in the Ground Lease), consisting of \$15,000 in base rent and the remainder in residual rent. Unpaid

base rent shall accrue without interest. The residual rent shall be payable only to the extent proceeds are available from the Project after deductions for Project operating expenses, mandatory debt service payments, property management fees, reserve deposits required by Project lenders, deferred developer fees, and asset and partnership management fees in amounts permitted in accordance with the then-current MOHCD policy. Unpaid residual rent shall not accrue. If required by the Project's tax credit investor based on the Project's residual value analysis test, and if approved by the MOHCD Director in his or her reasonable discretion, residual rent shall only be payable after full repayment of any residual receipts Project financing provided by MOHCD. The annual rent shall be adjusted on the fifteenth (15th) anniversary of the expiration of the first full calendar lease year and every fifteen (15) years thereafter, and shall be equal to ten percent (10%) of then appraised value of the land as determined by a MAI appraiser selected by, and at the sole cost of, the tenant. Any such adjustment shall be made to the residual rent and not the base rent.

- v. Construction and Operation of the Project. The tenant shall be responsible, at its sole cost, for construction, operation, and maintenance of the Project during the Ground Lease term.
- vi. Title to Property. The Ground Lease shall provide that the City will own fee title to the land, and the Optionee will own fee title to all improvements constructed or otherwise located on the land, during the Ground Lease term.
- vii. Disposition of Improvements at End of Lease. At the end of the Ground Lease term, fee title to all the improvements shall vest in the City without further action of any party, without any obligation by the City to pay any compensation therefor to the tenant and without the necessity of a deed from the tenant to the City.
- viii. Mortgagee Protections. The Ground Lease shall include standard mortgagee protection provisions.
- ix. Defaults; Right to Cure. The City will provide any notice of any defaults under the Ground Lease to the tenant's limited partners and lenders, and allow any such parties the right to cure a default by the tenant under the Ground Lease. Pursuant to the terms of the Ground Lease, City shall not be entitled to terminate the Ground Lease following any uncured default by the tenant during the fifteen (15) year tax credit compliance period for the Project, except if such default is failure to pay rent or use the Property for affordable housing.

- x. Encumbrances. The Ground Lease will permit the tenant to encumber its leasehold interest in the Property to secure any loans deemed necessary by the tenant, as approved by MOHCD. Any funds from a loan secured by the Property must be used for the development, maintenance, rehabilitation or operation of the Property.

Section 5. Closing.

- a. Expenses. All expenses, fees or costs (except attorneys' fees and costs) incurred in connection with the Ground Lease of the Property, including but not limited to city and county documentary transfer tax, conveyance taxes, recording charges (if any), and costs of title insurance shall be borne by the Optionee. Each party shall bear its own attorneys' fees and costs incurred in connection with negotiation and execution of this Agreement and the Ground Lease.

- b. Proration of Taxes. Real property taxes on the Property shall be prorated as of the date of closing of the Ground Lease.

- c. Title Insurance. The closing of the Ground Lease shall be conditioned on the issuance to the tenant of an ALTA leasehold policy of title insurance, from a title company chosen by the tenant, insuring the tenant's leasehold interest in the Property subject only to reasonable exceptions approved by the tenant.

Section 6. Notices. All notices or other communications made pursuant to this Agreement shall be in writing and shall be deemed properly delivered, given or served to the parties at the following addresses when (i) mailed by certified mail, postage prepaid, return receipt requested; (ii) sent by express delivery service, charges prepaid with a delivery receipt; or (iii) personally delivered when a delivery receipt is obtained:

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

with a copy to: Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property

Optionee: 681 Florida Housing Associates, L.P.
201 Eddy Street
San Francisco, CA 94102
Attn: Donald S. Falk

with a copy to: MEDA
Plaza Adelante
2301 Mission Street, Suite 301
San Francisco, CA 94110
Attn: Luis Granados

All notices so delivered, mailed or sent shall be deemed received as of the date shown on the delivery receipt as the date of delivery, the date delivery was refused or the date the notice was returned as undeliverable. Either party may change its address for the purposes of this paragraph by giving prior written notice of the change to the other party in the manner provided in this Section 6. Any notice required under this Agreement that is sent by a Party shall be sent to, or contemporaneously copied to, all of the other Parties.

Section 7. Assignment of Option. With the prior written consent of MOHCD, Optionee may assign its rights and obligations under this Agreement to any limited liability company in which Tenderloin Neighborhood Development Corporation and Mission Economic Development Agency, or their respective corporate affiliates, are managing members, or a limited partnership in which Tenderloin Neighborhood Development Corporation and Mission Economic Development Agency, or their respective corporate affiliates, are general partners. Optionee shall provide written notice and a copy of an assignment agreement executed by Optionee and its permitted assignee within five (5) business days after such assignment of this Agreement.

Section 8. Binding Effect. This Agreement and its terms and conditions shall bind upon and inure to the benefit of the parties to this Agreement and their respective successors and permitted assigns.

Section 9. Time. Time is of the essence of this Agreement.

Section 10. Further Documents. Upon the reasonable request of the other party, each party will execute, acknowledge and deliver or cause to be executed, acknowledged and delivered, such further instruments and documents as may be reasonably necessary in order to carry out the intent and purpose of this Agreement, including escrow instructions.

Section 11. Commission. Each party to this Agreement represents to the other party that it has not engaged or used the services of any person, firm or corporation that may claim a broker's commission or finder's fee upon execution of this Agreement or the Ground Lease, and each party to this Agreement agrees to hold the other party harmless from any loss, damage, expense or liability, including attorney's fees, resulting from any claim by any person, firm or corporation based upon its having acted as broker or finder on behalf of said indemnifying party.

Section 12. Captions. The captions of the paragraphs of this Agreement are for convenience and reference only, and the words contained in the captions shall in no way be held to explain, modify, amplify or aid in the interpretations, constructions or meaning of the provisions of this Agreement.

Section 13. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement.

Section 14. Entire Agreement; Signatures. This Agreement contains the entire agreement between the parties respecting the matters set forth, and supersedes all prior agreements between the parties respecting the matters set forth.

Section 15. Attorneys' Fees. In any action between Optionee and the City to enforce or interpret any of the terms of this Agreement, the prevailing party shall be entitled to recover costs of suit and expenses including, without limitation, reasonable attorneys' fees.

Section 16. Sunshine Ordinance. Optionee understands and agrees that under City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov. Code Section 6250 et seq.), this Agreement and any and all records, information, and materials submitted to City hereunder public records subject to public disclosure. Optionee hereby acknowledges that City may disclose any records, information and materials submitted to City in connection with this Agreement.

Section 17. Prohibition Against Making Contributions to City. Through its execution of this Agreement, Optionee acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Optionee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more.

Section 18. Conflicts of Interest. Through its execution of this Agreement, Optionee acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provision, and agrees that if Optionee becomes aware of any such fact during the term of this Agreement, Optionee shall immediately notify the City.

[Signatures appear on following page]

IN WITNESS WHEREOF, Optionee and the City have executed this Agreement as of the date first written above.

CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
Andrico Penick
Director of Property

By: _____
A-fing ~~Kate Hartley~~ Daniel Adams
Director, Mayor's Office of Housing and Community Development

APPROVED AS TO FORM:
DENNIS J. HERRERA
City Attorney

By: _____
Deputy City Attorney

OPTIONEE:

681 Florida Housing Associates, L.P.,
A California Limited Partnership

By: MEDA 681 Florida LLC,
a California limited liability company
its co-general partner

By: Mission Economic Development
Agency, a California nonprofit public benefit
corporation, its manager

By: _____
Name: Luis Granados
Its: Chief Executive Officer

By: 681 Florida TNDC LLC,
a California limited liability company
its co-general partner

By: Tenderloin Neighborhood
Development Corporation, a California
nonprofit public benefit corporation, its
manager

By: _____
Name: _____
Its: _____

IN WITNESS WHEREOF, Optionee and the City have executed this Agreement as of the date first written above.

CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: 
Andrico Penick *8/7/18*
Director of Property

By: 
Kate Hartley Daniel Adams
Acting Director, Mayor's Office of Housing and Community Development

APPROVED AS TO FORM:
DENNIS J. HERRERA
City Attorney

By: 
Deputy City Attorney

OPTIONEE:

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A California Limited Partnership

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a California limited liability company
its co-general partner

By: Mission Economic Development
Agency, a California nonprofit public benefit
corporation, its manager

By: _____
Name: _____
Its: _____

By: 681 Florida TNDC LLC,
a California limited liability company
its co-general partner

By: Tenderloin Neighborhood
Development Corporation, a California
nonprofit public benefit corporation, its
manager

By: 
Name: Donald Falk
Its: chief executive officer

EXHIBIT A

Property Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL B: APN 4022-028 (FORMER PORTION OF APN 4022-021)

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF BRYANT STREET (80.00 FEET WIDE), DISTANT THEREON 230.00 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF 18TH STREET (66.00 FEET WIDE); THENCE SOUTHERLY ALONG SAID LINE OF BRYANT STREET 95.00 FEET; THENCE AT A RIGHT ANGLE WESTERLY 200.00 FEET TO THE EASTERLY LINE OF FLORIDA STREET (80.00 FEET WIDE); THENCE AT A RIGHT ANGLE NORTHERLY, ALONG SAID EASTERLY LINE OF FLORIDA STREET, 95.00 FEET; THENCE AT A RIGHT ANGLE EASTERLY 200.00 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF POTRERO NUEVO BLOCK NUMBER 29.

Request For Proposals

For the development of new affordable housing on a vacant lot fronting Bryant Street, at 19th Street, in San Francisco, known as

2070 BRYANT STREET
(Assessor's Block 4022, Lot 21)

Issued October 13, 2016 by:

**City and County of San Francisco
Mayor's Office of Housing and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103**

Revision 1 - October 28, 2016

Contact: Kate Hartley
(415) 701-5528
kate.hartley@sfgov.org

Responses due by 4:00pm, Monday, December 12, 2016

TABLE OF CONTENTS

I. SUMMARY	3
II. IMPORTANT DATES AND SUBMISSION PROCESS	4
A. IMPORTANT DATES	4
B. PRE-SUBMISSION MEETING	4
C. QUESTIONS AND REQUESTS FOR INFORMATION	4
E. SUBMITTAL DATE AND METHOD	4
III. BACKGROUND	5
A. SITE HISTORY	5
B. THE SITE / ZONING/ LAND USE RESTRICTIONS	6
C. SOIL CONDITIONS	7
IV. DEVELOPMENT PLAN ELEMENTS	8
A. HOUSING PROGRAM.....	8
1. <i>Minimum Number, Mix and Sizes of Housing Units</i>	8
2. <i>Maximum Rents</i>	8
3. <i>Occupancy Preferences</i>	9
2. <i>Homeless Families</i>	9
5. <i>Resident Services</i>	10
6. <i>Community Outreach</i>	11
7. <i>Priority Processing</i>	11
B. ARTS RELATED SPACE / GROUND FLOOR SPACE PLAN.....	11
C. DESIGN AND CONSTRUCTION.....	12
1. <i>Design Objectives</i>	12
2. <i>Preliminary Site Feasibility Design Considerations</i>	12
3. <i>Other Design Considerations</i>	14
D. FINANCING PLAN	14
1. <i>Sources & Uses Budget</i>	14
2. <i>Services Funding</i>	16
3. <i>Ground Lease</i>	16
4. <i>Underwriting Guidelines</i>	17
5. <i>Predevelopment Funding</i>	17
E. PROPERTY MANAGEMENT/MAINTENANCE OVERSIGHT	17
V. SELECTION PROCESS, SELECTION PROCESS AND SUBMITTAL REQUIREMENTS.....	17
A. SELECTION PROCESS.....	17
B. MINIMUM EXPERIENCE AND CAPACITY REQUIREMENTS	18
1. <i>Development Team Characteristics</i>	18
2. <i>Development Team Minimum Experience Qualifications</i>	18
3. <i>Minimum Developer and Architect Capacity Qualifications</i>	20
C. SELECTION CRITERIA.....	20
D. SUBMITTAL REQUIREMENTS	23
E. SUBMITTAL DEADLINE AND OTHER IMPORTANT DATES.....	27
VI. TERMS AND CONDITIONS OF REQUEST FOR PROPOSALS.....	28
A. DEVELOPER RESPONSIBILITIES	28
B. ERRORS AND OMISSIONS IN RFP.....	29

C. ADDENDA TO RFP 29
D. OBJECTIONS 30
E. CLAIMS AGAINST MOHCD 30
F. SUNSHINE ORDINANCE 31
G. RESERVATIONS OF RIGHTS BY THE CITY 31

EXHIBIT A: Insurance Requirements

ATTACHMENTS

1. Proposal Metrics
2. Respondent Description
3. Projected Staffing Workload
4. Service Provider Experience
5. Disclosures

I. SUMMARY

The City and County of San Francisco (“City”), through the Mayor’s Office of Housing and Community Development (“MOHCD”), is seeking submittals from qualified respondents to develop what will be a City-owned, vacant parcel as affordable family rental housing, including units serving formerly homeless households (“Project”). The site is a rectangular-shaped lot of approximately 22,750 square feet located at 2070 Bryant (Block 4022, Lot 21; “Site”). The Site is framed by Bryant Street to the east, Florida Street to the west, and to the south, existing two- and three-story structures. To the north, at 2000 Bryant, is a 42,250 square foot parcel that will be developed as 191 units of market-rate housing and 3 below market-rate units, approximately 12,000 square feet of below-market and market-rate production/distribution/repair (“PDR”) space, parking, and retail. As part of the land use entitlement process, the owner of 2000 Bryant (“Market-Rate Developer”) will subdivide the property spanning 2000-2070 Bryant and dedicate the Site to MOHCD for affordable housing development, pursuant to the Section 419.5 of the Planning Code. Per Section 419.5, the Market-Rate Developer is responsible for delivering the Site to MOHCD in a “shovel-ready” condition, that is, with all structures demolished, rough grading completed, and hazardous materials/conditions either mitigated or evaluated so that the cost of mitigation is identified and assigned to the Market-Rate Developer for future payment.

Eligible Respondents to this Request for Proposals (“RFP”) are described in detail below, but among required Development Team members, one must possess work experience in the Mission community that directly relates to the development of housing and/or the provision of housing or services to low-income households within an affordable housing setting.

The goals of this RFP are to 1) select a Respondent that can develop, own, and operate the Project in a professional, sustainable, and expert manner; 2) facilitate a Project that is high-quality while maintaining development and operational cost efficiencies; and 3) ensure that the Project confers extensive benefits to its future residents and the broader Mission community.

This RFP and the City’s plans for the Site pursue the goals articulated in MOHCD’s Consolidated Plan (2015), San Francisco’s Local Homeless Coordinating Board Five-Year Plan (2014), and the draft Mission Action Plan 2020 (October 2016), which memorializes Mission neighborhood advocates’ call for the production of 2,400 new, affordable housing units by 2020. Accordingly, 2070 Bryant’s development shall proceed under a long-term ground lease with the City, and maximum rents shall be restricted to a level affordable to households earning up to 60% of area median income, as defined by MOHCD. Thirty percent of the Project’s units will serve homeless families referred by the Department of Homelessness and Supportive Housing (“DHS”). Additional Site goals include on-site supportive services available to all households and ground floor space for arts-related uses, such as artist workspace, a gallery or exhibit space, and/or a performance space.

Finally, the selected Respondent must have the ability to successfully conduct neighborhood outreach and secure neighborhood support for the Project, while also meeting the City’s expressed goals. This component of the development process will be very important. While the Planning Department and Board of Supervisors (“Board”) approved the Site’s land dedication as part of 2000 Bryant’s larger entitlement process, community members appealed both its Conditional Use Permit and Community Plan Exemption under CEQA (the Board denied both

appeals). Bringing affordable housing onto the Site in a thoughtful, inclusive way will be vital to repairing community divisions and establishing a diverse and vibrant neighborhood.

II. IMPORTANT DATES AND SUBMISSION PROCESS

A. Important Dates

(MOHCD reserves the right to change dates to accommodate staffing schedules)

RFP issued by MOHCD	Friday, October 14, 2016
Pre-submission meeting at MOHCD	1PM, Monday, October 24, 2016
Deadline for questions and requests for additional information	Monday, November 7, 2016
Proposal Submission Deadline	4PM, Monday, December 12, 2016
Notice to Respondents regarding satisfaction of minimum requirements	Friday, December 23, 2016
Developer team interviews	Week of January 9, 2017
Director of MOHCD review/approval of recommended development team	Week of January 30, 2017

B. Pre-Submission Meeting

A pre-submission meeting will be held at MOHCD (1 South Van Ness Avenue, 5th floor), on **Monday, October 24, at 1:00 pm**. The purpose of the meeting is to ensure that all teams understand the programmatic design, financing, scoring and submittal requirements. Although attendance at the Pre-Submission Meeting is not mandatory, it is highly recommended.

C. Questions and Requests for Information

Questions raised at the pre-submission meeting may be answered orally. If any substantive new information is provided in response to questions raised at this meeting, it will also be posted on the MOHCD website (<http://sfmohcd.org/nofas-rfp-rfq-bids-jobs>) and will be emailed to all parties that have attended the Pre-submission meeting or otherwise requested that they be included on the RFP emailing list. Subsequent to this meeting, questions or requests for interpretation will only be accepted by email and all questions and responses will be answered by email and posted on the MOHCD website. No questions or requests for interpretation will be accepted after **5:00 pm, Monday, November 7, 2016**. Emailed questions and information requests should be submitted to Kate Hartley at: kate.hartley@sfgov.org.

D. Submittal Date and Method

Submittal of **6 (six)** hard copies of the Proposal must be received by the MOHCD receptionist and an emailed copy sent to the kate.hartley@sfgov.org no later than **4:00 p.m., Monday, December 12, 2016**.

III. BACKGROUND

A. Site History

The three-lot property bounded by Florida, 18th, and Bryant Streets, of which the Site is part, currently contains seven mixed-use buildings, including residential, commercial, arts-activity, and PDR uses, all of which are now vacant. At 2070 Bryant specifically, a two-story, mixed-use building exists, with ground floor commercial space and a dwelling unit on the second floor.

The Market-Rate Developer's initial plan generated significant community opposition. That plan would have demolished all seven buildings and constructed a 274-unit rental building, including 44 below-market units (in satisfaction of the Planning Code's on-site inclusionary requirement), ground floor retail, and parking. Ten thousand square feet of Production Distribution and Repair (PDR) space would have been eliminated.

In response to community opposition, the Market-Rate Developer revised its plan over the course of several years. The current development program for the property, as approved by the Planning Commission and Board under a Conditional Use Permit (see: http://commissions.sfplanning.org/cpcpackets/2013.0677X_2016-05-12.pdf), includes the following elements:

- Subdivision and creation of the Site as a land dedication parcel of 22,750 s.f. for affordable housing
 - Approximately 7,000 s.f. of ground floor space dedicated to arts-related uses
 - Access to three car-share spaces on the market-rate parcel, which makes available approximately 2,000-3,000 s.f. of additional ground floor space that can be used as additional arts space, residential units, or other use to serve future residents
 - A 25-foot wide pedestrian, mid-block mews open space separating the market-rate and affordable developments, constructed at the cost of the Market-Rate Developer, and owned and operated by the Market-Rate Developer
 - A \$500,000 contribution to the arts-related uses' tenant improvements from the Market-Rate Developer
- Lot mergers to create a market-rate parcel of 191 unrestricted units and 3 below-market rate units, as well as:
 - 12,000 s.f. of PDR space
 - 3 car-share spaces in the garage to which residents of the affordable housing parcel will have access
 - Residential parking
 - Approximately 5,500 s.f. of retail

In early 2016, MOHCD reviewed the land dedication proposal, determined that the Market-Rate Developer was in full compliance with the requirement of Planning Code Section 419.5, and, on May 12, 2016, issued a letter accepting the land dedication. In addition, MOHCD determined that the significant additional benefits generated through the project revisions and the prospect of adding up to 136 units of affordable housing at the site (a potential unit count identified by the Market-Rate Developer's architectural team) fulfilled the goals of MOHCD's Consolidated Plan,

implemented MOHCD's mission to provide safe and decent housing for all San Franciscans, including homeless households, and pursued the draft MAP 2020 goals of increased affordable housing production.

It is anticipated that the Market-Rate Developer will commence construction on its parcel and the required work on the Site by June 2017. Construction completion is scheduled for 2019. The City anticipates that the developer selected through this RFP will commence site design, entitlement work, and permit applications immediately upon award, and be ready to begin construction prior to or concurrently with the completion of the market-rate project.

B. The Site / Zoning / Land Use Restrictions

As previously described, Site is bordered by Bryant and Florida Streets. It is located in the Mission Area Plan of the San Francisco General Plan, and is zoned Urban Mixed-Use (UMU) within a 68-X height and bulk district. The City adopted the Mission Area Plan and rezoned the area in 2008 as part of the Eastern Neighborhoods rezoning process. A program Environmental Impact Report (EIR) analyzing on a generalized level the impacts of implementation of the plan, including mixed-use development on the site, was certified at that time. The surrounding neighborhood is a mixture of residential, commercial and industrial. Immediately adjacent uses include industrial, two-story commercial properties, a four-to-five-story larger-scale residential development, and two-to-three story and six-story multi-family dwellings.

The EN Mission Area Plan includes, among other objectives:

- Strengthening of the Mission's existing mixed-use character, while maintaining the neighborhood as a place to live and work. (Objective 1.1)
- In areas of the Mission where housing and mixed-use is encouraged, maximizing development potential in keeping with neighborhood character. (Objective 1.2)
- Continuing and expanding the City's efforts to increase permanently affordable housing production and availability. (Objective 2.)

The Eastern Neighborhoods Plan can be found at: <http://www.sf-planning.org/index.aspx?page=1673>

Key zoning and land use provisions applicable to the Site, as restricted under UMU zoning, include:

- A Large Project Authorization requirement for projects greater than 25,000 square feet (Planning Code sec. 329)
- 68-X height/bulk
- Residential density limitations inapplicable for projects including at least 40% 2 BR units or 30% 3 BR units.
- No minimum parking requirement, but if parking is provided, minimum car-share spaces must be included (Secs. 151.1; 166)
- One off-street loading space requirement for residential uses between 100,001 and 200,000 gross s.f.; no off-street loading requirement for arts uses smaller than 10,001 s.f. (Sec. 152.1)
- Bicycle parking required (Sec. 155.1)

- Active use requirement along the first 25 feet of lot depth at the ground floor (Sect. 145.1)
- A rear yard equal to 25% of the depth of the lot at the lowest story containing a dwelling unit, and at each succeeding level or story of the building
- Residential open space at a ratio of 80 s.f. per unit for private or common open space and 54 s.f. per unit if it is public
- Common open space in an inner court requires a horizontal dimension no less than its vertical enclosure
- Minimum 25 feet of exposure to a street or open space, with the 25 ft. dimension increasing with the height of an inner court
- Principally permitted ground floor arts activities and other non-commercial and retail (except for restrictions on formula retail and liquor stores)
- Principally permitted assembly and social service space that provides social, fraternal, counseling or recreational gathering services to the community

When the Market-Rate Developer initially approached MOHCD regarding a land dedication, it proposed a generally code-conforming building with a 65' height. The proposed unit count was approximately 95. While 95 units exceeded the minimum unit count requirement for a land-dedicated parcel under Section 419.5, MOHCD staff desired to pursue the opportunity to provide more housing at the Site, pursuant to Mission neighborhood advocates' expressed desire for the immediate production of over 2,400 affordable housing units.

