

File No. 230063

Committee Item No. 6

Board Item No. 13

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date February 8, 2023

Board of Supervisors Meeting Date February 14, 2023

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Resolution
<input type="checkbox"/>	<input type="checkbox"/>	Ordinance
<input type="checkbox"/>	<input type="checkbox"/>	Legislative Digest
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input type="checkbox"/>	<input type="checkbox"/>	Introduction Form
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
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<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER (Use back side if additional space is needed)

<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Draft Ground Lease</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Draft Amended and Restated Loan Agreement</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Draft Leasehold Deed of Trust</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Draft Declaration of Restrictions & Affordable Housing Covenants</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Draft Amended and Restated Secured Promissory Note</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Executed Exclusive Negotiating Rights Agreement 11/30/2019</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>PLN General Plan Referral 1/25/2021</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>PLN Notice Final Approval SB35 Project 6/3/2021</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>BOS Reso No. 95-21 and Exchange and Conveyance Agreement</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>MOHCD Presentation 2/8/2023</u>
<input type="checkbox"/>	<input type="checkbox"/>	<u> </u>
<input type="checkbox"/>	<input type="checkbox"/>	<u> </u>

Completed by: Brent Jalipa Date February 2, 2023

Completed by: Brent Jalipa Date February 9, 2023

1 [Ground Lease and Loan Agreement - The Kelsey Civic Center, L.P. - 100% Affordable
2 Housing - 240 Van Ness Avenue - Ground Lease with Base Rent of \$15,000 - Loan Not to
3 Exceed \$24,684,459]

4 **Resolution 1) approving and authorizing the Director of Property and the Mayor's**
5 **Office of Housing and Community Development ("MOHCD") to enter into a Ground**
6 **Lease for real property owned by the City located at 240 Van Ness Avenue ("Property")**
7 **with The Kelsey Civic Center, L.P. for a lease term of 75 years and one 24-year option**
8 **to extend and an annual base rent of \$15,000 ("Ground Lease") in order to construct a**
9 **100% affordable, 112-unit multifamily rental housing development affordable to low-**
10 **income households, including 28 units for people with disabilities who are eligible to**
11 **receive home and community-based services, and two resident manager units (the**
12 **"Project"); 2) approving and authorizing a Loan Agreement in an amount not to exceed**
13 **\$24,684,459 for a minimum loan term of 57 years ("Loan Agreement") to finance the**
14 **development and construction of the Project; 3) adopting findings declaring that the**
15 **Property is "exempt surplus land" pursuant to the California Surplus Lands Act; 4)**
16 **determining that the less than market rent payable under the Ground Lease will serve a**
17 **public purpose by providing affordable housing for low-income households in need, in**
18 **accordance with Administrative Code, Section 23.3; 5) adopting findings that the**
19 **Project and proposed transactions are consistent with the General Plan, and the eight**
20 **priority policies of Planning Code, Section 101.1; 6) authorizing the Director of Property**
21 **to execute the Ground Lease and the Director of MOHCD to execute the Loan**
22 **Agreement, and make certain modifications to such agreements, as defined herein, and**
23 **take certain actions in furtherance of this Resolution, as defined herein; and 7) to**
24 **authorize the Director of Property and/or Director of MOHCD to enter into any**
25 **additions, amendments, or other modifications to the Ground Lease and the Loan**

1 **Agreement respectively, that do not materially increase the obligations or liabilities to**
2 **the City and are necessary to effectuate the purposes of the Ground Lease and the**
3 **Loan Agreement or this Resolution.**

4
5 WHEREAS, The City and County of San Francisco ("City") owns certain real property
6 located at 240 Van Ness Avenue in San Francisco, California, which is comprised of
7 approximately 13,850 square feet and known as Assessor's Parcel Block No. 0811,
8 Lot No. 204 (the "Property"); and

9 WHEREAS, Pursuant to Resolution No. 95-21, the City conveyed a portion of City-
10 owned real property, located at 240 Van Ness Avenue, in exchange for the real property
11 located at 234 Van Ness Avenue with 245 Van Ness, LLC, in order to reconfigure the
12 properties to deliver a single developable parcel to the City for the purpose of building
13 affordable housing; and

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

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

23 WHEREAS, The City offered the underutilized, irregular shaped parcel for disposition
24 through an international design competition by the San Francisco Real Estate Division with
25 support from the Department of Environment, and The Kelsey, a California nonprofit public

1 benefit corporation and Mercy Housing California, a California nonprofit public benefit
2 corporation, were selected at the end of 2019 to develop the Property, and as the selected
3 developer of the Property, entered into an Exclusive Negotiating Agreement acting by and
4 through the Director of Property, dated November 30, 2019, to construct the Affordable
5 Project, a copy of which is on file with the Clerk of the Board in File No. 191111 on the parcels
6 at 155 Grove Street, 165 Grove Street and 240 Van Ness Avenue which were reconfigured to
7 become the subject parcel through the land exchange; and

8 WHEREAS, The Kelsey and Mercy Housing CA have established The Kelsey Civic
9 Center, L.P., a California limited partnership (the "Developer"), as a separate entity under
10 which to develop and construct the Project; and

11 WHEREAS, On June 3, 2021, by Notice of Final Approval of an SB 35 Project,
12 the Planning Department by Case No. 2020-010648PRJ determined that the
13 development of the Project met all the standards of the Planning Code and would be
14 eligible for ministerial approval under California Government Code, Section 65913.4
15 (Senate Bills 35 and 765), California Public Resources Code, Section 21080, and the
16 CEQA Guidelines, Sections 15002(i)(1), 15268 and 15369, and would therefore not be
17 subject to the California Environmental Quality Act ("CEQA"); a copy of the Notice of
18 Final Approval of an SB 35 Project is on file with the Clerk of the Board of Supervisors
19 in File No. 230063, and is incorporated herein by reference; and

20 WHEREAS, The Planning Department determined that the Project is consistent with
21 the General Plan, and eight priority policies of Planning Code, Section 101.1 (the "General
22 Plan Referral"); a copy of the Planning Department's General Plan Referral is on file with the
23 Clerk of the Board of Supervisors in File No. 230063, and is incorporated herein by reference;
24 and

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

5 WHEREAS, MOHCD and the Director of Property have approved the form of the
6 Ground Lease between the City and the Developer, pursuant to which the City will lease the
7 Property to the Developer for a term of 75 years and one 24-year option to extend and a base
8 rent of \$15,000 per year, in exchange for the Developer's agreement, among other things, to
9 construct and operate the Project with rent levels affordable to households up to 80% of
10 unadjusted San Francisco Area Median Income (AMI); a copy of the substantially final form of
11 Ground Lease is on file with the Clerk of the Board of Supervisors in File No. 230063, and is
12 incorporated herein by reference; and

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

16 WHEREAS, MOHCD is also providing the Developer with financial assistance to
17 combine with other funding sources in order for Developer to construct the Project; and

18 WHEREAS, On December 16, 2022, the Citywide Affordable Housing Loan
19 Committee, consisting of MOHCD, Department of Homeless and Supportive Housing, the
20 Office of Community Investment and Infrastructure, and the Controller's Office of Public
21 Finance recommended approval to the Mayor of a loan to the Developer for the Project in an
22 amount not to exceed \$24,684,459 in local funds (the “Loan”); and

23 WHEREAS, The City, through MOHCD, will make the Loan to the Developer under a
24 Loan Agreement and evidenced by a promissory note with the following material terms: (i) a
25 minimum term of 57 years; (ii) an interest rate of up to three percent (3%); (iii) annual

1 repayment of the Loan by Developer through residual receipts from the Project; (iv) the
2 Project shall be restricted for life of the Project as affordable housing to low-income
3 households with annual maximum rent and income established by MOHCD; and (v) the Loan
4 Agreement shall be secured by a deed of trust recorded against the Developer's leasehold
5 interest in the Property; a copy of the substantially final forms of the Loan Agreement,
6 promissory note, deed of trust, and declaration of restrictions is on file with the Clerk of the
7 Board of Supervisors in File No. 230063, and is incorporated herein by reference; now,
8 therefore, be it

9 RESOLVED, That the Board of Supervisors hereby finds that the Project (and
10 associated actions necessary to effectuate the Project) is consistent with the General Plan,
11 and with the eight priority policies of Planning Code, Section 101.1, for the same reasons as
12 set forth in the General Plan Referral, and hereby incorporates such findings by reference as
13 though fully set forth in this Resolution; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors hereby finds, in consideration
15 of the foregoing, that the Property is "exempt surplus land," as defined in California
16 Government Code, Section 54221(f)(1), because the Project will restrict 100% of the
17 residential units to low-income persons and families, pursuant to California Government Code,
18 Section 54221(f)(1)(F)(i); and

19 FURTHER RESOLVED, That in accordance with the recommendation of the Director
20 of MOHCD and the Director of Property, the Board of Supervisors approves the Ground
21 Lease in substantially the form presented to the Board, and authorizes the Director of
22 Property (or the Director's designee, as used throughout) and Director of MOHCD (or the
23 Director's designee, as used throughout), to execute and deliver the Ground Lease, in
24 substantially the form presented to the Board, and any such other documents or agreements
25 (including such agreements to provide adequate or additional security or indemnities as

1 required by lenders to consummate the financing of the Project or lease of the Property) that
2 are necessary or advisable, in consultation with the City Attorney, to complete the transaction
3 contemplated by the Ground Lease and to effectuate the purpose and intent of this
4 Resolution, and determines that the less than Market Rent payable under the Ground Lease
5 will serve a public purpose by providing affordable housing for low-income households in
6 need; and, be it

7 FURTHER RESOLVED, That the Board of Supervisors hereby approves the Loan
8 Agreement and the transaction contemplated thereby in substantially the form presented to
9 the Board, and authorizes the Mayor and the Director of MOHCD, to execute and deliver the
10 Loan Agreement and any such other documents that are necessary or advisable to complete
11 the transaction contemplated by the Loan Agreement and to effectuate the purpose and intent
12 of this Resolution; and, be it

13 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
14 Property and/or Director of MOHCD, in consultation with the City Attorney, to enter into any
15 additions, amendments, or other modifications to the Ground Lease and the Loan Agreement,
16 respectively and any other documents or instruments necessary in connection therewith
17 (including, without limitation, any notice of special restrictions required by the Planning
18 Department and preparation and attachment or, or changes to, any of all of the exhibits and
19 ancillary agreements), that the Director of Property and/or Director of MOHCD determine are
20 in the best interests of the City, do not materially decrease the benefits to the City with respect
21 to the Property, do not materially increase the obligations or liabilities of the City, and are
22 necessary or advisable to complete the transaction contemplated in the Ground Lease and
23 the Loan Agreement, and that effectuate the purpose and intent of this Resolution, such
24 determination to be conclusively evidenced by the execution and delivery by the Director of
25

1 Property and/or the Director of MOHCD of any such additions, amendments, or other
2 modifications; and, be it

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

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

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

15 RECOMMENDED:
16
17

18 /s/
Andrico Q. Penick, Director of Property

20 /s/
21 Eric D. Shaw, Director
22 Mayor’s Office of Housing and Community Development
23
24
25

Item 6
File 23-0063

Department:
Mayor's Office of Housing and Community Development

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a ground lease with The Kelsey Civic Center, L.P. for a term of 75 years, with a 24-year option to extend and an annual base rent of \$15,000 in order to construct affordable housing; and approve a not-to-exceed \$24,684,459 amended and restated loan agreement for a term of 57 years between the City and The Kelsey Civic Center, L.P.

Key Points

- The Kelsey Civic Center Project (Project) will be an eight-story building with 112 units built on three combined City-owned lots on Van Ness Avenue, bordered by Grove Street and Dr. Tom Waddell Place, now known as 240 Van Ness Avenue. Of the 112 units, 28 units will be reserved for people with disabilities who receive home and community-based services with incomes between 20 percent and 30 percent of area median income (AMI), 82 units will be for households with incomes between 50 percent and 80 percent AMI, and two will be units for on-site staff.
- In 2019, the City selected The Kelsey, a non-profit focused on inclusion and access for people with disabilities, and Mercy Housing California to develop the Project through C40 Reinventing Cities, an international design competition run through the Real Estate Division.
- In March 2021, the Board of Supervisors approved a land exchange with a private property owner to allow the Project to be built in an "L" shape, rather than a less efficient "T" shape, resulting in cost savings to the Project.
- The proposed ground lease is for a term of 75 years with an option to extend for an additional 24 years and restricts the lessee to operating the housing development as affordable housing only.

Fiscal Impact

- Total development costs for the 112 housing units are \$88.5 million or \$790,392 per unit. The City's total subsidy is \$24.7 million, or \$220,397 per unit.
- Sources of the loan include the Housing Trust Fund, Affordable Housing Fund Inclusionary Fees, and Affordable Housing Fund Jobs Housing Linkage Fees.
- The proposed ground lease includes a base rent of \$15,000 per year plus residual rent if there are sufficient net operating revenues. However, the Project is not expected to generate sufficient net revenues to make residual rent payments under the ground lease.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

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

Administrative Code Section 23.30 states that the Board of Supervisors shall approve all leases on behalf of the City as landlord by resolution for which the term is longer than a year and costs over \$15,000 per month. Leases of City property that require Board of Supervisors approval may be less than market rate if the Board of Supervisors finds that doing so would serve a public purpose.

BACKGROUND**Kelsey Civic Center Project**

The Kelsey Civic Center Project (Project) will be an eight-story building with 112 units built on three combined City-owned lots on Van Ness Avenue, bordered by Grove Street and Dr. Tom Waddell Place, now known as 240 Van Ness Avenue. The 112 units include 80 studios and 32 two-bedroom units, including two on-site staff units. Of the 110 affordable units, 28 units will be reserved for people with disabilities who receive home and community-based services through In-Home Supportive Services (IHSS) with incomes between 20 percent and 30 percent of area median income (AMI) and 82 units will be for households with incomes between 50 percent and 80 percent AMI.¹ The project also includes a Disability Community Cultural Center (DCCC), which is being developed in partnership with the Department of Disability and Aging Services (DAS), to be located on the ground floor.² Construction is expected to be complete by November 2024 and the building will be fully occupied by April 2025.

Developer Selection & Predevelopment Funding

The City offered the project site, consisting of underutilized, irregular-shaped parcels, for disposition through C40³ Reinventing Cities, an international design competition. The competition was run through the Real Estate Division with support from the Department of

¹ According to the December 2022 MOHCD loan evaluation memo (MOHCD loan evaluation) for the proposed gap loan, there is insufficient independent living options for individuals with disabilities according to research conducted by the Kelsey, and MOHCD's 2020-2024 Consolidated Plan identified households with physical and developmental disabilities as at the most vulnerable end of the housing spectrum.

² DAS will lease the space from The Kelsey for the DCCC according to terms established in a Letter of Intent (LOI) between The Kelsey and DAS, and a community-based provider will operate the space. In Fall 2022, DAS issued a Request for Proposal (RFP) to select a provider but plans to reissue in early 2023 because there was only one respondent to the RFP according to the MOHCD loan evaluation memo for the proposed gap loan.

³ C40 is an organization representing more than 90 cities focused on addressing climate change.

Environment. In 2019, the City selected The Kelsey, a non-profit focused on inclusion and access for people with disabilities, and Mercy Housing California as the best all-around applicant out of 10 development teams participating in the competition. In 2019, the Board approved an Exclusive Negotiating Agreement with Mercy Housing California for a future ground lease at the proposed project site (File 19-1111).

Land Exchange to Form Developable Parcel

The project site consists of three City-owned parcels, including 155 Grove Street, 165 Grove Street, and 240 Van Ness Avenue. The Project sponsor facilitated an agreement between the Real Estate Division and owners of 234 Van Ness to exchange a portion of the City-owned parcel located at 240 Van Ness Avenue for the entirety of the privately-owned parcel located at 234 Van Ness Avenue.⁴ The exchange will allow the Project to be built in an “L” shape, rather than a less efficient “T” shape, resulting in cost-savings to the Project. The Board of Supervisors approved the land exchange in March 2021 (File 21-0118), and the land exchange was completed in October 2022.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would:

- 1) approve a ground lease with The Kelsey Civic Center, L.P. for a term of 75 years, with a 24-year option to extend and an annual base rent of \$15,000 in order to construct affordable housing;
- 2) approve a not-to-exceed \$24,684,459 amended and restated loan agreement for a term of 57 years between the City and The Kelsey Civic Center, L.P.;
- 3) find that the property is exempt from the California Surplus Lands Act because it is being developed as affordable housing;
- 4) determine that the below market rate rent of the ground lease serves a public purpose by providing affordable housing for low-income households in need;
- 5) find that the loan and ground lease are consistent with the City’s General Plan and policy priorities in the Planning Code;
- 6) authorize the Director of Property to execute the Ground Lease and the Director of MOHCD to execute the Loan Agreement; and

⁴ Prior to the land exchange, 234 Van Ness Avenue was a commercial building with two commercial office tenants according to the MOHCD loan evaluation memo for the proposed gap loan. The commercial building (and two other buildings on the Project site) were demolished in early 2022, and the two tenants were offered relocation benefits in conformance with State law.

- 7) authorize and Director of Property and the Director of MOHCD to amend the Ground Lease and Loan Agreement, respectively, provided amendments do not increase the obligations or liabilities to the City.

Ground Lease & Affordability Restrictions

The proposed ground lease is for a term of 75 years with an option to extend for an additional 24 years and restricts the lessee to operating the housing development as affordable housing only. The ground lease includes a base rent of \$15,000 per year, plus residual rent up to 10 percent of the site's appraised value, which will be paid by residual receipts – that is, up to two-thirds of net income after operating costs, ground lease base rent, and replenishing operating reserves, consistent with MOHCD's Residual Receipts policy.

Affordability restrictions to preserve the affordability of the housing units in the proposed development are included in the loan agreement between the City and the affordable housing operator and a declaration of restrictions. These agreements specify the affordability levels for each unit and require the non-profit housing operator to maintain these for the duration of the agreements unless agreed to by the City. Of the 28 units reserved for people with disabilities, 14 will be set aside for people who are eligible for the U.S. Department of Housing and Urban Development (HUD) Section 811 Public Rental Assistance (PRA) Program.⁵ According to a Memorandum of Understanding between the project sponsor and the Golden Gate Regional Center (GGRC), referrals for Section 811 units will come from the GGRC.⁶ The remaining 14 units reserved for people with disabilities will be entered into the San Francisco DAHLIA lottery.

Loan Agreement

The original loan agreement provided by MOHCD in 2021 was for \$2 million for predevelopment costs. MOHCD proposes to amend the loan agreement to increase the loan amount by \$22.7 million to complete development and construction, including permanent financing. Under the proposed amended loan agreement, the total loan amount to The Kelsey Civic Center, L.P. would increase up to \$24,684,459.

