

File No. 220092

Committee Item No. 14

Board Item No. 19

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date February 9, 2022

Board of Supervisors Meeting Date February 15, 2022

Cmte Board

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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>Draft Ground Lease</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Draft Loan Agreement</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Draft Deed of Trust</u> |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Loan Committee Approval Memo - 1/14/2022</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Amended Requests for Proposal - 8/16/2017</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>General Plan Referral 2/1/2022</u> |

Completed by: Brent Jalipa Date February 4, 2022

Completed by: Brent Jalipa Date February 11, 2022

1 [Ground Lease and Loan Agreement - Octavia RSU Associates, L.P. - 78 Haight Street and
2 120 Octavia Street - 100% Affordable Housing - Ground Lease with Base Rent of \$15,000 -
Loan Not to Exceed \$26,746,467]

3
4 **Resolution 1) approving and authorizing the Director of Property and the Mayor's**
5 **Office of Housing and Community Development ("MOHCD") to enter into a Ground**
6 **Lease for real property owned by the City and located at 78 Haight Street and 120**
7 **Octavia Street ("Property") with the Octavia RSU Associates, L.P. for a lease term of 75**
8 **years and one 24-year option to extend and an annual base rent of \$15,000 ("Ground**
9 **Lease") in order to construct a 100% affordable, 63-unit multifamily rental housing**
10 **development affordable to low-income households, including 32 units for Transitional**
11 **Age Youth, of which 15 units will be targeted to residents who qualify as homeless**
12 **households under the No Place Like Home Criteria, and including a childcare center**
13 **(collectively, the "Project"); 2) approving and authorizing a Loan Agreement in an**
14 **amount not to exceed \$26,746,467 for a minimum loan term of 57 years ("Loan**
15 **Agreement") to finance the development and construction of the Project; 3) adopting**
16 **findings declaring that the Property is "exempt surplus land" pursuant to the California**
17 **Surplus Lands Act; 4) determining that the less than market rent payable under the**
18 **Ground Lease will serve a public purpose by providing affordable housing for low-**
19 **income households in need, in accordance with Section 23.3 of the Administrative**
20 **Code; 5) adopting findings that the Project and proposed transactions are consistent**
21 **with the General Plan, and the eight priority policies of Planning Code, Section 101.1;**
22 **and 6) authorizing the Director of Property and/or the Director of MOHCD to execute the**
23 **Ground Lease and the Loan Agreement, and make certain modifications to such**
24 **agreements, as defined herein, and take certain actions in furtherance of this**
25 **Resolution, as defined herein.**

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WHEREAS, The City and County of San Francisco (“City”) owns certain real property located at 78 Haight Street and 120 Octavia Street in San Francisco, California, which is comprised of approximately 5,581 square feet and known as Assessor's Parcel Block No. 0853, Lot No. 065 and Lot No. 066 (formerly APN 0853-032) (the “Property”); and

WHEREAS, The City, acting through MOHCD, administers a variety of housing programs that provide financing for the development of new affordable housing and the rehabilitation of single- and multi-family housing for low- and moderate-income households and resources for homeowners in San Francisco; and

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

WHEREAS, On June 19, 2017, MOHCD issued a Request for Proposals (“RFP”) for a developer to work with the City to develop affordable family housing and a ground floor commercial and community-serving space on the Property; and

WHEREAS, Tenderloin Neighborhood Development Corporation, a California nonprofit public benefit corporation (“TNDC”) responded to the RFP and was selected as the developer of the Project; and

WHEREAS, TNDC has established Octavia RSU Associates, L.P., a California limited partnership (the “Developer”), as a separate entity under which to develop and construct the Project; and

WHEREAS, On February 21, 2020, by Notice of Final Approval of an SB 35 Project, the Planning Department by case No. 2019-021893PR determined that the development of the Project met all the standards of the Planning Code and would be

1 eligible for ministerial approval under California Government Code, Section 65913.4
2 (Senate Bills 35 and 765), California Public Resources Code, Section 21080, and the
3 CEQA Guidelines, Sections 15002(i)(1), 15268 and 15369, and would therefore not be
4 subject to the California Environmental Quality Act (“CEQA”); and

5 WHEREAS, The Planning Director has authorized the affordable housing project
6 authorization for the Project, deeming the Project consistent with the City’s General Plan, and
7 eight priority policies of Planning Code, Section 101.1 (the “Planning Department
8 Authorization”); a copy of the Planning Department Authorization is on file with the Clerk of the
9 Board of Supervisors in File No. 220092, and is incorporated herein by reference; and

10 WHEREAS, The Property is “exempt surplus land,” as defined in California
11 Government Code, Section 54221(f)(1), because the Project will restrict 100% of the
12 residential units to low-income persons and families, pursuant to California Government Code,
13 Section 54221(f)(1)(F)(i); and

14 WHEREAS, MOHCD and the Director of Property have approved the form of the
15 Ground Lease between the City and the Developer, pursuant to which the City will lease the
16 Property to the Developer for a term of 75 years and one 24-year option to extend and a base
17 rent of \$15,000 per year, in exchange for the Developer’s agreement, among other things, to
18 construct and operate the Project with rent levels affordable to households up to 65% of
19 unadjusted San Francisco Area Median Income (AMI); a copy of the Ground Lease in a form
20 substantially approved is on file with the Clerk of the Board of Supervisors in File No. 220092,
21 and is incorporated herein by reference; and

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

1 WHEREAS, MOHCD is also providing the Developer with new financial assistance to
2 leverage equity from an allocation of low-income housing tax credits and other funding
3 sources in order for Developer to construct the Project; and

4 WHEREAS, On January 14, 2022, the Citywide Affordable Housing Loan Committee,
5 consisting of MOHCD, Department of Homeless and Supportive Housing, the Office of
6 Community Investment and Infrastructure, and the Controller’s Office of Public Finance
7 recommended approval to the Mayor of the Loan Agreement for the Project in an amount not
8 to exceed \$26,746,467 in local funds, a copy of which is in a form substantially approved is on
9 file with the Clerk of the Board of Supervisors in File No. 220092, and is incorporated herein
10 by reference; and

11 WHEREAS, The Loan Agreement would be entered into under the following material
12 terms: (i) a minimum term of 57 years; (ii) an interest rate of up to three percent (3%); (iii)
13 annual repayment of the Loan Agreement by Developer through residual receipts from the
14 Project; (iv) the Project shall be restricted for life of the Project as affordable housing to low-
15 income households with annual maximum rent and income established by MOHCD; and (v)
16 the Loan Agreement shall be secured by a deed of trust recorded against each of the
17 Developer’s leasehold interest in the Property; now, therefore, be it

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

23 FURTHER RESOLVED, That the Board of Supervisors hereby finds, in consideration
24 of the foregoing, that the Property is “exempt surplus land,” as defined in California
25 Government Code, Section 54221(f)(1), because the Project will restrict 100% of the

1 residential units to low-income persons and families, pursuant to California Government Code,
2 Section 54221(f)(1)(F)(i); and

3 FURTHER RESOLVED, That in accordance with the recommendation of the Director
4 of MOHCD and the Director of Property, the Board of Supervisors approves the Ground
5 Lease in substantially the form presented to the Board, and authorizes the Director of
6 Property (or the Director's designee, as used throughout) and Director of MOHCD (or the
7 Director's designee, as used throughout), to execute and deliver Ground Lease, in
8 substantially the form presented to the Board, and any such other documents or agreements
9 (including such agreements to provide adequate or additional security or indemnities as
10 required by lenders to consummate the financing of the Project or lease of the Property) that
11 are necessary or advisable, in consultation with the City Attorney, to complete the transaction
12 contemplated by the Ground Lease and to effectuate the purpose and intent of this
13 Resolution, and determines that the less than Market Rent payable under the Ground Lease
14 will serve a public purpose by providing affordable housing for low-income households in
15 need; and, be it

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

22 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
23 Property and/or Director of MOHCD, in consultation with the City Attorney, to enter into any
24 additions, amendments, or other modifications to the Ground Lease and the Loan Agreement,
25 and any other documents or instruments necessary in connection therewith (including, without

1 limitation, preparation and attachment or, or changes to, any of all of the exhibits and ancillary
2 agreements), that the Director of Property and/or Director of MOHCD determine are in the
3 best interests of the City, do not materially decrease the benefits to the City with respect to the
4 Property, do not materially increase the obligations or liabilities of the City, and are necessary
5 or advisable to complete the transaction contemplated in the Ground Lease and the Loan
6 Agreement, and that effectuate the purpose and intent of this Resolution, such determination
7 to be conclusively evidenced by the execution and delivery by the Director of Property and/or
8 the Director of MOHCD of any such additions, amendments, or other modifications; and, be it

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

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

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

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RECOMMENDED:

 /s/
Andrico Q. Penick, Director of Property

 /s/
Eric D. Shaw, Director
Mayor’s Office of Housing and Community Development

Item 14 File 22-0092	Department: Mayor’s Office of Housing & Community Development
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EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would: (1) approve a \$26,746,467 amended and restated loan agreement with Octavia RSU 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.

Key Points

- The purpose of the proposed loan is to provide development financing for a 63-unit affordable housing project on Octavia Boulevard and Haight Street. The project includes 32 units for formerly homeless transitional aged youth (TAY) and their children as well as a commercial space that will be used as a childcare center for low-income families. The project is being developed by Tenderloin Neighborhood Development Corporation (TNDC), with TAY services provided by Larkin Street Youth, which were selected following a 2017 competitive solicitation.
- All units in the proposed project will be restricted to households making between 50% and 65% of area median income, as determined by the Mayor’s Office of Housing and Community Development (MOHCD). Construction is expected to begin April 2022 with the building fully occupied by December 2023.

Fiscal Impact

- The proposed \$26.7 million MOHCD loan will be combined with tax credit financing and \$625,390 in deferred interest to fund the \$54,417,514 development cost. Sources for the MOHCD loan include inclusionary fees, general obligation bond proceeds, Education Augmentation Revenue funds, and State No Place Like Home grant funds.
- The total development cost per unit is \$863,770 and the City subsidy, not including the No Place Like Home Grant funds, is \$348,670.
- The City’s Local Operating Subsidy Program (LOSP) will provide ongoing funding for the 32 transitional age youth units at an estimated cost of \$14.5 million over 20 years.
- The commercial space will receive a below market rate rent of \$1 per year because it will be used as a childcare center for low-income families.

Recommendation

- 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

Project

The proposed project will provide 63 affordable housing units, including 58 studios & five one-bedrooms. Of those, 27 studios and all five one-bedrooms, or approximately 51 percent of the total project units, will be provided for transitional age youth¹ and their children. All of the transition age youth units will be supportive housing units with associated social services provided by Larkin Street Youth. Other supportive services will be provided on-site by Tenderloin Neighborhood Development Corporation (TNDC).

All units in the proposed project will be restricted to households making between 50% and 65% of area median income, as determined by MOHCD. In addition, the ground floor will include a subsidized childcare center operated by Wu Yee Children’s Services. The rent for the childcare center will be \$1 per year, with Wu Yee responsible for its share of building operating and capital costs. The project includes space for resident services and supportive services. Construction is expected to begin April 2022 with the building fully occupied by December 2023.

The project will be developed on a City-owned parcel on Octavia Boulevard and Haight Street. Parcel U, the site of the proposed project, is currently being used as a parking lot for the Mount Trinity Baptist Church. The City originally took control of Parcel U (and 22 nearby parcels) in 1999 from the California Department of Transportation in order to develop mixed use residential infill, including affordable housing.

Three parcels remain undeveloped, including Parcel U, the site of the proposed project, and Parcels R and S, which are used as a community garden and construction staging for another affordable housing project respectively. According to the January 14, 2022 Evaluation Request for Financing for 78 Haight Street, Parcels R and S are no longer being considered for affordable housing due to expected high unit costs, though no new development plan has been finalized. At one point, planned financing included an inclusionary housing in-lieu fee to be paid by Build Inc.’s proposed One Oak development. The One Oak project was put on hold due to high construction costs and MOHCD’s moved forward with a Request for Proposals for Parcels R, S, & U with predevelopment funding provided by the Education Revenue Augmentation Fund (ERAF).

¹ Transitional Age Youth refer to people ages 18 – 24.

Developer Selection and Predevelopment Funding

MOHCD issued a Request for Proposals (RFP) to develop Parcels R, S, & U around Octavia Boulevard in June 2017, with an amended version in August 2017. The RFP required the successful candidate to develop the site, identify service providers, 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 area median income and that the project provide up to 30 units for transitional youth and their children referred by the Department of Homelessness & Supportive Housing.

Two proposals were submitted and were evaluated based on the proposers' prior experience, site concept, plan financing and cost controls, and services plan. A project submitted by TNDC (developer and housing operator) and Larkin Street Youth (service provider) was selected for funding.² In September 2019, MOCHD provided a \$2,600,250 predevelopment loan to TNDC, to fund architectural, entitlement, developer fees, and other predevelopment costs. That City loan was funded by \$600,250 in inclusionary fee proceeds and \$2,000,000 in Education Revenue Augmentation Funds (ERAF).

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would: (1) approve a \$26,746,467 amended and restated loan agreement for a term of 57 years between the City and Octavia RSU Associates, L.P.,³ (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, (3) find that the loan and ground lease are consistent with the City's General Plan and policy priorities in the Planning Code, (4) find that the property is exempt from the California Surplus Lands Act because it is being developed as affordable housing, and (5) determine that the below market rate rent of the ground lease serves a public purpose. The purpose of the loan is to provide gap financing for project construction, which includes 63 affordable housing units, including 32 for transitional age youth, and a childcare center.

Ground Lease & Affordability Restrictions

Affordability restrictions to preserve the affordability of the housing units in the proposed development are included in the loan agreement, a declaration of restrictions, and in the ground lease between the City and the affordable housing operator. These agreements specify the

² The RFP selection panel was appointed by the MOHCD Director and composed of staff from MOHCD, OCII, HSH, and the Arts Commission, as well as a representative from the Hayes Valley Neighborhood Association.

³ 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. Octavia RSU Associates, L.P. is composed of Taylor Family Housing Inc., the initial limited partner that will be replaced by a tax-credit investor, and Octavia RSU GP LLC, a general partnership managed by TNDC.

affordability levels for each unit and require the non-profit housing operator to maintain these for the duration of the agreements unless agreed to 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 commercial space mentioned above). The lessee must receive MOHCD approval before entering into any contracts related to use of the 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, ground lease 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 make residual receipts payments on the City loan.

FISCAL IMPACT

The proposed \$26.7 million loan includes the original \$2.6 million predevelopment loan provided by MOHCD. The total estimated cost to develop the 63-unit project is \$54.4 million. Exhibit 1 below shows the permanent financing sources and uses of funding.

Exhibit 1: Sources and Uses of Development Financing

Sources	Total
MOHCD Loan	
Local Funding	21,966,228
State Grant	4,780,239
MOHCD Loan, Subtotal	26,746,467
Federal LIHTC	24,622,538
State LIHTC	2,423,019
TNDC Capital	100
Accrued Deferred Interest	625,390
Development Sources	54,417,514
Uses	Total
Acquisition	37,438
Construction	35,861,808
Soft Costs	10,683,870
Reserves	5,634,398
Developer Costs	2,200,000
Development Costs	54,417,514

Source: MOHCD

Note: LIHTC refers to low-income housing tax credit

As shown above, the proposed \$26.7 million MOHCD loan will be combined with tax credit financing and \$625,390 in deferred interest to fund the \$54,417,514 development cost. Although San Francisco affordable housing projects were generally not awarded tax exempt bonds and the

associated 4% tax credit financing in 2021 due to high construction costs, this project received state and federal 9% tax credits under the Tax Credit Allocation Committee’s Special Needs Regulation, which prioritizes awards for projects that serve the formerly homeless.

Sources of funding for the proposed \$26.7 million MOHCD loan include the following:

- Market & Octavia Inclusionary Fund: \$10.5 million
- Inclusionary Fund: \$5.5 million
- 2019 General Obligation Bond: \$4 million
- No Place Like Home State Grant: \$4.8 million
- Education Augmentation Revenue Funds: \$2 million

According to the promissory notes associated with the City’s loan, the \$4.8 million of funding provided by the State No Place Like Home grant will have 0% interest and no residual receipt payments consistent with No Place Like Home regulations. The remaining \$21.97 million in loan funding will have a 3% interest rate and residual receipt payments. The City loan has a 57-year term to be consistent with the term of the tax credit financing. The State No Place Like Home grant was provided to the City to fund housing for people with a history of homelessness and mental illness.

According to the proposed loan agreement, TNDC intends to apply for a \$945,000 federal affordable housing program loan, which will be used to repay the City’s \$26.7 million loan.

City’s Subsidy of Housing Development Costs

The City’s total subsidy for the housing development costs is \$21.97 million (not including the \$4.8 million in No Place Like Home state grant funding), or 40.4 percent of the total development costs. This is equal to a per unit City subsidy of \$348,670, or \$1,232 per square foot, as shown in Exhibit 2 below:

Exhibit 2: Unit Costs

Units	63
Residential Square Feet	44,185
Development Cost / Unit	\$863,770
City Subsidy / Unit	\$348,670
Cost per square foot	\$1,232

Source: MOCHD

Operating Sources

According to MOHCD, the Local Operating Subsidy Program (LOSP), which is a locally funded program that subsidizes housing costs for the formerly homeless, will be used to provide subsidies for the 32 units reserved for homeless and formerly homeless transitional age youth. MOHCD will enter into a 15-year LOSP agreement with the project sponsor, totaling approximately \$14.5 million. These households will pay rent sized at 30% of their income. The LOSP agreement will not be subject to Board of Supervisors approval per Chapter 120.4 of the

Administrative Code, which allows MOHCD to enter into LOSP agreements, subject to Board of Supervisors appropriation approval.

Other operating income includes tenant rents for non-LOSP units, which is capped at 30% of the income level for each unit (as noted above, income levels for this project will range from 50% to 65% of area median income). As noted above, the commercial space will receive a below market rate rent of \$1 per year because it will be used as a childcare center for low-income families.

RECOMMENDATION

Approve the proposed resolution.

GROUND LEASE

This Ground Lease (this “**Ground Lease**” or this “**Lease**”) is dated as of April __, 2022 (the “**Agreement Date**”), by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the “**City**” or “**Landlord**”), acting by and through its Real Estate Division and the Mayor's Office of Housing and Community Development (“**MOHCD**”), and OCTAVIA RSU ASSOCIATES, L.P., a California limited partnership, as tenant (“**Tenant**”).

RECITALS

A. The City is the fee owner of the land described in Attachment 1 and the existing improvements located thereon (“**Land**”). The Land is held under MOHCD’s jurisdiction.

B. MOHCD issued a “Octavia Boulevard Parcels RS&U Request for Proposals (“RFP”) that was issued on June 19, 2017, to solicit qualified affordable housing developers for the Land. In response to the RFP, MOHCD selected Tenderloin Neighborhood Development Corporation, a California nonprofit public benefit corporation (“TNDC”) to develop and construct an affordable housing project and lease the Land for the purpose of such new affordable housing. TNDC formed the Tenant for the purpose of undertaking the activities described in the RFP.

C. On January 14, 2022, the Citywide Affordable Housing Loan Committee made a recommendation to approve MOHCD’s financing of Tenant’s plan to develop the Land and construct a sixty-three (63)-unit multifamily rental housing development affordable to low-income households, including thirty-two (32) units for TAY, of which fifteen (15) units will be targeted to residents who qualify under the Homeless Household under No Place Like Home (NPLH) Criteria, and including to construct the commercial shell of a childcare center/commercial space (the “Commercial Space”) (collectively, the “**Project**”).

D. On [_____], 2020, the City and the Tenant entered into that certain Option to Lease Agreement under which City granted the Tenant an option to ground lease the Land (the “**Option**”) that expires on [_____], 2022, including applicable extensions.

E. The Tenant is now exercising its Option to enter into this Ground Lease, under which City agrees to lease the Land to the Tenant to develop and construct the Project. The Tenant will develop and construct the Project to serve the needs of the low income residents and will restrict rents for all units in accordance with the terms described herein.

F. On [_____], 2022, the City's Board of Supervisors and the Mayor approved Resolution No. [_____], authorizing the City to enter into a ground lease with the Tenant to develop and construct the Project on the Land.

G. The City believes that the fulfillment of the terms and conditions of this Ground Lease are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in full accord with the public purposes and provisions of applicable Laws.

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

“Agreement Date” means the date first set forth above.

“Annual Rent” has the meaning set forth in the Section 4.01(a).

“Area Median Income” (or **“AMI”**) means median income as published annually by MOHCD for the City and County of San Francisco, adjusted solely for household size, and derived in part from the income limits and area median income determined by the U.S. Department of Housing and Urban Development for the San Francisco area, but not adjusted for a high housing cost area.

“Change” has the meaning set forth in Section 12.02.

“City” means the City and County of San Francisco, a municipal corporation.

“Commercial Expenses” means all Project Expenses attributable solely to the Commercial Unit and the pro rata share of Project Expenses reasonably allocated to the Commercial Unit.

“Commercial Project Fees” means the developer fee associated with the development of the Commercial Unit in the amount of [\$0.00].

“Commercial Income” means all Project Income attributable solely to the Commercial Unit.

“Commercial Surplus Cash” means Commercial Income minus Commercial Expenses for a given period.

“Commercial Unit” has the meaning set forth in Section 9.01.

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

“Community-Serving Purposes” means a non-residential use that provides a direct benefit to the community in which the Project is located, including, but not limited to, childcare.

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

“Extension Notice” has the meaning set forth in Section 2.03.

“First Lease Payment Year” means the year in which the date the first certificate of occupancy of the Project is issued evidencing completion of construction activities are completed on the Project.

“First Mortgage Lender” means any lender and its successors, assigns, and participants or other entity holding the senior leasehold deed of trust on the Leasehold Estate.

“Ground Lease” means this Ground Lease, as amended from time to time in accordance with the terms herein.

“HUD” means the U.S. Department of Housing and Urban Development.

“Improvements” means all physical improvements to be constructed and/or rehabilitated on the Land, including all structures, fixtures, and other improvements, including but not limited to the Project.

“Land” has the meaning set forth in Recital A.

“Landlord” means the City and County of San Francisco, a municipal corporation.

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

“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 and the last Lease Year will end upon the expiration of the Term.

“Leasehold Estate” means the Tenant’s leasehold estate in the Land created by and pursuant to this Ground Lease.

“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 Land or any portion thereof (as amended, modified, restated, and/or supplemented), that constitutes a lien on the Leasehold Estate and is approved in writing by the City.

“Lender” means any entity holding a Leasehold Mortgage.

“Loan Documents” means those certain loan agreements, notes, deeds of trust, declarations, and any other documents executed and delivered in connection with the construction and permanent financing for the Project.

“LOSP” means the local operating subsidy provided by the City to the Tenant for the operation of the Project, the amount of which is sufficient to permit Tenant to operate the Project with Residential Units for Qualified Households with income levels below those set forth in the MOHCD Declaration of Restrictions.

“LOSP Program” means the program administered by MOHCD that regulates the distribution of LOSP.

“MOHCD” means the Mayor’s Office of Housing and Community Development for the City.

“MOHCD Declaration of Restrictions” means that certain Declaration of Restrictions and Affordable Housing Covenants dated [_____], 2022, executed by Tenant for the benefit of the City, and recorded in the Official Records of San Francisco County.

“MOHCD Loan Agreement” means that certain Amended and Restated Loan Agreement between City and Tenant dated on or about the date hereof, as may be amended from time to time.

“Non-residential Occupant” means any person or entity authorized by the Tenant to occupy a Commercial Unit or other unit for non-residential purposes on the Land, or any portion thereof.

“NPLH Funds Restrictions” means the No Place Like Home program funding requirements summarized in Attachment 7.

“Partnership Agreement” means that certain First Amended and Restated Agreement of Limited Partnership of Tenant dated on or about the date hereof, as may be amended from time to time.

“Partnership Fees” means (i) a combined annual asset management and partnership management fee in the amount of \$25,000 increasing by 3.5% annually, payable to the Tenant’s general partner, and (ii) an annual investor services fee in the amount of \$5,000, without escalation, payable to the Tenant’s Permitted Limited Partner. Partnership Fees do not include Commercial Project Fees.

“Permitted Limited Partner” means MCC Housing LLC, a California limited liability company, and its successors and assigns as approved by the City.

“Permitted Use” has the meaning set forth in Section 9.01.

“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 incidental to the ownership, development, or operation of the Improvements or the Premises, belonging to the Tenant, any Residential Occupant, any Non-residential Occupant, or any subtenant or other occupant of the Premises and/or in which the 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.

“Premises” means the Land and all Improvements.

“Project” is defined in Recital C.

“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 and/or possessory interest taxes, assessments, and liability, fire, and other hazard insurance premiums required under this Agreement or by other lenders providing secured financing for the Project; (b) salaries, wages, and other compensation due and payable to the employees or agents of the 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) required payments of interest, principal, annual servicing fees and other amounts, if any, on any construction or permanent financing secured by the Tenant’s leasehold interest in the Project that has been approved by the City, in order of priority of the financing (so that amounts then due and owing to the senior secured lender providing financing secured by the Land is paid in full first prior to the payment of any amounts due to other secured lenders); (d) annual monitoring fee and all other expenses actually incurred by the 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) annual Base Rent payments; (f) deposits to reserves accounts required to be established under the Loan Documents; (g) the approved annual asset management fees indicated in the Annual Operating Budget and approved by the City (other than expenses paid from any reserve account); (h) any extraordinary expenses as approved in advance by the City. Partnership Fees are not Project Expenses, and (i) [supportive services, including services designed to support formerly homeless youth, including resident engagement, behavioral health services, housing retention, employment training, and life skills that lead to sustained independence and self-sufficiency and also] services to support residents with trauma informed care, harm reduction, and cross system partnerships. Project Expenses does not include Commercial Expenses.

“Project Income” means all revenue, income, receipts, and other consideration in any form received by the Tenant from the operation of the Premises, including, but not limited to, the following: (a) rents, fees, charges, and deposits (other than tenant’s refundable security deposits); (b) Section 8 or other rental subsidy payments received for the Project, supportive services funding (if applicable); (c) price index adjustments and any other rental adjustments to leases or rental agreements; (d) proceeds from vending and laundry room machines; (e) the proceeds of business interruption or similar insurance; (f) 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; (g) reimbursements and other charges paid to Borrower in connection with the Project; and (h) other consideration actually received from the operation of the Project, including non-residential uses of the Land. Project Income does not include interest accruing on any portion of the Funding Amount or tenant’s refundable security deposits. Project Income does not include interest accruing on any portion of the MOHCD Loan, if applicable, or refundable security deposits from Residential Occupants or Non-residential Occupants.

“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 Households” means households whose income does not exceed the maximum permissible annual income level allowed under the MOHCD Declaration of Restrictions, subject to ARTICLE 9 below. For purposes of this Ground Lease, Qualified Households has the same meaning as “Qualified Tenants” in the MOHCD Declaration of Restrictions.

“Residential Occupant” means any residential household authorized by the Tenant to occupy a Residential Unit on the Premises, whether or not a Qualified Household.

“Residential Unit” has the meaning set forth in Section 9.01.

“Residual Receipts” means all Project Income in any given Lease Year remaining after payment of Project Expenses and Partnership Fees. The amount of Residual Receipts will be based on figures contained in audited financial statements.

“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 that 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.

“TCAC” means the California Tax Credit Allocation Committee.

“Tenant” means Octavia RSU Associates, L.P., a California limited partnership, and its successors and assigns (or a Subsequent Owner, where appropriate).

“Term” has the meaning set forth in Section 2.01, as extended pursuant to Section 2.02 or earlier terminated as provided in this Ground Lease.

“Transitional Age Youth” or “TAY” means transitional age youth who (i) are disconnected young people between the ages of eighteen and twenty-four, (ii) need additional supports and opportunities to make a successful transition to adulthood, and (iii) are one or more of the following: (1) parents who are homeless, (2) have had involvement with public systems, (3) have limited educational achievement, or (4) have a disability or other special needs.

ARTICLE 2 TERM

2.01 Term. The term of this Ground Lease will commence upon the Effective Date and will expire 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 under Section 2.03 below, or on the last day of the Term (the “**Initial Termination Date**”), Tenant is granted an option to extend the Term for one twenty-four (24) year period, as provided in this Article. 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 such extension period. Upon Tenant’s written exercise of this option under Section 2.03, the Term will automatically be extended for twenty-four (24) years from the Initial Termination Date for a Term not to exceed ninety-nine (99) years, provided that Tenant is not in default under the terms of this Ground Lease and the Loan Documents beyond any notice, grace, or cure period on the Initial Termination Date.

2.03 Notice of Extension. By no later than one hundred eighty (180) days before the Initial Termination Date, the Tenant may notify the City in writing that it is exercising its option to extend the Term under Section 2.02 above (an “**Extension Notice**”).

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 the expiration or earlier termination of the Term without the City’s written consent will constitute a default by the 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 Premises in the condition required by this Ground Lease will constitute holding over until the conditions of surrender are satisfied.

ARTICLE 3 FINANCIAL ASSURANCE

In accordance with the dates specified in the Schedule of Performance (Attachment 2), the Tenant will submit to the City for approval evidence satisfactory to the City that the 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 Project in accordance with this Ground Lease. City hereby acknowledges that as of the Agreement Date, the Tenant has satisfied this requirement.

ARTICLE 4 RENT

4.01 Annual Rent

4.01(a) Tenant will pay to the City [TBD – 10% of FMV of the Land (unrestricted)] (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 Land 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 prior to the Initial Termination Date 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; provided that the first Base Rent payment will not be due until 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 Residual Receipts is available. Any Base Rent Accrual will be due and payable on the earlier of (i) sale of the Project and Leasehold Estate (but not a refinancing or foreclosure of the Project and Leasehold Estate); 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, up to [TBD – Annual Rent minus Base Rent], 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 Residual Receipts as provided in Section 6.02(g) below and after full repayment of the MOHCD Loan, and any unpaid Residual Rent will not accrue. In the event that in any year Residual Receipts is insufficient to pay the full amount of the Residual Rent, Tenant will certify to the City in writing by [May 15] that available Residual Receipts is insufficient to pay Residual Rent

and Tenant will provide to City any supporting documentation reasonably requested by the 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 the 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. The City covenants and warrants that, during the Term, Tenant and its Residential Occupants and Non-residential Occupants will have, hold, and enjoy peaceful, quiet, and undisputed possession of the Land, leased without hindrance or molestation by or from anyone so long as the Tenant is not in default under this Ground Lease. Landlord represents that it is the fee simple owner of the Land, and as of the Effective Date, all necessary actions for the due authorization, execution, delivery and performance of this Ground Lease by the City have been duly taken. Landlord will not mortgage or otherwise encumber its interest in the Land without the prior written consent of each Lender, Tenant, and Permitted Limited Partner, and any new lease made pursuant to Article 26 below will be prior to any mortgage, deed of trust, or other lien, charge, or encumbrance on the fee interest in the Premises.

ARTICLE 6 TENANT COVENANTS

Tenant covenants and agrees for itself and its successors and assigns that:

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

6.02 Use of Premises 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 Premises to, exclusively and in accordance with, the uses authorized by 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 Premises, 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 Premises, or any part thereof, except to the extent permitted by Law or required by funding source. Tenant will not discriminate against Residential Occupants 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 Premises 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 and Selection Plan. No later than six (6) months before completion of the Project, Tenant will deliver to MOHCD for MOHCD's review and approval an affirmative plan for initial and ongoing marketing of the Residential Units and a written Residential Occupant selection procedure for initial and ongoing renting of the Residential 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 Section 9.01 and in form and substance acceptable to the City. Any Marketing and Tenant Selection Plan must follow the City's marketing requirements for such plans and comply with all federal and state fair housing laws.

6.02(f) Lead-Based Paint. Tenant will 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 Residual Receipts. All annual Project Income, before the calculation of Residual Receipts, will be used to pay Project Expenses, including but not limited to Base Rent, and Partnership Fees. If the Tenant is in compliance with MOHCD's Residual Receipts Policy, as amended from time to time, and all applicable requirements and agreements under this Ground Lease, Tenant will then use any Residual Receipts 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 Residual Receipts to the City; provided, however, if the Project includes a deferred developer fee as approved by City and Tenant is in compliance with the City Loan documents and MOHCD's policies, then fifty percent (50%) of remaining Residual Receipts 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. 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 Residual Receipts may be used by Tenant for any purposes permitted under the Partnership Agreement of Tenant, as it may be amended from time to time.

Notwithstanding the foregoing, Tenant and the City agree that the distribution of Residual Receipts may be modified based on the requirements of any other Lender.

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

Upon written request by the City, Tenant will furnish to the City a list of the persons who are Residential Occupants, 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 5, 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 containing the above-referenced information, the

City will accept such certification in lieu of Attachment 5 as meeting the requirements of this Ground Lease. In addition to such initial and annual list and certification, Tenant will provide the same information and certification to the City regarding each Residential Occupant by no later than twenty (20) business days after such Residential Occupant commences occupancy.

ARTICLE 8 CONDITION OF SITE—“AS IS”

8.01 Tenant acknowledges and agrees that Tenant is familiar with the Land, the Land is being leased and accepted in its “as-is” condition, without any changes 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, independently or through agents of Tenant's choosing, the condition of the Land and the suitability of the Land for Tenant's intended use. Tenant acknowledges and agrees that neither the City nor any of its agents have made, and the City hereby disclaims, any representations or warranties, express or implied, concerning the rentable area of the Land, the physical or environmental condition of the Land, or the present or future suitability of the Land for Tenant's use, or any other matter whatsoever relating to the Land, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose; it being expressly understood that the Land 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 advised that the Land has 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 Land may contain [_____].

8.04 Reserved.

ARTICLE 9 PERMITTED AND PROHIBITED USES

9.01 Permitted Uses and Occupancy Restrictions. The permitted uses of the Project (in each instance, a “**Permitted Use**” and collectively, “**Permitted Uses**”) are limited to the development, construction, and operation of sixty-three (63) units of affordable rental housing for Qualified Households (the “**Residential Units**”), one (1) unit of commercial space (“**Commercial Unit**”), and common areas.

9.01(a) MOHCD Restrictions. Upon the completion of construction of the Project, one hundred percent (100%) of the Residential Units in the Project will be occupied by or available for rental by Residential Occupants certified as Qualified Households, as set forth in MOHCD’s Declaration of Restrictions and any amendments thereto mutually agreed upon by the parties. In addition, thirty-two (32) of the Residential Units will be set aside for TAY households, during the period in which the City’s LOSP Program is in operation and the City provides the LOSP to the Project. 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 such restrictions are required by the applicable Lender.

9.01(b) No Place Like Home Restrictions. The Project will also comply with the NPLH Funds Restrictions on fifteen (15) Residential Units whereby occupancy shall be restricted to households with at least one member who has a serious mental illness and who is homeless, chronically homeless, or at-risk of chronic homelessness, as incorporated into the MOHCD Declaration of Restrictions and the MOHCD Loan Agreement, for no less than 55 years.

9.01(c) Commercial Space. The Commercial Unit may be used for Public Benefit Purposes, Community-Serving Purposes, 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. 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 the City, which consent may be granted, conditioned, or withheld in the sole and absolute discretion of the 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 as necessary for construction of the Improvements;

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

9.02(j) the washing of any vehicles or equipment, except as needed for construction of the Improvements in compliance with all applicable laws; and

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

ARTICLE 10 SUBDIVISION; CONSTRUCTION OF IMPROVEMENTS

10.01 Schedule of Performance. Tenant will undertake and complete all physical construction of the Improvements, as approved by the City, in accordance with the Schedule of Performance attached hereto as Attachment 2.

10.02 Reserved.

10.03 General Requirements and Rights of the 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. The 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 the City is entering into this Ground Lease in its capacity as a property owner with a proprietary interest in the Land 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 the City officials, departments, boards, or commissions having jurisdiction over the Premises. By entering into this Ground Lease, the 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 of the Improvements must be in compliance with the City-approved Construction Documents.