Accordingly, the Market-Rate Developer provided a schematic design for an 8-story building with 136 units. This scheme assumed use of the State Density Bonus (Cal. Govt. Code Section 65915) or the City's 100% Affordable Housing Bonus Program (Ordinance No. 143-16), which was under legislative review at the time and which the Board and Mayor subsequently approved. As presented, the 8-story building would not only require a density bonus to exceed the 68-X height/bulk restriction, but additional concessions available from either density bonus legislative program to address rear-yard, common open space, and unit exposure exceptions. In addition, a Large Project Authorization hearing will be required for the Project; the Planning Commission can grant zoning exceptions such as rear-yard, open space and unit exposure through that action. The State Density Bonus Law compels localities to grant such concessions.

The Market-Rate Developer's schematic design (found here: <http://sfmohcd.org/nofas-rfp-rfq-bids-jobs>) is for reference purposes only and primarily serves as a model for the Site's density potential. Respondents should approach the Site design with full creative license, and need not assume anything included in the schematic design except the mid-block mews. However, this RFP does impose certain design requirements, such as the ground floor arts use described in greater detail below. It is also the goal of the RFP that the winning proposal maximize the affordable unit count, pursuant either to the State Density Bonus Law or the 100% Affordable Housing Bonus Program, while also achieving excellent design and physical amenities at the site that create a desirable and pleasing living environment for future residents.

A copy of a survey showing the dimensions and locations of both the Site and the market-rate parcel can be found on the MOHCD website at <http://sfmohcd.org/nofas-rfp-rfq-bids-jobs>.

C. Soil Conditions

Pursuant to the requirements of Planning Code Section 419.5, the Market-Rate Developer submitted a Geotechnical Investigation and Supplemental Geotechnical Investigation for the Site, both of which can be found here: <http://sfmohcd.org/nofas-rfp-rfq-bids-jobs>.

The selected Developer will be required to commission its own geotechnical studies as part of its design and engineering work, but, for purposes of this RFP, it is assumed that soil and subsoil conditions on the Site are sufficient to support a development that complies with the maximum allowable height, bulk and density limitations of the Site's applicable zoning requirements, as modified through a density bonus.

IV. DEVELOPMENT PLAN ELEMENTS

A. Housing Program

1. Minimum Number, Mix and Sizes of Housing Units. The minimum unit count for the Project is 120, but Respondents should strive to maximize the unit count while still achieving excellent design and a high-quality physical amenities for residents. Additional considerations for the unit mix include:

- a. At least 40% of the units must be two-bedroom or larger, and some units must be three bedrooms. Developers should propose a unit mix that reflects the marketing demands and demonstrated needs of tenants they serve in recently completed developments.
- b. Unit sizes must meet or exceed the minimums required by the California Tax Credit Allocation Committee ("TCAC") in its regulations governing large family developments.
- c. Respondents should assume height increases and concessions necessary to achieve the optimal, maximized unit count through the Affordable Housing Bonus Program (or the State Density Bonus Program), in consultation with the San Francisco Planning Department.

2. Maximum Rents. Respondents should assume a mix of rent levels, but in no case greater than 60% of the unadjusted Area Median Income ("AMI") for HUD metro fair market rent area (HMFA) that contains San Francisco.

- a. A minimum of thirty percent (30%) of the units should be reserved for formerly homeless families, with rent and income levels set accordingly and assuming City-provided operating subsidies and services funding, in compliance with the requirements of DSHS.
 - The City reserves the right to request that this set-aside of units be made available for former occupants of housing managed by the San Francisco Housing Authority, rather than homeless households, in order to facilitate public housing redevelopment projects. For the purpose of this RFP, however, Respondents should not assume occupancy by public housing relocatees.

3. Occupancy Preferences. The selected Respondent will retain final selection authority over all resident respondents. Nevertheless, apart from the units set aside for homeless families, the following preferences will apply to the Project's lease-up, in the order provided:

Preference	Respondent Category
1.	Certificate of Preference Holders
2.	Displaced Tenant Housing Preference Certificate Holders (unless California Housing and Community Development funds apply)
3.	Qualifying Neighborhood Preference Residents (unless California Housing and Community Development funds apply)
4.	Households who Live or Work in San Francisco

Respondents must include a draft Affirmative Marketing Plan in their responses to this RFP. The plan should include specific outreach toward Mission District-based tenants displaced by Ellis Act or Owner Move-In evictions and provision of all marketing and application materials in all City-recognized languages. The selected developer will be expected to comply with MOHCD's marketing requirements, including but not limited to requirements for language access and integration of the Fair Chance Act.

4. Homeless Families

DHSH will refer homeless families with children under the age of 18, and homeless pregnant women for residency in the Project. Single individuals and households without minor children are not eligible for the DHSH referral units.

DHSH will follow the definition of "homeless" provided in the chart below to determine eligibility. In addition, households can only be referred by DHSH for occupancy at the Project if their annual household income does not exceed 30% of AMI.

The term "HOMELESS" includes individuals or families who lack a fixed, regular, and adequate nighttime residence and who have a primary nighttime residence in one or more of the following categories:	
Category	Description
Shelter	Anyone staying in a mission or homeless or domestic violence shelter, i.e., a supervised public or private facility that provides temporary living accommodations. Anyone displaced from housing due to a disaster situation.
Street	Anyone staying outdoors; for example, street, sidewalk, doorway, park, freeway underpass.
Vehicle	Anyone staying in a car, van, bus, truck, RV, or similar vehicle.
Make-Shift	Anyone staying in an enclosure or structure that is not authorized or fit for human habitation by building or housing codes, including abandoned buildings ("squats") or sub-standard apartments and dwellings.
Doubled-Up	Anyone staying with friends and/or extended family members (excluding parents and children), because they are otherwise unable to obtain housing, or , any family with children staying in a Single Room Occupancy (SRO) hotel room - whether or not they have tenancy rights, or , anyone staying in temporary housing for less than 6 months, and the accommodations provided the person are substandard or inadequate, for example, garage, small room, overly crowded space.

Transitional	Anyone staying in a Single Room Occupancy (SRO) hotel room <u>without</u> tenancy rights, or , anyone formerly homeless (formerly in one of the above categories) who is now incarcerated, hospitalized, or living in a treatment program, half-way house, transitional housing, or , anyone formerly homeless (formerly in one of the above categories) who has obtained supportive housing or permanent housing for less than 30 days.
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5. Resident Services. Respondents must include a trauma-informed services plan (“Services Plan”) that demonstrates an understanding of the housing and services needs of extremely low- and low-income households and the specific target population, including formerly homeless households who have experienced chronic trauma. The Services Plan should include:

- a. Access to and coordination with mainstream community services, subcontracted and/or partner services, and a commitment by each service provider to coordinate with onsite supportive services and property management through regularly scheduled meetings to ensure sound operational and building management practices.
- b. A description of the minimum services to be provided that are appropriate to the proposed target population, including homeless households, and the estimated frequency of the services. Examples of the services activities the supportive services staff perform for all sites may include:
 - Early intervention with Property Management in Resident Selection to conduct assessments.
 - Ongoing outreach and engagement of the tenant population with the goal of achieving housing stability.
 - Thorough outreach to outside providers to teach, coach and mentor adults and teens on various key areas, including, e.g., mental health needs, substance abuse treatment, domestic violence, and food security.
 - Help accessing benefits, pre-vocational and vocational training, legal services, and/or educational opportunities, as appropriate.
 - Referrals and assistance with accessing primary medical care and other community services as needed and connection with neighborhood community clinics.
 - Eviction prevention support and referrals.
- c. Specific strategies for addressing the needs of homeless households, e.g.:
 - A description of the way the Applicant will engage and assess formerly homeless families and individuals during the resident selection period.
 - The implementation plan for trauma-informed systems, including provisions for ongoing training for services staff and property management teams.
 - Collaboration with other trauma-informed services providers to teach self-reliance and empowerment with adults and teens.
 - Assistance with families’ transition out of homelessness, especially regarding mental health concerns and adverse childhood experiences.
 - Conflict resolution among tenants using trauma-informed principles.

- Recreation, community building, social, and/or other group programming.
- d. Staffing information (number of FTEs or percent thereof, type of services staff, roles of services staff), for both the homeless and non-homeless units. Services for the homeless units should be provided through a case manager to unit ratio of no less than 1 case manager for every 35 units; services for the non-homeless households should be provided at 1 services coordinator/connector for every 100 households. The winning Respondent will be required to work with the DSHS to determined final staffing ratios and budgets to successfully serve the homeless households.

6. Community Outreach. It is critical to the success of the development program that the selected Developer conduct extensive community outreach and establish positive links with surrounding neighbors and the larger community throughout the development process. As previously described, the approvals process for the adjacent market-rate development generated significant controversy. A community outreach plan that helps heal those divisions and creates a development program that community members can embrace is a principal goal of this RFP. Accordingly, Respondent submittals must include a Community Outreach Plan that includes:

- Demonstration of Respondents' ability to engage diverse communities, including but not limited to monolingual non-English speaking communities.
- Compliance with the City's Language Access Ordinance (Admin. Code Chapter 91).
- A proposed schedule for stakeholder meetings and other forums to present design and programmatic plans and solicit community input.

7. Priority Permit Processing. Pursuant to San Francisco Department of Building Inspection ("DBI") policy, this project qualifies for "priority permit processing" because 100% of the units will be affordable. The selected Respondent must understand this preference and secure all available priority processing benefits.

B. Arts-Related Space/ Ground Floor Space Plan

The footprint of the affordable parcel is approximately 22,500 s.f., Within the balance of the affordable housing's ground floor space, 7,000 s.f. must be devoted to arts-related uses. In addition, approximately 2,000-3,000 ground floor s.f. may be added to the arts space by virtue of the Market-Rate Developer's agreement to move three car-share garage parking spaces that had previously been included on the Site to the market-rate parcel and provide access to those cars for the affordable housing residents.

Given the Site's history as a location of both PDR and arts uses, as well as the importance to the community of maintaining space for both activities in the neighborhood, the selected Developer must engage in a community dialogue prior to finalizing the arts-related use of the ground floor. In preparation for this process, Respondents must submit a potential ground floor plan that includes:

- *Proposed* use or uses of a minimum of 7,000 s.f. of ground-floor space for arts-related space. Such use(s) may have an individualized focus, e.g., work space for artists, or it may be more community-centered, such as a gallery and exhibit space.

- Respondents should assume that the arts user(s) will fully cover their own operating expenses and pose no financial burden on the residential use. However, Respondents may also assume a below-market rent and long-term lease for the arts user, assuming that use provides community benefits.
 - Respondents may assume MOHCD funding for warm shell space, as provided in MOHCD's Commercial Space Underwriting Guidelines (and described in more detail below).
- Additional ground floor uses necessary to carry out building operations and enhance resident enjoyment of the building, such as an entry lobby, mailboxes, bicycle parking, resident community space, property management and services offices, etc.
 - Pursuant to the goal of maximizing the building's unit count while maintaining excellent design, Respondents may also include residential units on the ground floor.

C. Design and Construction

MOHCD is seeking excellent architectural design and construction standards that represent an awareness of the Site's location in a mixed-use neighborhood. The successful Respondent will maximize housing opportunities while also creating a strongly supportive environment with adequate amenities and open spaces to enhance the lives of residents. (Note: *Some portion of the architectural costs associated with this architectural analysis may be reimbursable by MOHCD. See Section VI.G.4. below for more information.*)

1. Design Objectives.

- a. To design the Project in a manner that is consistent with the Goals and Policies of the Eastern Neighborhoods Mission Area Plan, particularly with respect to the Area Plan's Land Use, Housing, and Built Form guidelines. As the Plan states:

“The many cultures, land uses, architectural styles, street grids and street types that exist within the Mission neighborhood define its character and set it apart from other areas of San Francisco. Indeed it is the coexistence and commingling, at times chaotic, of all these different elements that attracts most residents to the Mission. Urban design is central to defining how such a diverse physical and social environment is able to function, and will determine whether new additions contribute to, or detract from, the neighborhood's essential character.”

The Plan's Built Form guidelines particularly address the issues of height, architectural design and the role of new development in supporting a more ecologically sustainable urban environment. See: http://www.sf-planning.org/ftp/General_Plan/Mission.htm#MIS_BUF

2. Preliminary Site Feasibility Design Considerations. Certain major factors will affect design and total unit count, all of which will be considered in evaluating and scoring proposals:

- a. Height Limits/Building Location and Massing: as previously described, Respondents should assume the Affordable Housing Bonus Program (or, if advised by the Planning Department, the State Density Bonus Program) in order to maximize unit count while maintaining excellent design.
- b. The Site's surrounding Urban Mixed-Use includes industrial, commercial, and residential as demonstrated below:
- Bryant Street: view north, towards 18th Street:
<https://www.google.com/maps/@37.7609906,-122.4100589,3a,75y,350.21h,89t/data=!3m6!1e1!3m4!1sREA3nCjm2ZdT2PS8blFNQg!2e0!7i13312!8i6656!6m1!1e1>
 - Bryant Street: view south, towards 19th Street:
<https://www.google.com/maps/@37.7611213,-122.4100724,3a,75y,196.16h,84.02t/data=!3m6!1e1!3m4!1sFiN652wWrsXBtA7KIaKlg!2e0!7i13312!8i6656!6m1!1e1>
 - Bryant and 19th Streets: south end of site and adjacent properties:
<https://www.google.com/maps/@37.760805,-122.4100399,3a,75y,237h,84.65t/data=!3m6!1e1!3m4!1s6ofyD4KGMHRSA1e316wLAQ!2e0!7i13312!8i6656!6m1!1e1>
 - Florida Street, looking north toward 18th Street:
https://www.google.com/maps/@37.7607309,-122.4110014,3a,75y,346.3h,91.67t/data=!3m7!1e1!3m5!1s4vvy3AxXiDQ4rvGMDDcceA!2e0!6s%2F%2Fgeo2.ggpht.com%2Fcbk%3Fpanoid%3D4vvy3AxXiDQ4rvGMDDcceA%26output%3Dthumbnail%26cb_client%3Dmaps_sv.tactile.gps%26thumb%3D2%26w%3D203%26h%3D100%26yaw%3D24.549662%26pitch%3D0!7i13312!8i6656!6m1!1e1
- c. Resident Amenities: Respondents should submit a list of resident amenities and services to be provided through their proposal in addition to the arts-related ground floor space, including location, intended audience, and approximate size. Examples include a teen computer lab, community garden, and community lounge space(s).
- d. Resident Open Space: Respondents should reference Planning Code minimums as the base for their open space designs and, if applicable, indicate any potential need for a variance from such minimums as a concession to be granted through a density bonus application. Open space designs should reflect passive and active uses that best suit tenants of differing ages.
- e. Resident Livability: Respondents should propose designs that achieve high-quality habitability, comfort, security and housing stability through architectural considerations such as:
- Interior resident amenities – need for gathering spaces that support strong tenant communities while still anticipating great diversity within the tenant population;

- Interior court open spaces – settings should promote accessibility, convenience, and usability while considering sun/shade patterns and relationship to adjacent interior uses and public amenities;
- Upper floor open spaces – settings should take advantage of any potential views and consider relationship to surrounding structure heights as well as sun and wind.

3. Other Design Considerations

- a. Civic Design Review: Pursuant to Charter Section 5.103, any new construction on City property is subject to Civic Design Review. The Planning Department shall not approve any permit until this requirement is fulfilled. Applicants should contact the SF Arts Commission at (415) 252-2590 with any questions regarding the design review process. More information including the Civic Design Review Committee Submission Guidelines is available on the Arts Commission website:
<http://www.sfartscommission.org/CDR/home/index.html>.
- b. Storm Water Management Ordinance: Projects that disturb 5,000 square feet or more of the ground surface must comply with the Storm Water Design Guidelines and submit a Storm Water Control Plan to the SFPUC for review as part of their construction permit application. To view the Guidelines and download instructions for preparing a Storm Water Control Plan, go to <http://sfwater.org/index.aspx?page=446>.
- c. Green Design Guidelines. The City seeks to maximize the overall sustainability of the Project to the extent possible through the integrated use of sustainable building elements. Development plans that improve indoor air quality, reduce resource consumption, and approach zero-energy consumption are desired. At a minimum, Projects should meet the requirements of the 2013 San Francisco Green Building Code, California Title 24, and the California Tax Credit Allocation Committee regulations regarding sustainable buildings. Buildings that exceed this measurement and achieve net-positive sustainability strategies are highly encouraged. Among other resources, respondents may obtain more information at <http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities/resources/tools>, <http://www.greenaffordablehousing.org/>, and www.ecodistricts.org.

D. Financing Plan

1. Sources & Uses Budget. Developers should create a feasible Sources & Uses budget for the Project that includes but is not limited to the following:
 - Total development costs, including, but not limited to; utility connections and site work; fine grading and shoring; the full costs of vertical construction; warm shell costs for the arts-related ground floor use(s); architectural and engineering expenses; all permitting and applicable City fees; financing costs; and marketing and lease-up costs.

- The Market-Rate Developer is responsible for delivering the site free of environmental hazards and in “shovel-ready” condition. Currently, the cost estimate for such remediation is approximately \$585,000. MOHCD will conclude the analysis of the full remediation scope of work and costs with the Market-Rate Developer and provide the funds associated with the remediation to the winning Respondent in a MOHCD loan agreement. Respondents should review the Phase 1 and Phase 2 Environmental Reports commissioned by the Market-Rate Developer, found here: <http://sfmohcd.org/nofas-rfp-rfq-bids-jobs>
 - Respondents should assume the availability of \$500,000 in tenant improvement funds for the arts-related space from the Market-Rate Developer.
 - Respondents should determine construction type. Construction cost estimates should reflect current construction costs and exclude escalation assumptions.
 - Respondents should include sources and uses for development of the arts-related space and any other commercial spaces in a manner that is consistent with MOHCD’s Commercial Space Policy, as it may be amended prior to finalization of the Project’s sources and uses budget. See: <http://sfmohcd.org/sites/default/files/FileCenter/Documents/4881-Commercial%20Space%20Policy.pdf>
- 4% low-income housing tax credits and tax-exempt bond financing (9% LIHTC proposals will not be accepted).
 - Federal Home Loan Bank Affordable Housing Program funds.
 - Additional, non-MOHCD sources of funds for which the Project is competitive, that meet the City’s affordability goals, and reduce to the greatest extent feasible required MOHCD gap funding.
 - MOHCD gap funds (in the form of a 55-year, residual receipts loan), minimized to the greatest extent feasible by other funding sources.
 - A *maximum* rent level for all units of 60% of the unadjusted Area Median Income (“AMI”) for HUD metro fair market rent area (HMFA) that contains San Francisco, as established by MOHCD see: http://sfmohcd.org/sites/default/files/Documents/MOH/2016_AMI_RentLimits-SanFranHMFA.pdf
 - Developers are encouraged to balance financial feasibility and a tiered rent schedule, so that rent for some non-homeless units may be less than 60% AMI.
 - Homeless households will contribute approximately 30% of their incomes in rent; Developers should assume tenant-paid rents (exclusive of utilities) of \$300 per month for homeless households.
 - Funding from the City’s Local Operating Subsidy Program (“LOSP”), through a 15-year contract with MOHCD, to cover the difference between the costs to operate the homeless set-aside units and those households’ contributions. (Developers should make this

assumption only for the purpose of modeling their submissions; in order to control LOSP contract values, the City may require cross-subsidization from higher-income units to offset operating expenses.)

- A 20-year cash flow that includes
 - Tenant-paid rents
 - Annual LOSP subsidy payments sized to capture the difference between tenant-paid rents in LOSP units and operating expense attributable to LOSP units *only*. LOSP operating subsidies should account for, on a pro-rata basis, all typical costs of operations; required reserves deposits; mandatory administrative fees required by HCD financing, if any; deferred developer fee, if any; partnership management fees; and investor management fees. LOSP subsidies may not be used to pay hard debt service.
 - Operating expenses reflecting full costs to operate the Project, hard debt service payments, reserves deposits, and all other residual receipts waterfall distributions typical for 4% tax credit transactions that conform to MOHCD's Underwriting Guidelines (see Section IV.D.4, below). The operating budget should exclude support services such as case management and counseling but may include one FTE Services Coordinator/Connector. Respondents should highlight any innovative operating cost controls and their relationship to the leveraging of conventional debt.
 - Nominal rent from the arts-related space, assuming it achieves a Public Benefit Purpose, as described in MOHCD's Commercial Space Policy, but no subsidies for the arts-related space for operations, including insurance, reserves, tenant improvements, and property tax payments, if any.

2. Services Funding. Respondents should submit a separate services budget that includes:

- Services staffing information (number of FTEs or percent thereof, type of services staff, roles of services staff), for both the low-income family and homeless units. Please see Section IV.A.5, Resident Services, below, for further information regarding required social services.
- Tier IV funding level of \$4,657 per unit per year in services funding provided by DSHS for the homeless units. DSHS will provide these funds through a direct contract with the Project's services provider, conditioned on continuous compliance with terms of the Respondent's LOSP agreement with MOHCD.
- Additional services funding sources beyond assistance provided by DSHS if available.

3. Ground Lease. Respondents should assume a 75-year initial term ground lease agreement (with an option to extend to a total of 99 years) with MOHCD for the Site. Annual rent shall be set at 10% of the appraised value, which, as of March 2016, was \$22,250,000 for the Site as-if-entitled. An annual Base Rent payment of \$15,000 shall be payable as an operating

expense, with the balance of Annual Rent paid from surplus cash, if any. Annual Rent shall be re-determined every fifteen years, as determined by an MAI appraiser.

- MOHCD’s eventual transfer of the Site to the selected Developer under a ground lease will be “as is” with respect to physical, environmental and regulatory conditions, including, but not limited to, any liabilities for remediation of toxic materials that may be present.
4. Underwriting Guidelines. All submissions must conform to MOHCD’s most current Underwriting Guidelines: <http://sfmohcd.org/sites/default/files/Documents/CURRENT%20Underwriting%20Guidelines%202016.pdf>, and other published MOHCD policies, such as its Developer Fee Policy.
 5. Predevelopment Funding. MOHCD will provide up to \$2,000,000 in predevelopment funding to the selected Respondent, subject to the Respondent’s demonstration of its compliance with the City’s vendor requirements and approval by the San Francisco Citywide Affordable Housing Loan Committee.

E. Property Management/Maintenance Oversight

Respondents must provide information regarding the proposed property management team’s experience – including previous work with family rental housing. The preferred Respondent will include a property management company that has demonstrated successful approaches to managing buildings with some component of formerly homeless people, many of whom will continue to struggle with behavioral, health and medical issues.

V. SELECTION PROCESS, SELECTION CRITERIA AND SUBMITTAL REQUIREMENTS

A. Selection Process

MOHCD staff will review all submittals for completeness and satisfaction of minimum experience and capacity requirements.

A Selection Panel of up to six members will be appointed by the Director of the Mayor’s Office of Housing and Community Development composed of persons with expertise in the areas of development, affordable housing financing, architecture, property management and resident supportive services, at least one of which will be familiar with the Mission community. The Selection Panel will review all qualified responses and preliminarily score each qualified submittal. The Selection Panel will interview all Respondents, at which time Respondents will be asked to present and explain the major characteristics of their proposal, particularly as they relate to the Scoring Criteria, and respond to questions from the Selection Panel. After all interviews have been completed, the Selection Panel will meet to determine the final ranking of all responses and present this ranking to the Director.