The Kelsey Civic Center, L.P. must repay the loan by the later of: (a) the 57th anniversary date of the deed of trust or (b) the 55th anniversary of the date on which construction financing is converted into permanent financing. Simple interest will accrue to the loan principal balance at a rate of three percent per year according to the Amended and Restated Secured Promissory Note.

⁵ The HUD Section 811 PRA Program provides project-based rental assistance for extremely low-income (at or below 30% AMI) people with disabilities who are eligible for community-based long-term services. According to program eligibility requirements, no more than 25% of the total units in eligible multifamily projects can have occupancy preference for persons with disabilities to ensure community integration of PRA units. For the Kelsey Project, 28 of the 112 units (25%) are reserved for people with disabilities.

⁶ The GGRC is a nonprofit organization that serves individuals with developmental disabilities in San Francisco, Marin, and San Mateo counties.

Bridge Loan

Under the proposed loan agreement, \$1 million of the funding provided by the City is a bridge loan, pending receipt of expected loan funds from the Federal Home Loan Bank Affordable Housing Loan Program (AHP). The sponsors will apply for a AHP loan in calendar year 2023 according to MOHCD.

Sponsor Performance

The Kelsey is a newly formed organization and has not developed or managed an affordable housing project in San Francisco. There are no performance or fiscal reviews of the organization on file with the City. The Kelsey brings experience working with people with disabilities and supporting other disability organizations to develop inclusive and accessible affordable housing.

Co-sponsor Mercy has been developing and managing affordable housing in San Francisco for over 30 years according to the MOHCD loan evaluation. According to MOHCD, Mercy has no outstanding performance issues. In addition, results from the City's fiscal and compliance monitoring of Mercy Housing in December 2021 identified no findings according to MOHCD.

FISCAL IMPACT**Total Development Costs**

The total development cost for the 112 units of housing is \$88.5 million, as shown in Exhibit 1 below. Of the approximate \$88.5 million, \$25.6 million (28.9%) are City funds (including \$868,044 in accrued deferred interest), \$57.3 million (64.8%) are State funds, and \$5.6 million (6.4%) are private funds.

Exhibit 1: Total Development Sources and Uses of Funds

	City	State	Private	Total
Sources				
MOHCD Loans	\$24,684,459			\$24,684,459
Affordable Housing & Sustainable Communities (AHSC) Loan		20,000,000		20,000,000
HCD Accelerator Loan		37,334,401		37,334,401
Sponsor Loan			2,942,391	2,942,391
Golden Gate Regional Center Loan			1,000,000	1,000,000
Permanent Loan			1,551,000	1,551,000
Accrued Deferred Interest	868,044		143,559	1,011,603
Total Sources	\$25,552,503	\$57,334,401	\$5,636,950	\$88,523,854
Uses				
Acquisition	24,590			24,590
Hard Costs	5,156,441	57,334,401	5,493,391	67,984,233
Soft Costs	16,360,569			16,360,569
Accrued Deferred Interest	868,044		143,559	1,011,603
Reserves	978,940			978,940
Developer Fees	2,163,919			2,163,919
Total Uses	\$25,552,503	\$57,334,401	\$5,636,950	\$88,523,854

Source: MOHCD

The development budget shown above does not include costs associated with the creation of a shell of commercial space for the Disability Community Cultural Center. These costs are being funded by an additional loan of \$1,357,609 from the Project Sponsor.

Companion resolutions subject to Board of Supervisors' approval would allow MOHCD to execute standard agreements with the California Department of Housing and Community Development (HCD) for the following loan awards for the construction of the Kelsey Project (also shown in Exhibit 1 above):

- HCD Accelerator loan totaling \$37,334,401 (File 23-0060)
- Affordable Housing & Sustainable Communities (AHSC) loan totaling \$20,000,000 (File 23-0064)

Funding Sources for City Loan

Sources of funds for the proposed amended and restated loan of up to \$24,684,459 include:

- \$10,000,000 in Housing Trust Fund funds;⁷
- \$8,000,000 in Affordable Housing Fund Inclusionary Fees, paid by developers of market rate housing, including \$2,000,000 for predevelopment costs; and

⁷ In November 2012, San Francisco voters approved Proposition C which established the Housing Trust Fund and requires annual appropriation of General Fund revenues to the fund.

- \$6,684,459 in Affordable Housing Fund Jobs Housing Linkage Fees, paid by developers of new commercial space.

The City's Subsidy per Housing Unit

Total development costs are \$88.5 million or \$790,392 per unit. The City's total subsidy for the housing development costs is \$24.7 million, or \$220,397 per unit, as shown in Exhibit 2 below.

Exhibit 2: City Subsidy for Affordable Housing Units

Number of Units	112
Total residential area (sq. ft.)	85,763
Development Cost	\$88,523,854
Total City subsidy	\$24,684,459
Development cost per unit	\$790,392
City Subsidy per unit	\$220,397
City Subsidy per sq. ft.	\$288

Source: MOHCD

According to the December 2022 MOHCD loan evaluation memo for the proposed gap loan, construction costs per square foot for the Kelsey Project (\$794) are 28 percent higher than comparable projects due to: (a) higher inflation and escalation and supply-chain increases compared to prior projects; and (b) the cost of special design features to incorporate the building visually within the Civic Center Historic District and neighboring City Hall.

Operating Revenues and Expenses

According to the 20-year cash flow analysis for the Kelsey Civic Center Project, the project will have sufficient revenues to cover operating expenses, operating reserves, first mortgage loan payments, and management fees. Project revenues consist of tenant rents and HUD Section 811 PRA Program funding. A portion of net income after operating expenses (residual receipts) will be used to repay the MOHCD and California Department of Housing and Community Development AHSC loans. The Project is not expected to generate sufficient net revenues to make residual rent payments under the proposed Ground Lease.

Operating expenses include some on-site supportive service costs (such as service coordination and housing navigation) for residents with disabilities, but residents with disabilities will continue to receive domestic services (such as grocery shopping and laundry) and transportation to medical and dental appointments through IHSS.

RECOMMENDATION

Approve the proposed resolution.



THE KELSEY CIVIC CENTER

- 240 VAN NESS AVE. -

BUDGET AND FINANCE
COMMITTEE
FEBRUARY 8, 2023

ANNE ROMERO, SENIOR PROJECT MANAGER
MAYOR'S OFFICE OF HOUSING AND
COMMUNITY DEVELOPMENT

1

File #230063
City Ground Lease and Loan

- 1) Ground Lease for initial term of 74 yrs. plus option to extend and \$15,000 Annual Base Rent and
- 2) MOHCD Loan Agreement up to \$24.7M including bridge loan of \$1 million for FHLB AHP

2

File #230060
State Accelerator Loan

Authorization to execute a Standard Agreement from HCD for a State Accelerator Loan in the amount of \$37.3 million

3

Item #230064
State AHSC Grant and Loan

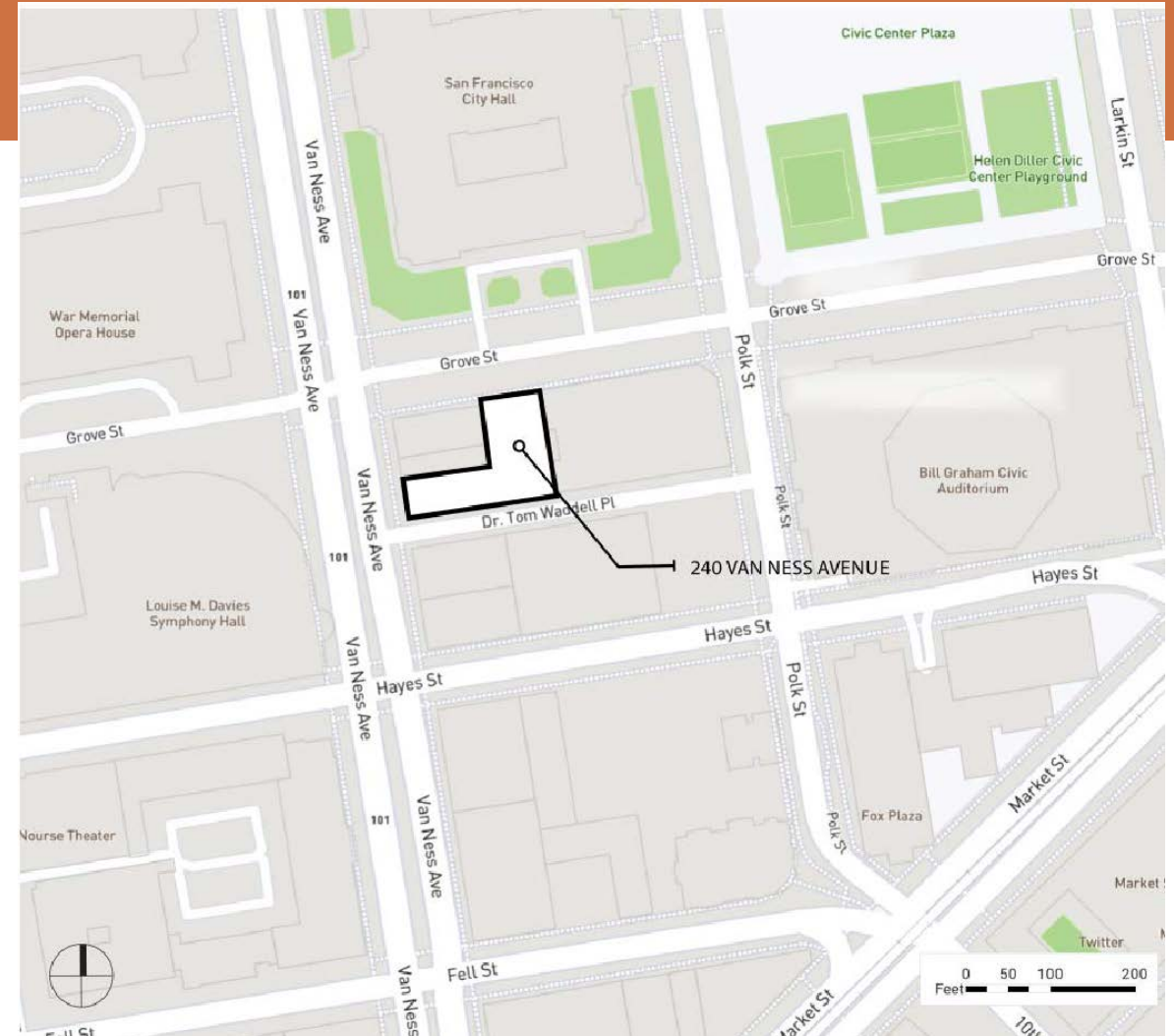
- 1) Accept and Expend AHSC Grant and authorization to execute a Standard Agreement in the amount of \$9,269,952 for bike / pedestrian improvements by SFMTA, and
- 2) Authorization to execute a Standard Agreement for AHSC Loan in the amount of \$20,000,000 for the housing

THE KELSEY CIVIC CENTER BUDGET AND FINANCE COMMITTEE AGENDA ITEMS

HISTORY OF THE KELSEY CIVIC CENTER

240 Van Ness Avenue

- 2016 – The Kelsey was selected as best applicant under the Department of Real Estate Reinventing Cities design competition organized by C40
- 2019 – The Kelsey and Mercy Housing California selected as joint developers in second phase of C40 competition
- 2020 – Agreement to exchange a portion of City owned real property with an adjacent property to create a more developable City-owned parcel
- 2021 – MOHCD Predevelopment Loan closed
- 2021-2023 – Financing commitments obtained from California State Department of Housing & Community Development from AHSC and Accelerator programs to fund housing and neighborhood transit improvements
- 2022 – MOHCD Permanent Loan financing approved by Citywide Affordable Housing Loan Committee





PROPOSED PROJECT

- 112 affordable units including:
 - Inclusive community for people with and without disabilities, based on design and services best-practices
 - 28 units for people with disabilities who are eligible to receive Home and Community Based Services
 - 2 resident manager units
- Disability Community Cultural Center in collaboration with Department of Disability and Aging Services (DAS)
 - 1,400 square feet center to celebrate Disability culture, community, and pride; advance Disability justice.
 - Will face City Hall on Grove Street
 - Tenant improvements and operations to be funded by DAS
- State AHSC Grant will contribute to Neighborhood Transit / Bike / Ped improvements by SFMTA
 - Folsom Streetscape Project between 2nd & 11th
 - Transit boarding islands and bus pads on Folsom from 3rd Street to 11th Street
 - Mission Street bus bulb at Mission & 4th Street and transit only lanes on Mission Street from 10th Street to 5th Street

PERMANENT FINANCING

Total Development Costs of \$88.5M

• MOHCD	\$23.7M
• FHLB AHP	\$1M
• HCD AHSC	\$20M
• HCD Accelerator	\$37.3M
• DDS / GGRC	\$1M
• Sponsor Loan	\$2.9M
• Permanent Loan	\$1.6M
• Deferred Interest	\$1M

TIMELINE

- Housing Construction Start – March 2022
- Project completion – December 2024
- Lease up Complete – April 2025





MICAELA CONNERY– FOUNDER AND CEO – THE KELSEY

DOUGLAS SHOEMAKER – PRESIDENT – MERCY HOUSING CALIFORNIA

FIONA RUDDY – PROJECT MANAGER – MERCY HOUSING CALIFORNIA

ARIANA CERNIUS – SENIOR PROJECT MANAGER – THE KELSEY

GROUND LEASE

This Ground Lease (this “**Ground Lease**” or this “**Lease**”) is dated as of _____, 2023 (the “**Agreement Date**”), by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the “**City**” or “**Landlord**”), acting by and through its Real Estate Division and the Mayor's Office of Housing and Community Development (“**MOHCD**”), and THE KELSEY CIVIC CENTER, L.P., a California limited partnership, as tenant (“**Tenant**”).

RECITALS

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

B. The City and County of San Francisco offered the original underutilized, irregular shaped parcels for disposition through an international design competition, Reinventing Cities, organized by C40, an organization representing more than 90 cities focused on addressing climate change, by the Real Estate Division (“RED”) with support from the Department of Environment. The Kelsey Civic Center was selected as the best all-around applicant and RED, Mercy Housing and The Kelsey entered into an Exclusive Negotiating Agreement for a ground lease on the parcels at 155 Grove, 165 Grove, and 240 Van Ness. In early 2020, the Sponsor, in discussion with the owner of the neighboring parcels, 234 Van Ness and 250 Van Ness, facilitated an agreement between RED and the owners to perform an equal property swap of 240 Van Ness (owned by the City) and 234 Van Ness (owned by the McBaine family, a private entity, the same ownership entity of 250 Van Ness) to create a more developable parcel. In April 2020, the two groups executed a negotiation agreement to bridge the property exchange agreement. On January 22, 2020, the Citywide Affordable Housing Loan Committee approved predevelopment and preliminary gap funding to support predevelopment work and enable gap financing applications to proceed. The land exchange and lot line adjustment were completed in October 2022. Mercy Housing California and The Kelsey formed the Tenant for the purpose of undertaking the activities described in the design competition.

C. On December 16, 2022, the Citywide Affordable Housing Loan Committee made a recommendation to approve MOHCD’s financing of Tenant’s plan to develop the Land and construct 112 units (consisting of 80 studios and 32 two-bedroom units) for low income families, including 28 units for people with disabilities who are eligible to receive home and community-based services and two unrestricted resident manager units, as well as the Commercial Shell of a ground floor disability community cultural center (the “**Commercial Space**”), together known as The Kelsey Civic Center (collectively, the “**Project**”).

D. On June 3, 2021, the City and the Tenant entered into that certain Option to Lease Agreement under which City granted the Tenant an option to ground lease the Land (the

“**Option**”) that expires on December 31, 2024, including applicable extensions. On _____, 2023, the City’s Board of Supervisors and the Mayor approved Resolution No. _____, approving the form of this ground lease and authorizing the City to enter into this ground lease with the Tenant to develop and construct the Project on the Land.

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

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

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

ARTICLE 1 DEFINITIONS

Terms used herein have the meanings given them when first used or as set forth in this ARTICLE 1, unless the context clearly requires otherwise. Whenever an Attachment is referenced, it means an attachment to this Ground Lease unless otherwise specifically identified. Whenever a section, article, or paragraph is referenced, it is a reference to this Ground Lease unless otherwise specifically referenced.

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

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

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

“**CalHFA**” means the California Housing Finance Agency.

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

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

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

“**Commercial Project Fees**” means the developer fee associated with the development of the Commercial Unit(s) in the amount of \$36,081.

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

“Commercial Surplus Cash” means Commercial Income minus Commercial Expenses for a given period. **“Commercial Space”** has the meaning set forth in Recital C, above.

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

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

“DAS” means the Department of Disability and Aging Services.

“DDS” means the California Department of Developmental Services.

“Disability Community Cultural Center” or **“DCCC”** means the commercial public benefit space developed in partnership with DAS and anticipated to occupy the Commercial Space.

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

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

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

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

“GGRC” means Golden Gate Regional Center, a state- and federal-funded nonprofit organization which provides services and supports to individuals with developmental disabilities in San Francisco, San Mateo and Marin counties.

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

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

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

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

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

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

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

“Lease Year” means each calendar year during the Term, beginning on January 1 and ending on December 31, provided that the first Lease Year will commence on the Effective Date and continue through December 31st of that same calendar year and the last Lease Year will end upon the expiration of the Term.

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

“Leasehold Mortgage” means any mortgage, deed of trust, trust indenture, letter of credit, or other security instrument, and any assignment of the rents, issues, and profits from the Land or any portion thereof (as amended, modified, restated, and/or supplemented), that constitutes a lien on the Leasehold Estate and is approved in writing by the City.

“Lender” means any entity holding a Leasehold Mortgage.

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

“Low-Income Households” means: (a) for a term of fifty-five (55) years from the date on which a final Certificate of Occupancy is issued for the Project, a tenant household with combined initial income that does not exceed eighty percent (80%) of Area Median Income; and (b) for any period of the Term thereafter, a tenant household with combined initial income that does not exceed eighty percent (80%) of area median income, as published by TCAC. **“MOHCD”** means the Mayor’s Office of Housing and Community Development for the City.

“MOHCD Declaration of Restrictions” means that certain Declaration of Restrictions and Affordable Housing Covenants dated _____, 2023, executed by Tenant for the benefit of the City, and recorded in the Official Records of San Francisco County.

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

“Non-residential Occupant” means any person or entity authorized by the Tenant to occupy any portion of the Premises for non-residential purposes.