10.05(b) Compliance with Local, State and Federal Laws. The development and construction of the Improvements must be in strict compliance with all applicable Laws. Tenant understands and agrees that Tenant's use of the Premises and the development 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 the 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 Premises or the City's interest therein must first be approved by the 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 the 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 the City. Tenant will submit and the City will approve or disapprove the Construction Documents referred to in this Ground Lease within the times established in the Schedule of Performance attached hereto as Attachment 2, 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 attached hereto as Attachment 2. Failure by the City either to approve or disapprove within the times established in the Schedule of Performance attached hereto as Attachment 2 will entitle Tenant to a day-for-day extension of time for completion of any activities delayed as a direct result of the City's failure to timely approve or disapprove the Construction Documents. The City hereby acknowledges that, as Landlord under this Ground Lease, as of the Agreement Date, the City has approved the Construction Documents for the Project.

10.07 Disapproval of Construction Documents by the 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 the City) no later than the date specified therefor in the Schedule of Performance attached hereto as Attachment 2.

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 development and construction of the Improvements.

10.09 Performance and Payment Bonds. Before commencement of development and construction of the Improvements, Tenant will deliver to the City performance and payment bonds, each for the full value of the cost of development and 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 the 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 ten (10) business days of receipt of change order request. City shall promptly review and approve or disapprove change order requests within [fifteen (15)] business days of a complete submission by Borrower. In the event the City fails to approve or disapprove the change order request within such [fifteen (15)] business 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 development and construction of the Improvements on the Land, and that such development and construction will be completed no later than the dates specified in the Schedule of Performance attached hereto as Attachment 2, 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 development and 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; 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 development and 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 the development and construction of the Improvements in the manner and at the times specified in this Ground Lease.

10.13 Reports. Beginning when the development and construction of the Improvements commences and continuing until completion of the development and 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 development and 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 City issues a Certificate of Completion (as defined in Section 11.01 below), Tenant will permit access to the Land 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 the City believes that emergency access is required. After the City's issuance of a Certificate of Completion, access to the Premises will be governed by ARTICLE 24, below.

10.15 Notice of Completion. Promptly upon completion of the development and 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 forecloses, obtains a deed in lieu of foreclosure, or a Subsequent Owner otherwise realizes on the Premises and undertakes development and construction of the Improvements (“**New Developer**”): (a) the New Developer will not be bound by the provisions of the Schedule of Performance attached hereto as Attachment 2 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) the City and the 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 on the financial and construction conditions then existing.

ARTICLE 11 RESERVED.

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 Premises. Accordingly, it imposes the following control on the Premises: 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 Premises, unless and until the express prior written consent for any change has been requested in writing from the City and received, and, if received, on such terms and conditions as the City may reasonably require. The City will not 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 Land, the Improvements, and/or the density of development that differs materially from that which existed upon the completion of development and 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 below, the City will have 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 ARTICLE 12.

ARTICLE 13 TITLE TO IMPROVEMENTS

The 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 Ground Lease will create a constructive notice of severance of the Improvements from the Land without the necessity of a deed from Lessor to Lessee. The City and Tenant 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. Without limiting the effectiveness of the previous sentence, upon the City’s written request, on 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.

ARTICLE 14 ASSIGNMENT, SUBLEASE, OR OTHER CONVEYANCE

14.01 Assignment, Sublease, or Other Conveyance by Tenant. Tenant will not cause or permit any voluntary transfer, assignment, or encumbrance of its Leasehold Estate or its interest in the Premises or of any ownership interests in Tenant, or lease or permit a sublease on all or any part of the Premises, other than: (a) leases, subleases, or occupancy agreements to Residential Occupants and Non-residential Occupants; or (b) liens and 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 the 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; (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) transfer to Lender(s) or affiliates of Lender(s) through foreclosure or deed in lieu of foreclosure as provided in this Ground Lease; or (h) 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 approved in advance by the City. 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. Tenant will provide any background or supporting documentation that the City may require in assessing Tenant's request for approval. Tenant will submit to the City for review and, comment, and approval all leases to Non-residential Occupants, together with any supporting documentation as the City may request.

14.02 Assignment, Sublease, or Other Conveyance by the City. The parties acknowledge that any sale, assignment, transfer, or conveyance of all or any part of the City's interest in the Land, 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 the purchaser or assignee.

ARTICLE 15 TAXES

Tenant will pay, or cause to be paid, before delinquency to the proper authority, any and all valid taxes, assessments, and similar charges on the Premises that become effective after the Effective Date of this Ground Lease, including all real and personal property taxes, real property transfer taxes, general and special assessments, real property transfer taxes, license fees, permit

fees and all other governmental charges of any kind or nature whatsoever, including without limitation all penalties and interest thereon, levied or assessed on the Premises, on Tenant's Property, the leasehold or subleasehold estate or Tenant's use of the Premises, or any transfer of a leasehold interest or subleasehold interest in the Premises (including but not limited to, any transfer of the leasehold interest in the Premises pursuant to this Lease) whether under Laws in effect at the time this Lease is entered into or that become later effective, and all taxes levied or assessed on the possession, use, or occupancy of the Land. Tenant will not permit any taxes, assessments, or other similar charges to become a defaulted lien on the Premises; provided, however, that in the event any 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 any proceeding Tenant considers reasonably necessary or appropriate, and Tenant may defer the payment so long as the validity or amount 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 from the contest, and if Tenant is unsuccessful in the contest, Tenant will immediately pay, discharge, or cause to be paid or discharged, the tax, assessment, or other similar charge. The City will furnish any information Tenant may reasonably request in connection with a contest, so long as that information is in the City's possession or control or is otherwise available to the public. The City consents to and will reasonably cooperate and assist with Tenant applying for and obtaining any applicable exemptions from taxes, or assessments, or other similar charges levied on the Premises, 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 similar charges levied against the Land 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 of them. The City will not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description whatsoever to the Land or any buildings or improvements now or later located on the Land. 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 the maintenance of any sidewalk and sidewalk area adjacent to the Premises. Tenant 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 later 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 the required permit.

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 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 safe, clean, well-maintained first-class mixed use residential/commercial project located in San Francisco. Tenant will be exclusively responsible, at no cost to the City, for the management and operation of the Premises, including, but not limited to, the Residential Units and Commercial Unit. 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 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 the City, which consent may be withheld in the City's sole and absolute discretion.

ARTICLE 18 LIENS

Tenant will use its best efforts to keep the Land free from any liens arising out of any work performed or materials furnished by itself or its subtenants. If a lien is filed, Tenant will have the right, upon posting of an adequate bond or other security, to contest any lien, and Tenant will satisfy or discharge the lien 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. 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, or, if Tenant contests the lien but does not cause the lien to be satisfied or discharged as required under this Section, then 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. 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 the City. If Tenant believes that the City has materially breached this Ground Lease, Tenant will first notify the City in writing of the purported breach, giving the City ninety (90) days from receipt of such notice to cure the breach. If the City does not cure the breach within the 90-day period, or, if the breach is not reasonably susceptible to cure within that ninety (90) day period, begin to cure within ninety (90) 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 or other similar charges on the Premises or any part thereof before delinquency, or places on the Land 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 or other similar charges not have 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 or Lender, as applicable, 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 will 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;

(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 managing general partner, so long as the Permitted Limited Partner is proceeding diligently to remove the managing general partner in order to effect a cure of the default.

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, and HCD (if applicable). 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.

19.04(d) The City may not exercise its remedies under this Ground Lease for a default by the Tenant unless and until the City has given written notice of any such default, in accordance with the notice provisions of ARTICLE 38, to Tenant and Permitted Limited Partner who have requested notice as set forth below.

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 hereunder.

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

ARTICLE 20 DAMAGE AND DESTRUCTION

20.01 Insured Casualty. If the Premises 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 Premises 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 prior written consent of each Lender, may terminate this Ground Lease within thirty (30) days after 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 Premises, 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, 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 Premises, 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 and each Lenders' prior 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

Premises 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 Land 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 Land 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 all clean up and remove all debris from the Land and adjacent and underlying property and leave the Land 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 Premises, 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 Premises, 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 Premises, this Ground Lease, Tenant’s tenancy, its or their use of the Premises, 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 Premises, 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 Land 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, on 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 THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR

HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

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 that may arise from or in connection with the performance of any work by the Tenant, its agents, representatives, employees or subcontractors and the Tenant's use and occupancy of the Premises.

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 Land 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 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 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 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 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. For construction projects that are unoccupied by Residential Occupants or Non-Residential Occupants, 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 Land 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 the 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 APPLICABLE 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 Land. 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 development and construction of the Improvements on the Land 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 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 its agents.

ARTICLE 24 ENTRY

24.01 The City reserves for itself and its authorized representatives the right to enter the Land 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 Land, 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, remove or alter any portion of the Premises, and alter or remove any of 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 (and encumbrances related to such Leasehold Mortgages or required by Lenders or the Permitted Limited Partner) are permitted to be placed on 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 Project under this Ground Lease and in connection with the operation of the Project; and costs and expenses incurred or to be incurred by Tenant in furtherance of the purposes of this Ground Lease. The City, acting solely in its capacity as landlord under this

Ground Lease and not in its capacity as a Project Lender, acknowledges and accepts Silicon Valley Bank as a Lender, and consents to the Leasehold Mortgage associated with Lender's construction loan to Tenant for the Project.

25.02 Holder Not Obligated to Construct. The holder of any mortgage, deed of trust, or other security interest authorized by Section 25.01 (“**Holder**” or “**Lender**”), including the successors or assigns of the Holder, is not obligated to complete any development and 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 development and 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 Premises or any portion thereof to any uses, or to construct any Improvements on the Land, other than those 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 the 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 the default or breach, the City may, at its option, cure the breach or default during the one hundred ten (110) days after the date that the Lender files a notice of default. If the City undertakes to cure the default or breach, then the City will be entitled to reimbursement from Tenant of all costs and expenses reasonably incurred by the City. The City will also be entitled to a lien on the Leasehold Estate to the extent Tenant does not reimburse the costs and expenses. City's 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 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 consents, and which consent may be conditioned, among other things, on the assumption by the other entity of all obligations of the Tenant under the Leasehold Mortgage.

25.04(b) Notice of Default to City. Tenant will 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 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 the City. Promptly on 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 acknowledges that Silicon Valley Bank is the First Mortgage Lender and is deemed to have given such written notice as First Mortgage Lender and Attachment 3 is not required.

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 and other similar charges, 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) remedy such default; or (b) obtain title to the Leasehold Estate 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). Nothing in this Ground Lease will require any Lender to cure any default by Tenant.

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 will 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. With respect to any Leasehold Mortgage:

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 (provided, however, no such approval will be required in the event of a sale through foreclosure of a Leasehold Mortgage (or deed in lieu of foreclosure)), 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 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 the 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 63 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, including, but not limited to, the MOHCD Declaration of Restrictions;

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) City will forgive any accrued Annual Rent at the time of foreclosure, and it 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 Residential Occupants 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, then the Premises will 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 Tenant under its loan documents have been satisfied:

26.09(a) 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, or modify, supplement, or restate this Ground Lease, without the prior written consent of each Lender (which may not be unreasonably withheld or delayed);

26.09(b) 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 each Lender (which will not be unreasonably withheld or delayed);

26.09(c) if a Lender makes written request to the City for a new ground lease within thirty (30) days after Lender receives written notice of termination of this Ground Lease for any reason (including without limitation by reason of any default by Tenant or by reason of the disaffirmance thereof by a receiver, liquidator or trustee for Tenant or its property), 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, and the tenant under the new lease will have the same right, title and interest in and to the Improvements as Tenant had under the terminated Lease immediately prior to its termination. Nothing herein contained will require any Lender to enter into a new lease pursuant to this Article 26, nor to cure any default of Tenant referred to above. Any new lease made pursuant to this Article 26 will be accompanied by a conveyance of title to the Improvements (free of any mortgage, deed of trust, lien, charge, or encumbrance created by Landlord) and will have a term of years equal to the remaining term of this Ground Lease as of the date of termination, subject to the reversion in favor of Landlord upon expiration or sooner termination of the new lease;

26.09(d) 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 Land, 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 the Improvements on the Premises Land 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 Land 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:

(i) 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, 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 Tenant to vote, participate in, or consent to any bankruptcy, insolvency, receivership, or court proceeding concerning the Leasehold Estate.

26.12 Amendment. From the Effective Date through the 15-year tax credit compliance period, neither ARTICLE 19, nor ARTICLE 20, nor Sections 26.02, 26.03, or 26.06 may be amended without the written consent of Permitted Limited Partner.

26.13 Limitation on Lender Liability. In the event any Lender or any designee of it becomes the Tenant under this Ground Lease or under any new lease obtained pursuant to this Article 26, such Lender or its designee will be personally liable for the obligations of Tenant under this Ground Lease or new lease only to the extent that they arise during the period of time that such Lender or its designee constitutes the actual beneficial holder of the Leasehold Estate. No Lender who acquires title to the Tenant's interest in this Ground Lease will have any obligation or liability beyond its interest as tenant under this Ground Lease, and liability under the indemnification provisions of this Ground Lease will only apply to such Lender for any

covered issues that arise during the time such Lender holds title to the tenant's interest in this Ground Lease.

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 Land is totally taken by condemnation, subject to the prior written consent of each Lender, this Ground Lease will terminate on the date the condemnor has the right to possession of the Land.

27.04 Partial Taking. If any portion of the Premises is taken by condemnation, this Ground Lease will remain in effect, except that Tenant may, with each Lender's written consent, elect to terminate this Ground Lease if, in Tenant's reasonable judgment, the remaining portion of the Premises is rendered unsuitable for Tenant's continued use. 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, subject to the prior written consent of each Lender, this Ground Lease will terminate on the date the condemnor has the right to possession of the Premises 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 Premises 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 Premises taken bears to the total value of the Premises immediately before the date of the taking.

27.06 Restoration of Improvements. If there is a partial taking of the Premises and this Ground Lease remains in full force and effect under Section 27.04, then Tenant may, subject to the terms of the First Mortgage Lender's Leasehold Mortgage, use the proceeds of the taking to accomplish all necessary restoration to the Premises.

27.07 Award and Distribution. Subject to the terms of the First Mortgage Lender's Leasehold Mortgage, any compensation awarded, paid, or received on a total or partial condemnation of the Premises or threat of condemnation of the Premises will belong to and be distributed in the following order:

27.07(a) First, to pay the balance due on any obligations secured by any outstanding Leasehold Mortgages (in the order of priority, so that the obligations secured by First Mortgage Lender's Leasehold Mortgage are paid in full first) 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 Land (including, but not limited to, the value of Tenant's interest in all subleases to occupants of the Land), such value to be determined as it existed immediately preceding the earliest taking or threat of taking of the Premises; 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 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 First Mortgage Lender's Leasehold Mortgage.

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 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 are 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 are 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 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. On the expiration or earlier termination of this Ground Lease, the Improvements 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. On expiration or sooner termination of this Ground Lease, Tenant must surrender the Premises 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 on the expiration or termination of this Ground Lease 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. 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 will comply with the applicable requirements of the Local Business Enterprise Utilization and Non-Discrimination in Contracting Ordinance under Administrative Code Chapter 14B ("LBE Ordinance") and will incorporate such requirements in contracts with any Contractors and Subcontractors.

ARTICLE 31 CITY PREFERENCE PROGRAMS

To the extent permitted by applicable Law, Tenant will 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 approved by the City for the Project.

ARTICLE 32 RESERVED

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.

ARTICLE 35 ENERGY CONSERVATION

Tenant 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 development and 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 Premises. 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 HCD, 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: Octavia RSU Associates, L.P.
c/o Tenderloin Neighborhood Development Corporation
201 Eddy Street
San Francisco, CA 94102
Attention: Chief Executive Officer

With a copy to: Gubb & Barshay LLP
505 14th Street, Suite 450
Oakland, CA 94612
Attention: Sarah C. Perez, Esq.

if to Permitted Limited Partner at:

MCC Housing LLC
c/o Merritt Community Capital Corporation
1970 Broadway, Suite 250
Oakland, California 94612
Attention: President & CEO

With a copy to: Bocarsly Emden Cowan Esmail & Arndt LLP
633 West Fifth Street, 64th Floor
Los Angeles, CA 90071
Attention: Rachel Rosner, Esq.

if 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

if to the First Mortgage Lender at:

[_____]

[_____]

[_____]

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 Land 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 RESERVED

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 Land, 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 will 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 4 ("**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 RESERVED

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 are 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 will 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/lwlh.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 will 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 will open its meetings and records to the public in the manner set forth in Sections 12L.4 and 12L.5 of the Administrative Code. Further, Tenant will 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. 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 will 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, Tenant 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 will 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 will 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 the 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 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 will 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 Land.

50.20(b) Tenant will incorporate by reference the provisions of Chapter 12T in all subleases of a portion or all of the Land, 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 Land, 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 Land and at other workplaces within San Francisco where interviews for job opportunities at the Land occur. The notice will be posted in English, Spanish, Chinese,

and any language spoken by at least 5% of the employees at the Land 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 will 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 will 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 will 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 Possessory Interest Reporting.

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) 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 50.24 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 Contractor Vaccination Policy. Tenant shall comply with the requirements of the 38th Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency (“**Emergency Declaration**”), dated February 25, 2020, and the Contractor Vaccination Policy for City Contractors issued by the City Administrator (“**Contractor Vaccination Policy**”), as those documents may be amended from time to time. The requirements stated in the Emergency Declaration and Contractor Vaccination Policy are material terms and conditions of this Agreement, which include but are not limited to, the following:

50.27(a) Tenant shall identify its Covered Employees who are or will be performing Work or Services under this Agreement, and shall inform them of the COVID-19 vaccination requirements stated in the City’s Contractor Vaccination Policy and the Emergency Declaration.

50.27(b) Tenant shall maintain a list of its Covered Employees by name and position, which list shall not include the employees’ vaccination status. Tenant shall update the list as needed to show all current Covered Employees, and Tenant shall provide that list to the City on request.

50.27(c) Tenant shall be responsible for determining the vaccination status of any Covered Employees working for their subcontractors under this Agreement. Tenant shall ensure that its covered subcontractors submit required information to the Tenant respecting their compliance with the Contractor Vaccination Policy.

50.27(d) Tenant previously submitted to the City the Attestation Form confirming its compliance with the Contractor Vaccination Policy, including Attachment A thereto respecting any medical or religious vaccination exemptions granted to their Covered Employees. Tenant will submit an updated Attachment A if Tenant assigns a new Covered Employee to work on the contract who is eligible for an exemption under the Vaccination Policy.

50.27(e) Tenant shall coordinate with the City to confirm that the City can safely accommodate at its worksite any Covered Employee for whom the Tenant has granted a medical or religious vaccination exemption, which may include ensuring that exempt employees who are accommodated comply with any required health and safety protocols.

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 Land.

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 Land, (b) increasing the Term, (c) increasing the Rent, (d) changing the general use of the Land 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 of Leasehold Mortgage
4. Memorandum of Ground Lease
5. Form of Income Certification Form
6. Reserved.
7. NPLH Funds Restrictions

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:

OCTAVIA RSU ASSOCIATES, L.P.,
a California limited partnership

By: Octavia RSU GP LLC,
a California limited liability company,
its general partner

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

By: _____
Maurilio Leon
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:

DAVID CHIU
City Attorney

By: _____
Deputy City Attorney

ATTACHMENT 1

LEGAL DESCRIPTION OF THE LAND

[Attached.]

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

Parcel Map 10527, which Map recorded December 30, 2021 in [Book 52 of Parcel Maps, Pages 31-34](#), inclusive, San Francisco County Records.

Assessor's Lot 032 (formerly Lot 021), Block 0853

ATTACHMENT 2

SCHEDULE OF PERFORMANCE

[Attached.]

ATTACHMENT 3

CITY CONSENT OF 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: 78 Haight Street, San Francisco (LEASEHOLD MORTGAGE)

Dear Sir or Madam:

Under Section 25.01 of the Ground Lease, dated _____, 2022, between the City and County of San Francisco ("City") and Octavia RSU 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,

OCTAVIA RSU ASSOCIATES, L.P.,
a California limited partnership

By: Octavia RSU GP LLC.
a California limited liability company
its general partner

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

By: _____

Name: _____

Title: _____

enc.

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 _____, 2022.

Mayor's Office of Housing and Community Development

Director

ATTACHMENT 4

MEMORANDUM OF GROUND 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

MEMORANDUM OF GROUND LEASE

This Memorandum of Ground Lease (“**Memorandum**”) is entered into as of _____, 2022, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the “**City**”), acting by and through its Real Estate Division and the Mayor's Office of Housing and Community Development, and OCTAVIA RSU ASSOCIATES, L.P., a California limited partnership, as tenant (“**Tenant**”), with respect to that certain Ground Lease (the “**Lease**”) dated _____, 2022, between the 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 seventy-five (75) years from the date set forth above, subject to a twenty-four (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.

The Lease contains the following restrictions under the No Place Like Home Program: The Project will comply with the NPLH Funds Restrictions (as defined in the Lease) on fifteen (15) Residential Units (as defined in the Lease) whereby occupancy will be restricted to households with at least one member who has a serious mental illness and who is homeless, chronically homeless, or at-risk of chronic homelessness, as incorporated into the MOHCD Declaration of Restrictions (as defined in the Lease) and the MOHCD Loan Agreement (as defined in the Lease), for no less than 55 years.

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.

Notwithstanding any statement on the face of this Memorandum or on any attachment to the Memorandum of the amount of documentary transfer tax due in connection with the Lease, City's signature on this Memorandum does not constitute the City Assessor Recorder's agreement that the real property transfer tax due is that amount.

Executed as of _____, 20__ in San Francisco, California.

TENANT:

OCTAVIA RSU ASSOCIATES, L.P.,
a California limited partnership

By: Octavia RSU GP LLC,
a California limited liability company,
its general partner

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

By: _____
Maurilio Leon
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:

DAVID CHIU, City Attorney

By: _____
Deputy City Attorney

ATTACHMENT 5

FORM OF TENANT INCOME CERTIFICATION

[Attached.]

ATTACHMENT 6

Reserved.

ATTACHMENT 7

NPLH Funds Restrictions

[Attached.]

**AMENDED AND RESTATED LOAN AGREEMENT
(CITY AND COUNTY OF SAN FRANCISCO
AFFORDABLE HOUSING FUND: INCLUSIONARY AFFORDABLE HOUSING
PROGRAM, AFFORDABLE HOUSING FUND: INCLUSIONARY MARKET AND
OCTAVIA PROGRAM, 2019 GENERAL OBLIGATION BOND FOR AFFORDABLE
HOUSING, NO PLACE LIKE HOME (NPLH), EDUCATION REVENUE
AUGMENTATION HOUSING FUND)**

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

OCTAVIA RSU ASSOCIATES, L.P.,
A California limited partnership

for

78 HAIGHT
78 Haight Street, San Francisco, CA
[\$26,746,467]

[AHF INCLUSIONARY FUND: \$5,466,228]
[AHF INCLUSIONARY MARKET AND OCTAVIA FUND: \$10,500,000]
[2019 GO BOND: \$4,000,000]
[NO PLACE LIKE HOME: \$4,780,239]
[ERAF HOUSING FUND: \$2,000,000]

Dated as of _____, 2022

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* * * * *

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AMENDED AND RESTATED LOAN AGREEMENT

(City and County of San Francisco

Affordable Housing Fund: Inclusionary Affordable Housing Program, Affordable Housing Fund: Market and Octavia Program, 2019 General Obligation Bond for Affordable Housing, No Place Like Home, ERAF Housing Fund)
(78 Haight)

This **AMENDED AND RESTATED LOAN AGREEMENT** (“Agreement”) is entered into as of [_____], 2022 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 **OCTAVIA RSU ASSOCIATES, L.P.**, a California limited partnership (“Borrower”).

RECITALS

A. 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 impact Affordable Housing Fees (“Inclusionary Fees”) paid by housing developers to satisfy requirements of the Inclusionary Affordable Housing Program. The City may use the Inclusionary Fees received by the Citywide Affordable Housing Fund (the “AHF Inclusionary Fund”) to finance housing affordable to qualifying households. MOHCD administers the AHF Inclusionary Fund pursuant to Section 10.100-49 of the San Francisco Administrative Code and enforces agreements relating to them.

B. Pursuant to Sections 416.1, *et seq.* of the San Francisco Planning Code, the Citywide Affordable Housing Fund receives affordable housing fees from sponsors of certain residential developments in the Market and Octavia Program Area (“Market-Octavia Fees”). The City may use the Market-Octavia Fees received by the Citywide Affordable Housing Fund (the “AHF Inclusionary Market and Octavia Fund”) to finance housing affordable to qualifying households according to the priorities set forth in Section 416.5 of the San Francisco Planning Code. MOHCD administers the AHF Inclusionary Market and Octavia Fund pursuant to Section 10.100-49 of the San Francisco Administrative Code and enforces agreements relating to them.

C. On November 5, 2019, the voters of the City and County of San Francisco approved Proposition A (Ordinance 168-19), which provided for the issuance of up to \$600 million in general obligation bonds to finance the construction, acquisition, improvement, rehabilitation, preservation and repair of certain affordable housing improvements (the “2019 GO Bond”). To the extent permitted by law, the City intends to reimburse with proceeds of the Bond amounts disbursed under this Agreement to Borrower for the development and construction of affordable housing.

D. On November 19, 2019, through Resolution 511-19, the San Francisco Board of Supervisors authorized and delegated authority to the Mayor’s Office of Housing and Community Development to accept and expend the county competitive allocation award in the amount up to \$36,501,108 under the California Department of Housing and Community Development’s No Place Like Home Program which provides funding for counties to develop

multifamily housing specifically for persons with serious mental illness who are homeless, chronically homeless, or at-risk of chronic homelessness to households earning up to thirty percent (30%) of the Median Income as determined by the No Place Like Home regulations adjusted for household size. The City is authorized by this resolution to provide the funds under this Agreement (the “NPLH Funds”) to Borrower for the development of affordable permanent supportive housing.

E. 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 Housing Fund”). MOHCD administers the ERAF Housing 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 Housing Fund under this Agreement to Borrower for the development of affordable housing. The funds provided from the AHF Inclusionary Fund, AHF Inclusionary Market and Octavia Fund, 2019 GO Bond, NPLH Funds, and ERAF Housing Fund under this Agreement are collectively referred herein as the “Funds.”

F. Borrower intends to acquire a leasehold interest in the real property located at 78 Haight Street, San Francisco, California (the “Land”) under a Ground Lease dated as of [_____], 2022 by and between City and Borrower (“Ground Lease”). Borrower desires to use the Funds to construct a sixty-three (63)-unit multifamily rental housing development (the “Improvements”) affordable to low-income households, including thirty-two (32) units for TAY, of which fifteen (15) units will be targeted to residents who qualify under the Homeless Household under No Place Like Home (NPLH) Criteria, and including the construction of the commercial shell of a childcare center (the “Commercial Space”), collectively which will be known as 78 Haight (the “Project”). If the context requires, the term “Improvements” will include the Commercial Space. The maximum income and rent requirements set forth in Exhibit A will remain in effect even if the Local Operating Subsidy is no longer available to the Project.

G. Borrower previously secured prior loans from City in connection with the Site as described below, pursuant to that certain Loan Agreement dated as of January 10, 2020 (“Original Agreement”):

1. AHF Inclusionary Fund loan made in the amount of Six Hundred Forty Five Thousand and No/100 Dollars (\$600,250.00); and
2. ERAF Housing Fund loan in the amount of Two Million and No/100 Dollars (\$2,000,000.00).

H. The Citywide Affordable Housing Loan Committee has reviewed Borrower’s application for Funds and, in reliance on the accuracy of the statements in that application, has recommended to the Mayor that the City make a loan of Funds to Borrower (the “Loan”) in the amount of [Twenty Six Million Seven Hundred Forty Six Thousand Four Hundred Sixty Seven

and No/100 Dollars (\$26,746,467)] (the “Funding Amount”) under this Agreement to fund certain costs related to the Project. The Funding Amount is comprised of (i) AHF Inclusionary Fund in the amount of [Five Million Four Hundred Sixty Six Thousand Two Hundred Twenty Eight and No/100 Dollars (\$5,466,228.00)], (ii) AHF Inclusionary Market and Octavia Fund in the amount of [Ten Million Five Hundred Thousand and 00/100 (\$10,500,000.00)], (iii) 2019 GO Bond in the amount of [Four Million and No/100 Dollars (\$4,000,000)], (iv) NPLH Funds in the amount of [Four Million Seven Hundred Eighty Thousand Two Hundred Thirty Nine and No/100 Dollars (\$4,780,239)], and (v) ERAF Housing Fund in the amount of [Two Million and No/100 Dollars (\$2,000,000)].

I. Borrower has secured the following additional financing for the Project:

1. a construction loan from Silicon Valley Bank to Borrower in the amount of [Seventeen Million Nine Hundred Fifty Nine Thousand Four and No/100 Dollars (\$17,959,004.00)], pursuant to a loan agreement dated as of the date hereof;

2. federal and 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 October 20, 2021 and a Carryover Allocation dated December 2, 2021; and

3. an equity contribution from Borrower in the amount of [One Hundred and No/100 Dollars (\$100.00)].

J. On the Agreement Date, this Agreement will amend, restate, supersede and replace the Original Agreement. Concurrently herewith, Borrower will also (i) execute an amended and restated promissory note in the original principal amount of \$[21,966,228.00] in favor of the City to supersede and replace the original note to evidence the Loan, (ii) execute a new promissory note in the original principal amount of \$[4,780,239.00] to evidence the portion of the Loan funded with NPLH Funds, (iii) execute and record a deed of trust to secure such notes, and (v) execute and record a new declaration of restriction. As of the Agreement Date, the City will cancel and return the original note.

K. On [_____], 2022, the City’s Board of Supervisors and the Mayor approved this Agreement by Resolution No. [_____] for the purpose of developing the Project.

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 will be maintained in accordance with **Section 2.3.**

“Agreement” means this Amended and Restated Loan Agreement.

“Agreement Date” means the date first written 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 \$[945,000] 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.

“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 forth 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 Octavia RSU Associates, L.P., a California limited partnership whose general partner is Octavia RSU GP LLC, a California limited liability company (“General Partner”), and its authorized successors and assigns.

“Capitalized Operating Subsidy Reserve” has the meaning set forth in Section 12.3.

“Cash Out Policy” means the MOHCD Cash Out Acquisition/Rehabilitation, Resyndication, And Refinancing Policy dated June 19, 2020, as it may be amended from time to time.

“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.

“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 Notes, the Deed of Trust, the Declaration of Restrictions, and any other documents executed or, delivered in connection with this Agreement.

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

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

“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**.

“Control of the Site” means Borrower’s execution of the Ground Lease by Borrower and the City.

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

“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.

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

“Developer” means Tenderloin Neighborhood Development Corporation, a California nonprofit public benefit corporation, and its authorized successors and assigns.

“Developer Fee Policy” means the MOHCD Policy on Development Fees for Tax Credit Projects dated October 16, 2020, as amended from time to time, attached hereto as Exhibit J.

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

“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**.

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

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

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

“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 Octavia RSU GP LLC, a California limited liability company, whose manager is Tenderloin Neighborhood Development Corporation.

“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 F**.

“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.

“HCD” means the California State Department of Housing and Community Development.

“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.

“Homeless Household” means a household that meets the referring agency’s definition of Homeless Household for initial occupancy and upon available vacancies thereafter, as per the Local Operating Subsidy contract.

“Homeless Household under No Place Like Home (NPLH) Criteria” means specialized homeless targeting to meet the requirements of the No Place Like Home funding source for fifteen (15) TAY units. Occupancy of all NPLH assisted units shall be restricted to households with at least one member who qualifies as a member of the target population pursuant to the NPLH requirements. The NPLH target population includes adults or older adults with a serious mental disorder who are homeless, chronically homeless, or at-risk of chronic homelessness. This includes persons with co-occurring mental and physical disabilities or co-occurring mental and substance use disorders as defined under the California Welfare and Institutions Code Sections 5600.3(a) and 5600.3(b).

“HSH” means the San Francisco Department of Homelessness and Supportive Housing, or other 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” has the meaning set forth in **Recital F**.

“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 construction 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.

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

“Laws” means all statutes, laws, ordinances, regulations, orders, writs, judgments, injunctions, decrees or awards of the United States or any state, county, municipality or Governmental Agency.

“Life of the Project” means the period of time in 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 MCC Housing LLC, a California limited liability company, and its permitted successors and assigns.

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

“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.”

“Median Income as determined by NPLH regulations” means Area Median Income limit as published by the State Department of Housing and Community which pertain to the No Place Like Home units (from Section 303 (a) of NPLH Program Guidelines); which are the most recent applicable county median family income published by the California Tax Credit Allocation Committee (TCAC) or HCD.

“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**.

“NPLH” means the No Place Like Home program funding with requirements summarized in Exhibit Q.

“Notes” means the two promissory notes executed by Borrower in favor of the City, in form and substance acceptable to City: (1) Note A in the original principal amount of [Twenty One Million Nine Hundred Sixty Six Thousand Two Hundred Twenty Eight and No/100 Dollars (\$21,966,228.00)]; and (2) Note B in the original principal amount of [Four Million Seven Hundred Eighty Thousand Two Hundred Thirty Nine and No/100 Dollars (\$4,780,239.00)].

“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 construction of the Project, as determined by the City in its sole discretion.

“Partnership Agreement” means the First Amended and Restated Agreement of Limited Partnership of the Borrower dated as of [March 1], 2022, as amended from time to time.

“Partnership Fees” means annual partnership management fees in the amount of \$[25,000] (plus the increase shown in the Annual Operating Budget and approved by the City) approved by the City and (ii) annual investor services fees in the amount of \$[5,000], without escalation, payable to the Limited Partner.

“Payment Date” means the first [May 1st] following the Completion Date and each succeeding [May 1st] 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 October 19, 2020, 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 F**. 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) required deposits to the Replacement Reserve Account, Operating Reserve Account and any other reserve account required under this Agreement; (f) the approved annual asset management fees indicated in the Annual Operating Budget and approved by the City; and (g) any extraordinary expenses approved in advance by the City (other than expenses paid from any reserve account); and (h) Supportive Services. Partnership Fees are not Project Expenses.

“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. For the avoidance of any doubt, the term “Qualified Tenant” under this Agreement has the same meaning as the term “Qualified Household” under the Ground Lease.

“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 Partnership Fees. The amount of Residual Receipts will be based on figures contained in audited financial statements.

“Residual Receipts Policy” means the Mayor’s Office of Housing and Community Development Residual Receipts Policy effective April 1, 2016, as amended from time to time, attached hereto as Exhibit P.

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

“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 real property described in **Recital F** of this Agreement.

“Site” means the Land and the Improvements.

“Supportive Services” means services designed to support formerly homeless youth, including resident engagement, behavioral health services, housing retention, employment training, and life skills that lead to sustained independence and self-sufficiency and also services to support residents with trauma informed care, harm reduction, and cross system partnerships, see also **Section 3.9**.

“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.

“Transitional Age Youth” or “TAY” means transitional age youth who (i) are disconnected young people between the ages of eighteen and twenty-four, (ii) need additional supports and opportunities to make a successful transition to adulthood, and (iii) are one or more of the following: (1) parents who are homeless, (2) have had involvement with public systems, (3) have limited educational achievement, or (4) have a disability or other special needs.

“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**.

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 will 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 will be construed as a whole according to its fair meaning.

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 demolition of existing improvements on the site and construction of sixty-three (63) Units, including thirty-two (32) Units for TAY, of which fifteen (15) Units will be targeted to residents who qualify under the Homeless Household under No Place Like Home (NPLH) Criteria, and the Commercial Space. The Funding Amount will be disbursed according to the terms and subject to the conditions set forth in this Agreement.

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 will not approve expenditure of Funds for expenses incurred by Borrower prior to the Agreement Date. Notwithstanding the foregoing, City will not approve any expenditure of 2019 GO Bond Funds for expenses incurred by Borrower earlier than sixty (60) days prior to the City's declaration of its official intent to reimburse such expenses with proceeds of the 2019 GO Bond.

2.3 Accounts; Interest. Each Account to be maintained by Borrower under this Agreement will 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, Borrower will use any interest earned on funds in any Account for the benefit of the Project.

2.4 Records. Borrower will 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 will 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 Loan Conditions.