The Selection Panel’s scoring of each proposal will be done by consensus and will be final. The MOHCD Director will then select a development team, and MOHCD will exclusively negotiate

a loan agreement and ground lease for the Site in accordance with the terms of this RFP. Any objections to the RFP, qualification determinations or the final selection must follow the objection requirements outlined in Section VI.D. of this RFP.

B. Minimum Experience and Capacity Requirements

All respondents must meet the following Minimum Experience and Capacity Qualifications in order to qualify for selection under this RFP:

1. Development Team Characteristics: The proposed Development Team must include:
 - At least one community-based non-profit development entity as sole developer or joint-venture partner, defined as a nonprofit organization whose mission includes the development of affordable housing in low-income communities, with experience developing housing for low- and very low-income families in San Francisco;
 - A lead architectural firm with experience in design and construction of multifamily housing, preferably with residential experience in San Francisco;
 - A property management entity with experience managing low- and very low-income affordable housing in San Francisco, in a culturally competent manner;
 - A community-based, service-providing entity with experience providing culturally competent services appropriate for low- and very-low income families;
 - A community-based, service-providing entity with experience providing culturally competent services appropriate for formerly homeless families in a supportive housing context; and
 - At least one entity of the development team must have work experience in the Mission community that directly relates to the development of housing and/or the provision of housing or services to low-income households within an affordable housing setting.

Letters of Intent or Memoranda of Understanding from service providers and property management entities that are not affiliated with the developer must be submitted with the application.

2. Development Team Minimum Experience Qualifications

Minimum experience must be demonstrated by identifying specific **Qualifying Projects** in which team members have participated, as further described below.

For Developer, Owner and Property Manager, a **Qualifying Project (QP)** must have all of the following characteristics:

- new construction
- residential
- a majority of multiple-bedroom units
- at least 50 units in size
- location in San Francisco
- affordable to low- and very-low income families

- financed by use of Low Income Housing Tax credits

For the Architect, the last three characteristics of a QP (location in SF, affordability and tax credit financing) are not required. However, for the Architect, the QP building typology must match the typology of the proposed project (e.g., if the Respondent Team proposes a Type I building, the Architect must demonstrate experience designing and managing construction for a Type I building that must also have been new construction, residential, containing a majority of multiple-bedroom units, and at least 50 units in size).

Minimum Developer Experience: The proposed Developer must have completed within the past five years or have entitlements for at least one Qualifying Project in San Francisco targeting low and very low-income families and using financing sources similar to those proposed for development of the Site.

For joint venture Developer teams, the experience of the lead entity may suffice for the joint-venture partnership. A Memorandum of Understanding between joint venture Development partners must be submitted with the application.

Furthermore, a Respondent can qualify for development experience by contracting with a development consultant for comprehensive project management services. Project management services should include financial packaging, selection of other consultants, selection of construction contractor and property management agent, oversight of architectural design, construction management, and consultation on major aspects of the development process. The contract for development services must be submitted with the RFP response and must be acceptable to MOHCD.

Minimum Ownership Experience: The proposed Owner (the Developer or other entity if the proposal includes turning ownership over to a different corporate entity upon completion of development) must have owned at least one Qualifying Project in San Francisco for at least 5 years prior to the Submittal Deadline of this RFP. The project must have targeted low- and very low-income families and utilized financing sources similar to those proposed for development of the Site. For purposes of this requirement, the general partner of a tax credit partnership intended to take ownership of the completed project is the proposed “Owner”.

Minimum Property Manager Experience: The proposed property manager must have managed at least three Qualifying Projects in San Francisco, each for at least 24 months, all of which must have targeted low- and very low-income families, at least one of which must have included formerly homeless families, and at least one of which was financed with Low Income Housing Tax Credits.

Minimum Architectural Experience: The proposed lead architectural firm must have completed at least two (2) Qualifying Projects.

Minimum Service Provider Experience: The proposed service provider(s) must have at least 36 months experience providing supportive services to low-income families in San Francisco, preferably in the general vicinity of the Site and at least 36 months experience providing services

to homeless families. This experience should include linking clients to the City's safety net of services and supporting their efforts to access those services.

Note Regarding Experience: For any Respondent team member, the experience of key staff members may be substituted for the experience of the organization as a whole as long as the staff members' experience in other firms was substantive and involved responsibilities similar to what they are anticipated to perform during the proposed development of the Site.

3. Minimum Developer and Architect Capacity Qualifications.

The proposed Developer and Architect must document their capacity to successfully plan, design, and develop the housing they propose to develop, throughout the period of development, either through staff with appropriate experience and capacity, contracted services, or collaboration with other organizations. This documentation should include a description of the experience and capacity of key staff, their workloads, and the organizational structure for supporting staff. In addition, the Developer or other proposed owner (as general partner of a proposed tax credit partnership) must provide evidence of its capacity to own and asset manage the proposed project or specific plans for increasing its capacity if necessary.

C. Selection Criteria – (100 points possible):

All applications that meet the minimum experience and capacity requirements will be rated and ranked according to the following scoring criteria (see Scoring Criteria details below):

	Category	Points
(1)	Experience:	40
a.	Developer Experience (15 pts)	
b.	Architect Experience (15 pts)	
c.	Property Management Experience (5 pts)	
d.	Service Provider Experience (5 pts)	
(2)	Development Concept and Preliminary Site Plan:	40
(3)	Financing and Cost Control Innovations:	10
(4)	Services Plan:	10
	TOTAL POSSIBLE POINTS	100

(1a) *Development Experience* -- (15 points possible):

Respondents will be scored according to the number of Qualifying Projects that are affordable to low- or very low-income families completed or under development in excess of the minimum and whether or not their experience includes as least one project that included units targeted to homeless persons (singles, seniors or families).

One Qualifying Project for very low-income families completed or under development in excess of the minimum required QP.	5 Points
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Two or more Qualifying Projects for very low-income families completed or under development in excess of the minimum required QP.	10 Points
At least one completed project that includes units targeted for formerly homeless persons (singles, seniors or families)	5 points

(1b) Lead Architectural Firm Experience – (15 points possible):

Points will be awarded only to lead Architects who have completed at least 2 Qualifying Projects. Proposals will be scored according to whether the Architects' experience includes work in San Francisco and experience developing housing for low- and very low-income families.

Experience in San Francisco but none with affordable housing for low- and very low-income families.	8 points
Experience with affordable housing for low- and very low-income families but none in San Francisco	10 points
Experience with affordable housing for low- and very low-income families in San Francisco.	15 points

(1c) Property Management Experience – (5 points possible):

Points will be awarded only to Property Managers whose experience includes managing housing for homeless and low- and very low-income families for at least 24 months.

Two points for managing 3-5 affordable family housing rental properties	2 points
Three points for managing 3-10 (or more) affordable family housing rental properties	3 points
Two additional points for managing more than one affordable rental property that serves homeless families	+ 2 points

(1d) Service Provider Experience – (5 points possible)

Proposals will be scored according to the amount of experience (length of time) the service provider has successfully provided services to low- and very low-income families and to homeless families. This experience should include linking clients to the City's safety net of services and supporting their efforts to access those services. A Letter of Interest from each service provider must be submitted with the application.

One point will be earned for every 12 months experience providing services for low-income families in excess of the 36-month minimum requirement for family services or in excess of the 36-month requirement for homeless family services.	Up to 5 points
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(2) Development Concept and Preliminary Site Plan – (40 points possible):

Proposals will be scored according to the degree to which the preliminary site and development plan maximizes housing opportunities while also creating a strongly supportive environment with adequate amenities and open spaces to enhance the lives of the residents and to promote the long-term livability of that housing.

The Selection Panel will base its evaluation on how well the Development Concept and Preliminary Site Plan address the Design Considerations and Guidelines described above in section IV. B. and will score each respondent's plans using the following scoring system:

Outstanding	40 points
Very Good	32 points
Good	24 points
Fair	16 points
Poor	8 points
Inadequate	0 points

(3) *Financing, Cost Control and Innovations* – (10 points possible):

Proposals will be ranked according to the degree to which they propose a financing plan that is feasible and consistent with the requirements, limitations and opportunities associated with its proposed sources; minimizes MOHCD's permanent financing; proposes innovative sources or financing instruments; and uses innovative (i.e., non-standard, routine or commonly used) but practical materials or methodologies designed to reduce development, construction and/or operating costs, either directly or indirectly, without reducing the overall quality of the completed project. This should include both the residential and commercial/arts portions of the development.

Top ranked proposal re: financial and cost control innovations:	10 points
2 nd ranked proposal	7 points
All other proposals	5 points

(4) *Services Plan* – (10 points possible):

Proposals will be scored according to the degree to which the Services Plan includes providing access to an array of services appropriate to the diverse needs of low-income families, parents and children, including formerly homeless families; how access to those services will be encouraged and facilitated; the degree to which the Plan relies on coordination with existing services in the neighborhood and community; and the appropriateness of the services budget, using the following scoring matrix:

Excellent	10 points
Very Good	7 points
Good	5 points

D. Submittal Requirements

Responses to this RFP should be organized as follows:

1. Summary. Provide a concise narrative description of the proposal for developing the Site, including the development's overall size, uses, resident and community amenities, general layout, and summarized financing and services plans. Add **Attachment 1, Proposal Metrics**.

2. Development Team. Using **Attachment 2, Respondent Description**, provide the name of each organization, names of the Director and primary contact persons, and phone numbers and email addresses for each of the following:

- Lead Developer
- Co-Developer (if applicable)
- Development Consultant (if applicable)
- Lead Architect and co-architect (if applicable)
- Property Manager
- Service Provider(s)

For each Developer or Co-Developer, submit a current copy of the following documents:

- *Certificate of good standing from California Secretary of State*
- *Certification of 501(c)(3) status from the Internal Revenue Service* (for any nonprofit corporations).
- *The latest two (2) years of audited financial statements* (with management letters, if any).

3. Developer Team Experience and Capacity

a. *Developer Experience.* Describe at least one and no more than five (5) Qualifying Projects completed or under development by Respondent, including co-developer or development consultants if any, using one page per Project and including the following information for each Project in the following order:

- Developer or consultant's name and role in the project
- All uses included in the project, including resident or community amenities (e.g. childcare center, tenant services space), commercial uses, etc.
- Total number of units and unit sizes
- Construction Type(s)
- Location of the project
- Target Population, including incomes if applicable
- Summary of financing sources
- Current project status with dates of commencement, completion, as appropriate
- Whether the project was completed on/under/over budget and on/ahead/behind schedule.

Describe briefly the development team's experience with community outreach, particularly with monolingual non-English speaking communities.

- b. *Development Capacity*: Summarize in one page the organizational structure of the development team that will be responsible for developing the Site, including the roles of Developer, Co-Developer and Development Consultant. Identify and briefly describe the experience of key project development staff. Using **Attachment 3, Projected Staffing Workload**, describe their projected workload for the period of the Site's development.
- c. *Ownership Experience and Capacity*: Summarize in one page the ownership experience and, also in one page, the asset management capacity of the proposed owner of the Project including descriptions of:
 - As described in Section V.B.2, the proposed Owner of the Project must have owned at least one Qualifying Project for at least five years. Describe that Qualifying Project, including location, non-residential uses, number of units, completion dates, capital financing and target population; and
 - The current asset management structure, staffing, and portfolio of the proposed owner, and its capacity for assuming asset management of an expanded portfolio once development is complete.
- d. *Lead Architect Experience*. Using no more than one page per project, describe at least two but no more than 3 (three) completed Qualifying Projects, including the projects':
 - location,
 - number of units,
 - type of construction,
 - completion dates,
 - target population,
 - on-site amenities or associated uses (such as child care and/or small scale neighborhood serving commercial uses),

Using **Attachment 3, Projected Staffing Workload**, describe the projected workload of key staff expected to be involved in the development of the Site.

- e. *Property Manager Experience*. Using no more than two (2) pages, describe the following:
 - At least three Qualifying Projects managed in San Francisco, including at least one project that was financed with low-income housing tax credits and one that serves homeless households and that has been managed for at least 24 months. Describe their location, resident population, associated uses and amenities, size, capital financing sources, and relevant dates of service.
 - The total number of buildings in the property management company's portfolio and the number of years each building has been successfully managed.

- The firm’s experience with formerly homeless tenants, as well as its track record providing sound operational and building management, its standard procedures regarding resident meetings and resident outreach, and experience managing successful retail spaces.

f. Services Provider(s). Using no more than three (3) pages, describe the following:

- In general terms, the types of services made available to low-income and homeless families; where services are provided; how clients’ needs are assessed and how a plan for addressing those needs is developed; how clients are linked to the City’s safety net of services and assisted in their efforts to access those services;
- The duration of services contracts with City departments, contact information for any public agency providing funding for services, and documentation of quality of services provided such as contract monitoring reports or funding source evaluations;
- Using **Attachment 4: Service Provider Residential Experience**, describe experience providing on-site or off-site services to residents of low-income housing, highlighting (under “Population Served” and “Services Provided”), and any experience serving homeless families. If more than one service provider is engaged, provide one copy of Attachment 4 for each provider.

4. **Development Concept and Site Plan**. Please prepare and submit a conceptual design that includes:

- a. Narrative Project Concept Description. In 1,000 words maximum describe the major qualities and features of the project design concept. When describing public and common areas and amenities, indicate what anticipated activities they accommodate. Indicate particular groups served by the programs and spaces (tots, children, teens, young adults, adults, elderly, disabled etc.) The description should include the following:
- Overall rationale for configuration of building and open spaces on the parcel.
 - Interior and exterior tenant amenity and activity spaces – list and describe size and qualities of each.
 - Interior community serving spaces, if any – list and describe size and qualities of each.
 - Description of the ground floor uses. Especially for the arts-related space, describe size, qualities, amenities, and access.
 - Response to local environmental factors such as traffic, sun/shade, wind – describe approaches.
 - Commercial spaces, if any in addition to the arts space – describe size, parking and loading (if needed)
- b. Conceptual Design Documents. Respondents should limit their design document submissions to the following:
- Site plan showing ground level open space system. Show all proposed entries to uses.

- Conceptual Façade Elevations representing general fenestration, entries and roof lines **but not color nor materials**.
- Floor plans for the ground floor and each residential floor showing general location of proposed residential lobby and entry level tenant spaces, unit locations and sizes, resident amenities, ground floor arts uses, common areas for residents, and general location of any proposed publicly accessed community serving uses, commercial spaces, or retail. Indicate approximate square footages for these spaces on the plan.

5. Financing and Cost-Control Innovations. Describe the overall financing plan as further described and in conformance with the requirements of Section IV.D, “Financing Plan”, above, with sufficient information to allow MOHCD to fully determine the proposal’s feasibility, including:

- Predevelopment and Development Sources & Uses budget
- 20-year cash flow, including any commercial income/expenses
- Year 1 operating budget, including any commercial income/expenses
- A MOHCD proforma Excel file along with the electronic submission of response

Highlight any innovative financing approaches intended to minimize MOHCD’s projected capital gap financing. Highlight also any innovative (i.e., non-standard, routine or commonly used) direct or indirect cost-cutting strategies relevant to overall development, construction or operating expenses, including estimated savings calculations if appropriate.

6. Services Plan. Submit a services plan of no more than three (3) pages that meets the requirements of Section IV.A.5, “Resident Services”, above and includes the following information:

- The service provider(s) overall philosophy and plan for providing services to the residents, including a listing and brief description of the services to be provided, and highlighting, if appropriate, any innovative approaches it may include;
- The plan for engaging residents and encouraging access to services;
- How services for the residents will be coordinated with the existing net of services in the neighborhood and community;
- The proposed staffing model, including staff titles, position descriptions, salaries, and FTE status, and an explanation of how FTE time will be allocated; and
- A services budget that is consistent with the Services Plan.

7. Affirmative Marketing Plan. Submit a draft Affirmative Marketing Plan that includes specific outreach toward Mission District-based tenants displaced by Ellis Act and/or Owner Move-In evictions and other income-eligible Mission District residents who are at risk of losing their housing or are significantly under-housed. The plan should describe efforts to reach these populations that are consistent with Fair Housing law.

8. Community Outreach Plan. Submit a Community Outreach plan that describes how the selected development team will establish positive links with surrounding neighbors and the larger community, provide them with periodic updates and opportunities to provide input throughout the development process. The Outreach Plan should include efforts designed to

engage all interested community members, including monolingual non-English speaking members of the community and how Respondents intend to comply with the City's Language Access Ordinance.

9. Disclosure Form. Submit a completed and signed copy of **Attachment 5 – Disclosures**, which requires any respondent to this RFQ to disclose defaults, lawsuits, legal proceedings, bankruptcy filings or financial interests affiliated with MOHCD staff or Citywide Affordable Housing Loan Committee members.

10. Evidence of Authority. Provide a certified corporate resolution of the applicant or, in the case of a partnership, the applicant's general partner, expressly authorizing the applicant to provide a response to this RFP and, if selected by the City, to enter into negotiations with the City for the long-term lease of the Site.

E. Submittal Deadline and Other Important Dates

Pre-Submittal Meeting: Monday, October 24, 2016 at 1:00 PM at the Mayor's Office of Housing and Community Development, 1 South Van Ness Avenue, 5th Floor, San Francisco. The meeting will include a short presentation on the RFP. Prospective respondents will have the opportunity to ask clarifying questions at this meeting and/or by email to kate.hartley@sfgov.org. All questions and their answers will be posted on the MOHCD website.

RFP mailing list: All attendees at the Pre-Submittal Meeting will be added to a 2070 Bryant RFP email list along with any others who may ask to be included. This list will be used to notify all interested parties of any Addenda to the RFP, changes in the schedule, and/or RFP-related postings on the MOHCD website that may occur prior to issuance. The same information along with the RFP itself will be posted on the MOHCD website.

Submittal Deadline: Monday, December 12, 2016 at 5 PM. Deliver 6 (six) hard copies of the Proposal including all attachments to MOHCD, 1 South Van Ness Avenue, 5th Floor reception, attention: Kate Hartley. In addition, email a complete proposal including attachments to: **kate.hartley@sfgov.org**.

The Selection Panel will review all qualified responses and preliminarily score each qualified submittal. The Selection Panel may interview Respondents, at which time Respondents will be asked to present and explain the major characteristics of their proposal, particularly as they relate to the Scoring Criteria, and respond to questions from the Selection Panel. After all interviews have been completed, the Selection Panel will meet to determine the final ranking of all responses and present this ranking to the MOHCD Director.

Scoring and Ranking: All respondents will be notified by Friday, December 23, 2016 as to whether their proposal was complete and meets the minimum experience and capacity requirements.

Interviews: At the discretion of MOHCD, the Selection Panel will schedule interviews with the relevant development teams during the week of **January 9, 2017**.

Final Selection: Subject to approval by the Director of MOHCD, final scoring and selection will be completed by **on or around January 30, 2017**.

VI. TERMS AND CONDITIONS OF REQUEST FOR PROPOSALS

A. Developer Responsibilities

The selected developer will be responsible for all aspects of development of the Site, including but not limited to the following:

- a. Investigating and determining conditions of the Site and the suitability of the Site for the proposed Project.
- b. Securing all required development approvals, including but not limited to any necessary permits or approvals from the City's Planning Department and Department of Building Inspection, and from federal and State agencies associated with environmental and historic preservation reviews as applicable.
- c. Obtaining adequate financing for all aspects of the proposed Project, including predevelopment, construction and operation.
- d. Designing and building the Project in a manner that produces a high-quality, enduring living environment.
- e. Owning, managing, and operating the Project in a manner that ensures its long-term financial viability and the ongoing satisfaction of residents.
- f. Complying with the requirements of any financing for the Project, including but not limited to:
 - Equal Employment Opportunities – The selected developer will be required to comply with local and federal procurement requirements, including the provision of equal employment opportunities for disadvantaged business consultants, architects, contractors, and other potential development team members to participate in the project. To ensure that equal opportunity plans are consistent with City and Federal procurement requirements, sponsors should meet with MOHCD and San Francisco Contract Monitoring Division (CMD) staff prior to hiring their development team to develop a plan for such compliance.
 - Environmental Review - Depending on conditions at the project site and on project plans, the proposed Project may be subject to review under the California Environmental Quality Act (CEQA), the National Environmental Policy Act (NEPA), the National Historic Preservation Act (NHPA) and specifically the Section 106 historical resources preservation review. Department of City Planning design review may also be required.

- Accessibility Requirements - Project sponsors will be responsible for meeting all applicable accessibility standards related to publicly-funded multifamily housing t under Section 504 of the Rehabilitation Act of 1973, the Architectural Barriers Act, the Americans with Disabilities Act, and certain statutes and regulations of the City and County of San Francisco. At least 50% of all units must be adaptable and a minimum of 10% of the units must be accessible, including units for the visually and hearing impaired.
- Prevailing Wages – This project will be subject to applicable local, state or federal requirements with regard to labor standards. Developers should take prevailing wage requirements and labor standards into account when seeking estimates for contracted work, especially the cost of construction, and other work to which the requirements apply, and when preparing development budgets overall.
- Employment and Training – The selected development team will be required to work with the CityBuild initiative of the Office of Economic and Workforce Development to comply with local and federal requirements regarding the provision of employment opportunities for local and low-income residents and small businesses during both the development and operation of the Project.
- Sustainable Design - The Mayor’s Office of Housing seeks to maximize the overall sustainability of financed projects through the integrated use of “green” building elements in partnership with the Green Communities Initiative established by Enterprise and Natural Resources Defense Council (NRDC) (see <http://www.greencommunitiesonline.org>). The selected development team will be required to pursue any funding that may become available to help pay for the cost of planning and implementing green building components.¹
- Insurance Requirements – see Exhibit A -- Insurance Requirements

B. Errors and Omissions in RFP

Respondents are responsible for reviewing all portions of this RFP. Respondents are to promptly notify MOHCD, in writing, if the respondent discovers any ambiguity, discrepancy, omission, or other error in the RFP. Any such notification should be directed to MOHCD promptly after discovery, but in no event later than five (5) working days prior to the date for receipt of proposals. (Note that this request for notification of RFP errors differs from requests for additional substantive information, for which the deadline is October 31, 2016.) Modifications and clarifications will be made by addenda as provided below.

C. Addenda to RFP

¹ Programmatic goals for projects should focus on durability, energy efficiency, indoor air quality and recycling. Respondents may obtain more information about “green” building strategies and resources from Leadership in Energy and Environmental Design (LEED) program, described at <http://www.usgbc.org>. Additional information on “green” affordable housing initiatives can be found in Alameda County’s *Multifamily Green Building Guidelines* at <http://www.stopwaste.org/home/index.asp?page=291>, and at <http://www.greenaffordablehousing.org>.

MOHCD may modify the RFP, prior to the response due date, by issuing written addenda. Addenda will be sent via email to the last known address of each person or firm listed with MOHCD as having received a copy of the RFP for proposal purposes. MOHCD will make reasonable efforts to notify Respondents in a timely manner of modifications to the RFP. Notwithstanding this provision, the Respondent shall be responsible for ensuring that its proposal reflects any and all addenda issued by MOHCD prior to the proposal due date regardless of when the proposal is submitted.