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

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

“Personal Property” means all fixtures, furniture, furnishings, equipment, machinery, supplies, software and other tangible personal property that is located in, on, or about the Premises and that can be removed from the Premises without substantial economic loss to the Premises or substantial damage to the Premises and that is incidental to the ownership, development, or operation of the Improvements or the Premises, belonging to the Tenant, any

Residential Occupant, any Non-residential Occupant, or any subtenant or other occupant of the Premises and/or in which the Tenant, Residential Occupant, Non-residential Occupant, or any subtenant or other occupant has an ownership interest, together with all present and future attachments, replacements, substitutions, and additions thereto or therefor.

“Premises” means the Land and all Improvements.

“Project” is defined in Recital C.

“Project Expenses” means the following costs, which may be paid from Project Income in the following order of priority to the extent of available Project Income: (a) all charges incurred in the operation of the Project for utilities, real estate and/or possessory interest taxes, assessments, and liability, fire, and other hazard insurance premiums required under this Agreement or by other lenders providing secured financing for the Project; (b) salaries, wages, and other compensation due and payable to the employees or agents of the Tenant who maintain, administer, operate, or provide services in connection with the Project, including all withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments required for such employees; (c) required payments of interest, principal, annual servicing fees and other amounts, if any, on any construction or permanent financing secured by the Tenant’s leasehold interest in the Project that has been approved by the City, in order of priority of the financing (so that amounts then due and owing to the senior secured lender providing financing secured by the Tenant’s leasehold interest in the Land is paid in full first prior to the payment of any amounts due to other secured lenders); (d) annual monitoring fee and all other expenses actually incurred by the Tenant to cover routine operating and services provision costs of the Project, including maintenance and repair and the reasonable fee of any managing agent; (e) annual Base Rent payments; (f) deposits to reserves accounts required to be established under the Loan Documents; (g) the approved annual asset management fees indicated in the Annual Operating Budget and approved by the City, and (h) any extraordinary expenses as approved in advance by the City (other than expenses paid from any reserve account), and (i) supportive services including service coordination.

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

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

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

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

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

“Section 811 PRAC” means HUD Section 811 Supportive Housing for Persons with Disabilities program rental assistance contract authorized by the Frank Melville Supportive Housing Investment Act of 2010 and provided through a collaborative partnership with the California Housing Finance Agency (CalHFA).

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

“Tenant” means The Kelsey Civic Center, L.P., a California limited partnership, and its successors and assigns (or a Subsequent Owner, where appropriate).

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

“Very Low-Income Households” means: (a) for a term of fifty-five (55) years from the date on which a final Certificate of Occupancy is issued for the Project, a tenant household with combined initial income that does not exceed fifty percent (50%) of Area Median Income; and (b) for any period of the Term thereafter, a tenant household with combined initial income that does not exceed eighty percent (80%) of area median income, as published by TCAC.

ARTICLE 2 TERM

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

2.02 Option for Extension. Provided that the Tenant is not in default under the terms of this Ground Lease and the Loan Documents beyond any notice, grace, or cure period either at the time of giving of an Extension Notice under Section 2.03 below, or on the last day of the Term (the **“Initial Termination Date”**), Tenant is granted an option to extend the Term for one twenty-four (24) year period, as provided in this Article. If the Term is extended pursuant to this Section, all references in this Ground Lease to the **“Term”** will mean the Term as extended by such extension period. Upon Tenant’s written exercise of this option under Section 2.03, the Term will automatically be extended for twenty-four (24) years from the Initial Termination Date for a Term not to exceed ninety-nine (99) years, provided that Tenant is not in default under the terms of this Ground Lease and the Loan Documents beyond any notice, grace, or cure period on the Initial Termination Date.

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

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

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

ARTICLE 3 FINANCIAL ASSURANCE

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

ARTICLE 4 RENT

4.01 Annual Rent

4.01(a) Tenant will pay to the City up to [\$_____] (the "**Annual Rent**") per year for each year of the Term of this Ground Lease. Annual Rent consists of Base Rent and Residual Rent, as defined in Section 4.02 below, without offset of any kind (except as otherwise permitted by this Ground Lease) and without necessity of demand, notice, or invoice. Annual Rent will be re-determined on the fifteenth (15th) anniversary of the date of the first payment of Base Rent pursuant to Section 4.02(a) below and every fifteen (15) years thereafter, and will be equal to ten percent (10%) of the appraised fair market value of the Land as determined by an MAI appraiser selected by and at the sole cost of the Tenant. Any such adjustment will be made to the Residual Rent and not to the Base Rent.

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

4.02 Base Rent

4.02(a) “**Base Rent**” means, in any given Lease Year, Fifteen Thousand Dollars (\$15,000) per annum; provided, however, that if the Tenant or any Subsequent Owner fails, after notice and opportunity to cure, to comply with the provisions of Section 9.01, then Base Rent will be increased to the full amount of Annual Rent. Base Rent will be due and payable in arrears on January 31st of each Lease Year; provided that the first Base Rent payment will not be due until January 31st of the calendar year following the First Lease Payment Year. Additionally, if a Subsequent Owner elects under Section 26.06(b) to operate the Project without being subject to Section 9.01, then Annual Rent will be adjusted as provided in Section 26.07.

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

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

4.03 Residual Rent. “**Residual Rent**” means, in any given Lease Year, up to [\$_____] subject to any periodic adjustments under Section 4.01(a). Residual Rent will be due in arrears on July 15 following each Lease Year. Except as otherwise provided in Section 26.07(a), Residual Rent will be payable only to the extent of Residual Receipts as provided in Section 6.02(g) below and after full repayment of the MOHCD Loan, and any unpaid Residual Rent will not accrue. In the event that in any year Residual Receipts is insufficient to pay the full amount of the Residual Rent, Tenant will certify to the City in writing by July 15 that available Residual Receipts is insufficient to pay Residual Rent and Tenant will provide to City any supporting documentation reasonably requested by the City to allow City to verify the insufficiency.

4.04 Triple Net Lease. This Ground Lease is a triple net lease and the Tenant will be responsible to pay all costs, charges, taxes, impositions, and other obligations related to the Premises accruing after the Effective Date. If the City pays any such amounts, whether to cure a default or otherwise protect its interests hereunder, the City will be entitled to be reimbursed by Tenant the full amount of such payments as additional rent within thirty (30) days of written demand by the City. Failure to timely pay the additional rent will be a default by Tenant of this Ground Lease. No occurrence or situation arising during the Term, or any Law, whether foreseen or unforeseen, and however extraordinary, relieves Tenant from its liability to pay all of the sums required by any of the provisions of this Ground Lease, or otherwise relieves Tenant from any of its obligations under this Ground Lease, or gives Tenant any right to terminate this Ground Lease in whole or in part.

4.05 Tenant's Compliance with City Business and Tax and Regulations Code. Tenant acknowledges that under Section 6.10-2 of the San Francisco Business and Tax Regulations Code, the City Treasurer and Tax Collector may require the withholding of payments to any vendor that is delinquent in the payment of any amounts that the vendor is required to pay the City under the San Francisco Business and Tax Regulations Code. If, under that authority, any payment City is required to make to Tenant under this Ground Lease is withheld, then City will not be in breach or default under this Lease, and the Treasurer and Tax Collector will authorize release of any payments withheld under this paragraph to Tenant, without interest, late fees, penalties, or other charges, upon Tenant coming back into compliance with its San Francisco Business and Tax Regulations Code obligations.

ARTICLE 5 CITY COVENANTS

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

ARTICLE 6 TENANT COVENANTS

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

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

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

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

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

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

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

6.02(e) Equal Opportunity Marketing and Selection Plan. No later than six (6) months before completion of the Project, Tenant will deliver to MOHCD for MOHCD's review and approval an affirmative plan for initial and ongoing marketing of the Residential Units and a written Residential Occupant selection procedure for initial and ongoing renting of the Residential Units based on MOHCD's then-current form of marketing and tenant selection plan (the “**Marketing and Tenant Selection Plan**”), all in compliance with the restrictions set forth in Section 9.01 and in form and substance acceptable to the City. Any Marketing and Tenant Selection Plan must follow the City's marketing requirements for such plans and comply with all federal and state fair housing laws.

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

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

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

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

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

ARTICLE 7 ANNUAL INCOME COMPUTATION, AND CERTIFICATION

Upon written request by the City, Tenant will furnish to the City a list of the persons who are Residential Occupants, the specific unit that each person occupies, the household income of the Residential Occupants of each unit, the household size and the rent being charged to the Residential Occupants of each unit along with an income certification, in the form set forth in Attachment 5, for each Residential Occupant. In addition, each Residential Occupant must be required to provide any other information, documents, or certifications deemed necessary by the City to substantiate the Residential Occupant's income. If any state or federal agency requires an income certification for Residential Occupants containing the above-referenced information, the City will accept such certification in lieu of Attachment 5 as meeting the requirements of this Ground Lease. In addition to such initial and annual list and certification, Tenant will provide the same information and certification to the City regarding each Residential Occupant by no later than twenty (20) business days after such Residential Occupant commences occupancy.

ARTICLE 8 CONDITION OF SITE—“AS IS”

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

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

8.03 Presence of Hazardous Substances. California law requires landlords to disclose to tenants the presence of certain Hazardous Substances. Tenant is advised that the Land may contain lead and asbestos per the initial lead and asbestos assessment conducted by Acumen Industrial Hygiene dated October 2020, as well as elevated concentrations of heavy metals and benzo(a)pyrene per the Phase II Environmental Site Assessment investigation performed by Langan Engineering and Environmental Services, Inc., dated March 24, 2022 resulting in a needed Site Mitigation Plan (SMP) and a Health and Safety Plan (HASP) prior to construction. As a result of the presence of PCE in soil vapor at a concentration exceeding the applicable regulatory threshold, the proposed structure is being designed to mitigate against potential vapor intrusions from soil gas into indoor air with a passive vapor barrier.

8.04 Reserved.

ARTICLE 9 PERMITTED AND PROHIBITED USES

9.01 Permitted Uses and Occupancy Restrictions. The permitted uses of the Project (in each instance, a “**Permitted Use**” and collectively, “**Permitted Uses**”) are limited to the development, construction, and operation of one hundred ten (110) units of affordable rental housing for Qualified Households and 2 manager’s units, including 28 units reserved for people with disabilities who are eligible to receive home and community-based services, benefiting from the inclusion of fourteen (14) units of Section 811 PRA rental subsidy or similar subsidy (collectively, the “**Residential Units**”) which will receive tenant referrals from GGRC, the Commercial Space, and common areas. Upon the completion of construction of the Project, one hundred percent (100%) of the Residential Units in the Project (excluding the two manager’s units) will be occupied by or available for rental by Residential Occupants certified as Qualified Households, as set forth in MOHCD’s Declaration of Restrictions and any amendments thereto mutually agreed upon by the parties. In addition, twenty eight (28) of the Residential Units will be set aside for households who are eligible to receive home and community-based services. 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. The Commercial Unit may be used for the DCCC or other Community Serving Purposes, or with the approval of the City, which may not be unreasonably withheld, for Commercial Use. All leases of Commercial Space must be approved in advance by MOHCD, which approval will not be unreasonably withheld.

9.01(b) Non-Residential Space. A portion of the Project may be occupied by Non-residential Occupants for the purpose of providing services or amenities to Residential Occupants with the prior written approval of the City, which may not be unreasonably withheld. All leases or use agreements for such space must be approved in advance by MOHCD, which approval will not be unreasonably withheld.

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

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

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

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

9.02(d) any activity that constitutes waste or nuisance, including, but not limited to, the preparation, manufacture or mixing of anything that might emit any objectionable

odors, noises, or lights onto adjacent properties, or the use of loudspeakers or sound or light apparatus that can be heard or seen outside the Premises;

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

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

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

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

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

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

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

ARTICLE 10 SUBDIVISION; CONSTRUCTION OF IMPROVEMENTS

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

10.02 Reserved.

10.03 General Requirements and Rights of the City. All construction documents, including but not limited to preliminary and final plans and specifications for the construction of the Improvements by Tenant (collectively the “**Construction Documents**”) must be prepared by a person registered in and by the State of California to practice architecture and must be in conformity with this Ground Lease, including any limitations established in the City’s reasonable approval of the schematic drawings, if any, preliminary construction documents, and final construction documents for the Premises, and all applicable Laws. The architect will use, as necessary, members of associated design professions, including engineers and landscape architects. Notwithstanding anything to the contrary contained in this ARTICLE 10, the City hereby acknowledges that for purposes of this Ground Lease, the final Construction Documents for the Project have been approved as of the Agreement Date.

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

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

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

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

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

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

10.06 Approval of Construction Documents by the City. Tenant will submit and the City will approve or disapprove the Construction Documents referred to in this Ground Lease within the times established in the Schedule of Performance attached hereto as Attachment 2, so long as each set of the applicable Construction Documents are complete and properly submitted within the time frames set forth in the Schedule of Performance attached hereto as Attachment 2. Failure by the City either to approve or disapprove within the times established in the Schedule of Performance attached hereto as Attachment 2 will entitle Tenant to a day-for-day extension of time for completion of any activities delayed as a direct result of the City's failure to timely approve or disapprove the Construction Documents. The City hereby acknowledges that, as Landlord under this Ground Lease, as of the Agreement Date, the City has approved the Construction Documents for the Project.

10.07 Disapproval of Construction Documents by the City. If the City disapproves the Construction Documents in whole or in part as not being in compliance with this Ground Lease, Tenant will submit new or corrected Construction Documents which are in compliance within thirty (30) days after written notification to it of disapproval, and the provision of this section relating to approval, disapproval and re-submission of corrected Construction Documents will continue to apply until the Construction Documents have been approved by the City; provided, however, that in any event Tenant must submit satisfactory Construction Documents (*i.e.*, approved by the City) no later than the date specified therefor in the Schedule of Performance attached hereto as Attachment 2.

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

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

10.10 City Approval of Changes after Commencement of Construction. Tenant may not approve or permit any change to the Construction Documents approved by the City without the City's prior written consent. Tenant must provide adequate and complete backup documentation for analysis of the appropriateness of the change order request to the City. This backup documentation shall include confirmation that the Change has been reviewed, vetted/negotiated and accepted by (with modifications where appropriate) the Tenant and architect/engineer prior to submission to the City. Questions, comments or requests for additional information shall be issued by the City within five (5) business days of receipt of change order request. City shall promptly review and accept or deny change order requests within ten (10) business days of a complete submission by Borrower. In the event the City requests further information, the period will be extended by five (5) business days from receipt of that information. In the event the City fails to accept, deny or issue request for further information related to the change order request

within such ten (10) business day period, the change order shall be deemed accepted. If the City denies the change order request, it shall specify the reasons for the denial in writing. Tenant shall submit on a monthly basis or as requested by MOHCD, a contingency balance report (in Excel format or equivalent) which documents all Changes as approved, pending, or under review.

10.11 Times for Construction. Tenant agrees for itself, and its successors and assigns to or of the Leasehold Estate or any part thereof, that Tenant and such successors and assigns will promptly begin and diligently prosecute to completion the development and construction of the Improvements on the Land, and that such development and construction will be completed no later than the dates specified in the Schedule of Performance attached hereto as Attachment 2, subject to force majeure, unless such dates are extended by the City.

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

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

10.14 Access to Site. As of the Effective Date and until the City issues a NOC (as defined in Section 10.15 below), Tenant will permit access to the Land to the City whenever and to the extent necessary to carry out the purposes of the provisions of this Ground Lease, at reasonable times and upon reasonable advance notice, and on an emergency basis without notice

whenever the City believes that emergency access is required. After the City's issuance of a NOC, access to the Premises will be governed by ARTICLE 24, below.

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

10.16 Completion of Improvements by New Developer. In the event a Lender forecloses, obtains a deed in lieu of foreclosure, or a Subsequent Owner otherwise realizes on the Premises and undertakes development and construction of the Improvements (“**New Developer**”): (a) the New Developer will not be bound by the provisions of the Schedule of Performance attached hereto as Attachment 2 with respect to any deadlines for the completion of the Improvements but will only be required to complete the Improvements with due diligence and in conformance with a new Schedule of Performance as agreed upon by the New Developer and the City; (b) the New Developer will only be required to complete the Improvements in accordance with all applicable building codes and ordinances, and the approved Construction Documents with such changes that are mutually agreed upon by the City and the New Developer under the following clause (c); and (c) the City and the New Developer will negotiate in good faith such reasonable amendments and reasonable modifications to ARTICLE 10 of this Ground Lease as the parties mutually determine to be reasonably necessary based on the financial and construction conditions then existing.

ARTICLE 11 RESERVED.

ARTICLE 12 CHANGES TO THE IMPROVEMENTS

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

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

for use as a Disability Community Cultural Center pursuant to the Ground-Level Commercial Lease dated substantially concurrently herewith by and between Tenant, as landlord, and The Kelsey Civic Center LLC, a California limited liability company, as tenant.

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

ARTICLE 13 TITLE TO IMPROVEMENTS

The City acknowledges that fee title to the Improvements will be vested in Tenant for the Term of this Ground Lease. It is the intent of the Parties that this Ground Lease and the Memorandum of Ground Lease will create a constructive notice of severance of the Improvements from the Land without the necessity of a deed from Lessor to Lessee. The City and Tenant agree that fee title to the Improvements will remain vested in Tenant during the Term, subject to Section 14.01 below; provided, however, that, subject to the rights of any Lenders and as further consideration for the City entering into this Ground Lease, at the expiration or earlier termination of this Ground Lease, fee title to all the Improvements will vest in the City without further action of any party, without any obligation by the City to pay any compensation to Tenant, and without the necessity of a deed from Tenant to the City. Without limiting the effectiveness of the previous sentence, upon the City's written request, on expiration or sooner termination of this Ground Lease, Tenant will execute and deliver to the City an acknowledged and good and sufficient grant deed conveying to the City Tenant's fee interest in the Improvements.

ARTICLE 14 ASSIGNMENT, SUBLEASE, OR OTHER CONVEYANCE

14.01 Assignment, Sublease, or Other Conveyance by Tenant. Tenant will not cause or permit any voluntary transfer, assignment, or encumbrance of its Leasehold Estate or its interest in the Premises or of any ownership interests in Tenant, or lease or permit a sublease on all or any part of the Premises, other than: (a) leases, subleases, or occupancy agreements to Residential Occupants and Non-residential Occupants; (b) liens and security interests for the benefit of lenders securing loans for the Project as approved by the City on terms and in amounts as approved by the City in its reasonable discretion; (c) transfers of the general partnership or manager's interest in Tenant to a nonprofit public benefit corporation approved in advance by the City; (d) transfers of any limited partnership or membership interest in Tenant to an investor under the tax credit syndication of the Project; (e) the grant or exercise of an option agreement between Borrower and Borrower's general partner or manager or any of its affiliates where such agreement has been previously approved in writing by the City; (f) transfer to Lender(s) or affiliates of Lender(s) through foreclosure or deed in lieu of foreclosure as provided in this Ground Lease; or (g) to remove or replace the General Partner in accordance with the terms of the Partnership Agreement, a transfer of any general partnership interest to a new general partner approved in advance by the City. Any other transfer, assignment, encumbrance, or lease without the City's prior written consent will be voidable and, at the City's election, constitute a default under this Agreement. The City's consent to any specific assignment, encumbrance, lease, or other transfer will not constitute its consent to any subsequent transfer or a waiver of any of the

City's rights under this Ground Lease. Tenant will provide any background or supporting documentation that the City may require in assessing Tenant's request for approval. Tenant will submit to the City for review and, comment, and approval all leases to Non-residential Occupants if so required under Section 9.01, above, together with any supporting documentation as the City may reasonably request to demonstrate such Non-residential Occupant's ability to pay rent and that the proposed Non-residential leases comply with this Ground Lease.

