

File No. 181007

Committee Item No. 4

Board Item No. 25

### COMMITTEE/BOARD OF SUPERVISORS

#### AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance  
Board of Supervisors Meeting

Date: November 1, 2018  
Date: November 13, 2018

#### Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement/Lease
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

#### OTHER

- Planning General Plan Note to File - October 10, 2018
- RFP
- GP Referral - January 28, 2018
- \_\_\_\_\_
- \_\_\_\_\_

Prepared by: John Carroll

Date: October 26, 2018

Prepared by: Linda Wong

Date: November 7, 2018

1 [Ground Lease - 1950 Mission Housing Associates, LP - 1950 Mission Street - \$15,000  
2 Annual Base Rent]

3 **Resolution approving and authorizing a long term Ground Lease with 1950 Mission**  
4 **Housing Associates, LP, on City owned land at 1950 Mission Street (“Property”) for a**  
5 **term of 75 years, to commence following approval by the Board of Supervisors, with**  
6 **one 24-year option to extend, and with an annual base rent of \$15,000 in order to**  
7 **construct a 100% affordable, 155-unit multifamily rental housing development (plus two**  
8 **staff units) for low-income persons (“Project”); adopting findings that the Ground**  
9 **Lease is consistent with the California Environmental Quality Act, the General Plan,**  
10 **and the eight priority policies of Planning Code, Section 101.1; and authorizing the**  
11 **Director of Property and the Director of the Mayor’s Office of Housing and Community**  
12 **Development to execute documents, make certain modifications, and take certain**  
13 **actions in furtherance of this Resolution, as defined herein.**

14  
15 WHEREAS, In 2014, the Board of Supervisors approved the exchange of City property  
16 located near the intersection of McAllister Street and Ash Alley (555 Fulton and 380 Fulton  
17 Street) and an additional fee of \$2,675,000 for real property owned by the San Francisco  
18 Unified School District located at 1950 Mission Street (Resolution No. 331-14) of City; and

19 WHEREAS, In 2015, the Mayor’s Office of Housing and Community Development  
20 (“MOHCD”), issued a Request for Proposal (“RFP”), seeking submittals from qualified  
21 respondents to develop the Property as affordable rental housing; and

22 WHEREAS, Bridge Housing Corporation (“Bridge”), a California nonprofit public benefit  
23 corporation, in collaboration with Mission Housing Development Corporation (“MHDC”), a  
24 California nonprofit public benefit corporation, jointly responded to the RFP and was selected  
25 to be the developer for the Property; and

1           WHEREAS, Bridge and MHDC established 1950 Mission Housing Associates,  
2 LP, a California limited partnership ("Lessee"), as a separate entity under which to  
3 develop the Project; and

4           WHEREAS, MOHCD is also providing the Lessee with new financial assistance to  
5 leverage equity from an allocation of low-income housing tax credits and other funding  
6 sources in order for Lessee to construct a 100% affordable, 155-unit multifamily rental  
7 housing development for low-income persons (plus two staff units) with ancillary commercial  
8 space for public benefit and community serving purposes on the Property; and

9           WHEREAS, An appraisal dated February 21, 2013, valued the Property  
10 at \$13,400,000; and

11           WHEREAS, The purpose of this Ground Lease is solely to implement the  
12 mission of MOHCD, and the Board of Supervisors' approval of this Resolution furthers  
13 the public purpose of providing affordable housing for low-income households in need,  
14 thus obviating the need for a market rent lease appraisal described in San Francisco  
15 Administrative Code, Section 23.30; and

16           WHEREAS, MOHCD and the Director of Property have approved the form of the  
17 Ground Lease between MOHCD and the Lessee, pursuant to which MOHCD will lease the  
18 Property to the Lessee for a Base Rent of \$15,000 per year, in exchange for the Lessee's  
19 agreement, among other things, to construct and operate the Project with rent levels  
20 affordable to households up to 60% of unadjusted San Francisco Area Median Income (AMI);  
21 and

22           WHEREAS, A copy of the Ground Lease in a form substantially approved is on file with  
23 the Clerk of the Board of Supervisors in File No. 181007, and is incorporated herein by  
24 reference; and

1           WHEREAS, The Ground Lease provides, among other conditions, for a term of 75  
2 years and one 24-year option to extend; and

3           WHEREAS, The Project was reviewed under the Eastern Neighborhoods Area Plan  
4 Environmental Impact Report ("EIR") certified by the Planning Commission on  
5 December 4, 2017, the Project was determined to be consistent with the Eastern  
6 Neighborhoods Area Plan EIR and exempt from environmental review per CEQA Guidelines,  
7 Section 15183 (Planning Case No. 2016.001514EVN); and

8           WHEREAS, By letter dated January 28, 2014, the Department of City Planning  
9 found the acquisition and transfer between the San Francisco Unified School District  
10 and MOHCD to be consistent with the City's General Plan, and with the eight priority  
11 policies under Planning Code, Section 101.1, and for the reasons set forth in a letter  
12 dated October 10, 2018, the Department of City Planning found the ground lease to  
13 also be consistent with the City's General Plan, and with the eight priority policies  
14 under Planning Code, Section 101.1; now, therefore, be it

15           RESOLVED, That the Board of Supervisors hereby adopts the findings  
16 contained in the document dated January 28, 2014, from the Department of City  
17 Planning regarding the California Environmental Quality Act, and hereby incorporates  
18 such findings by reference as though fully set forth in this Resolution; and, be it

19           FURTHER RESOLVED, That the Board of Supervisors hereby finds that the  
20 Ground Lease is consistent with the City's General Plan, and with the eight priority  
21 policies under Planning Code, Section 101.1, for the same reasons set forth in the  
22 letter of the Department of City Planning dated October 10, 2018, and hereby  
23 incorporates such findings by reference as though fully set forth in this Resolution; and,  
24 be it

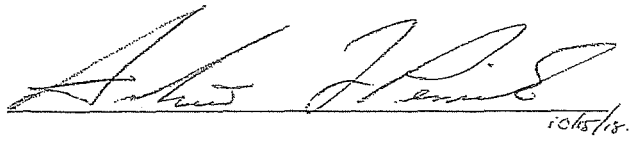
1           FURTHER RESOLVED, That in accordance with the recommendations of the  
2 Director of Property and the Director of MOHCD, the Board of Supervisors hereby  
3 approves the Ground Lease, and authorizes the Director of Property (or designee) and  
4 the Director of MOHCD (or designee) to execute and deliver the Ground Lease and  
5 any such other documents that are necessary or advisable to complete the transaction  
6 contemplated by the Ground Lease, and to effectuate the purpose and intent of this  
7 Resolution; and, be it

8           FURTHER RESOLVED, That the Board of Supervisors authorizes the Director  
9 of Property (or designee) and the Director of MOHCD (or designee), in consultation  
10 with the City Attorney, to enter into any additions, amendments or other modifications  
11 to the Ground Lease (including in each instance, without limitation, the attachment of  
12 exhibits), that the Director of Property and the Director of MOHCD determine are in the  
13 best interests of the City, do not materially decrease the benefits to the City with  
14 respect to the Property, or otherwise materially increase the obligations or liabilities of  
15 the City, and are necessary or advisable to complete the transaction contemplated  
16 herein, effectuate the purpose and intent of this Resolution, and are in compliance with  
17 all applicable laws, including the City's Charter, provided that documents that include  
18 amendments from what was previously submitted to the Board shall be provided to the  
19 Clerk of the Board, as signed by the parties, together with a marked copy to show any  
20 changes, within 30 days of execution for inclusion in the official file; and, be it

21           FURTHER RESOLVED, That all actions taken by any City employee or official  
22 with respect to the exercise of the Ground lease authorized and directed by this  
23 Resolution and heretofore taken are hereby ratified, approved and confirmed by this  
24 Board of Supervisors.  
25

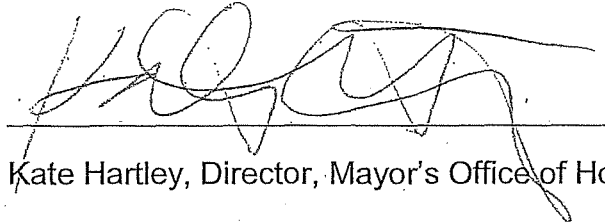
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RECOMMENDED:



Handwritten signature of Andrico Q. Penick, with initials 'AQP' and '10/15/18' written below it.

Andrico Q. Penick, Director of Property



Handwritten signature of Kate Hartley, with initials 'KH' and '10/15/18' written below it.

Kate Hartley, Director, Mayor's Office of Housing and Community  
Development

**CITY AND COUNTY OF SAN FRANCISCO**  
**BOARD OF SUPERVISORS**  
**BUDGET AND LEGISLATIVE ANALYST**

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292  
 FAX (415) 252-0461

October 26, 2018

**TO:** Budget and Finance Committee

**FROM:** Budget and Legislative Analyst



**SUBJECT:** November 1, 2018 Budget and Finance Committee Meeting

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<p><b>Item 4</b> <b>File 18-1007</b></p>	<p><b>Department:</b> Mayor's Office</p>
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**EXECUTIVE SUMMARY**

**Legislative Objectives**

- The proposed resolution approves several actions to enable development of affordable housing at 1950 Mission Street, which is under the jurisdiction of the Mayor's Office of Housing and Community Development: (1) authorize a long term Ground Lease between the City and 1950 Mission Housing Associates, LP for 1950 Mission Housing Associates, LP to lease 1950 Mission Street for 75 years with a 24-year extension option, for lease term of up to 99 years; (2) adopt findings that the Ground Lease is consistent with the California Environmental Quality Act, the City's General Plan, and the priority policies of Planning Code Section 101.1; and (3) authorize the Director of Property and Director of MOHCD to execute documents, make certain modifications, and take certain actions in furtherance of this Resolution.

**Key Points**

- The property is presently the site of a Navigation Center managed by the Department of Homelessness and Supportive Housing (DHS). DHS is scheduled to vacate the site on November 2, 2018. Construction of the affordable housing project is scheduled to begin December 2018.
- Nonprofit housing Developers Bridge Housing Corporation and Mission Housing Development Corporation jointly responded to a Request for Proposals issued by MOHCD in 2015 and were selected to develop the site. The two nonprofits established 1950 Mission Housing Associates, LP, a separate entity under which they will develop and lease the affordable housing.
- 1950 Mission Housing Associates, LP will construct 155 units of affordable rental housing for low income households whose adjusted income does not exceed 60 percent of median income for the area. Forty units will be set aside for formerly homeless families, and will be subsidized by the City's General Fund through the Local Operating Subsidies Program (LOSP). An additional two units will be constructed for unrestricted onsite staff units for a building with a total of 157 units

**Fiscal Impact**

- Rent paid by Mission Housing Associates, LP includes base rent of \$15,000 per year (not adjusted for inflation) and residual rent of \$1,325,000 per year. Combined base rent and residual rent equal 10 percent of the appraised value of 1950 Mission Street of \$13.4 million. Mission Housing Associates, LP only pays residual rent is surplus cash is available after all operating expenses are met.
- Over the 75 year term of the lease, the City would receive \$1,125,000 in total base rent. Should the tenant agree to extend the lease for an additional 24 years, the City would receive an additional \$360,000.

**Recommendation**

- Approve the proposed resolution.

**MANDATE STATEMENT**

City Charter Section 9.118(c) states that any lease of real property for a period of ten or more years including options to extend, or that has anticipated revenues of \$1 million or more is subject to Board of Supervisors approval.

City Administrative Code Section 23.30 states that leases of City-owned property can be for less than market rent if the lease is for a proper public purpose.

**BACKGROUND**

The Mayor's Office of Housing and Community Development (MOHCD) owns property at 1950 Mission Street. The Board of Supervisors approved a resolution (File Number 14-0810) in September 2014 to transfer the jurisdiction of 1950 Mission Street from the San Francisco Unified School District to the Mayor's Office of Housing and Community Development as a part of a property exchange. The Mayor's Office of Housing and Community Development paid a fee of \$2,675,000 for the property. An appraisal dated February 21, 2013 valued the property at \$13.4 million.<sup>1</sup>

In 2015, MOHCD issued a Request for Proposals (RFP) to develop affordable housing on the vacant property. Nonprofit housing developer Bridge Housing Corporation, in collaboration with nonprofit housing developer Mission Housing Development Corporation, jointly responded and was selected to be the developer. The two nonprofits established 1950 Mission Housing Associates, LP, a separate entity under which they will develop and lease the affordable housing.

The property was originally home to a continuation school and surface parking lot. It is presently the site of a Navigation Center managed by the Department of Homelessness and Supportive Housing (DHS). The tenant, the Department of Homelessness and Supportive Housing, is scheduled to vacate the site on November 2, 2018. The site will then remain vacant until the start of construction, which is scheduled to begin December 2018 and last 24 months.

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would

1. authorize a long term Ground Lease between the City and 1950 Mission Housing Associates, LP for 1950 Mission Housing, LP to lease 1950 Mission Street for 75 years with a 24-year extension option, for lease term of up to 99 years. Annual base rent will be \$15,000, in order to construct 155 affordable, multifamily rental housing units for low income households and two staff units;

<sup>1</sup> The City contracted with Clifford Advisory in February 2013, who appraised 1950 Mission Street at \$9.45 million. SFUSD contracted with Cushman & Wakefield in March 2013, who appraised 1950 Mission Street at \$13.4 million. The City and SFUSD agreed to an exchange value for 1950 Mission Street of \$9.78 million.

2. adopt findings that the Ground Lease is consistent with the California Environmental Quality Act, the City's General Plan, and the priority policies of Planning Code Section 101.1; and
3. authorize the Director of Property and Director of MOHCD to execute documents, make certain modifications, and take certain actions in furtherance of this Resolution.

### **Low Income Housing Project**

1950 Mission Housing Associates, LP will construct 155 units of affordable rental housing for low income households whose adjusted income does not exceed 60 percent of median income for the area, less utility allowance<sup>2</sup>. It will include 32 studios, 36 one-bedrooms, 73 two-bedrooms, and 14 three-bedrooms. Forty units will be set aside for formerly homeless families, and will be subsidized by the City's General Fund through the Local Operating Subsidies Program (LOSP). The project will also include two staff units, six units of commercial space and public benefit use totaling 9,380 square feet, and one community serving commercial unit totaling 740 square feet.

Total development costs for 1950 Mission are estimated to be \$105,890,283. Development is funded by federal Low Income Housing Tax Credits, loans and grants from the State of California, developer equity, MOHCD financing, and other sources.

### **Ground Lease**

The key provisions of the Ground Lease are shown in Table 1 below.

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<sup>2</sup> The MOHCD uses Unadjusted income because the United States Department of Housing and Urban Development (HUD) makes cost adjustments to account for areas with high housing costs, such as San Francisco. Households whose Unadjusted income is 70 percent of AMI may still fall slightly below within the HUD unadjusted 60 percent AMI category. Households whose Unadjusted income is 60 percent of AMI may fall slightly below the HUD adjusted 50 percent AMI category. HUD defined 2018 Area Median Income in San Francisco for one person as \$82,900; therefore, 40 percent of AMI is \$33,150; 50 percent of AMI is \$41,450; 60 percent of AMI is \$49,750; and 70 percent of AMI is \$58,050.

**Table 1: Key Provisions of Ground Lease**

Size of Property	36,400 square feet
Lease Period	75 years (approximately November 2018 through November 2093)
Options to extend lease	Tenant has one 24-year option to extend the lease through 2117 for a total lease term of 99 years
Base rent	\$15,000 per year
Adjustments to base rent	None
Residual rent	Up to \$1,325,000 per year <sup>3</sup>
Adjustments to residual rent	10 percent of fair market value on the 15 <sup>th</sup> anniversary of the first rent payment and every 15 years thereafter
Taxes, insurance, maintenance, utilities	Paid by tenant
Appraised Value	\$13,400,000- appraised February 21, 2014
Number of Units	157 (including staff units)

Source: Proposed Ground Lease

### Planning Department Determination

In October 2018, the Department of City Planning found the ground lease to be consistent with the City's General Plan and with the Eight Priority Policies under Planning Code Section 101.1. In December 2017, the Project was determined to be consistent with the Eastern Neighborhoods Area Plan EIR and exempt from environmental review per CEQA Guidelines Section 15183 (Planning Case No. 2016.001514EVN). It was found to be categorically exempt from a Historic Preservation Commission review.

### FISCAL IMPACT

Mission Housing Associates, LP would pay base rent of \$15,000 annually, not adjusted for inflation<sup>4</sup>. Over the 75 year term of the lease, the City would receive \$1,125,000 in total base rent. Should the tenant agree to extend the lease for an additional 24 years, the City would receive an additional \$360,000.