- Borrower will repay the Loan with the amount of the COSR 2 (as defined below) unless it is needed for another purpose, which will require MOHCD review and approval.
- Borrower must provide additional information on the commercial space tenant improvement budget prior to construction loan closing, alongside warm shell assumptions for MOHCD staff to verify that it meets the Commercial Space Underwriting Guidelines.
- Borrower must provide MOHCD with detailed monthly updates via the MOH Monthly Project Update until start of construction, including on:
 - Status of neighbor negotiations
 - Outcomes achieved related to racial equity goals, and
 - Commercial-use space development
- Borrower must provide initial draft marketing plan within 12 months of anticipated TCO, outlining the affirmative steps they will take to market the project to the City's preference program participants, including COP Holders, Displaced Tenants, and Neighborhood Residents, as well as how the marketing is consistent with the Mayor's Racial Equity statement and promotion of positive outcomes for African American San Franciscans.
- Borrower must provide quarterly updated response to any letters requesting corrective action.
- Borrower must submit an updated 1st year operating budget and 20-year cash flow – if any changes have occurred – by November 1st before the fiscal year the project will achieve TCO so that MOHCD may request the LOSP subsidy (anticipated to be needed by November 2022).
- Borrower to work with MOHCD and HSH to plan the lease up process for the referrals from Coordinated Entry.

2.6 AHP Loan. Borrower will apply for an AHP loan for permanent financing of the Project to the Federal Home Loan Bank of San Francisco in 2022. If Borrower's application for the AHP loan is denied, Borrower will continue to apply for an AHP loan to the Federal Home Loan Bank of San Francisco until Borrower is no longer eligible for AHP funding. If awarded AHP funds, and subject to any requirements of the San Francisco Federal Home Loan Bank Affordable Housing Program, Borrower will use the AHP loan to repay the AHP Bridge Loan, or any portion thereof, as set forth in Article 3. Borrower will submit to MOHCD a preliminary AHP application with a self-score prior to submission to the Federal Home Loan Bank.

ARTICLE 3 TERMS. Borrower's repayment obligations with respect to the Funding Amount will be evidenced and governed by the Notes, which will govern in the event of any conflicting provision in this Agreement.

3.1 Maturity Date. Borrower will 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 (the "Maturity Date").

3.2 Compliance Term; Declaration of Restrictions. Borrower will 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 continuing for the Life of the Project (the "Compliance Term"), even if the Loan is repaid or otherwise satisfied or the Deed of Trust is reconveyed before the end of the Compliance Term.

3.3 Interest. The outstanding principal balance of the Loan will bear simple interest as provided in the Notes.

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 Notes, 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 Sections 3.5.1, 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 Notes. Except as set forth in the Notes, no prepayment of the Loan will be permitted without the prior written consent of the City in its sole and absolute discretion.

3.5.1 Notification and Repayment of AHP Bridge Loan. If Borrower is awarded AHP funding, Borrower will deliver to the City a copy of the award notice of such AHP funding award no later than ten (10) days of receiving written notice, unless the City has received such written notice prior to the Agreement Date. Borrower will repay the AHP Bridge Loan to the City within one hundred twenty (120) days of the later of (i) the date the Deed of Trust is

recorded in the Official Records, or (ii) the date the Borrower closes the loan for AHP funding and the AHP funds are disbursed to Borrower; provided, however, that if Borrower is not awarded 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 will be due and payable at the Maturity Date according to the terms set forth in full in the Notes.

3.6 Changes In Funding Streams. The City’s agreement to make the Loan on the terms set forth in this Agreement and the Notes 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 Continuum of Care, Section 8 or similar programs.

3.7 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 will 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 will 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.

4.3 Conditions Precedent to Closing. The City will authorize the close of the Loan only upon satisfaction of all conditions precedent in this Section as follows:

(a) Borrower will 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 Notes; (ii) this Agreement (in duplicate); (iii) the Deed of Trust; (iv) the Declaration of Restrictions; (v) the Opinion; (vi) the Authorizing Resolutions; (vii) the Developer Fee Agreement; (viii) subordination, nondisturbance and attornment agreements from each commercial tenant in possession, or holding any right of possession, of any portion of the Site; and (ix) any other City Documents reasonably requested by the City.

(b) Borrower will have delivered to the City: (i) Borrower's Charter Documents; (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; and (iii) a CNA that has been duly approved by Borrower's governing body, submission of which may be delayed up to three years from the date of project completion. The Charter Documents will 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.

(c) Borrower will have delivered to the City evidence of all insurance policies and endorsements required under Exhibit L of this Agreement and, if requested by the City, copies of such policies.

(d) Borrower will 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.

(e) Borrower will 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 will have delivered to the City 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 Escrow Agent will have received and is prepared to record the Declaration of Restrictions and Deed of Trust as valid liens in the Official Records, subject only to the Permitted Exceptions.

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

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 conditions precedent under this Section as follows:

(a) Borrower will 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, Borrower will obtain the City's prior written approval for 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 will have certified to the City that the Project complies with the labor standards set forth in **Section 5.1**, if applicable.

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

(i) Lodging, meals and incidental expenses will 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 will use fares for coach-class accommodations, provided that purchases for air travel will 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 will not exceed Fifty Dollars (\$50.00) each way. Other ground transportation expenses will not exceed then-current San Francisco taxi rates found at: <https://www.sfmta.com/getting-around/taxi/taxi-rates>. Ground transportation will 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 will not exceed Fifty Dollars (\$50.00) without prior written approval of the City.

(v) Any Expenditure Request for travel expenses will 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" will have the same meanings defined in 41 CFR Part 300-3; the term "coach-class" will 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 will 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 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. A list of Early Release of Retention Contractors is set forth in Exhibit R.

(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 Labor Requirements. Borrower's procurement procedures, contracts, and subcontracts will comply, and where applicable, require its contractors and subcontractors to comply, with the applicable labor requirements under Exhibit E of this Agreement, including, but not limited to, the selection of all contractors and professional consultants for the Project and payment of prevailing wage.

5.2 Plans and Specifications. Before starting any demolition, rehabilitation or construction on the Site, Borrower will deliver to the City, and the City will 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 will 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 will be explicitly identified in the Construction Contract. The specifications approved by the City, including the funder requirements and the technical specifications (the "Approved Specifications") will also be

explicitly identified in the Construction Contract. The Construction Contract may include funder requirements not otherwise addressed in the Approved Specifications. After completion of the Project, Borrower will retain the Approved Plans as well as “as-built” plans for the Project, the Approved Specifications and the Construction Contract, all of which Borrower will 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 will 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 will 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 will deliver to the City insurance endorsements and bonds as described in Exhibit L. At all times, Borrower will 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 will: (a) commence demolition, rehabilitation or construction by a date no later than [April 1, 2022]; (b) complete demolition, rehabilitation or construction by a date no later than [August 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 1, 2023].

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

ARTICLE 6 MARKETING.

6.1 Marketing and Tenant Selection Plan. No later than six (6) months before the Completion Date, Borrower will 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 will obtain the City’s approval of reasonable alterations to the Marketing and Tenant Selection Plan. Borrower will 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 will 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 will include as many of the following elements as are appropriate to the Project, as determined by the City: income restrictions, TAY requirements for the TAY units, and No Place Like Home (NPLH) population targeting requirements.

(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 will 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 will 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 will only be implemented if there are no qualified applicants interested or available from the Waiting List.

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

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

6.4 Marketing Records. Borrower will 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 will 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 will limit the number of refusals without cause as approved by the City. Borrower will at all times maintain the Waiting List. Upon the vacancy of any Unit, Borrower will first attempt to select the new Tenant for such Unit from the Waiting List, and will only market the Unit to the general public after determining that no applicants from the Waiting List qualify for such Unit. The Waiting List will 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 at all times to households certified as Qualified Tenants at initial occupancy, as set forth in Exhibit A. In addition, thirty-two (32) Units will be rented to transitional age youth (TAY), 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, of which fifteen (15) Units will be targeted to residents who qualify under the Homeless Household under No Place Like Home (NPLH) Criteria.

(b) A Tenant who is a Qualified Tenant at initial occupancy will 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 will be rented only to Qualified Tenants as provided in this **Article 7**.

7.3 Rent Restrictions.

(a) 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 will 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)**.

(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 will 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 will 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) Borrower will require each Qualified Tenant in the Project to recertify to Borrower on an annual basis the Qualified Tenant's household income and in accordance with applicable tax credit requirements.

(c) Income certifications with respect to each Qualified Tenant who resides in a Unit or resided therein during the immediately preceding calendar year will be maintained on file at Borrower's principal office, and Borrower will 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 will provide for termination of the lease and consent to immediate eviction for failure to: (i) qualify as a Qualified Tenant if the Tenant has made any material misrepresentation in the initial income certification, or (ii) submit to Borrower an annual recertification of income. The initial term of the lease will be for a period of not less than one (1) year. Borrower will not terminate the tenancy or refuse to renew any lease of a Unit except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Laws or other good cause. Any termination or refusal to renew the lease for a Unit will be preceded by not less than thirty (30) days' written notice to the Tenant specifying the grounds for the action.

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. Borrower will segregate any security

deposits collected 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 will 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, Borrower will obtain MOHCD's review and approval of proposed leases and development plans for the Commercial Space. All leases of Commercial Space will be to bona fide third-party tenants capable of performing their financial obligations under their leases, which will 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 will be consistent with all applicable local planning and building codes and be reasonably compatible with the design and purpose of the Project. Each lease of Commercial Space will restrict its use to Public Benefit Purposes or all Surplus Cash generated as a result of a market-rate lease of the Commercial Space will be directed toward repayment of the Loan or used for a Public Benefit Purpose. All surplus cash will be subject to the MOHCD Policy on the Use of Residual Receipts. Each lease of Commercial Space will comply with the MOHCD Commercial Underwriting Guidelines as set forth in Exhibit O herein.

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 will 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.

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 will 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 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 will 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 will 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 will 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 will 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 will maintain records of all income, expenditures, assets, liabilities, contracts, operations, tenant eligibility and condition of the Project. All financial reports will be prepared and maintained in accordance with GAAP as in effect at the time of performance.

(c) Borrower will 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 will 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 will be submitted by email in substantially the form requested by MOHCD until such time as the Project Completion Report is submitted to the City pursuant to **Section 10.5** below.

10.3 Annual Reporting. From and after the Completion Date, Borrower will 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, Partnership 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 will be in substantially the form attached as Exhibit G or as later modified during the Compliance Term.

10.4 Capital Needs Assessment. In accordance with the CNA Policy, Borrower will 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 will 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 will 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 compliance with the applicable requirements under **Section 5.1** of this Agreement, including the type of work and the dollar value of such work; and

(c) 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.

10.6 Response to Inquiries. At the request of the City, its agents, employees or attorneys, Borrower will 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 will 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 will 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 will 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 will 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 Partnership 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 will 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 will 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 Completion Date, or any other date the City designates in writing, Borrower will 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 will 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 will equal the lesser of: (i) 1/12th of 0.6% of Replacement Cost; or (ii) 1/12th of the following amount: \$[400 per unit per year].

After the Project’s first five (5) years of operation, Borrower may request adjustments every five (5) years based on its most recently approved CNA.

(c) 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.

12.2 Operating Reserve Account.

(a) Commencing no later than sixty (60) days after the Completion Date, or any other date the City designates in writing, Borrower will 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 will make additional deposits, 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.

12.3 Other Reserve Requirements. In addition to the reserve requirements set forth above, no later than [(sixty (60) days after the Completion Date], or any other date the City designates in writing, Borrower will also establish or cause to be established a segregated, interest-bearing capitalized operating subsidy reserve depository account (the “Capitalized Operating Subsidy Reserve”) by depositing funds in an amount equal to:

(a) \$[3,287,392] to ensure feasible operations for [eighteen (18)] years to achieve 9% tax credit affordability requirements (“COSR 1”); and

(b) \$[1,494,417] (“COSR 2”). Borrower may withdraw funds from the COSR 2 solely to repay the Loan. Borrower will not withdraw funds (including any accrued interest) from the COSR 2 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 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. 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 Notes.

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 will 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 will 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. The City has approved the payment of development fees to the Developer in an amount not to exceed [Two Million Two Hundred Thousand and No/100 Dollars (\$2,200,000.00)] for developing the Project (“Developer Fees”), subject to the Developer Fee Policy and the terms and conditions set forth in full in the Developer Fee Agreement between the City and Developer.

15.2 Fee Payment Schedule. Developer will receive payment of the Developer Fees pursuant to Section 2(b) of the Developer Fee Agreement.

ARTICLE 16 TRANSFERS.

16.1 Permitted Transfers/Consent. Borrower will 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; 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 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; or (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 approved in advance by the City. Any other transfer, assignment, encumbrance or lease without the City’s prior written consent will be voidable and, at the City’s election, constitute an Event of Default under this Agreement. The City’s consent to any specific assignment, encumbrance, lease or other transfer will not constitute its consent to any subsequent transfer or a waiver of any of the City’s rights under this Agreement.

ARTICLE 17 INSURANCE AND BONDS; INDEMNITY.

17.1 Borrower's Insurance. Subject to approval by the City's Risk Manager of the insurers and policy forms, Borrower will procure and keep in effect, and cause its contractors and subcontractors to obtain and maintain at all times during any work or construction activities on the Property, the 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 will 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) from and after the date Borrower acquires Control of the Site, 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) from and after the date Borrower acquires Control of the Site, 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 (from and after the date Borrower acquires Control of 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, from and after the date Borrower acquires Control of the Site, 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 from and after the date Borrower acquires Control of the Site and 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 will 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 will 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 will 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 and Site Mitigation Plan] 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 will: (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; *provided further* that prior to the date Borrower acquires Control of the Site, compliance under 18.2(a) will apply to activities of Borrower or Borrower's agents, employees, contractors and invitees in connection with the Site and the Project, including any activities conducted under the License Agreement, 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; 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 Notes, together with default interest as provided in the Notes and any other charges due under the Notes 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 Notes, together with default interest as provided in the Notes and any other charges due under the Notes 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 Notes, even if it causes the principal balance to exceed the face amount of the Notes, unless Borrower reimburses the City within ten (10) days of the City's demand for reimbursement.

19.3 Force Majeure. The occurrence of any of the following events will excuse performance of any obligations of the City or Borrower rendered impossible to perform while the event continues: strikes; lockouts; labor disputes; acts of God; inability to obtain labor, materials or reasonable substitutes for either; governmental restrictions, regulations or controls, including, but not limited to, government health orders related to a pandemic or epidemic; 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 City, the Department of Industrial Relations, or any Governmental Agency, nor has Borrower, any of its principals or its general contractor has been suspended, disciplined or prohibited from contracting with the City or any Governmental Agency. Further, Borrower certifies that neither it nor any of its principals is listed by the General Services Administration as debarred, suspended, ineligible or voluntarily excluded from receiving the Funds on the Agreement Date. In addition, Borrower will review the list to ensure that any contractor or subcontractor who bids for a contract in excess of \$100,000 is not debarred, suspended, ineligible or voluntarily excluded from participating in federal programs and activities in addition to obtaining the certification of each contractor or subcontractor whose bid is accepted.

(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 will 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 will be addressed as follows:

To the City:	City and County of San Francisco Mayor's Office of Housing and Community Development 1 South Van Ness Avenue, 5 th Floor San Francisco, CA 94103 Attn: Director
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To Borrower: Octavia RSU Associates, L.P.
c/o Tenderloin Neighborhood Development Corporation
201 Eddy Street
San Francisco, CA 94102
Attn: Chief Executive Officer

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 the Limited Partner at the address set forth below at the same time and in the same manner as notice is delivered to Borrower. The City's failure to deliver notice under this Section will not affect or impair the City's right to enforce its rights at law or in equity arising by reason of an Event of Default.

To: MCC Housing LLC
c/o Merritt Community Capital Corporation
1970 Broadway, Suite 250
Oakland, California 94612
Attention: President & CEO

With a copy to: Bocarsly Emden Cowan Esmail & Arndt LLP
633 West Fifth Street, 64th Floor
Los Angeles, CA 90071
Attention: Rachel Rosner, Esq.

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**"), 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. The Declaration of Restrictions will not be subordinated to any financing secured by and used for the Project.

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 will 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; Venue. This Agreement is governed by California law and the City's Charter and Municipal Code without regard to its choice of law rules. Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the Superior Court for the City and County of San Francisco, and each party agrees to the exclusive jurisdiction of such court in any such suit, action, or proceeding (excluding bankruptcy matters). The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such court and irrevocably waive and agree not to plead or claim that any suit, action, or proceeding brought in San Francisco Superior Court relating to this Agreement has been brought in an inconvenient forum. The Parties also unconditionally and irrevocably waive any right to remove any such suit, action, or proceeding to Federal Court.

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 Reserved.

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 will 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 will 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, will at all times be governed by a legally constituted and fiscally responsible board of directors. Such board of directors will 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 will adhere to applicable provisions of federal, state and local laws governing nonprofit corporations. Such board of directors will 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.

22.23 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 Deed of Trust
- N Declaration of Restrictions
- O MOHCD Commercial Underwriting Guidelines
- P MOHCD Residual Receipts Policy
- Q No Place Like Home
- R Early Retention

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in 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:

DAVID CHIU
City Attorney

By: _____
Deputy City Attorney

BORROWER:

Octavia RSU Associates, L.P.,
a California limited partnership

By: Octavia RSU GP LLC,
a California limited liability company,
its general partner

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

By: _____
Maurilio Leon
Chief Executive Officer

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
Studio	27	50% of Median Income (LOSP)
1BR	5	50% of Median Income (LOSP)
Studio	27	65% of Median Income
1BR	4	50% of Median Income

Thirty-two (32) Units will be made available to the Transitional Age Youth who are chronically homeless or those at risk of homelessness during the period in which the City’s Local Operating Subsidy program is in operation and the City provides such subsidy to the Project under the LOSP Agreement.

Of those thirty-two (32) Units, fifteen (15) Units will be No Place Like Home (NPLH) units and targeted to residents who meet the Homeless Household under No Place Like Home (NPLH) Criteria for a period of 55 years. NPLH units are restricted to 30% AMI as determined by NPLH Regulations, however the AMI for the NPLH units may be increased to a maximum of 50% AMI consistent with the provisions under the NPLH Program Guidelines.

NPLH units must be operated under the requirements of No Place Like Home as listed in Exhibit Q of this Agreement, and as also included in the MOHCD Underwriting Guidelines and Local Operating Subsidy Program Policies & Procedures Manual.

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 formerly under the LOSP will at all times be occupied by Qualified Tenants whose Adjusted Income does not exceed sixty-five percent (65%) of Median Income and the monthly rent paid by the Qualified Tenants may not exceed (a) thirty percent (30%) of sixty percent (65%) of Median Income, (b) less utility allowance.

2. Rent and Utilities. 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:

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

(ii) 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 the Agreement.

EXHIBIT B-1

Table of Sources and Uses of Funds

EXHIBIT B-2
Annual Operating Budget

EXHIBIT B-3
20-Year Cash Flow Proforma

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). Borrower will, or will require its general contractor to, separately execute a First Source Hiring Agreement with the City as set forth below, although the lack of such a separate execution will not affect the requirements of Chapter 83 as incorporated herein.

A. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapter 83 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. Contractor will comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement have the meanings assigned to such terms in Chapter 83.

B. First Source Hiring Agreement. On or before the effective date of the Ground Lease, Borrower will, or will require its general contractor to, enter into a first source hiring agreement ("FSH Agreement") with the City, that will include the terms as set forth in Section 83.9(b). Borrower also enter into a FSH Agreement with the City for any other work that it performs in the City.

C. Hiring Decisions. Borrower or its general contractor will make the final determination of whether an Economically Disadvantaged Individual referred by the System is "qualified" for the position.

D. Exceptions. Upon application by Contractor, the First Source Hiring Administration may grant an exception to any or all of the requirements of Chapter 83 in any situation where it concludes that compliance with this Chapter would cause economic hardship.

E. Liquidated Damages. Borrower agrees:

1. To be liable to the City for liquidated damages as provided in this Section;
2. To be subject to the procedures governing enforcement of breaches of contracts based on violations of contract provisions required by this Chapter as set forth in this Section;
3. That the Borrower's commitment to comply with this Chapter is a material element of the City's consideration for this contract; that the failure of the contractor to comply with the contract provisions required by this Chapter will cause harm to the City and the public which is significant and substantial but extremely difficult to quantify; that the harm to the City includes not only the financial cost of funding public assistance programs but also the insidious but impossible to quantify harm that this community and its families suffer as a result

of unemployment; and that the assessment of liquidated damages of up to \$5,000 for every notice of a new hire for an entry level position improperly withheld by the contractor from the first source hiring process, as determined by the FSHA during its first investigation of a contractor, does not exceed a fair estimate of the financial and other damages that the City suffers as a result of the contractor's failure to comply with its first source referral contractual obligations.

4. That the continued failure by a contractor to comply with its first source referral contractual obligations will cause further significant and substantial harm to the City and the public, and that a second assessment of liquidated damages of up to \$10,000 for each entry level position improperly withheld from the FSHA, from the time of the conclusion of the first investigation forward, does not exceed the financial and other damages that the City suffers as a result of the contractor's continued failure to comply with its first source referral contractual obligations;

5. That in addition to the cost of investigating alleged violations under this Section, the computation of liquidated damages for purposes of this Section is based on the following data:

a. The average length of stay on public assistance in San Francisco's County Adult Assistance Program is approximately 41 months at an average monthly grant of \$348 per month, totaling approximately \$14,379; and

b. In 2004, the retention rate of adults placed in employment programs funded under the Workforce Investment Act for at least the first six months of employment was 84.4%. Since qualified individuals under the First Source program face far fewer barriers to employment than their counterparts in programs funded by the Workforce Investment Act, it is reasonable to conclude that the average length of employment for an individual whom the First Source Program refers to a contractor and who is hired in an entry level position is at least one year; therefore, liquidated damages that total \$5,000 for first violations and \$10,000 for subsequent violations as determined by FSHA constitute a fair, reasonable, and conservative attempt to quantify the harm caused to the City by the failure of a contractor to comply with its first source referral contractual obligations.

6. That the failure of contractors to comply with this Chapter, except property contractors, may be subject to the debarment and monetary penalties set forth in Sections 6.80 et seq. of the San Francisco Administrative Code, as well as any other remedies available under the contract or at law; and

7. That in the event the City is the prevailing party in a civil action to recover liquidated damages for breach of a contract provision required by this Chapter, the contractor will be liable for the City's costs and reasonable attorneys fees.

Violation of the requirements of Chapter 83 is subject to an assessment of liquidated damages in the amount of \$5,000 for every new hire for an Entry Level Position improperly withheld from the first source hiring process. The assessment of liquidated damages and the evaluation of any defenses or mitigating factors will be made by the FSHA.

F. Subcontracts. Any subcontract entered into by Borrower or its general contractor will require the subcontractor to comply with the requirements of Chapter 83 and will contain contractual obligations substantially the same as those set forth in this Section.

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 comply with Chapter I (commencing with Section 1720) of Part 7 of the California Labor Code (pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations) and contain a provision requiring: (1) the payment of not less than the Prevailing Rate of Wage 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 state law and 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 will 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 will 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 will 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 will 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 will 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 will 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 will 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 will comply with 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 Will 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 will 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 will 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 will 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 will 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” will 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” will 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 will 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, will 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 to conduct any meeting of its governing board that addresses any matter relating to the Project or to Borrower's performance under this Agreement as a passive meeting. 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 comply with the provisions of Chapter 12L of the San Francisco Administrative Code to the extent applicable.

(c) In accordance with the Citizen's Right to Know Act of 1998 (S. F. Admin. Code Chapter 79), no officer, department, board or commission of the City may approve a City Project, as defined in Chapter 79, unless a sign has been posted on the applicable property at least fifteen (15) days before approval. A City Project is a project that involves new construction, a change in use or a significant expansion of an existing use where the City funding for the project is \$50,000 or more. If the Loan will be used for a City Project, this Agreement will not become effective until fifteen (15) days following the posting of the requisite sign, or, in the alternative, thirty (30) days following the delivery of written notices to residents and owners within 300 feet of the Site, and the City will have the right to nullify or revoke this Agreement without cost or liability of any sort whatsoever at any time before that date. If Borrower believes that this Agreement relates to a City Project and that the requisite sign has not been posted, Borrower will 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 will 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 will 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 will 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 will 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" will 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 will 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 will 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 will have the meanings assigned to such terms in Chapter 12T.

(b) The requirements of Chapter 12T will only apply to a Borrower's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, will apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, will 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 will 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 will incorporate by reference in all subcontracts the provisions of Chapter 12T, and will require all subcontractors to comply with such provisions. Borrower's failure to comply with the obligations in this subsection will constitute a material breach of this Agreement.

(d) Borrower or Subcontractor will 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 will 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 will 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 will 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 will 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 will 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 will 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 will 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 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 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 will 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 will contact the Interconnection Services Department in the Power Enterprise of the SFPUC.

22. Local Business Enterprise and Non-Discrimination in Contracting Ordinance. Borrower will comply with the applicable requirements of the Local Business Enterprise Utilization and Non-Discrimination in Contracting Ordinance under Administrative Code Chapter 14B ("LBE Ordinance") and will incorporate such requirements in contracts with any Contractors and Subcontractors.

23. Contractor Vaccination Policy. Borrower shall comply with the requirements of the 38th Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency ("Emergency Declaration"), dated February 25, 2020, and the Contractor Vaccination Policy for City Contractors issued by the City Administrator ("Contractor Vaccination Policy"), as those documents may be amended from time to time. The requirements stated in the Emergency Declaration and Contractor Vaccination

Policy are material terms and conditions of this Agreement, which include but are not limited to, the following:

(a) Borrower shall identify its Covered Employees who are or will be performing Work or Services under this Agreement, and shall inform them of the COVID-19 vaccination requirements stated in the City's Contractor Vaccination Policy and the Emergency Declaration.

(b) Borrower shall maintain a list of its Covered Employees by name and position, which list shall not include the employees' vaccination status. Borrower shall update the list as needed to show all current Covered Employees, and Borrower shall provide that list to the City on request.

(c) Borrower shall be responsible for determining the vaccination status of any Covered Employees working for their subcontractors under this Agreement. Borrower shall ensure that its covered subcontractors submit required information to the Borrower respecting their compliance with the Contractor Vaccination Policy.

(d) Borrower previously submitted to the City the Attestation Form confirming its compliance with the Contractor Vaccination Policy, including Attachment A thereto respecting any medical or religious vaccination exemptions granted to their Covered Employees. Borrower will submit an updated Attachment A if Borrower assigns a new Covered Employee to work on the contract who is eligible for an exemption under the Vaccination Policy.

(e) Borrower shall coordinate with the City to confirm that the City can safely accommodate at its worksite any Covered Employee for whom the Borrower has granted a medical or religious vaccination exemption, which may include ensuring that exempt employees who are accommodated comply with any required health and safety protocols.

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 will 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 will 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.

Octavia RSU Associates, L.P.,
a California limited partnership

By: Octavia RSU GP LLC,
a California limited liability company,
its general partner

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

By: _____
Maurilio Leon
Chief Executive Officer

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 will 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 will 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 will 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 will 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.

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)**

- **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 housing provider will 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 will 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 will 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 will 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 will 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 will:
 - 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 will 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 will 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 will 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 will 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 will 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 will 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 will 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 will 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 will 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 will 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 will be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Borrower's contractor, provided that the policy will be "claims made" coverage and Borrower will 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 will 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 will 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 will 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 will 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 will 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) Required Endorsements. Borrower's insurance policies will include the following endorsements:

(i) Commercial General Liability and Commercial Automobile Liability Insurance policies will be endorsed to name as "Additional Insured" the City and County of San Francisco, its officers, agents, and employees.

(ii) The Workers' Compensation policy(ies) will be endorsed with a waiver of subrogation in favor of the City for all work performed by the Borrower, its employees, agents, contractor(s), and subcontractors.

(iii) Commercial General Liability and Commercial Automobile Liability Insurance policies will provide that such policies are primary insurance to any other insurance available to the "Additional Insureds," with respect to any claims arising out of this Agreement, and that the insurance applies separately to each insured against whom claim is made or suit is brought.

(iv) All policies will be endorsed to provide thirty (30) days' advance written notice to the City of cancellation for any reason, intended non-renewal, or reduction in coverages. Notices will be sent to the City address set forth in **Section 21.1** of the Agreement.

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

(b) Certificates of Insurance. By no later than Loan closing and annually thereafter, Borrower will furnish to City certificates of insurance and additional insured policy endorsements with insurers with ratings comparable to A-, VIII or higher, that are authorized to do business in the State of California, and that are satisfactory to City, in form evidencing all coverages set forth above. Approval of the insurance by City shall not relieve or decrease Borrower's liability under this Agreement.

(c) Waiver of Subrogation – Property Insurance. 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) Claims Based Policies. 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 form, Borrower will maintain coverage as follows:

(i) for builder's risk, continuously for a period ending no less than three (3) years after recordation of a notice of completion without lapse, to the effect that, if any

occurrences give rise to claims made after completion of the Project, then those claims will be covered by the claims-made policies; or

(ii) for all other insurance under this Exhibit L, continuously through the Compliance Term and, without lapse, for a period of no less than three (3) years beyond the expiration of the Compliance Term, to the effect that, if any occurrences during the Compliance Term give rise to claims made after expiration of the Agreement, then those claims will be covered by the claims-made policies.

(e) Additional Requirements.

(i) If any of the required insurance is provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit will be double the occurrence or claims limits specified above.

(ii) Any and all insurance policies required under this Exhibit L will contain a clause providing that the City and its officers, agents and employees will not be liable for any required premium.

(iii) On City's request, Borrower and City will periodically review the limits and types of insurance carried under this Exhibit L. If the general commercial practice in the City and County of San Francisco is to carry liability insurance in an amount or coverage materially greater than the amount or coverage then being carried by Borrower for risks comparable to those associated with the Permit Area, then City in its sole discretion may require Permittee to increase the amounts or coverage carried by Borrower to conform to the general commercial practice, unless Borrower demonstrates to the City's satisfaction that the increased coverage is commercially unreasonable and unavailable to Borrower.

(iv) Borrower's compliance with the insurance requirements under this Exhibit L will in no way relieve or decrease Borrower's indemnification obligations under this Agreement or any of Borrower's other obligations under this Agreement.

Exhibit M
Deed of Trust

EXHIBIT N
Declaration of Restrictions

EXHIBIT O
Commercial Underwriting Guidelines

EXHIBIT P
Residual Receipts Policy

EXHIBIT Q

No Place Like Home (NPLH) Requirements

EXHIBIT R

Early Release of Retention Contractors

Free Recording Requested Pursuant to
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, 5th Floor
San Francisco, California 94103
Attn: Director

APN: Block [____], Lot [____]

-----Space Above This Line for Recorder's Use-----

**LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING**
(Property Address: 78 Haight Street, San Francisco, CA)

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (“Deed of Trust”) is made as of _____, 2022, by **OCTAVIA RSU ASSOCIATES, L.P.**, a California limited partnership (“Trustor”), whose address is 201 Eddy Street, San Francisco, California 94102, to **OLD REPUBLIC TITLE INSURANCE**, a California corporation (“Trustee”), whose address is 275 Battery Street, Suite 1500, San Francisco, California 94111, for the benefit of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, represented by the Mayor, acting through the Mayor's Office of Housing and Community Development (“Beneficiary”). This Deed of Trust is executed pursuant to an Amended and Restated Loan Agreement by and between Trustor and Beneficiary dated as of the date of this Deed of Trust, as it may be amended from time to time (the “Agreement”), the provisions of which are incorporated herein by reference. Definitions and rules of interpretation set forth in the Agreement apply to this Deed of Trust.

1. Grant in Trust. For valuable consideration, Trustor hereby grants, transfers and assigns to Trustee, in trust, with power of sale, for the benefit of Beneficiary, all right, title and interest Trustor now has or may have in the future in the following (all or any part of the following, or any interest in all or any part of it, as the context requires, the “Property”):

(a) that real property situated in the City and County of San Francisco, State of California, described in **Exhibit A** attached hereto and incorporated herein by reference (the “Land”), on which Trustor intends to construct a sixty-three (63)-unit multifamily rental housing development (the “Improvements”) affordable to low-income households, including thirty-two (32) units for TAY, of which fifteen (15) units will be targeted to residents who qualify under the Homeless Household under No Place Like Home (NPLH) Criteria, and including the construction of the commercial shell of a childcare center

(the “Commercial Space”), collectively which will be known as 78 Haight (the “Project”); and

(b) all buildings, structures and other improvements now or in the future located or to be constructed on the Land (the “Improvements”); and

(c) all existing and future leases, subleases, tenancies, subtenancies, licenses, occupancy agreements and concessions, and any guarantees thereof (“Leases”) relating to the use and enjoyment of all or any part of the Land and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of the Leases; and

(d) all of Trustor's interest in and under that certain Ground Lease dated as of [_____], 2022 by and between Beneficiary, as lessor, and Trustor, as lessee, including any options of any nature whatsoever, and any future interest of Trustor in fee title to the Land; and

(e) except for personal property and removable fixtures installed by tenants or subtenants, all goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Land and Improvements, whether stored on the Land or elsewhere, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which will be considered to the fullest extent of the law to be real property for purposes of this Deed of Trust; and

(f) all building materials, equipment, work in process or other personal property of any kind, whether stored on the Land or elsewhere, that have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Land or Improvements; and

(g) all Loan funds, whether disbursed or not, and all funds now or in the future on deposit in the Replacement Reserve Account, the Operating Reserve Account and any other account required or authorized for the Project; and

(h) all proceeds, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements; and

(i) all books and records pertaining to any and all of the property described above, including records relating to tenants under any Leases, the qualifications of any tenants and any certificates, vouchers and other documents in any way related thereto and records relating to the application and allocation of any federal, state or local tax credits or benefits; and

(j) all rents, revenues, issues, royalties, proceeds, profits, income, reimbursements, royalties, receipts and similar items, including prepaid rent and security deposits, in whatever form (including, but not limited to, cash, checks, money orders, credit card receipts or other instruments for the payment of money) paid or payable in connection with the Property (“Rents”), from the Land and the Improvements, subject to: (i) Trustor's right to collect and retain the same as they become due and payable; and (ii) Beneficiary's rights under **Section 3 below**; and

(k) all intangible personal property and rights relating to the Property or its operation or used in connection with it, including, without limitation, permits, licenses, plans, specifications, construction contracts, subcontracts, bids, soils reports, engineering reports, land planning maps, drawings, construction contracts, notes, drafts, documents, engineering and architectural drawings, deposits for utility services, installations, refunds due Trustor, trade names, trademarks, and service marks; and

(l) all proceeds of, interest accrued on, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

2. Obligations Secured. This Deed of Trust is given for the purpose of securing the following (collectively, the “Secured Obligations”):

(a) performance of all present and future obligations of Trustor set forth in the Agreement, specifically compliance with certain restrictions on the use of the Property recited in that certain Declaration of Restrictions executed by Trustor, dated as of the date of and being recorded concurrently with this Deed of Trust, as it may be amended from time to time, made by Trustor to the order of Beneficiary (as it may be amended from time to time, the “Note”) and performance of each agreement incorporated by reference, contained therein, or entered into in connection with the Agreement;

(b) payment of the indebtedness evidenced by the Agreement and the Note in the original principal amount of [Twenty Six Million Seven Hundred Forty Six Thousand Four Hundred Sixty Seven and No/100 Dollars (\$26,746,467)] , with interest, according to the terms of the Agreement and the Note; and

(c) payment of any additional sums Trustor may borrow or receive from Beneficiary, when evidenced by another note (or any other instrument) reciting that payment is secured by this Deed of Trust.

3. Assignment of Rents.

(a) Assignment as Additional Security. Trustor hereby irrevocably grants, transfers, and assigns to Beneficiary all of its right, title, and interest in and to the Rents as additional security for the Secured Obligations. Subject to the provisions of subsection 3(d) below, Beneficiary hereby confers upon Trustor a license (“License”) to collect and retain the Rents as they become due and payable, so long as no Event of Default exists and is continuing. If an Event of Default has occurred and is continuing, Beneficiary shall have the right, which it may choose to exercise in its sole discretion, to terminate this License without notice to or demand upon Trustor, and without regard to the adequacy of Beneficiary's security under this Deed of Trust.