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

ARTICLE 15 TAXES

Tenant will pay, or cause to be paid, before delinquency to the proper authority, any and all valid taxes, assessments, and similar charges on the Premises that become effective after the Effective Date of this Ground Lease, including all real and personal property taxes, real property transfer taxes, general and special assessments, real property transfer taxes, license fees, permit fees and all other governmental charges of any kind or nature whatsoever, including without limitation all penalties and interest thereon, levied or assessed on the Premises, on Tenant's Property, the leasehold or subleasehold estate or Tenant's use of the Premises, or any transfer of a leasehold interest or subleasehold interest in the Premises (including but not limited to, any transfer of the leasehold interest in the Premises pursuant to this Lease) whether under Laws in effect at the time this Lease is entered into or that become later effective, and all taxes levied or assessed on the possession, use, or occupancy of the Land. Tenant will not permit any taxes, assessments, or other similar charges to become a defaulted lien on the Premises; provided, however, that in the event any tax, assessment, or similar charge is payable in installments, Tenant may make, or cause to be made, payment in installments; and, provided further, that Tenant may contest the legal validity or the amount of any tax, assessment, or similar charge, through any proceeding Tenant considers reasonably necessary or appropriate, and Tenant may defer the payment so long as the validity or amount is contested by Tenant in good faith and without expense to the City. If Tenant contests a tax, assessment, or other similar charge, then Tenant will protect, defend, and indemnify the City against all Claims resulting from the contest, and if Tenant is unsuccessful in the contest, Tenant will immediately pay, discharge, or cause to be paid or discharged, the tax, assessment, or other similar charge. The City will furnish any information Tenant may reasonably request in connection with a contest, so long as that information is in the City's possession or control or is otherwise available to the public. The City consents to and will reasonably cooperate and assist with Tenant applying for and obtaining any applicable exemptions from taxes, or assessments, or other similar charges levied on the Premises, or on Tenant's interest therein. Tenant will have no obligation under this Section before the Effective Date, including, but not limited to, any taxes, assessments, or other similar charges levied against the Land that are incurred before the Effective Date.

ARTICLE 16 UTILITIES

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

ARTICLE 17 MAINTENANCE AND OPERATION

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

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

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

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

17.05 City's Right to Repair. If Tenant fails to maintain or to promptly repair any damage as required by this Ground Lease (subject to the notice and cure provisions in Section 19.03, except in the event of an emergency as reasonably determined by the City), the City may repair the damage at Tenant's sole cost and expense and Tenant will immediately reimburse the City for all costs of the repair.

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

ARTICLE 18 LIENS

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

ARTICLE 19 GENERAL REMEDIES

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

19.02 Breach by the City. If Tenant believes that the City has materially breached this Ground Lease, Tenant will first notify the City in writing of the purported breach, giving the City ninety (90) days from receipt of such notice to cure the breach. If the City does not cure the breach within the 90-day period, or, if the breach is not reasonably susceptible to cure within that ninety (90) day period, begin to cure within ninety (90) days and diligently prosecute then cure to completion, then Tenant will have all of its rights at law or in equity by taking any or all of the following remedies: (i) terminating in writing this entire Ground Lease with the written consent of each Lender; (ii) prosecuting an action for damages; (iii) seeking specific performance of this Ground Lease; or (iv) any other remedy available at law or equity.

19.03 Breach by Tenant.

19.03(a) Default by Tenant

Subject to the notice and cure rights under Sections 19.03(b) and **Error! Reference source not found.**, the following events each constitute a basis for the City to take action against Tenant:

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

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

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

(iv) Tenant is adjudicated bankrupt or insolvent or makes a transfer to defraud its creditors, or makes an assignment for the benefit of creditors, or brings or is brought against Tenant any action or proceeding of any kind under any provision of the Federal Bankruptcy Act or under any other insolvency, bankruptcy, or reorganization act and, in the event such proceedings are involuntary, Tenant is not dismissed from the proceedings within sixty (60) days thereafter; or, a receiver is appointed in an insolvency proceeding 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 and each Lender in writing of the Tenant's purported breach, failure, or act in accordance with the notice provisions of ARTICLE 38, giving Tenant sixty (60) days from the giving of the notice to cure such breach, failure, or act. The City agrees to accept cure by the Lender, as applicable, as if such cure were made by Tenant. If Tenant or any Lender does not cure or, if the breach, failure, or act is not reasonably susceptible to cure within that sixty (60) day period, begin to cure within sixty (60) days and diligently prosecute such cure to completion, then, subject to the rights of any Lender and subject to Section **Error! Reference source not found.** and ARTICLE 26, the City will have all of its rights at law or in equity, including, but not limited to

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

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

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

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

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

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

19.04 Intentionally Omitted.

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

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

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

ARTICLE 20 DAMAGE AND DESTRUCTION

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

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

Premises as nearly as possible to their condition before the damage or destruction in accordance with the provisions of Section 20.01 and will, subject to any applicable rights of Lenders, be entitled to all available insurance proceeds to do so.

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

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

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

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

20.03(d) The remainder to Tenant.

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

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

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

21.01 Damage to Person or Property—General Indemnification. City will not in any event whatsoever be liable for any injury or damage to any person happening on or about the Premises, for any injury or damage to the Premises, or to any property of Tenant, or to any property of any other person, entity, or association on or about the Premises, unless arising from the active gross negligence or willful misconduct of the City or any of its commissioners, officers, agents, or employees. Tenant will defend, hold harmless, and indemnify the City including, but not limited to, its boards, commissions, commissioners, departments, agencies,

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

21.02 Hazardous Substances—Indemnification.

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

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

(i) “**Hazardous Substance**” has the meaning set forth in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended as of the date of this Ground Lease, 42 U.S.C. 9601(14), and in addition includes, without limitation, petroleum (including crude oil or any fraction thereof) and petroleum products, asbestos, asbestos-containing materials, polychlorinated biphenyls (“**PCBs**”), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code 25316 and 25281(d), all chemicals listed under the California Health & Safety Code 25249.8, and any

substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition does not include substances that occur naturally on the Land or commercially reasonable amounts of hazardous materials used in the ordinary course of construction and operation of a mixed use development, provided they are used and stored in accordance with all applicable Laws.

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

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

21.03 Exculpation and Waiver. Tenant, as a material part of the consideration to be rendered to the City, hereby waives any and all Claims against the City related to its approval of this Ground Lease or rights or obligations as landlord under this Ground Lease, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, but excluding any Claims caused solely by the Indemnified Parties' willful misconduct or active gross negligence. The Indemnified Parties will not be responsible for or liable to Tenant, and Tenant hereby assumes the risk of, and waives and releases the Indemnified Parties from all Claims against the City related to its approval of this Ground Lease or rights or obligations as landlord under this Ground Lease for, any injury, loss, or damage to any person or property in or about the Premises by or from any cause whatsoever occurring on or after the Effective Date including, without limitation, (a) any act or omission of persons occupying adjoining premises or any part of the Premises adjacent to or connected with the Premises, (b) theft, (c) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (d) stopped, leaking, or defective building systems, (d) construction or Premises defects, (f) damages to goods, wares, goodwill, merchandise, equipment, or business opportunities, (g) Claims by persons in, on or about the Premises or any other City property for any cause arising at any time, (h) alleged facts or circumstances of the process or negotiations leading to this Ground Lease before the Effective Date and (i) any other acts, omissions, or causes.

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

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR

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

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

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

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

ARTICLE 22 INSURANCE

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

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

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

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

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

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

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

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

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

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

(i) General Liability: Commercial General Liability insurance with no less than Two Million Dollars (\$2,000,000) combined single limit per occurrence and Four Million Dollars (\$4,000,000) annual aggregate limit for bodily injury and property damage, including coverage for blanket contractual liability (including tort liability and of another party and Tenant's liability of injury or death to persons and damage to property set forth in Section 21.01 above); personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; products and completed operations; broad form property damage; and explosion, collapse and underground (XCU) coverage during any period in which Tenant is conducting any activity on, alteration or improvement to the Land with risk of explosion, collapse, or underground hazards.

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

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

(iv) Professional Liability: Professional Liability insurance of no less than Two Million Dollars (\$2,000,000) per claim and Four Million Dollars (\$4,000,000) annual aggregate limit covering all negligent acts, errors, and omissions of Tenant's architects, engineers, and surveyors. If the Professional Liability Insurance provided by the architects, engineers, or surveyors is "claims made" coverage, Tenant must assure that these minimum limits are maintained for no less than three (3) years beyond completion of the construction or remodeling.

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

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

(vii) Property Insurance:

(1) Before construction: Intentionally Omitted

(2) During the course of construction:

i. Builder's risk insurance, special form coverage, excluding earthquake, 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.

(3) Upon completion of construction:

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

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

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

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

(i) General Liability and Automobile Liability Coverage: The "City and County of San Francisco and their respective commissioners, members, officers, agents, and employees" are to be covered as additional insured with respect to: liability arising out of

activities performed by or on behalf of the Tenant related to the Project; products and completed operations of the Tenant, premises owned, occupied or used by the Tenant related to the Project; and automobiles owned, leased, hired, or borrowed by the Tenant for the operations related to the Project. The coverage may not contain any special limitations on the scope of protection afforded to the City and its Commissioners, members, officers, agents, or employees.

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

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

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

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

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

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

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

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

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

(7) The City reserves the right to require an increase in insurance coverage if the City determines that conditions (including, but not limited to, property conditions, market conditions, or commercially reasonable practice) show cause for an increase,

unless Tenant demonstrates to the City's satisfaction that the increased coverage is commercially unreasonable and unavailable to Tenant.

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

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

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

ARTICLE 23 COMPLIANCE WITH APPLICABLE LEGAL REQUIREMENTS

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

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

Tenant understands that the development and construction of the Improvements on the Land and development of the Project will require approval, authorization, or permit by governmental agencies with jurisdiction, which may include the City's Planning Commission and/or Zoning Administrator and the Department of Building Inspection. Tenant must use good

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

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

ARTICLE 24 ENTRY

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

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

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

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

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

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

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

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

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

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

ARTICLE 25 MORTGAGE FINANCING

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

25.02 Holder Not Obligated to Construct. The holder of any mortgage, deed of trust, or other security interest authorized by Section 25.01 ("**Holder**" or "**Lender**"), including the successors or assigns of the Holder, is not obligated to complete any development and construction of the Improvements or to guarantee such completion; and no covenant or any other provision of this Ground Lease may be construed to obligate the Holder. However, if the Holder undertakes to complete or guarantee the completion of the development and construction of the Improvements, except as provided in Section 26.06(b), nothing in this Ground Lease will be

deemed or construed to permit or authorize the Holder or its successors or assigns to devote the Premises or any portion thereof to any uses, or to construct any Improvements on the Land, other than those authorized under Section 9.01 and any reasonable modifications in plans proposed by the Holder or its successors in interest proposed for the viability of the Project approved by the City in its reasonable discretion under Section 10.16. Except as provided in Section 26.06(b), to the extent any Holder or its successors in interest wish to change such uses or construct different improvements, Holder or its successors in interest must obtain the advance written consent of the City.

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

25.04 Default by Tenant and the City's Rights.

25.04(a) Right of City to Cure a Default or Breach by Tenant under a Leasehold Mortgage. In the event of a default or breach by Tenant under any Leasehold Mortgage, and Tenant's failure to timely commence or diligently prosecute cure of the default or breach, the City may, at its option, cure the breach or default during the one hundred ten (110) days after the date that the Lender files a notice of default. If the City undertakes to cure the default or breach, then the City will be entitled to reimbursement from Tenant of all costs and expenses reasonably incurred by the City. The City will also be entitled to a lien on the Leasehold Estate to the extent Tenant does not reimburse the costs and expenses. City's lien will be subject to the lien of any then-existing Leasehold Mortgage authorized by this Ground Lease, including any lien contemplated because of advances yet to be made. After ninety (90) days following the date of Lender filing a notice of default and expiration of all applicable cure periods under the terms of the applicable loan documents (but prior to any foreclosure sale (or deed in lieu thereof) with respect to a Leasehold Mortgage), the City will also have the right to assign Tenant's interest in the Ground Lease to another entity, subject to all Lenders' written consents, and which consent may be conditioned, among other things, on the assumption by the other entity of all obligations of the Tenant under the Leasehold Mortgage.

25.04(b) Notice of Default to City. Tenant will require Lender to give the City prompt written notice of any default or breach of the Leasehold Mortgage and each Leasehold Mortgage (or, alternatively, a subordination agreement with Landlord relating to such Leasehold Mortgage) will provide for that notice to the City and contain the City's right to cure as above set forth.

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

ARTICLE 26 PROTECTION OF LENDER

26.01 Notification to the City. Promptly on the creation of any Leasehold Mortgage and as a condition precedent to the existence of any of the rights set forth in this ARTICLE 26, Tenant will cause each Lender to give written notice to the City of the Lender's address and of the existence and nature of its Leasehold Mortgage. Execution of Attachment 3 will constitute City's acknowledgement of Lender's having given such notice as is required to obtain the rights and protections of a Lender under this Ground Lease. The City acknowledges that Silicon Valley Bank is the First Mortgage Lender and is deemed to have given such written notice as First Mortgage Lender and Attachment 3 is not required.

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

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

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

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

26.03(c) All rights of the City to terminate this Ground Lease as the result of the occurrence of any uncured event of default is subject to, and conditioned upon, the City having first given Lender written notice of the event of default and Lender having failed to remedy such default or acquire Tenant's Leasehold Estate or commence foreclosure or other appropriate proceedings in the nature thereof as set forth in and within the time specified by this Section 26.03. Nothing in this Ground Lease will require any Lender to cure any default by Tenant.

26.04 Default That Cannot be Remedied by Lender. Any event of default under this Ground Lease that in the nature thereof cannot be remedied by Lender will be deemed to be

remedied as it pertains to Lender or any Subsequent Owner if (a) within sixty (60) days after receiving notice from the City setting forth the nature of such event of default, Lender has acquired Tenant's Leasehold Estate or has commenced foreclosure or other appropriate proceedings in the nature of foreclosure, (b) Lender is diligently prosecuting any such proceedings to completion, (c) Lender has fully cured any event of default arising from failure to pay or perform any monetary obligation (other than Indemnification Obligations) in accordance with Section 26.03, and (d) after gaining possession of the Improvements, Lender diligently proceeds to perform all other obligations of Tenant as and when due in accordance with the terms of this Ground Lease.

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

26.06 Lender's Rights to Record, Foreclose, and Assign. With respect to any Leasehold Mortgage:

26.06(a) the Lender may cause its Leasehold Mortgage to be recorded and enforced, and upon foreclosure, sell and assign the Leasehold Estate to an assignee from whom it may accept a purchase price; subject, however, to Lender's first securing written approval from City, which approval will not be unreasonably withheld (provided, however, no such approval will be required in the event of a sale through foreclosure of a Leasehold Mortgage (or deed in lieu of foreclosure)), and if the Subsequent Owner has elected to maintain the use restrictions of ARTICLE 9, the Subsequent Owner must be controlled by a California nonprofit public benefit corporation exempt from tax under Section 501(c)(3) of the Internal Revenue Code so that the Premises receive an exemption from state property taxes as provided under Section 214 of the California Revenue and Taxation Code (to the extent such exemption is then available). Furthermore, Lender may acquire title to the Leasehold Estate in any lawful way, and if the Lender becomes the assignee, then Lender may sell and assign the Leasehold Estate subject to City approval (which may not be unreasonably withheld).

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 112 Residential Units without any limitations on the rents charged or the income of the occupants thereof, subject to any applicable regulatory agreement, restrictive covenant, or other encumbrance, including, but not limited to, the MOHCD Declaration of Restrictions;

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

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

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

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

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

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

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

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

26.09(c) if a Lender makes written request to the City for a new ground lease within thirty (30) days after Lender receives written notice of termination of this Ground Lease for any reason (including without limitation by reason of any default by Tenant or by reason of the disaffirmance thereof by a receiver, liquidator or trustee for Tenant or its property), then the City will enter a new ground lease with the Lender commencing on the date of termination of this Ground Lease and ending on the normal expiration date of this Ground Lease, on substantially the same terms and conditions as this Ground Lease and subject to the rent provisions set forth in Section 26.07, and with the same priority as against any subleases or other interests in the Premises; so long as the Lender cures all unpaid monetary defaults under this Ground Lease (other than Indemnification Obligations), through the date of such termination, and the tenant under the new lease will have the same right, title and interest in and to the Improvements as Tenant had under the terminated Lease immediately prior to its termination. Nothing herein contained will require any Lender to enter into a new lease pursuant to this Article 26, nor to cure any default of Tenant referred to above. Any new lease made pursuant to this Article 26 will be accompanied by a conveyance of title to the Improvements (free of any mortgage, deed of trust, lien, charge, or encumbrance created by Landlord) and will have a term of years equal to the remaining term of this Ground Lease as of the date of termination, subject to the reversion in favor of Landlord upon expiration or sooner termination of the new lease;

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

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

26.11 City Bankruptcy.

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

26.11(b) The City acknowledges that (i) the Tenant seeks to construct the Improvements on the Premises Land using proceeds of the loans provided by the Lenders, and (ii) it would be unfair to both the Tenant and the Lenders to sell the Premises free and clear of

the Leasehold Estate. Therefore, the City waives its right to sell the City's fee interest in the Land under section 363(f) of the Bankruptcy Code, free and clear of the Leasehold Estate.

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

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

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

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

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

26.12 Intentionally Omitted..

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

ARTICLE 27 CONDEMNATION AND TAKINGS

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

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

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

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

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

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

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

27.07(a) First, to pay the balance due on any obligations secured by any outstanding Leasehold Mortgages (in the order of priority, so that the obligations secured by First Mortgage Lender's Leasehold Mortgage are paid in full first) and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals, and lease residuals, to the extent provided therein; and

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

27.07(c) Third, to the Landlord.