D. Objections

1. RFP Terms - Should any interested party object on any ground to any provision or legal requirement set forth in this RFP, that party must provide written notice to MOHCD setting forth with specificity the grounds for the objection by October 31, 2016. Failure to object in the manner and within the time set forth in this paragraph will constitute a complete and irrevocable waiver of any objection.
2. Notice of Non-Responsiveness - Should a Respondent object on any ground to a determination that its proposal is non-responsive to this RFP, that party must provide written notice to MOHCD setting forth with specificity the grounds for the objection no more than 7 calendar days after the date of the letter notifying the Respondent of MOHCD's determination of non-responsiveness. Failure to object in the manner and within the time set forth in this paragraph will constitute a complete and irrevocable waiver of any objection.
3. Selection of Respondent for Exclusive Negotiations - Should any interested party object on any ground to the MOHCD Director's authorization to proceed with exclusive negotiations with a selected Respondent, that party must provide written notice to MOHCD setting forth with specificity the grounds for the objection no more than 7 calendar days after the developer selection is made public and exclusive negotiations are authorized. If a Respondent files a timely objection, MOHCD's authorization to enter into exclusive negotiations with the selected Respondent will not be binding until the MOHCD Director denies the protest. A Mayoral decision to grant the protest will void MOHCD's prior exclusive negotiations authorization. Failure to object in the manner and within the time set forth in this paragraph will constitute a complete and irrevocable waiver of any objection.
4. Delivery of Objections - Objections must be submitted in writing, addressed to the person identified on in this RFP and delivered to the MOHCD receptionist during business days between the hours of 8:00 a.m. and 5:00 p.m. at 1 South Van Ness Avenue, 5th Floor by the dates due in order to be considered. If an objection is mailed, the objector bears the risk of non-delivery by the deadlines specified above. Objections should be transmitted by a means that will provide written confirmation of the date MOHCD received the objections.

E. Claims Against MOHCD

No Respondent will obtain by its response to this RFP, and separately by its response waives, any claim against MOHCD by reason of any or all of the following: any aspect of this RFP, any part of the selection process, any informalities or defects in the selection process, the rejection of any or all proposals, the acceptance of any proposal, entering into exclusive negotiations, conditioning exclusive negotiations, terminating exclusive negotiations, approval or disapproval of plans or drawings, entering into any transaction documents, the failure to enter into a lease or lease disposition and development agreement, any statements, representations, acts, or omissions of MOHCD, the exercise of any discretion set forth in or concerning any of the above, and any other matters arising out of all or any of the above.

F. Sunshine Ordinance

In accordance with San Francisco Administrative Code Section 67.24(e), contractors' bids, responses to RFP's and all other records of communications between the City and persons or firms seeking contracts shall be open to inspection immediately after a contract has been awarded. Nothing in this provision 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 benefits until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

G. Reservations of Rights by the City

1. The issuance of this RFP and the selection of a developer pursuant to this RFP are in no way a limitation of the discretion of any City board, commission, department, employee or official with respect to any review or approval required in connection with the proposed Project. The City's selection of a developer is in no way deemed to be the final approval of any project proposed by the developer.

2. The information in this RFP is provided solely for the convenience of respondents.

3. The City expressly reserves the right at any time to do waive or correct any defect or technical error in any response or procedure, as part of the RFP or any subsequent negotiation process; reject any or all responses, without indicating the reasons for such rejection; reissue a Request for Proposals; modify or suspend any and all aspects of the selection procedure, the scope of the proposed project or the required responses, or the processes indicated in this RFP; request that respondents clarify, supplement or modify the information submitted; extend deadlines for accepting responses, or request amendments to responses after expiration of deadlines; negotiate with any, all or none of the respondents to this RFP; make a selection based directly on the proposals, or negotiate further with one or more of the respondents; during negotiation, expand or contract the scope of the proposed project, or otherwise alter the project concept in order to respond to new information, community or environmental issues; if at any time prior to the execution of binding agreements with the developer MOHCD, in its sole discretion, determines that the selected developer will be unable to proceed with a timely and feasible Project in accordance with this RFP, MOHCD may terminate negotiations with the

highest ranked respondent and begin negotiations with the next highest ranked respondent; or determine that no project will be pursued.

4. The issuance of this RFP does not obligate the City to pay any costs whatsoever incurred by any respondent, including but not limited to costs incurred in connection with the preparation or presentation of responses or negotiations with the City. Developer teams responding to this RFP do so at their own expense. **The foregoing notwithstanding, MOHCD will reimburse the cost for architectural analysis and submittal materials required by this RFP as set forth below.**

MOHCD is requiring the submittal of a number of architectural work products as part of this RFP. In order to encourage participation by qualified architects and to mitigate some of the design costs to the developers and architects submitting proposals, MOHCD will reimburse Respondents whose proposals are not selected pursuant to this RFP and which, in the sole discretion of MOHCD, are deemed to have been complete and to have met each of the minimum qualifications described in Section **V. B. *Minimum Experience and Capacity Requirements*** of this RFP. The total aggregate payment for architectural reimbursables by MOHCD shall not exceed \$50,000 and the reimbursement paid to any single Respondent shall not exceed \$5,000. Reimbursement requests may be made upon a Respondent's receipt of notice from MOHCD that its proposal was complete and met the minimum qualifications but was not selected by the Director of MOHCD for implementation on 17th and Folsom, upon execution of a grant agreement with MOHCD for these funds, and upon submission of invoices from the appropriate Architects.

5. The issuance of this RFP is only an invitation to submit qualifications, and does not constitute an agreement by the City that any contract will actually be entered into by the City. This RFP does not in any way limit the discretion of any City board, commission, employee or official with respect to any review or approval of any aspect of a proposed project.

6. The City will not approve any ground lease for the Site that would allow for its development until there has been compliance with the California Environmental Quality Act (CEQA), and, as applicable, the National Environmental Protection Act (NEPA). If the proposed Project is found to cause significant adverse impacts, the City reserves absolute discretion to require additional environmental analysis, and to: (a) modify the project to mitigate significant adverse environmental impacts; (b) select feasible alternatives which avoid significant adverse impacts of the proposed project; or (c) reject or proceed with the project as proposed, depending upon a finding of whether or not the economic and social benefits of the project outweigh otherwise unavoidable significant adverse impacts of the project.

7. The City reserves the right to disqualify any respondent to this RFP based on any real or apparent conflict of interest that is disclosed by the responses submitted or on the basis of other information available to the City. This City may exercise this right in its sole discretion.

Exhibit A: Insurance Requirements

1. Developer, Contractors.

(a) to the extent Developer 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 Developer 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 Developer's architects, engineers and surveyors. If the professional liability insurance provided by the architects, engineers, or surveyors is "Claims made" coverage, Developer 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 Developer'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 Developer's contractor, provided that the policy must be "claims made" coverage and Developer must require Developer's contractor to maintain these minimum limits for no less than three (3) years beyond completion of the construction or remodeling.

2. Property Insurance.

Developer 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 Developer 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 Developer 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 Developer 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 Developer 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 Developer 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 Developer, 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. Commercial Space.

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

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

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

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

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

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

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

4. General Requirements.

(a) General and automobile liability policies of Developer, 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, Developer hereby waives all rights of subrogation against the City to the extent of any loss covered by Developer's insurance, except to the extent subrogation would affect the scope or validity of insurance.

(d) Approval of Developer's insurance by the City will not relieve or decrease the liability of Developer 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 Developer demonstrates to the City's satisfaction that the increased coverage is commercially unreasonable and unavailable to Developer.

(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) Developer 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.

ATTACHMENTS

1. Proposal Metrics
2. Respondent Description
3. Projected Staffing Workload
4. Service Provider Experience
5. Disclosures



SAN FRANCISCO PLANNING DEPARTMENT

Notice of Final Approval of an SB 35 Project

Date: May 3, 2018
BPA No.: **2018.0221.1851**
Planning Record No. 2017-014088PRJ
Project Address: **681 Florida Street**
Zoning: UMU (Urban Mixed Use)
68-X Height and Bulk District
Block/Lot: 4022/028
Project Sponsor: Sarah White
681 Florida Housing Associates
Tenderloin Neighborhood Development Corporation
201 Eddy Street
San Francisco, CA 94102
Staff Contact: Christy Alexander – (415) 575-8724
christy.alexander@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

PROJECT DESCRIPTION

The project proposes the demolition of an existing two-story building and the construction of a nine-story building with 130 dwelling units and arts-related Production, Distribution, and Repair (PDR) space at the ground floor. One-hundred percent of the units in the residential portion of the project will be rented at a price that is affordable to low-income and formerly homeless families.

BACKGROUND

On March 15, 2018, Charmaine Curtis submitted an SB 35 Application for the mixed-use project at 681 Florida. Department staff determined that the SB 35 Application was complete, and that the proposed project was eligible for SB 35 on March 22, 2018.

The Planning Director did not request a Planning Commission hearing or Historic Preservation Commission hearing for this project.

PROJECT APPROVAL

The Department has determined that the project meets all of the objective standards of the Planning Code including the concessions and incentives requested and waivers required by the State Density Bonus Law and Planning Code section 206.6, and has completed design review of the project. The project has been approved in accordance with the provisions of SB 35 (Government Code section 65913.4), as recorded in Building Permit Application No. 2018.0221.1851.



SAN FRANCISCO PLANNING DEPARTMENT

Subject to: (Select only if applicable)

- Affordable Housing (Sec. 415)
- Jobs Housing Linkage Program (Sec. 413)
- Downtown Park Fee (Sec. 412)
- First Source Hiring (Admin. Code)
- Child Care Requirement (Sec. 414A)
- Other (EN Impact Fees, Sec 423; TSF, Sec 411A)

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Planning Commission Motion No. 19658

HEARING DATE: JUNE 2, 2016

Case No.: 2013.0677X
 Project Address: 2000-2070 BRYANT STREET
 Zoning: UMU (Urban Mixed Use) Zoning District
 68-X Height and Bulk District
 Block/Lot: 4022/001, 002 and 021
 Project Sponsor: Nick Podell, Nick Podell Company
 22 Battery Street, Ste. 404
 San Francisco, CA 94111
 Staff Contact: Richard Sucre – (415) 575-9108
richard.sucre@sfgov.org

ADOPTING FINDINGS RELATING TO A LARGE PROJECT AUTHORIZATION PURSUANT TO PLANNING CODE SECTION 329, TO ALLOW EXCEPTIONS TO 1) REAR YARD PURSUANT TO PLANNING CODE SECTION 134, 2) GROUND FLOOR CEILING HEIGHT FOR NON-RESIDENTIAL USES PURSUANT TO PLANNING CODE 145.1, 3) OFF-STREET LOADING PURSUANT TO PLANNING CODE SECTION 152.1, 4) HORIZONTAL MASS REDUCTION PURSUANT TO PLANNING CODE SECTION 270.1 AND 5) FLEXIBLE UNITS-MODIFICATION OF THE ACCESSORY USE PROVISIONS OF PLANNING CODE SECTION 803.3(B)(1)(C) PURSUANT TO PLANNING CODE SECTIONS 329(D)(10), AND TO ALLOW CONSTRUCTION OF A NEW SIX-STORY, 68-FT TALL, MIXED-USE BUILDING (APPROXIMATELY 203,656 SQUARE FEET) WITH 199 DWELLING UNITS (CONSISTING OF 30 STUDIOS, 89 1-BEDROOM UNITS, AND 80 2-BEDROOM UNITS), UP TO 7,007 SQUARE FEET OF RETAIL/TRADE SHOP, AND 12,000 SQUARE FEET OF PDR SPACE, LOCATED AT 2000-2070 BRYANT STREET, LOTS 001, 002 AND 021 IN ASSESSOR'S BLOCK 4022, WITHIN THE UMU (URBAN MIXED-USE) ZONING DISTRICT AND A 68-X HEIGHT AND BULK DISTRICT, AND ADOPTING FINDINGS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

PREAMBLE

On June 12, 2014, Nick Podell and Linsey Perlov of Nick Podell Company (hereinafter "Project Sponsor") filed Application No. 2013.0677X (hereinafter "Application") with the Planning Department (hereinafter "Department") for a Large Project Authorization to construct a new six-story, 68-ft tall, mixed-use building with 199 dwelling units, 7,007 square feet of ground floor retail, and 3,938 square feet of ground floor PDR use, at 2000-2070 Bryant Street (Block 4022 Lots 001, 002 and 021) in San Francisco, California.

The environmental effects of the Project were determined by the San Francisco Planning Department to have been fully reviewed under the Eastern Neighborhoods Area Plan Environmental Impact Report (hereinafter "EIR"). The EIR was prepared, circulated for public review and comment, and, at a public hearing on August 7, 2008, by Motion No. 17661, certified by the Commission as complying with the California Environmental Quality Act (Cal. Pub. Res. Code Section 21000 et seq., (hereinafter "CEQA"). The Commission has reviewed the Final EIR, which has been available for this Commission's review as well as public review.

The Eastern Neighborhoods EIR is a Program EIR. Pursuant to CEQA Guideline 15168(c)(2), if the lead agency finds that no new effects could occur or no new mitigation measures would be required of a proposed project, the agency may approve the project as being within the scope of the project covered by the program EIR, and no additional or new environmental review is required. In approving the Eastern Neighborhoods Plan, the Commission adopted CEQA Findings in its Motion No. 17661 and hereby incorporates such Findings by reference.

Additionally, State CEQA Guidelines Section 15183 provides a streamlined environmental review for projects that are consistent with the development density established by existing zoning, community plan or general plan policies for which an EIR was certified, except as might be necessary to examine whether there are project-specific effects which are peculiar to the project or its site. Section 15183 specifies that examination of environmental effects shall be limited to those effects that (a) are peculiar to the project or parcel on which the project would be located, (b) were not analyzed as significant effects in a prior EIR on the zoning action, general plan or community plan with which the project is consistent, (c) are potentially significant off-site and cumulative impacts which were not discussed in the underlying EIR, or (d) are previously identified in the EIR, but which are determined to have a more severe adverse impact than that discussed in the underlying EIR. Section 15183(c) specifies that if an impact is not peculiar to the parcel or to the proposed project, then an EIR need not be prepared for that project solely on the basis of that impact.

On May 11, 2016, the Department determined that the proposed application did not require further environmental review under Section 15183 of the CEQA Guidelines and Public Resources Code Section 21083.3. The Project is consistent with the adopted zoning controls in the Eastern Neighborhoods Area Plan and was encompassed within the analysis contained in the Eastern Neighborhoods Final EIR. Since the Eastern Neighborhoods Final EIR was finalized, there have been no substantial changes to the Eastern Neighborhoods Area Plan and no substantial changes in circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR. The file for this project, including the Eastern Neighborhoods Final EIR and the Community Plan Exemption certificate, is available for review at the San Francisco Planning Department, 1650 Mission Street, Suite 400, San Francisco, California.

Planning Department staff prepared a Mitigation Monitoring and Reporting Program (MMRP) setting forth mitigation measures that were identified in the Eastern Neighborhoods Plan EIR that are applicable to the project. These mitigation measures are set forth in their entirety in the MMRP attached to the draft Motion as Exhibit C.

The Planning Department, Jonas P. Ionin, is the custodian of records, located in the File for Case No. 2013.0677X at 1650 Mission Street, Fourth Floor, San Francisco, California.

On May 19, 2016, the Planning Commission ("Commission") conducted a duly noticed public hearing at a regularly scheduled meeting on Large Project Authorization Application No. 2013.0677X. The Commission continued the project to the June 2, 2016 Planning Commission Hearing.

The Commission has heard and considered the testimony presented to it at the public hearing and has further considered written materials and oral testimony presented on behalf of the applicant, Department staff, and other interested parties.

MOVED, that the Commission hereby authorizes the Large Project Authorization requested in Application No. 2013.0677X, subject to the conditions contained in "EXHIBIT A" of this motion, based on the following findings:

FINDINGS

Having reviewed the materials identified in the preamble above, and having heard all testimony and arguments, this Commission finds, concludes, and determines as follows:

1. The above recitals are accurate and constitute findings of this Commission.
2. **Site Description and Present Use.** The proposed project is located on three lots (with a lot area of 65,000± square feet), which are bounded by Florida, 18th and Bryant Streets, which have approximately 325-ft of frontage along Florida Street, and 325-ft of frontage along Bryant Street, and 200-ft of frontage along 18th Street. Currently, the subject lot contains six buildings, including: 2000 Bryant Street, a two-story mixed-use building with a ground floor commercial space and a dwelling unit on the second floor; 2010-2012 Bryant Street, a two-story arts activity building; 2028 Bryant Street, a two-story residential building with two dwelling units; 2815 18th Street, a two-story office building; 611 Florida Street, a one-to-two-story warehouse and automotive repair building; and 2044-2070 Bryant Street, a one-to-two-story warehouse/light industrial/arts activity building.
3. **Surrounding Properties and Neighborhood.** The project site is located within the UMU Zoning Districts in the Mission Area Plan. The immediate context is mixed in character with mixed residential, commercial and industrial development along 18th, Bryant and Florida Streets. The immediate neighborhood includes a three-to-four-story former industrial building, two-story commercial properties, and a four-to-five-story larger-scale residential development. To the south of the project site on the same block, the adjacent buildings include two-to-three-story and

six-story multi-family dwellings. The project site has three street frontages: 18th Street, which is 66-ft wide with parallel parking on either side of the street; Bryant Street, which is 80-ft wide with parallel parking on either side of the street and Florida Street, which is also 80-ft wide with perpendicular parking on the east side of the street bordering the project site. Other zoning districts in the vicinity of the project site include: RH-2 (Residential, House, Two-Family) and PDR-1-G (Production, Distribution, Repair-General).

4. **Project Description.** The Project includes demolition of the six existing buildings on the project site (collectively measuring approximately 68,690 square feet), and new construction of a six-story, 68-ft tall, mixed-use building (approximately 203,656 square feet) with 199 dwelling units, ground floor retail/trade shop spaces along 18th Street and Florida Street (up to 7,007 square feet), 12,000 square feet of PDR space, 1 car-share parking space, 84 off-street parking spaces, 128 Class 1 bicycle parking spaces, and 18 Class 2 bicycle parking spaces. The Project includes a dwelling unit mix consisting of 80 two-bedroom units, 89 one-bedroom units, and 30 studio units. The Project also incorporates one off-street freight loading space within the private mid-block alley. The Project includes common open space (approximately 15,920 square feet) via two interior courtyards and a roof terrace. The Project would also include a lot merger and subdivision of Lots 001, 002 and 021 on Block 4022. The new lots would measure 230-ft by 200-ft (Project), and 95-ft by 200-ft (Land Dedication Site).
5. **Public Comment.** The Department has numerous public correspondences regarding the proposed project. Much of this public correspondence has expressed opposition to the proposed project; however, the Department has also received letters in support of the Project.
6. **Planning Code Compliance:** The Commission finds that the Project is consistent with the relevant provisions of the Planning Code in the following manner:
 - A. **Permitted Uses in UMU Zoning Districts.** Planning Code Sections 843.20, 843.45 and 843.78-843.87 states that residential, retail and industrial (PDR) uses are principally permitted use within the UMU Zoning District.

The Project would construct new residential, retail and PDR uses within the UMU Zoning District; therefore, the Project complies with Planning Code Sections 843.20, 843.45, and 843.78-843.87.

On June 2, 2016, the Commission increased the amount of PDR space within the Project to 12,000 square feet, in order to mitigate the loss of existing PDR space and further meet the goals of the Mission Area Plan.
 - B. **Floor Area Ratio.** Planning Code Section 124 establishes a FAR (Floor Area Ratio) of 5:1 for properties within the UMU Zoning District and a 68-X Height and Bulk District.

The Project's lot is 46,000 sq ft, thus resulting in a maximum allowable floor area of 230,000 sq ft for non-residential uses. The Project would construct up to 7,007 sq ft of non-residential space and 12,000 square feet of PDR space, and would comply with Planning Code Section 124.

- C. **Rear Yard.** Planning Code Section 134 requires a minimum rear yard equal to 25 percent of the total lot depth of the lot to be provided at every residential level. The Project would merge the subject lots and subdivide the lot, so that the Project would be located on a lot measuring 230-ft by 200-ft (or 46,000 square feet). Therefore, the Project would have to provide a rear yard, which measures approximately 11,500 sq ft.

Currently, the Project is designed to have full lot coverage on the ground floor level and does not provide a rear yard at the lowest level containing a dwelling unit. The Project provides open space through two interior courtyards and a roof terrace. The Project provides a total of 15,920 sq ft of code-complying open space. This amount of open space, which would have been provided through the required rear yard, is thus exceeded. Since the Project does not provide a code-complying rear yard, the Project is seeking an exception to the rear yard requirement as part of the Large Project Authorization.

The Project occupies the majority of the block bounded by 18th, Florida, 19th and Bryant Streets. The subject block does not possess a pattern of mid-block open space, since the majority of the project site is currently occupied by a one-to-two-story industrial building. By providing for two interior courtyards, the Project maintains the street wall along 18th, Bryant and Florida Streets, and provides sufficient dwelling unit exposure for all dwelling units.

- D. **Useable Open Space.** Planning Code Section 135 requires a minimum of 80 sq ft of open space per dwelling unit, if not publically accessible, or 54 sq ft of open space per dwelling unit, if publically accessible. Private useable open space shall have a minimum horizontal dimension of six feet and a minimum area of 36 sq ft is located on a deck, balcony, porch or roof, and shall have a minimum horizontal dimension of 10 feet and a minimum area of 100 sq ft if located on open ground, a terrace or the surface of an inner or outer court. Common useable open space shall be at least 15 feet in every horizontal dimension and shall be a minimum area of 300 sq ft. Further, inner courts may be credited as common useable open space if the enclosed space is not less than 20 feet in every horizontal dimension and 400 sq ft in area, and if the height of the walls and projections above the court on at least three sides is such that no point on any such wall or projection is higher than one foot for each foot that such point is horizontally distant from the opposite side of the clear space in the court.

For the proposed 199 dwelling units, the Project is required to provide 15,920 sq ft of useable open space. Overall, the Project meets the open space requirements for the 199 dwelling units through a roof terrace, which measures 15,920 sq ft. Therefore, the Project complies with Planning Code Section 135.

In addition to the code-complying open space, the Project also includes two inner courtyards, which are 40-ft in width, but do not meet the dimensional requirements of Planning Code Section 135. This open space is in addition to the provided code-complying open space on the roof terrace.

- E. **Streetscape and Pedestrian Improvements.** Planning Code Section 138.1 requires a streetscape plan, which includes elements from the Better Streets Plan, for new construction on a lot greater than a half-acre in size.

The Project includes the new construction of a six-story mixed-use building on a lot with approximately 230-ft of frontage along Florida Street, 200-ft of frontage along 18th Street and approximately 230-ft of frontage along Bryant Street. Currently, the Project includes new streetscape elements, such as new concrete sidewalks, linear planters along the street edge, new street trees, bicycle parking spaces, and corner bulb-outs. The Project would incorporate perpendicular on-street parking along Florida Street, parallel on-street parking on Bryant Street, and two on-street loading zones on 18th Street. Therefore, the Project complies with Planning Code Section 138.1.

- F. **Bird Safety.** Planning Code Section 139 outlines the standards for bird-safe buildings, including the requirements for location-related and feature-related hazards.

The subject lot is not located in close proximity to an Urban Bird Refuge. The Project meets the requirements of feature-related standards and does not include any unbroken glazed segments 24-sq ft and larger in size; therefore, the Project complies with Planning Code Section 139.

- G. **Dwelling Unit Exposure.** Planning Code Section 140 requires that at least one room of all dwelling units face onto a public street, rear yard or other open area that meets minimum requirements for area and horizontal dimensions. To meet exposure requirements, a public street, public alley, side yard or rear yard must be at least 25 ft in width, or an open area (either an inner court or a space between separate buildings on the same lot) must be no less than 25 ft in every horizontal dimension for the floor at which the dwelling unit is located.