Should surplus cash be available from the tenant after payment of all operating expenses, including operating expenses for the commercial units, Mission Housing Associates, LP would pay residual rent to the City. Annual residual rent is up to 10 percent of the appraised fair market value of the property, minus the base rent. At the current appraised value of \$13,400,000 and a base rent of \$15,000, the residual rent is up to \$1,325,000 per year. According to Cindy Heavens, MOHCD Project Manager, the investor and construction lender

<sup>3</sup> 1950 Mission Housing Associates, L.P. could pay total annual rent (base rent and residual rent) up to 10 percent of the appraised value of the property. As of February 2013, the appraised value is \$13.4 million; therefore, total annual rent is up to \$1,340,000 and residual rent is up to \$1,325,000 (the difference between total annual rent and base rent of \$15,000).

<sup>4</sup> Per MOHCD Underwriting Policy, base rent is always set to \$15,000 for affordable housing ground leases.

will allow the City to use their appraisal of 1950 Mission Street, with the appraisal to be completed after November 2018. The Ground Lease is based on the existing appraisal and residual rents will not be impacted by the pending appraisal. The residual rent would be amended every 15 years to reflect the updated fair market value of the property.

Should the tenant not have surplus cash to pay residual rent in a given year, it would need to provide written documentation to the City to verify the insufficiency. According to Ms. Cindy Heavens, MOHCD Project Manager, MOHCD does not anticipate receiving residual revenues at any point during the term of the ground lease due to the high operating costs, including debt repayment obligations, associated with the housing and low revenues.

#### **RECOMMENDATION**

Approve the proposed resolution.

Item 5 – File 18-0971 is not ready

1

GROUND LEASE

This Ground Lease is dated as of, \_\_\_\_\_ 2018, (“**Agreement Date**”) by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the “**City**” or “**Landlord**”), represented by the Mayor, acting by and through the Mayor's Office of Housing and Community Development (“**MOHCD**”), and 1950 MISSION HOUSING ASSOCIATES, LP, a California Limited Partnership, as tenant (the “**Tenant**”).

RECITALS

A. The City is the fee owner of the land described in Attachment 1 attached hereto and the existing improvements located thereon (“**Site**”), which land is located on 1950 Mission Street in the City and County of San Francisco, state of California.

B. On March 4, 2016 the Citywide Affordable Housing Loan Committee approved MOHCD’s selection of a joint venture between BRIDGE Housing Corporation and Mission Housing Development Corporation to develop the Site into 157 units of affordable housing for low- and very-low income persons, including 2 manager’s unit for 1950 Mission Street (the “**Project**”).

C. On \_\_\_\_\_, the San Francisco Board of Supervisors and the Mayor approved Resolution No. \_\_\_\_\_, authorizing the City to enter into a ground lease with the Tenant for the purpose of developing the Project.

D. On February 14, 2017, the City and the Tenant entered into that certain Option to Lease Agreement pursuant to which City granted Tenant an option to ground lease the Site (the “**Option**”) that expires on December 31, 2018 with an initial extension option for an additional 12 month period. So long as the Tenant is not then in default and is working to meet the City’s conditions of closing, the Tenant may request an additional extension of the Term for a second extension of an additional twelve (12) months.

E. The Tenant is now exercising its Option to enter this Ground Lease, pursuant to which City will lease the Site to Tenant to develop the Project. It is the Tenant’s intent to serve the needs of the low- income residents by providing rents for all units not to exceed thirty percent (30%) of sixty percent (60%) of Area Median Income. In addition, 25% of the Residential Units are set aside for households utilizing the LOSP subsidy.

F. 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 State and Federal laws and requirements.

**NOW THEREFORE**, in consideration of the mutual obligations of the parties hereto, the City hereby leases to Tenant, and Tenant hereby leases from the City, the Site, for the Term (as defined in Article 2), and subject to the terms, covenants, agreements and conditions hereinafter set forth, to each and all of which the City and Tenant hereby 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.

**"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, derived from the Income Limits determined by the United States Department of Housing and Urban Development for the San Francisco area, adjusted solely for household size, but not high housing cost area, also referred to as **"Unadjusted Median Income."**

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

**"City Loan Documents"** means the Amended and Restated Loan Agreement dated \_\_\_\_\_, the Amended and Restated Secured Promissory Note dated \_\_\_\_\_, the Deed of Trust dated \_\_\_\_\_ and any other documents executed or delivered in connection with this Ground Lease.

**"Commercial Space"** means an entire undifferentiated commercial area for Public Benefit Use, Community-serving Commercial Use, or Commercial Use.

**"Commercial Unit"** has the meaning set forth in Section 0.

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

**"Community-serving Commercial Use"** means a non-residential use that provides a direct benefit to the community in which the Project is located, including, but not limited to, bike repair shop, food market with affordable and healthy produce and other goods, or community banking.

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

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



**“Ground Lease”** means this Ground Lease of the Site to the Tenant from the City, as amended from time to time.

**“Improvements”** means all physical construction, including all structures, fixtures and other improvements, to be constructed or rehabilitated on the Site.

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

**“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 Agreement Date and continue through December 31st of that same calendar year. Furthermore, the “Last Lease Year” will end upon the expiration of the Term.

**“Leasehold Estate”** means the estate held by the Tenant 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 Site, or any portion thereof, that constitutes a lien on the Leasehold Estate and is approved in writing by the City.

**“Leasehold Mortgagees”** means Wells Fargo Bank, N.A. (“WFB”) and California Community Reinvestment Corporation (“CCRC”) as holders of Leasehold Mortgages.

**“Lender”** means any entity holding a Leasehold Mortgage.

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

**“LOSP”** means a local operating subsidy provided to Tenant by the City, the amount of which is sufficient to permit Tenant to operate the Project and pay for Project Expenses and Project Fees, and any deferred developer fee.

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

**“Low Income Households”** means, for any period of the Term (or extended term), a tenant household with combined initial income that (a) does not exceed sixty percent (60%) of Area Median Income, and in no event exceed the sixty percent (60%) income level for the County of San Francisco using the California Tax Credit Allocation Committee (TCAC) published materials or calculations.

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

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

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

**“Premises”** means the Site together with any Improvements thereon.

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

**“Project”** has the meaning set forth in recital B.

**“Project Expenses”** means all charges incurred in the operation of the Project which may be paid from Project Income to the extent of available Project Income, including but not limited to: (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 or other insurance premiums required under this Agreement or by lenders providing secured financing for the Project; (b) salaries, wages and other compensation due and payable to the employees or agents of Tenant who maintain, administer, operate or provide services in connection with the Project, including all withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments required for such employees; [(c) payments of required interest, principal or annual servicing fees, if any, on any construction or permanent financing secured by the Project, including but not limited to the following bond issuer fee in the amount of \$\_\_\_\_, trustee fees of \$\_\_\_\_, annual administrative fee of \$\_\_\_\_, annual monitoring fee of \$\_\_\_\_, asset management fee of [\$21,890], increasing by 3.5% annually [confirm], payable to general partner]; (d) all other expenses actually incurred by Tenant to cover operating and services provision costs of the Project, including maintenance and repair and the reasonable fee of any managing agent; (e) credit adjustor payments including interest to the Permitted Limited Partner; (f) annual Base Rent payments; (g) any extraordinary expenses as approved in advance by the City; (h) deposits to reserves accounts required to be established under the Loan Documents or this Ground Lease or required by other Project lenders or the Permitted Limited Partner and (i) any supportive service or resident service fees approved by the City. Project Expenses does not include Project Fees.

**“Project Fees”** means [(i) a combined annual asset management and partnership management fee in the amount of [\$43,790], increasing by 3.5% annually, payable to the Tenant’s general partner], and (ii) an annual investor services fee in the amount of [\$8,500],

increasing annually by 3.5%, payable to the Permitted Limited Partner. In no event will such fees exceed the maximum amount permitted by HCD so long as it is a Lender, as permitted by HCD's regulations.

**"Project Income"** means all revenue, income receipts, and other consideration actually received from the operation of leasing the Improvements and Project, including non-residential and/or commercial uses of the Site (unless otherwise agreed to by the City). Project Income will include but not be limited to: all rents, fees and charges paid by tenants or users of any portion of the Site; Section 8 or other rental subsidy payments received for the dwelling units; supportive services funding, if applicable; deposits forfeited by tenants; all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements; proceeds from vending and laundry room machines; and the proceeds of business interruption or similar insurance. Project Income will not include tenants' security deposits, loan proceeds, capital contributions or similar advances

**"Public Benefit Use"** means a non-residential use that primarily benefits low-income persons in which the Project is located and is implemented by one or more 501(c)(3) public benefit corporations, and has been identified by the City or community as a priority use, including but not limited to: childcare centers, adult day health centers, nonprofit office spaces, health clinics that serve the local community at no or low costs, art-related spaces that provide programs, and classes and/or exhibition spaces available to community members at no to low cost.

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

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

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

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

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

**"Tenant"** means 1950 Mission Housing Associates, LP, a California limited partnership and its successors and assigns (or a Subsequent Owner, where appropriate).

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

## ARTICLE 2 TERM

2.01 Initial Term. The term of this Ground Lease will commence upon the Agreement Date and will end seventy-five (75) years from that date (“**Term**”), unless extended under Section 2.02 below or earlier terminated as provided in this Ground Lease.

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

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

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

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

## ARTICLE 3 FINANCING ASSURANCE

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

## ARTICLE 4 RENT

### 4.01 Annual Rent

4.01(a) Tenant will pay to the City One Million Three Hundred Forty Thousand Dollars (\$1,340,000) (the “**Annual Rent**”) per year for each year of the Term of this Ground Lease. Annual Rent consists of Base Rent and Residual Rent, as defined in Section 4.02

below, without offset of any kind (except as otherwise permitted by this Ground Lease) and without necessity of demand, notice or invoice. Annual Rent will be re-determined on the fifteenth (15th) anniversary of the date of the first payment of Base Rent pursuant to Section 4.02(a) below and every fifteen (15) years thereafter, and will be equal to ten percent (10%) of the appraised fair market value of the Site as determined by an MAI appraiser selected by and at the sole cost of the Tenant. Any such adjustment will be made to the Residual Rent and not to the Base Rent.

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

#### 4.02 Base Rent

4.02(a) “**Base Rent**” means, in any given Lease Year, Fifteen Thousand Dollars (\$15,000) per annum; provided, however, that in the event that the Tenant or any Subsequent Owner fails, after notice and opportunity to cure, to comply with the provisions of Section 9.02, 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; however, no Base Rent will be due until the third anniversary of the Agreement Date. Additionally, in the event that a Subsequent Owner elects pursuant to Section 26.06(ii) to operate the Project without being subject to Section 9.02 or any Subsequent Owner elects, pursuant to Section 26.06(ii), to operate the Project without compliance with such provisions, 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 Project Expenses in items (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 no fewer than sixty (60) days prior to the Base Rent due date along with supporting documentation for Tenant’s position that it is unable to pay Base Rent from Project Income, the unpaid amount will be deferred and all such deferred amounts will accrue without interest until paid (“**Base Rent Accrual**”). The Base Rent Accrual will be due and payable each year from and to the extent Surplus Cash is available to make such payments. Any Base Rent Accrual will be due and payable upon the earlier of (i) sale of the Project (but not a refinancing or foreclosure of the Project); or (ii) termination of this Ground Lease (unless a new lease is entered into with a mortgagee pursuant to 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 pursuant to 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 insure 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, One Million Three Hundred Twenty Five Thousand Dollars (\$1,325,000), subject to any periodic adjustments pursuant to Section 4.01(a). Residual Rent will be due in arrears on June 30<sup>th</sup> following each Lease Year. Except as otherwise provided in Section 26.07(a), Residual Rent will be payable only to the extent of Surplus Cash as provided in Section 6.02(g) below, and any unpaid Residual Rent will not accrue. In the event that in any year Surplus Cash is insufficient to pay the full amount of the Residual Rent, Tenant will certify to the City in writing by May 15 that available Surplus Cash is insufficient to pay Residual Rent and Tenant will provide to City any supporting documentation reasonably requested by City to allow City to verify the insufficiency.

4.04 Triple Net Lease. This Ground Lease is a triple net lease and the Tenant will be responsible to pay all costs, charges, taxes, impositions and other obligations related to the Premises accruing after the Agreement Date. If the City pays any such amounts, whether to cure a default or otherwise protect its interests hereunder, the City will be entitled to be reimbursed by Tenant the full amount of such payments as additional rent within thirty (30) days of written demand by City. Failure to timely pay the additional rent will be a default by Tenant of this Ground Lease. No occurrence or situation arising during the Term, or any Law, whether foreseen or unforeseen, and however extraordinary, relieves Tenant from its liability to pay all of the sums required by any of the provisions of this Ground Lease, or otherwise relieves Tenant from any of its obligations under this Ground Lease. [Note: did not accept deletion of entire sentence, but deleted the last clause]

## ARTICLE 5 CITY COVENANTS

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

## ARTICLE 6 TENANT COVENANTS

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

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

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

6.02(a) Permitted Uses. Except as provided in Sections 26.06 and 26.08 of this Ground Lease, Tenant will devote the Site to, exclusively and in accordance with, the uses specified in this Ground Lease, as specified in ARTICLE 9 below, which are the only uses permitted by this Ground Lease. Tenant acknowledges that that a prohibition on the change in use contained in Section 9.01 is expressly authorized by California Civil Code section 1997.230 and is fully enforceable.

6.02(b) Non-Discrimination. Tenant will not discriminate against or segregate any person or group of persons on account of race, color, creed, religion, ancestry, national origin, sex, gender identity, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Site or the Improvements, or any part thereof, and Tenant or any person claiming under or through it will not establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of Residential Occupants, Non-residential Occupants, subtenants or vendees on the Site or Improvements, or any part thereof, except to the extent permitted by Law or required by funding source. Tenant will not discriminate against tenants with certificates or vouchers under the Section 8 program or any successor rent subsidy program.

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

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

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

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

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

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

Notwithstanding the foregoing, Tenant and City agree that the foregoing distribution of Surplus Cash may be modified by amendment to this Ground Lease based on the requirements of other Lenders. Notwithstanding subsection (iii) above, for as long as a portion of the Project Fees are being paid out of Tenant's share of Surplus Cash in accordance with HCD requirements, one half (1/2) of remaining Surplus Cash will be paid to Tenant and the remaining Surplus Cash will be split on a pro-rata basis between City and HCD (as long as HCD is a 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



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

## **ARTICLE 8 CONDITION OF SITE – “AS IS”**

8.01 Acknowledgment, Represents, Warrants of Site. Tenant acknowledges and agrees that Tenant is familiar with the Premises, the Premises is being leased and accepted in its "as-is" condition, without any improvements or alterations by the City, without representation or warranty of any kind except as set forth in this Ground Lease and in the City Loan Documents, and subject to all applicable Laws governing their use, development, occupancy, and possession. Tenant further represents and warrants that Tenant has investigated and inspected, either independently or through agents of Tenant's own choosing, the condition of the Premises and the suitability of the Premises for Tenant's intended use. Tenant acknowledges and agrees that neither City nor any of its agents have made, and City hereby disclaims, any representations or warranties, express or implied, concerning the rentable area of the Premises, the physical or environmental condition of the Premises, or the present or future suitability of the Premises for Tenant's use, or any other matter whatsoever relating to the Premises, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose; it being expressly understood that the Premises is being leased in an "AS IS" condition with respect to all matters.

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

8.03 Presence of Hazardous Substances. California law requires landlords to disclose to tenants the presence of certain Hazardous Substances. Tenant is advised that the Premises may contain asbestos containing materials, lead based paint, and polychlorinated biphenyls (PCB).