(b) Collection and Application of Rents. Subject to the License granted to Trustor under subsection 3(a) above, Beneficiary has the right, power, and authority to collect any and all Rents. Subject to the License granted to Trustor under subsection 3(a) above, Trustor hereby appoints Beneficiary its attorney-in-fact to perform any and all of the following acts, if and at the times when Beneficiary in its sole discretion may so choose:

1. Demand, receive, and enforce payment of any and all Rents; or
2. Give receipts, releases, and satisfactions for any and all Rents; or
3. Sue either in the name of Trustor or in the name of Beneficiary for any and all Rents.

Beneficiary's right to the Rents does not depend on whether or not Beneficiary takes possession of the Property. In Beneficiary's sole discretion, it may choose to collect Rents either with or without taking possession of the Property. Beneficiary shall apply all Rents collected by it in the manner provided under this Deed of Trust. If an Event of Default occurs while Beneficiary is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Deed of Trust, Beneficiary, Trustee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Deed of Trust and at law or in equity, including the right to exercise the power of sale granted hereunder.

(c) Beneficiary Not Responsible. Under no circumstances shall Beneficiary have any duty to produce Rents from the Property. Regardless of whether or not Beneficiary, in person or by agent, takes actual possession of the Real Property and Improvements, Beneficiary is not and shall not be deemed to be:

1. A “mortgagee in possession” for any purpose; or
2. Responsible for performing any of the obligations of the lessor under any lease; or
3. Responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair, or control of the Property; or
4. Liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it.

(d) Election by Beneficiary. Upon the occurrence and during the continuance of an Event of Default, Beneficiary, at its option, may exercise its rights under this Section or otherwise provided under applicable law (including, but not limited to, under Section 2938 of the California Civil Code).

4. Trustor's Covenants. To protect the security of this Deed of Trust, Trustor agrees as follows:

(a) to perform the Secured Obligations in accordance with their respective terms;

(b) to keep the Land and the Improvements in good condition and repair, normal wear and tear and acts of God excepted; not to remove or demolish any Improvements without Beneficiary's prior written consent; to complete or restore promptly and in good and workmanlike manner any Improvement constructed, damaged or destroyed on the Land; to pay when due all claims for labor performed and materials furnished therefor, subject to Trustor's right to contest any claim in good faith; to comply with all laws affecting the Project, subject to Trustor's right to contest any claim in good faith; not to commit or permit waste with respect to the Land or the Improvements; not to commit, suffer or permit any act upon the Land or the Improvements in violation of law, including Environmental Laws; and to do all other acts made reasonably necessary by the character or use of the Land and the Improvements;

(c) to provide, maintain and deliver to Beneficiary property and liability insurance as required under the Agreement and apply any insurance proceeds as provided below;

(d) to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and reasonable attorneys' fees and costs incurred in any such action or proceeding in which Beneficiary or Trustee may appear and in any suit brought by Beneficiary to foreclose this Deed of Trust following an Event of Default;

(e) to pay in accordance with the Agreement, but in each case prior to delinquency: (i) all taxes and assessments affecting the Property, including assessments on appurtenant water stock; and (ii) all encumbrances, charges and liens, with interest, on the Property or any part thereof that appear to be prior or superior hereto;

(f) should Trustor fail to make any payment or to do any act as herein provided, then, subject to the notice and cure provisions included in the Agreement, without: (i) obligation to do so; (ii) notice to or demand upon Trustor; or (iii) releasing Trustor from any obligation hereof, Beneficiary or Trustee may: (A) make or do the same in any manner and to the extent as it deems necessary to protect the security hereof; (B) appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; (C) pay, purchase, contest or compromise any encumbrance, charge or

lien that in its judgment appears to be prior or superior hereto; and (D) in exercising these powers, pay necessary expenses, employ counsel and pay reasonable attorneys' fees and costs, and Trustor consents to Beneficiary's and/or Trustee's entry upon the Land and Improvements for any purpose set forth in this Subsection, including Beneficiary's exercise of its rights under California Code of Civil Procedure Section 564(c); and

(g) to reimburse within five (5) days of demand all sums expended by Beneficiary or Trustee pursuant to this Deed of Trust, with interest at an annual rate of interest equal to the lesser of: (i) ten percent (10%); or (ii) the maximum lawful rate from date of expenditure to the date of payment.

5. Security Agreement and Fixture Filing.

(a) Grant of Security Interest. Without limiting any of the other provisions of this Deed of Trust, to secure the payment, performance and observance of the Secured Obligations, Trustor, as debtor (referred to in this Section 5 as "Debtor"), expressly grants to Beneficiary, as secured party (referred to in this Section 5 as "Secured Party"), a continuing security interest in all the Property (including now and hereafter existing) to the full extent that any portion of the Property may be subject to the Uniform Commercial Code. For purposes of this Section 5, "Collateral" means the personal property (tangible or intangible) and fixtures included in the Property.

(b) Debtor's Covenants, Representations, and Warranties.

(i) Debtor covenants and agrees with Secured Party that:

(1) In addition to any other remedies granted in this Deed of Trust to Secured Party or Trustee (including specifically, but not limited to, the right to proceed against the Property in accordance with the rights and remedies in respect of the Property that is real property under the Uniform Commercial Code), Secured Party may, if an Event of Defaults occurs and is continuing, proceed under the Uniform Commercial Code as to all or any part of the Collateral, and shall have and may exercise with respect to the Collateral all the rights, remedies, and powers of a secured party under the Uniform Commercial Code.

(2) Without limiting the foregoing, Secured Party shall have the right upon any public sale or sales, and, to the extent permitted by law, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption in Debtor. Debtor further agrees to allow Secured Party to use or occupy the Property, without charge, for the purpose of effecting any of Secured Party's remedies in respect of the Collateral.

(3) To the extent permitted by applicable law, Debtor waives all claims, damages, and demands against Secured Party arising out of the repossession, retention, or sale of the Collateral, except for claims, damages, and demands due to the active gross negligence or willful misconduct of Secured Party in dealing with such Collateral. Trustor agrees that Secured Party need not give more than five (5) days' notice of the time and place of any public sale or of the time at which a private sale will take place and that such notice is reasonable notification of such matters. Secured Party may disclaim any

warranties that might arise in connection with the sale, lease, license, or other disposition of the Collateral and have no obligation to provide any warranties at such time. Secured Party may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

(4) To the extent permitted by law, Debtor hereby specifically waives all rights of redemption, stay, or appraisal which it has or may have under any law now existing or hereafter enacted.

(ii) Debtor hereby authorizes Secured Party to file financing and continuation statements with respect to the Collateral as Secured Party may reasonably require.

(iii) Debtor hereby represents and warrants that no financing statement is on file in any public office except as authorized by Secured Party. Debtor will at its own cost and expense, upon demand, furnish to Secured Party such further information and will execute and deliver to Secured Party financing statements and other documents in form reasonably satisfactory to Secured Party and will do all such acts that Secured Party may at any time or from time to time reasonably require to establish and maintain a perfected security interest in the Collateral as security for the Secured Obligations, subject only to liens or encumbrances approved by or benefiting Secured Party. Debtor will pay the actual expense of filing or recording such financing statements or other documents, and this instrument, as and where reasonably required by Secured Party.

(iv) To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all rents, royalties, issues and profits, and all inventory accounts, accounts receivable and other revenues of the Property.

(c) Fixture Filing. Certain of the Collateral is or will become “fixtures” (as that term is defined in the Uniform Commercial Code). This Deed of Trust, upon being filed for record in the real estate records of San Francisco County, shall operate also as a financing statement and fixture filing upon such of the Collateral that is or may become fixtures under the Uniform Commercial Code. Debtor's name and type and jurisdiction of entity are set forth in the introductory paragraph hereof. Debtor's address is set forth above. Debtor's EIN Number is [_____]. Secured Party's name and mailing address are set above.

6. Insurance and Condemnation Proceeds.

(a) Trustor hereby assigns to Beneficiary any award of damages arising from the condemnation of all or any part of the Property for public use and any insurance proceeds arising from injury to all or any part of the Property or the Project.

(b) Any condemnation award or insurance proceeds must be paid to Beneficiary or, if Beneficiary has consented to subordinate the lien of this Deed of Trust to

the lien of another lender for the Project, according to the provisions in the senior lender's loan documents.

(c) If a condemnation award or insurance proceeds are paid to Beneficiary, Beneficiary will release or authorize the release of funds to Trustor, provided that the funds will be used for the reconstruction of the Project in accordance with: (i) projections demonstrating that reconstruction is economically feasible; and (ii) Trustor's construction budget, each of which must be satisfactory to Beneficiary in its reasonable discretion. In all other cases, Beneficiary may choose in its discretion to apply funds to Trustor's obligations under the Note and the Agreement or to any senior obligations, in accordance with the respective priorities of the approved lienholders as their interests may appear of record, with the remaining funds, if any, released to Trustor.

(d) Trustor agrees that Beneficiary's application or release of funds pursuant to this Section will not cure or waive any default or Notice of Default (as defined below) or invalidate any act by Beneficiary performed following a default pursuant to any City Document unless the default has been cured by the application or release of funds.

7. Further Agreements. Trustor further acknowledges and agrees as follows:

(a) Beneficiary does not waive its right either to require prompt payment when due of all other sums secured by this Deed of Trust or to declare Trustor in default for failure to pay timely by accepting payment of any sum secured hereby after its due date.

(b) Trustee may reconvey any part of the Property at any time or from time to time, without liability therefor and without notice, upon written request of Beneficiary and presentation of this Deed of Trust for endorsement without affecting the liability of any entity or person for payment of the indebtedness secured hereby.

(c) Upon: (i) written request of Beneficiary stating that all obligations secured hereby have been paid or performed; (ii) Beneficiary's surrender of this Deed of Trust to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose; and (iii) payment of its fees, if any, Trustee shall reconvey the Property then held hereunder without covenant or warranty.

(d) Any voluntary or involuntary conveyance, sale, encumbrance, pledge or other transfer of all or any interest in the Property or in Trustor, including a security interest, in violation of the Agreement will constitute an Event of Default (as defined below) giving Beneficiary the right to exercise its remedies at law or in equity.

(e) For the purposes of this Deed of Trust, Beneficiary from time to time may substitute a successor or successors to Trustee named herein or acting hereunder by instrument in writing executed by Beneficiary and duly acknowledged and recorded in the office of the recorder of San Francisco County, which instrument shall be conclusive proof of

proper substitution of a successor trustee or trustees. Without conveyance from Trustee, any successor or substitute trustee will succeed to all title, estate, rights, powers, and duties of Trustee. The instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the recording information for this Deed of Trust and the name and address of the new Trustee.

(f) This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns, provided that this subsection does not constitute Beneficiary's consent to any transfer in violation of this Deed of Trust.

(g) Trustee accepts this Trust when this duly executed and acknowledged Deed of Trust is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other deed of trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

8. Beneficiary's Rights Following Default. Upon any default by Trustor in performance of the Secured Obligations following expiration of any applicable notice and cure periods ("Event of Default"):

(a) Trustor's license to collect and retain Rents will terminate automatically.

(b) Trustor consents to Beneficiary's entry upon and taking possession of the Property or any part thereof, at any time after the occurrence of an Event of Default without notice, either in person, by agent or by a receiver to be appointed by a court without regard to the adequacy of any security for the indebtedness hereby secured to sue for or otherwise collect and apply Rents, less costs and expenses of operation and collection, including those of the Property, in its own name or in the name of Trustor. Beneficiary's collection and application of Rents shall not cure or waive any Event of Default or Notice of Default or invalidate any act done pursuant to any notice.

(c) Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold the Property ("Notice of Default"), and:

i. Trustee shall cause the Notice of Default to be filed for record. Beneficiary also shall deposit with Trustee this Deed of Trust and all documents evidencing expenditures secured hereby.

ii. After the lapse of time then required by law following the recordation of a Notice of Default, and notice of sale ("Notice of Sale") having been given as then required by law, Trustee without demand on Trustor may sell the Property at the time

and place fixed in the Notice of Sale either as a whole or in separate parcels in any order at public auction to the highest bidder for cash in lawful money of the United States payable at time of sale. Trustee may postpone sale of all or any portion of the Property by public announcement at the time and place of sale and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to any purchaser a trustee's deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the trustee's deed of any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale.

iii. After deducting all costs, fees and expenses of Trustee and of this Trust, including cost of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of: (A) all sums expended under the terms of this Deed of Trust not then repaid, with accrued interest at the highest rate allowed by law in effect at the date hereof; (B) all other sums then secured hereby; and (C) the remainder, if any, to the person or persons legally entitled thereto.

9. Notice of Default to Trustor. The undersigned Trustor requests that a copy of any Notice of Default and of any Notice of Sale hereunder be mailed to it at its address set forth above or any succeeding address given by notice in accordance with the Agreement.

Remainder of Page Intentionally Left Blank; Signatures Appear On Following Page

“TRUSTOR:”

Octavia RSU Associates, L.P.,
a California limited partnership

By: Octavia RSU GP LLC,
a California limited liability company,
its general partner

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

By: _____
Maurilio Leon
Chief Executive Officer

ALL SIGNATURES MUST BE NOTARIZED

EXHIBIT A

Legal Description of the Land

A LEASEHOLD INTEREST IN THE FOLLOWING LAND SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

Parcel Map 10527, which Map recorded December 30, 2021 in [Book 52 of Parcel Maps, Pages 31-34](#), inclusive, San Francisco County Records.

Assessor's Lot 032 (formerly Lot 021), Block 0853

Street Address:

78 Haight Street, San Francisco, CA

Free Recording Requested Pursuant to
Government Code Section 27383 and 27388.1

Recording requested by and
when recorded mail to:
City and County of San Francisco
Mayor's Office of Housing
and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn: Director
APN#: [_____]
Address: 78 Haight Street, San Francisco, CA

-----Space Above This Line for Recorder's Use-----

**DECLARATION OF RESTRICTIONS AND
AFFORDABLE HOUSING COVENANTS**
78 Haight Street

**THIS DECLARATION OF RESTRICTIONS AND AFFORDABLE HOUSING
COVENANTS** (this “Declaration”) is made as of _____, 2022, by
OCTAVIA RSU ASSOCIATES, L.P., a California limited partnership (“Borrower”), in
favor of the **CITY AND COUNTY OF SAN FRANCISCO**, represented by the Mayor,
acting by and through the Mayor's Office of Housing and Community Development (the
“City”).

RECITALS

A. The City is making a loan (the “Loan”) to Borrower of AHF Inclusionary
Funds, AHF Inclusionary Market and Octavia Funds, 2019 GO Bond funds, No Place
Like Home funds, and ERAF housing funds, to finance costs associated with the
development of the leasehold interest in the real property described in **Exhibit A** attached
hereto and incorporated herein by reference (the land and the leasehold interest, the
“Property”) as low-income affordable housing (the “Project”). The Loan is evidenced by,
among other documents, an Amended and Restated Loan Agreement between the City
and Borrower dated as of the date of this Declaration, as it may be amended from time to
time (the “Agreement”). The Agreement is incorporated by reference in this Declaration
as though fully set forth in this Declaration. Definitions and rules of interpretation set
forth in the Agreement apply to this Declaration.

B. Pursuant to the Agreement, Borrower has agreed to comply with certain
affordability covenants and other use and occupancy restrictions set forth in the
Agreement (collectively, the “Regulatory Obligations”), commencing on the date the
Deed of Trust is recorded in the Official Records of San Francisco County, and

continuing for the Life of the Project (the “Compliance Term”), even if the Loan is repaid or otherwise satisfied or the Deed of Trust is reconveyed.

AGREEMENT

Now, therefore, in consideration of the City providing the Loan in accordance with the City Documents, Borrower agrees as follows:

1. Borrower will comply with the Regulatory Obligations and this Declaration through the expiration of the Compliance Term, regardless of any reconveyance of the Deed of Trust. Specifically, Borrower agrees as follows, subject to additional terms as set forth in the Agreement:

1.1 Units in the Project will at all times be rented only to tenants who qualify as Qualified Tenants at initial occupancy, specifically:

Unit Size	No. of Units	Maximum Income Level
Studio	27	50% of Median Income (LOSP)
1BR	5	50% of Median Income (LOSP)
Studio	27	65% of Median Income
1BR	4	50% of Median Income

Thirty-two (32) Units will be made available to the Transitional Age Youth who are chronically homeless or those at risk of homelessness during the period in which the City’s Local Operating Subsidy program is in operation and the City provides such subsidy to the Project under the LOSP Agreement.

Of those thirty-two (32) Units, fifteen (15) Units will be No Place Like Home (NPLH) units and targeted to residents who meet the Homeless Household under No Place Like Home (NPLH) Criteria for a period of 55 years. NPLH units are restricted to 30% AMI as determined by NPLH Regulations, however the AMI for the NPLH units may be increased to a maximum of 50% AMI consistent with the provisions under the NPLH Program Guidelines.

NPLH units must be operated under the requirements of No Place Like Home as listed in Exhibit Q of this Agreement, and as also included in the MOHCD Underwriting Guidelines and Local Operating Subsidy Program Policies & Procedures Manual.

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 formerly under the LOSP will at all times be occupied by Qualified Tenants whose Adjusted Income does not exceed sixty-five percent (65%) of Median Income and the monthly rent paid by the Qualified Tenants may not exceed (a) thirty percent (30%) of sixty percent (65%) of Median Income, (b) less utility allowance.

1.2 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:

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

(ii) 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.

1.3 For the avoidance of any doubt, notwithstanding any repayment of the Loan or otherwise satisfied or if the Deed of Trust is reconveyed, Borrower will comply with the applicable terms of the Agreement as if fully set forth herein, including, without limitation, Article 6 (Marketing), Article 7 (Affordability and Other Leasing Restrictions), Article 8 (Maintenance and Management of the Project), Article 9 (Governmental Approvals and Requirements), Article 10 (Project Monitoring, Reports, Books and Records), Article 11 (Use of Income From Operations), Article 12 (Required Reserves), Article 16 (Transfers), Article 17 (Insurance and Bonds; Indemnity), Article 18 (Hazardous Substances), and Article 19 (Default).

2. Borrower hereby subjects the Property to the covenants, reservations and restrictions set forth in this Declaration and the Agreement. This Declaration and the Regulatory Obligations constitute covenants running with the land, including the leasehold interest and bind successors and assigns of Borrower and any non-borrower owner and lessee of the Property and will pass to and be binding upon Borrower's successors in title to the Property. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof will conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions in this Declaration, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

3. If Borrower fails to (i) comply with the Regulatory Obligations and this Declaration to the City's satisfaction, in its sole discretion, and (ii) cure such default as set forth in **Section 19.1(c)** of the Agreement, the City will have the right to pursue any available remedy at equity or in law, including as set forth in **Section 19.2** of the

Agreement, to enforce this Declaration. During the Compliance Term, the City may rely on the Deed of Trust and/or this Declaration, in the City's discretion, to enforce any of the City's rights under the City Documents. Borrower will pay the City's reasonable costs in connection with the City's enforcement of the terms of this Declaration and Regulatory Obligations, including, without limitation, the City's attorneys' fees and costs.

[signature follows]

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

“BORROWER”

Octavia RSU Associates, L.P.,
a California limited partnership

By: Octavia RSU GP LLC,
a California limited liability company,
its general partner

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

By: _____
Maurilio Leon
Chief Executive Officer

[ALL SIGNATURES MUST BE NOTARIZED.]

EXHIBIT A

(Legal Description of the Property)

A LEASEHOLD INTEREST IN THE FOLLOWING LAND SITUATED IN THE CITY OF SAN FRANCISCO, COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

Parcel Map 10527, which Map recorded December 30, 2021 in [Book 52 of Parcel Maps, Pages 31-34](#), inclusive, San Francisco County Records.

Assessor's Lot 032 (formerly Lot 021), Block 0853

Street Address:

78 Haight Street, San Francisco, CA

AMENDED AND RESTATED SECURED PROMISSORY NOTE

(AHF Inclusionary Fund, AHF Inclusionary Market and Octavia Fund, 2019 GO Bond, ERAF)

Principal Amount: \$[21,966,228.00]

San Francisco, CA

Date:

FOR VALUE RECEIVED, the undersigned, **OCTAVIA RSU ASSOCIATES, L.P.**, a California limited partnership (“Maker”), hereby promises to pay to the order of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, or holder (as the case may be, “Holder”), the principal sum of [Twenty One Million Nine Hundred Sixty Six Thousand Two Hundred Twenty Eight and No/100 Dollars (\$21,966,228.00)] (the “Funding Amount”), or so much of the Funding Amount as may be disbursed from time to time pursuant to the Agreement described in **Section 1** below, as provided in this Note.

1. Pursuant to a Loan Agreement dated [January 10, 2020], by and between Holder and Maker (the “Original Loan Agreement”), Holder previously made a loan of \$2,600,250.00 to Maker (the “Original Loan”) to conduct predevelopment activities in support of the construction of the Project. The Original Loan is further evidenced by a Secured Promissory Note dated January 10, 2020 (“Original Note”).

2. Agreement. This Amended and Restated Secured Promissory Note (“Note”) amends, restates, and replaces in its entirety the Original Note and is given under the terms of an Amended and Restated Loan Agreement by and between Maker and Holder (the “Agreement”) dated as of the date set forth above, which Agreement is incorporated herein by reference. Maker's obligations under this Note and the Agreement are secured by that certain Leasehold Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated as of the date of this Note, made by Maker for the benefit of Holder. Definitions and rules of interpretation set forth in the Agreement apply to this Note. In the event of any inconsistency between the Agreement and this Note, this Note will control. Upon execution of this Note, the Original Note will be cancelled and returned to Maker.

3. Interest. Interest will accrue on the principal balance outstanding under this Note from time to time at the rate of three percent (3%) per annum, simple interest, from the date of [the close of escrow] [disbursement of funds by Holder] through the date of full payment of all amounts owing under the City Documents. Interest will be calculated on the basis of actual days elapsed and a 360-day year, which will result in higher interest charges than if a 365-day year were used.

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

5. Repayment of Funding Amount. Subject to Section 13.4 of the Agreement, Maker must make annual payments of principal (each, a “Payment”) in an amount equal to the Residual Receipts, if any, attributable to the prior calendar year/ beginning on the first [May 1st] after the end of the calendar year of the Completion Date, and continuing each [May 1st] thereafter up to and including the Maturity Date, as defined below (each, a “Payment Date”). All Payments will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan. The entire principal balance of the Loan, together with all accrued and unpaid default interest (if any) and other unpaid fees and costs incurred (all together, the “Payment”), will be due and payable 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 (the “Maturity Date”). If the Maturity Date falls on a weekend or holiday, it will be deemed to fall on the next succeeding business day.

6. Security. Maker's obligations under this Note are secured by the Deed of Trust.

7. Terms of Payment.

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

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

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

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

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

8. Default.

8.1 Any of the following will constitute an Event of Default under this Note:

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

(b) the occurrence of any other Event of Default under the Agreement or other instrument securing the obligations of Maker under this Note or under any other agreement between Maker and Holder with respect to the Project.

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

8.2 Upon the occurrence of any Event of Default, without notice to or demand upon Maker, which are expressly waived by Maker (except for notices or demands otherwise required by applicable laws to the extent not effectively waived by Maker and any notices or demands specified in the City Documents), Holder may exercise all rights and remedies available under this Note, the Agreement or otherwise available to Holder at law or in equity. Maker

acknowledges and agrees that Holder's remedies include the right to accelerate the Maturity Date by declaring the outstanding principal balance of the Loan, together with all accrued and unpaid interest and unpaid fees and costs incurred, due and payable immediately, in which case, the Maturity Date will be superseded and replaced by the date established by Holder.

9. Waivers.

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

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

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

10. Miscellaneous Provisions.

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

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

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

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

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

[Signature follows]

“MAKER”

OCTAVIA RSU ASSOCIATES, L.P.,
a California limited partnership

By: Octavia RSU GP LLC,
a California limited liability company,
its general partner

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

By: _____
Maurilio Leon
Chief Executive Officer

SECURED PROMISSORY NOTE
(No Place Like Home)

Principal Amount: \$[4,780,239.00]

San Francisco, CA

Date:

FOR VALUE RECEIVED, the undersigned, **OCTAVIA RSU ASSOCIATES, L.P.**, a California limited partnership (“Maker”), hereby promises to pay to the order of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, or holder (as the case may be, “Holder”), the principal sum of [Four Million Seven Hundred Eighty Thousand Two Hundred Thirty Nine and No/100 Dollars (\$4,780,239.00)] (the “Funding Amount”), or so much of the Funding Amount as may be disbursed from time to time pursuant to the Agreement described in **Section 1** below, as provided in this Note.

1. Agreement. This Secured Promissory Note (“Note”) is given under the terms of an Amended and Restated Loan Agreement by and between Maker and Holder (the “Agreement”) dated as of the date set forth above, which Agreement is incorporated herein by reference. Maker's obligations under this Note and the Agreement are secured by that certain Leasehold Deed Of Trust, Assignment Of Rents, Security Agreement And Fixture Filing dated as of the date of this Note, made by Maker for the benefit of Holder. Definitions and rules of interpretation set forth in the Agreement apply to this Note. In the event of any inconsistency between the Agreement and this Note, this Note will control.

2. Interest. Interest will accrue on the principal balance outstanding under this Note from time to time at the rate of zero percent (0%) per annum, simple interest, from the date of [the close of escrow] [disbursement of funds by Holder] through the date of full payment of all amounts owing under the City Documents. Interest will be calculated on the basis of actual days elapsed and a 360-day year, which will result in higher interest charges than if a 365-day year were used.

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[Signature follows]

“MAKER”

OCTAVIA RSU ASSOCIATES, L.P.,
a California limited partnership

By: Octavia RSU GP LLC,
a California limited liability company,
its general partner

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

By: _____
Maurilio Leon
Chief Executive Officer

Citywide Affordable Housing Loan Committee

San Francisco Mayor’s Office of Housing & Community Development
Department of Homelessness and Supportive Housing
Office of Community Investment and Infrastructure
Controller’s Office of Public Finance

78 Haight Street (AKA Octavia Parcel U)

\$26,746,467 Funding Amount

includes \$4,780,239 of State NPLH funds

includes \$945,000 as AHP Bridge Loan

Gap Request

Evaluation of Request for:	Gap Funding
Loan Committee Date:	January 14, 2022
Prepared By:	Anne Romero, Sr. Project Manager
MOHCD Asset Manager:	Omar Cortez
Sources and Amounts of New Funds Recommended:	New gap fund request: \$24,146,217 \$4,000,000 2019 GO Bond \$10,500,000 Market Octavia Fund \$4,865,978 AHF Inclusionary \$4,780,239 No Place Like Home
Sources and Amounts of Previous Predevelopment City Funds:	Total Predevelopment: \$2,600,250 \$2,000,000 ERAF \$600,250 Affordable Housing Fund
TOTAL GAP REQUEST:	\$26,746,467
RFP:	Octavia Blvd Parcels RS&U
Applicant/Sponsor(s) Name:	Tenderloin Neighborhood Development Corporation (TNDC)

EXECUTIVE SUMMARY

Sponsor Information:

Project Name:	78 Haight	Sponsor(s):	Tenderloin Neighborhood Development Corporation
Project Address (w/ cross St):	78 Haight Street (at Octavia)	Ultimate Borrower Entity:	Octavia RSU Associates, L.P.

Project Summary:

On behalf of Octavia RSU Associates, L.P., Tenderloin Neighborhood Development Corporation (TNDC) requests a final MOHCD gap commitment of up to \$26,746,467 for 78 Haight Street, also known as Parcel U (the "Project"), which is consistent with the preliminary gap amount approved by Loan Committee on January 29, 2021. The sponsor plans to close construction in April 2022 alongside 9% tax credit equity. This request includes No Place Like Home (NPLH) funds through San Francisco's Alternative County award in an amount of \$4.8 million, and an AHP bridge loan in the amount of \$945,000, which would be repaid upon receipt.

78 Haight will provide 63 units of affordable housing on a very small infill site, including 32 units for Transition Age Youth (TAY) who are homeless or at risk of homelessness. This site has long been envisioned for TAY housing under the 2007 TAY Housing Plan, and the project has rotated through various financing scenarios including a committed state CA Housing & Community Development MHP loan that was to accompany a bond allocation and 4% tax credits; ultimately the project's 2021 Round 1 CDLAC application was not successful, and the sponsor pivoted to a 9% tax credit structure, submitting an application for the 2021 California Tax Credit Allocation Committee (TCAC) 9% second round under the competitive Special Needs Set-Aside. The Project received a final recommendation for reservation for 9% and state low-income housing tax credits at the TCAC meeting on October 20, 2021. The project must close construction financing and start construction by mid-April, 2022 to meet the tax credit award requirements. Given that hard cost bids were obtained in July 2021, the sponsor has the goal of closing by early April to hold the construction pricing. This gap request to MOHCD is made up of \$21.97 million in MOHCD funds (\$348K / unit) and an additional \$4.78 million in No Place Like Home (NPLH) funds for 13 NPLH TAY units targeted to TAY with serious mental illness (\$368K / NPLH unit). Total proposed MOHCD financing, including NPLH, is \$26,746,467 (\$425K / unit). This amount also includes a bridge loan to cover their assumed FHLB Affordable Housing Program (AHP) award in the amount of \$945,000, and the sponsor will apply in Round I 2022.

Project Description:

Construction Type:	Type I	Project Type:	New Construction
Number of Stories:	7	Lot Size (acres and sf):	0.128 acres / 5,581 sf
Number of Units:	63	Architect:	Paulett Taggart Architects
Total Residential Area:	44,185 sf	General Contractor:	Guzman Suffolk Joint Venture

Total Commercial Area:	3,216 sf	Property Manager:	Tenderloin Neighborhood Development Corporation
Total Building Area:	47,401 sf	Supervisor and District:	Sup. Preston - D5
Land Owner:	City of San Francisco		
Total Development Cost (TDC):	\$54,417,514	Total Acquisition Cost:	\$37,438
TDC/unit:	\$863,770	TDC less land cost/unit:	\$863,175
Loan Amount Requested:	\$26,746,467	Request Amount / unit:	\$424,547 (including NPLH)
HOME Funds?	N	Parking?	N

PRINCIPAL DEVELOPMENT ISSUES

- High Construction and Total Development Cost – Construction costs and Total Development Cost are related to the very small size of the urban infill site with Type I construction, so 9% tax credits became the most viable financing plan – see Section 4.3. Construction Supervisor/Construction Representative’s Evaluation, and Section 6. Financing Plan.
- High operating costs and high LOSP request – Operating Costs and LOSP per unit costs appear high on a per unit basis due to the small size of project, need for 24 hour desk clerk coverage and deeper affordability under 9% Special Needs Set Aside – see Section 7. Project Operations.
- A Capitalized Operating Subsidy Reserve (COSR) is required to achieve 9% tax credit affordability requirements of average AMI of 40% threshold for project feasibility, and is proposed for 18 years under this recommended budget – see Section 7. Project Operations.
- Childcare Commercial Space – MOHCD staff requests more information on the budget for the commercial space Tenant Improvements, as the proposed amount, based on a cost estimate from the General Contractor, appears low based on other childcare spaces in development. See Section 4.4.4. Commercial Space Tenant Improvement Buildout and proposed Loan Condition.
- The Shoring & Underpinning Agreement with neighbor is not finalized. The development team is still trying to negotiate a Shoring and Underpinning Agreement with the neighbor at 68 Haight Street. TNDC is concerned that the needed agreement with Mount Trinity Baptist Church (MTBC) may not be reached and is considering an alternate soldier beam/lagging system that would not require MTBC’s written permission. Please see Section 4.3. Construction Supervisor/Construction Representative’s Evaluation.
- TAY PSH units are underrepresented in the PSH pipeline. Proceeding with this project is critical to meeting the City’s TAY housing goals. The most recent 2019 Point In Time Homeless Count showed 1,145 homeless youth, with 24% in shelters and 76% (870 youth) living on the streets. Please see Section 1.1. Project Background.

SOURCES AND USES SUMMARY

Predevelopment Sources	Amount	Terms	Status
MOHCD Predev (ERAF, AHF)	\$2,600,250	55 yrs @ 3% / Res Rec	Committed and closed
TNDC Working Capital	\$319,018	0% interest repaid at construction loan closing	Committed
Total	\$2,919,268		

Permanent Sources	Amount	Terms	Status
MOHCD	\$21,021,228	55 yrs @ 3% / Res Rec	This Request
No Place Like Home (through MOHCD)	\$4,780,239	55 yrs @ 0%	This Request
AHP (Federal Home Loan Bank)	\$945,000	55 years @ 0%	This Request
Federal LIHTC Equity	\$24,622,538	\$0.095	Committed
State LIHTC Equity	\$2,423,019	\$0.90	Committed
GP Capital	\$100	--	Committed
Accrued Deferred Interest - MOHCD	\$625,390		This Request
Total	\$54,417,514		

Permanent Uses	Amount	Per Unit	Per SF
Acquisition	\$37,438	\$594	\$0.8
Hard Costs	\$35,861,808	\$588,161	\$757
Soft Costs	10683	\$179,074	\$225
Developer Fee	\$2,200,000	\$34,921	\$119
Reserves (including COSR 1 and 2)	\$5,634,398	\$75,901	\$46
Total	\$54,417,514	\$863,770	\$1,148

1. BACKGROUND

1.1. Project History Leading to This Request. 78 Haight Street (aka Parcel U) is a 5,600 sf corner parcel located at Haight Street and Octavia Boulevard. In 1989, the City's Central Freeway sustained earthquake damage severe enough to require its demolition from Fell Street north to Turk Street. After years of analysis and consideration of alternative construction/replacement scenarios, the citizens of San Francisco adopted Propositions E (1998) and I (1999), which approved the Central Freeway's replacement with an elevated structure from Mission to Market Streets, and a ground-level boulevard on Octavia Boulevard, running from Market to Fell. Companion State legislation directed the California Department of Transportation (Caltrans) to transfer twenty-two (22) Central Freeway right-of-way parcels as excess parcels to the City at no cost, while directing the City, through a community-based public planning process, to establish uses for the excess parcels that included affordable rental and/or ownership housing (referred to here as the "Central Freeway Housing Plan").

78 Haight Street is one of the last Central Freeway housing parcels to be developed, and will provide 63 units of affordable housing, including 32 units for Transition Age Youth (TAY) experiencing or at risk of homelessness. The project site has long been identified for TAY housing under TAY housing plans given the small site which can only support a small project, ideal for TAY, and the dynamism and safety of the surrounding neighborhood. The Department of Homelessness and Supportive Housing (HSH) Strategic Plan Framework has identified the goal of reducing youth homelessness by 50% by 2023 by pursuing multiple housing strategies. The 2019 Point In Time Homeless Count showed 1,145 homeless youth, with 24% in shelters and 76% (870 youth) living on the streets. The City has the goal of increasing TAY housing options, focusing on developments outside of District 6 with units that have private bathrooms. TAY units are underrepresented in the PSH Pipeline, with only 3% of PSH units (52 units) under construction or in active predevelopment targeted to TAY, making this project all the more critical to complete.

TNDC was awarded funding under their response to the Octavia Boulevard Parcels RS&U Request for Proposals (RFP) that was issued on June 19, 2017, with Larkin Street Youth Services as the service provider. The proposal included a small childcare center on the ground floor, as suggested in the RFP, along Octavia. Shortly after the award, the project was put on hold due to budget constraints resulting from delays to a market rate development with an inclusionary housing contribution to the project. In March 2019, predevelopment financing was made available to restart this project from the ERAF (Educational Revenue Augmentation Fund) surplus. TNDC evaluated different options to include adjacent Parcels R&S in the project to increase the unit count. Parcels R&S have very high cost-per-unit numbers due to the small lot sizes which necessitate greater structural reinforcement with similar height buildings; these are being explored as separate developments in collaboration with the Office of Economic and Workforce Development (OEWD) and are no longer part of the project site. In September 2019, Loan Committee approved \$2,600,250 in predevelopment financing for the Parcel U site as a stand-alone project.