The Project organizes the dwelling units to have exposure either on one of the public streets (18th, Florida, or Bryant Streets), within one of the two code-complying interior courtyards, or along the private alley, which measures 25-ft wide. Therefore, the Project complies with Planning Code Section 140.

- H. **Street Frontage in Mixed Use Districts.** Planning Code Section 145.1 requires off-street parking at street grade on a development lot to be set back at least 25 feet on the ground floor; that no more than one-third of the width or 20 feet, whichever is less, of any given street frontage of a new structure parallel to and facing a street shall be devoted to parking and loading ingress or egress; that space for active uses be provided within the first 25 feet of building depth on the ground floor; that non-residential uses have a minimum floor-to-floor height of 17 feet; that the floors of street-fronting interior spaces housing non-residential active uses and lobbies be as close as possible to the level of the adjacent sidewalk at the principal entrance to these spaces; and that frontages with active uses that are not residential or PDR be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level.

The Project meets most of the requirements of Planning Code Section 145.1. At grade, the off-street parking is setback by more than 25-ft from the street. The Project has only one 11-ft wide garage entrance along Bryant Street. The Project features at-grade off-street parking, which is setback more than 25-ft from the street. The Project features active uses on the ground floor with residential amenities, a ground floor retail/trade shop use, walk-up dwelling units with direct, individual pedestrian access to a public sidewalk, flexible units along. Finally, the Project features appropriate street-facing ground level spaces, as well as the ground level transparency and fenestration requirements.

For the PDR and arts uses, the Project incorporates a ground floor ceiling height, which ranges from 18-ft to 19-ft 11-in. Due to the existing grade of the project site, the ground floor ceiling height for the non-residential varies from 17-ft tall along Florida Street down to 14-ft 5-in along Bryant Street; therefore, the Project does not meet the requirements for ground floor ceiling height, as required in Planning Code Section 145.1. Therefore, the Project is seeking an exception to the ground floor ceiling height requirement as part of the Large Project Authorization.

- I. **Off-Street Parking.** Planning Section 151.1 of the Planning Code allows off-street parking at a maximum ratio of .75 per dwelling unit.

For the 199 dwelling units, the Project is allowed to have a maximum of 149 off-street parking spaces. Currently, the Project provides 85 off-street parking spaces via mechanical lifts. Of these 85 off-street parking spaces, 2 handicap parking spaces have been identified, as well as 1 car-share parking spaces. Therefore, the Project complies with Planning Code Section 151.1.

- J. **Off-Street Freight Loading.** Planning Section 152.1 of the Planning Code requires two off-street freight loading space for apartment use between 200,001 and 500,000 gsf.

The Project includes approximately 203,656 square feet of apartment use; thus, the Project requires at least two off-street freight loading spaces. The Project is proposing two on-street loading space along 18th Street, and one off-street loading zone within the mid-block alley, which is accessed from Florida Street. The Project is seeking an exception to the requirement to provide two off-street loading spaces as part of the Large Project Authorization.

- K. **Bicycle Parking.** Planning Section 155.2 of the Planning Code requires at least 100 Class 1 bicycle parking spaces plus one Class 1 bicycle parking space for every four dwelling units and one Class 2 bicycle parking spaces for every 20 dwelling units. In addition for the retail use, one Class 1 space is required for every 7,500 square feet of occupied area and a minimum of two Class 2 bicycle parking spaces are required and an additional Class 2 bicycle parking space is required for every 2,500 square feet of occupied area.

The Project includes 199 dwelling units, up to 7,007 square feet of ground floor retail/trade shop use, and 12,000 square feet of PDR use; therefore, the Project is required to provide 128 Class 1 bicycle parking spaces and 18 Class 2 bicycle parking spaces. The Project will provide 128 Class 1 bicycle

parking spaces and 18 Class 2 bicycle parking spaces. Therefore, the Project complies with Planning Code Section 155.2.

- L. **Car Share Requirements.** Planning Code Section 166 requires one car-share parking space for projects with 50 to 200 residential units.

Since the Project includes 199 dwelling units, it is required to provide a minimum of two car-share parking spaces. The Project provides two car-share parking spaces. Therefore, the Project complies with Planning Code Section 166.

- M. **Unbundled Parking.** Planning Code Section 167 requires that all off-street parking spaces accessory to residential uses in new structures of 10 dwelling units or more be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units.

The Project is providing off-street parking that is accessory to the dwelling units. These spaces will be unbundled and sold and/or leased separately from the dwelling units; therefore, the Project meets this requirement.

- N. **Dwelling Unit Mix.** Planning Code Section 207.6 requires that no less than 40 percent of the total number of proposed dwelling units contain at least two bedrooms, or no less than 30 percent of the total number of proposed dwelling units contain at least three bedrooms.

For the 199 dwelling units, the Project is required to provide at least 80 two-bedroom units or 60 three-bedroom units. The Project provides 30 studios, 89 one-bedroom units and 80 two-bedroom units. Therefore, the Project meets the requirements for dwelling unit mix.

- O. **Horizontal Mass Reduction.** Planning Code Section 270.1 outlines the requirements for horizontal mass reduction on large lots within the Eastern Neighborhoods Mixed Use Districts. For projects with street frontage greater than 200-ft in length, one or more mass reduction breaks must be incorporated to reduce the horizontal scale of the building into discrete sections not more than 200-ft in length. Specifically, the mass reduction must 1) be not less than 30-ft in width; 2) be not less than 60-ft in depth from the street-facing building façade; 3) extend up to the sky from a level not higher than 25-ft above grade or the third story, whichever is lower; and, 4) result in discrete building sections with a maximum plan length along the street frontage not greater than 200-ft.

Since the overall frontage is 230-ft along Bryant and Florida Streets, larger than 200-ft, the Project is required to provide a single horizontal mass break along Bryant and Florida Streets, which is not less than 30-ft wide by 60-ft deep, and extends from the third-story up to the sky. Per the Planning Code, this mass break must result in discrete building sections along the street frontage of not greater than 200-ft.

Over the entire project site, the Project incorporates a private alley as part of the horizontal mass reduction to provide separation between the principal project and the land dedication site. This alley is 25-ft wide and is open to the sky from the ground floor. Since the provided horizontal mass reduction does not meet the dimensional requirements of the Planning Code, the Project is seeking an exception to the horizontal mass reduction requirements as part of the Large Project Authorization.

- P. **Shadow.** Planning Code Section 295 restricts net new shadow, cast by structures exceeding a height of 40 feet, upon property under the jurisdiction of the Recreation and Park Commission. Any project in excess of 40 feet in height and found to cast net new shadow must be found by the Planning Commission, with comment from the General Manager of the Recreation and Parks Department, in consultation with the Recreation and Park Commission, to have no adverse impact upon the property under the jurisdiction of the Recreation and Park Commission.

Based upon a detail shadow analysis, the Project does not cast any net new shadow upon property under the jurisdiction of the Recreation and Parks Commission.

- Q. **Loss of Dwelling Units through Demolition.** Planning Code Section 317 requires Conditional Use Authorization from the Planning Commission for the removal of three or more dwelling units in any zoning district.

The Project Sponsor has submitted a Conditional Use Authorization Application for the removal of three dwelling units on the project site (See Case No. 2013.0677CUA).

- R. **Transportation Sustainability Fee.** Planning Code Section 411A is applicable to new development that results in more than twenty dwelling units.

The Project includes 192,711 gsf of new residential use, up to 7,007 gsf of retail/trade shop use, and 12,000 gsf of PDR use. This square footage shall be subject to the Transportation Sustainability Fee, as outlined in Planning Code Section 411A.

- S. **Residential Child-Care Impact Fee.** Planning Code Section 414A is applicable to new development that results in at least one net new residential unit.

The Project includes 192,711 gsf of new residential use associated with the new construction of 199 dwelling units. This square footage shall be subject to the Residential Child-Care Impact Fee, as outlined in Planning Code Section 411A.

- T. **Inclusionary Affordable Housing Program.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Since the subject property is located within the UMU Zoning District, the Project is subject to the inclusionary affordable housing requirements identified in Planning Code Section 419. The

subject property has been designated as Tier B, thus a minimum of 16 percent of the total units constructed shall be considered affordable.

The Project Sponsor shall address the inclusionary affordable housing requirements through the land dedication alternative outlined in Planning Code Section 419.3.

This requirement is subject to change under a proposed Charter amendment and pending legislation if the voters approve the Charter Amendment at the June 7, 2016 election. If the requirement is modified, the project would be required to provide an additional three on-site BMR units.

The Project Sponsor has demonstrated that it is eligible for the On-Site Affordable Housing Alternative under Planning Code Section 415.5 and 415.6, and has submitted a 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to satisfy the requirements of the Inclusionary Affordable Housing Program by providing the affordable housing on-site instead of through payment of the Affordable Housing Fee. In order for the Project Sponsor to be eligible for the On-Site Affordable Housing Alternative, the Project Sponsor must submit an 'Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415,' to the Planning Department stating that any affordable units designated as on-site units shall be sold as ownership units and will remain as ownership units for the life of the project or submit to the Department a contract demonstrating that the project's on- or off-site units are not subject to the Costa Hawkins Rental Housing Act, California Civil Code Section 1954.50 because, under Section 1954.52(b), the Project Sponsor has entered into an agreement with a public entity in consideration for a direct financial contribution or any other form of assistance specified in California Government Code Sections 65915 et seq. and submits an Affidavit of such to the Department. All such contracts entered into with the City and County of San Francisco must be reviewed and approved by the Mayor's Office Housing and the City Attorney's Office. The Project Sponsor has indicated the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions provided by the City and approved herein. The Project Sponsor submitted such Affidavit on May 4, 2016 and a draft of the Costa Hawkins agreement on May 4, 2016. The EE application was submitted on September 25, 2013. Pursuant to Planning Code Section 415.3 and 415.6 the on-site requirement is 16%. Of the 199 units, the Project Sponsor would provide three dwelling units as affordable rental units if the Charter amendment passes. The designation of these three units would be in combination with the land dedication alternative outlined in Planning Code Section 419.3.

If the Project becomes ineligible to meet its Inclusionary Affordable Housing Program obligation through the On-site Affordable Housing Alternative, it must pay the Affordable Housing Fee with interest, if applicable. The Project must execute the Costa Hawkins agreement prior to Planning Commission approval or must revert to payment of the Affordable Housing Fee.

- U. Inclusionary Affordable Housing Program-Land Dedication.** Planning Code Section 415 sets forth the requirements and procedures for the Inclusionary Affordable Housing Program. Under Planning Code Section 415.3, these requirements would apply to projects

that consist of five or more units, where the first application was applied for on or after July 18, 2006. Under Planning Code Section 419.6, the Land Dedication Alternative may be elected as an alternative to the inclusionary housing component. As further described in Planning Code Section 419.5(a)(2), an Applicant may dedicate a portion of the total development area of the principal site to the City and County of San Francisco for the purpose of constructing units affordable to qualifying households. To meet this requirement, the developer must convey title to land in fee simple absolute to the Mayor's Office of Housing and Community Development (MOHCD). The dedicated site must result in a total amount of inclusionary units not less than 40 units; however, MOH may conditionally approve and accept dedicated sites which result in no less than 25 units at their discretion. Per Planning Code Section 419.2, all sites within the UMU Zoning District electing to utilize the land dedication alternative would be subject to the "Tier B" requirements.

In addition to designating three on-site BMR units, the Project Sponsor has elected to pursue the land dedication alternative to meet the inclusionary affordable housing program requirements. As a result of the pending lot subdivision, the new mixed-use building would be located on a parcel measuring 46,000 sq ft. Since the Project is located on a site that has at least 30,000 square feet of developable area, the Project Sponsor must provide a dedicated site that is capable of holding at least 35% of the total number of units from the Principal Project. The Principal Project possesses 199 dwelling units; therefore, the land dedication site must be able to construct at least 70 dwelling units. The Project Sponsor meets these requirements and shall subdivide Lot 21 on Assessor's Block 4022, and convey the new parcel located at 2070 Bryant Street to MOHCD, which would measure 19,000 sq ft (or 95-ft by 200-ft). Of this land, approximately 19,000 square feet would consist of developable area. The Project Sponsor has demonstrated that up to 98 dwelling units may be constructed on the dedicated land (as of right), and up to 136 dwelling units with a density bonus. If the Project were to pursue the on-site affordable housing alternative, the Project would be required to provide 16% or 32 below-market-rate dwelling units on the project site.

MOHCD concurs with the Project Sponsor's dedicated land and has conveyed a letter expressing conditional approval of the dedicated land.

- V. Eastern Neighborhood Infrastructure Impact Fees.** Planning Code Section 423 is applicable to any development project within the MUO (Mixed Use Office) Zoning District that results in the addition of gross square feet of non-residential space.

The Project includes approximately 203,656 square feet of new development consisting of approximately 192,711 sq ft of residential use, up to 7,007 sq ft of retail/trade shop use, 12,000 sq ft of PDR use, and up to 11,994 sq ft of garage. Excluding the square footage dedicated to the garage, the other uses are subject to Eastern Neighborhood Infrastructure Impact Fees, as outlined in Planning Code Section 423. These fees must be paid prior to the issuance of the building permit application.

7. **Large Project Authorization in Eastern Neighborhoods Mixed Use District.** Planning Code Section 329(c) lists nine aspects of design review in which a project must comply; the Planning Commission finds that the project is compliant with these nine aspects as follows:

A. Overall building mass and scale.

The Project is designed as a large-scale, six-story, 68-ft tall, brick warehouse, which encompasses the full block on 18th Street between Bryant and Florida Street. This large-scale massing is appropriate given the larger neighborhood context, which includes larger-scale, four-story reinforced concrete industrial buildings. The surrounding neighborhood is extremely varied with many examples of smaller-scale residential properties and larger-scale industrial properties—both of which range in height from one-to-five-stories in height. The Project’s overall mass and scale are further broken down by the fine detail evident in the choice of exterior materials (brick), ground floor storefronts and accentuated cornices. In addition, the Project incorporates a 25-ft wide private alley, which provides separation from the adjacent land dedication site. Overall, these features provide variety in the building design and scale, while providing for a feature that strongly relates to the varied neighborhood context. Thus, the project is appropriate and consistent with the mass and scale of the surrounding neighborhood.

B. Architectural treatments, facade design and building materials:

The Project’s architectural treatments, façade design and building materials include a brick, aluminum-sash windows, wood storefronts, and terra cotta glazed tiles. The Project’s overall design aesthetic harkens back to industrial buildings of the 19th and 20th century. The Project successfully draws from these older industrial properties in a contemporary manner, and provides a design, which incorporates finer detailing on the exterior, as evident in the material palette, cornice, window surrounds and storefront. The Project provides for a unique and contemporary expression along the street, which draws from the mixed-industrial character within the surrounding area, while also referencing older architectural styles. The Project evokes a 19th century brick warehouse with a red brick exterior, terracotta tile, and wood storefront. Overall, the Project offers a high quality architectural treatment, which provides for unique and expressive architectural design that is consistent and compatible with the surrounding neighborhood.

C. The design of lower floors, including building setback areas, commercial space, townhouses, entries, utilities, and the design and siting of rear yards, parking and loading access;

Along the lower floors, the Project provides for residential amenities (lounge, fitness room, and entry lobby), ground floor retail, ground floor PDR space, walk-up dwelling units with individual pedestrian access on Bryant Street, and “flexible units” on Florida Street. These dwelling units, retail space and PDR space will provide for activity on the street level along with the new streetscape improvements. In addition, the Project is seeking an exception to permit five “flexible units” along Florida Street. The Project minimizes the impact to pedestrian by providing one 11-ft wide garage entrance on Bryant

Street, and one 24-ft wide loading zone along Florida Street. In addition, off-street parking is setback from the ground floor by more than 25-ft.

- D. The provision of required open space, both on- and off-site. In the case of off-site publicly accessible open space, the design, location, access, size, and equivalence in quality with that otherwise required on-site;

The Project provides code-complying open space via a roof terrace. In addition, the Project provides additional open space through two inner courtyards. The Project also includes semi-public street improvements, including a private mid-block alley.

- E. The provision of mid-block alleys and pathways on frontages between 200 and 300 linear feet per the criteria of Section 270, and the design of mid-block alleys and pathways as required by and pursuant to the criteria set forth in Section 270.2;

The Project is not subject to the mid-block alley requirements, since the subject block is not larger than 400-ft. The Project is voluntarily providing a mid-block pedestrian alley adjacent to the six-story mixed-use building.

- F. Streetscape and other public improvements, including tree planting, street furniture, and lighting.

In compliance with Planning Code Section 138.1, the Project would provide new street trees along 18th, Florida and Bryant Streets, as specified by the Department of Public Works. In addition, the Project includes streetscape elements, including new concrete sidewalks, linear planters along the street edge, new street trees, bicycle parking spaces, and corner bulb-outs. These improvements would vastly improve the public realm and surrounding streetscape.

- G. Circulation, including streets, alleys and mid-block pedestrian pathways;

The Project provides ample circulation in and around the project site through the sidewalk improvement and a voluntary mid-block alley. The primary focal point for retail visitors would occur along 18th and Florida Streets, while the residents have a ground-floor entrance on 18th Street. Automobile access is limited to the one entry/exit on Bryant Street. An off-street loading zone is provided along Florida Street. The Project incorporates two interior courtyards, which are accessible to residents.

- H. Bulk limits;

The Project is within an 'X' Bulk District, which does not restrict bulk.

- I. Other changes necessary to bring a project into conformance with any relevant design guidelines, Area Plan or Element of the General Plan;

The Project, on balance, meets the Objectives and Policies of the General Plan. See Below.

8. **Large Project Authorization Exceptions.** Proposed Planning Code Section 329 allows exceptions for Large Projects in the Eastern Neighborhoods Mixed Use Districts:

A. **Rear Yard:** Exception for rear yards, pursuant to the requirements of Section 134(f);

Modification of Requirements in the Eastern Neighborhoods Mixed Use Districts. The rear yard requirement in Eastern Neighborhoods Mixed Use Districts may be modified or waived by the Planning Commission pursuant to Section 329...provided that:

(1) A comparable, but not necessarily equal amount of square footage as would be created in a code conforming rear yard is provided elsewhere within the development;

The Project provides for a comparable amount of open space, in lieu of the required rear yard. Overall, the Project will be located on a lot measuring 46,000 sq ft in size, and would be required to provide a rear yard measuring 11,500 sq ft. The Project provides common open space for the 199 dwelling units through two inner courtyards and a roof terrace. In total, the Project provides approximately 15,920 sq ft of code-complying open space, thus exceeding the amount of space, which would have been provided in a code-conforming rear yard.

(2) The proposed new or expanding structure will not significantly impede the access to light and air from adjacent properties or adversely affect the interior block open space formed by the rear yards of adjacent properties; and

The Project does not impede access to light and air for the adjacent properties. Many of the abutting residential properties have narrow rear yards or no rear yard. The Project is setback from the neighboring properties and is separated by a private mid-block alley and the land dedication site.

(3) The modification request is not combined with any other residential open space modification or exposure variance for the project, except exposure modifications in designated landmark buildings under Section 307(h)(1).

The Project is not seeking an exception to the requirements for residential open space or dwelling unit exposure. The Project provides code-complying open space on the roof terrace and all dwelling units meet the exposure requirements defined in Planning Code Section 140.

B. **Off-Street Loading:** Exception from satisfaction of loading requirements per Section 152.1 pursuant to the criteria contained therein.

For projects in the Eastern Neighborhoods Mixed Use Districts that are subject to Section 329, the Planning Commission may waive these requirements per the procedures of Section 329 if

it finds that the design of the project, particularly ground floor frontages, would be improved and that such loading could be sufficiently accommodated on adjacent streets and alleys.

The Project would provide two on-street loading parking spaces on 18th Street and one off-street loading space within the private mid-block alley accessible from Florida Street. The on-street loading would meet the retail and residential needs of the Project. The Project offers additional off-street loading within the private mid-block alley, which can serve the ground floor PDR and flexible units. Overall, the Project's proposed loading assists in improving the ground floor street frontage and would improve character of the streets.

- C. Horizontal Mass Reduction: Modification of the horizontal massing breaks required by Section 270.1 in light of any equivalent reduction of horizontal scale, equivalent volume of reduction, and unique and superior architectural design, pursuant to the criteria of Section 270.1(d).

The Planning Commission may modify or waive this requirement through the process set forth in Section 329. When considering any such application, the Commission shall consider the following criteria:

- 1) no more than 50% of the required mass is reduced unless special circumstances are evident;

The Project incorporates a horizontal mass break from the ground floor up to the sky, which is 25-ft in width, across the entire length of the project site. The Project exceeds the required amount of mass that would have been reduced under a code-complying mass reduction.

- 2) the depth of any mass reduction breaks provided is not less than 15 feet from the front facade, unless special circumstances are evident;

The Project incorporates a mass break, which is more than 15-ft deep from the front façade.

- 3) the proposed building envelope can be demonstrated to achieve a distinctly superior effect of reducing the apparent horizontal dimension of the building; and

Through the incorporation of the mid-block alley and horizontal mass break, the Project achieves a distinctly superior building form, due to the separation from the adjacent land dedication site and the building's overall style. The Project evokes a style reminiscent of larger-scale, 19th century-early 20th century brick warehouses, which often features finer grain details and a rectilinear massing.

- 4) the proposed building achieves unique and superior architectural design.

The Project achieves a unique and superior architectural design that appropriately evokes an industrial aesthetic from the 19th century – early 20th century. The Project’s massing and scale is appropriate given the larger neighborhood context. Overall, the Project provides finer grain details, which are appropriate given the Project’s design and style.

- D. Flexible Units: Modification of the accessory use provisions of Section 803.3(b)(1)(c) for Dwelling Units. Dwelling Units modified under this Subsection shall continue to be considered Dwelling Units for the purposes of this Code and shall be subject to all such applicable controls and fees. Additionally, any building that receives a modification pursuant to this Subsection shall (i) have appropriately designed street frontages to accommodate both residential and modified accessory uses and (ii) obtain comment on the proposed modification from other relevant agencies prior to the Planning Commission hearing, including the Fire Department and Department of Building Inspection. Modifications are subject to the following:

- (i) A modification may only be granted for the ground floor portion of Dwelling Units that front on a street with a width equal to or greater than 40 feet.

The Project seeks an exception to the accessory use provisions for five dwelling units on the ground floor along Florida Street. Florida Street is wider than 40-ft, and is a qualifying street.

- (ii) The accessory use may only include those uses permitted as of right at the subject property. However, uses permitted in any unit obtaining an accessory use modification may be further limited by the Planning Commission.

The Project will only include accessory uses that are principally-permitted uses in the UMU Zoning District, as defined in Planning Code Section 843.

- (iii) The Planning Commission may grant exceptions to the size of the accessory use, type and number of employees, and signage restrictions of the applicable accessory use controls.

The Project is seeking modification to the accessory use provisions for dwelling units to allow for greater flexibility in the size and type of an accessory use, to provide for a limited number of employees, and to allow for public access.

- E. Where not specified elsewhere in Planning Code Section 329(d), modification of other Code requirements which could otherwise be modified as a Planned Unit Development (as set forth in Section 304), irrespective of the zoning district in which the property is located;

In addition to the exception for rear yard, off-street loading, horizontal mass reduction, and accessory use provisions for dwelling units, the Project is seeking an exception to the requirements ground floor ceiling height for non-residential uses (Planning Code Section 145.1).