## ARTICLE 9 PERMITTED AND PROHIBITED USES

### 9.01 Permitted Uses and Occupancy Restrictions.

9.01(a) The permitted uses of the Project are limited to: (i) 155 units of affordable rental housing plus two manager's units (collectively, the "**Residential Units**"), (ii) common areas for tenants, (iii) five (5) units of Commercial Space with a total of 8,330 square feet, which include three (3) units for Public Benefit Use with a total of approximately 6,540 square feet ("**Public Benefit Units**"), one (1) unit for Community-Serving Commercial Use with approximately 740 square feet ("**Community-Serving Unit**"), and one (1) unit for Commercial Use of approximately 1,050 square feet ("**Commercial Use Unit**"), (iv) Weise Street privately owned public right to pass area, which is approximately two feet in width (the "Weise Street Right to Pass Area"), and (v) other ancillary uses approved by the City (in each instance, a "**Permitted Use**" and collectively, "**Permitted Uses**"). Upon the completion of construction, one hundred percent (100%) of the Residential Units, with the exception of the 2 managers' units, in the Project will be occupied or held vacant and available for rental by Low Income Households. In addition, for as long as Tenant has a LOSP contract or other rental subsidy for 40 residential units, 40 of the Residential Units must be set aside for households for formerly homeless families that will use LOSP. 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. Tenant will use the designated Commercial Space units for Public Benefit Use or Community-serving Commercial Use, provided that, with the prior written approval of the City in its sole discretion, Tenant may change the use of a Public Benefit Unit or Community-Serving Unit to Commercial Use in accordance with MOHCD's Commercial Underwriting Guidelines. [BRIDGE/MHDC to confirm] All leases of Commercial Space must be approved in advance by MOHCD, which approval will not be unreasonably withheld.

9.01(b) In the event that the subsidies, including LOSP, with respect to the Project are terminated or reduced, the occupancy and rent restrictions may be altered but only to the maximum extent required for the financial feasibility of the Project, as determined by the City in its reasonable discretion in accordance with substantially similar underwriting criteria used by the City to evaluate the Project's financial feasibility prior to the Closing Date, provided that in any event, 100% of the units shall at all times be occupied by Low Income Households whose Adjusted Income does not exceed sixty percent (60%) of Median Income for the Area and the monthly rent paid by such Low Income Households shall not exceed (a) 30% of 60% of Median Income for the Areas, (b) less utility allowance. In such event, the City shall use good faith efforts to meet with Tenant within fifteen (15) days after Tenant's request to meet. The relief provided by this section shall not be construed as authorizing the Tenant to exceed any income or rent restriction imposed on the Project by CDLAC, CTCAC or other agreement, and the Tenant represents and warrants that it shall have obtained any necessary approvals or relief from any other applicable income and rent limitations prior to implementing the relief provided by this section.

9.02 Prohibited Uses. Tenant agrees that the following activities are strictly prohibited following the completion of the Improvements unless Tenant has obtained City's prior written approval (in each instance, a "**Prohibited Use**" and collectively, "**Prohibited Uses**"):

9.02(a) any activity, or the maintaining of any object, that is not consistent with or related to the Permitted Use;

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

9.02(c) any activity that constitutes waste or nuisance;

9.02(d) 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(e) 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(f) any automobile maintenance, including but not limited to; washing, fueling, changing oil, transmission or other automotive fluids; or

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

## ARTICLE 10 SUBDIVISION; CONSTRUCTION OF IMPROVEMENTS

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

10.02 Intentionally Omitted.

10.03 General Requirements and Rights of City. All construction documents, including but not limited to preliminary and final plans and specifications for the construction of the Improvements by Tenant and improvements by the subtenants (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, including MOHCD, is not directed to engineering or structural matters or compliance with local building codes and regulations, the Americans with Disabilities Act, or any other applicable Law relating to construction standards or requirements. Tenant further understands and agrees that City is entering into this Ground Lease in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this Ground Lease will limit in any way Tenant's obligation to obtain any required approvals from City officials, departments, boards, or commissions having jurisdiction over the Premises. By entering into this Ground Lease, City is in no way modifying or limiting Tenant's obligation to cause the Premises to be used and occupied in accordance with all applicable Laws.

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

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

10.05(b) Compliance with Local, State and Federal Law. The construction must be in strict compliance with all applicable Laws. Tenant understands and agrees that Tenant's use of the Premises and construction of the Improvements permitted under this Ground Lease will require authorizations, approvals, or permits from governmental regulatory agencies with jurisdiction over the Premises, including, without limitation, City agencies. Tenant will be solely responsible for obtaining any and all such regulatory approvals. Tenant may not seek any regulatory approval without first obtaining the written consent of City as Landlord under this Ground Lease. Tenant will bear all costs associated with applying for and obtaining any necessary or appropriate regulatory approval and will be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval; provided, however, any such condition that could affect use or occupancy of the Project or City's interest therein must first be approved by City in its sole discretion. Any fines or penalties levied as a result of Tenant's failure to comply with the terms and conditions of any regulatory approval will be immediately paid and discharged by Tenant, and City will have no liability, monetary or otherwise, for any such fines or penalties. Tenant will indemnify, defend, and hold harmless the City and the other Indemnified Parties hereunder against all Claims (as such terms are defined in ARTICLE 21 below) arising in connection with Tenant's failure to obtain or failure by Tenant, its agents, or invitees to comply with the terms and conditions of any regulatory approval except to the extent such Claims are caused by the City's or an Indemnified Party's gross negligence or willful misconduct.

10.06 Approval of Construction Documents by City. Tenant will submit and City will approve or disapprove the Construction Documents referred to in this Ground Lease within the times established in the Schedule of Performance. Failure by City either to approve or disapprove within the times established in the Schedule of Performance will entitle Tenant to an extension of time for completion of any activities delayed as a direct result of City's failure to

timely approve or disapprove the Construction Documents, which extension shall be reasonable in light of the City's delay.

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

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

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

10.10 City Approval of Changes after Commencement of Construction. Tenant may not 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, comment or requests for additional information shall be issued by the City within five (5) business days of receipt of change order request. City shall promptly review and approve or disapprove change order requests within ten (10) days of a complete submission by Borrower. In the event the City fails to approve or disapprove the change order request within such ten (10) day period, the change order shall be deemed approved. If the City disapproves the change order request, it shall specify the reasons for the disapproval in writing.

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

10.12 Force Majeure. For the purposes of any of the provisions of this Ground Lease, and notwithstanding anything to the contrary, neither the City nor Tenant, as the case may be, will be considered in breach or default of its obligations, and there will not be deemed a failure to satisfy any conditions with respect to the beginning and completion of construction of the

Improvements, or progress in respect thereto, in the event of enforced delay in the performance of such obligations or satisfaction of such conditions, due to unforeseeable causes beyond its control and without its fault or negligence, including, but not limited to, acts of God, acts of the public enemy, terrorism acts of the Government, acts of the other party to this Ground Lease, 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 construction of the Improvements, will be extended for the period of the enforced delay; provided, however, that the party seeking the benefit of the provisions of this paragraph must have notified the other party of the delay and its causes in writing within thirty (30) days after the beginning of any such enforced delay and requested an extension for the reasonably estimated period of the enforced delay; and, provided further, that this paragraph does apply to, and nothing contained in this paragraph will extend or will be construed to extend, the time of performance of any of Tenant's obligations to be performed before the commencement of construction, and the failure to timely perform pre-commencement of construction obligations will not extend or be construed to extend Tenant's obligations to commence, prosecute, and complete construction of the Improvements in the manner and at the times specified in this Ground Lease.

10.13 Reports. Commencing when construction of the Improvements commences and continuing until completion of construction of the Improvements, Tenant will make a report in writing to the City every three (3) months, in such detail as may reasonably be required by the City, as to the actual progress of the Tenant with respect to the construction. The MOHCD Monthly Project Update required under the MOHCD Loan Documents will satisfy this requirement.

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

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

10.16 Completion of Improvements by New Developer. In the event a Lender or a successor thereto forecloses, obtains a deed in lieu of foreclosure, or otherwise realizes upon the Premises and undertakes construction of the Improvements ("**New Developer**") (a) the New Developer will not be bound by the provisions of the Schedule of Performance with respect to any deadlines for the completion of the Improvements but will only be required to complete the Improvements with due diligence and in conformance with a new Schedule of Performance as agreed upon by the New Developer and the City, (b) the New Developer will only be required to complete the Improvements in accordance with all applicable building codes and ordinances, and

the approved Construction Documents with such changes that are mutually agreed upon by the City and the New Developer under the following clause (c); and (c) City and New Developer will negotiate in good faith such reasonable amendments and reasonable modifications to ARTICLE 10 of this Ground Lease as the parties mutually determine to be reasonably necessary based upon the financial and construction conditions then existing.

## ARTICLE 11 INTENTIONALLY OMITTED

## ARTICLE 12 CHANGES TO THE IMPROVEMENTS

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

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

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

## ARTICLE 13 TITLE TO IMPROVEMENTS

City acknowledges that fee title to the Improvements will be solely vested in Tenant for the Term of this Ground Lease. It is the intent of the Parties that this Ground Lease and the Memorandum of Lease will create a constructive notice of severance of the Improvements from the land without the necessity of a deed from Lessor to Lessee. City and Tenant hereby agree that fee title to the Improvements will remain vested in Tenant during the Term, subject to Section 14.01 below; provided, however, that, subject to the rights of any Lenders and as further consideration for the City entering into this Ground Lease, at the expiration or earlier termination of this Ground Lease, fee title to all the Improvements will vest in the City without further action of any party, without any obligation by the City to pay any compensation to Tenant, and without the necessity of a deed from Tenant to the City. Notwithstanding the foregoing, if requested by

the City, upon expiration or sooner termination of this Ground Lease, Tenant will execute and deliver to the City an acknowledged and good and sufficient grant deed conveying to the City Tenant's fee interest in the Improvements. Tenant shall have the exclusive right to deduct, claim retain and enjoy any and all rental income appreciation, gain, depreciation, amortization, and tax credits for federal and State tax purposes relating thereto, substitution therefor, fixtures therein and other property relating thereto.

#### ARTICLE 14 ASSIGNMENT, SUBLEASE OR OTHER CONVEYANCE

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

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

#### ARTICLE 15 TAXES

Subject to any exemption available therefor, Tenant agrees to pay, or cause to be paid, before delinquency to the proper authority, any and all valid taxes, assessments, and similar charges on the Site that become effective after the Effective Date of this Ground Lease, including all taxes levied or assessed on the possession, use or occupancy, as distinguished from the ownership, of the Site. Tenant will not permit any such taxes, charges, or other assessments to become a defaulted lien on the Site or the Improvements thereon; provided, however, that in the event any such tax, assessment, or similar charge is payable in installments, Tenant may make, or cause to be made, payment in installments; and, provided further, that Tenant may contest the legal validity or the amount of any tax, assessment, or similar charge, through such proceedings as Tenant considers necessary or appropriate, and Tenant may defer the payment thereof so long as the validity or amount thereof is contested by Tenant in good faith and without expense to the City. If Tenant contests a tax, assessment, or other similar charge, then Tenant will protect, defend, and indemnify the City against all Claims resulting therefrom, and if Tenant is unsuccessful in any such contest, Tenant will immediately pay, discharge, or cause to be paid or discharged, the tax, assessment, or other similar charge. The City will furnish such information as Tenant may reasonably request in connection with any such contest, provided that such



information is in the City's possession or control or is otherwise available to the public. City hereby consents to and will reasonably cooperate and assist with Tenant applying for and obtaining any applicable exemptions from taxes or assessments levied on the Site, the Improvements, or on Tenant's interest therein. Tenant will have no obligation under this Section before the Effective Date, including but not limited to any taxes, assessments, or other charges levied against the Site that are incurred before the Effective Date.

## ARTICLE 16 UTILITIES

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

## ARTICLE 17 MAINTENANCE

17.01 Maintenance. Tenant, at all times during the Term, will maintain or cause to be maintained the Premises in good condition and repair to the reasonable satisfaction of the City, including the exterior, interior, substructure, and foundation of the Improvements and all fixtures, equipment, and landscaping from time to time located on the Premises or any part thereof. The City will not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description whatsoever to the Site or any buildings or improvements now or hereafter located thereon. Tenant hereby waives all rights to make repairs at the City's expense under Sections 1932(1), 1941 and 1942 of the California Civil Code or under any similar Law now or hereafter in effect.

17.02 City's Right to Inspect. Without limiting ARTICLE 24 below, the City may make periodic inspections of the Premises.

17.03 City's Right to Repair. If Tenant fails to maintain the Premises as required by this Lease, following at least 10 business days' notice and opportunity to cure, 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.

17.04 Operation. Following completion of the Improvements, Tenant will maintain and operate the Improvements in a safe, clean and well maintained manner. Tenant shall or shall cause subtenants of the Commercial Space to dispose of trash, compost and recycling in

designated areas within the Project and remove such trash, compost and recycling on a regular and commercially reasonable basis. Tenant shall maintain the landscaping and other street fronting areas in neat and clean condition ensure that the Project's street front, walkways (including the Weise Street Right to Pass Area), and courtyard lighting is functional throughout the term. Tenant will use commercially reasonable efforts to ensure that all of the Premises are used continuously during the Term for the Permitted Use.

## ARTICLE 18 LIENS

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

## ARTICLE 19 GENERAL REMEDIES

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

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

19.03 Breach by Tenant.

19.03(a) Default by Tenant

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

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

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

(iii) From and after the Effective Date, Tenant, or its successor in interest, fails to pay real estate taxes or assessments on the Premises or any part thereof before delinquency, or places on the Site any encumbrance or lien unauthorized by this Ground Lease, or suffers any levy or attachment, or any material supplier's or mechanic's lien or the attachment of any other unauthorized encumbrance or lien, and the taxes or assessments shall not have been paid, or the encumbrance or lien removed or discharged within the time period provided in ARTICLE 18 **Error! Reference source not found.**; 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, any Lender or the Permitted Limited Partner sixty (60) days from the giving of the notice to cure such breach, failure, or act. If Tenant, any Lender or the Permitted Limited Partner does not cure or, if the breach, failure, or act is not reasonably susceptible to cure within that sixty (60) day period, or begin to cure within sixty (60) days and diligently prosecute such cure to completion, then, subject to the rights of any Lender and the Permitted Limited Partner 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. 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. No act by the City allowed by this Section will terminate this Ground Lease unless the City notifies Tenant that the City elects to terminate this Ground Lease. After Tenant's default and for as long as the City does not terminate Tenant's right to possession of the Premises by written notice, if Tenant obtains the City's consent Tenant will have the right to assign or sublet its interest in this Ground Lease, but Tenant shall not be released from liability and the assignment or subletting will not serve to cure the default. During the time that the City invokes this provision, Tenant will not be obligated to pay Rent to the City, but the City may subtract any Rent that would have been otherwise been due from Tenant prior to making any Tenant Payment;

(ii) the City may terminate Tenant's right to possession of the Premises at any time. No act by the City other than giving notice of termination to Tenant will terminate this Ground Lease. Acts of maintenance, efforts to relet the Premises, or the appointment of a receiver on the City's initiative to protect the City's interest under this Ground Lease will not constitute a termination of Tenant's right to possession. If the City elects to terminate this Ground Lease, then the City has the rights and remedies provided by California Civil Code Section 1951.2 (damages on termination for breach), including the right to terminate Tenant's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Annual Rent and any additional charges for the balance of the Term after the time of award exceeds the amount of rental loss for the same period that Tenant proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2. The City's efforts to mitigate the damages caused by Tenant's breach of this Ground Lease will not waive the City's rights to recover damages upon termination. If the City pursues the remedies provided under this Section 19.03(b)(ii), notwithstanding anything to the contrary in this Agreement, the base rent due under this Lease will remain at \$15,000 per annum if the City operates the Premises for affordable housing purposes in accordance with Section 9.01;

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

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

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

Notwithstanding the foregoing, during the 15-year tax credit "compliance period" (as defined in Section 42 of the Internal Revenue Code, as amended) for the Project, the City will not terminate this Ground Lease or exercise any other remedy for a default by Tenant except for a default under Section 19.03(a)(vi) above which remains uncured after the applicable cure period therefor; provided however, that the City shall have the right to seek specific performance for any default by Tenant under Section 19.03(a)(i) which remains uncured after the applicable cure period therefor.

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

19.05(c) Unless otherwise provided for in this Ground Lease, any limited partner that is not the Permitted Limited Partner identified in ARTICLE 38 wishing to become a Permitted Limited Partner must provide five (5) days written notice to the City in accordance with the notice provisions of this Ground Lease, setting forth a notice address and providing a copy of such notice to the Tenant and all of the Tenant's partners. The limited partner will become a Permitted Limited Partner upon the expiration of the five-day period. A limited partner will not be afforded the protections of this Section with respect to any default occurring before the limited partner becomes a Permitted Limited Partner.

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

19.06 Waiver of Redemption. Tenant hereby waives, for itself and all persons claiming by and under Tenant, redemption or relief from forfeiture under California Code of Civil Procedure Sections 1174 and 1179, or under any other pertinent present or future Law, in the event Tenant is evicted or the City takes possession of the Premises by reason of any default of Tenant 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 under Article 21 hereunder will survive any termination of this Ground Lease.