On January 29, 2021, Loan Committee provided a preliminary gap commitment of \$26,746,467 to enable the project to apply for a CDLAC bond allocation in Round 1 2021, but the application was not awarded due to the highly competitive scoring criteria for SF projects and high cost per unit. TNDC proposed a 9% tax credit scenario to MOHCD and applied under the Special Needs Set Aside with an award made on October 20, 2021. TNDC is forfeiting their MHP award as it is not compatible with 9% tax credits, and has managed to keep the MOHCD gap amount the same. Proposed operating costs have increased somewhat which results in an increase in needed LOSP for the TAY units.

With the pivot to competitive 9% tax credits, the non-TAY units are now more deeply affordable. Initially 31 units were for adults earning up to 70% of TCAC AMI (80% of MOHCD AMI), as required for the small project to cashflow. Now 27 units will be for adults earning up to 50% of TCAC AMI (65% MOHCD AMI) and 4 will be at 40% of TCAC AMI (50% of MOHCD AMI). This deeper affordability on the nonTAY units has created the need for a Capitalized Operating Subsidy Reserve (COSR) to cover operating costs given the lower rents. The COSR ranges from around \$40K in Year 1 to \$272K in Year 20.

The team has selected Merritt Community Capital as the investor and Silicon Valley Bank as the Construction Lender. The final GMP amount was issued in late October and the contract was finalized in December. This gap request is the remaining financing approval needed to start construction, and the gap loan amount (including NPLH funds) and ground lease will need to be approved by the Board of Supervisors.

- 1.2. Applicable NOFA/RFQ/RFP. (See Attachment E for Threshold Eligibility Requirements and Ranking Criteria). TNDC was awarded funding under their response to the *Octavia Boulevard Parcels RS&U Request for Proposals* that was issued on June 19, 2017, with Larkin Street Youth Services as the service provider.
- 1.3. Borrower/Grantee Profile. (See Attachment B for Borrower Org Chart; See Attachment C for Developer Resume and Attachment D for Asset Management Analysis)
 - 1.3.1. Borrower. TNDC created Octavia RSU Associates, LP, with Octavia RSU GP, LLC, a TNDC affiliate, as General Partner and Manager.
 - 1.3.2. Joint Venture Partnership. N/A
 - 1.3.3. Demographics of Board of Directors, Staff and People Served. 85% of staff, 60% of the board, and 50% of executives are BIPOC. TNDC hired a Director of Racial Equity & Inclusion in March 2021.
 - 1.3.4. Racial Equity Vision. TNDC is committed to increasing racial equity. TNDC's mission includes working towards equalizing opportunities for people from underserved and underrepresented communities through its development, management, and residential services. TNDC is actively implementing practices to be part of the solution for communities that have long been denied opportunities on account of race.
 - In 2004, TNDC launched its Cultural and Linguistic Competency Committee, which has since become the Committee on Equity (COE).
 - In 2017, TNDC formed its Racial Justice Police Conduct Task Force to address police harassment issues in the Tenderloin, and to dialogue with the local precinct captain.

- In 2019, TNDC launched its Racial Equity Initiative, an endeavor with representation from all departments. The Racial Equity Initiative has implemented several policies centered on racial equity during the current coronavirus pandemic, including increasing TNDC’s minimum wage based on internal research demonstrating that lowest paid TNDC staff were disproportionately Black and Latinx.
- While TNDC has not yet developed a Racial Equity Vision, TNDC hired a Director of Racial Equity and Inclusion in March 2021.
- Race & Ethnicity of head of household in TNDC properties in operation:

8. Overview by Head of Household Race & Ethnicity (Only Properties in Operation)

	# of Units	% of Units
American Indian/Alaska Native	82	3%
Asian	1,096	39%
Black/African American	777	28%
Native Hawaiian/Other Pacific Islander	47	2%
White (Hispanic or Latino)	93	3%
White (Not Disclosed)	33	1%
White (Not Hispanic or Latino)	658	24%
Not Disclosed*	896	NA
Vacant	191	NA
Grand Total	3,873	100%

*Note: The demographic info at 270 Turk and Avery Lane is not available, therefore included in "Not Disclosed".

1.3.5. Relevant Experience. TNDC has significant experience in new construction projects for low income households, and has developed two supportive housing projects for TAY in collaboration with Larkin Street Youth Services. TNDC was founded in 1981 with the acquisition of a single property and a commitment to creating permanently affordable homes for low-income San Franciscans. Over its 37-year history, TNDC has developed, owned, and managed 3,674 units, with another 263 under construction and 1,129 in predevelopment, totaling 5,066 units in total.

TNDC’s in-house Property Management, Tenant Services, Asset Management, Accounting, and Community Organizing teams will ensure the Project’s transition from development and construction into leasing and stabilized operations.

1.3.6. Project Management Capacity. Below is a list of TNDC staff members assigned to 78 Haight Street along with the percentage of their total workload that will be dedicated to this project:

- Honey Zaw (Project Manager) - 50%
- Esther Kim (Assistant Project Manager) - 50%
- Shreya Shah (Associate Director of Housing Development) - 20%
- Katie Lamont (Senior Director of Housing Development) - 5%

Honey Zaw, Project Manager at TNDC is working on one portfolio rehabilitation project in addition to 78 Haight Street. Honey joined TNDC in 2018. Honey has been critical to the successful construction of one recent TNDC new construction, 222 Taylor Street, and she is currently managing the fire restoration and the rehab of the Sierra Madre Apartments. Prior to TNDC, Honey worked at Home Rise (formerly known as Community Housing Partnership), started in Fund Development department and transitioned to Housing Operations, Compliance and finally Real Estate Development. Honey has her undergraduate degree in Communication from Ripon College, Wisconsin.

Esther Kim, Assistant Project Manager joined TNDC as an assistant project manager in March 2021, where she is working on new construction projects in predevelopment and in construction. Prior to her role at TNDC, Esther gained experience in the entitlements process and marketing while working on large mixed-use, mixed-income developments in Los Angeles. Esther holds Bachelor of Arts and Bachelor of Science degrees from the University of Southern California and a Master in City Planning degree from the Massachusetts Institute of Technology.

1.3.7. Past Performance.

1.3.7.1. City audits/performance plans. TNDC participated in the citywide fiscal and compliance monitoring program in the last couple of years and last year they were monitored by DCYF. There are no known findings or issues with the audit.

1.3.7.2. Marketing/lease-up/operations. The MOHCD Marketing and Lease Up Report Card Assessment of recent marketing efforts is not complete as the most recent TNDC project is still in its lease up phase. In general, however, the MOHCD marketing manager staff has not found any issues with the marketing or lease-up of TNDC projects with this team. The property management team has a diverse staff, doesn't check credit and criminal background of applicants, and more than meets the requirements of the Fair Chance Ordinance. The typical Resident Selection Criteria of TNDC for recent projects is low-barrier.

2. SITE (See Attachment E for Site map with amenities)

Site Description	
Zoning:	Hayes - Neighborhood Commercial Transit District NCT5 height and bulk limits will be determined using SB 35 and the individually requested State Density Bonus Program, that will permit a maximum height of 75 feet
Maximum units allowed by current zoning (N/A if rehab):	N/A
Number of units added or removed (rehab only, if applicable):	N/A
Seismic (if applicable):	The site is not within an Earthquake Fault Zone, as defined by the Alquist-Priolo Earthquake Fault Zoning act. The risk of surface faulting and consequent secondary ground failure is low.
Soil type:	General soil profile consists of heterogeneous fill, Dune Sand, and the Colma Formation. Marsh Deposits were encountered between the Dune Sand and Colma Foundation at Parcel U.
Environmental Review:	Phase I (September 15, 2014) Phase II – N/A EIR – N/A
Adjacent uses (North):	Rose Street. Across Rose Street is Parcel T, market-rate housing under construction at time of loan committee.
Adjacent uses (South):	Haight Street. Across Haight Street is a single market-rate condominium building (8 Octavia Street)
Adjacent uses (East):	Church
Adjacent uses (West):	Octavia Street. Across Octavia is a mixed residential neighborhood with limited street-level retail.
Neighborhood Amenities within 0.5 miles:	Golden Gate Urgent Care, Kanbar Performing Arts Center, Page and Laguna Mini Park, Rainbow Grocery, Whole Foods Market, Hayes Valley Playground, Bessie Smith Nursery & School, etc.
Public Transportation within 0.5 miles:	F, K, L, M, N, 6, 7, 14, 21, 71, 26
Article 34:	Article 34 authority is obtained.
Article 38:	Site is located in an area with elevated pollutant concentrations. Sensitive use buildings, as defined in the Applicability section of the Ordinance, must comply with Health Code Article 38.
Accessibility:	15% mobility and 10% Communication units
Green Building:	Green Point Rated
Recycled Water:	Exempt – see https://www.sfwater.org/index.aspx?page=687
Storm Water Management:	Storm Water Management Plan will be developed

2.1. Description. The infill site is a roughly rectangular lot with frontage on Octavia Street. Since demolition of the freeway off-ramp, the site has been used for surface parking by the adjacent Mt. Trinity Baptist Church on Haight Street. The church has an ongoing Permit to Enter with the Real Estate Department (RED) to use the lot for parking.

2.2. Zoning. N/A

2.3. Probable Maximum Loss. N/A

2.4. Local/Federal Environmental Review. N/A

2.5. Environmental Issues. N/A

- Phase I/II Site Assessment Status and Results. AEW Engineering Inc., (March 10, 2021) - there is no evidence of recognized environmental conditions in connection with the site and no Phase II is required. The site is not in an area that is subject to San Francisco's Article 22A Maher Ordinance.
- Potential/Known Hazards. Soil analytical results conducted by Langan Engineering and Environmental Services, Inc. (August 27, 2020) indicate that some of the fill material at the site contains hazardous concentration of soluble lead and low level contamination from petroleum hydrocarbons, resulting in needed soil off haul during construction. A site mitigation plan from Langan is dated November 29, 2018.

2.6. Adjacent uses and neighborhood amenities. The location has long been considered an ideal site for TAY given that it is a dynamic and safe neighborhood with excellent access to transit to access the entire city, social services, and it has significant open space. Neighborhood amenities include Golden Gate Urgent Care, Kanbar Performing Arts Center, Patricia's Green in Hayes Valley, Page and Laguna Mini Park, Hayes Valley Playground, and Bessie Smith Nursery & School.

2.7. Green Building. The building will be Green Point Rated (GPR), as required by the 9% tax credit program.

3. COMMUNITY SUPPORT

3.1. Prior Outreach. The surrounding Hayes Valley neighborhood is largely supportive and welcoming of the project. TNDC has met with leadership from the Hayes Valley Neighborhood Association (HVNA), as well as met twice with HVNA Transportation and Planning Committee. TNDC has conducted broader community outreach as well.

TNDC has been in communication with the neighboring church, Mt. Trinity Baptist Church, to negotiate a Shoring and Underpinning Agreement which is still in progress. TNDC has agreed to cover the costs of repairs to the adjacent church's wall prior to constructing the building, and to cover the cost

of an attorney and an engineer to ensure that the church has its interests represented. The church has agreed to review the proposed agreement in January 2022, however agreement has not yet occurred. TNDC is developing a back-up alternative for shoring if required.

3.2. Future Outreach. N/A

3.3. Proposition I Notification. Posted on 10/8/2019 for one month.

4. DEVELOPMENT PLAN

4.1. Site Control. The City currently owns the land. The LP has an option to lease and will ground lease the site from the City at construction loan closing pending Board of Supervisors' approval. The terms outlined in the Option Agreement are for a standard term of 75 years from the date of construction completion of the Project, with an option to extend the term for an additional 24 years. The ground lease base rent is \$15,000 per year and residual rent is 10% of the land value of the Property.

4.2. Proposed Design. The project is located at the corner of Haight Street and Octavia Boulevard on an extremely small parcel of 5,580 s.f. that slopes down from Haight Street to Rose Street with a 12 foot grade change. The building is Type I with 7 residential stories over a full basement with 63 units, and a roof deck and laundry plus community room on the 8th floor. Given the site slope, the grade change allows a basement that is at-grade on the north edge and accessible from the sidewalk on Rose Street and is fully subterranean on the south side along Haight Street. The design includes a separate childcare parcel fronting Octavia Street utilizing 3,350 square feet.

Unit configuration is a double-loaded corridor on floors 2 through 7 with the exception of the "TAY Suite" on the 2nd floor.

Residential SF:	44,185
Commercial SF:	3,216
Building Total SF:	47,401

4.2.1. Target Population and Unit Type. The project will have 56 studios and 5 one-bedroom units. 32 of the apartments will be programmed for TAY experiencing homelessness, including the 5 one-bedrooms for parenting TAY, and the remaining 31 units will be programmed for low-income households. Funding sources include No Place Like Home (NPLH) funds from the City's Alternative County NPLH allocation for 13 TAY units, which will require that these units serve TAY who are homeless or at risk of homelessness and have a serious mental illness. The NPLH program requires an experienced service provider for the target population, site suitability, and

integration of the units within the building. MOHCD, HSH and DPH are coordinating the inclusion of NPLH units across the supportive housing portfolio. The location of this project, experienced TAY service provider, and collaborative history of TNDC and Larkin Street Youth Services at TAY supportive housing projects make this project a good candidate for TAY NPLH units.

All TAY units will receive referrals through the Coordinated Entry System, including referrals for the NPLH tenants and parenting TAY.

4.3. Construction Supervisor/Construction Representative's Evaluation. The proposed development at 78 Haight is situated on a 5,580 square foot lot at the corner of Octavia Boulevard and Haight Street in San Francisco's Hayes Valley neighborhood (Supervisory District 5). The project is an eight (8) story building over a partial basement, which houses a trash room, mechanical room, fire pump and electrical room, on a moderately sloped parcel.

In a SFDBI and SFFD Preapplication Meeting, since 78 Haight has three street frontages (Haight, Octavia and Rose Streets), SFDBI and SFFD agreed to measure the building height from the northwest corner rather than at the lowest northeast corner along Rose Street (which would further restrict the building height) with the caveat that the 8th Level's roof does not exceed 85 feet above grade-plane. Since the Addendum No. 01 permit drawings indicate a 85'-7" datum point, MOHCD has requested the project team check for compliance to the agreed-upon signed Preapplication Meeting Minutes. Since AB-005 has been signed by SFFD as required in the Preapplication Meeting Minutes and the Architect, upon further review and discussion with MOHCD, believes the project to be compliance and no follow-up with SFFD will be needed.

The ground floor (Level 1) will house a property management office, a resident services room and a childcare space. The residential entrance to the building is currently located off of Haight Street. The entrance to the childcare facility is currently located mid-block on Octavia Boulevard.

From the SFDBI and SFFD Preapplication Meeting, the childcare facility will be allowed to have one exit (instead of two exits) from the classroom due to the proximity of the exit to the public way. In the past, CA Community Care Licensing would require the childcare's exterior play area to be located on-site but the site does not have sufficient exterior space to accommodate this exterior play area. The project sponsor has indicated that CA Community Care Licensing will allow the exterior play area to be off-site.

Levels 2 to 7 contain the Studios and 1-BR units. MOHCD reviewed Addendum No. 01, which includes 10% mobility units and 4% communication units. However, TCAC has recently increased the requirement to 15% mobility units and 10% communication units. Subsequently, Addendum No. 02 has been submitted with the correct required percentages.

Level 8 includes the roof deck, community room, laundry room and one common restroom.

The GMP cost estimate of \$34,154,103 has been provided by the joint venture General Contracting Firms of Suffolk and Guzman. The project sponsor is using 5% hard cost contingency which would make the construction cost be \$35,861,808. The tight site (5,580 square feet) and the required construction type of concrete does not lend itself to pricing efficiencies by way of scale nor does it lend itself to pricing efficiencies on a per unit basis given the same scale constraints. The current per square foot cost is \$757, with current per unit costs of \$569,235, which is \$56.5K higher than the average for similar projects in the MOHCD portfolio.

The adjacent property to the southeast is the Mt. Trinity Baptist Church (MTBC), and the church building slightly overhangs onto 78 Haight's property. TNDC had hoped to execute an agreement with MTBC for underpinning/shoring, scaffolding, flashing cap cover and access before the end of 2021 but MTBC did not want to discuss until early January 2022. TNDC is concerned that a shoring/underpinning agreement with MTBC will not be reached and has started considering an alternate soldier beam/lagging system that would not require MTBC's written permission. According to the General Contractors, the soldier beam/lagging system would not revise the Basement interior's current configuration.

4.4. Commercial Space. The Octavia Boulevard Parcels RS&U RFP was amended after it was issued to add the provision of a childcare facility on the ground floor given the need for childcare in San Francisco, severe need in this neighborhood, the potential availability of childcare tenant improvement funding from Market-Octavia Child Care impact fees, and the potential need for childcare by parenting TAY. The childcare entrance will be on Octavia with the child care space structured as a separate parcel, and the childcare operations will not interact with the residential building and entrance on Haight Street. A Request for Proposals (RFP) to build out, lease and operate the Childcare Development Center ("CDC") was issued on February 10, 2020, and Wu Yee Children's Services was selected to be the operator on March 31, 2020 with Letter of Intent executed on July 10, 2020.

The CDC will primarily serve children from low income families and childcare slots are open to the public. The CDC will serve 34 children, including 6 infants, 7 toddlers and 20 preschoolers. Wu Yee Childcare Services will be responsible for all buildout beyond the warm shell to complete and furnish the space, meeting MOHCD Commercial Space Underwriting Guidelines.

4.4.1. Space Description.

- 1 commercial space parcel on the ground floor which is being subdivided from the residential parcel
- Address: 120 Octavia Street, San Francisco, CA 94102
- Tenant's Occupied Square Footage: 3,216 s.f.

4.4.2. Commercial Leasing Plan.

- There will be a master lease between Octavia RSU Associates, L.P. and TNDC Commercial Entity (entity formation in process). The commercial space will be subleased to Wu Yee Children's Services.

4.4.3. Rent Terms and Operating Pro Forma.

- The initial sublease term will be 10 years with two Five Year Options
- Base rent will be \$1 / year (similar to other childcare facilities in affordable housing development that commit to 90% subsidized childcare slots)
- Tenant shall pay its pro-rata share of all operating and capital costs of the project, including annual replacement reserve of \$2,306 / year, utilities, commercial management fee of at least \$1,000 / year, all real estate taxes including tenants' share of property taxes
- Tenant will be responsible for its own interior maintenance, janitorial and municipal trash collection

4.4.4. Tenant Improvement Build Out. The estimated Tenant Improvement budget is \$252,000, to be funded by the Low Income Investment Fund (LIIF). The cost estimate is based on three bids from general contractors for the TI scope, with the scope based on the schematic design and scope checklist that MOHCD provided, with warm shell being funded by the residential project. MOHCD questions if this cost is accurate based on other Childcare TI buildout comps, and TNDC will provide follow up information as outlined in the proposed Loan Condition prior to construction loan closing.

Mike Neumann, Wu Yee's Chief Operations Officer, will be the staff member in charge of the build-out. He is experienced with design management, code compliance, licensing requirements, entitlements, permits bidding and construction management. During his 35 year career, he has held management position with Asian Neighborhood Design, Chinese Community Housing Corporation, SF MOHCD and Swinerton Builders. During this period, he has been involved in the development and construction of child development centers, affordable housing, senior care centers, recreation and parks, fitness centers, museums, performing arts and green planning. Mike managed development for five other Wu Yee childcare centers.

4.4.5. How Commercial Leasing Plan Advances Racial Equity Goals.

Community Benefits stated in the lease identify the following community benefit services that tenant will provide the community surrounding the project for the duration of the term:

- Providing child development services to the community where the Project is located;

- Providing access to family support services for immigrants, first generation families and other low-income people and families;
- Operating a child development program for children ages one month to five years old;
- Ensuring that ninety percent (90%) of the children engaged in the Primary Activity come from low-income families, (according to San Francisco Pilot State Medium Income ceilings) target the city's target population, so long as sufficient government assistance is available to Tenant to subsidize the attendance of such children and Tenant diligently pursues such funding;
- Marketing and providing the Services and Primary Activity to low-income residents of the Project;
- Prioritizing residents of the Project in the provision of the Services and Primary Activity; and
- Serving families in Hayes Valley and neighboring zip codes as much as possible.

- 4.5. Service Space. The building design includes a "TAY Suite" on the second floor, which includes two offices for on-site social services, a staff restroom, and a tenant lounge for use by the TAY residents. Support services will be provided by Larkin Street Youth Services (LSYS). HSH and LSYS have reviewed and provided input on design of the service provision space for the TAY residents and believe that it is appropriate to serve the needs of TAY, including the NPLH population, given the supportive services plan.
- 4.6. Interim Use. Interim use of the site has been parking for the neighboring church, which is managed through the City's Real Estate Division (RED). All revenue from Market Octavia Plan parcels' interim uses goes to Public Works for Market Octavia Plan projects.
- 4.7. Infrastructure. N/A
- 4.8. Communications Wiring and Internet Access. The project will provide Ethernet cable design for data/internet. Service to the building from Public Right of Way to a MPOE and to IDF is designed to adequately accommodate fiber and cabling for multiple service providers, following the minimum specs included in the MOHCD Communication Systems Design Standards.
- 4.9. Public Art Component. The public art is a vertical solar panel mural installation of "Now and Then" of the former Central Freeway site, installed on the Haight Street façade. The artwork by Kota Ezawa was selected in August 2021 with support from the Hayes Valley Neighborhood Association. The artwork will be printed onto a special film which will be applied onto Solar Photovoltaic (PV) panels to be installed on the south face of the building facing Haight Street. This installation of the artistic solar panel will meet the project's goal of achieving sustainable design on-site as well as providing public art which references the history of the parcel.

The team obtained partial approval of the public art from the San Francisco Arts Commission’s Visual Arts Committee (SFAC) in December 2021. SFAC approved the design but requested to review a sample of the physical art. The team is currently working to obtain the sample, and upon receipt and approval by the project team and the artist, the final solar films will be produced in 2023 and installed during construction.

The public art line item is valued at \$121K.

4.10. Marketing, Occupancy, and Lease-Up. The development will include the four legislated preferences of the City (Certificate of Preference, Neighborhood Resident Housing Preference (projected at 40% of lottery units or 12 units), Displaced Tenant Housing Preference and San Francisco Live / Work Preference) as permitted by financing for the nonPSH lottery housing units. Referrals to units for TAY experiencing homelessness will be provided by the HSH TAY Coordinated Entry System, alongside a LOSP subsidy, including for the TAY No Place Like Home subsidy.

As required by the tax credit program, all unit rents are at least 10% below market.

4.11. Relocation. N/A – the parking lot use is month to month, and the church is aware of the pending construction start.

5. DEVELOPMENT TEAM

Development Team			
Consultant Type	Name	SBE/LBE	Outstanding Procurement Issues
Architect	Paulett Taggart Architects	Y	N
Landscape Architect	TS Studio	Y	N
Surveyor	Luk & Associates	Y	N
Window Testing Consultant	Auerbach Glasow	Y	N
Energy Consultant	Bright Green Strategies	Y	N
General Contractor	Guzman Suffolk Joint Venture	Y	N
Owner’s Rep/Construction Manager	Regent Construction	Y	N
Financial Consultant	California Housing Partnership	Y	N
Legal	Gubb & Barshay	Y	N

5.1. Procurement Plan. Project meets the SBE/LBE participation goal of 20% for professional services and 23% for construction as determined by CMD.

5.2. Opportunities for BIPOC-Led Organizations. TNDC frequently partners with other organizations in their affordable housing developments, including development and service provision. However, this project is not structured as a joint venture, and the primary partnership is with Larkin Street Youth

Services, which is not a BIPOC-Led organization, for the TAY support services.

6. FINANCING PLAN (See Attachment F for Cost Comparison of City Investment in Other Housing Developments; See Attachment G and H for Sources and Uses)

6.1. Prior MOHCD/OCII Funding:

Loan Type/ Program	Loan Date	Loan Amount	Interest Rate	Maturity Date	Repayment Terms	Outstanding Principal Balance	Accrued Interest to Date
Predev	1/10/2020	\$2,600,250	3%	55 years from conversion date	Residual Receipts	\$0	
Total:		\$2,600,250					

6.2. Disbursement Status. The predevelopment loan has been fully expended as of the December 2021 draw. TNDC will provide working capital to the extent needed to take the project to construction loan closing, estimated at around \$320,000, with 0% interest.

6.3. Fulfillment of Loan Conditions. All of the predevelopment loan conditions have been met. Below is the status of Loan Conditions from the preliminary gap request that went to Loan Committee on February 21, 2020 and the preliminary gap updated request from January 29, 2021:

a) TNDC to implement cost containment strategies that limit the MOHCD subsidy to under \$250K per unit and limits the total development costs excluding land to under \$675K per unit. DONE. TNDC has pursued cost containment strategies, as reviewed and approved by the MOHCD Construction Supervisor. The financing structure has changed various times and ultimately this high per unit cost is the result of the extremely small site, Type I construction, and density of studios (primary unit type). It is not possible for TNDC to develop this project with a MOHCD subsidy under \$250K / unit and total development cost under \$675K / unit.

b) TNDC to submit Request For Proposals (RFPs) for equity investors to MOHCD for review before they are finalized and released to investors. DONE

c) TNDC to submit raw financial data from developer or financial consultant to MOHCD prior to selection of equity investor. DONE

d) Sponsor to break out the hard cost contingencies across the MOHCD proforma and discuss with the MOHCD Construction Representative the appropriate and commensurate reductions based

on the current stage of design and permit review/plan check comments and outstanding predevelopment risk exposure, as well as continue hard cost reduction efforts and value engineering as design progresses. DONE

e) Explore options to reduce the operating costs, including an evaluation of the need for 24 hour desk clerk coverage. DONE
Operating costs have increased since the preliminary gap request, primarily in the area of insurance, which is an industry wide phenomenon; 24 hour desk clerk coverage is required by TCAC because there is no property manager unit on site.

f) Sponsor will provide initial draft marketing plan within 12 months of anticipated TCO, outlining the affirmative steps TNDC will take to market the project to the City's preference program participants, including COP Holders, Displaced Tenants, and Neighborhood Residents, as well as how the marketing is consistent with the Mayor's Racial Equity statement and promotion of positive outcomes for African American San Franciscans. IN PROGRESS

6.3.1. Permanent Sources Evaluation Narrative: The Borrower proposes to use the following sources to permanently finance the project, totaling \$54,417,514:

- MOHCD Loan Note A (\$21,021,228): 55 year, 3%, residual receipts;
- MOHCD NPLH Loan Note B (\$4,780,239): 55 year, 0% interest, deferred payment under a separate Note
- MOHCD Loan AHP Bridge Loan Note C: (\$945,000): Earlier of 2 year or upon receipt, 0% interest
- Accrued Deferred Interest MOHCD (\$625,390)
- Federal 9% Tax Credit Equity (\$24,622,538) with Merritt Community Capital as the investor with equity pricing at \$0.985 for federal credits
- State LIHTC Equity (\$2,423,019) with Merritt Community Capital with equity pricing of \$0.900 for state credits
- General Partner Equity (\$100) as required by TCAC

Please note the construction financing and AHP award terms:

- Construction Loan (\$19,749,088): While not a permanent source, the construction loan terms are interest rate of 2.6%, 26 month term with Silicon Valley Bank as the construction lender.
- AHP (\$945,000) if awarded: Silicon Valley Bank is the bank sponsor with proposed disbursement date of upon receipt of

award during construction. A successful award would pay off the MOHCD Loan Note C, and bring the total MOHCD financing (including NPLH) to \$25,801,467 (\$410K / unit).

6.3.2. Commercial Space Sources and Uses Narrative: The residential development budget includes \$2,053,537 to build the ground floor Commercial Shell which will house the Childcare Development Center, providing a warm shell compliant with the MOHCD Commercial Space Policy. The commercial shell hard costs are allocated using a square foot methodology. The Tenant Improvement costs will be funded by the commercial tenant and are estimated at \$250,000 (see Section 4.4.4 Commercial Space Tenant Improvement Buildout).

Permanent Uses Evaluation:

Development Budget		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Hard Cost per unit is within standards	Y	Hard costs are high at \$569K / unit (\$56K over the average for similar sites), yet acceptable given the very small site, density of studio units and Type I construction; see Construction Supervisor evaluation
Construction Hard Cost Contingency is at least 5% (new construction)	Y	Hard Cost Contingency is 5%
Architecture and Engineering Fees are within standards	Y	Reasonable at 6% of hard cost for this size of project
Construction Management Fees are within standards	Y	Proposed total Construction Management Fee of \$118,388 is within MOHCD Underwriting Guidelines for predev and construction period
Developer Fee is within standards, see also disbursement chart below	Y	Developer fee complies with TCAC Regulations at the lesser of \$2.2 million or 15% of the project's unadjusted eligible basis Project management fee: \$1,100,000 At risk fee: \$1,100,000 Deferred fee: \$0 GP equity: \$100 Commercial fee: \$0 Total fee: \$2,200,000
Consultant and legal fees are reasonable	Y	

Entitlement fees are accurately estimated	Y	
Construction Loan interest is appropriately sized	Y	Construction loan is sized at 24 month term with 2.6% interest
Soft Cost Contingency is 10% per standards	N	Soft Cost Contingency is 9% of soft costs which is reasonable for this stage of the project when soft costs are more defined
Capitalized Operating Reserves are a minimum of 3 months	Y	Capitalized operating reserve is \$583,916 for 6 months which is a requirement of the investor
Capitalized Operating Supplemental Reserve (COSR) 1	N	A COSR 1 in amount of \$3,287,392 is needed to achieve feasible operations for 18 years given the deeper income targeting of the non-TAY units
COSR 2	N	A supplemental COSR 2 in amount of \$1,494,417 is capitalized to capture any excess proceeds which will potentially repay MOHCD's loan at completion of construction. Please see proposed loan condition

6.5.4 Developer Fee Evaluation: The milestones for the payment of the developer fee to the sponsor are specified below.

Total Developer Fee:	\$2,200,000	
Project Management Fee Paid to Date:	\$ 165,000	
Amount of Remaining Project Management Fee:	\$1,035,000	
Amount of Fee at Risk (the "At Risk Fee"):	\$1,100,000	
Amount of Commercial Space Developer Fee (the "Commercial Fee"):	\$0	
Amount of Fee Deferred (the "Deferred Fee"):	\$0	
Amount of General Partner Equity Contribution (the "GP Equity"):	\$100	
Milestones for Disbursement of that portion of Developer Fee remaining and payable for Project Management	Amount Paid at Milestone	Percentage Project Management Fee
Project Management: at closing of preconstruction financing – FUNDED	\$165,000	15%
Project Management: at end of predevelopment	\$385,000	35%
Construction close	\$220,000	%
Milestone	\$230,000	%

At Project Completion (CFO)	\$200,000	%
Project close-out		%
Milestones for Disbursement of that portion of Developer Fee defined as At Risk Fee		Percentage At Risk Fee
100% lease up and draft cost certification	\$220,000	20%
Permanent conversion	\$550,000	50%
Project close-out	\$330,000	30%

7. PROJECT OPERATIONS (See Attachment I and J for Operating Budget and Proforma)

7.1. Annual Operating Budget. Since the preliminary gap request in 2020, the proposed operating budget has increased from \$15,200 PUPA to \$18,171 / unit before reserves. Increases are minor except in property and liability insurance, which has significantly increased with quotes at \$86K more than TNDC received in 2020. The project’s relatively small size of 63 units and 24 hour desk clerk coverage result in fewer economies of scale than a larger project. Given the small size of the project and difficulty for the nonTAY units to cashflow with deeper affordability than earlier planned, MOHCD staff recommend approval for the TAY PSH units (51% of total) to fund 75% of the desk clerk coverage cost.

Because the project shifted to a 9% tax credit scenario with deeper affordability on the non-LOSP units per TCAC competitive application requirements, the project needs a Capitalized Operating Subsidy Reserve (COSR 1) to cover operating costs. Average targeted income for the special needs units and non-special needs SRO units is no more than 40% of the TCAC Area Median Income.

7.2. Annual Operating Expenses Evaluation.

Operating Proforma		
Underwriting Standard	Meets Standard? (Y/N)	Notes
Debt Service Coverage Ratio is minimum 1.1:1 in Year 1 and stays above 1:1 through Year 17	N/A	There is no permanent debt
For TCAC projects: Vacancy rate meets TCAC Standards	Y	Vacancy rate is 5%
Annual Income Growth is increased at 2.5% per year or 1% for LOSP tenant rents	N	Income escalation factor is 2% for both TAY PSH units and nonPSH units, which is a reasonable assumption for TAY units given employment and education supports. The 2% annual

		income growth is paired with the 3% annual operating expense escalation.
<i>For TCAC projects:</i> Annual Operating Expenses are increased at 3.5% per year	N	Expenses escalation factor is 3% per investor and lender direction
Base year operating expenses per unit are reasonable per comparables	N	Total Operating Expenses are \$18,171 per unit which appears high but is due to small size of project with 24 hour desk clerk coverage. Operating budget is reasonable.
Property Management Fee is at allowable <u>HUD Maximum</u>	Y	Total Property Management Fee is \$49,140 or \$65 PUPM which does not exceed HUD's maximum fee.
Property Management staffing level is reasonable per comparables	Y	Refer to chart below.
Asset Management and Partnership Management Fees meet standards	Y	Annual AM Fee is \$23,460 /yr Annual PM Fee is \$19,750/yr For a combined fee of \$43,210
<i>For TCAC projects:</i> Replacement Reserve Deposits meet or exceed TCAC minimum standards	Y	Replacement Reserves are \$500 per unit per year
Limited Partnership Asset Management Fee meets standards	Y	\$5,000 per year with no trending

7.3. Staffing Summary. Staffing is lean and reasonable for a project of this size.

- 1 FTE general manager
- 2.5 full time maintenance staff
- 4.3 full time front desk staff
- .16FTE – share of 2022 allocation for 6 compliance specialists.

7.4. Income Restrictions for All Sources. MOHCD and TCAC are the only restrictions on the project and proposed AHP restrictions would be sized at 50% and 65% MOHCD AMI.

UNIT SIZE		MAXIMUM INCOME LEVEL		
NON-LOTTERY	No. of Units	MOHCD	TCAC	AHP
0 BR – [LOSP]	27	50% MOHCD AMI	30% TCAC AMI	50% MOHCD AMI
1 BR – [LOSP]	5	50% MOHCD AMI	25% TCAC AMI	50% MOHCD AMI
Sub-Total	32			
<u>LOTTERY</u>				
0 BR	27	65% MOHCD AMI	50% TCAC AMI	65% MOHCD AMI
0 BR	4	50% MOHCD AMI	40% TCAC AMI	50% MOHCD AMI
Sub-Total	31			
<u>STAFF UNITS</u>				
X BR	0			
TOTAL	63			
PROJECT AVERAGE		44%	37%	
AVERAGE FOR LOTTERY UNITS ONLY		65%	47%	

7.5. MOHCD Restrictions.

Unit Size	No. of Units	Maximum Income Level
Studio	31	50% of Median Income
Studio	27	65% of Median Income
1BR	5	50% of Median Income
BR		% of Median Income
BR		% of Median Income
BR		% of Median Income
BR		% of Median Income
BR		Manager's Unit

8. SUPPORT SERVICES

8.1. Services Plan. Larkin Street Youth Services (LSYS) and TNDC will both be service providers at the site with LSYS serving the TAY units, and TNDC providing services to the other units. TNDC and LSYS have a long collaboration in TAY housing including 864 Ellis (24 units) and Aarti (40 units).

8.1.1. TAY Units

Larkin Street Youth Services (LSYS) has been working in partnership with TNDC since 2017 to plan the programming of supportive services for the TAY units at 78 Haight Street. LSYS has extensive experience providing services to TAY, including TAY with serious mental illness through their MHSA TAY portfolio and programs. LSYS services' contract will be funded by HSH.

The goal of services in permanent supportive housing (PSH) for TAY is to ensure tenants can remain stably housed. Services in PSH will be led with a Housing First philosophy, which includes principles of harm reduction and low barriers to entry; a racial equity-based, culturally responsive and trauma-informed approach; and an ability to collaborate with tenants and property management with the goal of tenant housing stability.