Under Planning Code Section 145.1(c)(4), the ground floor ceiling height for non-residential uses is required to be a minimum of 17-ft in the UMU Zoning District. Currently, the Project specifies a ground floor ceiling height, which ranges from 14-ft 5-in to 17-ft. Although the ground floor ceiling height varies, the architectural expression along the street frontage is consistent and the overall design reinforces the concept of a tall ground floor. The Commission supports this exception, due to the overall quality of design and the streetscape improvements along 18th, Florida and Bryant Streets.

8. **General Plan Compliance.** The Project is, on balance, consistent with the following Objectives and Policies of the General Plan:

HOUSING ELEMENT

Objectives and Policies

OBJECTIVE 1

IDENTIFY AND MAKE AVAILABLE FOR DEVELOPMENT ADEQUATE SITES TO MEET THE CITY'S HOUSING NEEDS, ESPECIALLY PERMANENTLY AFFORDABLE HOUSING.

Policy 1.1

Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.

Policy 1.2

Focus housing growth and infrastructure necessary to support growth according to community plans. Complete planning underway in key opportunity areas such as Treasure Island, Candlestick Park and Hunter's Point Shipyard.

Policy 1.10

Support new housing projects, especially affordable housing, where households can easily rely on public transportation, walking and bicycling for the majority of daily trips.

The Project is a higher density residential development, which provides up to 199 new dwelling units in a mixed-use area. The Project abuts smaller-scale residential uses and one-to-two-story commercial buildings. The project site was recently rezoned as part of a long range planning goal to create a cohesive residential and mixed-use neighborhood. The Project includes 3 on-site affordable housing units for rent (if the upcoming Charter Amendment passes) and will dedicate a portion of the project site to MOHCD for the purpose of developing up to 136 affordable housing units. These two methods comply with the City's affordable housing goals. The Project is also in proximity to public transportation options.

OBJECTIVE 4

FOSTER A HOUSING STOCK THAT MEETS THE NEEDS OF ALL RESIDENTS ACROSS LIFECYCLES.

Policy 4.1

Develop new housing, and encourage the remodeling of existing housing, for families with children.

Policy 4.4

Encourage sufficient and suitable rental housing opportunities, emphasizing permanently affordable rental units wherever possible.

Policy 4.5

Ensure that new permanently affordable housing is located in all of the City's neighborhoods, and encourage integrated neighborhoods, with a diversity of unit types provided at a range of income levels.

The Project will dedicate a portion of the project site to MOHCD, thus meeting the affordable housing requirements. Additionally, should a proposed Charter amendment pass, the project would provide an additional 3 on-site affordable units for rent. These methods encourage diversity among income levels within the new development. In addition, the Project provides the appropriate amount of new two-bedroom units, and meets the requirements for dwelling unit mix.

OBJECTIVE 11

SUPPORT AND RESPECT THE DIVERSE AND DISTINCT CHARACTER OF SAN FRANCISCO'S NEIGHBORHOODS.

Policy 11.1

Promote the construction and rehabilitation of well-designed housing that emphasizes beauty, flexibility, and innovative design, and respects existing neighborhood character.

Policy 11.2

Ensure implementation of accepted design standards in project approvals.

Policy 11.3

Ensure growth is accommodated without substantially and adversely impacting existing residential neighborhood character.

Policy 11.4

Continue to utilize zoning districts which conform to a generalized residential land use and density plan and the General Plan.

Policy 11.6

Foster a sense of community through architectural design, using features that promote community interaction.

Policy 11.8

Consider a neighborhood's character when integrating new uses, and minimize disruption caused by expansion of institutions into residential areas.

The Project responds to the site's mixed-character by providing new ground floor retail and PDR opportunities and new dwelling units. The Project appropriately responds to the varied character of the larger neighborhood. The Project's facades provide a unique expression not commonly found within the surrounding area, while providing for a material palette, which draws from the surrounding industrial context.

COMMERCE AND INDUSTRY ELEMENT

Objectives and Policies

OBJECTIVE 6:

MAINTAIN AND STRENGTHEN VIABLE NEIGHBORHOOD COMMERCIAL AREAS EASILY ACCESSIBLE TO CITY RESIDENTS.

Policy 6.1

Ensure and encourage the retention and provision of neighborhood-serving goods and services in the city's neighborhood commercial districts, while recognizing and encouraging diversity among the districts.

The Project provides new opportunity for new ground floor retail and PDR uses, which are consistent with the goals for the UMU Zoning District. The surrounding neighborhood does not have an overabundance of ground floor retail uses. The Project would provide new opportunity for neighborhood-serving retail uses. In addition, as expressed by the Commission, the Project will provide 12,000 square feet of PDR use, which will provide a mix of uses on the ground floor and assist in mitigating the loss of the existing PDR uses.

RECREATION AND OPEN SPACE ELEMENT

Objectives and Policies

OBJECTIVE 4:

PROVIDE OPPORTUNITIES FOR RECREATION AND THE ENJOYMENT OF OPEN SPACE IN EVERY SAN FRANCISCO NEIGHBORHOOD.

Policy 4.5:

Require private usable outdoor open space in new residential development.

Policy 4.6:

Assure the provision of adequate public open space to serve new residential development.

The Project will create common open space areas in a new mixed-use development through inner courts and a roof terrace. The Project will not cast shadows over open spaces under the jurisdiction of the Recreation and Park Department.

TRANSPORTATION ELEMENT

Objectives and Policies

OBJECTIVE 24:

IMPROVE THE AMBIENCE OF THE PEDESTRIAN ENVIRONMENT.

Policy 24.2:

Maintain and expand the planting of street trees and the infrastructure to support them.

Policy 24.3:

Install pedestrian-serving street furniture where appropriate.

Policy 24.4:

Preserve pedestrian-oriented building frontages.

The Project includes new street trees along the public rights-of-way. In addition, the Project includes streetscape elements, including new concrete sidewalks, linear planters along the street edge, new street trees, bicycle parking spaces, and corner bulb-outs. Frontages are designed with active spaces oriented at the pedestrian level. The new garage entrance/exit is narrow in width and assists in minimizing pedestrian and bicycle conflicts.

OBJECTIVE 28:

PROVIDE SECURE AND CONVENIENT PARKING FACILITIES FOR BICYCLES.

Policy 28.1:

Provide secure bicycle parking in new governmental, commercial, and residential developments.

Policy 28.3:

Provide parking facilities which are safe, secure, and convenient.

The Project includes 128 Class 1 bicycle parking spaces and 18 Class 2 bicycle parking spaces in secure, convenient locations, thus meeting the amount required by the Planning Code.

OBJECTIVE 34:

RELATE THE AMOUNT OF PARKING IN RESIDENTIAL AREAS AND NEIGHBORHOOD COMMERCIAL DISTRICTS TO THE CAPACITY OF THE CITY'S STREET SYSTEM AND LAND USE PATTERNS.

Policy 34.1:

Regulate off-street parking in new housing so as to guarantee needed spaces without requiring excesses and to encourage low auto ownership in neighborhoods that are well served by transit and are convenient to neighborhood shopping.

Policy 34.3:

Permit minimal or reduced off-street parking supply for new buildings in residential and commercial areas adjacent to transit centers and along transit preferential streets.

Policy 34.5:

Minimize the construction of new curb cuts in areas where on-street parking is in short supply and locate them in a manner such that they retain or minimally diminish the number of existing on-street parking spaces.

The Project adheres to the principally permitted parking amounts within the Planning Code. The parking spaces are accessed by one ingress and egress point. Parking is adequate for the project and complies with maximums prescribed by the Planning Code.

URBAN DESIGN ELEMENT

Objectives and Policies

OBJECTIVE 1:

EMPHASIS OF THE CHARACTERISTIC PATTERN WHICH GIVES TO THE CITY AND ITS NEIGHBORHOODS AN IMAGE, A SENSE OF PURPOSE, AND A MEANS OF ORIENTATION.

Policy 1.7:

Recognize the natural boundaries of districts, and promote connections between districts.

OBJECTIVE 2:

CONSERVATION OF RESOURCES WHICH PROVIDE A SENSE OF NATURE, CONTINUITY WITH THE PAST, AND FREEDOM FROM OVERCROWDING.

Policy 2.6:

Respect the character of older development nearby in the design of new buildings.

The Project is located within the Mission neighborhood, which is characterized by the mix of uses. As such, the Project provides expressive street façades, which respond to form, scale and material palette of the existing neighborhood, while also providing a new contemporary architectural vocabulary.

OBJECTIVE 4:

IMPROVEMENT OF THE NEIGHBORHOOD ENVIRONMENT TO INCREASE PERSONAL SAFETY, COMFORT, PRIDE AND OPPORTUNITY.

Policy 4.5:

Design walkways and parking facilities to minimize danger to pedestrians.

Policy 4.13:

Improve pedestrian areas by providing human scale and interest.

Although the project site has three street frontages, it only provides one vehicular access points for the off-street parking, thus limiting conflicts with pedestrians and bicyclists. Numerous street trees will be planted on each street. Along the project site, the pedestrian experience will be greatly improved.

MISSION AREA PLAN

Objectives and Policies

Land Use

OBJECTIVE 1.1

IN AREAS OF THE MISSION WHERE HOUSING AND MIXED-USE IS ENCOURAGED, MAXIMIZE DEVELOPMENT POTENTIAL IN KEEPING WITH NEIGHBORHOOD CHARACTER.

Policy 1.2.1

Ensure that in-fill housing development is compatible with its surroundings.

Policy 1.2.2

For new construction, and as part of major expansion of existing buildings in neighborhood commercial districts, require ground floor commercial uses in new housing development. In other mixed-use districts encourage housing over commercial or PDR where appropriate.

Policy 1.2.3

In general, where residential development is permitted, control residential density through building height and bulk guidelines and bedroom mix requirements.

Policy 1.2.4

Identify portions of the Mission where it would be appropriate to increase maximum heights for residential development.

Housing

OBJECTIVE 2.3

ENSURE THAT NEW RESIDENTIAL DEVELOPMENTS SATISFY AN ARRAY OF HOUSING NEEDS WITH RESPECT TO TENURE, UNIT MIX AND COMMUNITY SERVICES

Policy 2.3.3

Require that a significant number of units in new developments have two or more bedrooms, except Senior Housing and SRO developments unless all Below Market Rate units are two or more bedrooms.

Policy 2.3.5

Explore a range of revenue-generating tools including impact fees, public funds and grants, assessment districts, and other private funding sources, to fund community and neighborhood improvements.

Policy 2.3.6

Establish an impact fee to be allocated towards an Eastern Neighborhoods Public Benefit Fund to mitigate the impacts of new development on transit, pedestrian, bicycle, and street improvements, park and recreational facilities, and community facilities such as libraries, child care and other neighborhood services in the area.

Built Form

OBJECTIVE 3.1

PROMOTE AN URBAN FORM THAT REINFORCES THE MISSION'S DISTINCTIVE PLACE IN THE CITY'S LARGER FORM AND STRENGTHENS ITS PHYSICAL FABRIC AND CHARACTER

Policy 3.1.8

New development should respect existing patterns of rear yard open space. Where an existing pattern of rear yard open space does not exist, new development on mixed-use-zoned parcels should have greater flexibility as to where open space can be located.

OBJECTIVE 3.2

PROMOTE AN URBAN FORM AND ARCHITECTURAL CHARACTER THAT SUPPORTS WALKING AND SUSTAINS A DIVERSE, ACTIVE AND SAFE PUBLIC REALM

Policy 3.2.1

Require high quality design of street-facing building exteriors.

Policy 3.2.3

Minimize the visual impact of parking.

Policy 3.2.4

Strengthen the relationship between a building and its fronting sidewalk.

Policy 3.2.6

Sidewalks abutting new developments should be constructed in accordance with locally appropriate guidelines based on established best practices in streetscape design.

Transportation

OBJECTIVE 4.7

IMPROVE PUBLIC TRANSIT TO BETTER SERVE EXISTING AND NEW DEVELOPMENT IN THE MISSION

Policy 4.7.2

Provide secure, accessible and abundant bicycle parking, particularly at transit stations, within shopping areas and at concentrations of employment.

OBJECTIVE 4.8

ENCOURAGE ALTERNATIVES TO CAR OWNERSHIP AND THE REDUCTION OF PRIVATE VEHICLE TRIPS

Policy 4.8.1

Continue to require car-sharing arrangements in new residential and commercial developments, as well as any new parking garages.

Streets & Open Space

OBJECTIVE 5.3

CREATE A NETWORK OF GREEN STREETS THAT CONNECTS OPEN SPACES AND IMPROVES THE WALKABILITY, AESTHETICS and ecological sustainability OF THE NEIGHBORHOOD.

Policy 5.3.1

Redesign underutilized portions of streets as public open spaces, including widened sidewalks or medians, curb bulb-outs, "living streets" or green connector streets.

Policy 5.3.2

Maximize sidewalk landscaping, street trees and pedestrian scale street furnishing to the greatest extent feasible.

The Project features an appropriate mix of uses encouraged by the Area Plan for this location. The Project provides 199 new dwelling units, which will be available for rent. In addition, the Project is located within the prescribed height guidelines, and includes the appropriate dwelling unit mix, since more than 40% or 80 units are two-bedroom dwellings. The Project also incorporates an appropriate mix of uses for the UMI Zoning District, as evidenced by the 12,000 square feet of PDR use. The Project introduces a contemporary architectural vocabulary that draws from the neighborhood's industrial aesthetic, which is sensitive to the prevailing scale and neighborhood fabric. The Project provides for a high quality designed exterior, which features a variety of materials, colors and textures, including brick and aluminum windows. The Project provides ample common open space and also improves the public rights of way with new streetscape improvements, street furniture, corner bulb outs, and landscaping. The Project minimizes the impact of off-street parking and is in proximity to public transit options. The Project will also pay the appropriate development impact fees, including the Eastern Neighborhoods Impact Fees.

9. **Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project does comply with said policies in that:

- A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

Although the project site currently contains existing neighborhood-serving uses, including a restaurant and auto repair shop, the Project would assist in enhancing the larger neighborhood by providing new space for new neighborhood-serving uses and other retail opportunities. The Project improves the urban form of the neighborhood by constructing new ground floor retail and PDR uses. These new retail spaces will provide goods and services to area workers, residents and visitors, while creating new ownership and employment opportunities for residents. The Project would add new residents, visitors, and employees to the neighborhood, which would assist in strengthening nearby retail uses.

- B. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods.

Although the Project would demolish three existing housing units, the Project would provide 199 new dwelling units, thus resulting in an overall increase in the neighborhood housing stock. Further, the Project will dedicate a portion of the project site to MOHCD, who will develop the land with affordable housing, and, should a proposed Charter amendment pass, the Project will provide three on-site BMR units for rent. The Project is expressive in design, and relates well to the scale and form of the surrounding neighborhood. For these reasons, the Project would protect and preserve the cultural and economic diversity of the neighborhood.

- C. That the City's supply of affordable housing be preserved and enhanced.

The Project will not displace any identified affordable housing units. The three existing units are not identified as affordable housing units. The Project will comply with the City's Inclusionary Housing Program, therefore increasing the stock of affordable housing units in the City.

- D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

The project site is served by nearby public transportation options. The Project is located within one block of bus lines for the 27-Bryant & within three blocks of the bus lines for the 22-Fillmore and 33-Stanyan. Future residents would be afforded proximity to bus line. The Project also provides off-street parking at the principally permitted amounts and sufficient bicycle parking for residents and their guests.

- E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

The Project does not include commercial office development. The Project provides new ground floor retail use, PDR use and housing, which is a top priority in the City. The new retail use will provide new opportunity for the service sector.

- F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

The Project will be designed and will be constructed to conform to the structural and seismic safety requirements of the Building Code. This proposal will not impact the property's ability to withstand an earthquake.

- G. That landmarks and historic buildings be preserved.

Currently, the project site does not contain any City Landmarks or historic buildings.

- H. That our parks and open space and their access to sunlight and vistas be protected from development.

The Project will not affect the City's parks or open space or their access to sunlight and vistas. A shadow study was completed and concluded that the Project will not cast shadows on any property under the jurisdiction of, or designated for acquisition by, the Recreation and Park Commission.

9. **First Source Hiring.** The Project is subject to the requirements of the First Source Hiring Program as they apply to permits for residential development (Section 83.4(m) of the Administrative Code), and the Project Sponsor shall comply with the requirements of this Program as to all construction work and on-going employment required for the Project. Prior to the issuance of any building permit to construct or a First Addendum to the Site Permit, the Project Sponsor shall have a First Source Hiring Construction and Employment Program approved by the First Source Hiring Administrator, and evidenced in writing. In the event that both the Director of Planning and the First Source Hiring Administrator agree, the approval of the Employment Program may be delayed as needed.

The Project Sponsor submitted a First Source Hiring Affidavit and prior to issuance of a building permit will execute a First Source Hiring Memorandum of Understanding and a First Source Hiring Agreement with the City's First Source Hiring Administration.

10. The Project is consistent with and would promote the general and specific purposes of the Code provided under Section 101.1(b) in that, as designed, the Project would contribute to the character and stability of the neighborhood and would constitute a beneficial development.
11. The Commission hereby finds that approval of the Large Project Authorization would promote the health, safety and welfare of the City.

DECISION

That based upon the Record, the submissions by the Applicant, the staff of the Department and other interested parties, the oral testimony presented to this Commission at the public hearings, and all other written materials submitted by all parties, the Commission hereby **APPROVES Large Project Authorization Application No. 2013.0677X** under Planning Code Section 329 to allow the new construction of a six-story, 68-ft tall, mixed-use building with 199 dwelling units, up to 7,007 square feet of retail/trade shop use, and a total of 12,000 gsf of PDR use, and a modification to the requirements for: 1) rear yard (Planning Code Section 134); 2) ground floor ceiling height for non-residential uses (Planning Code Section 145.1); 3) off-street freight loading (Planning Code Section 152.1); 4) horizontal mass reduction (Planning Code Section 270.1); and, 5) flexible units-modification to the accessory use provisions of 803.3(b)(1)(c) (Planning Code Sections 329(d)(10)), within the UMU (Urban Mixed Use) Zoning District and a 68-X Height and Bulk District. The project is subject to the following conditions attached hereto as "EXHIBIT A" in general conformance with plans on file, dated April 29, 2016, and stamped "EXHIBIT B", which is incorporated herein by reference as though fully set forth.

The Planning Commission hereby adopts the MMRP attached hereto as Exhibit C and incorporated herein as part of this Motion by this reference thereto. All required mitigation measures identified in the Eastern Neighborhoods Plan EIR and contained in the MMRP are included as conditions of approval.

APPEAL AND EFFECTIVE DATE OF MOTION: Any aggrieved person may appeal this Section 329 Large Project Authorization to the Board of Appeals within fifteen (15) days after the date of this Motion. The effective date of this Motion shall be the date of adoption of this Motion if not appealed (after the 15-day period has expired) OR the date of the decision of the Board of Appeals if appealed to the Board of Appeals. For further information, please contact the Board of Appeals at (415) 575-6880, 1660 Mission, Room 3036, San Francisco, CA 94103.

Protest of Fee or Exaction: You may protest any fee or exaction subject to Government Code Section 66000 that is imposed as a condition of approval by following the procedures set forth in Government Code Section 66020. The protest must satisfy the requirements of Government Code Section 66020(a) and must be filed within 90 days of the date of the first approval or conditional approval of the development referencing the challenged fee or exaction. For purposes of Government Code Section 66020, the date of imposition of the fee shall be the date of the earliest discretionary approval by the City of the subject development.

If the City has not previously given Notice of an earlier discretionary approval of the project, the Planning Commission's adoption of this Motion, Resolution, Discretionary Review Action or the Zoning Administrator's Variance Decision Letter constitutes the approval or conditional approval of the development and the City hereby gives **NOTICE** that the 90-day protest period under Government Code Section 66020 has begun. If the City has already given Notice that the 90-day approval period has begun for the subject development, then this document does not re-commence the 90-day approval period.

I hereby certify that the Planning Commission ADOPTED the foregoing Motion on June 2, 2016.



Jonas P. Ionin
Commission Secretary

AYES: Antonini, Fong, Johnson, Hillis and Richards

NAYS: Moore and Wu

ABSENT: None

ADOPTED: June 2, 2016

EXHIBIT A

AUTHORIZATION

This authorization is for a Large Project Authorization to allow for the new construction of a six-story, 68-ft tall, mixed-use building with 199 dwelling units, 7,007 gsf of ground floor retail use, 3,938 gsf of PDR use, and a modification to the requirements for rear yard, open space, permitted obstructions over the street, ground floor ceiling height, off-street loading and accessory use provisions for dwelling units, located at 2000-2070 Bryant Street, Lots 001, 002 and 021 in Assessor's Block 4022 pursuant to Planning Code Section 329 within the UMU (Urban Mixed Use) Zoning Districts, and a 68-X Height and Bulk District; in general conformance with plans, dated May 4, 2016, and stamped "EXHIBIT B" included in the docket for Case No. 2013.0677X and subject to conditions of approval reviewed and approved by the Commission on June 2, 2016 under Motion No. 19658. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

RECORDATION OF CONDITIONS OF APPROVAL

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by the Planning Commission on June 2, 2016 under Motion No. 19658.

PRINTING OF CONDITIONS OF APPROVAL ON PLANS

The conditions of approval under the 'Exhibit A' of this Planning Commission Motion No. 19658 shall be reproduced on the Index Sheet of construction plans submitted with the Site or Building permit application for the Project. The Index Sheet of the construction plans shall reference to the Office Development Authorization and any subsequent amendments or modifications.

SEVERABILITY

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. "Project Sponsor" shall include any subsequent responsible party.

CHANGES AND MODIFICATIONS

Changes to the approved plans may be approved administratively by the Zoning Administrator. Significant changes and modifications of conditions shall require Planning Commission approval of a new authorization.