## ARTICLE 20 DAMAGE AND DESTRUCTION

20.01 Insured Casualty. If the Improvements or any part thereof are damaged or destroyed by any cause covered by any policy of insurance required to be maintained by Tenant under this Ground Lease, Tenant will promptly commence and diligently complete the restoration of the Improvements as nearly as possible to the condition thereof before such damage or destruction, or in accordance with plans approved by the City, which will not unreasonably withhold or delay its approval; provided, however, that if more than fifty percent (50%) of the Improvements are destroyed or are damaged by fire or other casualty and if the insurance proceeds do not provide at least ninety percent (90%) of the funds necessary to complete the restoration, then Tenant, with the written consent of Lender and the Permitted Limited Partner, may terminate this Ground Lease within thirty (30) days after the later of (i) the date of such damage or destruction, or (ii) the date on which Tenant is notified of the amount of insurance proceeds available for restoration. If Tenant is required or elects to restore the Improvements, then all proceeds of any policy of insurance required to be maintained by Tenant under this Ground Lease will, subject to any applicable rights of Lenders and the Permitted Limited Partner, be used by Tenant for that purpose and Tenant will make up from its own funds or obtain additional financing as reasonably approved by the City any deficiency between the amount of insurance proceeds available for the work of restoration and the actual cost. If Tenant elects to terminate this Ground Lease as provided under this Section 20.01, or elects not to restore the Improvements, then the insurance proceeds will be divided in the order set forth in Section 20.03.

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

provisions of Section 20.03. If Tenant does not have the right, or elects not to exercise the right, to terminate this Ground Lease as a result of an uninsured or underinsured casualty, then Tenant will promptly commence and diligently complete the restoration of the Improvements as nearly as possible to their condition before the damage or destruction in accordance with the provisions of Section 20.01 and will, subject to any applicable rights of Lenders, be entitled to all available insurance proceeds to do so.

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

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

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

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

20.03(d) The remainder to Tenant.

20.04 Clean-up of Housing Site. If Tenant terminates this Ground Lease under the provisions of Sections 20.01 or 20.02, then to the extent sufficient insurance proceeds are available for such costs, Tenant must all clean up and remove all debris from the Site and adjacent and underlying property and leave the Site in a clean and safe condition and in compliance with all Laws upon surrender; as described in in Section 20.03(b). If the proceeds of any insurance policy are insufficient to pay the clean-up and other costs described in Section 20.03(b), then Tenant must pay the portion of the costs not covered by the insurance proceeds.

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

## **ARTICLE 21 DAMAGE TO PERSON OR PROPERTY; HAZARDOUS MATERIALS; INDEMNIFICATION**

21.01 Damage to Person or Property—General Indemnification. City will not in any event whatsoever be liable for any injury or damage to any person happening on or about the Site, for any injury or damage to the Premises, or to any property of Tenant, or to any property of any other person, entity, or association on or about the Site, unless arising from the active gross

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

21.02 Hazardous Substances—Indemnification.

21.02(a) Tenant will indemnify, defend, and hold the Indemnified Parties harmless from and against any and all Claims of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Party in connection with, arising out of, in response to, or in any manner relating to violation of any Environmental Law, or any Release, threatened Release, and any condition of pollution, contamination or Hazardous Substance-related nuisance on, under or from the Site occurring during the Term of this Ground Lease caused by Tenant, its employees, agents, affiliates or contractors; 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 gross negligence by any Indemnified Party.

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

(i) “**Hazardous Substance**” has the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Ground Lease, 42 U.S.C. 9601(14), and in addition includes, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products,



asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code 25316 and 25281(d), all chemicals listed under the California Health & Safety Code 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition does not include substances that occur naturally on the Site or commercially reasonable amounts of hazardous materials used in the ordinary course of construction and operation of a residential 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, 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 including, without limitation, (a) any act or omission of persons occupying adjoining premises or any part of the Premises adjacent to or connected with the Premises, (b) theft, (c) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (d) stopped, leaking, or defective building systems, (d) construction or Site defects, (f) damages to goods, wares, goodwill, merchandise, equipment, or business opportunities, (g) Claims by persons in, upon or about the Premises or any other City property for any cause arising at any time, (h) alleged facts or circumstances of the process or negotiations leading to this Ground Lease before the Effective Date and (i) any other acts, omissions, or causes.

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

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE,

WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY  
AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

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

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

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

**ARTICLE 22 INSURANCE**

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

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

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

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

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

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

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

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

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

22.01(c) Minimum Limits of Insurance. Tenant must maintain limits no less than: [To be updated and confirmed by Risk Manager]

(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) [ BRIDGE/MHDC to confirm]; personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; products and completed operations; broad form property damage; and explosion, collapse and underground (XCU) coverage during any period in which Tenant is conducting any activity on, alteration or improvement to the Site with risk of explosion, collapse, or underground hazards (required limits may be achieved through the use of primary and excess liability policies).

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

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

(iv) Professional Liability: Professional Liability insurance of no less than One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) annual aggregate limit covering all negligent acts, errors, and omissions of Tenant's architects, engineers, and surveyors. If the Professional Liability Insurance provided by the architects, engineers, or surveyors is "claims made" coverage, Tenant must assure that these minimum limits are maintained for no less than three (3) years beyond completion of the construction or remodeling.

(v) Crime Policy or Fidelity Bond: Crime Policy or Fidelity Bond of no less than Seventy-Five Thousand Dollars (\$75,000) each loss, with any deductible not to exceed Five Thousand Dollars (\$5,000) each loss.

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

(i) 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 rehabilitation/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 Site that is used by Tenant for heating, ventilating, air-conditioning, power generation, and similar purposes, in an amount not less than one hundred percent (100%) of the actual then-current replacement value of such machinery and equipment.

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

procure a financial guarantee satisfactory to the City's Risk Manager guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22.01(h) Contractor, Subcontractors, and Consultants Insurance. Tenant must include all subcontractors and consultants as additional insureds under its policies or furnish separate certificates and endorsements for each. Tenant will require the subcontractor(s) and consultants to provide all necessary insurance and to name the City and County of San Francisco, and their respective commissioners, members, officers, agents, and employees and the Tenant as additional insureds. All coverage for subcontractors and consultants will be subject to all of the requirements stated herein unless otherwise approved by the City's Risk Manager.

## **ARTICLE 23 COMPLIANCE WITH SITE-RELATED AND LEGAL REQUIREMENTS**

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

23.02 Regulatory Approvals. Tenant understands and agrees that the City is entering into this Ground Lease in its capacity as a landowner with a proprietary interest in the Premises and not as a regulatory agency with certain police powers. Tenant understands and agrees that

neither entry by the City into this Ground Lease nor any approvals given by the City under this Ground Lease will be deemed to imply that Tenant has thereby obtained any required approvals from City departments, boards, or commissions that have jurisdiction over the Premises. By entering into this Ground Lease, the City is in no way modifying or limiting the obligations of Tenant to develop the Project in accordance with all Laws and as provided in this Ground Lease.

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

With MOHCD's prior written consent, Tenant will have the right to appeal or contest any condition in any manner permitted by Law imposed upon any regulatory approval. In addition to any other indemnification provisions of this Ground Lease, Tenant must indemnify, defend, and hold harmless the City and its commissioners, officers, agents or employees from and against any and all Claims that may arise in connection with Tenant's failure to obtain or comply with the terms and conditions of any regulatory approval or with the appeal or contest of any conditions of any regulatory approval, except to the extent damage arises out of the active gross negligence or willful misconduct of the City or any other Indemnified Party.

## **ARTICLE 24 ENTRY**

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

- (i) to determine whether the Premises is in good condition and to inspect the Premises (including soil borings or other Hazardous Substance investigations);
- (ii) to determine whether Tenant is in compliance with its Ground Lease obligations and to cure or attempt to cure any Tenant default;

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

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

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

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

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

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

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

## ARTICLE 25 MORTGAGE FINANCING

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



Wells Fargo Bank, N.A. ("WFB"), as construction lender, and California Community Reinvestment Corporation ("CCRC") and MOHCD, as permanent lenders, and the State of California Department of Housing and Community Development, as an additional permanent lender, , together called the Lenders. The City consents to the Leasehold Mortgage associated with Lenders' construction and permanent loan to Tenant for the Project.

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

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

25.04 Default by Tenant and City's Rights.

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

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

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

## ARTICLE 26 PROTECTION OF LENDER

26.01 Notification to City. Promptly upon the creation of any Leasehold Mortgage and as a condition precedent to the existence of any of the rights set forth in this ARTICLE 26, Tenant will cause each Lender to give written notice to the City of the Lender's address and of the existence and nature of its Leasehold Mortgage. The City acknowledges that WFB and CCRC are holders of Leasehold Mortgages and are entitled to the rights set forth in this Article 26. 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.

26.02 Lender's Rights to Prevent Termination. Each Lender has the right, but not the obligation, at any time before termination of this Ground Lease and without payment of any penalty other than the interest on unpaid rent, to pay all of the rents due under this Ground Lease, to effect any insurance, to pay any taxes and assessments, to make any repairs and improvements, to do any other act or thing required of Tenant or necessary and proper to be done in the performance and observance of the agreements, covenants and conditions of this Ground Lease to prevent a termination of this Ground Lease to the same effect as if the same had been made, done, and performed by Tenant instead of by Lender.

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

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

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

which case such event of default will be remedied or deemed remedied in accordance with Section 26.04 below.

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

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

26.05 Court Action Preventing Lender's. If Lender is prohibited by any process or injunction issued by any court or because of any action by any court having jurisdiction of any bankruptcy or insolvency proceeding involving Tenant from commencing or prosecuting foreclosure or other appropriate proceedings in the nature of foreclosure, the times specified in Sections 26.03 and 26.04 above for commencing or prosecuting such foreclosure or other proceedings will be extended for the period of such prohibition. If this Ground Lease is terminated or rejected by Tenant in bankruptcy, then the City agrees to enter into a new ground lease with the Lender on the same terms set forth in this Ground Lease. For purpose of this Article, if there is more than one Lender, the City will offer the new lease to each Lender in the order of priority until accepted.

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

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

assign said Leasehold Estate subject to City approval (which may not be unreasonably withheld) and to the City's rights under Section 25.04.

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

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

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

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

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

26.07(b) If the Subsequent Owner exercises its rights under Section 26.06(b) to operate the Project without being subject to Section 9.01, then Annual Rent will be set at the then fair market rental value taking into account any affordability restrictions agreed to by the Subsequent Owner, if any, and the Base Rent will be increased to the new fair market rent under this Section 26.07(b) and the provisions of Section 6.02(g) will be suspended; provided, however, that the City will be entitled to reduce Annual Rent by any dollar amount (but not below zero) in its sole discretion and, in such case, the Subsequent Owner will be required to reduce rent charged to tenants on a dollar for dollar basis, with respect to such aggregate units occupied by very Low Income Households as the City and the Subsequent Owner may agree. The fair market rental value will be determined by a jointly-commissioned appraisal (instructions prepared jointly by the Subsequent Owner and the City, with each party

paying one half of the appraiser's fee) that will include a market land valuation, as well as a market land lease rent level. Absent a market land lease rent determination, the Annual Rent will be set at an amount equal to ten percent (10%) of the then appraised market land value. If the parties cannot agree on the joint appraisal instructions, either party may invoke a neutral third-party process to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. But, after the neutral third party process, the Lender, in its sole discretion, may rescind its written notification of intent to not comply with Section 9.01 of this Ground Lease.

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

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

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

26.09(b) That the City will not enforce against a Lender any waiver or election made by the Tenant under this Ground Lease that has a material adverse effect on the value of the Leasehold Estate without the prior written consent of the Lender (which will not be unreasonably withheld or delayed);

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

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

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

26.11 City Bankruptcy.

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

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

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

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

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

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

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

## ARTICLE 27 CONDEMNATION AND TAKINGS

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

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

and extent of such condemnation or the nature of such proceedings or negotiations and of the condemnation that might result, as the case may be.

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

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

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

27.06 Restoration of Improvements. If there is a partial taking of the Improvements and this Ground Lease remains in full force and effect under Section 27.02, then Tenant may, subject to the terms of the Leasehold Mortgage, use the proceeds of the taking to accomplish all necessary restoration to the Improvements.

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

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

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

27.07(c) Third, to the Landlord.

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

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

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

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

## **ARTICLE 28 ESTOPPEL CERTIFICATE**

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

## **ARTICLE 29 SURRENDER AND QUITCLAIM**

29.01 Surrender.



29.01(a) Upon expiration or earlier termination of this Ground Lease, Tenant will surrender to the City the Premises in good order, condition, and repair (except for ordinary wear and tear occurring after the last necessary maintenance made by Tenant and except for Casualty or Condemnation as described in ARTICLE 20 and ARTICLE 27). Ordinary wear and tear will not include any damage or deterioration that would have been prevented by proper maintenance by Tenant, or Tenant otherwise performing all of its obligations under this Ground Lease. On or before the expiration or earlier termination of this Ground Lease, Tenant will also remove any Personal Property and repair any damage caused by Tenant's negligence or misconduct in removing such Personal Property.

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

29.01(c) Only a written notice from the City to Tenant confirming termination of this Ground Lease and surrender of the Premises by Tenant will constitute acceptance of the surrender of the Premises and accomplish a termination of this Ground Lease.

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

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

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

## ARTICLE 30 EQUAL OPPORTUNITY

In the selection of all contractors and professional consultants for the Project, Tenant must comply with the City's procurement requirements and procedures as described in the Contracting Manual (2006 Amendment) for Federally Funded Construction Projects Financed by the Mayor's Office of Housing, issued by MOHCD on November 18, 2002, as amended on May 22, 2007, as the same may be further amended from time to time, and with the requirements of the Small Business Enterprise Program ("SBE Program") as set forth in that certain Small Business Enterprise Program manual dated July 1, 2015, as it may be amended from time to time, according to the procedures established by the City's Contract Monitoring Division. The Project must comply with the training, hiring, and contracting requirements of Section 3 of the Housing and Community Development Act of 1968 and of the San Francisco Section 3 program as administered by MOHCD. Federal Section 3 requirements state that contracts and opportunities for job training and employment be given, to the greatest extent feasible, to local low-income residents. Local residents for this project are San Francisco residents. In addition, this project will be required to comply with hiring requirements as incorporated into the local Section 3 program and in conjunction with the City's low-income hiring requirements under San Francisco's First Source Hiring Ordinance (San Francisco Administrative Code Chapter 83).

#### **ARTICLE 31 CITY PREFERENCE PROGRAMS**

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

#### **ARTICLE 32 LABOR STANDARDS PROVISIONS**

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

#### **ARTICLE 33 CONFLICT OF INTEREST**

No commissioner, official, or employee of the City may have any personal or financial interest, direct or indirect, in this Ground Lease, and any such commissioner, official, or employee may not participate in any decision relating to this Ground Lease that affects his or her

personal interests or the interests of any corporation, partnership, or association in which he or she is directly or indirectly interested.