On site services will include, but not limited to the following:

- Outreach: Engage tenants to provide information about available Support Services and invite them to participate.
- Case Management services to tenants with the primary goal of maintaining housing stability, including ongoing meetings and counseling to establish goals, develop service plans, which are tenant-driven without predetermined goals, provide referrals and linkages to off-site services, and track progress toward achieving those goals.
- Assessment of tenant health, mental health, and substance use treatment needs and incorporate these into their case management plan.
- Referrals to financial and community supports that will support food security.
- Public benefits advocacy to assist tenants with obtaining and maintaining benefits, including, but not limited to, cash aid (e.g., CalWORKs, County Adult Assistance Program, Social Security Income), CalFresh and other food programs, Medi-Cal health coverage, medical clinics and/or In-Home Support Services (IHSS).
- Coordination with outside service providers to support housing stability and long-term exit planning.
- Connect tenants with educational and employment services to increase education and skill levels and through counseling, case management, referrals to community programs, and workshops, staff shall provide financial literacy education (e.g. rent payment, obtaining public benefits, budgeting, financial planning, saving, credit repair).

- Staff shall identify tenants with unmet behavioral health needs that are impacting their ability to be stably housed and shall refer tenants to appropriate community resources, including to the Department of Public Health (DPH) Community Behavioral Health TAY system. In addition on site behavioral health support will provide direct clinical care and offer support to case management staff.
- Groups, events, and activities with input from tenants to build community engagement, develop peer support, share information, form social connections or to celebrate significant events.

8.1.2. Non-TAY Units

TNDC’s Tenant Services Team will provide .4 FTE Social Worker to support the remaining 31 units of non-TAY residents at the project at a cost of \$50,068 annually to be funded from the operating budget. Services will include on-site courses in nutrition, health information/awareness, food cultivation, and/or food preparation. All services are free, voluntary, and confidential. Social workers provide one-on-one support to help tenants remain housed and resourced to reach their self-determined goals and needs. Social workers provide guidance on a wide range of areas: outreach, advocacy, conflict resolution, translation and interpretation, and emotional support. The proposed services are based on principals of trauma informed care, harm reduction, and cross system partnerships.

8.2. Services Budget.

8.2.1. TAY - \$328,948 annually, or \$10,280 PUPA with the staffing identified below:

Tier 5+ Budget Template: 32 Units			32
Case Management ratio 20:1			
Staffing Costs	Salary	FTEs	Cost
Case Managers	62,600	1.2	75,120
Support Services			
Manager/Supervisor	80,000	1.0	80,000
Clinical Social Worker/Case Manager	75,000	0.40	30,000
Clinical Supervision	107,629	0.10	10,763
Total Salaries/FTEs		2.7	195,883
Fringe Benefits	35.00%		68,559
Total Staffing Costs			264,442
Staff Operating Expenses	cost/unit	250	8,000
Client Support and Supplies	cost/unit	200	6,400

Client Wellness Incentive	cost/unit	125	4,000
Staff Training and Support	cost/unit	100	3,200
Indirect costs		15%	42,906
TOTAL			328,948
Annual Cost Per Unit			10,279.63

8.2.2. Non-TAY Units - \$50,432 annually or \$1,626 PUPA

8.3. HSH Assessment of Service Plan and Budget. HSH staff have reviewed and approved the target budget using Tier 5+ funding levels and a case a management ratio of 20:1, given the needs to TAY, including 13 units targeted to TAY with serious mental illness. HSH and MOHCD staff will meet with the development team and service providers during construction to refine the budget and service plan, and coordinate lease up referrals for the TAY units.

9. STAFF RECOMMENDATIONS

9.1. Proposed Loan Terms

Financial Description of Proposed Loan – Note A	
Loan Amount:	\$21,021,228 City Sources
Loan Term:	55 years
Loan Maturity Date:	2078
Loan Repayment Type:	Residual Receipts
Loan Interest Rate:	3%
Date Loan Committee approves prior expenses can be paid:	September 6, 2019 (original predev loan approval)

Financial Description of Proposed Loan – Note B	
Loan Amount:	\$4,780,239 NPLH – separate Note
Loan Term:	55 years
Loan Maturity Date:	2078
Loan Repayment Type:	Deferred
Loan Interest Rate:	0%
Date Loan Committee approves prior expenses can be paid:	September 6, 2019 (original predev loan approval)

Financial Description of Proposed Bridge Loan – Note C	
Loan Amount:	\$945,000 – AHP Bridge Loan separate Note (AHF Inclusionary)
Loan Term:	Earlier of AHP funding or 2 years
Loan Maturity Date:	April 2024
Loan Repayment Type:	Due in full on maturity date
Loan Interest Rate:	0%
Date Loan Committee approves prior expenses can be paid:	September 6, 2019 (original predev loan approval)

9.2. Recommended Loan Conditions

1. Sponsor will repay the MOCHD loan with the amount of the COSR 2 unless it is needed for another purpose, which will require MOHCD review and approval.
2. Sponsor must provide additional information on the commercial space Tenant Improvement budget prior to construction loan closing, alongside warm shell assumptions for MOHCD staff to verify that it meets the Commercial Space Underwriting Guidelines.
3. Sponsor must provide MOHCD with detailed monthly updates via the MOH Monthly Project Update until start of construction, including on:
 - Status of neighbor negotiations
 - Outcomes achieved related to racial equity goals, and
 - Commercial-use space development
4. Sponsor must provide initial draft marketing plan within 12 months of anticipated TCO, outlining the affirmative steps they will take to market the project to the City's preference program participants, including COP Holders, Displaced Tenants, and Neighborhood Residents, as well as how the marketing is consistent with the Mayor's Racial Equity statement and promotion of positive outcomes for African American San Franciscans.
5. Sponsor must provide quarterly updated response to any letters requesting corrective action.
6. Sponsor must submit an updated 1st year operating budget and 20-year cash flow – if any changes have occurred – by November 1st before the fiscal year the project will achieve TCO so that MOHCD may request the LOSP subsidy (anticipated to be needed by November 2022).
7. Sponsor to work with MOHCD and HSH to plan the lease up process for the referrals from Coordinated Entry.

10. LOAN COMMITTEE MODIFICATIONS

LOAN COMMITTEE RECOMMENDATION

Approval indicates approval with modifications, when so determined by the Committee.

APPROVE. DISAPPROVE. TAKE NO ACTION.

Eric D. Shaw, Director
Mayor's Office of Housing

Date: _____

APPROVE. DISAPPROVE. TAKE NO ACTION.

Salvador Menjivar, Director of Housing
Department of Homelessness and Supportive Housing

Date: _____

APPROVE. DISAPPROVE. TAKE NO ACTION.

Sally Oerth, Interim Executive Director
Office of Community Investment and Infrastructure

Date: _____

APPROVE. DISAPPROVE. TAKE NO ACTION.

Anna Van Degna, Director
Controller's Office of Public Finance

Date: _____

- Attachments:
- A. Project Milestones/Schedule
 - B. Borrower Org Chart
 - C. Developer Resumes
 - D. Asset Management Analysis of Sponsor
 - E. Threshold Eligibility Requirements and Ranking Criteria
 - F. Site Map with amenities
 - G. Elevations and Floor Plans, if available
 - H. Comparison of City Investment in Other Housing Developments
 - I. Development Budget
 - J. 1st Year Operating Budget
 - K. 20-year Operating Pro Forma

Chavez, Rosanna (MYR)

From: Shaw, Eric (MYR)
Sent: Friday, January 14, 2022 11:35 AM
To: Chavez, Rosanna (MYR)
Subject: FINAL GAP COMMITMENT FOR 78 HAIGHT

I approve

Eric D. Shaw
Director

Mayor's Office of Housing and Community Development
City and County of San Francisco
1 South Van Ness Avenue, 5th Floor

Chavez, Rosanna (MYR)

From: Menjivar, Salvador (HOM)
Sent: Wednesday, January 19, 2022 12:16 PM
To: Chavez, Rosanna (MYR)
Cc: Shaw, Eric (MYR)
Subject: Octavia RSU Associates +TNDC request

I am sorry this is late...

I approve TNDC requests for a final MOHCD gap loan of up to \$26,746,467 for 78 Haight Street.

Best,

salvador



Salvador Menjivar
Director of Housing
Pronouns: He/Him
San Francisco Department of Homelessness and Supportive Housing
salvador.menjivar1@sfgov.org | 415-308-2843

Learn: hsh.sfgov.org | Follow: [@SF_HSH](https://twitter.com/SF_HSH) | Like: [@SanFranciscoHSH](https://twitter.com/SanFranciscoHSH)

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Chavez, Rosanna (MYR)

From: Oerth, Sally (CII)
Sent: Friday, January 14, 2022 11:36 AM
To: Chavez, Rosanna (MYR)
Cc: Shaw, Eric (MYR); Blitzler, Mara (MYR)
Subject: Final Gap commitment for 78 Haight, 1.14.22 Loan Committee

I approve the gap funding request for the 78 Haight project, as presented at the 1.14.22 Loan Committee.



Sally Oerth
Interim Executive Director

📍 One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
📞 415.749.2588
🏠 www.sfocii.org

Chavez, Rosanna (MYR)

From: Pereira Tully, Marisa (CON)
Sent: Friday, January 14, 2022 11:35 AM
To: Chavez, Rosanna (MYR)
Cc: Shaw, Eric (MYR)
Subject: Final Gap Commitment for 78 Haight

Approve

Marisa Pereira Tully (she/her)
Controller's Office of Public Finance
City and County of San Francisco

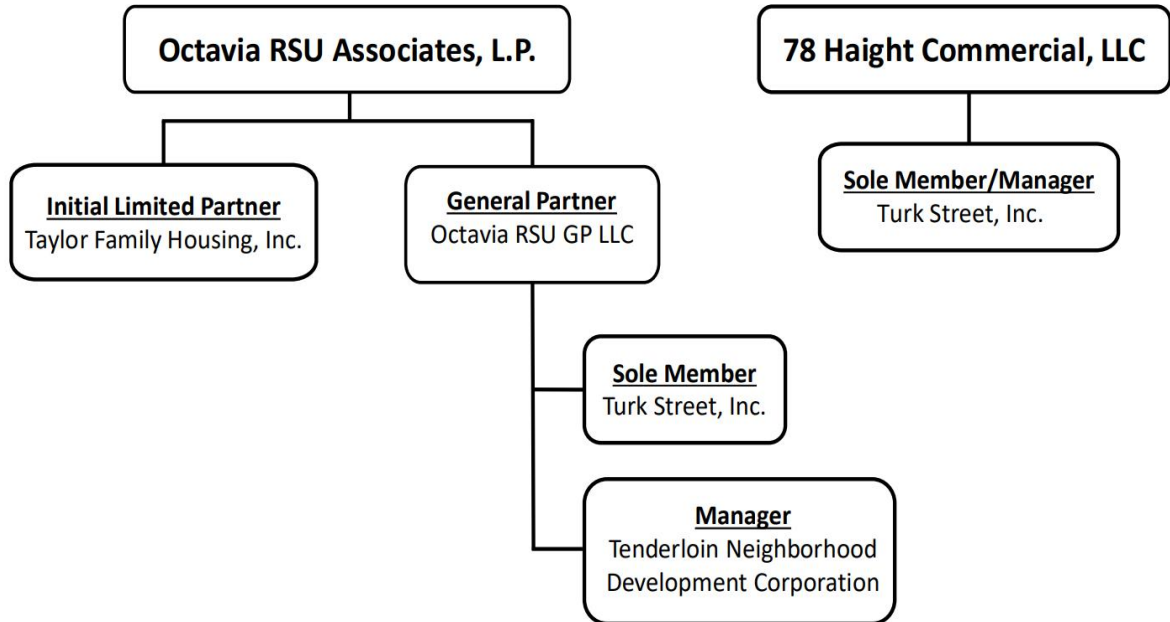
Attachment A: Project Milestones and Schedule

No.		Performance Milestone	Estimated or Actual Date
A.		Prop I Noticing (if applicable)	9/9/2019
1		Acquisition/Predev Financing Commitment	9/6/2019
2		Site Acquisition	N/A
3		Development Team Selection	
	a.	Architect	June, 2017
	b.	General Contractor	Oct, 2019
	c.	Owner's Representative	August, 2018
	d.	Property Manager	N/A
	e.	Service Provider	N/A
4		Design	
	a.	Submittal of Schematic Design & Cost Estimate	Dec, 2019
	b.	Submittal of Design Development & Cost Estimate	Mar, 2020
	c.	Submittal of 50% CD Set & Cost Estimate	July, 2020
	d.	Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs)	July, 2021 (90% CD's)
5		Commercial Space	
	a.	Commercial Space Plan Submission	7/7/2020 (subdivision)
	b.	LOI/s Executed	7/3/2020
6		Environ Review/Land-Use Entitlements	
	a.	SB 35 Application Submission	1/7/2020
	b.	CEQA Environ Review Submission	N/A
	c.	NEPA Environ Review Submission	N/A
	d.	CUP/PUD/Variances Submission	N/A
7		PUC/PG&E	
	a.	Temp Power Application Submission	12/1/2020
	b.	Perm Power Application Submission	6/15/2020
8		Permits	
	a.	Building / Site Permit Application Submitted	11/14/2019
	b.	Addendum #1 Submitted	9/12/2020
	c.	Addendum #2 Submitted	4/13/2021
9		Request for Bids Issued	9/1/2020
10		Service Plan Submission	N/A
	a.	Preliminary	October 2019
	b.	Final	Spring 2023
11		Additional City Financing	
	a.	Preliminary Gap Financing Application	1/29/2021

	b.	Gap Financing Application	1/14/2022
12		Other Financing	
	a.	HCD Application	Sept, 2020/February 2021
	b.	Construction Financing RFP	Oct, 2021
	c.	AHP Application	March, 2022
	d.	CDLAC Application	N/A
	e.	TCAC Application	July, 2021
	f.	Other Financing Application	N/A
	g.	LOSP Funding Request	12/17/2022
13		Closing	
	a.	Construction Loan Closing	4/1/2022
	b.	Conversion of Construction Loan to Permanent Financing	12/1/2023
14		Construction	
	a.	Notice to Proceed	4/1/2022
	b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	8/1/2023
15		Marketing/Rent-up	9/1/2023
	a.	Marketing Plan Submission	10/1/2023
	b.	Commence Marketing	11/1/2023
	c.	95% Occupancy	12/1/2023
16		Cost Certification/8609	6/1/2024
17		Close Out MOH/OCII Loan(s)	7/1/2024

Attachment B: Borrower Org Chart

78 Haight Street Organizational Structure



- Octavia RSU Associates, L.P., a California limited partnership. EIN: 84-2120618
- Octavia RSU GP LLC, a California limited liability company.
- Turk Street, Inc., a California nonprofit public benefit corporation. EIN: 94-3297381
- Taylor Family Housing, Inc., a California nonprofit public benefit corporation. EIN: 94-3403318 To be replaced by Investor's entity at close
- Tenderloin Neighborhood Development Corporation, a California nonprofit public benefit corporation. EIN: 94-2761808
- 78 Haight Commercial, LLC, a California limited liability company.

Attachment C: Development Staff Resumes

TNDC staff members assigned to 78 Haight Street along with the percentage of their total workload that will be dedicated to this project:

- Honey Zaw (Project Manager) - 50%
- Esther Kim (Assistant Project Manager) - 50%
- Shreya Shah (Associate Director of Housing Development) - 20%
- Katie Lamont (Senior Director of Housing Development) - 5%

Honey Zaw, Project Manager at TNDC is working on one portfolio rehabilitation project in addition to 78 Haight Street. Honey joined TNDC in 2018. Honey has been critical to the successful construction of one recent TNDC new construction, 222 Taylor Street, and she is currently managing the fire restoration and the rehab of the Sierra Madre Apartments. Prior to TNDC, Honey worked at Home Rise (formerly known as Community Housing Partnership), started in Fund Development department and transitioned to Housing Operations, Compliance and finally Real Estate Development. Honey has her undergraduate degree in Communication from Ripon College, Wisconsin.

Esther Kim, Assistant Project Manager joined TNDC as an assistant project manager in March 2021, where she is working on new construction projects in predevelopment and in construction. Prior to her role at TNDC, Esther gained experience in the entitlements process and marketing while working on large mixed-use, mixed-income developments in Los Angeles. Esther holds Bachelor of Arts and Bachelor of Science degrees from the University of Southern California and a Master in City Planning degree from the Massachusetts Institute of Technology.

Attachment D: Asset Management Evaluation of Project Sponsor

TNDC has an adequately staffed asset management division that works closely with property management and development.

- # of projects and avg. # of units/project currently in sponsor's asset management portfolio: Two Asset Managers manage a portfolio of 21-23 projects, with an average number of units per project of 94.
- sponsor's current asset management staffing – job titles, FTEs, avg # units assigned to each FTE, org chart and status of each position (filled/vacant): TNDC's Asset Management Department is closely entwined with the in-house property management team, and is staffed with 3.4 FTE's including a Director of Asset Management and three Asset Managers with the titles Asset Manager I and Asset Manager II. All asset management positions are currently filled.
- description of scope and range of duties of sponsor's asset management team: Two Asset Managers manage a portfolio of 21-23 projects, with an average number of units per project of 94. The third Asset Manager works on high priority special projects across the portfolio. In addition, TNDC contracts on an on-going basis with a consultant to complete property tax exemptions. The department is overseen by TNDC's Chief Financial Officer, Ron Lathouwers. TNDC projects the addition of 1 new project to its portfolio each year through 2024.
- description of sponsor's coordination between asset management and other functional teams, including property management, accounting, compliance, facilities management: To affect physical standards, the Department approves individual capital improvement proposals in the stabilized portfolio, approves annual capital budgets, and prepares long-term capital needs projections and re-investment plans. With Housing Development, the Department participates in an inter-departmental Re-Capitalization Group, consisting of CFO, CEO, Senior Director of Property Operations, and Senior Director of Housing Development, which makes portfolio reinvestment decisions.

Attachment E: Threshold Eligibility Requirements and Ranking Criteria

Minimum Experience and Capacity Requirements

All respondents must meet the following Minimum Experience and Capacity Requirements 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 or economic development in low income communities, with experience developing housing for low- and very low-income households in San Francisco (which experience can be satisfied through a development consultant);
- A lead architectural firm with experience in design and construction of multifamily housing. While the lead architect's LBE status will not be considered in scoring responses to this RFP, it will be counted toward the Project's overall procurement goals, which will be set at a later date.
- A property management entity with experience managing low- and very low-income affordable housing in a culturally competent manner;
- A one community-based, service-providing entity with experience providing culturally competent services appropriate for low-income families, and/or
- A community-based, service-providing entity with experience providing culturally competent services appropriate for youth at risk of homelessness or currently homeless.

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
- location in San Francisco
- affordable to low- and very-low income families
- financed by use of Low Income Housing Tax credits

For the Architect, a Qualifying Project must be new residential construction, of which a majority are multiple-bedroom units preferably completed in the last five (5) years, herein referred to as an **Architect Qualifying Project (AQP)**.

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) AQP.

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):

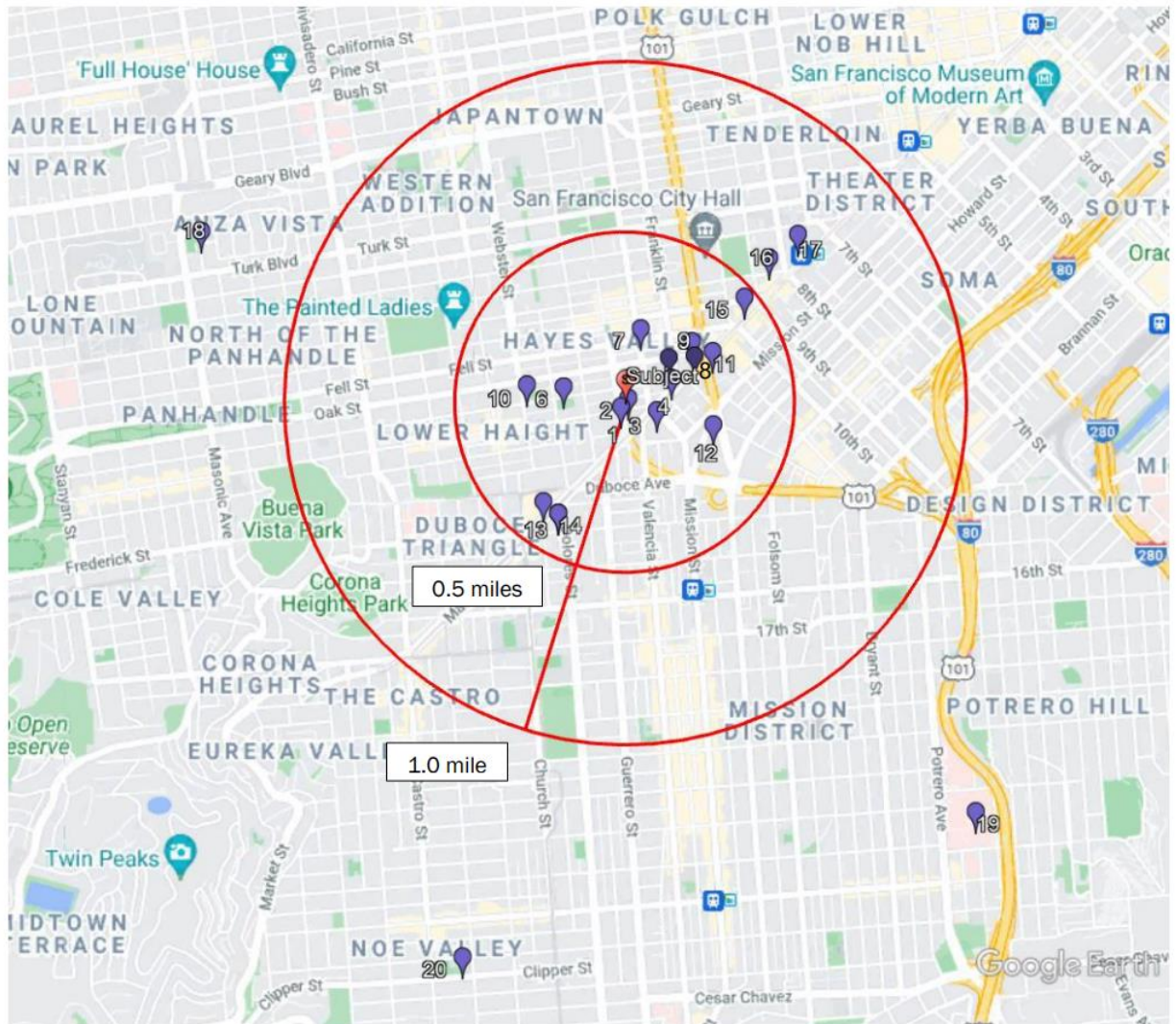
All applications that meet the minimum experience and capacity requirements will be rated and ranked according to the following scoring criteria (see Scoring Criteria details below):

	Category	Points
(1)	Experience:	40
a.	Developer Experience (20 pts):	
b.	Architect Experience (10 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

Attachment F: Site Map with amenities

Locational Amenities Map

The Subject will be located in close proximity to many amenities and services. The following map and table below display the distances and location of various services from the site.



LOCATIONAL AMENITIES

#	Service or Amenity	Distance from Subject (Crow)	#	Service or Amenity	Distance from Subject (Crow)
1	Wu Yee Childcare Services	<0.1 miles	11	Bank of America	0.3 miles
2	Mt. Trinity Baptist Church	<0.1 miles	12	Chevron	0.3 miles
3	Bus Stop	0.1 miles	13	Safeway	0.4 miles
4	Dignity Health - Urgent Care	0.1 miles	14	Whole Foods Market	0.4 miles
5	Fire Department	0.2 miles	15	Post Office	0.5 miles
6	Koshland Park	0.2 miles	16	San Francisco Public Library	0.6 miles
7	Walgreens	0.2 miles	17	Heart of the City Farmers' Market	0.7 miles
8	Muni Rail Station	0.2 miles	18	Raoul Wallenberg Traditional High School	1.3 miles
9	Sheriff's Department	0.3 miles	19	Zuckerberg San Francisco General Hospital and Trauma Center	1.6 miles
10	John Muir Elementary School	0.3 miles	20	James Lick Middle School	1.7 miles

Attachment G: Elevations and Floor Plans

78 Haight Renderings





**Attachment H: Comparison of City Investment in Other Housing
Developments**

Affordable Multifamily Housing New Construction Cost Comparison

Updated 1/10/2022

	Acquisition by Unit/Bed/SF			Construction by Unit/Bed/SF			Soft Costs By Unit/Bed/SF			Total Development Cost (Incl. Land)			Subsidy		
	Acq/unit	Acq/BR	Acq/lot sq.ft	Const/unit	Const/BR	Const/ sq.ft ⁶	Soft/unit	Soft/BR	Soft/ sq.ft ⁶	Gross TDC/unit	Gross TDC/BR	Gross TDC/ sq.ft ⁶	Subsidy / unit	Leveraging ⁷	
Delta of Subject and Comparable Projects	\$ (21,557)	\$ (21,342)	\$ (177)	\$ 56,475	\$ 61,449	\$ 21	\$ 103,935	\$ 105,778	\$ 118	\$ 138,853	\$ 145,885	\$ 108	\$ 228,905		
Delta Percentage	-97%	-97%	-96%	11%	12%	3%	55%	56%	43%	19%	20%	10%	117%		
SUBJECT PROJECT 78 Haight Street	\$ 594	\$ 594	\$ 7	\$ 569,235	\$ 569,235	\$ 757	\$ 293,941	\$ 293,941	\$ 391	\$ 863,770	\$ 863,770	\$ 1,148	\$ 424,547	50.8%	
Comparable Projects	Average: \$ 22,151	\$ 21,936	\$ 183.69	\$ 512,760	\$ 507,786	\$ 736	\$ 190,006	\$ 188,163	\$ 273	\$ 724,917	\$ 717,885	\$ 1,040	\$ 195,642	73.0%	
All Projects:	AVERAGE	\$ 36,832	\$ 26,295	\$ 192	\$ 590,127	\$ 391,992	\$ 572	\$ 164,388	\$ 112,143	\$ 186	\$ 786,240	\$ 525,742	\$ 770	\$ 229,265	70%

Costs **lower** than comparable average Costs **higher** than comparable average Costs similar to comparable average

	Lot sq.ft	Completion/ start date	# of Units	# of BR ¹	Building Square Footage			Total Project Costs			Total Dev. Cost w/land	Local Subsidy	Total Dev. Cost w/o land	Notes on Financing	Building Type	Stories	Comments
					Res. ²	Non-Res. Sq. ft.	Total sq. ft.	Acq. Cost ³	Constr. Cost ⁴	Soft Cost							
ALL PROJECTS	Average:	34,657		120	188	115,262	14,915	128,087	\$ 3,597,835	\$ 68,467,422	\$ 18,989,895	\$ 91,307,560	\$ 27,751,804	\$ 88,418,894			
Comparable Projects Completed (filtered)	Average:	10,822		61	63	48,756	9,758	58,514	\$ 2,778,333	\$ 35,424,620	\$ 9,736,499	\$ 47,939,452	\$ 16,262,084	\$ 45,161,119			
Comparable Projects Under Construction (filtered)	Average:	7,248		71	71	37,204	620	37,824	\$ 1,698,349	\$ 25,972,716	\$ 11,913,648	\$ 39,584,713	\$ 2,031,847	\$ 37,886,364			
Comparable Projects In Predevelopment (filtered)	Average:	6,552		73	73	40,807	5,122	45,929	\$ 45,813	\$ 43,291,259	\$ 17,142,731	\$ 60,479,803	\$ 21,649,589	\$ 60,433,990			
Total Comparable Projects	Average:	8,207		68	69	42,256	5,167	47,422	\$ 1,507,498	\$ 34,896,199	\$ 12,930,959	\$ 49,334,656	\$ 13,314,507	\$ 47,827,158			
SUBJECT PROJECT 78 Haight Street	5,581		63	63	44,185	3,216	47,401	\$ 37,438	\$ 35,861,808	\$ 18,518,268	\$ 54,417,514	\$ 26,746,467	\$ 54,380,076				
Delta of Subject and Comp Project Averages		-2626		-5	-6	1929	-1951	-21	-1470060	965609	5587309	5082858	13431960	6552918			
Delta Percentage		-32%		-7%	-8%	5%	-38%	0%	-98%	3%	43%	10%	101%	14%			

PROJECTS COMPLETED				Building Square Footage					Total Project Costs			Total Dev. Cost w/land	Local Subsidy ⁵	Total Dev. Cost w/o land	Notes on Financing	Building Type	Stories	Comments
Project Name	Address	Lot sq.ft	Compl. Date	# of Units	# of BR ¹	Res. ²	Non-Res. Sq. ft.	Total	Acq. Cost ³	Constr. Cost ⁴	Soft Cost							
95 Laguna Senior	95 Laguna	14,300	May-19	79	82	59,785	7,316	67,101	\$ 5,012,000	\$ 35,931,057	\$ 11,343,750	\$ 52,286,807	\$ 21,234,000	\$ 47,274,807	9% LIHTC	Type II over 2 Type IA	7	Incl Community Services space
Booker T Washington	800 Presidio	8,000	Feb-18	50	52	40,340	20,700	61,040	\$ 3,323,000	\$ 36,834,303	\$ 6,019,350	\$ 46,176,653	\$ 9,026,304	\$ 42,853,653	HCD MHP Loan	Type V over Type I		TDC incl Community Center \$8.4MM
735 Davis Senior Housing	735 Davis	10,165	May-21	53	54	46,143	1,257	47,400	\$ -	\$ 33,508,500	\$ 11,846,397	\$ 45,354,897	\$ 18,525,848	\$ 45,354,897	HCD MHP Loan	Type IIIA & V over Type I	5-6	Senior

PROJECTS UNDER CONSTRUCTION				Building Square Footage					Total Project Costs			Total Dev. Cost w/land	Local Subsidy ⁵	Total Dev. Cost w/o land	Notes on Financing	Building Type	Stories	Comments
Project Name	Address	Lot sq.ft	Compl. Date	# of Units	# of BR ¹	Res. ²	Non-Res. Sq. ft.	Total	Acq. Cost ³	Constr. Cost ⁴	Soft Cost							
Casa de la Mision	3001 24th Street	6,715	Sep-21	45	45	26,439	1,239	27,678	\$ 3,225,000	\$ 17,049,794	\$ 7,106,021	\$ 27,380,815	\$ 1,313,694	\$ 24,155,815	9% LIHTC & private dc	Type V over Type I		
53 Colton (Plumbers Union DA)	53 Colton	7,790	Jul-22	96	96	47,969	-	47,969	\$ 171,897	\$ 34,895,639	\$ 16,721,274	\$ 51,788,610	\$ 2,750,000	\$ 51,616,813	4% HCD MHP, AHP	Type IIIA over Type I	6	Constrained site, efficiency studios

PROJECTS IN PREDEVELOPMENT				Building Square Footage					Total Project Costs			Total Dev. Cost w/land	Local Subsidy	Total Dev. Cost w/o land	Notes on Financing	Building Type	Stories	Comments
Project Name	Address	Lot sq.ft	Start Date (anticipated)	# of Units	# of BR ¹	Res. ²	Non-Res. Sq. ft.	Total	Acq. Cost ³	Constr. Cost ⁴	Soft Cost							
Central Freeway Parcel U	78 Haight Street	5,583	Mar-22	63	63	42,099	3,216	45,315	\$ 37,439	\$ 35,861,808	\$ 16,722,044	\$ 52,621,291	\$ 24,572,585	\$ 52,583,852	9% Fed & St. Credits	Type I	7	Final pricing 10/26/21
180 Jones Street	180 Jones Street	4,853	Feb-22	70	70	34,863	3,304	38,167	\$ 100,000	\$ 35,746,770	\$ 17,576,236	\$ 53,423,006	\$ 15,200,000	\$ 53,323,006	4% LIHTC + MHP	Type I	9	Small very tight site, studios (80% CD est. 3/26/21)
772 Pacific Avenue	772 Pacific Avenue	9,219	Apr-24	86	86	45,458	8,847	54,305	\$ -	\$ 58,265,200	\$ 17,129,912	\$ 75,395,112	\$ 25,176,182	\$ 75,395,112	4% Credits: MHP, AHP	Type IA	8	Comm rpt of Asia SF rest (9/30/21 Loan Eval)

Attachment I: Predevelopment Budget

N/A

Attachment J: Development Budget

Application Date: 11/15/21 # Units: 63
Project Name: Octavia Parcel U # Bedrooms: 5
Project Address: 78 Haight Street # Beds:
Project Sponsor: Tenderloin Neighborhood Development Corporation

LOSP Project

Table with 11 columns: SOURCES, 21,021,228, 4,780,239, 24,622,538, 2,423,019, 100, 625,390, 945,000, 54,417,514, Total Sources, Comments

Table with 7 columns: Name of Sources, MOHCD/OCII, No Place Like Home (MOHCD), Federal LIHTC Equity, State LIHTC Equity, GP Capital, Accrued Deferred Interest - MOHCD, AHP - Federal Home Loan Bank

USES

ACQUISITION

Table with 11 columns: Acquisition cost or value, Legal / Closing costs / Broker's Fee, Holding Costs, Transfer Tax, TOTAL ACQUISITION

CONSTRUCTION (HARD COSTS)

Table with 11 columns: Unit Construction/Rehab, Commercial Shell Construction, Demolition, Environmental Remediation, Onsite Improvements/Landscaping, Offsite Improvements, Infrastructure Improvements, Parking, GC Bond Premium/GC Insurance/GC Taxes, GC Overhead & Profit, GC General Conditions, Design Contingency, Bid Contingency, Plan Check Contingency, Hard Cost Construction Contingency, TOTAL CONSTRUCTION COSTS

Construction line item costs as a % of hard costs 3.0%, 3.4%, 6.4%, 0.0%, 0.0%, 0.0%, 5.0%

SOFT COSTS

Architecture & Design

Table with 11 columns: Architect design fees, Design Subconsultants to the Architect (incl. Fees), Architect Construction Admin, Reimbursables, Additional Services, Sub-total Architect Contract, Other Third Party design consultants, Total Architecture & Design

Engineering & Environmental Studies

Table with 11 columns: Survey, Geotechnical studies, Phase I & II Reports, CEQA / Environmental Review consultants, NEPA / 106 Review, CNA/PNA (rehab only), Other environmental consultants, Total Engineering & Environmental Studies

Financing Costs

Table with 11 columns: Construction Financing Costs (Construction Loan Origination Fee, Construction Loan Interest, Title & Recording, CDLAC & CDIAC fees, Bond Issuer Fees, Other Bond Cost of Issuance, Other Lender Costs), Permanent Financing Costs (Permanent Loan Origination Fee, Credit Enhance. & Appl. Fee, Title & Recording), Total Financing Costs

Legal Costs

Table with 11 columns: Borrower Legal fees, Land Use / CEQA Attorney fees, Tax Credit Counsel, Bond Counsel, Construction Lender Counsel, Permanent Lender Counsel, Other Legal (specify), Total Legal Costs

Other Development Costs

Table with 11 columns: Appraisal, Market Study, Insurance, Property Taxes, Accounting / Audit, Organizational Costs, Entitlement / Permit Fees, Marketing / Rent-up, Furnishings, PCE / Utility Fees, TOC/AG/Alto/ Monitor Fees, Financial Consultant fees, Construction Management fees / Owner's Rep, Security during Construction, Relocation, Construction Costs Not in Contract, SFAC 1% Public Art, Other (specify), Total Other Development Costs

Total Soft Cost Contingency as % of Total Soft Costs 9.9%

Soft Cost Contingency

Table with 11 columns: Contingency (Arch, Eng, Fin, Legal & Other Dev), TOTAL SOFT COSTS

RESERVES

Table with 11 columns: Operating Reserves, Replacement Reserves, Tenant Improvements Reserves, Lease Up Reserve, COSR 1, COSR 2, TOTAL RESERVES

DEVELOPER COSTS

Table with 11 columns: Developer Fee - Cash-out Paid at Milestones, Developer Fee - Cash-out At Risk, Commercial Developer Fee, Developer Fee - GP Equity (also show as source), Developer Fee - Deferred (also show as source), Development Consultant Fees, Other (specify), TOTAL DEVELOPER COSTS

TOTAL DEVELOPMENT COST

Table with 11 columns: 21,021,228, 4,780,239, 24,622,538, 2,423,019, 100, 625,390, 945,000, 54,417,514, Development Cost/Unit by Source, Development Cost/Unit as % of TDC by Source

Acquisition Cost/Unit by Source

Table with 11 columns: 0, 0, 0, 0, 0, 0, 0, 0

Construction Cost (inc Const Contingency)/Unit By Source

Table with 11 columns: 193,711, 75,877, 246,185, 38,461, 2, 0, 15,000, 589,235

Construction Cost (inc Const Contingency)/SF

Table with 11 columns: 297.46, 100.85, 327.20, 51.12, 0.00, 0.00, 19.94, 756.56

*Possible non-eligible GO Bond/COP Amount:

Table with 11 columns: City Subsidy/Unit, 333,670

Tax Credit Equity Pricing:

Table with 11 columns: 0.985

Construction Bond Amount:

Table with 11 columns: 17,959,004

Construction Loan Term (in months):

Table with 11 columns: 24 months

Construction Loan Interest Rate (as %):

Table with 11 columns: 2.60%

Attachment K: 1st Year Operating Budget

Application Date: 11/15/2021
 Total # Units: 63
 First Year of Operations (provide data assuming that Year 1 is a full year, i.e. 12 months of operations): 2023

Project Name: Octavia Parcel U
 Project Address: 78 Haight Street
 Tenderloin Neighborhood Development Corporation
 Project Sponsor: **TCAC Income Limits In Use!** Correct errors noted in Col N!