Conditions of Approval, Compliance, Monitoring, and Reporting

PERFORMANCE

Validity. The authorization and right vested by virtue of this action is valid for three (3) years from the effective date of the Motion. The Department of Building Inspection shall have issued a Building Permit or Site Permit to construct the project and/or commence the approved use within this three-year period.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Expiration and Renewal. Should a Building or Site Permit be sought after the three (3) year period has lapsed, the project sponsor must seek a renewal of this Authorization by filing an application for an amendment to the original Authorization or a new application for Authorization. Should the project sponsor decline to so file, and decline to withdraw the permit application, the Commission shall conduct a public hearing in order to consider the revocation of the Authorization. Should the Commission not revoke the Authorization following the closure of the public hearing, the Commission shall determine the extension of time for the continued validity of the Authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Diligent Pursuit. Once a site or Building Permit has been issued, construction must commence within the timeframe required by the Department of Building Inspection and be continued diligently to completion. Failure to do so shall be grounds for the Commission to consider revoking the approval if more than three (3) years have passed since this Authorization was approved.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Extension. All time limits in the preceding three paragraphs may be extended at the discretion of the Zoning Administrator where implementation of the project is delayed by a public agency, an appeal or a legal challenge and only by the length of time for which such public agency, appeal or challenge has caused delay.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Conformity with Current Law. No application for Building Permit, Site Permit, or other entitlement shall be approved unless it complies with all applicable provisions of City Codes in effect at the time of such approval.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Additional Project Authorization. The Project Sponsor must obtain a Conditional Use Authorization under Planning Code Sections 303 and 317 for removal of three residential units, and satisfy all the

conditions thereof. The conditions set forth below are additional conditions required in connection with the Project. If these conditions overlap with any other requirement imposed on the Project, the more restrictive or protective condition or requirement, as determined by the Zoning Administrator, shall apply.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Mitigation Measures. Mitigation measures described in the MMRP for the Eastern Neighborhoods Plan EIR (Case No. 2013.0677E) attached as Exhibit C are necessary to avoid potential significant effects of the proposed project and have been agreed to by the project sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

DESIGN – COMPLIANCE AT PLAN STAGE

Final Materials. The Project Sponsor shall continue to work with Planning Department on the building design. Final materials, glazing, color, texture, landscaping, and detailing shall be subject to Department staff review and approval. The architectural addenda shall be reviewed and approved by the Planning Department prior to issuance.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

Garbage, Composting and Recycling Storage. Space for the collection and storage of garbage, composting, and recycling shall be provided within enclosed areas on the property and clearly labeled and illustrated on the architectural addenda. Space for the collection and storage of recyclable and compostable materials that meets the size, location, accessibility and other standards specified by the San Francisco Recycling Program shall be provided at the ground level of the buildings.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

Transformer Vault. The location of individual project PG&E Transformer Vault installations has significant effects to San Francisco streetscapes when improperly located. However, they may not have any impact if they are installed in preferred locations. Therefore, the Planning Department recommends the following preference schedule in locating new transformer vaults, in order of most to least desirable:

1. On-site, in a basement area accessed via a garage or other access point without use of separate doors on a ground floor façade facing a public right-of-way;
2. On-site, in a driveway, underground;
3. On-site, above ground, screened from view, other than a ground floor façade facing a public right-of-way;
4. Public right-of-way, underground, under sidewalks with a minimum width of 12 feet, avoiding effects on streetscape elements, such as street trees; and based on Better Streets Plan guidelines;
5. Public right-of-way, underground; and based on Better Streets Plan guidelines;
6. Public right-of-way, above ground, screened from view; and based on Better Streets Plan guidelines;
7. On-site, in a ground floor façade (the least desirable location).

Unless otherwise specified by the Planning Department, Department of Public Work's Bureau of Street Use and Mapping (DPW BSM) should use this preference schedule for all new transformer vault installation requests.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

Rooftop Mechanical Equipment. Pursuant to Planning Code 141, the Project Sponsor shall submit a roof plan to the Planning Department prior to Planning approval of the building permit application for each building. Rooftop mechanical equipment, if any is proposed as part of the Project, is required to be screened so as not to be visible from any point at or below the roof level of the subject building.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

Streetscape Plan. Pursuant to Planning Code Section 138.1, the Project Sponsor shall continue to work with Planning Department staff, in consultation with other City agencies, to refine the design and programming of the Streetscape Plan so that the plan generally meets the standards of the Better Streets Plan and all applicable City standards. The Project Sponsor shall complete final design of all required street improvements, including procurement of relevant City permits, prior to issuance of first architectural addenda, and shall complete construction of all required street improvements prior to issuance of first temporary certificate of occupancy.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

PARKING AND TRAFFIC

Unbundled Parking. All off-street parking spaces shall be made available to Project residents only as a separate "add-on" option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner's rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Parking Maximum. Pursuant to Planning Code Section 151.1, the Project shall provide no more than 149 off-street parking spaces for the 199 dwelling units in the UMU Zoning District.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Car Share. Pursuant to Planning Code Section 166, no fewer than one car share space shall be made available, at no cost, to a certified car share organization for the purposes of providing car share services for its service subscribers.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Bicycle Parking. Pursuant to Planning Code Sections 155.1, 155.4, and 155.5, the Project shall provide no fewer than 128 Class 1 bicycle parking spaces and 18 Class 2 bicycle parking spaces for the 199 dwelling units, 7,007 square feet of ground floor retail use, and 3,938 square feet of PDR use.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Managing Traffic During Construction. The Project Sponsor and construction contractor(s) shall coordinate with the Traffic Engineering and Transit Divisions of the San Francisco Municipal Transportation Agency (SFMTA), the Police Department, the Fire Department, the Planning Department, and other construction contractor(s) for any concurrent nearby Projects to manage traffic congestion and pedestrian circulation effects during construction of the Project.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Parking for Affordable Units. All off-street parking spaces shall be made available to Project residents only as a separate “add-on” option for purchase or rent and shall not be bundled with any Project dwelling unit for the life of the dwelling units. The required parking spaces may be made available to residents within a quarter mile of the project. All affordable dwelling units pursuant to Planning Code Section 415 shall have equal access to use of the parking as the market rate units, with parking spaces priced commensurate with the affordability of the dwelling unit. Each unit within the Project shall have the first right of refusal to rent or purchase a parking space until the number of residential parking spaces are no longer available. No conditions may be placed on the purchase or rental of dwelling units, nor may homeowner’s rules be established, which prevent or preclude the separation of parking spaces from dwelling units.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

PROVISIONS

PDR Use. The Project shall incorporate 12,000 square feet of PDR use.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

Anti-Discriminatory Housing. The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

Transportation Sustainability Fee. The Project is subject to the Transportation Sustainability Fee (TSF), as applicable, pursuant to Planning Code Section 411A.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

Child Care Fee - Residential. The Project is subject to the Residential Child Care Fee, as applicable, pursuant to Planning Code Section 414A.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

Eastern Neighborhoods Infrastructure Impact Fee. Pursuant to Planning Code Section 423 (formerly 327), the Project Sponsor shall comply with the Eastern Neighborhoods Public Benefit Fund provisions through payment of an Impact Fee pursuant to Article 4.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

First Source Hiring. The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org

MONITORING

Enforcement. Violation of any of the Planning Department conditions of approval contained in this Motion or of any other provisions of Planning Code applicable to this Project shall be subject to the enforcement procedures and administrative penalties set forth under Planning Code Section 176 or Section 176.1. The Planning Department may also refer the violation complaints to other city departments and agencies for appropriate enforcement action under their jurisdiction.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Revocation Due to Violation of Conditions. Should implementation of this Project result in complaints from interested property owners, residents, or commercial lessees which are not resolved by the Project Sponsor and found to be in violation of the Planning Code and/or the specific conditions of approval for the Project as set forth in Exhibit A of this Motion, the Zoning Administrator shall refer such complaints to the Commission, after which it may hold a public hearing on the matter to consider revocation of this authorization.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

OPERATION

Garbage, Recycling, and Composting Receptacles. Garbage, recycling, and compost containers shall be kept within the premises and hidden from public view, and placed outside only when being serviced by the disposal company. Trash shall be contained and disposed of pursuant to garbage and recycling receptacles guidelines set forth by the Department of Public Works.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works at 415-554-5810, <http://sfdpw.org>

Sidewalk Maintenance. The Project Sponsor shall maintain the main entrance to the building and all sidewalks abutting the subject property in a clean and sanitary condition in compliance with the Department of Public Works Streets and Sidewalk Maintenance Standards.

For information about compliance, contact Bureau of Street Use and Mapping, Department of Public Works, 415-695-2017, <http://sfdpw.org>

Community Liaison. Prior to issuance of a building permit to construct the project and implement the approved use, the Project Sponsor shall appoint a community liaison officer to deal with the issues of concern to owners and occupants of nearby properties. The Project Sponsor shall provide the Zoning Administrator with written notice of the name, business address, and telephone number of the community liaison. Should the contact information change, the Zoning Administrator shall be made aware of such change. The community liaison shall report to the Zoning Administrator what issues, if any, are of concern to the community and what issues have not been resolved by the Project Sponsor.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

Lighting. All Project lighting shall be directed onto the Project site and immediately surrounding sidewalk area only, and designed and managed so as not to be a nuisance to adjacent residents. Nighttime lighting shall be the minimum necessary to ensure safety, but shall in no case be directed so as to constitute a nuisance to any surrounding property.

For information about compliance, contact Code Enforcement, Planning Department at 415-575-6863, www.sf-planning.org

INCLUSIONARY HOUSING

Land Dedication Alternative. The Project Sponsor has chosen to satisfy the affordability requirement for the Project through a land dedication pursuant to Planning Code Section 419.6 and 419.5(a)(2)(A)-(J). The Project Sponsor has been in discussions with the Mayor's Office of Housing (MOH) and the Planning Department. On May 12, 2016, MOH provided a letter to the Planning Department that confirmed that the site that the Project Sponsor has selected (a portion of 2070 Bryant St [Block 4022 Lot 021]), is acceptable under Planning Code Section 419.5(2), subject to the conditions included therein.

In the event the land dedication process is completed, and the fee title to the land dedication site is transferred to the City prior to the issuance of the first construction document for the Project, the Project will have fully complied with the Planning Code's Section 415 inclusionary affordable housing requirements. In the event, for whatever reason, fee title to the land dedication site is not transferred to

the City by issuance of the first construction document for the Project, the Project Sponsor will be subject to the requirements of Planning Code Section 415 and 419.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing at 415-701-5500, www.sf-moh.org.

Eastern Neighborhoods Affordable Housing Requirements for UMU. Pursuant to Planning Code Section 419.3, Project Sponsor shall meet the requirements set forth in Planning Code Section 419.3 in addition to the requirements set forth in the Affordable Housing Program, per Planning Code Section 415. Prior to issuance of first construction document, the Project Sponsor shall select one of the options described in Section 419.3 or the alternatives described in Planning Code Section 419.5 to fulfill the affordable housing requirements and notify the Department of their choice. Any fee required by Section 419.1 et seq. shall be paid to the Development Fee Collection Unit at DBI prior to issuance of the first construction document an option for the project sponsor to defer payment to prior to issuance of the first certificate of occupancy upon agreeing to pay a deferral surcharge in accordance with Section 107A.13.3 of the San Francisco Building Code.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org

1. **Number of Required Units.** Pursuant to Planning Code Section 415.6, the Project is currently required to provide 16% of the proposed dwelling units as affordable to qualifying households, but is subject to change under a proposed Charter amendment and pending legislation if the voters approve the Charter Amendment at the June 7, 2016 election. The Project contains 199 units. Should the proposed Charter Amendment pass, the Project Sponsor shall fulfill this requirement by providing the 3 affordable units on-site (1.5% of the units) in addition to the land dedication option described above. If the Project is subject to a different requirement if the Charter Amendment is approved and new legislative requirements take effect, the Project will comply with the applicable requirements at the time of compliance. If the number of market-rate units change, the number of required affordable units shall be modified accordingly with written approval from Planning Department staff in consultation with the Mayor's Office of Housing and Community Development ("MOHCD").

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

2. **Unit Mix.** The Project will provide an affordable unit mix of one studio, one one-bedroom, and one two-bedroom units, or the unit mix that may be required if the inclusionary housing requirements change as discussed above. If the market-rate unit mix changes, the affordable unit mix will be modified accordingly with written approval from Planning Department staff in consultation with MOHCD.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

3. **Unit Location.** The affordable units shall be designated on a reduced set of plans recorded as a Notice of Special Restrictions on the property prior to the issuance of the first construction permit.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

4. **Phasing.** If any building permit is issued for partial phasing of the Project, the Project Sponsor shall have designated not less than one and a half percent (1.5%), or the applicable percentage as discussed above, of the each phase's total number of dwelling units as on-site affordable units.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

5. **Duration.** Under Planning Code Section 415.8, all units constructed pursuant to Section 415.6, must remain affordable to qualifying households for the life of the project.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

6. **Other Conditions.** The Project is subject to the requirements of the Inclusionary Affordable Housing Program under Section 415 et seq. of the Planning Code and City and County of San Francisco Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Procedures Manual"). The Procedures Manual, as amended from time to time, is incorporated herein by reference, as published and adopted by the Planning Commission, and as required by Planning Code Section 415. Terms used in these conditions of approval and not otherwise defined shall have the meanings set forth in the Procedures Manual. A copy of the Procedures Manual can be obtained at the MOHCD at 1 South Van Ness Avenue or on the Planning Department or Mayor's Office of Housing's websites, including on the internet at:

<http://sf-planning.org/Modules/ShowDocument.aspx?documentid=4451>.

As provided in the Inclusionary Affordable Housing Program, the applicable Procedures Manual is the manual in effect at the time the subject units are made available for sale.

For information about compliance, contact the Case Planner, Planning Department at 415-558-6378, www.sf-planning.org or the Mayor's Office of Housing and Community Development at 415-701-5500, www.sf-moh.org.

- a. The affordable unit(s) shall be designated on the building plans prior to the issuance of the first construction permit by the Department of Building Inspection ("DBI"). The affordable unit(s) shall (1) reflect the unit size mix in number of bedrooms of the market rate units, (2) be constructed, completed, ready for occupancy and marketed no later than the market rate units, and (3) be evenly distributed throughout the building; and (4) be of comparable overall quality, construction and exterior appearance as the market rate units in the principal project.

The interior features in affordable units should be generally the same as those of the market units in the principal project, but need not be the same make, model or type of such item as long they are of good and new quality and are consistent with then-current standards for new housing. Other specific standards for on-site units are outlined in the Procedures Manual.

- b. If the units in the building are offered for rent, the affordable unit(s) shall be rented to qualifying households, as defined in the Procedures Manual, whose gross annual income, adjusted for household size, does not exceed an average fifty-five (55) percent of Area Median Income under the income table called "Maximum Income by Household Size derived from the Unadjusted Area Median Income for HUD Metro Fair Market Rent Area that contains San Francisco," but these income levels are subject to change under a proposed Charter amendment and pending legislation if the voters approve the Charter Amendment at the June 7, 2016 election. If the Project is subject to a different income level requirement if the Charter Amendment is approved and new legislative requirements take effect, the Project will comply with the applicable requirements. The initial and subsequent rent level of such units shall be calculated according to the Procedures Manual. Limitations on (i) occupancy; (ii) lease changes; (iii) subleasing, and; are set forth in the Inclusionary Affordable Housing Program and the Procedures Manual.
- c. The Project Sponsor is responsible for following the marketing, reporting, and monitoring requirements and procedures as set forth in the Procedures Manual. MOHCD shall be responsible for overseeing and monitoring the marketing of affordable units. The Project Sponsor must contact MOHCD at least six months prior to the beginning of marketing for any unit in the building.
- d. Required parking spaces shall be made available to renters of affordable units according to the Procedures Manual.
- e. Prior to the issuance of the first construction permit by DBI for the Project, the Project Sponsor shall record a Notice of Special Restriction on the property that contains these conditions of approval and a reduced set of plans that identify the affordable units satisfying the requirements of this approval. The Project Sponsor shall promptly provide a copy of the recorded Notice of Special Restriction to the Department and to MOHCD or its successor.
- f. The Project Sponsor has demonstrated that it is eligible for the On-site Affordable Housing Alternative under Planning Code Section 415.6 instead of payment of the Affordable Housing Fee, and has submitted the *Affidavit of Compliance with the Inclusionary Affordable Housing Program: Planning Code Section 415* to the Planning Department stating the intention to enter into an agreement with the City to qualify for a waiver from the Costa-Hawkins Rental Housing Act based upon the proposed density bonus and concessions (as defined in California Government Code Section 65915 et seq.) provided herein. The Project Sponsor has executed the Costa Hawkins agreement and will record a Memorandum of Agreement prior

to issuance of the first construction document or must revert payment of the Affordable Housing Fee.

- g. If the Project Sponsor fails to comply with the Inclusionary Affordable Housing Program requirement, the Director of DBI shall deny any and all site or building permits or certificates of occupancy for the development project until the Planning Department notifies the Director of compliance. A Project Sponsor's failure to comply with the requirements of Planning Code Section 415 et seq. shall constitute cause for the City to record a lien against the development project and to pursue any and all available remedies at law.
- h. If the Project becomes ineligible at any time for the On-site Affordable Housing Alternative, the Project Sponsor or its successor shall pay the Affordable Housing Fee prior to issuance of the first construction permit. If the Project becomes ineligible after issuance of its first construction permit, the Project Sponsor shall notify the Department and MOHCD and pay interest on the Affordable Housing Fee and penalties, if applicable.

MITIGATION MONITORING AND REPORTING PROGRAM

MONITORING AND REPORTING PROGRAM				
Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p><u>Project Mitigation Measure 1 – Archeological Mitigation Measure III (Testing) (Consistent with Eastern Neighborhoods Archeological Mitigation Measure J-2)</u></p> <p>Based on a reasonable presumption that archeological resources may be present within the project site, the following measures shall be undertaken to avoid any potentially significant adverse effect from the proposed project on buried or submerged historical resources. The project sponsor shall retain the services of an archeological consultant from the rotational Department Qualified Archeological Consultants List (QACL) maintained by the Planning Department archeologist. The project sponsor shall contact the Department archeologist to obtain the names and contact information for the next three archeological consultants on the QACL. The archeological consultant shall undertake an archeological testing program as specified herein. In addition, the consultant shall be available to conduct an archeological monitoring and/or data recovery program if required pursuant to this measure. The archeological consultant’s work shall be conducted in accordance with this measure at the direction of the Environmental Review Officer (ERO). All plans and reports prepared by the consultant as specified herein shall be submitted first and directly to the ERO for review and comment, and shall be considered draft reports subject to revision until final approval by the ERO. Archeological monitoring and/or data recovery programs required by this measure could suspend construction of the project for up to a maximum of four weeks. At the direction of the ERO, the</p>	Project Sponsor.	Prior to issuance of any permit for soil-disturbing activities and during construction.	Project Sponsor; ERO; archeologist.	Considered complete upon ERO’s approval of FARR.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures

Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
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suspension of construction can be extended beyond four weeks only if such a suspension is the only feasible means to reduce to a less-than-significant level potential effects on a significant archeological resource as defined in CEQA Guidelines Sect. 15064.5 (a)(c).

Consultation with Descendant Communities. On discovery of an archeological site¹ associated with descendant Native Americans, the Overseas Chinese, or other descendant group, an appropriate representative² of the descendant group and the ERO shall be contacted. The representative of the descendant group shall be given the opportunity to monitor archeological field investigations of the site and to consult with ERO regarding appropriate archeological treatment of the site, of recovered data from the site, and, if applicable, any interpretative treatment of the associated archeological site. A copy of the Final Archeological Resources Report shall be provided to the representative of the descendant group.

Archeological Testing Program. The archeological consultant shall prepare and submit to the ERO for review and approval an archeological testing plan (ATP). The archeological testing program shall be conducted in accordance with the approved ATP. The ATP shall identify the property types of the expected archeological resource(s) that potentially could be adversely affected by the proposed project, the testing method to be used, and the locations recommended for testing. The purpose of the

¹ The term “archeological site” is intended here to minimally include any archeological deposit, feature, burial, or evidence of burial.

² An “appropriate representative” of the descendant group is here defined to mean, in the case of Native Americans, any individual listed in the current Native American Contact List for the City and County of San Francisco maintained by the California Native American Heritage Commission and, in the case of the Overseas Chinese, the Chinese Historical Society of America. An appropriate representative of other descendant groups should be determined in consultation with the Department archeologist.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures

Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
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archeological testing program will be to determine to the extent possible the presence or absence of archeological resources and to identify and to evaluate whether any archeological resource encountered on the site constitutes an historical resource under CEQA.

At the completion of the archeological testing program, the archeological consultant shall submit a written report of the findings to the ERO. If based on the archeological testing program the archeological consultant finds that significant archeological resources may be present, the ERO in consultation with the archeological consultant shall determine if additional measures are warranted. Additional measures that may be undertaken include additional archeological testing, archeological monitoring, and/or an archeological data recovery program. No archeological data recovery shall be undertaken without the prior approval of the ERO or the Planning Department archeologist. If the ERO determines that a significant archeological resource is present and that the resource could be adversely affected by the proposed project, at the discretion of the project sponsor either:

- A. The proposed project shall be re-designed so as to avoid any adverse effect on the significant archeological resource; or
- B. A data recovery program shall be implemented, unless the ERO determines that the archeological resource is of greater interpretive than research significance and that interpretive use of the resource is feasible.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures

Archeological Monitoring Program. If the ERO in consultation with the archeological consultant determines that an archeological monitoring program shall be implemented the archeological monitoring program shall minimally include the following provisions:

- The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the AMP reasonably prior to any project-related soils disturbing activities commencing. The ERO in consultation with the archeological consultant shall determine what project activities shall be archeologically monitored. In most cases, any soils-disturbing activities, such as demolition, foundation removal, excavation, grading, utilities installation, foundation work, driving of piles (foundation, shoring, etc.), site remediation, etc., shall require archeological monitoring because of the risk these activities pose to potential archeological resources and to their depositional context;
- The archeological consultant shall advise all project contractors to be on the alert for evidence of the presence of the expected resource(s), of how to identify the evidence of the expected resource(s), and of the appropriate protocol in the event of apparent discovery of an archeological resource;
- The archeological monitor(s) shall be present on the project site according to a schedule agreed upon by the archeological consultant and the ERO until the ERO has,

Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
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MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>in consultation with project archeological consultant, determined that project construction activities could have no effects on significant archeological deposits;</p> <ul style="list-style-type: none"> • The archeological monitor shall record and be authorized to collect soil samples and artifactual/ecofactual material as warranted for analysis; • If an intact archeological deposit is encountered, all soils-disturbing activities in the vicinity of the deposit shall cease. The archeological monitor shall be empowered to temporarily redirect demolition/excavation/pile driving/construction activities and equipment until the deposit is evaluated. If in the case of pile driving activity (foundation, shoring, etc.) the archeological monitor has cause to believe that the pile driving activity may affect an archeological resource, the pile driving activity shall be terminated until an appropriate evaluation of the resource has been made in consultation with the ERO. The archeological consultant shall immediately notify the ERO of the encountered archeological deposit. The archeological consultant shall make a reasonable effort to assess the identity, integrity, and significance of the encountered archeological deposit, and present the findings of this assessment to the ERO. <p>Whether or not significant archeological resources are encountered, the archeological consultant shall submit a written report of the findings of the monitoring program to the ERO.</p>				

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures

Archeological Data Recovery Program. The archeological data recovery program shall be conducted in accord with an archeological data recovery plan (ADRP). The archeological consultant, project sponsor, and ERO shall meet and consult on the scope of the ADRP prior to preparation of a draft ADRP. The archeological consultant shall submit a draft ADRP to the ERO. The ADRP shall identify how the proposed data recovery program will preserve the significant information the archeological resource is expected to contain. That is, the ADRP will identify what scientific/historical research questions are applicable to the expected resource, what data classes the resource is expected to possess, and how the expected data classes would address the applicable research questions. Data recovery, in general, should be limited to the portions of the historical property that could be adversely affected by the proposed project. Destructive data recovery methods shall not be applied to portions of the archeological resources if nondestructive methods are practical.