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

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

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

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

ARTICLE 28 ESTOPPEL CERTIFICATE

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

ARTICLE 29 SURRENDER AND QUITCLAIM

29.01 Surrender.

29.01(a) Upon expiration or earlier termination of this Ground Lease, Tenant will surrender to the City the Premises in good order, condition, and repair (except for

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

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

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

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

29.03 Abandoned Property. Any items, including Personal Property, not removed by Tenant on the expiration or termination of this Ground Lease will be deemed abandoned. The City may retain, store, remove, and sell or otherwise dispose of abandoned Personal Property, and Tenant waives all Claims against the City for any damages resulting from the City's retention, removal, and disposition of abandoned Personal Property; provided, however, that Tenant will be liable to the City for all costs incurred in storing, removing, and disposing of abandoned Personal Property and repairing any damage to the Premises resulting from its

removal. The City may elect to sell abandoned Personal Property and offset against the sales proceeds the City's storage, removal, and disposition costs without notice to Tenant or otherwise according to the procedures set forth in California Civil Code Section 1993, the benefits of which Tenant waives.

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

ARTICLE 30 EQUAL OPPORTUNITY

In the selection of all contractors and professional consultants for the Project, Tenant will comply with the applicable requirements of the Local Business Enterprise Utilization and Non-Discrimination in Contracting Ordinance under Administrative Code Chapter 14B ("LBE Ordinance") and will incorporate such requirements in contracts with any Contractors and Subcontractors.

ARTICLE 31 CITY PREFERENCE PROGRAMS

To the extent permitted by applicable Law, Tenant will comply with the requirements of the City's current housing preference programs, as amended from time to time; provided, however, that such requirements will apply only to the extent permitted by the requirements of non-City funding approved by the City for the Project (including but not limited to the Section 811 PRA).

ARTICLE 32 RESERVED

ARTICLE 33 CONFLICT OF INTEREST

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

ARTICLE 34 NO PERSONAL LIABILITY

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

ARTICLE 35 ENERGY CONSERVATION

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

ARTICLE 36 WAIVER

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

ARTICLE 37 TENANT RECORDS

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

ARTICLE 38 NOTICES AND CONSENTS

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

if to Tenant at: The Kelsey Civic Center, L.P.
 c/o Mercy Housing California
 1256 Market Street
 San Francisco, CA 94102
 Attention: President

With a copy to: Gubb & Barshay LLP
235 Montgomery Street, Suite 1110
San Francisco, CA 94104
Attention: Evan Gross

And with a copy to: The Kelsey
1 Sansome Street, Ste. 3500
San Francisco, CA 94103

Attn: Caroline Bas
Email: caroline@thekelsey.org

With a copy to: Lubin Olson & Niewiadomski LLP
600 Montgomery Street, 14th Floor
San Francisco, CA 94111
Attention: Elizabeth S. Anderson, Esq.

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

if to the First Mortgage Lender at:

Silicon Valley Bank
505 Howard Street, 3rd Floor
San Francisco, CA 94105
Attention: Community Development Finance

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

ARTICLE 39 HEADINGS

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

ARTICLE 40 SUCCESSORS AND ASSIGNS

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

ARTICLE 41 TIME

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

ARTICLE 42 PARTIAL INVALIDITY

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

ARTICLE 43 APPLICABLE LAW; NO THIRD PARTY BENEFICIARY

This Ground Lease is governed by and construed under the laws of the State of California. Other than the benefits and rights expressly afforded to the 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 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 Land, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the ground lease contemplated herein. If any broker or finder perfects a claim for a commission or finder's fee

based upon any such contact, dealings, or communication, the party through whom the broker or finder makes a claim will be responsible for such commission or fee and will indemnify, defend and hold harmless the other party from any and all Claims. The provisions of this Section will survive any termination of this Ground Lease.

ARTICLE 47 RECORDATION OF MEMORANDUM OF GROUND LEASE

This Ground Lease may not be recorded, but a memorandum of this Ground Lease will be recorded in the form attached hereto as Attachment 4 (“**Memorandum of Ground Lease**”). The parties will execute the memorandum in form and substance as required by a title insurance company insuring Tenant's leasehold estate or the interest of any Leasehold Mortgagee, and sufficient to give constructive notice of the Ground Lease to subsequent purchasers and mortgagees.

ARTICLE 48 SURVIVAL

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

ARTICLE 49 RESERVED

ARTICLE 50 CITY PROVISIONS

50.01 Non-Discrimination.

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

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

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

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

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

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

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

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

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

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

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

50.08 Compliance with City's Sunshine Ordinance. Tenant understands and agrees that under the City's Sunshine Ordinance (S.F. Admin. Code, Chapter 67) and the State Public

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

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

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

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

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

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

50.10(d) Any sublease entered into by Tenant for commercial space in the Project must require the subtenant to comply with the requirements of the HCAO and must

contain contractual obligations substantially the same as those set forth in this Section. Tenant must notify the City's Purchasing Department when Tenant enters into a sublease and must certify to the Purchasing Department that Tenant has notified the subtenant of the obligations under the HCAO and has imposed the requirements of the HCAO on subtenant through the sublease. Tenant will be responsible for its subtenants' compliance with this Chapter. If a subtenant fails to comply, the City may pursue the remedies set forth in this Section against Tenant based on the subtenant's failure to comply, provided that City has first provided Tenant with notice and an opportunity to obtain a cure of the violation.

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

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

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

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

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

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

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

50.11 Public Access to Meetings and Records. If Tenant receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Tenant must comply with and will be bound by all the applicable provisions of that Chapter. By executing this Ground Lease, Tenant will open its meetings and records to the public in the manner set forth in Sections 12L.4 and 12L.5 of the Administrative Code. Further, Tenant will make good-faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 12L.6 of the Administrative Code. Tenant acknowledges that its material failure to comply with any of the provisions of this paragraph will constitute a material breach of this

Ground Lease. Tenant further acknowledges that such material breach of this Ground Lease will be grounds for City to terminate and/or not renew this Ground Lease, partially or in its entirety.

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

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

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

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

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

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

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

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

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

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

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

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

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

unless (i) such failure is otherwise specifically addressed in this Ground Lease or (ii) such failure is specifically addressed by the applicable code section.

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

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

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

50.20 Criminal History in Hiring and Employment Decisions.

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

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

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

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

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

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

50.20(g) Tenant and subtenants (if any) understand and agree that upon any failure to comply with the requirements of Chapter 12T, the City will have the right to pursue any rights or remedies available under Chapter 12T or this Ground Lease, including but not limited to a penalty of \$50 for a second violation and \$100 for a subsequent violation for each

employee, applicant, or other person as to whom a violation occurred or continued, termination, or suspension in whole or in part of this Ground Lease.

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

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

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

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

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

50.24 Possessory Interest Reporting.

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

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

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

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

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

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

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

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

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

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

ARTICLE 51 COMPLETE AGREEMENT

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

ARTICLE 52 AMENDMENTS

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

financial obligations under this Ground Lease will additionally require the approval of the City's Board of Supervisors.

ARTICLE 53 ATTACHMENTS

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

1. Legal Description of Site
2. Schedule of Performance
3. City Consent of Leasehold Mortgage
4. Memorandum of Ground Lease
5. Form of Income Certification Form
6. Reserved.

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

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

TENANT:

The Kelsey Civic Center, L.P.
a California limited partnership

By: Mercy Kelsey Civic Center LLC
a California limited liability company,
its managing general partner

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Ramie Dare,
Vice President

By: The Kelsey Civic Center LLC,
a California limited liability company,
its co-general partner

By: The Kelsey,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Micaela Erin Connery,
Chief Executive Officer

CITY AS LANDLORD:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Q. Penick
Director of Property

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

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____
Deputy City Attorney

ATTACHMENT 1

LEGAL DESCRIPTION OF THE LAND

Beginning at the point of intersection of the Northerly line of Dr. Tom Waddell Place (Formerly Lech Walesa Street and formerly Ivy Street) (35.00 feet wide), with the Easterly line of Van Ness Avenue (125.00 feet wide); thence Northerly along said Easterly line of Van Ness Avenue 49.05 feet to a point distant thereon 70.95 feet Southerly from the Southerly line of Grove Street (108.00 feet wide); thence at a right angle Easterly 105.00 feet; thence at a right angle Northerly 70.95 feet to said Southerly line of Grove Street; thence at a right angle Easterly along said Southerly line of Grove Street, 72.21 feet to a point distant thereon 206.79 feet Westerly from the Westerly line of Polk Street (68.75 feet wide); thence at a right angle Southerly 120.00 feet to said Northerly line of Dr. Tom Waddell Place; thence at a right angle Westerly, along said Northerly line of Dr. Tom Waddell Place, 177.21 feet to the point of beginning.

Being a portion of Western Addition Block 68

The above legal description is pursuant to Certificate of Compliance recorded September 12, 2022 of Official Records under Recorder's Serial Number 2022085640.

Assessor's Block 0811, Lot 204 (formerly known as Lots 016, 021, 018 and portion of 019)

Street Address:

240 Van Ness Ave., San Francisco, CA

ATTACHMENT 2

SCHEDULE OF PERFORMANCE

No.	Performance Milestone	Estimated or Actual Date	Notes
A.	Prop I Noticing (if applicable)	<u>2/15/2021</u>	<u>Complete</u>
1.	Acquisition/Predev Financing Commitment	<u>1/15/2021</u>	<u>Complete</u>
2.	Site Acquisition	—	
a.	Exchange Agreement Signed	<u>3/21/2022</u>	<u>Complete</u>
b.	MOHCD Ground Lease Executed	<u>2/17/2022</u>	
3.	Development Team Selection		
a.	Architect	—	<u>Complete</u>
b.	General Contractor	—	<u>Complete</u>
c.	Owner's Representative	—	<u>Complete</u>
d.	Property Manager	<u>7/29/2020</u>	<u>Complete</u>
e.	Service Provider	—	<u>Complete</u>
4.	Design		
a.	Submittal of Schematic Design & Cost Estimate	<u>3/24/2021</u>	<u>Complete</u>
b.	Submittal of Design Development & Cost Estimate	<u>10/29/2021</u>	<u>Complete</u>
c.	Submittal of 50% CD Set & Cost Estimate	<u>1/27/2022</u>	<u>Complete</u>
d.	Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs)	—	
5.	Commercial Space		
a.	Commercial Space Plan Submission	<u>10/19/2022</u>	<u>Complete</u>
b.	LOI/s Executed	<u>7/19/2022</u>	<u>Complete</u>
6.	Environ Review/Land-Use Entitlements		
a.	SB 35 Application Submission	<u>12/22/2020</u>	<u>Complete</u>
b.	CEQA Environ Review Submission	—	<u>N/A</u>
c.	NEPA Environ Review Submission	—	<u>N/A</u>
d.	CUP/PUD/Variances Submission	—	<u>N/A</u>
7.	PUC/PG&E		

a.	Temp Power Application Submission	<u>5/20/2021</u>	<u>Complete</u>
b.	Perm Power Application Submission	<u>6/4/2021</u>	
8.	Permits		
a.	Building / Site Permit Application Submitted	<u>1/4/2021</u>	<u>Complete</u>
b.	Addendum #1 Submitted	<u>4/12/2022</u>	<u>Complete</u>
c.	Addendum #2 Submitted	<u>3/22/2022</u>	<u>Complete</u>
9.	Request for Bids Issued	<u>6/3/2022</u>	<u>Complete</u>
10.	Service Plan Submission		
a.	Preliminary	<u>10/19/2022</u>	<u>Complete</u>
b.	Final	<u>2/15/2024</u>	
11.	Additional City Financing		
a.	Preliminary Gap Financing Application	<u>2/18/2022</u>	<u>Complete</u>
b.	Gap Financing Application	<u>12/9/2022</u>	
12.	Other Financing		
a.	HCD Application (AHSC, IIG)	<u>6/9/2021</u>	<u>Complete</u>
b.	Construction Financing RFP	<u>5/25/2022</u>	<u>Complete</u>
c.	AHP Application	<u>2/28/2023</u>	<u>Anticipated</u>
d.	CDLAC Application	<u>3/9/2022</u>	<u>Complete</u>
e.	TCAC Application	<u>3/9/2022</u>	<u>Complete</u>
f.	Other Financing Application (HCD CHA)	<u>4/8/2022</u>	<u>Complete</u>
g.	DDS / GGRC Financing Application	—	
13.	Closing		
a.	Construction Loan Closing	<u>6/3/2023</u>	
b.	Conversion of Construction Loan to Permanent Financing	—	
14.	Construction		
a.	Notice to Proceed	<u>6/3/2023</u>	
b.	Temporary Certificate of Occupancy/Cert of Substantial Completion	<u>10/31/2025</u>	
15.	Marketing/Rent-up		
a.	Marketing Plan Submission	<u>11/1/2023</u>	

b.	Commence Marketing	<u>5/1/2025</u>	
c.	95% Occupancy	<u>12/31/2025</u>	
16.	Cost Certification/	<u>5/1/2026</u>	
17.	Close Out MOH/OCII Loan(s)	<u>5/1/2026</u>	

ATTACHMENT 3

CITY CONSENT OF LEASEHOLD MORTGAGE

Date:

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

RE: 240 Van Ness Ave. (LEASEHOLD MORTGAGE)

Dear Sir or Madam:

Under Section 25.01 of the Ground Lease, dated _____, 2023, between the City and County of San Francisco ("City") and The Kelsey Civic Center, L.P., a California limited partnership, we are formally requesting the City's consent to our placing a leasehold mortgage upon the leasehold estate of the above referenced development. The following information is provided in order for the City to provide its consent:

Lender:

Principal Amount:

Interest:

Term:

Attached hereto are unexecuted draft loan documents, including the loan agreement, promissory note, and all associated security agreements which we understand are subject to the review and approval by the City. Furthermore, we are willing to supply any additional documentation related to the leasehold mortgage which the City deems necessary.

[signature follows]

Sincerely,

The Kelsey Civic Center, L.P.
a California limited partnership

By: Mercy Kelsey Civic Center LLC
a California limited liability company,
its managing general partner

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Ramie Dare,
Vice President

By: The Kelsey Civic Center LLC,
a California limited liability company,
its co-general partner

By: The Kelsey,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Micaela Erin Connery,
Chief Executive Officer

enc.

By signing this letter, the City consents to the leasehold mortgage, under the terms and conditions of Section 25.01 of the Ground Lease, dated _____, 2022.

Mayor's Office of Housing and Community Development

Director

ATTACHMENT 4

MEMORANDUM OF GROUND LEASE

Free Recording Requested under
Government Code Section 27383

When recorded, mail to:

Mayor's Office of Housing and Community Development
of the City and County of San Francisco
1 South Van Ness Avenue, Fifth Floor
San Francisco, California.94103
Attn: Director

MEMORANDUM OF GROUND LEASE

This Memorandum of Ground Lease ("**Memorandum**") is entered into as of _____, 2023, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (the "**City**"), acting by and through its Real Estate Division and the Mayor's Office of Housing and Community Development, and THE KELSEY CIVIC CENTER, L.P., a California limited partnership, as tenant ("**Tenant**"), with respect to that certain Ground Lease (the "**Lease**") dated _____, 2023, between the City and Tenant.

Under the Lease, City hereby leases to Tenant and Tenant leases from City the real property more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "**Property**"). The Lease will commence on the date set forth above and will end on the date that is seventy-five (75) years from the date set forth above, subject to a twenty-four (24) year option to extend, unless terminated earlier or extended pursuant to the terms of the Lease.

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

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

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

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

Notwithstanding any statement on the face of this Memorandum or on any attachment to the Memorandum of the amount of documentary transfer tax due in connection with the Lease,

City's signature on this Memorandum does not constitute the City Assessor Recorder's agreement that the real property transfer tax due is that amount.

Executed as of _____, 2023 in San Francisco, California.

TENANT:

The Kelsey Civic Center, L.P.
a California limited partnership

By: Mercy Kelsey Civic Center LLC
a California limited liability company,
its managing general partner

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Ramie Dare,
Vice President

By: The Kelsey Civic Center LLC,
a California limited liability company,
its co-general partner

By: The Kelsey,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Micaela Erin Connery,
Chief Executive Officer

[signatures continue]

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Q. Penick
Director of Property

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

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: _____
Deputy City Attorney

EXHIBIT A
LEGAL DESCRIPTION OF THE LAND

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

Beginning at the point of intersection of the Northerly line of Dr. Tom Waddell Place (Formerly Lech Walesa Street and formerly Ivy Street) (35.00 feet wide), with the Easterly line of Van Ness Avenue (125.00 feet wide); thence Northerly along said Easterly line of Van Ness Avenue 49.05 feet to a point distant thereon 70.95 feet Southerly from the Southerly line of Grove Street (108.00 feet wide); thence at a right angle Easterly 105.00 feet; thence at a right angle Northerly 70.95 feet to said Southerly line of Grove Street; thence at a right angle Easterly along said Southerly line of Grove Street, 72.21 feet to a point distant thereon 206.79 feet Westerly from the Westerly line of Polk Street (68.75 feet wide); thence at a right angle Southerly 120.00 feet to said Northerly line of Dr. Tom Waddell Place; thence at a right angle Westerly, along said Northerly line of Dr. Tom Waddell Place, 177.21 feet to the point of beginning.

Being a portion of Western Addition Block 68

The above legal description is pursuant to Certificate of Compliance recorded September 12, 2022 of Official Records under Recorder's Serial Number 2022085640.

Assessor's Block 0811, Lot 204 (formerly known as Lots 016, 021, 018 and portion of 019)

Street Address:
240 Van Ness Ave., San Francisco, CA

ATTACHMENT 5

FORM OF TENANT INCOME CERTIFICATION

[Attached.]

TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ Recertification ☐ Other _____

Effective Date: _____
Move-In Date: _____
(MM-DD-YYYY)

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ TCAC#: _____ BIN#: _____
Address: _____ If applicable, CDLAC#: _____
Unit Number: _____ # Bedrooms: _____ Square Footage: _____

PART II. HOUSEHOLD COMPOSITION

☐ Vacant (Check if unit was vacant on December 31 of the Effective Date Year)

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	Student Status (Check One)	Last 4 digits of Social Security #
1				HEAD		FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
2						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
3						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
4						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
5						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
6						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
7						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$	\$	\$	\$

Add totals from (A) through (D), above

TOTAL INCOME (E):

\$

PART IV. INCOME FROM ASSETS

HH Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset

TOTALS:

\$

\$

Enter Column (H) Total

Passbook Rate

If over \$5000

\$

X

0.06%

=

(J) Imputed Income

\$

Enter the greater of the total of column I, or J: imputed income

TOTAL INCOME FROM ASSETS (K)

\$

(L) Total Annual Household Income from all Sources [Add (E) + (K)]

\$

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature

(Date)

Signature

(Date)

Signature

(Date)

Signature

(Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY**RECERTIFICATION ONLY:**

TOTAL ANNUAL HOUSEHOLD
INCOME FROM ALL SOURCES:
From item (L) on page 1

\$

Unit Meets Federal
Income Restriction at:
☐ 60% ☐ 50%

Current Federal LIHTC
Income Limit x 140%:

\$

Current Federal LIHTC Income Limit per
Family Size (Federal Income Restriction at
60%, 50% or A.I.T. (20% - 80%)):

\$

Or Federal A.I.T. at:
☐ 80% ☐ 70% ☐ 60% ☐ 50%
☐ 40% ☐ 30% ☐ 20%

Household Income exceeds
140% at recertification:
☐ Yes ☐ No

If Applicable, Current Federal Bond
Income Limit per Family Size:

\$

Unit Meets State Deeper
Targeting Income Restriction
at:

Household Size at Move-in:

Household Income as of Move-in:

\$

☐ Other _____%

PART VI. RENT

Tenant Paid Monthly Rent:

\$

Federal Rent Assistance:

\$

*Source: _____

Monthly Utility Allowance:

\$

Non-Federal Rent Assistance:

\$

(*0-8)

Other Monthly Non-optional charges:

\$

Total Monthly Rent Assistance: \$

GROSS MONTHLY RENT FOR UNIT:
(Tenant paid rent plus Utility Allowance &
other non-optional charges)

\$

*Source of Federal Assistance

- 1 **HUD Multi-Family Project Based Rental Assistance (PBRA)
- 2 Section 8 Moderate Rehabilitation
- 3 Public Housing Operating Subsidy
- 4 HOME Rental Assistance
- 5 HUD Housing Choice Voucher (HCV), tenant-based
- 6 HUD Project-Based Voucher (PBV)
- 7 USDA Section 521 Rental Assistance Program
- 8 Other Federal Rental Assistance
- 0 Missing

Maximum Federal LIHTC Rent Limit for
this unit:

\$

If Applicable, Maximum Federal & State
LIHTC Bond Rent Limit for this unit:

\$

Unit Meets Federal Rent Restriction at:

☐ 60% ☐ 50%

Or Federal A.I.T. at:

☐ 80% ☐ 70% ☐ 60%
☐ 50% ☐ 40% ☐ 30%
☐ 20%

** (PBRA) Includes: Section 8 New Construction/Substantial Rehabilitation;
Section 8 Loan Management; Section 8 Property Disposition; Section 202
Project Rental Assistance Contracts (PRAC)

If Applicable, Unit Meets Bond Rent
Restriction at:

☐ 60% ☐ 50%

Unit Meets State Deeper
Targeting Rent Restriction at:

☐ Other: _____%

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ Yes ☐ No

If yes, Enter student explanation*
(also attach documentation)

Enter
1-5

*Student Explanation:

- 1 AFDC / TANF Assistance
- 2 Job Training Program
- 3 Single Parent/Dependent Child
- 4 Married/Joint Return
- 5 Former Foster Care

PART VIII. PROGRAM TYPE

Identify the program(s) for which this household's unit will be counted toward the property's occupancy requirements.

Select one of the following.

- ☐ 9% Allocated Federal Housing Tax Credit
☐ 4% Allocated Federal Housing Tax Credit
☐ Tax-Exempt Bond Only (No tax credits)

Select all that apply.

- ☐ HOME (including TCAP)
☐ CDBG
☐ Other HUD, including 202, 811, and 236
☐ National Housing Trust Fund
☐ USDA Rural Housing Service, including 514, 515, and 538
☐ Other state or local housing programs

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

PART IX. SUPPLEMENTAL INFORMATION FORM

The California Tax Credit Allocation Committee (CTCAC) requests the following information in order to comply with the Housing and Economic Recovery Act (HERA) of 2008, which requires all Low Income Housing Tax Credit (LIHTC) properties to collect and submit to the U.S. Department of Housing and Urban Development (HUD), certain demographic and economic information on tenants residing in LIHTC financed properties. Although the CTCAC would appreciate receiving this information, you may choose not to furnish it. You will not be discriminated against on the basis of this information, or on whether or not you choose to furnish it. If you do not wish to furnish this information, please check the box at the bottom of the page and initial.

Enter both Ethnicity and Race codes for each household member (see below for codes).

TENANT DEMOGRAPHIC PROFILE						
HH Mbr #	Last Name	First Name	Middle Initial	Race	Ethnicity	Disabled
1						
2						
3						
4						
5						
6						
7						

The Following Race Codes should be used:

- 1** – White – A person having origins in any of the original people of Europe, the Middle East or North Africa.
- 2** – Black/African American – A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” apply to this category.
- 3** – American Indian/Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- 4** – Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent:
- 4a – Asian India 4e – Korean
4b – Chinese 4f – Vietnamese
4c – Filipino 4g – Other Asian
4d – Japanese
- 5** – Native Hawaiian/Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands:
- 5a – Native Hawaiian 5c – Samoan
5b – Guamanian or Chamorro 5d – Other Pacific Islander

6 – Other

7 – Did not respond. (Please initial below)

Note: Multiple racial categories may be indicated as such: 31 – American Indian/Alaska Native & White, 41 – Asian & White, etc.

The Following Ethnicity Codes should be used:

- 1** – Hispanic – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Terms such as “Latino” or “Spanish Origin” apply to this category.
- 2** – Not Hispanic – A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- 3** – Did not respond. (Please initial below)

Disability Status:

1 – Yes

If any member of the household is disabled according to Fair Housing Act definition for handicap (disability):

- A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment or being regarded as having such an impairment. For a definition of “physical or mental impairment” and other terms used, please see 24 CFR 100.201, available at <http://fairhousing.com/legal-research/hud-regulations/24-cfr-100201-definitions>.
- “Handicap” does not include current, illegal use of or addiction to a controlled substance.
- An individual shall not be considered to have a handicap solely because that individual is a transgender.

2 – No

3 – Did not respond (Please initial below)

☐ **Resident/Applicant:** I do not wish to furnish information regarding ethnicity, race and other household composition.

(Initials) _____
(HH#) 1. 2. 3. 4. 5. 6. 7.

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Enter the type of tenant certification: Initial Certification (move-in), Recertification (annual recertification), or Other. If other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual income recertification's, this effective date should be no later than one year from the effective date of the previous (re)certification.
Move-In Date	Enter the most recent date the household tax credit qualified. This could be the move-in date or in an acquisition rehab property, this is not the date the tenant moved into the unit, it is the most recent date the management company income qualified the unit for tax credit purposes.
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
TCAC#	Enter the project number assigned to the property by TCAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: CA-2010-123
BIN #	Enter the building number assigned to the building (from IRS Form 8609).
Address	Enter the physical address of the building, including street number and name, city, state, and zip code.
If applicable, CDLAC#	If project is awarded 4% bonds please enter the project number assigned to the property by CDLAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: 16-436
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.
Square Footage	Enter the square footage for the entire unit.
Vacant Unit	Check if unit was vacant on December 31 of requesting year. For example, for the collection of 2011 data, this would refer to December 31, 2011.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following definitions:

H	Head of Household	S	Spouse	U	Unborn Child/Anticipated
A	Adult Co-Tenant	O	Other Family Member		Adoption or Foster
C	Child	F	Foster child(ren)/adult(s)		
L	Live-in Caretaker	N	None of the above		

Date of Birth	Enter each household member's date of birth.
Student Status	Check FT for Full-time student, PT for Part-time student, or N/A if household member is not a student and question does not apply.
Last Four Digits of Social Security Number	For each tenant 15 years of age or older, enter the last four digits of the social security number or the last four digits of the alien registration number. If the last four digits of SSN or alien registration is missing, enter 0000. For tenants under age 15, social security number not required, although please enter 0000.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List **each** respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. If individual household member income is provided, list the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 0.06% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)	
Row (L)	Total Annual Household Income From all Sources	Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Federal LIHTC Income Limit per Unit Meets Federal Income Restriction at 60%, 50% or A.I.T (20% - 80%)	Enter the Current Move-in Income Limit for the household size – specifically, the max income limit for the federal 60%, 50% or A.I.T (20% - 80%) set aside.
Current Bond Income Limit per Family Size	Enter the Current most restrictive Move-in Income Limit for the household size – specifically, the max income limit incorporating both federal and in some instances more restrictive state standards as reflected in the 50% or 60% set aside detailed in the Bond Regulatory Agreement.

Household Income at Move-in	For recertifications only. Enter the household income from the move-in certification.
Household Size at Move-in	Enter the number of household members from the move-in certification.
Current Federal LIHTC Income Limit x 140%	For recertifications only. Multiply the current LIHTC Maximum Move-in Income Limit by 140% and enter the total. 140% is based on the Federal Set-Aside of 20/50 or 40/60, or A.I.T. (20% - 60% = 140% X 60%, 70% = 140% X 70% and 80% = 140% X 80%) as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the LIHTC Income Limit per Family Size at Move-in date (above), then the available unit rule must be followed.
Unit Meets Federal Income Restriction at or Federal A.I.T. at	Check the appropriate box for the income restriction that the household meets according to what is required by the federal set-aside(s) for the project.
Unit Meets State Deeper Targeting Income Restriction at	If your agency requires an income restriction lower than the federal limit, enter the percent required.

Part VI - Rent

Tenant Paid Monthly Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Federal Rent Assistance	Enter the amount of rent assistance received from a federal program, if any.
Non-Federal Rent Assistance	Enter the amount of non-federal rent assistance received, if any.
Total Monthly Rent Assistance	Enter the amount of total rent assistance received, if any.
Source of Federal Rent Assistance	If federal rent assistance is received, indicate the single program source.
Monthly Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other Monthly Non-Optional Charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Monthly Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges. The total may NOT include amounts other than Tenant Paid Rent, Utility Allowances and other non-optional charges. In accordance with the definition of Gross Rent in IRC §42(g)(2)(B), it may not include any rent assistance amount.
Maximum LIHTC Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent limit for the federal 50%, 60% or A.I.T. (20% - 80%) set aside. This does not include state deeper targeting levels.
Maximum LIHTC Bond Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent incorporating both federal and in some instances more restrictive state standards as reflected in the 50% or 60% set aside detailed in the Bond Regulatory Agreement.
Unit Meets Federal Rent Restriction at or Federal A.I.T. at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal set-aside(s) for the project.
Unit Meets Bond Rent Restriction at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal and state law for the project.
Unit Meets State Deeper Targeting Rent Restriction at	If your agency requires a rent restriction lower than the federal limit, enter the percent required.

Part VII - Student Status

If all household members are full time* students, check “yes”. Full-time status is determined by the school the student attends. If at least one household member is not a full-time student, check “no.”

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

Part VIII – Program Type

Select the program(s) for which this household's unit will be counted toward the property's occupancy requirements. One response from the first column must be selected.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

PART IX. SUPPLEMENTAL INFORMATION

Complete this portion of the form at move-in and at recertification's (only if household composition has changed from the previous year's certification).

Tenant Demographic Profile

Complete for each member of the household, including minors. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status.

Resident/Applicant Initials

All tenants who wish not to furnish supplemental information should initial this section. Parent/Guardian may complete and initial for minor child(ren).

1

ATTACHMENT 6

2

Reserved.

3

4

07408.00002/1283622v2

**AMENDED AND RESTATED LOAN AGREEMENT
(CITY AND COUNTY OF SAN FRANCISCO
HOUSING TRUST FUND, AHF INCLUSIONARY FEES,
AHF JOBS HOUSING LINKAGE FEES)**

By and Between

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

and

THE KELSEY CIVIC CENTER, L.P.,
A California limited partnership

for

The Kelsey Civic Center
240 Van Ness Ave.
[\$24,684,459]

[\$10,000,000 Housing Trust Fund
\$6,000,000 AHF Inclusionary Fees
\$6,684,459 AHF Jobs Housing Linkage Fees
\$22,684,459 Total]

Dated as of _____, 2023

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* * * * *

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D	First Source Hiring Requirements and Numerical Goals
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F	Lobbying/Debarment Certification Form
G	Form of Annual Monitoring Report
H	Tenant Selection Plan Policy
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M	List of Early Release of Retention Contractors
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AMENDED AND RESTATED LOAN AGREEMENT

[\$10,000,000 Housing Trust Fund
\$6,000,000 AHF Inclusionary Fees
\$6,684,459 AHF Jobs Housing Linkage Fees]

(240 Van Ness Ave.)

This **AMENDED AND RESTATED LOAN AGREEMENT** (“Agreement”) is entered into as of _____, 2023 by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation (the “City”), represented by the Mayor, acting by and through the Mayor’s Office of Housing and Community Development (“MOHCD”), and **THE KELSEY CIVIC CENTER, L.P.**, a California limited partnership (“Borrower”).

RECITALS

A. In November 2012, the voters of the City approved Proposition C, which established a Housing Trust Fund to provide funds for the creation, acquisition, and rehabilitation of rental and ownership housing affordable to households earning up to 120% of the area median income, including, without limitation, the acquisition of land for such purpose (the “Housing Trust Fund”). Under Section 16.110 *et seq.* of the San Francisco City Charter, the City is authorized to provide funds from the Housing Trust Fund under this Agreement to Borrower for the development and construction of affordable housing. The funds provided from the Housing Trust Fund under this Agreement will be referred to herein as the “HTF Funds.”

B. Under the Inclusionary Affordable Housing Program set forth in Sections 415.1 *et seq.* of the San Francisco Planning Code, the Citywide Affordable Housing Fund receives impact Affordable Housing Fees ("Inclusionary Fees") paid by housing developers to satisfy requirements of the Inclusionary Affordable Housing Program. The City may use the Inclusionary Fees received by the Citywide Affordable Housing Fund (the "Affordable Housing Fund") to finance housing affordable to qualifying households. MOHCD administers the Affordable Housing Fund pursuant to Section 10.100-49 of the San Francisco Administrative Code and enforces agreements relating to them. The funds provided from the Affordable Housing Fund under this Agreement will be referred to herein as the “Funds.”

C. Under the Jobs-Housing Linkage Program set forth in Sections 413.1 *et seq.* of the San Francisco Planning Code, the Citywide Affordable Housing Fund receives impact fees paid by developers to satisfy requirements of the Jobs-Housing Linkage Program (“Jobs-Housing Fees”). The City may use the Jobs-Housing Fees received by the Citywide Affordable Housing Fund (the “Affordable Housing Fund”) to finance housing affordable to qualifying households. MOHCD administers the Affordable Housing Fund pursuant to Section 10.100-49 of the San Francisco Administrative Code and enforces agreements relating to them. The funds provided from the Affordable Housing Fund under this Agreement will be referred to herein as the “Funds.”

D. Borrower intends to acquire a leasehold interest in the real property located at 240 Van Ness Ave., San Francisco, California (the “Land”) under a Ground Lease dated as of _____, 2023 by and between City and Borrower (“Ground Lease”). Borrower desires

to use the Funds to develop the Land with 112 units (consisting of 80 studios and 32 two-bedroom units) for low income families, including 28 units for people with disabilities who are eligible to receive home and community-based services and two unrestricted resident manager units, as well as the Commercial Shell of a ground floor disability community cultural center (the “Commercial Space”), together known as The Kelsey Civic Center (collectively, the “**Project**”).

E. Borrower previously secured prior loans from City in connection with the Site as described below, pursuant to that certain Loan Agreement dated as of October 22, 2021 (“Original Agreement”):

1. Affordable Housing Fund: Inclusionary Affordable Housing Program loan in the amount of Two Million and No/100 Dollars (\$2,000,000.00).

F. The Citywide Affordable Housing Loan Committee has reviewed Borrower’s application for Funds and, in reliance on the accuracy of the statements in that application, has recommended to the Mayor that the City make a loan of Funds to Borrower (the “Loan”) in the amount of [Twenty Four Million Six Hundred Eighty Four Thousand Four Hundred Fifty Nine and No/100 Dollars (24,684,459.00)] (the “Funding Amount”) under this Agreement to fund certain costs related to the Project. The Funding Amount is comprised of Housing Trust Fund, AHF Inclusionary Fees and AHF Jobs Housing Linkage Fees.

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

1. a construction loan from Silicon Valley Bank to Borrower in the amount of [Fifty One Million Six Hundred Ninety Eight Thousand Nine Hundred Forty Six and No/100 Dollars (\$51,698,946)], pursuant to a loan agreement dated as of the date hereof

2. a construction loan from Housing Trust Silicon Valley in the amount of [Five Million and No/100 Dollars (\$5,000,000)];

3. a permanent loan from Silicon Valley Bank in the amount of [One Million Five Hundred Fifty One Thousand and No/100 Dollars (\$1,551,000)];

4. a State of California Housing and Community Development (“HCD”) Award letter dated February 4, 2022 providing Affordable Housing and Sustainable Communities (“AHSC”) Loan Funds in the amount of \$20,000,000 in an award letter dated February 4, 2022;

5. a State of California Housing and Community Development (“HCD”) Award letter dated September 6, 2022 providing California Housing Accelerator Funding (“Accelerator”) Loan Funds in the amount of Thirty Seven Million Three Hundred Thirty Four Thousand Four Hundred One and No/100 Dollars (\$37,334,401.00);

6. A Sponsor Loan from The Kelsey in the amount of Four Million Two Hundred Ninety Nine Thousand Nine Hundred Nine Hundred Ninety Nine and No/100 Dollars

(\$4,299,999.00) which includes \$1,357,608 for construction of the Disability Community Cultural Center;

7. A State of California, Department of Developmental Services (“DDS”) loan, through the Golden Gate Regional Center (“GGRC”), in the amount of One Million and No/100 Dollars (\$1,000,000.00);

H. On the Agreement Date, this Agreement will amend, restate, supersede and replace the Original Agreement. Concurrently herewith, Borrower will also (i) execute an amended and restated promissory note in the original principal amount of the Funding Amount in favor of the City to supersede and replace the original note to evidence the Loan, (ii) execute and record a deed of trust to secure such note, and (v) execute and record a declaration of restrictions. As of the Agreement Date, the City will cancel and return the original note.

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

AGREEMENT

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

ARTICLE 1 DEFINITIONS.

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

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

“Agreement” means this Amended and Restated Loan Agreement.

“Agreement Date” means the date first written above.

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

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

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

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

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

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

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

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

“Borrower” means The Kelsey Civic Center, L.P., a California limited partnership whose general partners are Mercy Kelsey Civic Center LLC, a California limited liability company and The Kelsey Civic Center LLC, a California limited liability company (together, the “General Partner”), and their authorized successors and assigns.

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

“CFR” means the Code of Federal Regulations.

“Charter Documents” means: (a) in the case of a corporation, its articles of incorporation and bylaws; (b) in the case of a partnership, its partnership agreement and any certificate or statement of partnership; and (c) in the case of a limited liability company, its operating agreement and any LLC certificate or statement.