INCOME	LOSP/non-LOSP Allocation		Total	Comments
	51%	49%		
Residential - Tenant Rents	99,000	515,952	614,952	Links from 'New Proj - Rent & Unit Mx Worksheet
Residential - Tenant Assistance Payments (Non-LOSP)	0	0	0	Links from 'New Proj - Rent & Unit Mx Worksheet
Residential - LOSP Tenant Assistance Payments	539,925		539,925	
Commercial Space			1	from 'Commercial Op. Budget Worksheet; Commercial to Residential allocation: 100%
Residential Parking	0	0	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Rent Income	0	0	0	Links from 'Utilities & Other Income' Worksheet
Supportive Services Income	0	0	0	Supportive Services Income
Interest Income - Project Operations	0	0	0	Links from 'Utilities & Other Income' Worksheet
Laundry and Vending	4,434	4,260	8,694	Links from 'Utilities & Other Income' Worksheet
Tenant Charges	0	0	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Residential Income	0	0	0	Links from 'Utilities & Other Income' Worksheet
Other Commercial Income	0	0	0	from 'Commercial Op. Budget Worksheet; Commercial to Residential allocation: 100%
Withdrawal from Capitalized Reserve (deposit to operating account)	0	111,374	111,374	COSR 1
Gross Potential Income	643,559	631,586	1,274,946	
Vacancy Loss - Residential - Tenant Rents	(4,950)	(25,798)	(30,748)	Vacancy loss is 5% of Tenant Rents.
Vacancy Loss - Residential - Tenant Assistance Payments	0	0	0	#DIV/0!
Vacancy Loss - Commercial	0	0	(1)	from 'Commercial Op. Budget Worksheet; Commercial to Residential allocation: 100%
EFFECTIVE GROSS INCOME	638,409	605,788	1,244,198	PUPA: 19,749

OPERATING EXPENSES				
Management				Alternative LOSP Split
Management Fee	25,061	24,079	49,140	Management Fee
Asset Management Fee	11,965	11,495	23,460	Excludes comm mgmt fee
Sub-total Management Expenses	37,026	35,574	72,600	PUPA: 1,152
Salaries/Benefits				Alternative LOSP Split
Office Salaries	38,271	36,770	75,041	51% of GM salaries = \$3,577 + 51% of General Office Salaries 34,540 (will be paid by LOSP)
Manager's Salary	0	0	0	Manager's Salary
Health Insurance and Other Benefits	70,041	67,294	137,336	worker's comp, health, payroll taxes
Other Salaries/Benefits	71,840	69,022	140,862	Includes: asst facilities mgr, janitor & cleaning, and maintenance payroll
Administrative Rent-Free Unit	0	0	0	Administrative Rent-Free Unit
Sub-total Salaries/Benefits	180,152	173,087	353,239	PUPA: 5,607

Administration				
Advertising and Marketing	739	710	1,449	
Office Expenses	0	0	0	
Office Rent	0	0	0	
Legal Expense - Property	3,570	3,430	7,000	
Audit Expense	13,570	13,038	26,608	Includes audit and accounting
Bookkeeping/Accounting Services	0	0	0	
Bad Debts	0	0	0	Bad Debts
Miscellaneous	21,930	21,070	42,999	
Sub-total Administration Expenses	39,809	38,247	78,056	PUPA: 1,239

Utilities				
Electricity	13,371	12,847	26,218	Electricity
Water	41,936	40,291	82,227	Includes water and sewer
Gas	0	0	0	
Sewer	0	0	0	
Sub-total Utilities	55,307	53,138	108,445	PUPA: 1,721

Taxes and Licenses				
Real Estate Taxes	2,396	2,302	4,699	Real Estate Taxes
Payroll Taxes	0	0	0	Included above with health insurance and other benefits
Miscellaneous Taxes, Licenses and Permits	1,002	963	1,965	
Sub-total Taxes and Licenses	3,398	3,265	6,664	PUPA: 106

Insurance				
Property and Liability Insurance	81,232	78,047	159,279	
Fidelity Bond Insurance	0	0	0	
Worker's Compensation	0	0	0	Included in Health Insurance and Other Benefits
Director's & Officers' Liability Insurance	0	0	0	
Sub-total Insurance	81,232	78,047	159,279	PUPA: 2,528

Maintenance & Repair				
Payroll	0	0	0	Payroll
Supplies	0	0	0	Supplies
Contracts	0	0	0	Contracts
Garbage and Trash Removal	23,538	22,615	46,153	
Security Payroll/Contract	141,540	47,180	188,720	75% of desk clerk salaries paid by LOSP
HVAC Repairs and Maintenance	11,102	10,667	21,769	Includes HVAC, fire life safety, others
Vehicle and Maintenance Equipment Operation and Repairs	0	0	0	
Miscellaneous Operating and Maintenance Expenses	28,605	27,483	56,089	Includes misc repairs, extermination, grounds, elevator
Sub-total Maintenance & Repair Expenses	204,785	107,945	312,730	PUPA: 4,964

Supportive Services	0	53,068	53,068	Includes social services and programming
Commercial Expenses			710	from 'Commercial Op. Budget Worksheet; Commercial to Residential allocation: 100%

TOTAL OPERATING EXPENSES				
	601,709	542,372	1,144,791	PUPA: 18,171
Reserves/Ground Lease Base Rent/Bond Fees				
Ground Lease Base Rent	7,650	7,350	15,000	Ground lease with MOHCD Provide additional comments here, if needed.
Bond Monitoring Fee	0	0	0	
Replacement Reserve Deposit	16,065	15,435	31,500	
Operating Reserve Deposit	0	0	0	
Other Required Reserve 1 Deposit	0	0	0	
Other Required Reserve 2 Deposit	0	0	0	
Required Reserve Deposits, Commercial	0	0	0	from 'Commercial Op. Budget Worksheet; Commercial to Residential allocation: 100%
Sub-total Reserves/Ground Lease Base Rent/Bond Fees	23,715	22,785	46,500	PUPA: 738

TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)	625,424	565,157	1,191,291	PUPA: 18,909
NET OPERATING INCOME (INCOME minus OP EXPENSES)	12,984	40,632	52,907	PUPA: 840

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

CASH FLOW (NOI minus DEBT SERVICE)	12,984	40,632	52,907	
Commercial Only Cash Flow			(710)	
Allocation of Commercial Surplus to LOSP/non-LOSP (residual income)	(362)	(348)		Allocation of Commercial Surplus to LOSP/Non-
AVAILABLE CASH FLOW	12,622	40,284	52,907	

USES OF CASH FLOW BELOW (This row also shows DSCR.)				
USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL				
"Below-the-line" Asset Mgt Fee (uncommon in new projects, see policy)	0	0	0	
Partnership Management Fee (see policy for limits)	10,073	9,678	19,750	
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)	2,850	2,460	5,000	
Other Payments	0	0	0	Other Payments
Non-amortizing Loan Pmt - Lender 1 (select lender in comments field)	0	0	0	MOHCD - GAP Provide additional comments here, if needed.
Non-amortizing Loan Pmt - Lender 2 (select lender in comments field)	0	0	0	MOHCD - NPLH Provide additional comments here, if needed.
Deferred Developer Fee (Enter amt <= Max Fee from call 1130)	0	0	0	Def. Develop. Fee split: 0% Provide additional comments here, if needed.
TOTAL PAYMENTS PRECEDING MOHCD	12,623	12,128	24,750	PUPA: 393

RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)	(0)	28,157	28,157	
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Residual Receipts Calculation
 Does Project have a MOHCD Residual Receipt Obligation? **Yes** Project has MOHCD ground lease? **Yes**
 Will Project Defer Developer Fee? **No**
 Max Deferred Developer Fee/Borrower % of Residual Receipts in Yr 1: **33%**
 % of Residual Receipts available for distribution to soft debt lenders in: **67%**
 Sum of DD F from LOSP and non-LOSP: **67%**
 Ratio of Sum of DDF and calculated 50%:

Soft Debt Lenders with Residual Receipts Obligations	(Select lender name/program from drop down)	Total Principal Amt	Distrib. of Soft Debt Loans
MOHCD/OCII - Soft Debt Loans	All MOHCD/OCII Loans payable from res. recs		0.00%
MOHCD/OCII - Ground Lease Value or Land Acq Cost	Ground Lease Value	\$150,000	100.00%
HCD (soft debt loan) - Lender 3			0.00%
Other Soft Debt Lender - Lender 4			0.00%
Other Soft Debt Lender - Lender 5			0.00%

MOHCD RESIDUAL RECEIPTS DEBT SERVICE			
MOHCD Residual Receipts Amount Due	18,771	18,771	67% of residual receipts, multiplied by 100% -- MOHCD's pro rata share of all soft debt
Proposed MOHCD Residual Receipts Amount to Loan Repayment	18,771	18,771	Enter/override amount of residual receipts proposed for loan repayment
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease	0	0	If applicable, MOHCD residual receipts amt due LESS amt proposed for loan repaymt.

REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE			9,386
NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE			
HCD Residual Receipts Amount Due		0	
Lender 4 Residual Receipts Due		0	
Lender 5 Residual Receipts Due		0	
Total Non-MOHCD Residual Receipts Debt Service			0

REMAINDER (Should be zero unless there are distributions below)			
Owner Distributions/Incentive Management Fee			9,386
Other Distributions/Uses			0
Final Balance (should be zero)			0

Application Date: 11/15/2021
 Total # Units: 63
 First Year of Operations (provide data assuming that Year 1 is a full year, i.e. 12 months of operations): 2023

INCOME			
Residential - Tenant Rents		non-LOSP	Approved By (reqd)
Residential - Tenant Assistance Payments (Non-LOSP)	LOSP		
Residential - LOSP Tenant Assistance Payments			
Commercial Space			
Residential Parking			
Miscellaneous Rent Income	LOSP	non-LOSP	Approved By (reqd)
Supportive Services Income			
Interest Income - Project Operations			
Laundry and Vending	LOSP	non-LOSP	(only acceptable if LOSP-specific expenses are being tracked at entry level in the project's accounting system)
Tenant Charges			
Miscellaneous Residential Income			
Other Commercial Income	LOSP	non-LOSP	Approved By (reqd)
Withdrawal from Capitalized Reserve (deposit to operating account)		0.00%	100.00%
Gross Potential Income			
Vacancy Loss - Residential - Tenant Rents			
Vacancy Loss - Residential - Tenant Assistance Payments			
Vacancy Loss - Commercial			
EFFECTIVE GROSS INCOME			

OPERATING EXPENSES			
Management			
Management Fee	LOSP	non-LOSP	Approved By (reqd)
Asset Management Fee			
Sub-total Management Expenses			
Salaries/Benefits			
Office Salaries	LOSP	non-LOSP	Approved By (reqd)
Manager's Salary	51.00%	49.00%	
Health Insurance and Other Benefits			
Other Salaries/Benefits			
Administrative Rent-Free Unit			
Sub-total Salaries/Benefits			

Administration			
Advertising and Marketing			
Office Expenses			
Office Rent	LOSP	non-LOSP	(only acceptable if LOSP-specific expenses are being tracked at entry level in the project's accounting system)
Legal Expense - Property	51.00%	49.00%	
Audit Expense			
Bookkeeping/Accounting Services	LOSP	non-LOSP	(only acceptable if LOSP-specific expenses are being tracked at entry level in the project's accounting system)
Bad Debts			
Miscellaneous			
Sub-total Administration Expenses			

Utilities			
Electricity	LOSP	non-LOSP	(only acceptable if LOSP-specific expenses are being tracked at entry level in the project's accounting system)
Water	51.00%	49.00%	
Gas			
Sewer			
Sub-total Utilities			

Taxes and Licenses			
Real Estate Taxes	LOSP	non-LOSP	Approved By (reqd)
Payroll Taxes			
Miscellaneous Taxes, Licenses and Permits			
Sub-total Taxes and Licenses			

Insurance			
Property and Liability Insurance			
Fidelity Bond Insurance	LOSP	non-LOSP	Approved By (reqd)
Worker's Compensation			
Director's & Officers' Liability Insurance			
Sub-total Insurance			

Maintenance & Repair			
Payroll	LOSP	non-LOSP	Approved By (reqd)
Supplies			LOSP-specific expenses must be tracked at entry level in projects
Contracts			
Garbage and Trash Removal	LOSP	non-LOSP	Approved By (reqd)
Security Payroll/Contract	75.00%	25.00%	
HVAC Repairs and Maintenance			
Vehicle and Maintenance Equipment Operation and Repairs			
Miscellaneous Operating and Maintenance Expenses			
Sub-total Maintenance & Repair Expenses			

Supportive Services	LOSP	non-LOSP	Approved By (reqd)
Commercial Expenses	0.00%	100.00%	

TOTAL OPERATING EXPENSES

Reserves/Ground Lease Base Rent/Bond Fees			
Ground Lease Base Rent			
Bond Monitoring Fee	LOSP	non-LOSP	Approved By (reqd)
Replacement Reserve Deposit			
Operating Reserve Deposit			
Other Required Reserve 1 Deposit			
Other Required Reserve 2 Deposit			
Required Reserve Deposits, Commercial			
Sub-total Reserves/Ground Lease Base Rent/Bond Fees			

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

NET OPERATING INCOME (INCOME minus OP EXPENSES)

DEBT SERVICE/MUST PAY PAYMENTS (hard debt/amortized loans)			
Hard Debt - First Lender	LOSP	non-LOSP	Approved By (reqd)
	0.00%	100.00%	
Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Lender)			
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)			
Hard Debt - Fourth Lender			
Commercial Hard Debt Service			
TOTAL HARD DEBT SERVICE			

CASH FLOW (NOI minus DEBT SERVICE)

Commercial Only Cash Flow			
Allocation of Commercial Surplus to LOPS/non-LOSP (residual income)	LOSP (residual income)		

AVAILABLE CASH FLOW

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

USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL

"Below-the-line" Asset Mgt Fee (uncommon in new projects, see policy)			
Partnership Management Fee (see policy for limits)			
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)	LOSP	non-LOSP	Approved By (reqd)
Other Payments			
Non-amortizing Loan Pmnt - Lender 1 (select lender in comments field)			
Non-amortizing Loan Pmnt - Lender 2 (select lender in comments field)			
Deferred Developer Fee (Enter amt <= Max Fee from call 1130)		0.00%	100.00%
TOTAL PAYMENTS PRECEDING MOHCD			

RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)

Residual Receipts Calculation

Does Project have a MOHCD Residual Receipt Obligation?

Will Project Defer Developer Fee?

Max Deferred Developer Fee/Borrower % of Residual Receipts in Yr 1: 0

% of Residual Receipts available for distribution to soft debt lenders in #VALUE!

Soft Debt Lenders with Residual Receipts Obligations

MOHCD/OCII - Soft Debt Loans	
MOHCD/OCII - Ground Lease Value or Land Acq Cost	
HCD (soft debt loan) - Lender 3	
Other Soft Debt Lender - Lender 4	
Other Soft Debt Lender - Lender 5	

MOHCD RESIDUAL RECEIPTS DEBT SERVICE

MOHCD Residual Receipts Amount Due	
Proposed MOHCD Residual Receipts Amount to Loan Repayment	
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease	

REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE

NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE

HCD Residual Receipts Amount Due	
Lender 4 Residual Receipts Due	
Lender 5 Residual Receipts Due	

Total Non-MOHCD Residual Receipts Debt Service

REMAINDER (Should be zero unless there are distributions below)

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

Attachment L: 20-year Operating Proforma

Total # Units: Non-LOSP
 LOSP Units Units
 63 32 31

		Year 1 2023			Year 2 2024			Year 3 2025			
51.00%	49.00%										
annual inc LOSP	% annual increase	Comments (related to annual inc assumptions)	LOSP	non-LOSP	Total	LOSP	non-LOSP	Total	LOSP	non-LOSP	Total

INCOME

Other Required Reserve 2 Running Balance

Total # Units: Non-LOSP
 LOSP Units Units
 63 32 31

	51.00%	49.00%	Comments (related to annual inc assumptions)	Year 4 2026			Year 5 2027			Year 6 2028		
				LOSP	non-LOSP	Total	LOSP	non-LOSP	Total	LOSP	non-LOSP	Total

INCOME

Other Required Reserve 2 Running Balance

Total # Units: Non-LOSP
 LOSP Units Units
 63 32 31

	51.00%	49.00%	Comments (related to annual inc assumptions)	Year 7 2029			Year 8 2030			Year 9 2031		
				LOSP	non-LOSP	Total	LOSP	non-LOSP	Total	LOSP	non-LOSP	Total

INCOME

Other Required Reserve 2 Running Balance

Total # Units: LOSP Units Non-LOSP Units
 63 32 31

	51.00%	49.00%	Comments (related to annual inc assumptions)	Year 10 2032			Year 11 2033			Year 12 2034		
				LOSP	non-LOSP	Total	LOSP	non-LOSP	Total	LOSP	non-LOSP	Total

INCOME

Other Required Reserve 2 Running Balance

Total # Units: LOSP Units: 63
 Non-LOSP Units: 32
 31

	51.00%	49.00%	Comments (related to annual inc assumptions)	Year 13 2035			Year 14 2036			Year 15 2037		
				LOSP	non-LOSP	Total	LOSP	non-LOSP	Total	LOSP	non-LOSP	Total

INCOME

Other Required Reserve 2 Running Balance

Total # Units: Non-LOSP
 LOSP Units Units
 63 32 31

			Year 16 2038			Year 17 2039			Year 18 2040		
annual inc LOSP	% annual increase	Comments (related to annual inc assumptions)	LOSP	non-LOSP	Total	LOSP	non-LOSP	Total	LOSP	non-LOSP	Total

INCOME

Other Required Reserve 2 Running Balance

Total # Units: LOSP Units Non-LOSP Units
 63 32 31

		Year 19 2041			Year 20 2042			
annual inc LOSP	% annual increase	Comments (related to annual inc assumptions)	LOSP	non-LOSP	Total	LOSP	non-LOSP	Total

INCOME

Other Required Reserve 2 Running Balance



SAN FRANCISCO PLANNING DEPARTMENT

Notice of Final Approval of an SB 35 Project

Date: February 21, 2020
BPA No.: **2019.1114.7293**
Planning Record No. 2019-021893PRJ
Project Address: **78 Haight Street**
Zoning: Hayes-Gough NCT (Neighborhood Commercial Transit) District
50-X Height and Bulk District
Block/Lot: 0853 / 032
Project Sponsor: Paulett Taggart
Paulett Taggart Architects
725 Greenwich Street
San Francisco, CA 94133
Staff Contact: Andrew Perry – (415) 575-9017
andrew.perry@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 surface parking lot and construction of a new eight-story over basement building containing 63 affordable dwelling units (58 studio and 5 one-bedroom units), 32 of which are intended for transitional aged youth (“TAY”) who are at risk of homelessness, community rooms and accessory office for TAY program administration and tenant services, and an approximately 3,400 gross square foot child care facility at the ground floor to accommodate up to 36 children.

BACKGROUND

California Senate Bill 35 (SB-35) was signed by Governor Jerry Brown on September 29, 2017 and became effective January 1, 2018. SB-35 applies in cities that are not meeting their Regional Housing Need Allocation (RHNA) goal for construction of above-moderate income housing and/or housing for households below 80% area median income (AMI). SB-35 amends Government Code Section 65913.4 to require local entities to streamline the approval of certain housing projects by providing a ministerial approval process, removing the requirement for CEQA analysis, and removing the requirement for Conditional Use Authorization or other similar discretionary entitlements granted by a Planning Commission.

On November 21, 2019, Paulett Taggart on behalf of Tenderloin Neighborhood Development Corporation (TNDC) submitted an SB 35 Application for the mixed-use project at 78 Haight Street. Department staff determined that the SB 35 Application was complete, and that the proposed project was eligible for SB 35 on December 13, 2019.

The Planning Director did not request a Planning Commission Hearing or Historic Preservation Commission Hearing for this project.

PROJECT APPROVAL

The Project Sponsor seeks to proceed pursuant to Planning Code Section 206.6, Individually Requested State Density Bonus Law, Government Code Section 65915 et seq (the "State Law"). Under subsection 65915(b)(1)(G) of the State Law, a housing development that provides 100 percent of the total units for lower income households, except that up to 20 percent of the total units in the development may be for moderate-income households and exclusive of a manager's unit(s), is entitled to four concessions and incentives that result in identifiable and actual cost reductions to provide for affordable housing costs. Such project, when located within one-half mile of a major transit stop, shall be relieved of maximum density controls and shall also receive a height increase of up to three additional stories, or 33 feet; however, no other waivers from development standards that might otherwise preclude the construction of the project are permitted under this subsection of the State Law. Since the Project Sponsor is providing 63 units of housing affordable to low- and very low-income households, and the project is located within one-half mile of a major transit stop, the project is not subject to any maximum control on density, and is entitled to receive up to four concessions/incentives and an additional three stories, or 33 feet of height. The project sponsor is requesting a concession/incentive from the development standards for non-residential use size limits (Planning Code Section 121.2) bay window projections (Planning Code Section 136), ground floor ceiling height (Planning Code Section 145.1(c)(4)) and bicycle parking (Planning Code Section 155); the project sponsor requests to construct the project with three additional stories of height above the 55 foot height limit.

Concessions and Incentives

The Project has requested concessions/incentives from the development standards for non-residential use size limits (Planning Code Section 121.2) bay window projections (Planning Code Section 136), ground floor ceiling height (Planning Code Section 145.1(c)(4)) and bicycle parking (Planning Code Section 155). Pursuant to Planning Code Section 206.6, the Department shall grant the concession or incentive requested by the applicant unless the Department makes a written finding, based upon substantial evidence, of any of the following:

- (A) The concession or incentive does not result in identifiable and actual cost reductions, consistent with subdivision (k), to provide for affordable housing costs, as defined in Section 50052.5 of the Health and Safety Code, or for rents for the targeted units to be set as specified in subdivision (c).

The requested incentives result in actual cost and identifiable cost reductions. The requested incentive from non-residential use size limits allows the project to proceed without requiring a Conditional Use Authorization application, which adds cost and time to the project approval. Additionally, the ground floor child care facility helps offset overall project costs, including the costs associated with providing affordable housing; a smaller child care facility would serve fewer children and not offset costs to the same degree. The requested incentive from bay window projections allows the project to construct non-standard bay windows with only a single, small window surface oriented at more than 30 degrees from the main building wall plane. This design is intended to reduce the building's southern and southwestern exposure to the sun, helping to reduce both direct construction costs and long-term operating costs related to heating and cooling.

The requested incentive from ground floor ceiling height allows the project to construct a ground floor that is less than 14 feet floor-to-floor. Without this incentive, the project would need to eliminate a floor of residential use in order to remain under the threshold for high-rise construction and in order to remain within the height bonus authorized by the State Law. The elimination of one residential floor, or 11 units, would jeopardize the project's funding and increase the project's operating deficit.

Without the requested incentive from bicycle parking, the project would require additional floor area dedicated to bicycle parking. To accommodate additional bicycle parking the project would need to do one of, or a combination of the following: relocate building utility, storage and/or trash rooms, decrease the area for the child care facility, move such accessory storage rooms or child care rooms to upper floors of the project, removing residential units. The loss of units, as discussed above, affects the project's funding availability and overall operating cost.

(B) The concession or incentive would have a specific, adverse impact, as defined in CA Govt. Code Section 65589.5(d)(2) upon public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households.

The requested concessions/incentives from the development standards for non-residential use size limits, bay window projections, ground floor ceiling height, and bicycle parking would not result in a specific, adverse impact to public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources.

(C) The concession or incentive would be contrary to state or federal law.

The requested concessions/incentives from the development standards for non-residential use size limits, bay window projections, ground floor ceiling height, and bicycle parking would not be contrary to state or federal law.

Waivers

In no case may the Department apply any development standard that will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by the State Density Bonus Law. The Department is not required to waive or reduce development standards if the waiver or reduction would have a specific, adverse impact upon health, safety, or the physical environment, and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. The Department is not required to waive or reduce development standards that would have an adverse impact on any real property that is listed in the California Register of Historical Resources, or to grant any waiver or reduction that would be contrary to state or federal law.

In accordance with the State Law, this housing development is not eligible for and is not seeking to receive a waiver or reduction of development standards, other than as expressly provided by Government Code Section 65915(d)(2)(D) and 65915(f)(3)(D)(ii). The project has requested four incentives and three stories of additional height, as described above and in accordance with the State Law.

The Department has determined that the project meets all the objective standards of the Planning Code and has completed design review of the project. The project has been approved in accordance with the provisions of SB 35, as recorded in Building Permit Application No. 2019.1114.7293.



GENERAL PLAN REFERRAL

February 1, 2022

Case No.: 2022-000540GPR
Address: 78 Haight Street
Block/Lot No.: 0853/032
Project Sponsor: Mayor's Office of Housing and Community Development
Applicant: Mara Blitzer 415-701- 5544
mara.blitzer@sfgov.org
City and County of San Francisco
Mayor's Office of Housing and Community Development
1 South Van Ness Ave., 5th Floor
San Francisco, CA 94103

Staff Contact: Luiz Barata – (628) 652-7326
luiz.barata@sfgov.org

Recommended By: 
AnMarie Rodgers, Director of Citywide Policy for Rich Hillis, Director of Planning

Recommendation: Finding the project, on balance, is **in conformity** with the General Plan

Project Description

GPR referral is required due to the proposed Ground Lease between the City and the project developer/owner.

78 Haight will provide 63 units of affordable housing in 7 stories, including 32 units for Transition Age Youth (TAY) who are homeless or at risk of homelessness, as well as a childcare center on the ground floor. Rents are set at or below 65% San Francisco Area Median Income.

This site has long been envisioned for TAY housing under the City's 2007 TAY Housing Plan, and the project has rotated through various financing scenarios including a committed state CA Housing & Community Development MHP loan that was to accompany a bond allocation and 4% tax credits; ultimately the project's 2021 Round 1 CDLAC application was not successful, and the sponsor pivoted to a 9% tax credit structure, submitting an

application for the 2021 California Tax Credit Allocation Committee (TCAC) 9% second round under the competitive Special Needs Set-Aside. The Project received a final recommendation for reservation for 9% and state low-income housing tax credits at the TCAC meeting on October 20, 2021. The project must close construction financing and start construction by mid-April, 2022 to meet the tax credit award requirements. The ground lease transaction is part of this package of construction financing.

Environmental Review

Project approved under California Senate Bill 35; considered a ministerial approval and is not subject to CEQA.

General Plan Compliance and Basis for Determination

As described below, the proposed ground lease associated with the affordable housing development is consistent with the Eight Priority Policies of Planning Code Section 101.1 and is, on balance, in conformity with the Objectives and Policies of the General Plan.

HOUSING ELEMENT

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

The lease is part of a project that provides affordable housing and will assure that the project will provide an affordable housing resource on an ongoing basis.

POLICY 1.3

Work proactively to identify and secure opportunity sites for permanently affordable housing.

The lease is part of a project that provides affordable housing and will assure that the project will provide an affordable housing resource on an ongoing basis.

POLICY 1.8

Promote mixed use development, and include housing, particularly permanently affordable housing, in new commercial, institutional or other single use development projects.

The lease is part of a project that provides affordable housing and will assure that the project will provide an affordable housing resource on an ongoing basis.

OBJECTIVE 7

SECURE FUNDING AND RESOURCES FOR PERMANENTLY AFFORDABLE HOUSING, INCLUDING INNOVATIVE PROGRAMS THAT ARE NOT SOLELY RELIANT ON TRADITIONAL MECHANISMS OR CAPITAL

POLICY 7.1

Expand the financial resources available for permanently affordable housing, especially permanent sources.

The lease is part of a project that provides affordable housing and will assure that the project will provide an affordable housing resource on an ongoing basis.

Planning Code Section 101 Findings

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The Project is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

- 1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;

The Project would have no effect on neighborhood serving retail uses or opportunities for employment in or ownership of such businesses. Project residents will represent potential customers for this on-site commercial space and other neighborhood-serving retail businesses.

- 2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;

The Project would not have a negative effect on housing or neighborhood character in San Francisco County. The existing housing and neighborhood character will remain intact, conserved and protected to preserve the cultural and economic diversity.

- 3. That the City’s supply of affordable housing be preserved and enhanced;

The Project would not have an adverse effect on the City’s supply of affordable housing. The Project will establish the long-term viability and feasibility of the multifamily affordable housing property and prevent displacement of residents.

- 4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;

The Project would not have an adverse effect on MUNI transit service or overburden the streets or

neighborhood.

5. 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 would not have an adverse effect on the city's industrial or service sectors, nor on opportunities for resident employment and ownership.

6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;

The Project would not have an adverse effect on City's preparedness against injury and loss of life in an earthquake.

7. That the landmarks and historic buildings be preserved;

The Project would not have an adverse effect on the City's Landmarks and historic buildings.

8. That our parks and open space and their access to sunlight and vistas be protected from development;

The Project would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

Recommendation: Finding the project, on balance, is in conformity with the General Plan

Request for Proposals

For the development of new affordable housing on the vacant properties on the southeast corners of Oak Street and Octavia Boulevard; Lily Street and Octavia Boulevard, and Rose Street and Octavia Boulevard, known as:

OCTAVIA BOULEVARD PARCELS R, S and U
(Assessor's Blocks 0838/096, 0838/094, 0853/021)

Issued: **June 19, 2017**

Amended: August 16, 2017

Deadline for Submittals:

4:00PM PST on Friday, November 17, 2017

Issued 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**

Contact: Teresa Yanga

(415) 701-5515

teresa.yanga@sfgov.org

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EXHIBIT A: Insurance Requirements

ATTACHMENTS:

1. Submittal Checklist
2. Proposal Metrics
3. Respondent Description
4. Projected Staffing Workload
5. Service Provider Experience
6. Disclosures

I. SUMMARY

The City and County of San Francisco (the “City”), through the Mayor's Office of Housing and Community Development (MOHCD), is seeking submittals from qualified respondents to develop three City-owned, vacant parcels as affordable family rental housing, including units serving formerly homeless Transitional Age Youth¹, and ground floor commercial spaces (the “Project”). The parcels, commonly known as Octavia Boulevard Parcels R, S and U, are located at the southeast corners of Oak Street and Octavia Boulevard (Block 0838, Lot 096), Page Street and Octavia Boulevard (Block 0838, Lot 094), and Rose Street and Octavia Boulevard (Block 0853, Lot 021), respectively. Collectively they are known as the “Site”.

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 development of housing and/or the provision of housing or services to low-income households within an affordable housing setting. All members of the Respondent will be evaluated according to the criteria set forth in this RFP, including experience with comparable projects, capacity, and the ability to deliver and maintain an excellent Project.

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 still maintaining development and operational cost efficiencies; and 3) ensure that the Project confers extensive benefits to its future residents and the broader community.

This RFP and the City's plans for the Site pursue the goals articulated in MOHCD's Consolidated Plan (2015), the City's Housing Plan for Transition Age Youth (2007), as well as San Francisco's Local Homeless Coordinating Board Five-Year Plan (2014). Accordingly, the Project'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. Up to 30 of the project's units will serve homeless Transition Age Youth (TAY) and TAY with children (“parenting TAY”) referred by the Department of Homelessness and Supportive Housing (“HSH”). Additional Project goals and objectives include:

- 1) Integrate and support the various land uses in the area;
- 2) Reconnect the fabric of the neighborhood, particularly by including a very high level of pedestrian engagement;
- 3) Serve as an example of thoughtful, creative and excellent architectural design in keeping with the precedent of other developments in the neighborhood;

Transitional Age Youth (TAY) who are disconnected are young people between the ages of eighteen and twenty-four who need additional supports and opportunities to make a successful transition to adulthood. Many disconnected TAY are homeless or marginally housed, have had involvement with public systems (e.g. foster care, juvenile justice, criminal justice), have limited educational achievement, or have a disability or other special needs. The TAY units will provide homeless, disconnected TAY with stable housing and supportive services to help them make meaningful connections with education, enter the workforce, and create strong positive support networks to make a successful transition to adulthood.

- 4) Develop the maximum number of units that do not compromise the livability of the units within the allowable building envelope using creative site planning and architectural design;
- 5) Develop a variety of unit sizes and types, except only studios for single TAY households;
- 6) Respond to the human-scale character of the neighborhood by using materials, style and architectural treatments that will provide visually interesting street facades. Provide active ground floor uses immediately accessible from the sidewalk such as ground-floor retail provided by locally-oriented small businesses;
- 7) Provide strong pedestrian entrances using recessed bays, awnings or other architectural treatments to provide a clear expression of pedestrian entry. Any service and loading access should not be from Octavia Boulevard;
- 8) Provide on-site supportive services available to all households and school activities and other programming for resident youth.

For marginally housed or homeless TAY, the provision of safe, culturally competent, population-specific housing with supportive services is a critical foundation to reach self-sufficiency. Disconnected TAY need health and wellness services, education and employment, and safe and stable housing to create a foundation on which to grow. TAY need supports to help them connect positively to families and other caring and supportive adults in their lives and move on to more independent living situations.

Finally, the selected Respondent must demonstrate the ability to successfully conduct neighborhood outreach and secure neighborhood support for the Project, while also meeting the City's expressed goals.

II. IMPORTANT DATES AND SUBMISSION PROCESS

A. Important Dates

RFP issued by MOHCD	Monday, June 19, 2017
Pre-submission meeting at MOHCD	Wednesday, August 9, 2017, 10:00AM
Deadline for questions and requests for additional information	Friday, September 8, 2017, 4:00PM
Proposal Submission Deadline	Friday, November 17, 2017, 4:00PM
Notice to Respondents regarding satisfaction of minimum requirements	Week of November 27, 2017
Developer team interviews (if necessary)	Week of December 11, 2017 (subject to availability of selection panel)
Director of MOHCD review/approval of recommended development team	Week of January 8, 2018

B. Pre-Submission Meeting

A pre-submission meeting will be held at MOHCD (1 South Van Ness Avenue, 5th floor), on **Wednesday, August 9, 2017 at 10:00AM**. 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 **4:00PM, Friday, September 8, 2017**. Emailed questions and information requests should be submitted to Teresa Yanga at: teresa.yanga@sfgov.org.

D. Submittal Date and Method

Submittal of **seven (7)** hard copies of the Proposal must be received by the MOHCD receptionist and an emailed copy sent to the teresa.yanga@sfgov.org no later than **4:00 p.m. Friday, November 17, 2017**.