#### **ARTICLE 34 NO PERSONAL LIABILITY**

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

#### **ARTICLE 35 ENERGY CONSERVATION**

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

#### **ARTICLE 36 WAIVER**

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

#### **ARTICLE 37 TENANT RECORDS**

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

#### **ARTICLE 38 NOTICES AND CONSENTS**

All notices, demands, consents, or approvals that may be given or are required to be given by either party to the other under this Ground Lease must be in writing and will be deemed

to have been fully given when delivered in person to such representatives of the Tenant and the City, or when deposited in the United States mail, certified, postage prepaid, or by express delivery service with a delivery receipt and addressed

if to Tenant at:

**1950 Mission Housing Associates, LP**

1950 Mission Housing Associates, LP  
c/o BRIDGE Housing Corporation  
600 California St #900  
San Francisco, CA 94108  
Attn: Smitha Seshadri

**With a copy to: MHDC**

Mission Housing Development Corporation  
474 Valencia Street #280  
San Francisco, CA 94103  
Attn: Executive Director

**With a copy to: the Permitted Limited Partner at:**

Wells Fargo Affordable Housing Community Development Corporation  
MAC #D1053-170  
301 South College Street  
Charlotte, North Carolina 28288-0170  
Attention: Director of Tax Credit Asset Management

**And a copy to:**

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

if to the City at:

San Francisco Mayor's Office of Housing and Community Development  
One South Van Ness Avenue, 5<sup>th</sup> Floor  
San Francisco, California 94103  
Attn.: Director

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

**ARTICLE 39 HEADINGS**

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

#### **ARTICLE 40 SUCCESSORS AND ASSIGNS**

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

#### **ARTICLE 41 TIME**

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

#### **ARTICLE 42 PARTIAL INVALIDITY**

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

#### **ARTICLE 43 APPLICABLE LAW; NO THIRD PARTY BENEFICIARY**

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

#### **ARTICLE 44 ATTORNEYS' FEES**

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

#### **ARTICLE 45 EXECUTION IN COUNTERPARTS**

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

#### **ARTICLE 46 BROKERS**

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

#### **ARTICLE 47 RECORDATION OF MEMORANDUM OF GROUND LEASE**

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

## ARTICLE 48 SURVIVAL

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

## ARTICLE 49 TRANSFER OF PARTNERSHIP INTERESTS IN TENANT

Tenant may not cause or permit any voluntary transfer, assignment, or encumbrance of its interest in the Site or Project or of any ownership interests in Tenant, or lease or permit a sublease on all or any part of the Project, other than: (a) leases, subleases, or occupancy agreements to Residential Occupants and Non-residential Occupants; or (b) security interests for the benefit of lenders securing loans for the Project as approved by the City on terms and in amounts as approved by City in its reasonable discretion, (c) transfers from Tenant to a limited partnership or limited liability company formed for the tax credit syndication of the Project, where Tenant or an affiliated nonprofit public benefit corporation is the sole general partner or manager of that entity; (d) transfers of the general partnership or manager's interest in Tenant to a nonprofit public benefit corporation approved in advance by the City; (e) transfers of any limited partnership or membership interest in Tenant to an investor under the tax credit syndication of the Project and/or as otherwise permitted by Tenant's amended and restated partnership agreement; (f) any transfer by foreclosure or deed in lieu of foreclosure; or (g) the grant or exercise of an option agreement between Borrower and Borrower's general partner or manager or any of its affiliates in connection with the tax credit syndication of the Project where such agreement has been previously approved in writing by the City. Further, City shall not unreasonably withhold or delay its approval of the removal or replacement of a General Partner by the Permitted Limited Partner, pursuant to the terms of the Tenant's partnership agreement. [Note: rejected remaining language; MOHCD consent is needed prior to removal and replacement of General Partner] Any other transfer, assignment, encumbrance, or lease without the City's prior written consent will be voidable and, at the City's election, constitute a default under this Agreement. The City's consent to any specific assignment, encumbrance, lease, or other transfer will not constitute its consent to any subsequent transfer or a waiver of any of the City's rights under this Ground Lease.

## ARTICLE 48 CITY PROVISIONS

### 50.01 Non-Discrimination.

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

privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant.

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

50.01(c) Non-Discrimination in Benefits. Tenant does not as of the date of this Ground Lease and will not during the Term, in any of its operations in San Francisco or with respect to its operations under this Ground Lease elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits, or travel benefits (collectively “**Core Benefits**”), as well as any benefits other than Core Benefits, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity under state or local Law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

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

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

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



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

50.04 Charter Provisions. This Ground Lease is governed by and subject to the provisions of the Charter of the City and County of San Francisco. Accordingly, Tenant acknowledges and agrees that no officer or employee of the City has authority to commit the City to this Ground Lease unless and until a resolution of the City's Board of Supervisors has been duly enacted approving this Ground Lease. Therefore, any obligations or liabilities of the City under this Ground Lease are contingent upon enactment of a resolution, and this Ground Lease will be null and void unless the City's Mayor and the Board of Supervisors approve this Ground Lease, in their respective sole and absolute discretion, and in accordance with all applicable Laws. Approval of this Ground Lease by any City department, commission, or agency may not be deemed to imply that a resolution will be enacted or create any binding obligations on the City.

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

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

50.07 Pesticide Ordinance. Tenant must comply with the provisions of Section 308 of Chapter 3 of the San Francisco Environment Code (the "**Pesticide Ordinance**"), which (a) prohibit the use of certain pesticides on City property, (b) require the posting of certain notices and the maintenance of certain records regarding pesticide usage, and (c) require Tenant to submit to the City's Department of the Environment an integrated pest management ("**IPM**")

plan that (i) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Tenant may need to apply to the Premises during the Term of this Ground Lease, (ii) describes the steps Tenant will take to meet the City's IPM Policy described in Section 39.1 of the Pesticide Ordinance, and (iii) identifies, by name, title, address, and telephone number, an individual to act as the Tenant's primary IPM contact person with City. In addition, Tenant must comply with the requirements of Sections 303(a) and 303(b) of the Pesticide Ordinance. Nothing in this Ground Lease will prevent Tenant, acting through the City, from seeking a determination from the City's Commission on the Environment that Tenant is exempt from complying with certain portions of the Pesticide Ordinance as provided in Section 307 thereof.

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

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

50.10 Requiring Health Benefits for Covered Employees. Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (the "HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated in this Ground Lease by reference and made a part of this Ground Lease as though fully set forth. The text of the HCAO is available on the web at [www.sfgov.org/oca/lwlh.htm](http://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 agrees to cooperate with the City when it conducts audits.

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

arises on the Effective Date of the agreement that causes the cumulative amount of agreements between Tenant and MOHCD to be equal to or greater than \$75,000 in the fiscal year.

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

50.12 Resource-Efficient Building Ordinance. Tenant acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Chapter 7 relating to resource-efficient City buildings and resource-efficient pilot projects. Tenant will comply with the applicable provisions of such code sections as those sections may apply to the Premises.

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

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

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

Private Information Ordinance. Consistent with the requirements of the Nondisclosure of Private Information Ordinance, Contractor agrees to all of the following:

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

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

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

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

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

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

Tenant will remove all graffiti from the Premises and any real property owned or leased by Tenant in the City and County of San Francisco within forty-eight (48) hours of the earlier of Tenant's (a) discovery or notification of the graffiti or (b) receipt of notification of the graffiti from the Department of Public Works. This section is not intended to require Tenant to breach any lease or other agreement that it may have concerning its use of the real property. The term "graffiti" means any inscription, word, figure, marking or design that is affixed, marked, etched, scratched, drawn, or painted on any building, structure, fixture, or other improvement, whether permanent or temporary, including by way of example only and without limitation, signs, banners, billboards, and fencing surrounding construction Premises, whether public or private,

without the consent of the owner of the property or the owner's authorized agent, and which is visible from the public right-of-way. "Graffiti" does not include: (1) any sign or banner that is authorized by, and in compliance with, the applicable requirements of the San Francisco Public Works Code, the San Francisco Planning Code or the San Francisco Building Code; or (2) any mural or other painting or marking on the property that is protected as a work of fine art under the California Art Preservation Act (California Civil Code section 987 *et seq.*) or as a work of visual art under the Federal Visual Artists Rights Act of 1990 (17 U.S.C. §§ 101 *et seq.*). Any failure of Tenant to comply with this section of this Ground Lease will constitute an event of default of this Ground Lease.

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

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

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

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

#### 50.20 Criminal History in Hiring and Employment Decisions.

50.20(a) Unless exempt, Tenant agrees to comply with and be bound by all of the provisions of San Francisco Administrative Code Chapter 12T (Criminal History in Hiring and Employment Decisions; "**Chapter 12T**"), which are hereby incorporated as may be amended from time to time, with respect to applicants and employees of Tenant who would be or are performing work at the Site.

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

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

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

50.20(e) Tenant and subtenants (if any) will state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment with Tenant or subtenant at the Site, that the Tenant or subtenant will

consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.

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

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

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

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

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



Code Section 23.61 against the breaching party. For the current Prevailing Rate of Wages, contact the City's Office of Labor Standards Enforcement.

50.22 Sugar-Sweetened Beverage Prohibition. Tenant agrees that it 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.

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

50.23(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.

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

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

50.23(d) San Francisco Administrative Code Sections 23.38 and 23.39 require that the City and County of San Francisco report certain information relating to this Ground Lease, and any renewals thereof, to the County Assessor within sixty (60) days after any such transaction, and that Tenant report certain information relating to any assignment of or sublease under this Ground Lease to the County Assessor within sixty (60) days after such assignment or sublease transaction. Tenant agrees to provide such information as may be requested by the City to enable the City to comply with this requirement.

50.24 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 agrees to 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.

50.25 San Francisco Packaged Water Ordinance. Tenant agrees to comply with San Francisco Environment Code Chapter 24 ("**Chapter 24**"). Tenant shall 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.

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

#### **ARTICLE 51 COMPLETE AGREEMENT**

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

#### **ARTICLE 52 AMENDMENTS**

Neither this Ground Lease nor any terms or provisions hereof may be changed, waived, discharged, or terminated, except by a written instrument signed by the party against which the enforcement of the change, waiver, discharge, or termination is sought and all Leasehold Mortgagees. 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 and Tenant and all Leasehold Mortgagees, and City's agreement may be made upon the sole approval of the City's Director of Property, or his or her designee; provided, however, material amendments, or modifications to this Ground Lease (a) changing the legal description of the Site, (b) increasing the Term, (c) increasing the Rent, (d) changing the general use of the Site from the use authorized under this Ground Lease, and (e) any other amendment or modification which materially increases the City's liabilities or financial obligations under this Ground Lease will additionally require the approval of the City's Board of Supervisors.

#### **ARTICLE 53 ATTACHMENTS**

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

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

4. Reserved
5. Memorandum of Ground Lease
6. Form of Income Certification Form

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

DRAFT

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

**CITY AS LANDLORD:**

**TENANT:**

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

1950 Mission Housing Associates, LP, a California limited partnership

By: \_\_\_\_\_  
Andrico Q, Penick  
Director of Real Estate

By: 1950 Mission Housing Associates, LLC, a California limited liability company, its general partner

By: \_\_\_\_\_  
Kate Hartley  
Director, Mayor's Office of Housing and Community Development

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

By: \_\_\_\_\_  
Smitha Seshadri,  
Vice President

By: Colosimo Apartments, Inc. a California nonprofit public benefit corporation, its member

By: \_\_\_\_\_  
Joshua Arce, Chair

By: \_\_\_\_\_  
Sam Moss, Vice-Chair

APPROVED AS TO FORM:  
DENNIS J. HERRERA  
City Attorney

By: \_\_\_\_\_  
Deputy City Attorney

ATTACHMENT 1

**LEGAL DESCRIPTION OF THE SITE**

(1950 Mission Street)

DRAFT

ATTACHMENT 2

**SCHEDULE OF PERFORMANCE**

- a) [Commence demolition, rehabilitation or construction by a date no later than January 31, 2019.]
- b) [Complete demolition, rehabilitation or construction by a date no later than December 31, 2020.]
- c) [Achieve occupancy of Ninety Five percent (95%) of the Residential Units by June 30, 2020.]
- d) [Achieve occupancy of Public Benefit Units, Community-Serving Unit, and Commercial Unit by December 31, 2025.]

DRAFT

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, 5<sup>th</sup> Floor  
San Francisco, CA 94103

RE: \_\_\_\_\_, San Francisco (LEASEHOLD MORTGAGE)

Dear Sir or Madam:

Pursuant to Section 25.01 of the \_\_\_\_\_ Ground Lease, dated \_\_\_\_\_, 20\_\_\_\_, between the City and County of San Francisco ("City") and 1950 Mission Housing Associates, LP, 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,

1950 Mission Housing Associates, LP,  
a California limited partnership

By: 1950 Mission Housing Associates, LLC,  
a California limited liability company,  
its general partner

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

By: \_\_\_\_\_  
Smitha Seshadri, Vice President

By: Colosimo Apartments, Inc.  
a California nonprofit public benefit corporation,  
its member

By: \_\_\_\_\_  
Joshua Arce, Chair

By: \_\_\_\_\_  
Sam Moss, Vice Chair

enc.

---

By signing this letter, the City consents to the leasehold mortgage, pursuant to the terms and conditions of Section 25.01 of the \_\_\_\_\_ Ground Lease, dated \_\_\_\_\_, 20\_\_.

Mayor's Office of Housing and Community Development

---

Kate Hartley, Director



ATTACHMENT 4

Reserved

1

DRAFT

1 ATTACHMENT 5

2 MEMORANDUM OF LEASE

3  
4  
5 Free Recording Requested Pursuant to  
6 Government Code Section 27383

7  
8 When recorded, mail to:  
9 Mayor's Office of Housing and Community Development  
10 of the City and County of San Francisco  
11 1 South Van Ness Avenue, Fifth Floor  
12 San Francisco, California 94103

13 Attn: Director

14  
15  
16 MEMORANDUM OF GROUND LEASE

17  
18 This Memorandum of Ground Lease ("Memorandum") is entered into as of \_\_\_\_\_, 2015,  
19 by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the  
20 "City"), acting by and through the Mayor's Office Of Housing and Community Development  
21 ("City"), and 1950 Mission Housing Associates, LP California limited partnership ("Tenant"),  
22 with respect to that certain Ground Lease (the "Lease") dated \_\_\_\_\_, 2018, between City and  
23 Tenant.

24  
25 Pursuant to the Lease, City hereby leases to Tenant and Tenant leases from City the real  
26 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 which is 75 years from the date set forth above, subject to a 24 year option to extend, unless terminated earlier or extended pursuant to the terms of the Lease.

It is the intent of the parties to the Lease that the Lease will create a constructive notice of severance of the Improvements (as defined in the Lease), without the necessity of a deed from Lessor to Lessee, which Improvements are and will remain real property.

This Memorandum will incorporate herein all of the terms and provisions of the Lease as though fully set forth herein.

This Memorandum is solely for recording purposes and will not be construed to alter, modify, amend or supplement the Lease, of which this is a memorandum.

This Memorandum may be signed by the parties hereto in counterparts with the same effect as if the signatures to each counterpart were upon a single instrument. All counterparts will be deemed an original of this Memorandum.

Executed as of \_\_\_\_\_, 2018 in San Francisco, California.

TENANT:

1950 Mission Housing Associates, LP,  
a California limited partnership

1 1950 Mission Housing Associates, LLC,  
2 a California limited liability company,  
3 its general partner  
4

5 By: MCB Family Housing, Inc.,  
6 a California nonprofit public benefit corporation,  
7 its manager  
8

9  
10 By: \_\_\_\_\_  
11 Smitha Seshadri, Vice President  
12

13  
14 By: Colosimo Apartments, Inc.  
15 a California nonprofit public benefit corporation,  
16 its member  
17

18  
19 By: \_\_\_\_\_  
20 Joshua Arce, Chair  
21

22  
23 By: \_\_\_\_\_  
24 Sam Moss, Vice Chair  
25

26 CITY:

27  
28 CITY AND COUNTY OF SAN FRANCISCO,

29 a municipal corporation  
30

31 By: \_\_\_\_\_  
32 John Updike  
33 Director of Property  
34

1 By: \_\_\_\_\_

2 Kate Hartley

3 Director, Mayor's Office of Housing and Community Development

4  
5  
6 APPROVED AS TO FORM:

7  
8 DENNIS J. HERRERA, City Attorney

9  
10  
11 By: \_\_\_\_\_

12  
13 Deputy City Attorney

DRAFT

ATTACHMENT 6

FORM OF TENANT INCOME CERTIFICATION

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2  
3  
4  
5

DRAFT

ATTACHMENT 7

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6

SECTION 811 ADDENDUM

Intentionally Omitted.

DRAFT



# SAN FRANCISCO PLANNING DEPARTMENT

## General Plan Referral

**Date:** January 28, 2014

**Case No.** Case No. 2014.0100R  
RED MOHCD-SFUSD Property Transfer (1950 Mission and  
555 Franklin Streets)

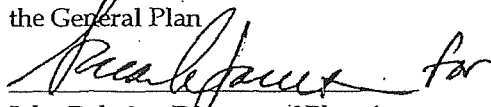
**Block/Lot No:** 3554/005, 4287/007, Portions of 0785/030 & 033

**Project Sponsor:** John Updike, Director of Real Estate  
City and County of San Francisco Real Estate Division  
25 Van Ness Ave, Suite 400  
San Francisco, CA 94102

**Applicant:** Same as Above

**Staff Contact:** Scott T. Edmondson, AICP – (415) 575-6818  
[scott.edmondson@sfgov.org](mailto:scott.edmondson@sfgov.org)

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

**Recommended By:**   
John Rahaim, Director of Planning

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

### BACKGROUND

We are in receipt of your request that the Planning Department consider a General Plan referral application concerning the property transfers and conveyance between the Mayor's Office of Housing and Community Development ("MOHCD") and the San Francisco Unified School District ("SFUSD").