The scope of the ADRP shall include the following elements:

- *Field Methods and Procedures.* Descriptions of proposed field strategies, procedures, and operations.
- *Cataloguing and Laboratory Analysis.* Description of selected cataloguing system and artifact analysis procedures.
- *Discard and Deaccession Policy.* Description of and rationale for field and post-field discard and deaccession policies.
- *Interpretive Program.* Consideration of an onsite/offsite public interpretive program during the course of the

Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
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MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>archeological data recovery program.</p> <ul style="list-style-type: none"> • <i>Security Measures.</i> Recommended security measures to protect the archeological resource from vandalism, looting, and non-intentionally damaging activities. • <i>Final Report.</i> Description of proposed report format and distribution of results. • <i>Curation.</i> Description of the procedures and recommendations for the curation of any recovered data having potential research value, identification of appropriate curation facilities, and a summary of the accession policies of the curation facilities. <p><i>Human Remains and Associated or Unassociated Funerary Objects.</i> The treatment of human remains and of associated or unassociated funerary objects discovered during any soils disturbing activity shall comply with applicable State and Federal laws. This shall include immediate notification of the Coroner of the City and County of San Francisco and in the event of the Coroner’s determination that the human remains are Native American remains, notification of the California State Native American Heritage Commission (NAHC) who shall appoint a Most Likely Descendant (MLD) (Pub. Res. Code Sec. 5097.98). The archeological consultant, project sponsor, ERO, and MLD shall make all reasonable efforts to develop an agreement for the treatment of, with appropriate dignity, human remains and associated or unassociated funerary objects (CEQA Guidelines. Sec. 15064.5(d)). The agreement should take into consideration the appropriate excavation, removal,</p>				

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures

Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
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recording, analysis, custodianship, curation, and final disposition of the human remains and associated or unassociated funerary objects.

Final Archeological Resources Report. The archeological consultant shall submit a Draft Final Archeological Resources Report (FARR) to the ERO that evaluates the historical significance of any discovered archeological resource and describes the archeological and historical research methods employed in the archeological testing/monitoring/data recovery program(s) undertaken. Information that may put at risk any archeological resource shall be provided in a separate removable insert within the final report.

Once approved by the ERO, copies of the FARR shall be distributed as follows: California Archeological Site Survey Northwest Information Center (NWIC) shall receive one (1) copy and the ERO shall receive a copy of the transmittal of the FARR to the NWIC. The Environmental Planning division of the Planning Department shall receive one bound, one unbound and one unlocked, searchable PDF copy on CD of the FARR along with copies of any formal site recordation forms (CA DPR 523 series) and/or documentation for nomination to the National Register of Historic Places/California Register of Historical Resources. In instances of high public interest in or the high interpretive value of the resource, the ERO may require a different final report content, format, and distribution than that presented above.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures
**Project Mitigation Measure 2 – Construction Noise (Eastern
 Neighborhoods PEIR Mitigation Measure F-2)**

The sponsor shall develop a set of site-specific noise attenuation measures under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted to the DBI to ensure that maximum feasible noise attenuation will be achieved. These attenuation measures shall include as many of the following control strategies as feasible:

- Erect temporary plywood noise barriers around a construction site, particularly where a site adjoins noise-sensitive uses;
- Utilize noise control blankets on a building structure as the building is erected to reduce noise emission from the site;
- Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings housing sensitive uses;
- Monitor the effectiveness of noise attenuation measures by taking noise measurements; and
- Post signs on-site pertaining to permitted construction days and hours and complaint procedures and who to notify in the event of a problem, with telephone numbers listed.

Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
Project Sponsor; contractor(s).	During construction period.	Project Sponsor to provide monthly noise reports during construction.	Considered complete upon final monthly report.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures	Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p><u>Project Mitigation Measure 3 – Best Available Control Technology for Diesel Generators (Eastern Neighborhoods Mitigation Measure G-4)</u></p> <p>The project sponsor shall ensure that the backup diesel generator meet or exceed one of the following emission standards for particulate matter: (1) Tier 4 certified engine, or (2) Tier 2 or Tier 3 certified engine that is equipped with a California Air Resources Board (ARB) Level 3 Verified Diesel Emissions Control Strategy (VDECS). A non - verified diesel emission control strategy may be used if the filter has the same particulate matter reduction as the identical ARB verified model and if the Bay Area Air Quality Management District (BAAQMD) approves of its use. The project sponsor shall submit documentation of compliance with the BAAQMD New Source Review permitting process (Regulation 2, Rule 2, and Regulation 2, Rule 5) and the Community Plan Exemption Checklist 655 Folsom Street 2013.0253E 49 emission standard requirement of this mitigation measure to the Planning Department for review and approval prior to issuance of a permit for a backup diesel generator from any City agency.</p>	Project Sponsor.	Prior to issuance of a permit for a backup diesel generator from any City agency.	Project Sponsor; Planning Department.	Considered complete upon Planning Department's approval of documentation prior to issuance of permit for generator.
<p><u>Project Mitigation Measure 4 – Hazardous Building Materials (Eastern Neighborhoods Mitigation Measure L-1)</u></p> <p>In order to minimize impacts to public and construction worker health and safety during demolition of the existing structure, the sponsor shall ensure that any equipment containing PCBs or DEHP, such as fluorescent light ballasts, are removed and properly disposed of according to applicable federal, state, and local laws prior to the start of renovation, and that any</p>	Project Sponsor.	Prior to any demolition or construction activities.	Project Sponsor; Planning Department.	Prior to any demolition or construction activities.

MONITORING AND REPORTING PROGRAM

Adopted Mitigation Measures

fluorescent light tubes, which could contain mercury, are similarly removed and properly disposed of. Any other hazardous materials identified, either before or during work, shall be abated according to applicable federal, state, and local laws.

Responsibility for Implementation	Mitigation Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
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MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<u>Project Improvement Measure 1 – Transportation Demand Management (TDM) Measures</u>	Project Sponsor; SFMTA.	Ongoing.	Project Sponsor; SFMTA; Building Management.	Ongoing.

While the proposed project would not result in any significant traffic impacts, to reduce traffic generated by the proposed project, the project sponsor should encourage the use of rideshare, transit, bicycle, and walk modes for trips to and from the project site.

The San Francisco Planning Department and the San Francisco Municipal Transportation Agency (SFMTA) have partnered with the Mayor’s Office of Economic and Workforce Development and the San Francisco County Transportation Authority to study the effects of implementing TDM measures on the choice of transportation mode. The San Francisco Planning Department has identified a list of TDM measures that should be considered for adoption as part of proposed land use development projects. The project sponsor (or transportation broker) should consider the following actions:

- *TDM Coordinator:* The project sponsor should identify a TDM Coordinator for the project site. The TDM Coordinator should be the single point of contact for all transportation-related questions from residents and City staff. The TDM Coordinator is responsible for the implementation and ongoing operation of all other TDM measures included in the proposed project as noted below.

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<ul style="list-style-type: none"> • <i>Transportation and Trip Planning Information:</i> <ul style="list-style-type: none"> ○ <i>Move-in packet.</i> Provide a transportation insert for each new resident’s move-in packet that includes information on transit service (local and regional, schedules and fares), information on where transit passes may be purchased, information on the 511 Regional Rideshare Program, and nearby bike and car share programs, and information on where to find additional web-based alternative transportation materials. This move-in packet should be continuously updated as transportation options change, and the packet should be provided to each new building occupant. Muni maps as well as San Francisco Bicycle and Pedestrian maps should be provided upon request. ○ <i>Posted and Real-Time Information.</i> Install local map and real-time transit information on-site in a prominent and visible location, such as within a building lobby. The local map should clearly identify transit, bicycle, and key pedestrian routes, and also depict nearby destinations and commercial corridors. Real-time transit information via NextMuni and/or regional transit data should be displayed on a digital screen. 				

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<ul style="list-style-type: none"> • <i>Data Collection:</i> <ul style="list-style-type: none"> ○ <i>City Access.</i> As part of an ongoing effort to quantify the efficacy of TDM measures, City staff may need to access the project site (including the garage) to perform trip counts, and/or intercept surveys and/or other types of data collection. The project sponsor should assure future access to the site by City staff. All on-site activities should be coordinated through the TDM Coordinator, including access to the project site by City staff for purposes of transportation data collection. Providing access to existing developments for data collection purposes is also encouraged. ○ <i>TDM Program Monitoring.</i> The project sponsor should collect data and make monitoring reports available for review by the San Francisco Planning Department. See TDM Monitoring section below for more detailed information. • <i>Bicycle Measures:</i> <ul style="list-style-type: none"> ○ <i>Design.</i> Design residential units to facilitate the use of a bicycle. 				

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<ul style="list-style-type: none"> ○ <i>Bike Route Access.</i> Facilitate direct access to bicycle facilities in the study area (e.g., Routes 25 and 40, Route 33, and Route 25) through signage. ● <i>Building Access.</i> Ensure that the points of access to bicycle parking through elevators on the ground floor and the garage ramp include signage indicating the location of these facilities. ● <i>Safety.</i> Develop bicycle safety strategies along the Florida Street side of the property, where Class II bike racks are located, and where there is bicycle access to the parking garage and Class I bike parking spaces. Examples include lighting and signage. ● <i>Parking.</i> Increase the number of on-site secured bicycle parking beyond Planning Code requirements and/or provide additional bicycle facilities in the public right-of-way adjacent to or within a quarter-mile of the project site (e.g., sidewalks, on-street parking spaces). ● <i>Bay Area Bike Share.</i> Provide free or subsidized bike share membership to residents and tenants. See Bike Share section below for additional information. ● <i>Car Share Measures:</i> <ul style="list-style-type: none"> ○ <i>Parking.</i> Provide optional car share spaces as described in <i>Planning Code Section §166(g)</i>. 				

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<ul style="list-style-type: none"> ○ <i>Membership.</i> Provide free or subsidized car share membership to all tenants. For example, offer one annual car share membership for each new resident (one per household) or employee. Recipient would be responsible for the remainder of the costs associated with the membership. ● <i>Transit Measures: Transit Pass.</i> Offer free or subsidized Muni passes (loaded onto Clipper cards) to tenants. For example, offer a 50 percent subsidy for one Muni monthly pass for new residents (one per household), and employees for up to one year. Recipient would be responsible for the remainder of the costs associated with the Muni monthly pass. <p><i>TDM Monitoring.</i> The San Francisco Planning Department will provide the TDM Coordinator with a formatted template (electronic or hard copy) of the “Resident Transportation Survey” to facilitate the collection and presentation of travel data from residents. The Resident Transportation Survey will be administered (circulated and collected) by the TDM Coordinator, based on a standardized schedule (e.g., one year after 85 percent occupancy of all dwelling units, and every two years thereafter) that is approved by the Planning Department. The TDM Coordinator should collect responses from a minimum of one-third of residents within the occupied units within 90 days of receiving the Resident Transportation Survey from the San Francisco Planning</p>				

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>Department. The San Francisco Planning Department will assist the TDM Coordinator in communicating the purpose of the survey, and will ensure that the identity of individual resident responders is protected. The San Francisco Planning Department will provide professionally prepared and easy-to-complete online (or paper) survey forms to assist with compliance.</p> <p>The San Francisco Planning Department will also provide the TDM Coordinator with a separate “Building Transportation Survey” that documents which TDM measures have been implemented during the reporting period, along with basic building information (e.g., percent unit occupancy, off-site parking utilization by occupants of building, loading frequency). The Building Transportation Survey should be completed by the TDM Coordinator and submitted to City staff within 30 days of receipt. The project sponsor should also allow trip counts and intercept surveys to be conducted on the premises by City staff or a City-hired consultant. Access to residential lobbies, garages, etc. should be granted by the project sponsor and facilitated by the TDM Coordinator. Trip counts and intercept surveys are typically conducted for two to five days between 6:00 AM and 8:00 PM on both weekdays and weekends.</p> <ul style="list-style-type: none"> • <i>Bike Sharing.</i> The project sponsor should contact Bay Area Bike Share (or its successor entity) to determine whether it would be interested and able to fund and install a new bikeshare station in the public right-of-way immediately 				

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>adjacent to the project site (including locations within new or existing sidewalks, new or existing on-street parking, or new or existing roadway areas). The project sponsor should contact Bay Area Bike Share early enough that they may respond by 60 days prior to the project sponsor’s meeting with the Transportation Advisory Staff Committee (TASC) for approval of the streetscape design.³</p> <p>If Bay Area Bike Share is not interested in or unable to fund and install a new bike share station, as indicated in writing, the project sponsor should not be obligated to design and permit such a space. If Bay Area Bike Share determines in writing that it would be interested and able to fund and install a new bike share station immediately adjacent to the project site within the time period specified above, the project sponsor should make best efforts to modify its streetscape design to accommodate a new bike share station. The project sponsor should coordinate with Bay Area Bike Share to obtain all City permits necessary and to design and install a station immediately adjacent to the project site in the public right-of-way. If the City agencies responsible for issuing the permits necessary to provide the new bike share station space reject the project sponsor’s application despite project sponsor’s best efforts, the project sponsor should not be obligated to provide such space.</p> <p>Other potential measures for consideration would include</p>				

³ TASC approval typically occurs at the 90 percent design phase.

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>unbundling parking (per Planning Code §167) or enlisting the services of a Transportation Management Association (TMA) to implement a package to TDM measures on behalf of the building.</p> <p>TDM strategies included in this improvement measure would be incorporated into the project’s conditions of approval (COA) during the entitlement process. Other strategies may be proposed by the project sponsor and should be approved by City staff. Prior to issuance of a temporary permit of building occupancy, the project sponsor should execute an agreement with the San Francisco Planning Department for the provision of TDM services.</p>				
<p><u>Project Improvement Measure 2 – Pedestrian Audible and Visible Warning Devices</u></p> <p>While the proposed project would not result in any significant pedestrian impacts, it should be noted that Bryant Street is a major pedestrian route to and from the project site, as well as to and from neighborhood-serving commercial uses and transit service in the 16th Street corridor. To minimize the potential for conflict between vehicles exiting the project site and pedestrians along Bryant Street, the project sponsor should install audible and visible warning devices to alert pedestrians of the outbound vehicles departing the North Building garage.</p>	Project Sponsor.	Prior to building occupancy.	Project Sponsor; SFMTA.	Considered complete upon installation.
<p><u>Project Improvement Measure 3 – Freight Loading Management Measures</u></p> <p>While the proposed project would not result in any significant freight / service impacts, to minimize the potential for conflicts</p>	Project Sponsor.	Ongoing.	Project Sponsor; Building Management.	Ongoing.

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
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between loading freight / service vehicles serving the project site, the project sponsor should implement the following improvement measures:

- *Schedule and Coordinate Loading Activities.* Schedule and coordinate loading activities through building management to ensure that trucks can be accommodated in the proposed off-street freight loading spaces. All regular events requiring use of the off-street freight loading spaces (e.g., retail deliveries, building service needs) should be coordinated directly with building management. Building management should also be proactively involved in coordinating move-in and move-out activities for building residents and tenants to ensure that these activities can be accommodated in the off-street freight loading spaces or in nearby on-street commercial loading zones or parking spaces.
- *Discourage Illegal Parking.* Trucks and other vehicles conducting freight loading / service vehicle activities should be discouraged from parking illegally or otherwise obstructing traffic, transit, bicycle, or pedestrian flow along any of the streets immediately adjacent to the building (18th Street, Bryant Street, or Florida Street). Building management should also be proactively involved in coordinating move-in and move-out activities for building residents and tenants to ensure that these activities do not disrupt bicycle and pedestrian circulation.

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p><u>Project Improvement Measure 4 – Construction Traffic Management Measures</u></p> <p>While the proposed project would not result in any significant construction impacts, to minimize disruptions to traffic, transit, bicycle, and pedestrian circulation during construction of the Project, the proposed project should implement the following improvement measures:</p> <ul style="list-style-type: none"> • <i>Limit Hours of Construction-Related Traffic.</i> Limit hours of construction-related traffic, including, but not limited to, truck movements, to avoid the weekday a.m. and p.m. peak hours (7:00 AM to 9:00 AM and 4:00 PM to 6:00 PM) (or other times, if approved by the San Francisco Municipal Transportation Agency [SFMTA]). • <i>Coordinate Construction Projects.</i> Construction contractor(s) should coordinate construction activities with other potential projects that may be constructed in the vicinity of the project site. • <i>Alternative Transportation for Construction Workers.</i> Construction contractor(s) for the project should encourage construction workers to make use of alternative modes of transportation (transit, rideshare, biking, or walking) when traveling to and from the construction site. <p>Any construction traffic occurring between 7:00 AM and 9:00 AM or between 4:00 PM and 6:00 PM would coincide with commute-period travel patterns and could result in minor disruptions to traffic, transit, bicycle, or pedestrian circulation</p>	Project Sponsor; contractor(s)	Prior to and during construction	Project Sponsor; SFMTA.	Considered complete prior to construction.

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>on streets adjacent to the Project site, although these effects would be considered a less than significant impact. Limiting truck movements to avoid these hours (or other times, if approved by SFMTA) would minimize these effects.</p> <p>Construction contractor(s) for the Project would need to meet with SFMTA, the Fire Department, the Planning Department, and other City agencies to determine feasible measures to minimize disruptions to traffic, transit, bicycle, and pedestrian circulation during construction of the Project. In addition, the temporary increase in vehicle parking demand generated by construction workers would need to be met on-site or within other off-site parking facilities to be determined by the construction contractor(s).</p>				
<p><u>Project Improvement Measure 5 – Driveway Queue Monitoring and Abatement</u></p> <p>While parking is discussed for informational purposes only and is not considered in determining if the proposed project has the potential to result in significant environmental effects, to minimize the impacts of the parking shortfall and potential for vehicles to queue on Bryant Street, the project sponsor should implement following improvement measure:</p> <ul style="list-style-type: none"> <i>Driveway Queue Monitoring and Abatement.</i> It should be the responsibility of the owner / operator of the off-street parking facility to ensure that recurring vehicle queues do not occur on the public right-of-way. A vehicle queue is defined as one or more vehicles blocking any portion of any public street, alley, or sidewalk for a consecutive period of 	Project Sponsor.	Ongoing.	Project Sponsor; Building Management; Planning Department.	Ongoing.

MONITORING AND REPORTING PROGRAM

Improvement Measures	Responsibility for Implementation	Improvement Schedule	Monitoring/Reporting Responsibility	Monitoring Schedule
<p>three minutes or longer on a daily or weekly basis. If a recurring queue occurs, the owner / operator of the parking facility shall employ abatement methods as needed to abate the queue.</p> <p>Suggested abatement methods include, but are not limited to, the following: redesign of facility layout to improve vehicle circulation and / or on-site queue capacity; use of off-site parking facilities or shared parking with nearby uses; travel demand management strategies such as additional bicycle parking; and / or parking demand management strategies such as parking pricing schemes</p> <p>If the Planning Director, or his or her designee, suspects that a recurring queue is present, the Department shall notify the property owner in writing. Upon request, the owner / operator shall hire a qualified transportation consultant to evaluate the conditions at the site for no less than seven days. The consultant shall prepare a monitoring report to be submitted to the San Francisco Planning Department for review. If the San Francisco Planning Department determines that a recurring queue does exist, the facility owner / operator shall have 90 days from the date of the written determination to abate the queue.</p>				

From: [Peacock, Rebecca \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#); [Shaw, Eric \(MYR\)](#); [Penick, Andrico](#)
Cc: [Kittler, Sophia \(MYR\)](#); [Chan, Amy \(MYR\)](#)
Subject: Mayor -- [Resolution] -- [100% Affordable Housing – Ground Lease with Base Rent of \$15,000 – Loan Not to Exceed \$35,076,507– 681 Florida Housing Associates, L.P.]
Date: Tuesday, August 25, 2020 4:41:20 PM
Attachments: [\(2\) Reso_MOHCD_681 Florida Gap Loan.zip](#)

Attached for introduction to the Board of Supervisors is a **resolution 1) approving and authorizing an Amended and Restated Loan Agreement in an amount not to exceed \$35,076,507 for a minimum loan term of 57 years (“Loan Agreement”) to finance the construction of a 100% affordable, 130-unit multifamily rental housing development (plus one staff unit) at 681 Florida Street, San Francisco, CA (the “Property”) for low income households with space for Production, Design and Repair (“PDR”) uses (“Project”); 2) approving and authorizing a Ground Lease to 681 Florida Housing Associates, L.P., a California limited partnership for a lease term of 75 years and one 24-year option to extend and an annual base rent of \$15,000 in order to construct and operate the Project; 3) adopting findings that the Loan Agreement and Ground Lease are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and 4) authorizing the Director of Property to execute the Ground Lease, and authorize Director of MOHCD to execute the Loan Agreement, make certain modifications to such agreements, and take certain actions in furtherance of this Resolution, as defined herein.**

[@Shaw, Eric \(MYR\)](#) & [@Penick, Andrico](#), can you please reply-all to this email to indicate your approval? Thanks!

Please let me know if you have any questions.

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



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 #: 200976

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	Members

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
Jonathan Gagen	415-701-5517
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
MYR Mayor's Office of Community Development	jonathan.gagen@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR 681 Florida Housing Associates, L.P.	TELEPHONE NUMBER (415) 776-2151
STREET ADDRESS (including City, State and Zip Code) 201 Eddy Street, San Francisco, CA 94102	EMAIL

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 200976
DESCRIPTION OF AMOUNT OF CONTRACT \$35,076,507		
NATURE OF THE CONTRACT (Please describe) The contract is a resolution approving a loan agreement related to the construction of new affordable housing located at 681 Florida Street.		

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	Falk	Donald	CEO
2	Orlin	Elizabeth	COO
3	Carney	Paul	CFO
4	Blakely	Lisa	Board of Directors
5	Wang	Kristi	Board of Directors
6	Wong	Cynthia	Board of Directors
7	Edwards	Tracey	Board of Directors
8	Kroot	Dave	Board of Directors
9	wilson	Peter	Board of Directors
10	Barahona	Luis	Board of Directors
11	Bohee	Tiffany	Board of Directors
12	Cervantes	Jum	Board of Directors
13	Cloutier	Mark	Board of Directors
14	Gouing	Chris	Board of Directors
15	Johnson	Susan	Board of Directors
16	Kim	Kenneth	Board of Directors
17	Martin	Freddie	Board of Directors
18	McLean	Jme	Board of Directors
19	Pujals	Fernando	Board of Directors

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20	Rock	Kathy	Board of Directors
21	Siswandi	Jennfier	Board of Directors
22	Skurdenis	Birute	Board of Directors
23	Tharpe	Amy	Board of Directors
24	Vilkin	Greg	Board of Directors
25	wolfe	Kathy	Board of Directors
26	Granados	Luis	CEO
27	Spindle	Jillian	COO
28	Chen-Ok	Priscilla	CFO
29	Terrazas	Dolores	Board of Directors
30	Garcia	M. Teresa	Board of Directors
31	Jones	Whitney	Board of Directors
32	Yaquian-Illescas	Rafael	Board of Directors
33	Cabrera	Ed	Board of Directors
34	Chavarin	Marco	Board of Directors
35	Duron	Ysabel	Board of Directors
36	Herbert	Jabari	Board of Directors
37	Stein	Kevin	Board of Directors
38	Young	Cheryl	Board of Directors

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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>
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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 #: 200976

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	Members

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

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NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Jonathan Gagen	415-701-5517
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
MYR MOHCD	jonathan.gagen@sfgov.org

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NAME OF CONTRACTOR 681 Florida Housing Associates, L.P.	TELEPHONE NUMBER (415) 776-2151
STREET ADDRESS (including City, State and Zip Code) 201 Eddy Street, San Francisco, CA 94102	EMAIL

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 200976
DESCRIPTION OF AMOUNT OF CONTRACT Annual base rent of \$15,000		
NATURE OF THE CONTRACT (Please describe) The contract is a resolution authorizing the City and County of San Francisco to enter into a long term ground lease with 681 Florida Housing Associates, L.P. in order to construct and operate 100% affordable housing at 681 Florida Street.		

7. COMMENTS

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
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<p>SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK</p> <p>BOS Clerk of the Board</p>	<p>DATE SIGNED</p>
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