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

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

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

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

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

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

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

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

“Community-Serving Purposes” means a non-residential use, approved by MOHCD in writing, that provides a direct benefit to the residents of the Project and the community in which the Project is located, including, but not limited to, the Disability Community Cultural Center, a family resource center, early childhood education center, community bicycle workspace, or other community serving commercial use under MOHCD’s Commercial Space Underwriting Guidelines.

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

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

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

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

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

“DAS” means the Department of Disability and Aging Services.

“DDS” means the California Department of Developmental Services.

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

“Deed of Trust” means the deed of trust executed by Borrower granting the City a lien on the Site and the Project to secure Borrower's performance under this Agreement and the Note, in form and substance acceptable to the City.

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

“Developer” means Mercy Housing California and The Kelsey, California nonprofit public benefit corporations, and their authorized successors and assigns.

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

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

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

“Development Proceeds” means the sum of: (a) funds contributed or to be contributed by Borrower as capital contributions, equity or for any other purpose under Borrower’s Partnership Agreement; and (b) the proceeds of all development and construction financing for the Project, including, but not limited to, the Loan, and excluding any permanent financing for the Project.

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

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

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

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

“Environmental Laws” means all present and future federal, state, local and administrative laws, ordinances, statutes, rules and regulations, orders, judgments, decrees, agreements, authorizations, consents, licenses, permits and other governmental restrictions and requirements relating to health and safety, industrial hygiene or the environment or to any Hazardous Substance or Environmental Activity, including the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (commonly known as the “Superfund” law) (42 U.S.C. §§ 9601 *et seq.*), the Resource Conservation and Recovery Act of 1976, as amended by the Solid Waste and Disposal Act of 1984 (42 U.S.C. §§ 6901 *et seq.*); the National Environmental Policy Act of 1969 (“NEPA”) (24 CFR §§ 92 and 24 CFR §§ 58); the California Hazardous Substance Account Act (also known as the Carpenter-Presley-Tanner Hazardous Substance Account Law and commonly known as the “California Superfund” law) (Cal. Health & Safety Code §§ 25300 *et seq.*); and the Safe Drinking Water and Toxic Enforcement Act of 1986 (commonly known as “Proposition 65”) (Cal. Health & Safety Code §§ 25249.2 *et seq.*); and Sections 25117 and 25140 of the California Health & Safety Code.

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

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

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

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

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

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

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

“General Partner” means Mercy Kelsey Civic Center LLC, a California limited liability company, whose sole member/manager is Mercy Housing Calwest, and The Kelsey Civic Center LLC, a California limited liability company, whose sole member/manager is The Kelsey.

“GGRC” means Golden Gate Regional Center, a state- and federal-funded nonprofit organization which provides services and supports to individuals with developmental disabilities in San Francisco, San Mateo and Marin counties.

“Governmental Agency” means: (a) any government or municipality or political subdivision of any government or municipality; (b) any assessment, improvement, community facility or other special taxing district; (c) any governmental or quasi-governmental agency, authority, board, bureau, commission, corporation, department, instrumentality or public body; or (d) any court, administrative tribunal, arbitrator, public utility or regulatory body.

“Ground Lease” has the meaning set forth in **Recital B**.

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

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

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

“HUD” means the United States Department of Housing and Urban Development, acting by and through the Secretary of Housing and Urban Development and any authorized agents.

“Improvements” has the meaning set forth in **Recital B**.

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

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

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

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

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

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

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

“Loss” or “Losses” includes any and all loss, liability, damage, obligation, penalty, claim, action, suits, judgment, fee, cost, expense or charge and reasonable attorneys’ fees and costs, including those incurred in an investigation or a proceeding in court or by mediation or arbitration, on appeal or in the enforcement of the City’s rights or in defense of any action in a bankruptcy proceeding.

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

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

“Median Income” means median income as published annually by MOHCD for the City and County of San Francisco, derived in part from the income limits and area median income determined by HUD for the San Francisco area, adjusted solely for household size, but not high housing cost area, also referred to as “Unadjusted Median Income.”

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

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

“Note” means the promissory note executed by Borrower in favor of the City in the original principal amount of the Funding Amount, in form and substance acceptable to City. .

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

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

“Opinion” means an opinion of Borrower’s California legal counsel, satisfactory to the City and its legal counsel, that Borrower is a duly formed, validly existing California limited partnership in good standing under the laws of the State of California, has the power and authority to enter into the City Documents and will be bound by their terms when executed and delivered, and that addresses any other matters the City reasonably requests.

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

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

“Payment Date” means the first June 30 following the Completion Date and each succeeding June 30 until the Maturity Date.

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

“Preferences and Lottery Manual” means MOHCD’s Housing Preferences and Lottery Procedures Manual dated October 19, 2020, as amended from time to time.

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

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

“Project Expenses” means the following costs, which may be paid from Project Income in the following order of priority to the extent of available Project Income: (a) all charges incurred in the operation of the Project for utilities, real estate taxes and assessments and premiums for insurance required under this Agreement or by other lenders providing secured financing for the Project; (b) salaries, wages and any other compensation due and payable to the employees or agents of Borrower employed in connection with the Project, including all related withholding taxes, insurance premiums, Social Security payments and other payroll taxes or payments; (c) required payments of interest and principal, if any, on any junior or senior financing secured by the Site and used to finance the Project that has been approved by the City; (d) all other expenses actually incurred to cover operating costs of the Project, including maintenance and repairs and the fee of any managing agent as indicated in the Annual Operating Budget; (e) annual Base Rent payments under the Ground Lease; (f) required deposits to the Replacement Reserve Account, Operating Reserve Account and any other reserve account required under this Agreement; (g) the approved annual asset management fees indicated in the Annual Operating Budget and approved by the City; (h) any extraordinary expenses approved in advance by the City (other than expenses paid from any reserve account); and (i) Supportive Services including service coordination.

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

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

“Qualified Tenant” means a Tenant household earning no more than the maximum permissible annual income level allowed under this Agreement as set forth in Exhibit A. The term “Qualified Tenant” includes each category of Tenant designated in Exhibit A. For the avoidance of any doubt, the term “Qualified Tenant” under this Agreement has the same meaning as the term “Qualified Household” under the Ground Lease.

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

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

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

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

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

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

“Section 811 PRA” means HUD Section 811 Supportive Housing for Persons with Disabilities program rental assistance contract authorized by the Frank Melville Supportive Housing Investment Act of 2010 and provided through a collaborative partnership with the California Housing Finance Agency (CalHFA).

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

“SFHA” means the San Francisco Housing Authority.

“Site” means the Land and the Improvements.

“Supportive Services” means services designed to support Qualified Households, including resident engagement, housing retention, employment training, and life skills that lead to sustained independence and self-sufficiency and also services to support residents with trauma informed care, harm reduction and cross system partnerships.

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

“Table of Sources and Uses” means a table of sources and uses of funds attached hereto as Exhibit B-1, including a line item budget for the use of the Funding Amount, which table may not be adjusted without the City’s prior written approval.

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

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

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

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

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

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

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

(a) The masculine, feminine or neutral gender and the singular and plural forms include the others whenever the context requires. The word “include(s)” means “include(s) without limitation” and “include(s) but not limited to,” and the word “including” means “including without limitation” and “including but not limited to” as the case may be. No listing of specific instances, items or examples in any way limits the scope or generality of any language in this Agreement. References to days, months and years mean calendar days, months and years unless otherwise specified. References to a party mean the named party and its successors and assigns.

(b) Headings are for convenience only and do not define or limit any terms. References to a specific City Document or other document or exhibit mean the document, together with all exhibits and schedules, as supplemented, modified, amended or extended from time to time in accordance with this Agreement. References to Articles, Sections and Exhibits refer to this Agreement unless otherwise stated.

(c) Accounting terms and financial covenants will be determined, and financial information will be prepared, in compliance with GAAP as in effect on the date of performance. References to any Law, specifically or generally, will mean the Law as amended, supplemented or superseded from time to time.

(d) The terms and conditions of this Agreement and the other City Documents are the result of arms'-length negotiations between and among sophisticated parties who were represented by counsel, and the rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not apply to the construction and interpretation of the City Documents. The language of this Agreement will be construed as a whole according to its fair meaning.

ARTICLE 2 FUNDING.

2.1 Funding Amount. The City agrees to lend to Borrower a maximum principal amount equal to the Funding Amount in order to finance the construction of one hundred twelve (112) Units, including two (2) unrestricted manager's units, consisting of 80 studios and 32 two-bedroom units, for low income families and 28 households designated for people with disabilities who are eligible to receive home and community-based services, and the Commercial Shell of a ground floor disability community cultural center.

The Funding Amount will be disbursed according to the terms and subject to the conditions set forth in this Agreement.

2.2 Use of Funds. Borrower acknowledges that the City's agreement to make the Loan is based in part on Borrower's agreement to use the Funds solely for the purpose set forth

in **Section 2.1** and agrees to use the Funds solely for that purpose in accordance with the approved Table of Sources and Uses. Notwithstanding anything to the contrary contained herein, City will not approve expenditure of Funds for expenses incurred by Borrower prior to October 22, 2021.

2.3 Accounts; Interest. Each Account to be maintained by Borrower under this Agreement will be held in a bank or savings and loan institution acceptable to the City as a segregated account that is insured by the Federal Deposit Insurance Corporation or other comparable federal insurance program. With the exception of tenant security deposit trust accounts, Borrower will use any interest earned on funds in any Account for the benefit of the Project.

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

2.5 Conditions to Additional Financing. The City may grant or deny any application by Borrower for additional financing for the Project in its sole discretion.

2.6 Other Loan Conditions.

- a. Sponsor to provide MOHCD with a final services plan with proposed staffing levels that meet MOHCD underwriting standards 6 months prior to TCO.
- b. Sponsor must provide initial draft marketing plan within 9 months of anticipated TCO, outlining the affirmative steps they will take to market the project to the City's preference program participants, including COP Holders, Displaced Tenants, and Neighborhood Residents, as well as how the marketing is consistent with the Mayor's Racial Equity statement and promotion of positive outcomes for African American San Franciscans.
- c. Sponsor to provide all lease agreements by TCO.
- d. Sponsor will provide a new market rent analysis 6 months prior to lease up to ensure rents are appropriate.
- e. Sponsor, DAS, and MOHCD will meet bi-weekly to report and monitor the status of DCCC commercial space and tenant selection. Should the re-issued RFP receive no additional responses, the Development team, DAS and MOHCD will develop a backup plan to ensure timelines are met or adjusted for the community-serving commercial space.

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

3.1 Maturity Date. Borrower will repay all amounts owing under the City Documents on the date that is the later of (a) the fifty-seventh (57th) anniversary of the date the Deed of Trust is recorded in the Recorder's Office of San Francisco County or (b) the fifty-fifth (55th) anniversary of the Conversion Date (the "Maturity Date").

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

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

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

3.5 Repayment of Principal and Interest. Except as set forth in Sections 3.5.1, the outstanding principal balance of the Loan, together with all accrued and unpaid interest, if any, will be due and payable on the Maturity Date according to the terms set forth in full in the Note. Except as set forth in the Note, no prepayment of the Loan will be permitted without the prior written consent of the City in its sole and absolute discretion.

3.5.1 Notification and Repayment of Excess Proceeds. Unless the City has elected to waive payment of Excess Proceeds, Borrower will repay all Excess Proceeds to the City the earlier of: (i) five (5) business days after receipt of such Excess Proceeds, or (ii) the Conversion Date. If Excess Proceeds will be disbursed to the City through escrow on the Conversion Date, Borrower will evidence payment of Excess Proceeds in the escrow settlement statement approved by the City and will instruct the escrow officer to disburse Excess Proceeds to the City at closing of the Project's permanent financing. The City will use such Excess Proceeds to reduce the balance of the Loan.

3.5.2 Notification and Repayment of AHP Bridge Loan. Borrower shall apply for AHP funding to the extent feasible until the Completion Date. If Borrower is awarded AHP funding for the Project, Borrower will deliver to the City a copy of the award notice of such AHP funding award no later than ten (10) days of receiving written notice, unless the City has received such written notice prior to the Agreement Date. Borrower will repay the AHP Bridge

Loan to the City within one hundred twenty (120) days of the later of (i) the date the Deed of Trust is recorded in the Official Records, or (ii) the date the Borrower closes the loan for AHP funding and the AHP funds are disbursed to Borrower; provided, however, that if Borrower is not awarded AHP funding for the Project or receives AHP funding sufficient for only partial repayment of the AHP Bridge Loan, the unpaid principal balance of the AHP Bridge Loan will be due and payable at the Maturity Date according to the terms set forth in full in the Note.

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

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

ARTICLE 4 CLOSING; DISBURSEMENTS.

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

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

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

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

(b) Borrower will have delivered to the City: (i) Borrower's Charter Documents; (ii) a comprehensive maintenance and operating plan for the Project duly approved by Borrower's governing body that includes, but is not limited to, plans for emergencies and emergency maintenance, vacant unit turnover, preventive maintenance and inspection schedule, and marketing and resident selection; and (iii) a CNA that has been duly approved by Borrower's governing body, submission of which may be delayed up to three years from the date of project completion. The Charter Documents will be delivered to the City in their original form and as amended from time to time and be accompanied by a certificate of good standing for Borrower issued by the California Secretary of State and, if Borrower is organized under the laws of a state other than California, a certificate of good standing issued by the Secretary of State of the state of organization, issued no more than ninety (90) days before the Agreement Date.

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

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

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

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

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

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

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

4.5 Disbursements. The City's obligation to approve any expenditure of Funds after Loan closing is subject to Borrower's satisfaction of the conditions precedent under this Section as follows:

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

(b) No Event of Default, or event that with notice or the passage of time or both could constitute an Event of Default, may have occurred that remains uncured as of the date of the Expenditure Request.

(c) With respect to any Expenditure Request that covers rehabilitation or construction costs, Borrower will have certified to the City that the Project complies with the labor standards set forth in **Section 5.1**, if applicable.

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

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

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

(iii) If ground transportation is required, the City urges the use of public transit or courtesy shuttles if provided by a lodging. If courtesy transportation is not

provided by a lodging, ground transportation expenses for travel to or from regional airports will not exceed Fifty Dollars (\$50.00) each way. Other ground transportation expenses will not exceed then-current San Francisco taxi rates found at: <https://www.sfmta.com/getting-around/taxi/taxi-rates>. Ground transportation will not include any expenses for luxury transportation services, such as a limousine, or any expenses related to travel to or from Project site meetings by Borrower's employees.

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

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

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

(e) The Loan will be In Balance.

4.6 Loan In Balance. The City may require Borrower to pay certain costs incurred in connection with the Project from sources of funds other than the Loan at any time the City determines that the Loan is Out of Balance. When the City is satisfied that the Loan is again In Balance, the City will recommence making Disbursements for Expenditure Requests meeting the conditions set forth above.

4.7 Retention. In addition to the other conditions to Disbursements, Borrower acknowledges that the amount of hard costs or tenant improvements costs included in any Expenditure Request associated with rehabilitation or construction, when added to previously approved costs, may not exceed ninety percent (90%) of the approved budgeted costs on a line item basis, with the exception of the trades of architectural sheet metal, exterior siding and electrical subcontractors which may not exceed 95% of the approved budgeted costs on a line item basis as outlined in the GMP. The remaining ten percent (10%) of approved budgeted hard costs or tenant improvement costs associated with rehabilitation or construction, or of 5% for the subcontractors of architectural sheet metal, exterior siding and electrical, will be held by the City and/or other Project lenders (the "**Retention**") and may be released only upon satisfaction of all requirements listed in the Construction Manager's Checklist for Release of Retention as follows:

(a) Early Retention Release. After fifty percent (50%) of the rehabilitation or construction of the Project is complete as determined by the City, Borrower may submit a written request to the City to release up to fifty percent (50%) of the Retention, provided that the following prerequisites have been met: (i) all work required to be performed by all parties for whom the City agrees to release the Retention (the "**Early Retention Release Contractors**") has

been completed in conformance with the terms of the applicable contract documents, the plans and specifications approved by the City and all applicable Laws; (ii) the applicable Early Retention Release Contractors have filed unconditional lien waivers satisfactory to the City; (iii) no liens or stop notices have been filed against the Project and no claims are pending; (iv) the City determines that the contingency is in balance and adequate to complete the Project; (v) the Project is on schedule, and (vi) Expenditure Requests will not exceed 95% of the approved budgeted costs on a line item basis. A list of Early Release of Retention Contractors is set forth in Exhibit M.

(b) Retention Release After Project Completion. Borrower may request disbursement of the remaining percentage amount of the Retention only upon the satisfaction of each of the following conditions, unless otherwise approved in writing by the City: (i) completion of rehabilitation or construction of the Project in accordance with the plans and specifications approved by the City, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect's or engineer's certificate of completion; (ii) timely recordation of a notice of completion; and (iii) either expiration of the lien period and the absence of any unreleased mechanics' liens or stop notices or recordation of the lien releases of all contractors, subcontractors and suppliers who provided labor or materials for the Project.

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

ARTICLE 5 DEMOLITION, REHABILITATION OR CONSTRUCTION.

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

5.2 Plans and Specifications. Before starting any demolition, rehabilitation or construction on the Site, Borrower will deliver to the City, and the City will have reviewed and approved, plans and specifications and the construction contract for the Project entered into between Borrower and Borrower's general contractor and approved by the City (the "**Construction Contract**"). The plans approved by the City will also be approved by the City and County of San Francisco's Department of Building Inspection (the "**Department of Building Inspection**") (collectively, the "Approved Plans") prior to the start of any demolition, rehabilitation or construction on the Site. The Approved Plans will be explicitly identified in the Construction Contract. The specifications approved by the City, including the funder

requirements and the technical specifications (the “Approved Specifications”) will also be explicitly identified in the Construction Contract. The Construction Contract may include funder requirements not otherwise addressed in the Approved Specifications. After completion of the Project, Borrower will retain the Approved Plans as well as “as-built” plans for the Project, the Approved Specifications and the Construction Contract, all of which Borrower will make available to the City upon request.

5.3 Change Orders. Borrower may not approve or permit any change orders to the plans and specifications approved by the City without the City’s prior written consent. Borrower will provide adequate and complete justification for analysis of any change order request to the City. The City will provide any questions, comments or requests for additional information to Borrower within five (5) business days of receipt of a change order request. City will review and approve or disapprove of a change order request within ten (10) business days of a complete submission by Borrower. In the event the City fails to approve or disapprove the change order request within such ten (10) business day period, the change order will be deemed approved. Borrower acknowledges that the City’s approval of any change order will not constitute an agreement to amend the Table of Sources and Uses or to provide additional Funds for the Project, unless the City agrees in its sole discretion to amend the Table of Sources and Uses or provide additional Funds for that purpose.