### PROJECT DESCRIPTION

The proposed action or "project" is to transfer and convey one parcel from the SFUSD to the MOHCD and to transfer one parcel from MOHCD to SFUSD, as follows.

1. **1950 Mission.** The common address of the parcel that SFUSD will convey to MOHCD is 1950 Mission Street (Assessor Parcel 3554-005).
2. **555 Franklin.** The common address of the parcel that the MOHCD will convey to SFUSD in order to facilitate the property swap for 1950 Mission Street is 555 Franklin Street (portions of assessor parcels 0785-030 and 0785-033).

The purpose of this proposal is to facilitate the development of MOHCD-sponsored affordable housing in the future, once funding is available. Any future actions beyond the proposed property transfer would be separate projects and subject to full project review and permitting.



REAL ESTATE DIVISION, MOHCD-SFUSD PROPERTY TRANSFER  
(1950 MISSION & 555 FRANKLIN STREETS)

### Existing Conditions

Both parcels are essentially vacant and are not the location of existing buildings. The 1950 Mission Street site is an abandoned continuation school and surface parking lot. There are about nine temporary, single-story buildings around the site perimeter with an open area in the middle of the lot. The 555 Franklin Street parcel is a surface parking lot.

### ENVIRONMENTAL REVIEW

On January 23, 2014, the Environmental Planning section of the Planning Department determined that the proposed property transfer and conveyance between MOHCD and SFUSD are categorically exempt from environmental review under CEQA Class 1 – acquisition/leasing of existing facilities.

### GENERAL PLAN COMPLIANCE AND BASIS FOR RECOMMENDATION

As described below, the Project is consistent with the General Plan and the Eight Priority Policies of the Planning Code, Section 101.1. It is, on balance, in-conformity with the following Objectives and Policies of the General Plan. (Note: General Plan objectives, policies, and text are in bold font; Staff comments are in italic font.)

#### Housing Element

**OBJECTIVE 1: Identify and make available for development adequate sites to meet the City's housing needs, especially permanently affordable housing.**

*The MOHCD would use the site for affordable housing development at an unspecified date in the future, once funding became available.*

**POLICY 1.1: Plan for the full range of housing needs in the City and County of San Francisco, especially affordable housing.**

*As a separate project, the MOHCD anticipates using the site acquired in this property transfer project for affordable housing development at an unspecified date in the future, once funding became available.*

#### Eight General Plan Priority Policies Findings

The proposed project is consistent with the Eight Priority Policies of Planning Code Section 101.1 as described below.

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 1950 Mission parcel is vacant and the 555 Franklin Street parcel is a surface parking lot. There is no existing retail business on either parcel, and the property transfer would not displace or otherwise compromise neighborhood-serving retail uses.*

REAL ESTATE DIVISION, MOHCD-SFUSD PROPERTY TRANSFER  
(1950 MISSION & 555 FRANKLIN STREETS)

- 2. **That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhood.**

*The property transfer would not change existing conditions on the two parcels (vacant or surface parking uses), and therefore would not adversely affect housing or neighborhood character.*

- 3. **That the City's supply of affordable housing be preserved and enhanced.**

*The property transfer would not change existing conditions on the two parcels (vacant or surface parking uses), and therefore would not affect the City's existing affordable housing stock.*

- 4. **That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.**

*The property transfer would not change existing conditions on the two parcels (vacant or surface parking uses), and therefore would not affect existing commuter traffic and nor impede MUNI transit service, increase vehicle trips, nor increase parking demand.*

- 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 residential employment and ownership in these sectors be enhanced.**

*The property transfer would not change existing conditions on the two parcels (vacant or surface parking uses), and therefore would not affect the neighborhood economy or the City's economic base.*

- 6. **That the City achieves the greatest possible preparedness to protect against injury and loss of life in an earthquake.**

*The property transfer would not change existing conditions on the two parcels (vacant or surface parking uses); therefore, the property transfer would not affect the City's preparedness to protect against injury and loss of life in an earthquake.*

- 7. **That landmarks and historic buildings be preserved.**

*The property transfer would not change existing conditions on the two parcels (vacant or surface parking uses), and neither parcel is designated with landmark or historic building status; therefore, the property transfer would not affect landmark or historic resources on the sites.*

- 8. **That our parks and open space and their access to sunlight and vistas be protected from development.**

*The property transfer would not change existing conditions on the two parcels (vacant or surface parking uses), therefore, the property transfer would not affect existing City park or open space, or their access to sunlight and vistas.*

**RECOMMENDATION: Finding the Project, on balance, in-conformity with the General Plan.**



# SAN FRANCISCO PLANNING DEPARTMENT

---

October 10, 2018

## GENERAL PLAN REFFERAL NOTE TO FILE

**CASE NO. 2014.0100R  
RED MOHCD-SFUSD PROPERTY TRANSFER  
(1950 MISSION AND 555 FRANKLIN STREETS)**

On January 28, 2014, the Planning Department completed a General Plan Referral (GPR) on the San Francisco Mayor's Office of Housing and Community Development's (MOHCD) plan to transfer and convey one parcel from the San Francisco Unified School District to the MOHCD and to transfer one parcel from MOHCD to SFUSD.

Since the release of this General Plan Referral, the GPR's project description has changed. MOHCD has added that their standard affordable housing development model is to "ground lease affordable sites to developers."

This Note to the File clarifies that Case No. 2014.0100R considered the current project description, and that its finding of conformance with the General Plan as well as its environmental clearance still stands in light of the refined project description.

1650 Mission St.  
Suite 400  
San Francisco,  
CA 94103-2479

Reception:  
415.558.6378

Fax:  
415.558.6409

Planning  
Information:  
415.558.6377

# *Request For Proposals*

---

For the development of new affordable housing on the vacant property on the western side of Mission Street between 15<sup>th</sup> and 16<sup>th</sup> Streets in San Francisco known as

1950 MISSION STREET  
(Assessor's Block 3554, Lot 005)

Deadline for Submittals:  
close of business on **Friday, May 8, 2015**

Issued by:

**City and County of San Francisco  
Mayor's Office of Housing and Community Development  
1 South Van Ness Avenue, 5<sup>th</sup> Floor  
San Francisco, CA 94103**

Contact: Teresa Yanga, Director of Housing Development  
(415) 701-5515  
[teresa.yanga@sfgov.org](mailto:teresa.yanga@sfgov.org)

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**EXHIBIT A: Insurance Requirements**

**ATTACHMENTS:**

1. Proposal Metrics
2. Respondent Description
3. Projected Staffing Workload
4. Service Provider Residential Experience
5. MOHCD Sources and Uses
6. LOSP 1<sup>st</sup> year Operations Budget including 20 year cash flow
7. 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 a City-owned, vacant parcel as affordable family rental housing, including units serving formerly homeless families, ground floor commercial space, and possibly second floor office space for nonprofit tenants (the “Project”). The parcel is located at 1950 Mission Street (the “Site”) on the western side of Mission between 15<sup>th</sup> and 16<sup>th</sup> Streets (Block 3554, Lot 005), the former site of a continuation high school operated by the San Francisco Unified School District (“SFUSD”).

Respondents to this Request for Proposals (“RFP”) must be comprised of the following: a non-profit developer with experience developing affordable housing in San Francisco or a for-profit developer working in partnership with a nonprofit developer, of which one of the joint venture partners must have experience developing affordable housing in San Francisco (the “Developer”); a property manager with experience serving the target population; an architect with multi-unit residential experience, and a qualified supportive service provider with experience serving the target population. At least one entity of the development team must have demonstrated experience working in the Mission neighborhood. All members of the Respondent will be evaluated according to the criteria set forth below, 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 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 (2010), as well as San Francisco’s Ten Year Plan to Abolish Chronic Homelessness (2004). Accordingly, 1950 Mission’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. Twenty percent of the Site’s units will serve formerly homeless families referred by the Human Services Agency (“HSA”). Additional Site goals include ground-floor retail provided by locally-oriented small businesses as well as smaller commercial spaces that can potentially accommodate daytime retail activity; possible second floor office space to be made available to one or more community-serving non-profit entities; on-site supportive services available to all households; and school activities and other programming for resident youth. Finally, the selected Respondent must have the ability to successfully conduct neighborhood outreach and secure neighborhood support for the Project, while also meeting the City’s expressed goals.

## II. IMPORTANT DATES AND SUBMISSION PROCESS

### A. Important Dates

RFP issued by MOHCD	Friday, March 13, 2015
Pre-submission meeting at MOHCD	Friday, March 20, 2015
Deadline for questions and requests for additional information	Friday, March 27, 2015
Proposal Submission Deadline	Friday, May 8, 2015
Preliminary Scoring by Selection Panel and Notice to Respondents	Week of May 22, 2015
Developer team interviews	Week of June 8, 2015
Director of MOHCD review/approval of recommended development team	Friday, June 19, 2015

### B. Pre-Submission Meeting

A pre-submission meeting will be held at MOHCD (1 South Van Ness Avenue, 5th floor), on Friday, March 20, 2015 at 3:00pm. 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://sf-moh.org/index.aspx?page=322>) 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 Friday, March 27, 2015 at 5:00pm. Emailed questions and information requests should be submitted to Teresa Yanga at: [teresa.yanga@sfgov.org](mailto:teresa.yanga@sfgov.org) and Kevin Kitchingham at: [kevin.kitchingham@sfgov.org](mailto:kevin.kitchingham@sfgov.org).

### D. Submittal Date and Method

Submittal of 5 (five) hard copies of the Proposal must be received by the MOHCD receptionist and an emailed copy sent to the [teresa.yanga@sfgov.org](mailto:teresa.yanga@sfgov.org) and to [kevin.kitchingham@sfgov.org](mailto:kevin.kitchingham@sfgov.org) no later than 5:00 p.m. Friday, May 8, 2015.

## III. BACKGROUND

## A. Site History

The Site is an abandoned school facility with temporary movable classroom buildings and surface parking currently on site. In June 2007, the SFUSD Board of Education approved a Resolution designating 1950 Mission as surplus, finding that the SFUSD does not foresee any current or future uses of the Site for educational purposes. Pursuant to the California Education Code, the SFUSD offered the Site for sale to the required public and governmental agencies and the MOHCD was the only public agency that expressed its interest in purchasing the property. In September, 2014 the San Francisco Board of Supervisors approved the purchase of the Site by MOHCD for the purpose of developing affordable housing on the Site.

In January, 2009 the City adopted the Eastern Neighborhoods (“EN”) Plan including general plan amendments and zoning changes that affect land use requirements and entitlements in the Mission District, including 1950 Mission. The EN community planning process began in 2001 with a series of workshops in each of 4 eastern neighborhoods, including the Mission, eastern South of Market, Potrero/Showplace Square and the Central Waterfront with the goal of developing new zoning controls for the industrial portions of these neighborhoods. Starting in 2005, the community planning process expanded to address other issues critical to these communities including affordable housing, transportation, parks and open space, urban design and community facilities. In response to the goals and ongoing community input, an Area Plan was created for each neighborhood and these Area Plans became a part of the city’s General Plan.

The EN Mission Area Plan includes among its objectives, the following:

- Strengthen the Mission’s existing mixed use character, while maintaining the neighborhood as a place to live and work. (Objective 1.1)
- In areas of the Mission where housing and mixed use is encouraged, maximize development potential in keeping with neighborhood character. (Objective 1.2)
- Continue and expand the City’s efforts to increase permanently affordable housing production and availability. (Objective 2.)

The Eastern Neighborhoods Plan can be found at:  
<http://www.sf-planning.org/index.aspx?page=1673>.

Pursuant to these goals, the City expects to develop new affordable rental housing over neighborhood-serving commercial space at 1950 Mission Street.

## B. The Site

The Site is a single, rectangular relatively flat 36,400 square foot lot, 200’ long (along Mission Street to the east and Wiese Alley to the west) by 182’ deep (along its north and south sides) in the middle of the block between 15<sup>th</sup> and 16<sup>th</sup> Streets. There are 12 temporary classroom structures situated around the Site’s perimeter with asphalt covering the entire site.

There is a two-story commercial building to the north of the Site and a mid-rise multi-family residential building with ground floor commercial space to the south. Also on the block are



additional mid-rise multi-family residential buildings with ground floor commercial spaces. There are 4-story apartment buildings to the west across Weise Alley and 3 to 4 story mixed use buildings to the east across Mission Street.

It is currently being used by the Human Services Agency as a temporary homeless shelter/service connection point under a Memorandum of Understanding with MOHCD. This interim use will be terminated prior to commencement of construction by the selected Developer. Demolition of the existing temporary classroom buildings should be assumed to be the responsibility of the Developer as part of its development plan for the Project.

### **C. Soil Conditions**

A Preliminary Geotechnical Investigation of the Site can be found on the MOHCD website at: <http://www.sfmohcd.org/Modules/ShowDocument.aspx?documentid=8734>

For purposes of this RFP, it is assumed that soil and subsoil conditions on the Site are sufficient to support a development that complies with the maximum allowable height, bulk and density limitations of the Site's applicable zoning requirements.

A Phase 1 Site Assessment Report can be found on the MOHCD website at:

Part 1 – <http://www.sfmohcd.org/Modules/ShowDocument.aspx?documentid=8738>

Part 2 – <http://www.sfmohcd.org/Modules/ShowDocument.aspx?documentid=8739>

Part 3 – <http://www.sfmohcd.org/Modules/ShowDocument.aspx?documentid=8740>

The report does not include soil characterization. The report assumes that the age and condition of the existing improvements indicate the presence of lead based paint. The report contains an Asbestos survey for the existing improvements.

### **D. Zoning/Land Use Restrictions**

The Site is currently zoned Mission District Neighborhood Commercial Transit (“NCT”). A map showing the location and configuration of the Site can be found at: <http://propertymap.sfplanning.org>. (Enter “3554/005” or 1950 Mission Street in the Search box):

The applicable zoning and land use controls for the NCT district are to be found in the Planning Code Section 736:

[http://www.amlegal.com/nxt/gateway.dll/California/planning/article7neighborhoodcommercialdistricts?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco\\_ca\\$anc=JD\\_736.1](http://www.amlegal.com/nxt/gateway.dll/California/planning/article7neighborhoodcommercialdistricts?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$anc=JD_736.1)

Developers should consult the EN Mission Area Plan for additional design/use goals and restrictions. Some key zoning and land use provisions:

- Conditional Use (CU) authorization required due to size of lot (sec. 121.1)
- Height limits: 85' along Mission Street and 45' along Weise Alley.
- Height Limits for Narrow Streets and Alleys in NCT Districts (sec. 261.1(b)1)
- No parking required for residential or commercial uses; maximum: 0.5 spaces/unit (0.75/unit with Conditional Use), 1 space per 1,500 sf commercial space; no curb cuts permitted on Mission Street (sec. 155(r)(2)(I).
- No maximum density restriction.

- Ground floor commercial space frontage along Mission Street is required; 5,999 sf permitted, CU required for 6,000 sf or more; maximum 75' continuous frontage, minimum 25' depth and minimum floor-to-floor 14 feet height (sec. 145.1(c)(4)(C)).
- Licensed child care facility for any number of children is a permitted use.
- Assembly and Social Service space which provides social, fraternal, counseling or recreational gathering services to the community is also a permitted use.

#### IV. DEVELOPMENT PLAN ELEMENTS

##### A. 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, environmental remediation, if any; utility connections and site work; demolition, grading and shoring; the full costs of vertical construction; 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 all commercial spaces in a manner that is consistent with MOHCD's Commercial Space Policy. See: <http://sf-moh.org/Modules/ShowDocument.aspx?documentid=4881>.
- 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 that meet the City's affordability goals and reduce to the greatest extent feasible required MOHCD gap funding.
- MOHCD gap funds (in the form of a 55-year, residual receipts loan), minimized to the greatest extent feasible by other funding sources.
- A *maximum* rent level for all units of 60% of the unadjusted Area Median Income ("AMI") for HUD metro fair market rent area (HMFA) that contains San Francisco, as established by MOHCD see: <http://www.sf-moh.org/modules/showdocument.aspx?documentid=7571>.
  - 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

- Formerly homeless households will contribute 30% of their incomes in rent; Developers should assume tenant-paid rents (exclusive of utilities) of \$200 PUPM for 1BR units and \$225 PUPM for 2BR and 3BR units
- 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 the formerly homeless tenants' contributions. (Developers should make this assumption only for the purpose of modeling their submissions; in order to control LOSP contract values, the City may require cross-subsidization from higher-income units to offset operating expenses.)
- A 20-year cash flow that includes
  - Tenant-paid rents
  - Annual LOSP subsidy payments sized to capture the difference between tenant-paid rents in LOSP units and operating expense attributable to LOSP units *only*. LOSP operating subsidies should account for, on a pro-rata basis, all typical costs of operations; required reserves deposits; mandatory administrative fees required by HCD financing, if any; deferred developer fee, if any; partnership management fees; and investor management fees. LOSP subsidies may not be used to pay hard debt service.
  - Operating expenses reflecting full costs to operate the Project, hard debt service payments, reserves deposits, and all other residual receipts waterfall distributions typical for 4% tax credit transactions that conform with MOHCD's Underwriting Guidelines (see Section IV.A.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.
  - Sufficient lease revenue from commercial space leases to cover their operating costs including reserves pursuant to MOHCD's Underwriting Guidelines (p. 5).