III. BACKGROUND

A. Site History

In 1989, the City's Central Freeway sustained earthquake damage severe enough to require its demolition from Fell Street north to Turk Street. After years of analysis and consideration of alternative construction/replacement scenarios, the citizens of San Francisco adopted Propositions E (1998) and I (1999), which approved the Central Freeway's replacement with an elevated structure from Mission to Market Streets, and a ground-level boulevard on Octavia Street, running from Market to Fell. Companion State legislation directed the California Department of Transportation (Caltrans) to transfer twenty-two Central Freeway right-of-way parcels as excess parcels to the City at no cost, while directing the City, through a community-based public planning process, to establish uses for the excess parcels that included affordable rental and/or ownership housing (referred to here as the "Central Freeway Housing Plan").

Pursuant to Proposition I and its implementing legislation, representatives from a variety of City agencies sought public input and participation from neighborhood residents through a series of public meetings, particularly in the Western Addition and Hayes Valley neighborhoods. Together, the City and concerned citizens supported the Market Octavia Area Plan (herein referred to as the "M-O Area Plan") which includes among its objectives to:

- Require development of mixed-use residential infill on the former freeway parcels and specifically to “Develop the Central Freeway parcels with mixed-use, mixed- income (especially low income) housing.” (Objective 2.1 and Policy 2.1.1);
- Provide increased housing opportunities affordable to households at varying income levels (Objective 2.4); and
- Ensure that new development is innovative and yet carefully integrated into the fabric of the area. (Objective 6.1).

The M-O Area Plan can be found at: http://www.sf-planning.org/ftp/files/Citywide/Market_Octavia/Market_and_Octavia_Area_Plan_2010.pdf

Pursuant to these goals, the City expects to develop approximately 900 – 1000 new housing units on the Central Freeway parcels. To this end, the San Francisco Redevelopment Agency (“SFRA”) purchased seven of the Central Freeway Parcels for the development of affordable housing and oversaw the development of four of the seven parcels. MOHCD, as Successor Housing Entity to SFRA, is responsible for development of affordable housing on the remaining four parcels. Parcels R, S and U are a critical part of the overall Central Freeway affordable housing program, as Parcel U is the only parcel specifically identified to provide rental housing opportunities designed to meet the needs of Transition Age Youth.

B. The Sites

The Sites are three, separate roughly rectangular lots with frontage on Octavia Boulevard. Parcel R (Block 0838, Lot 096) is roughly 2,872 square feet with frontages on Oak Street and Lily Street. Parcel S (Block 0838, Lot 094) is roughly 3,052 square feet with frontages on Lily Street and Page Street. Parcel U (Block 0853, Lot 021) is roughly 5,490 square feet with frontages on Rose Street and Haight Street. Parcels R and S are fairly level and Parcel U slopes upward from north to south toward Haight Street.

Since demolition of the freeway off-ramp, the sites have been used for community gardens, construction staging areas for nearby Parcel V, or surface parking by the adjacent Mt. Trinity Baptist Church on Haight Street. Mt. Trinity Baptist Church is currently pursuing a temporary conditional use permit in order to lease Parcel U for church parking as an interim use until such time as the housing begins construction on Parcel U. Community advisors have asked the City to consider other interim uses of Parcels R and S prior to the initiation of construction on those parcels.

C. Development History

BUILD Inc., a market-rate developer, won the exclusive rights to develop Parcels R and S into market-rate housing in 2014 after winning a City request for proposals process. BUILD Inc. approached MOHCD to develop Parcels R and S as well as MOHCD’s Parcel U as one affordable housing development partially as off-site inclusionary housing for BUILD’s One Oak project. During that exclusive negotiating period BUILD Inc. commissioned ALTA surveys of

Parcels R and S as well as Phase I reports for Parcels R, S and U. They developed conceptual designs and received a Preliminary Project Assessment (PPA) from the Planning Department for Parcels R and S. After months of negotiation between BUILD and MOHCD decided that it did not want its Parcel U developed by BUILD Inc. Ultimately BUILD Inc. decided to terminate its exclusive negotiating rights to Parcels R and S so that the City/MOHCD could develop all three parcels as one development under a MOHCD-led process. In exchange BUILD Inc. requested that MOHCD commit to using BUILD's inclusionary housing in-lieu fee to be paid by its One Oak project for the development of Parcels R, S and U so that BUILD could get public acknowledgment for enabling the development of Parcels R, S and U sooner than MOHCD originally planned. BUILD also offered its work products for its development plans for all three parcels. MOHCD agreed to that "directed fee" arrangement so long as BUILD could secure its necessary project approvals. BUILD has since given those work products to MOHCD for purposes of this RFP. Copies of those work products can be found on MOHCD's website at: <http://sfmohcd.org/nofas-rfp-rfq-bids-jobs>. The conceptual designs are intended to be only illustrative of what is possible on the site and not what MOHCD desires to be built.

D. Soil Conditions

Though no geotechnical studies have been completed specifically for Parcels R, S and U, the San Francisco Department of Public Works (DPW) commissioned relevant geotechnical and environmental investigations for construction of Octavia Boulevard. Based upon these studies, Developers may assume the soils conditions described below for purposes of the RFP only.

Historical land use dating back to the mid- to late-nineteenth century was predominantly housing with some retail and commercial businesses. The fires that followed the 1906 earthquake burned most of the structures in the immediate vicinity, and shallow soil on the sites is likely to contain burnt debris and earthquake fill, at depths ranging from 0 to 10 feet. The underlying soil is comprised of varying thicknesses of silty sand underlain by a lean clay topsoil layer. The depth to the topsoil layer may range from 11 to 24 feet, underlain by a dense to very dense sand. Groundwater may be present on any particular site, depending on topography, at 10-25 feet. Groundwater likely flows east/southeast towards the San Francisco Bay, and may fluctuate depending on rainfall and seasonal conditions.

Phase I Environmental Site Assessments commissioned by BUILD, Inc. in 2014 for all 3 parcels concluded that no additional environmental testing is warranted. Field reconnaissance studies showed no evidence of current or past hazardous materials storage and disposal on or adjacent to Parcels R, S and U. However, developers should assume that Site soils may contain elevated concentrations of lead and/or other contaminants such as petroleum hydrocarbons due to the sites' past use as the Central Freeway.

E. Zoning/Land Use Restrictions

The Site is currently zoned NCT (Hayes-Gough Neighborhood Commercial Transit District) with a height limit of 50-feet on all 3 sites. A map showing the location and configuration of the

Site can be found at: <http://propertymap.sfplanning.org>. (Enter “0838035”, “0838034” or “0838021” in the Search box.).

Most zoning and land use controls for Parcels R, S and U are contained in the M-O Area Plan. (See link to M-O Area Plan above in section III. A. Site History. Links to materials adopted from the EIR required for the Area Plan can also be found at this address.)

The applicable controls are listed below. Developers should consult the M-O Area Plan for additional design/use goals and restrictions.

- 50’ height limits;
- No maximum density limit, only restricted by physical envelope controls of height, bulk, setbacks, open space and exposure.
- Off-street parking not required (and not desired in the Project); up to 0.5 spaces/unit permitted and up to 0.75 allowed through a conditional use permit with a maximum of 1 space per 2-bedroom unit. M-O Area Plan considers automobile parking as “not encouraged” except for minimal staff parking. Community advisors have suggested zero auto parking except for car-share slots and encourage the inclusion of ample family-friendly bicycle parking.
- Active, pedestrian-oriented ground floor uses are required on Octavia Boulevard and neighborhood-serving businesses are encouraged. Community advisors have emphasized the importance of community-serving retail to the neighborhood.
- 40% of units must be two-bedroom units; at least 10% of the units are encouraged to be three-bedroom units. (Please note that Planning Department staff advised MOHCD that exceptions can be pursued to M-O Area Plan goals/restrictions through the conditional use/variance process.)

F. Environmental Review

Development of these parcels was evaluated in the *Market Octavia Neighborhood Plan Area Programmatic Final Environmental Impact Report EIR* that was certified on April 5, 2007. They were analyzed on a project level as feasible for such things as use, height, and massing. According to the PPA issued by Planning on November 13, 2014 (copy available at <http://sfmohcd.org/nofas-rfp-rfq-bids-jobs>) for BUILD Inc.’s proposal for Parcels R and S, a development that is consistent with the development density identified in the Market Octavia Area Plan would be eligible for a Community Plan Exemption for its CEQA environmental clearance. However, the selected developer must confirm the required environmental review with Planning Department staff prior to submitting any Planning applications, especially if additional height and density are sought under the Affordable Housing Density-Bonus Program.

G. Octavia Boulevard Enhancement Project

The San Francisco Municipal Transportation Agency (SFMTA), in collaboration with the Planning Department, San Francisco Public Utilities Commission (SFPUC) and the Department of Public Works have been working on the Octavia Boulevard Enhancement Project (the “Enhancement Project”) under SFMTA’s Sustainable Streets program. The Enhancement

Project seeks to improve the safety and comfort for all roadway users on and around Octavia Boulevard, with emphasis on enhancing the streetscape along the northbound Octavia local road (from Haight to Hayes Street) to calm traffic and improve conditions for walking and biking. Other project goals include adding sustainable features (such as green stormwater infrastructure), expanding access to Patricia's Green and additional public gathering space, and supporting/leveraging investments from adjacent developments planned along the Boulevard.

After 18 months of planning, analysis, and public outreach (including two public open houses and numerous community stakeholder meetings), the Project scope for Preliminary Engineering/Landscape Concept Design included the following for the Octavia Boulevard Local Road:

- Widened sidewalks (with parking removal) on the 'second half' of each major block northbound (NB) from Haight Street to Fell Street (i.e. from Rose to Page streets, Lily to Oak streets, Hickory to Fell streets). The segment from Rose to Page streets is expected to be developed adjacent to private development (Parcel T)
- Traffic calming elements such as raised crosswalks, raised alley crossings, and unique roadway treatments (Northbound only)
- Consideration of a 'curbless' street design that blends the local road with the adjacent sidewalk zone (Northbound only)
- Consideration of temporary road closure opportunities, including a trial closure of NB and SB Octavia Boulevard at Hayes Street, and/or potential streetscape features that support recurring local road closures for programmed events.²

Attached to this RFP are the Enhancement Project's initial site analysis, project status map as of June 2017, design alternatives for the Octavia Boulevard local road prepared by the Department of Public Works, as well as public feedback on the design alternatives collected in April 2017. The Enhancement Project has approximately \$2 million programmed for design and construction in SFMTA's Capital Improvement Plan. SFPUC may also capitalize cost for long-term maintenance of the green infrastructure features of the Enhancement Project. SFMTA is currently in the environmental review stage of the Enhancement Project and will be coordinating streetscape details with the development of Parcel T. Respondents to this RFP are expected to review these attachments and incorporate one or more of the design alternatives in their conceptual design for this RFP, including possibly extending the Enhancement Project design alternatives to Parcel U. SFMTA staff will assist the RFP's selection panel in the reviewing how well the design alternatives are incorporated in the RFP responses. The selected development team will be required to work with SFMTA and DPW to finalize the design and coordinate implementation of the Enhancement Project. Because SFMTA has funding programmed in its Capital Improvement Plan respondents should assume no capital costs for the Enhancement Project features except costs directly attributable to addressing the Project's Stormwater Management Plan and Better Streets Plan requirements. SFPUC will retain long-term maintenance responsibilities of the green infrastructure features. However, the selected developer must note that to the extent the green infrastructure features overlap with physical areas for which the selected developer would traditionally bear daily maintenance

² Octavia Boulevard Enhancement Project Charter, January 4, 2017.

responsibilities such as keeping sidewalks clean, then the developer will also be responsible for daily maintenance of the Enhancement Project features.

Additional information about the Enhancement Project can be found at <https://www.sfmta.com/projects-planning/projects/octavia-boulevard-enhancement-project>. Also additional information about SFPUC's Green Infrastructure can be found at <http://sfwater.org/index.aspx?page=667>. All questions about the Enhancement Project must be submitted to MOHCD as part of this RFP's request for additional information process and not to SFMTA staff. SFMTA staff will address all questions and requests for additional information raised during the RFP question period through MOHCD.

IV. DEVELOPMENT PLAN ELEMENTS

A. Housing Program

1. Minimum Number, Mix and Sizes of Housing Units. 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. In addition to unit sizes required by the sites' zoning described in Section III.D above, one bedrooms are desired for the 10 units for parenting TAY households and studios for the 20 single TAY households. Developers should also propose a unit mix for the remaining units that reflects the marketing demands and demonstrated needs of tenants they serve in recently completed developments.
 - b. Congregation of the TAY units in one building is desired where 24/7 desk clerk coverage and supportive services will be provided. 24/7 desk coverage is required in one of the three buildings.
 - c. Unit sizes must meet or exceed the minimums required by the California Tax Credit Allocation Committee ("TCAC") in its regulations governing large family developments.
 - d. Respondents may assume height increases and concessions necessary to achieve the optimal, maximized unit count through the Affordable Housing Bonus Program (see <http://sf-planning.org/affordable-housing-bonus-program-ahbp>) or the State Density Bonus Program in consultation with the San Francisco Planning Department. If a project pursues additional building height using the Affordable Housing Bonus Program, then the proposal must include some three-bedroom units pursuant to the M-O Plan and requested by community advisors.
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.

30 of the units must be reserved for TAY as defined below, with rent and income levels set accordingly and assuming City-provided operating subsidies and services funding, in compliance with the requirements of HSH.

3. Occupancy Preferences. The selected Respondent will retain final selection authority over all resident respondents. Apart from the units set aside for TAY, the following preferences will apply to the Project’s lease-up, in the order provided:

Preference	Category
1.	Certificate of Preference Holders
2.	Displaced Tenant Housing Preference Certificate Holders for up to 20% of the units (unless California Housing and Community Development funds apply)
3.	Qualifying Neighborhood Preference Residents for up to 40% of the units (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 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. Transitional Age Youth Set-Aside. HSH will refer Transitional Age Youth aged 18-24 for 30 of the units in the Project. 10 of the 30 units will be targeted for TAY with children (parenting TAY) and therefore 1-bedroom units are needed for those households. Occupancy of these units is restricted to households that, upon move in, include a “homeless youth” as defined below:

- A person who is at least 18 years of age, but not older than 24 years of age, and is homeless or at risk of becoming homeless, or
- A person who is less than 18 years of age who is emancipated pursuant to Part 6 (commencing with Section 7000) of Division 1 of the California Family Code and who is homeless or at risk of becoming homeless.

Please note that all homeless referrals will be made via the City’s new Coordinated Entry/Access System (CES), which will replace the current system of Access Point and DART referrals into LOSP-supported permanent supportive housing, as well as other supportive housing programs across San Francisco. CES procedures are or will be developed and implemented for homeless adults, single adults, families, and TAY beginning in 2017 through a phased implementation. When any permanent supportive housing units are available for a referral and placement, CES will be used to identify a candidate for screening. LOSP supportive housing will receive clients with the highest levels of need.

5. Resident Services. Onsite supportive services and associated service space must be incorporated into the Project.

Respondents must include a **Services Plan** that demonstrates an understanding of the housing and services needs of both low and very low income families and of TAY experiencing or at

risk of homelessness. The Plan should address employment issues as they relate to low and very low-income adults and the special needs of youth experiencing or at risk of homelessness.

The Services Plan should include services programming or program connections specifically geared for school-age children, such as after school homework and /or tutoring help, arts and crafts, and other enrichment activities. The plan should also include access to and coordination with mainstream community services, subcontracted and/or partner services; and a commitment by the service provider to coordinate with property management through regularly scheduled meetings to ensure sound operational and building management practices.

Services for the family units can be funded through up to a 1.0 FTE service coordinator position in the operating budget. The TAY-specific services will be funded separately by HSH and must be provided by an experienced TAY service provider. The TAY service provider will be responsible for onsite supportive services and service coordination for TAY residents to maintain housing stability and linkage to ongoing services with outside providers. Services are voluntary and service planning is a collaborative process between the client and service providers. The TAY service provider must have a proven experience providing supportive services to TAY within supportive housing models, and a proven track record in being able to help TAY move on to appropriate housing exits as they achieve their education and work goals and move toward more independent living. Tenant engagement with services is expected to support successful tenant outcomes. TAY services should include a full range of on-site and off-site resources, including community-building events, educational opportunities, employment opportunities, information and referrals to local social services, case management and crisis prevention and intervention.

The Services Plan must include a description of the minimum services to be provided and estimated frequency of proposed services, indicating, as appropriate, services specifically geared for homeless households and those targeted for the non-homeless households.

Examples of services activities include:

- Ongoing outreach and engagement of the tenant population
- Help accessing benefits and educational opportunities as appropriate
- Substance abuse treatment with a focus on harm reduction
- Referrals and assistance with accessing primary medical care and other community services as needed
- Access to basic needs such as clothing and food
- Eviction prevention counseling and advocacy
- Referral to or provision of supported pre-vocational/vocational activities appropriate for the skill level of residents of the building
- Early intervention or problem solving on issues that may affect housing stability
- Advocacy or assistance in solving legal, financial or school system problems
- Coordination of tenants involvement with property management
- Mental health and substance use management and recovery
- Parenting support and life skills counseling
- Conflict resolution among tenants

- Recreation, community building, social, and/or other group programming
- Children and youth services including academic support, after school enrichment, recreation, youth development and counseling services
- Moving on support for youth to access more independent living situations.

6. Child Care Facility. Given the need for child care in San Francisco, the potential availability of child care tenant improvement funding from Market-Octavia Child Care impact fees, and the need for child care by the parenting TAY, the City hereby amends this RFP to request respondents to include provision of a licensed child care facility in their proposals. The City seeks to include a licensed child care facility at one of the three parcels that will accommodate approximately 36 children consisting of a mix of 12 infants/toddlers and 24 preschool-age children. Respondents may want to consider sharing open space between the housing and child care based on what is proposed in an amendment to the Planning Code currently pending approval at the Board of Supervisors. A copy of the legislation can be found at <https://sfgov.legistar.com/LegislationDetail.aspx?ID=3066206&GUID=5B95BA82-9095-4575-BE0F-0F9415246C33&Options=ID|Text|&Search=child+care>. The open space amendment will be considered for Board final approval on September 5, 2017. Additionally, Respondents can assume funding of a warm shell of the child care facility in the housing budget.

B. Design and Construction

MOHCD is seeking excellent architectural design, physical acknowledgement, and construction standards that represent an awareness of the Site’s location in a high-density, well-established, but dramatically transformed 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. To design the Project in a manner that is consistent with the Policies and Objectives of the Market Octavia Area Plan, particularly with respect to the Area Plan’s Land Use and Urban Form, Housing, Building With a Sense of Place and Fundamental Design Principles. The Plan’s Fundamental Design Principles particularly address the issues of massing and building articulation. See: <http://default.sfplanning.org/Citywide/Market Octavia/Market and Octavia Area Plan 2010.pdf>
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. Site Slope and Height Limits/Building Location and Massing. Parcel U slopes and faces three streets of different character. The application of the height limits may generate a building stepping pattern, but there are many possible ways to undertake the stepping. Parcels R and S have adjacent buildings that have windows on the property line.

Proposals must thoughtfully address building adjacent to those existing uses, including possibly reviewing what the developer for Parcel M and N proposed and the Planning Commission approved at its June 23, 2016 commission meeting. A copy of the 300 Octavia (Parcel N) and 350 Octavia (Parcel M) Planning Commission memo can be found at http://sf-planning.org/meetings/17?field_date_value%5Bvalue%5D=&page=7.

- b. Parking and Alternative Transportation. The Site has no parking minimum and no parking is desired. Respondents can expect neighborhood support for no to very-low parking for the Project. Community members also support the provision of alternative transportation vehicles, e.g., thoughtfully designed bicycle parking and car-sharing space.
- c. Resident Amenities. Project sponsors should propose a list of resident amenities and services, describe who they are intended to serve, and show their general location, size, and connections to associated exterior open spaces. Examples include teen computer labs; counseling rooms; community gathering spaces, etc.
- d. Resident Useable Open Space. Planning Code minimums for the overall combined areas of common and private spaces determine threshold open space requirements. There are no rear yard requirements for the Site. Respondents should therefore design open spaces (at grade and other levels) by considering what passive and active outdoor activities will best support the tenants at differing ages. Open space decisions should also take into consideration existing public open spaces within walking distance and the Site's physical context, e.g., sun angles, wind, the character of adjacent streets, potential shared use with an on-site licensed child care facility, and residents' general comfort and safety needs.
- e. Street Level Building Characteristics. Multiple design workshops and meetings conducted for stakeholders over the years produced a consensus opinion that both units and other Site uses should have street-level access. The proximity and patterns of nearby historic structures with smaller more regular frontages influence this sentiment. Each of the parcels' three fronting streets have a different character and pattern, and the Project design proposal should indicate how each building responds to these patterns along each of the three frontages.
- f. 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 a creation of a strong tenant community while anticipating great diversity within the tenant population;
 - Interior court open spaces – accessibility, analysis of sun/shade patterns, relationship to adjacent interior uses, lobby, resident interior amenities, public amenities, proposed activities;
 - Upper floor open spaces – some potential views and vistas, relationship to heights of surrounding structures, access to sun but also 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 as well as onsite provision of public art valued at 1% of City-funded portion of hard construction costs. The Planning Department shall not approve any permit until this requirement is fulfilled. Partial fulfillment of the design review requirements will be met through Arts Commission representation on the selection panel for this RFP. 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.org/solutions-and-innovation/green-communities/tools-and-services>, and www.ecodistricts.org.
- d. Family Friendly Design. Proposals should consider incorporation of “family-friendly” design features, including those described in the Planning Department’s “Housing for Families With Children” report from January 2017 (http://default.sfplanning.org/publications_reports/Family_Friendly_Briefing_01-17-17_FINAL.pdf). For example, proposals should consider how to incorporate adequate for large items like strollers into the units and/or project.
- e. Octavia Boulevard Enhancement Project. As described in Section III.E above, respondents must incorporate at least one of the design alternatives developed by SFMTA and DPW for the Octavia Boulevard local road adjacent to Parcels R and S and preferably adjacent to Parcel U as well.
- f. Use of alternative construction technologies. In an effort to contain costs and expedite construction, MOHCD encourages Respondents to evaluate the use of alternative construction technologies such as modular units or construction. If alternative construction technologies are proposed, MOHCD would like to receive both a baseline scenario using traditional construction technologies and an alternative construction technology scenario that outlines any potential efficiencies and cost containment measures. A design using alternative construction technologies may be submitted as a

primary or secondary design proposal in response to this RFP. See Section V.D.4 for submission requirements.

4. 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.

C. 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; shell costs for the ground floor use(s); architectural and engineering expenses; all permitting and applicable City fees; financing costs; and marketing and lease-up costs.
 - 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 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 reserves the right to require the selected developer to apply for other non-MOHCD capital funding at a future date such as No Place Like Home for up to half of the TAY units.
 - 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 no more than 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/Asset%20Management/2017%20AMI-IncomeLimits-HMFA_04-21-

- 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 \$250 PUPM for single TAY households in studios and \$577-645 PUPM for parenting TAY in one-bedroom units based on the CalWORKs assistance for a family of two.
 - 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; developers should assume tenant-paid rents for the TAY households (exclusive of utilities) as described above.
 - 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 commercial spaces, assuming it achieves a Public Benefit Purpose, as described in MOHCD’s Commercial Space Policy, but no subsidies for the commercial spaces 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 TAY units. Please see Section IV.A.5, Resident Services, above, for further information regarding required social services.
 - ~~D~~HSH Tier V funding level of \$5,417 per unit per year in services funding provided by ~~D~~HSH for the homeless units and a 1:25 case manager/client ratio. ~~D~~HSH 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 ~~D~~HSH 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. 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.

D. 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.

E. 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 three of the last remaining City-owned affordable housing parcels in the M-O Plan Area, concerned citizens and well-established neighborhood groups will closely monitor development planning for the Site. Respondents must include a Community Outreach Plan in their responses to this RFP. This Outreach Plan must demonstrate Respondents' ability to engage diverse communities, including but not limited to monolingual non-English speaking communities. Compliance with the City's Language Access Ordinance will be required (Admin. Code Chapter 91). The selected Developer will be expected at minimum to provide periodic updates and present the proposed design to members of the community for their input.

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 Hayes Valley community and a representative from the Arts Commission Design Review Committee. 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 Requirements 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 or economic development in low income communities, with experience developing housing for low- and very low-income households in San Francisco (which experience can be satisfied through a development consultant);

- A lead architectural firm with experience in design and construction of multifamily housing. While the lead architect's LBE status will not be considered in scoring responses to this RFP, it will be counted toward the Project's overall procurement goals, which will be set at a later date.
- A property management entity with experience managing low- and very low-income affordable housing in a culturally competent manner;
- A one community-based, service-providing entity with experience providing culturally competent services appropriate for low-income families, and/or
- A community-based, service-providing entity with experience providing culturally competent services appropriate for youth at risk of homelessness or currently homeless.

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
- location in San Francisco
- affordable to low- and very-low income families
- financed by use of Low Income Housing Tax credits

For the Architect, a Qualifying Project must be new residential construction, of which a majority are multiple-bedroom units preferably completed in the last five (5) years, herein referred to as an **Architect Qualifying Project (AQP)**.

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) AQP.

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 (20 pts):	
b.	Architect Experience (10 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

Scoring Criteria details:

(1a) *Development Experience* -- (20 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.	10 Points
Two or more Qualifying Projects for very low-income families completed or under development in excess of the minimum required QP.	15 Points
At least one completed project that includes units targeted for formerly homeless persons (singles, seniors or families)	5 additional points

(2) *Lead Architectural Firm Experience* – (10 points possible):

Points will be awarded only to lead Architects who have completed at least 2 Architect 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.	5 points
Experience with affordable housing for low- and very low-income families but none in San Francisco	7 points

Experience with affordable housing for low- and very low-income families in San Francisco.	10 points
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(3) 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 6-10 (or more) affordable family housing rental properties	3 points
Two additional points for managing more than one affordable rental property that serves homeless households	+ 2 points

(4) 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 48 months minimum requirement.	Up to 5 points
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(5) 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

(6) 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 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

(6) 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 youth; 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 utilizing **Attachment 1, Submittal Checklist** as a guide:*

1. **Summary.** Provide a concise narrative description of the proposal for developing the parcels, including the development’s overall size, uses, resident and community amenities, general layout, and summarized financing and services plans. Additionally, please submit **Attachment 2, Proposal Metrics**.
2. **Development Team.** Using **Attachment 3, 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
 - 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 tax returns or 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
 - Location of 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 mix
 - Construction type(s)
 - Target Population, including affordability levels if applicable
 - Summary of all financing sources
 - Total residential square footage, including private and common area open space, and parking if applicable
 - Green building elements, if any
 - Public art, if any
 - Experience with community outreach for the project
 - Current project status with dates of commencement, completion, as appropriate
 - Whether the project was completed on/under/over budget and on/ahead/behind schedule.
- b. **Development Capacity.** Summarize in one page the organizational structure of the development team that will be responsible for developing the Project, including the roles of Developer, Co-Developer and Development Consultant. Identify and briefly describe the experience of key project development staff. Using **Attachment 4, Projected Staffing Workload**, describe their projected workload for the period of the Project’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 Architect 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),
- green building design features (if applicable),
- Public art (if applicable) and
- Client contact information for each Project.

Using **Attachment 4, Projected Staffing Workload**, describe the projected workload of key staff expected to be involved in the development of the Project.

e. Property Manager Experience. Using no more than two (2) pages, describe the following:

- At least three Qualifying Projects, including at least one project that was financed with low-income housing tax credits and one that serves homeless households that have 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 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 5, 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 parcels, including if open space is shared between the housing and other on-site uses.
- 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.
- Location and capacity of proposed child care facility including but not limited specifying child drop-off location, open space provided, number and population mix of children that can be accommodated (i.e. number of infants, toddlers, or preschoolers).
- Response to local environmental factors such as traffic, sun/shade, wind – describe approaches.
- Description of the ground floor uses, especially any active pedestrian-oriented uses and child care facilities.
- Commercial spaces– describe size, parking and loading (if needed)
- Description of provision of public art, including location of public art within the project
- How the design incorporates at least one of the Octavia Boulevard Enhancement Project design alternatives.

- 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, child care, commercial spaces, or retail. Indicate approximate square footages for these spaces on the plan.

- c. Alternative construction technology alternative. In MOHCD's ongoing efforts to control costs, consideration of alternative construction technologies such as modular construction is encouraged. Respondents may submit an alternative construction technology proposal as either a principal or secondary design proposal. If a respondent does submit an alternative construction technology proposal, the following must be included in the submission:
- Estimated cost savings compared to conventional construction methods
 - Estimated time savings using compared to conventional construction methods
 - Any potential obstacles from existing conditions that may hinder use of alternative construction technologies
 - Description of each team member's experiencing designing, financing and installing alternative construction technologies, if applicable.

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.D above and includes the following information:
- The service provider's overall philosophy and plan for providing services to Parcel R,S and U 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 Parcel R, S and U 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 tenants displaced by Ellis Act and/or Owner Move-In evictions and other income-eligible residents who are at risk of losing their housing or are significantly under-housed, and outreach for implementing the Neighborhood Preference. 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 6, 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: Wednesday, August 9, 2017 at 10:00AM 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 teresa.yanga@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 Parcel RSU RFP email list along with any others who may ask to be included. This list will be used to send the RFP itself when it is issued, 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: Deliver seven (7) hard copies of the Proposal including all attachments to MOHCD, 1 South Van Ness Avenue, 5th Floor reception, attention: Teresa Yanga by or before **4:00PM on Friday, November 17, 2017**. In addition, email a complete proposal (or a link to an online repository such as Dropbox) including attachments to: teresa.yanga@sfgov.org

Scoring and Ranking: All respondents will be notified during the **week of November 27, 2017** as to whether their proposal was complete, met 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 **December 11, 2017**, subject to the availability of the selection panel members.

Final Selection: Subject to approval by the Director of MOHCD, selections will be completed on or around **January 12, 2018**.

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:

- Investigating and determining conditions of the Site and the suitability of the Site for the proposed Project.
- 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.
- Obtaining adequate financing for all aspects of the proposed Project, including predevelopment, construction and operation.
- Designing and building the Project in a manner that produces a high-quality, enduring living environment.
- Owning, managing, and operating the Project in a manner that ensures its long-term financial viability and the ongoing satisfaction of residents.
- Complying with the requirements of any financing for the Project, including but not limited to:
 - a. 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 staff prior to hiring their development team to develop a plan for such compliance. Although the City's Contract Monitoring Division (CMD) does not require prior approval or monitoring of procedures for selecting the

architect for purposes of responding to this RFP, the architect's Local Business Enterprise (LBE) status will be counted toward the overall project's procurement goals which will be set at a later date.

b. 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.

c. Accessibility Requirements - Project sponsors will be responsible for meeting all applicable accessibility standards related to publicly-funded multifamily housing 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.

d. 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.

e. 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.

f. 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.³

g. Insurance Requirements – see Exhibit A -- Insurance Requirements

³ 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>.

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. Modifications and clarifications will be made by addenda as provided below.

C. Addenda to RFP

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 Parcel O, 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:

7. Submittal Checklist
8. Proposal Metrics
9. Respondent Description
10. Projected Staffing Workload
11. Service Provider Experience
12. Disclosures



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 #: 220092

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
Mara Blitzer	415-701-5544
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
MYR Office of Housing and Community Dev	mara.blitzer@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR Octavia RSU Associates, L.P.	TELEPHONE NUMBER 415-701-2151
STREET ADDRESS (including City, State and Zip Code) 201 Eddy Street, San Francisco, CA 94102	EMAIL hzaw@tndc.org

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 220092
DESCRIPTION OF AMOUNT OF CONTRACT \$15,000/year		
NATURE OF THE CONTRACT (Please describe) Ground lease of land at 78 Haight Street owned by City to facilitate development of 63 units of affordable housing, including 32 units for Transitional Age Youth (TAY.)		

7. COMMENTS
Tenderloin Neighborhood Development Corporation (TNDC) created Octavia RSU Associates, LP, with Octavia RSU GP, LLC, a TNDC affiliate, as General Partner and Manager.

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	Bohee	Tiffany, TNDC	Board of Directors
2	Martin	Freddy, TNDC	Board of Directors
3	Johnson	Susan, TNDC	Board of Directors
4	Edwards	Tracey, TNDC	Board of Directors
5	Kroot	Dave, TNDC	Board of Directors
6	Leon	Maurilio, TNDC	CEO
7	Heffner	Daphne, TNDC	Other Principal Officer
8	Lathauwers	Ron, TNDC	Board of Directors
9	McLean	Jme, TNDC	Board of Directors
10	Barahona	Luis, TNDC	Board of Directors
11	Cervantes	Jim, TNDC	Board of Directors
12	Cloutier	Mark, TNDC	Board of Directors
13	Johnson	Jesse James, TNDC	Board of Directors
14	Kim	Kenneth, TNDC	Board of Directors
15	Liu	wylie, TNDC	Board of Directors
16	Pujals	Fernando, TNDC	Board of Directors
17	Rock	Kathy, TNDC	Board of Directors
18	Siswandi	Jennifer, TNDC	Board of Directors
19	Skurdenis	Birute, TNDC	Board of Directors

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20	wolfe	Kathy, TNDC	Board of Directors
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<input type="checkbox"/>	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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Mara Blitzer	415-701-5544
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
MYR Mayor's Office of Comm. Dev.	mara.blitzer@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR Octavia RSU Associates, L.P.	TELEPHONE NUMBER 415-776-2151
STREET ADDRESS (including City, State and Zip Code) 201 Eddy Street, San Francisco, CA 94102	EMAIL hzaw@tndc.org

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 220092
DESCRIPTION OF AMOUNT OF CONTRACT \$26,746,467		
NATURE OF THE CONTRACT (Please describe) Construction/permanent loan for the development of 63 units of 100% affordable housing at 78 Haight Street. Includes 32 units for transitional age youth (TAY) and a ground floor childcare center.		

7. COMMENTS
Tenderloin Neighborhood Development Corporation (TNDC) created Octavia RSU Associates, LP, with Octavia RSU GP, LLC, a TNDC affiliate, as General Partner and Manager.

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This contract was approved by:	
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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>
---	---------------------------

From: [Conine-Nakano, Susanna \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [Nickolopoulos, Sheila \(MYR\)](#); [Romero, Anne \(MYR\)](#); [Blitzer, Mara \(MYR\)](#); [Smeallie, Kyle \(BOS\)](#)
Subject: Mayor -- Resolution -- 78 Haight and 120 Octavia
Date: Tuesday, January 25, 2022 3:53:56 PM
Attachments: [Mayor -- Resolution -- 78 Haight and 120 Octavia.zip](#)

Hello Clerks,

Attached for introduction to the Board of Supervisors is a Resolution 1) approving and authorizing the Director of Property and the Mayor's Office of Housing and Community Development ("MOHCD") to enter into a Ground Lease for real property owned by the City and located at 78 Haight Street and 120 Octavia Street ("Property") with the Octavia RSU Associates, L.P. for a lease term of 75 years and one 24-year option to extend and an annual base rent of \$15,000 ("Ground Lease") in order to construct a 100% affordable, 63-unit multifamily rental housing development affordable to low-income households, including 32 units for Transitional Age Youth, of which 15 units will be targeted to residents who qualify as homeless households under the No Place Like Home Criteria, and including a childcare center (collectively, the "Project"); 2) approving and authorizing a Loan Agreement in an amount not to exceed \$26,746,467 for a minimum loan term of 57 years ("Loan Agreement") to finance the development and construction of the Project; 3) adopting findings declaring that the Property is "exempt surplus land" pursuant to the California Surplus Lands Act; 4) determining that the less than market rent payable under the Ground Lease will serve a public purpose by providing affordable housing for low-income households in need, in accordance with Section 23.3 of the Administrative Code; 5) adopting findings that the Project and proposed transactions are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and 6) authorizing the Director of Property and/or the Director of MOHCD to execute the Ground Lease and the Loan Agreement, and make certain modifications to such agreements, and take certain actions in furtherance of this Resolution, as defined herein.

Please note that Supervisor Preston is a co-sponsor of this legislation.

Please let me know if you have any questions.

Sincerely,
Susanna

Susanna Conine-Nakano
Office of Mayor London N. Breed
City & County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102
415-554-6147