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 homeless and non-homeless units. Please see Section IV.D. Resident Services below, for further information regarding required social services.
- \$350 per unit per month in services funding provided by HSA for the homeless units. HSA 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 HSA 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 version (<http://sf-moh.org/Modules/ShowDocument.aspx?documentid=2578>) 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.

#### **B. Design and Construction**

MOHCD is seeking excellent architectural design and construction standards that represent an awareness of the Site's location in a high-density, well-established, 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. Respondents and their designs should also acknowledge that the Mission neighborhood is nearly 100% built out, so its design and construction will have a significant impact on the surrounding community. (Note: *Some portion of the architectural costs associated with this architectural analysis may be reimbursable by MOHCD. See Section VI. E. 4. below for more information.*)

#### **C. 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:

##### **1. Height Limits/Building Location and Massing**

The Site is in two different height districts, and faces two streets of very different character. The application of the height limits may generate a building stepping pattern, but there are many possible ways to undertake the stepping. The Site could accommodate housing in many different configurations. The massing concept and location of open spaces should strive to provide excellent responses to the following challenges and opportunities:

- Mission St. environment – east-facing, very long frontage, noise and heavy traffic flow; [https://www.google.com/maps/@37.7655645,-122.4197585,3a,75y,91.21t/data=!3m4!1e1!3m2!1sqes7RRHTOB3BH2\\_Cm\\_XwAQ!2e0](https://www.google.com/maps/@37.7655645,-122.4197585,3a,75y,91.21t/data=!3m4!1e1!3m2!1sqes7RRHTOB3BH2_Cm_XwAQ!2e0)
- Weise Alley environment – west-facing, very long frontage, extremely narrow alley fronted by mostly 4 story residential buildings with nearly continuous garages and fencing; probable location for vehicular access to housing and commercial spaces (if any) since no curb cuts are allowed on Mission St. frontage. <https://www.google.com/maps/@37.765551,-122.4205346,3a,75y,78.73t/data=!3m4!1e1!3m2!1ss7uYsoE62S6jGtEnlrFZAg!2e0>
- North side – existing four-story east-facing residential building with rear yard fenced parking abuts the site; [https://www.google.com/maps/@37.7661417,-122.4198077,3a,75y,252.84h,86.96t/data=!3m4!1e1!3m2!1sWELD\\_99dLfbRj7QO0EkxTQ!2e0](https://www.google.com/maps/@37.7661417,-122.4198077,3a,75y,252.84h,86.96t/data=!3m4!1e1!3m2!1sWELD_99dLfbRj7QO0EkxTQ!2e0)
- South side – existing two story east and west facing structures abut the site. <https://www.google.com/maps/@37.7657439,-122.4197738,3a,75y,265.47h,87.86t/data=!3m4!1e1!3m2!1s7ZlaFhaHh4VqyV9nP6NaZw!2e0>

## 2. Parking and Alternative Transportation

The Site has no parking minimum, and Respondents can expect neighborhood support for no to very-low parking for the Project given its proximity to mass transit. Community members also support the provision of alternative transportation vehicles, e.g., thoughtfully designed bicycle parking and car-sharing space.

## 3. Neighborhood Amenities

The Site's NCT zoning requires ground floor commercial space along the Mission Street frontage. A larger community facility, oriented to the public, is also a permitted use, as is a small or large child care facility open to non-resident children (and with spots for more than 13 attendees), or an after-school program open to older non-resident children. Respondents are encouraged to consider including such a facility in their plans for Site and pursuant to MOHCD's Underwriting Guidelines, may include the cost of developing the basic infrastructure or "shell" for such uses but not the tenant improvements.

## 4. Unit Mix and Interior Resident Amenities

- The EN Mission Area Plan recommends that 40% of the units be 2-bedroom units. It encourages Developers to include 10% of the units as 3-bedrooms.
- 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 accessibility to

residents. Examples include teen computer labs; counseling rooms; community gathering spaces, etc.

#### 5. Resident Useable Open Space

Planning Code minimums for the overall combined areas of common and private spaces determine threshold open space requirements. Rear yards shall be provided at the lowest story containing a dwelling unit, and at each succeeding level or story of the building (sec. 134(a)(C), though potentially, a variance could be sought. Respondents should 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, and residents' general comfort and safety needs.

#### 6. Resident Livability

The overall habitability of the Project and the comfort, security and housing stability of its residents may be facilitated by a number of 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.

#### **Other Design Considerations**

- Historical Resources Influence. Several properties in the vicinity of 1950 Mission have been identified as individual historic resources, most notably 1939-1943 Mission, across Mission Street from the Site, which “appears eligible for listing in the California Register of Historical Resources.” <https://www.google.com/maps/@37.766043,-122.4197993,3a,75y,79.39h,97.99t/data=!3m4!1e1!3m2!1sblGqdkr64eBmsU021T17HA!2e0>
- Eastern Neighborhoods Mission Area Plan policies and design guidelines: Respondents should take into consideration the “Built Form” objectives, policies and design guidelines of the EN Mission Area Plan. As the Plan states:

“The many cultures, land uses, architectural styles, street grids and street types that exist within the Mission neighborhood define its character and set it apart from other areas of San Francisco. Indeed it is the coexistence and commingling, at times chaotic, of all these different elements that attracts most residents to the Mission. Urban design is central to defining how such a diverse physical and social environment is able to function, and will

determine whether new additions contribute to, or detract from, the neighborhood's essential character.”

The Plan's Built Form guidelines particularly address the issues of height, architectural design and the role of new development in supporting a more ecologically sustainable urban environment.

See: [http://www.sf-planning.org/ftp/General\\_Plan/Mission.htm#MIS\\_BUF](http://www.sf-planning.org/ftp/General_Plan/Mission.htm#MIS_BUF)

### **Green Design Guidelines**

The City seeks to maximize the overall sustainability of the Project to the extent possible through the integrated use of sustainable building elements. Development plans that improve indoor air quality, reduce resource consumption, and approach zero-energy consumption are desired. At a minimum, Projects should meet the requirements of the 2013 San Francisco Green Building Code, California Title 24, and the California Tax Credit Allocation Committee regulations regarding sustainable buildings. Buildings that exceed this measurement and achieve net-positive sustainability strategies are highly encouraged. Among other resources, respondents may obtain more information at <http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities/resources/tools>, <http://www.greenaffordablehousing.org/>, and [www.ecodistricts.org](http://www.ecodistricts.org).

### **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.

### **D. Occupancy Preferences and Resident Selection**

As stated elsewhere, Respondents must set aside 20% of the units for homeless families referred by the Human Services Agency. The following additional preferences will apply to the Project's lease-up, in the order provided:

<b>Preference</b>	<b>Respondent Category</b>
1.	Certificate of Preference Holders
2.	San Francisco Residents
3.	Non-San Francisco Residents

The selected Respondent will retain final selection authority over all resident respondents:

#### **Formerly Homeless Families**

HSA will refer homeless families with children under the age of 18, and homeless pregnant women for residency in the Project. Single individuals and households without minor children are not eligible for the HSA referral units.

HSA will follow the definition of “homeless” provided in the chart below to determine eligibility. In addition, households can only be referred by HSA for occupancy at the Project if their annual household income does not exceed 30% of AMI.

The term "HOMELESS" includes individuals or families who lack a fixed, regular, and adequate nighttime residence and who have a primary nighttime residence in one or more of the following categories:	
Category	Description
Shelter	Anyone staying in a mission or homeless or domestic violence shelter, i.e., a supervised public or private facility that provides temporary living accommodations. Anyone displaced from housing due to a disaster situation.
Street	Anyone staying outdoors; for example, street, sidewalk, doorway, park, freeway underpass.
Vehicle	Anyone staying in a car, van, bus, truck, RV, or similar vehicle.
Make-Shift	Anyone staying in an enclosure or structure that is not authorized or fit for human habitation by building or housing codes, including abandoned buildings ("squats") or sub-standard apartments and dwellings.
Doubled-Up	Anyone staying with friends and/or extended family members (excluding parents and children), because they are otherwise unable to obtain housing, or, any family with children staying in a Single Room Occupancy (SRO) hotel room - whether or not they have tenancy rights, or, anyone staying in temporary housing for less than 6 months, and the accommodations provided the person are substandard or inadequate, for example, garage, small room, overly crowded space.
Transitional	Anyone staying in a Single Room Occupancy (SRO) hotel room without tenancy rights, or, anyone formerly homeless (formerly in one of the above categories) who is now incarcerated, hospitalized, or living in a treatment program, half-way house, transitional housing, or, anyone formerly homeless (formerly in one of the above categories) who has obtained supportive housing or permanent housing for less than 30 days.

**E. Resident Services**

The successful provision of support services for 1950 Mission residents is critical to the overall success of the development program. On-site supportive services and associated service space should be incorporated into the Project and address the elements of this Section IV. D.

**1. Minimum Requirements**

- An understanding of the housing and service needs of the eligible population.
- A clear program design that incorporates: non-mandatory, tenant-centered services; access to and coordination of mainstream community services, subcontracted and/or partner services; and a description of the minimum services to be provided such as those listed below in Section D. 3. “Service Activities”.
- An understanding of employment issues as they relate to homeless families.
- The inclusion of services programming specifically geared for school-age children, such as after school homework and /or tutoring help, arts and crafts, and other enrichment activities. Submissions should acknowledge the special needs of formerly homeless children.
- Experience providing required services in a housing setting.



- A commitment by the service provider to coordinate with the property management through regularly scheduled meetings to ensure sound operational and building management practices.

2. Organizational Capacity. The successful Respondent will have or provide:

- A track record or other demonstration of effective collaboration that illustrates the ability of the Respondent to effectively coordinate and deliver services and other resources needed by families being served within a housing program.
- Commitment(s) from housing and/or service providers; additional funders (public or private), describing in-kind, leveraged, or matching funds for proposed services that will complement the Respondent's contribution, and a plan for securing additional resources over time. Agencies will be looked upon to strengthen partnerships with other providers in their community to enhance services delivery.
- Demonstration of the ability to implement and maintain a client-to-staff ratio that reflects the level of case management and other services proposed. Respondents must justify their proposed ratio in their proposal pursuant to the Submittal Requirements described below in Section V. D. 6., providing an overview of how full-time equivalent ("FTE") hours will be allocated.

3. Service Activities. Respondents should specify the types and estimated frequency of proposed services for the site, indicating, as appropriate, services specifically geared for homeless households and those targeted for the non-homeless households. Examples of services activities include:

- Access to City benefits programs
- Ongoing outreach and engagement to 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, including money management, life skills
- 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
- Adult education, employment skill development, and job placement and retention services
- 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 developments and counseling services

- Providing opportunities for building resident leadership and nurturing resident engagement in the surrounding civic life of the neighborhood and community.

#### **F. 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.

#### **G. Community Outreach**

It is critical to the success of the development program that the selected Developer conducts extensive community outreach and establishes positive links with surrounding neighbors and the larger community throughout the development process. As one of the largest remaining undeveloped parcel in the inner Mission neighborhood, concerned citizens and well-established neighborhood groups closely monitor the Site. The selected Developer will be expected at a minimum to provide periodic updates and present the proposed design to members of the community for their input. The Respondent must provide a Community Outreach plan as part of the response to this RFP.

### **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 will be appointed by the Director of the Mayor's Office of Housing and Community Development composed of persons with expertise in the areas of development, affordable housing financing, architecture, property management and resident supportive services, at least one of which will be familiar with the Mission community. The Selection Panel will review all qualified responses and preliminarily score each qualified submittal. The Selection Panel will interview all Respondents, at which time Respondents will be asked to present and explain the major characteristics of their proposal, particularly as they relate to the Scoring Criteria, and respond to questions from the Selection Panel. After all interviews have been completed, the Selection Panel will meet to determine the final ranking of all responses and present this ranking to the Director.

The Selection Panel's scoring of each proposal will be done by consensus and will be final: no appeals of the scores decided on by the Selection Panel will be accepted.

The Director will then select a development team, and MOHCD will exclusively negotiate an option to lease the Site for purposes of its development in accordance with the terms of this RFP.

## B. Minimum Experience and Capacity Qualifications

All respondents must meet the following Minimum Experience and Capacity Qualifications in order to qualify for selection under this RFP:

1. Development Team Characteristics: The proposed Development Team must include:
  - At least one community-based non-profit development entity as sole developer or joint-venture partner, defined as a nonprofit organization whose mission includes the development of affordable housing in low income communities, with experience developing housing for low and very low-income families in San Francisco;
  - A lead architectural firm with experience in design and construction of multifamily housing, preferably with residential experience in San Francisco. 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 San Francisco, in a culturally and linguistically competent manner;
  - At least one community-based, service-providing entity with experience providing culturally and linguistically competent services appropriate for low-income families and for homeless households.
  - At least one entity of the development team must be based in the Mission neighborhood or possess extensive experience serving the Mission community.

*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
- mixed use including residential
- a majority of multiple bedroom units
- at least 50 units in size
- at least partially Type I construction type
- location in San Francisco
- affordable to low and very low income families
- financed by use of Low Income Housing Tax credits

For the Architect, the last three characteristics of a QP (location in SF, affordability and tax credit financing) are not required.

***Minimum Developer Experience:*** The proposed Developer must have completed within the past five years or have under development 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 and including at least one project that was financed with Low Income Housing Tax Credits.

***Minimum Architectural Experience:*** The proposed lead architectural firm must have completed at least two (2) Qualifying Projects.

***Minimum Service Provider Experience:*** The proposed service provider must have at least 48 months experience providing supportive services to low-income families in San Francisco, preferably in the general vicinity of the Site. 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
	<b>TOTAL POSSIBLE POINTS</b>	<b>100</b>

**(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 at 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.	<b>10 Points</b>
Two or more Qualifying Projects for very low income families completed or under development in excess of the minimum required QP.	<b>15 Points</b>
At least one completed project that includes units targeted for formerly homeless persons (singles, seniors or families)	<b>5 additional points</b>

**(1b) *Lead Architectural Firm Experience* – (10 points possible):**

Points will be awarded only to lead Architects who have completed at least 3 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 and but none with affordable housing for low and very low income families.	<b>5 points</b>
Experience with affordable housing for low and very low income families but none in San Francisco	<b>7 points</b>
Experience with affordable housing for low and very low income families in San Francisco.	<b>10 points</b>

**(1c) *Property Management Experience* – (5 points possible):**

Points will be awarded only to Property Managers whose experience includes managing housing for formerly homeless persons in San Francisco (seniors, families or single persons) for at least 24 months.

One point will be earned for every 12 months experience managing housing in San Francisco for formerly homeless persons.	<b>2 to 5 points</b>
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**(1d) *Service Provider Experience* – (5 points possible)**

Proposals will be scored according to the amount of experience (length of time) the service provider has successfully provided services to low- and very low-income families. 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.	<b>Up to 5 points</b>
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**(2) *Development Concept and Preliminary Site Plan* – (40 points possible):**

Proposals will be scored according to the degree to which the preliminary site and development plan maximizes housing opportunities while also creating a strongly supportive environment with adequate amenities and open spaces to enhance the lives of the residents and to promote the long-term livability of that housing.

The Selection Panel will base its evaluation on how well the Development Concept and Preliminary Site Plan address the Design Considerations and Guidelines described above in section IV. B. and will score each respondent's plans using the following scoring system:

Outstanding	<b>40 points</b>
Very Good	<b>32 points</b>
Good	<b>24 points</b>
Fair	<b>16 points</b>
Poor	<b>8 points</b>
Inadequate	<b>0 points</b>

**(3) Financing, Cost Control and Innovations – (10 points possible):**

Proposals will be ranked according to the degree to which they propose a financing plan that is feasible and consistent with the requirements, limitations and opportunities associated with its proposed sources; minimizes MOHCD's permanent financing; proposes innovative sources or financing instruments; and uses innovative (i.e., non-standard, routine or commonly used) but practical materials or methodologies designed to reduce development, construction and/or operating costs, either directly or indirectly, without reducing the overall quality of the completed project.

Top ranked proposal re: financial and cost control innovations:	<b>10 points</b>
2 <sup>nd</sup> ranked proposal	<b>7 points</b>
All other proposals	<b>5 points</b>

**(4) Services Plan – (10 points possible):**

Proposals will be scored according to the degree to which the Services Plan includes providing access to an array of services appropriate to the diverse needs of low-income families, parents and children, including formerly homeless families; how access to those services will be encouraged and facilitated; the degree to which the Plan relies on coordination with existing services in the neighborhood and community; and the appropriateness of the services budget, using the following scoring matrix:

Excellent	<b>10 points</b>
Very Good	<b>7 points</b>
Good	<b>5 points</b>

**D. Submittal Requirements**

*Responses to this RFP should be organized as follows:*

**1. Summary.** Provide a concise narrative description of the proposal for developing the Site, including the development's overall size, uses, resident and community amenities, general layout, and summarized financing and services plans. Add **Attachment 1, Proposal Metrics**.

**2. Development Team.** Using **Attachment 2, Respondent Description**, Provide the name of each organization, names of the Director and primary contact persons, and phone numbers and email addresses for each of the following:

- Lead Developer
- Co-Developer (if applicable)
- Development Consultant (if applicable)
- Lead Architect and co-architect (if applicable)
- Property Manager
- Service Provider(s)

For each Developer or Co-Developer, submit a current copy of the following documents:

- *Certificate of good standing from California Secretary of State*
- *Certification of 501(c)(3) status from the Internal Revenue Service* (for any nonprofit corporations).
- *The latest two (2) years of audited financial statements* (with management letters, if any).

### **3. Developer Team Experience and Capacity**

3.1. Developer Experience and Capacity. Describe at least one and no more than five (5) Qualifying Projects completed or under development by Respondent, including co-developer or development consultants if any, using one page per Project and including the following information for each Project in the following order:

- Developer or consultant's name and role in the project
- All uses included in the project, including resident or community amenities (e.g. childcare center, tenant services space), commercial uses, etc.
- Total number of units and unit sizes
- Construction Type(s)
- Location of the project
- Target Population, including incomes if applicable
- Summary of financing sources
- Current project status with dates of commencement, completion, as appropriate
- Whether the project was completed on/under/over budget and on/ahead/behind schedule.

3.1.a. Development Capacity: Summarize in one page the organizational structure of the development team that will be responsible for developing the Site, including the roles of Developer, Co-Developer and Development Consultant. Identify and briefly describe the experience of key project development staff. Using **Attachment 3, Projected Staffing Workload**, describe their projected workload for the period of the Site's development.

3.1.b. Ownership Experience and Capacity: Summarize in one page the ownership experience and asset management capacity of the proposed owner of the Project including descriptions of:

- at least one Qualifying Project owned for at least five (5) years by the organization that will assume ownership of the proposed Project on the Site including its 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.

3.2. Lead Architect Experience. Using no more than one page per project, describe at least two but no more than 3 (three) completed Qualifying Projects, including the projects':



- location,
- number of units,
- type of construction,
- completion dates,
- target population,
- on-site amenities or associated uses (such as child care and/or small scale neighborhood serving commercial uses),

Using **Attachment 3, Projected Staffing Workload**, describe the projected workload of key staff expected to be involved in the development of the Site.

3.3 Property Manager Experience. Using no more than two (2) pages, describe the following:

- at least three Qualifying Projects managed in San Francisco, including at least one project that was financed with low-income housing tax credits 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.

3.4 Services Provider. Using no more than two (2) pages, describe the following:

- In general terms, the types of services made available to low-income families; where services are provided; how clients' needs are assessed and how a plan for addressing those needs is developed; how clients are linked to the City's safety net of services and assisted in their efforts to access those services;
- The duration of services contracts with City departments, contact information for any public agency providing funding for services, and documentation of quality of services provided such as contract monitoring reports or funding source evaluations;
- Using **Attachment 4: Service Provider Residential Experience**, describe experience providing on-site or off-site services residents of low income housing, highlighting (under "Population Served" and "Services Provided") any experience serving homeless families.

4. Development Concept and Site Plan Please prepare and submit a conceptual design that includes:

4.1. Narrative Project Concept Description. In 1,000 words maximum describe the major qualities and features of the project design concept. When describing public and common areas and amenities, indicate what anticipated activities they accommodate. Indicate particular groups

served by the programs and spaces (tots, children, teens, young adults, adults, elderly, disabled etc.) The description should include the following:

- Overall rationale for configuration of building and open spaces on the parcel.
- Interior and exterior tenant amenity and activity spaces – list and describe size and qualities of each
- Interior community serving spaces – list and describe size and qualities of each
- Exterior public open spaces – describe size and qualities
- Response to local environmental factors such as traffic, sun/shade, wind – describe approaches
- Commercial space provision – describe size, parking and loading (if needed)

4.2 Volumetric feasibility analysis with a focus on the interface between the building bulk configuration and the open space configuration, using 3-D digital model views from several vantage points.

4.3 Site plan showing ground level open space system. Show all proposed entries to uses. Ground level and upper level plans are not required except as noted in sec. 4.6 below.

4.4 Overhead/axonometric model views as seen from all four parcel corners showing building massing, and indicating common or private open spaces on upper levels and showing all inner courts. Show floor lines on faces of model. Designate proposed building entry points.

4.5 Conceptual Façade Elevations representing general fenestration, entries and roof lines but not color nor materials.

4.6 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, common areas for residents, and general location of any proposed publicly accessed community serving uses or retail. Indicate approximate square footages for these spaces on the plan.

4.7. Site Sections taken to show public and private grade level open space systems in both north/south and east/west directions, minimum of 4.

5. **Financing and Cost Control Innovations.** Describe the overall financing plan as further described and in conformance with the requirements of Section IV.A. above, with sufficient information to allow MOHCD to fully determine the proposal's feasibility, including:

- 1) Development Sources & Uses budget using **Attachment 5 MOHCD Sources and Uses** form.
- 2) 20-year cash flow, using **Attachment 6 LOSP Operating Budget** form and
- 3) Year 1 operating budget using **Attachment 6 LOSP Operating Budget** form.

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 (p. 12) and includes the following information:

- The service provider's overall philosophy and plan for providing services to the Site residents, including a listing and brief description of the services to be provided, and highlighting, if appropriate, any innovative approaches it may include;
- The plan for engaging residents and encouraging access to services;
- How services for the Site 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. **Community Outreach Plan.** Submit a Community Outreach Plan for engaging concerned citizens, community stakeholders and well-established neighborhood groups in the design of the Project.

8. **Draft Affirmative Marketing Plan.** Submit a draft affirmative marketing plan that will facilitate a robust response during lease-up and ensure engagement with a wide diversity of potential tenants.

#### **E. Submittal Deadline and Other Important Dates**

**Pre-Submittal Meeting:** 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](mailto:teresa.yanga@sfgov.org) and [kevin.kitchingham@sfgov.org](mailto:kevin.kitchingham@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 1950 Mission 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 5 (five) hard copies of the Proposal including all attachments to MOHCD, 1 South Van Ness Avenue, 5<sup>th</sup> Floor reception, attention: Teresa Yanga. In addition, email a complete proposal including attachments to:

**Teresa Yanga** ([teresa.yanga@sfgov.org](mailto:teresa.yanga@sfgov.org)), **Kevin Kitchingham** ([kevin.kitchingham@sfgov.org](mailto:kevin.kitchingham@sfgov.org))

**Scoring and Ranking:** All respondents will be notified the week of May 22, 2015 as to whether their proposal was complete, met the minimum experience and capacity requirements and if so, how they were scored by the Selection Panel. In the event that two or more proposals are given

the same (highest) score, the Selection Panel may ask that an interview be scheduled to assist the Director in his decision regarding who shall be selected.

Interviews: The Selection Panel will schedule interviews with the development teams that met the threshold requirements, which will take place during the week of June 8, 2015.

Final Selection: Subject to approval by the Director of MOHCD, selections will be completed by Friday, June 19, 2015

## 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 (CMD) 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.<sup>1</sup>

g. Insurance Requirements – see Exhibit A -- Insurance Requirements

## **B. Errors and Omissions in RFP**

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<sup>1</sup> 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>.

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. 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.

### **E. 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 1950 Mission, upon execution of a grant agreement with MOHCD for these funds, and upon submission of invoices from the appropriate Architects.

5. The issuance of this RFP is only an invitation to submit qualifications, and does not constitute an agreement by the City that any contract will actually be entered into by the City. This RFP does not in any way limit the discretion of any City board, commission, employee or official with respect to any review or approval of any aspect of a proposed project.

6. The City will not approve any ground lease for the Site that would allow for its development until there has been compliance with the California Environmental Quality Act (CEQA), and, as applicable, the National Environmental Protection Act (NEPA). If the proposed Project is found to cause significant adverse impacts, the City reserves absolute discretion to require additional environmental analysis, and to: (a) modify the project to mitigate significant adverse environmental impacts; (b) select feasible alternatives which avoid significant adverse impacts of the proposed project; or (c) reject or proceed with the project as proposed, depending upon a finding of whether or not the economic and social benefits of the project outweigh otherwise unavoidable significant adverse impacts of the project.

7. The City reserves the right to disqualify any respondent to this RFP based on any real or apparent conflict of interest that is disclosed by the responses submitted or on the basis of other information available to the City. This City may exercise this right in its sole discretion.

### Exhibit A: Insurance Requirements

#### 1. Developer, Contractors.

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

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

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

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

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

(f) pollution liability and/or asbestos pollution liability applicable to the work being performed with a limit no less than One Million Dollars (\$1,000,000) per claim or occurrence and Two Million Dollars (\$2,000,000) annual aggregate per policy. This coverage shall be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Developer's contractor, provided that the policy must be "claims made" coverage and Developer must require Developer's contractor to maintain these minimum limits for no less than three (3) years beyond completion of the construction or remodeling.

#### 2. Property Insurance.

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



(a) Prior to construction:

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

(b) During the course of construction:

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

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

(c) Upon completion of construction:

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

(ii) Boiler and machinery insurance, comprehensive form, covering damage to, loss or destruction of machinery and equipment located on the Site that is used by Developer for heating, ventilating, air-conditioning, power generation and similar purposes, in an amount not less than one hundred percent (100%) of the actual replacement value of such machinery and equipment with a deductible not to exceed Ten Thousand Dollars (\$10,000) each loss, including the City as loss payee.

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

3. Commercial Space.

Developer must require that all nonresidential tenants' liability insurance policies include Developer and the City as additional insureds, as their respective interests may appear. Throughout the term of any lease of Commercial Space in the Project, Developer must require commercial tenants to maintain insurance as follows:

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

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

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

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

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

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

4. General Requirements.

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

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

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

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

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

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

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

(h) Any policy in a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs are included in the general annual aggregate limit must be in amounts that are double the occurrence or claims limits specified above.

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

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

ATTACHMENTS:

1. Proposal Metrics
2. Respondent Description
3. Projected Staffing Workload
4. Service Provider Residential Experience
5. MOHCD Sources and Uses
6. LOSP Operating Budget including 20 year cash flow
7. Disclosures

**FORM SFEC-126:**  
**NOTIFICATION OF CONTRACT APPROVAL**  
 (S.F. Campaign and Governmental Conduct Code § 1.126)

<b>City Elective Officer Information</b> <i>(Please print clearly.)</i>	
Name of City elective officer(s): Members, Board of Supervisors	City elective office(s) held: Members, Board of Supervisors

<b>Contractor Information</b> <i>(Please print clearly.)</i>	
Name of contractor: 1950 Mission Housing Associates, LP	
<p><i>Please list the names of (1) members of the contractor's board of directors;</i></p> <p>(1) 1950 Mission Housing Associates, LP is a limited partnership with no employees. Its members are 1950 Mission Housing Associates, LLC and BRIDGE Regional Partners, Inc.</p> <p>    a. General Partner: 1950 Mission Housing Associates, LLC is comprised of two entities:</p> <p>        i. MCB Family Housing, Inc. – Board of Directors list is attached.</p> <p>        ii. Colosimo Apartments, Inc. – Board of Directors list is attached.</p> <p>    b. Limited Partner: BRIDGE Regional Partners, Inc – Board of Directors list is attached.</p> <p>(2) None of these entities have any employees.</p> <p>(3) None of these organizations are owned by any individuals.</p> <p>(4) No subcontractors are listed in the contract.</p> <p>No political committee is sponsored or controlled by the contractor.</p>	
Contractor address: c/o BRIDGE Housing Corporation 600 California Street, Suite 900 San Francisco, CA 94108	
Date that contract was approved: <i>(By the SF Board of Supervisors)</i>	Amount of contracts: \$15,000 annually plus residual receipts, if any.
Describe the nature of the contract that was approved: <b>Ground lease for site located at 1950 Mission Street, San Francisco, California 94103. The Project, 1950 Mission Street, will be developed into a 157-unit affordable housing development including 2 on-site staff units that includes ground floor commercial spaces.</b>	
Comments:	

This contract was approved by (check applicable):

the City elective officer(s) identified on this form

a board on which the City elective officer(s) serves: San Francisco Board of Supervisors  
Print Name of Board

the board of a state agency (Health Authority, Housing Authority Commission, Industrial Development Authority Board, Parking Authority, Redevelopment Agency Commission, Relocation Appeals Board, Treasure Island Development Authority) on which an appointee of the City elective officer(s) identified on this form sits

Print Name of Board

<b>Filer Information</b> <i>(Please print clearly.)</i>	
Name of filer: Angela Calvillo, Clerk of the Board	Contact telephone number: (415) 554-5184
Address: City Hall, Room 244, 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102	E-mail: Board.of.Supervisors@sfgov.org

\_\_\_\_\_  
Signature of City Elective Officer (if submitted by City elective officer)

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Signature of Board Secretary or Clerk (if submitted by Board Secretary or Clerk)

\_\_\_\_\_  
Date Signed

## 1950 MISSION HOUSING ASSOCIATES LP

General Partner: 1950 Mission Housing Associates, LLC

Member: MCB Family Housing Inc.

Member: Colosimo Apartments, Inc.

Limited Partner: BRIDGE Regional Partners, Inc.

### **MCB Family Housing, Inc.**

#### Board Members

Vacant

Cynthia Parker

D. Valentine

Kimberly McKay

Rebecca Hlebasko

Susan Johnson

#### Officers

Asst Secretary Rebecca Hlebasko

President Cynthia Parker

VP Vacant

VP Kimberly McKay

VP Rebecca Hlebasko

VP/CFO D. Valentine

VP/Secretary Susan Johnson

### **Colosimo Apartments, Inc.**

#### Board Members

Chair: Joshua Arce

Vice-Chair: Sam Moss

Secretary: Marcia Contreras  
CFO: Fernando Gomez-Benitez  
Director: Vacant  
Director: Vacant  
Director: Vacant

Officers

Executive Director: Sam Moss

**BRIDGE Regional Partners, Inc.**

Board Members

Vacant  
Cynthia Parker  
D. Valentine  
Kimberly McKay  
Rebecca Hlebasko  
Susan Johnson

Officers

President	Cynthia Parker
VP	Vacant
VP	Kimberly McKay
VP	Rebecca Hlebasko
VP/CFO	D. Valentine
VP/Secretary	Susan Johnson



OFFICE OF THE MAYOR  
SAN FRANCISCO



LONDON N. BREED  
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: Kanishka Karunaratne Cheng *KK*  
RE: Ground Lease – 1950 Mission Housing Associates, LP – 1950 Mission  
Street- \$15,000 annual base rent  
DATE: October 16<sup>th</sup>, 2018

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**Resolution approving and authorizing a long term Ground Lease with 1950 Mission Housing Associates, LP, on City owned land at 1950 Mission Street (“Property”) for 75 years with a 24 year extension option, and with an annual base rent of \$15,000, in order to construct a 100% affordable, 155-unit multifamily rental housing development (plus 2 staff units) for low-income persons (“Project”), (2) adopting findings that the Ground Lease is consistent with the California Environmental Quality Act, the City’s General Plan, and the priority policies of Planning Code Section 101.1; and (3) authorizing the Director of Property and Director of MOHCD to execute documents, make certain modifications, and take certain actions in furtherance of this Resolution.**

Please note that Supervisor Ronen is a co-sponsor of this legislation.

Should you have any questions, please contact Kanishka Karunaratne Cheng at 415-554-6696.

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