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

5.5 Notice to Proceed. No demolition, rehabilitation or construction may commence until Borrower has issued a written notice to proceed with the City’s approval.

5.6 Commencement and Completion of Project. Unless otherwise extended in writing by the City, Borrower will: (a) commence demolition, rehabilitation or construction by a date no later than June 3, 2023; (b) complete demolition, rehabilitation or construction by a date no later than October 31, 2025, in accordance with the plans and specifications approved by the City, as evidenced by a temporary certificate of occupancy or equivalent certification provided by the City’s Department of Building Inspection, and an architect’s or engineer’s certificate of completion (the “Completion Date”); and (c) achieve occupancy of ninety-five percent (95%) of the Units by a date no later than December 31, 2025.

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

ARTICLE 6 MARKETING.

6.1 Marketing and Tenant Selection Plan. No later than nine (9) months before the Completion Date, Borrower will deliver to the City for the City’s review and approval an affirmative plan for initial and ongoing marketing of the Units and a written Tenant selection

procedure for initial and ongoing renting of the Units based on MOHCD's then-current form of marketing and tenant selection plan (the "Marketing and Tenant Selection Plan"), all in compliance with the restrictions set forth in Exhibit A and in form and substance acceptable to the City. Borrower will obtain the City's approval of reasonable alterations to the Marketing and Tenant Selection Plan. Borrower will market and rent the Units in the manner set forth in the Marketing and Tenant Selection Plan, as approved by the City.

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

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

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

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

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

(e) Notices to SFHA.

(f) Notices to MOHCD.

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

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

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

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

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

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

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

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

6.6 Notwithstanding anything to the contrary contained herein, the requirements of this Article 6 shall not apply to the 14 Units receiving Section 811 subsidies that are designated for people with disabilities who are eligible to receive home and community-based services, for so long as the units are designated as such.

ARTICLE 7 AFFORDABILITY AND OTHER LEASING RESTRICTIONS.

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

7.2 Borrower's Covenant.

(a) Borrower covenants to rent all Units at all times to households certified as Qualified Tenants at initial occupancy, as set forth in Exhibit A. In addition, Twenty-Eight (28) Units will be rented to people with disabilities who are eligible to receive home and community-based services, including the 14 Units set aside for GGRC clients receiving Section 811 PRA subsidy during the period in which the Section 811 PRA or an equivalent rental subsidy program is made available to the Project, for as long as these subsidies are available.

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

(c) Notwithstanding the foregoing, and subject to the terms of the Section 811 Program, if the Section 811 PRA project-based rental assistance is terminated or substantially reduced, the occupancy restrictions set forth in this Declaration may be adjusted, but only to the minimum extent required for Project financial feasibility, as determined by MOHCD, in its reasonable discretion in accordance with substantially similar underwriting criteria used by MOHCD to evaluate the Project's financial feasibility prior to the Agreement Date, and in any event not to exceed sixty percent (60%) of area median income, as published by TCAC (the "TCAC Median Income" and the monthly rent paid by the Qualified Households may not exceed (a) thirty percent (30%) of sixty percent (60%) of TCAC Median Income (b) less utility allowance. On an annual basis, Borrower will convert the TCAC Median Income and maximum rent to the corresponding published MOHCD maximum income level and maximum rent level, respectively, and provide MOHCD with supporting documentation. In such event, MOHCD shall use good faith efforts to meet with the Borrower, within fifteen (15) days after Borrower's written request, and determine any rent increase within sixty (60) days after Borrower's initial written request to meet. In the event of a conflict or inconsistency between the foregoing requirements and Section 811 Requirements (during such time that the Section 811 Requirements are in effect), the Section 811 Requirements shall be controlling.

7.3 Rent Restrictions.

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

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

(c) With the City's prior written approval, Rent increases for Units exceeding the amounts permitted under **Section 7.3(b)** may be permitted once annually in order to recover increases in approved Project Expenses, provided that: (i) in no event may single or aggregate increases exceed ten percent (10%) per year unless such an increase is contemplated in a City-approved temporary relocation plan or is necessary due to the expiration of Section 8 or other

rental subsidies; and (ii) Rents for each Unit may in no event exceed the maximum Rent permitted under **Section 7.3(a)**. City approval for such Rent increases that are necessary to meet all approved Project Expenses will not be unreasonably withheld.

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

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

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

7.4 Certification.

(a) As a condition to initial occupancy, each person who desires to be a Qualified Tenant in the Project will be required to sign and deliver to Borrower a certification in the form shown in Exhibit C in which the prospective Qualified Tenant certifies that he/she or his/her household qualifies as a Qualified Tenant. In addition, each person will be required to provide any other information, documents or certifications deemed necessary by the City to substantiate the prospective Tenant's income. Certifications provided to and accepted by the SFHA will satisfy this requirement.

(b) Borrower will require each Qualified Tenant in the Project to recertify to Borrower on an annual basis the Qualified Tenant's household income

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

7.5 Form of Lease. The form of lease for Tenants will provide for termination of the lease and consent to immediate eviction for failure to: (i) qualify as a Qualified Tenant if the Tenant has made any material misrepresentation in the initial income certification, or (ii) submit to Borrower an annual recertification of income. The initial term of the lease will be for a period of not less than one (1) year. Borrower will not terminate the tenancy or refuse to renew any

lease of a Unit except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Laws or other good cause. Any termination or refusal to renew the lease for a Unit will be preceded by not less than thirty (30) days' written notice to the Tenant specifying the grounds for the action.

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

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

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

ARTICLE 8 MAINTENANCE AND MANAGEMENT OF THE PROJECT.

8.1 Borrower's Responsibilities.

(a) Subject to the rights set forth in **Section 8.2**, Borrower will be specifically and solely responsible for causing all maintenance, repair and management functions performed in connection with the Project, including selection of tenants, recertification of income and household size, evictions, collection of rents, routine and extraordinary repairs and replacement

of capital items. Borrower will maintain or cause to be maintained the Project, including the Units and common areas, in a safe and sanitary manner in accordance with local health, building and housing codes, California Health and Safety Code 17920.10 and the applicable provisions of 24 CFR Part 35.

8.2 Contracting With Management Agent.

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

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

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

ARTICLE 9 GOVERNMENTAL APPROVALS AND REQUIREMENTS.

9.1 Approvals. Borrower covenants that it has obtained or will obtain in a timely manner and comply with all federal, state and local governmental approvals required by Law to be obtained for the Project. Subject to **Section 17.2**, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

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

ARTICLE 10 PROJECT MONITORING, REPORTS, BOOKS AND RECORDS.

10.1 Generally.

(a) Borrower understands and agrees that it will be monitored by the City from time to time to assure compliance with all terms and conditions in this Agreement and all Laws. Borrower acknowledges that the City may also conduct periodic on-site inspections of the Project. Borrower will cooperate with the monitoring by the City and ensure full access to the Project and all information related to the Project as reasonably required by the City.

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

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

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

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

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

10.5 Project Completion Report. Within the specific time periods set forth below after the completion of rehabilitation or construction, the lease-up and/or permanent financing of the Project, as applicable, Borrower will provide to the City the reports listed below certified by Borrower to be complete and accurate. Subsequent to the required submission of the reports listed below, Borrower will provide to the City information or documents reasonably requested by the City to assist in the City’s review and analysis of the submitted reports:

(a) within ninety (90) days after the Completion Date, a draft cost certification by an independent third party acceptable to the City (or other similar project audit performed by an independent certified public accountant) identifying the sources and uses of all Development Proceeds including the Funds, and verifying the Development Expenses;

(b) within one hundred-eighty (180) days after the Completion Date, a report on compliance with the applicable requirements under **Section 5.1** of this Agreement, including the type of work and the dollar value of such work; and

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

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

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

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

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

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

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

10.9 Records Retention. Borrower will retain all records required for the periods required under applicable Laws.

ARTICLE 11 USE OF INCOME FROM OPERATIONS.

11.1 Project Operating Account.

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

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

ARTICLE 12 REQUIRED RESERVES.

12.1 Replacement Reserve Account.

(a) Commencing no later than one hundred twenty (120) days after the Completion Date, or any other date the City designates in writing, Borrower will establish or cause to be established a segregated interest-bearing replacement reserve depository account (the “Replacement Reserve Account”). On or before the 15th day of each month following establishment of the Replacement Reserve Account, Borrower will make monthly deposits from Project Income into the Replacement Reserve Account in the amount necessary to meet the requirements of this Section. The City may review the adequacy of deposits to the Replacement Reserve Account periodically and require adjustments as it deems necessary.

(b) Monthly deposits will equal one-twelfth (1/12th) of \$56,000 per year (\$500 per unit per year).

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

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

12.2 Operating Reserve Account.

(a) Commencing on the Conversion Date, or any other date the City designates in writing, Borrower will establish or cause to be established a segregated interest-bearing operating reserve depository account (the “Operating Reserve Account”) by depositing funds in an amount equal to twenty-five percent (25%) of the approved budget for Project Expenses for the first full year of operation of the Project. The City may review the adequacy of deposits to the Operating Reserve Account periodically and require adjustments as it deems necessary.

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

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

ARTICLE 13 DISTRIBUTIONS.

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

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

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

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

13.4 Borrower’s Use of Residual Receipts for Development. To the extent that making a Distribution is not inconsistent with any other financing agreement for the Project, and subject to the limitations in this Article, with the City’s prior written approval Borrower may retain a portion of Residual Receipts in lieu of using them to repay the Loan in an amount consistent with

the Residual Receipts Policy attached hereto as Exhibit P. Borrower acknowledges that the City may withhold its consent to a Distribution in any year in which Residual Receipts are insufficient to meet Borrower's payment obligations under the Note.

ARTICLE 14 SYNDICATION PROCEEDS.

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

ARTICLE 15 DEVELOPER FEES.

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

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

ARTICLE 16 TRANSFERS.

16.1 Permitted Transfers/Consent. Borrower will not cause or permit any voluntary transfer, assignment or encumbrance of its interest in the Site or Project or of any ownership interests in Borrower, or lease or permit a sublease on all or any part of the Project, other than: (a) leases, subleases or occupancy agreements to occupants of Units and/or Commercial Space in the Project; or (b) security interests for the benefit of lenders securing loans for the Project as approved by the City on terms and in amounts as approved by City in its reasonable discretion; (c) transfers of the general partnership or manager's interest in Borrower to a nonprofit public benefit corporation approved in advance by the City; (d) transfers of any limited partnership or membership interest in Borrower to an investor pursuant to the tax credit syndication of the Project and/or as otherwise permitted by Borrower's Partnership Agreement; (e) the grant or exercise of an option agreement between Borrower and Borrower's general partner or manager or any of its affiliates in connection with the tax credit syndication of the Project where such agreement has been previously approved in writing by the City; or (f) to remove or replace the General Partner in accordance with the terms of the Partnership Agreement, a transfer of any general partnership interest to a new general partner approved in advance by the City. Any other transfer, assignment, encumbrance or lease without the City's prior written consent will be voidable and, at the City's election, constitute an Event of Default under this Agreement. The City's consent to any specific assignment, encumbrance, lease or other transfer will not

constitute its consent to any subsequent transfer or a waiver of any of the City's rights under this Agreement.

ARTICLE 17 INSURANCE AND BONDS; INDEMNITY.

17.1 Borrower's Insurance. Subject to approval by the City's Risk Manager of the insurers and policy forms, Borrower will procure and keep in effect, and cause its contractors and subcontractors to obtain and maintain at all times during any work or construction activities on the Property, the insurance and bonds as set forth in Exhibit L from the date the Deed of Trust is recorded in the Recorder's Office of San Francisco County until the expiration of the Compliance Term at no expense to the City.

17.2 Borrower's Indemnity Obligations. Borrower will indemnify, protect, defend and hold harmless each of the Indemnitees from and against any and all Losses arising out of: (a) any default by Borrower in the observance or performance of any of Borrower's obligations under the City Documents (including those covenants set forth in **Article 18** below); (b) any failure of any representation by Borrower to be correct in all respects when made; (c) from and after the date Borrower acquires Control of the Site, injury or death to persons or damage to property or other loss occurring on or in connection with the Site or the Project, whether caused by the negligence or any other act or omission of Borrower or any other person or by negligent, faulty, inadequate or defective design, building, construction, rehabilitation or maintenance or any other condition or otherwise; (d) from and after the date Borrower acquires Control of the Site, any claim of any surety in connection with any bond relating to the construction or rehabilitation of any improvements or offsite improvements; (e) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee that relates to or arises out of the City Documents, the Loan, the Site (from and after the date Borrower acquires Control of the Site), or the Project or any transaction contemplated by, or the relationship between Borrower and the City or any action or inaction by the City under, the City Documents; (f) the occurrence, from and after the date Borrower acquires Control of the Site, until the expiration of the Compliance Term, of any Environmental Activity or any failure of Borrower or any other person to comply with all applicable Environmental Laws relating to the Project or the Site; (g) the occurrence, after the Compliance Term, of any Environmental Activity resulting directly or indirectly from any Environmental Activity occurring from and after the date Borrower acquires Control of the Site and before the expiration of the Compliance Term; (h) any liability of any nature arising from Borrower's contest of or relating to the application of any Law, including any contest permitted under **Sections 9.1, 9.2 and 18.2**; or (i) any claim, demand or cause of action, or any investigation, inquiry, order, hearing, action or other proceeding by or before any Governmental Agency, whether meritorious or not, that directly or indirectly relates to, arises from or is based on the occurrence or allegation of any of the matters described in clauses (a) through (h) above, *provided that* no Indemnitee will be entitled to indemnification under this Section for matters caused solely by its own gross negligence or willful misconduct.

17.3 Duty to Defend. Borrower acknowledges and agrees that its obligation to defend the Indemnitees under **Section 17.2**: (a) is an immediate obligation, independent of its other obligations hereunder; (b) applies to any Loss which actually or potentially falls within the scope

of **Section 17.2**, regardless of whether the allegations asserted in connection with such Loss are or may be groundless, false or fraudulent; and (c) arises at the time the Loss is tendered to Borrower by the Indemnatee and continues at all times thereafter. In the event any action or proceeding is brought against an Indemnatee by reason of a claim arising out of any Loss for which Borrower has indemnified the Indemnitees, upon written notice, Borrower will answer and otherwise defend the action or proceeding using counsel approved in writing by the Indemnatee at Borrower's sole expense. Each Indemnatee will have the right, exercised in its sole discretion, but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt, demand, suit or judgment against the Indemnatee in connection with the matters covered by this Agreement. The Indemnatee will give Borrower prompt notice of any Loss and Borrower has the right to defend, settle and compromise any such Loss; provided, however, that the Indemnatee has the right to retain its own counsel at the expense of Borrower if representation of such Indemnatee by the counsel retained by Borrower would be inappropriate due to conflicts of interest between such Indemnatee and Borrower. An Indemnatee's failure to notify Borrower promptly of any Loss does not relieve Borrower of any liability to such Indemnity under **Section 17.2**, unless such failure materially impairs Borrower's ability to defend such Loss. Borrower will seek the Indemnified Party's prior written consent to settle or compromise any Loss if Borrower contends that such Indemnatee shares in liability with respect thereto.

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

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

ARTICLE 18 HAZARDOUS SUBSTANCES.

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

18.2 Covenant. Unless the City otherwise consents in writing, at all times from and after the date of this Agreement, at its sole expense, Borrower will: (a) comply with all applicable Environmental Laws relating to the Site and the Project, and not engage in or otherwise permit the occurrence of any Environmental Activity in violation of any applicable Environmental Laws or that is not customary and incidental to the intended use of the Site, *provided that* nothing contained in this Section will prevent Borrower from contesting, in good faith and by appropriate proceedings, any interpretation or application of Environmental Laws; *provided further* that prior to the date Borrower acquires Control of the Site, compliance under 18.2(a) will apply to activities of Borrower or Borrower's agents, employees, contractors and invitees in connection with the Site and the Project, including any activities conducted under the License Agreement, and (b) deliver to the City notice of the discovery by Borrower of any event rendering any representation contained in this Section incorrect in any respect promptly following Borrower's discovery.

ARTICLE 19 DEFAULT.

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

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

(b) Any lien is recorded against all or any part of the Site or the Project without the City's prior written consent, whether prior or subordinate to the lien of the Deed of Trust or Declaration of Restrictions, and the lien is not removed from title or otherwise remedied to the City's satisfaction within thirty (30) days after Borrower's receipt of written notice from the City to cure the default, or, if the default cannot be cured within a 30-day period, Borrower will have sixty (60) days to cure the default, or any longer period of time deemed necessary by the City, *provided that* Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion; or

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

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

(e) All or a substantial or material portion of the improvements on the Site is damaged or destroyed by fire or other casualty, and the City has determined upon restoration or repair that the security of the Deed of Trust has been impaired or that the repair, restoration or

replacement of the improvements in accordance with the requirements of the Deed of Trust is not economically practicable or is not completed within two (2) years of the receipt of insurance proceeds; or all or a substantial or material portion of the improvements is condemned, seized or appropriated by any non-City Governmental Agency or subject to any action or other proceeding instituted by any non-City Governmental Agency for any purpose with the result that the improvements cannot be operated for their intended purpose; or

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

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

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

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

(j) Either the Deed of Trust or the Declaration of Restrictions ceases to constitute a valid and indefeasible perfected lien on the Site and improvements, subject only to Permitted Exceptions; or

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

(l) Any material adverse change occurs in the financial condition or operations of Borrower, such as a loss of services funding or rental subsidies, that has a material adverse impact on the Project; or

(m) Borrower fails to make any payments or disbursements required to bring the Loan in balance after the City determines that the Loan is out of balance; or

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

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

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

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

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

(b) The City at its option may terminate all commitments to make Disbursements or to release the Site from the Deed of Trust or Declaration of Restrictions, or, without waiving the Event of Default, the City may determine to make further Disbursements or to release all or any part of the Site from the Deed of Trust or Declaration of Restrictions upon terms and conditions satisfactory to the City in its sole discretion.

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

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

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

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

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

19.3 Force Majeure. The occurrence of any of the following events will excuse performance of any obligations of the City or Borrower rendered impossible to perform while the event continues: strikes; lockouts; labor disputes; acts of God; inability to obtain labor, materials or reasonable substitutes for either; governmental restrictions, regulations or controls, including, but not limited to, government health orders related to a pandemic or epidemic; judicial orders; enemy or hostile governmental actions; civil commotion; fire or other casualty and other causes beyond the control of the party obligated to perform. The occurrence of a force majeure event will excuse Borrower's performance only in the event that Borrower has provided notice to the City within thirty (30) days after the occurrence or commencement of the event or events, and Borrower's performance will be excused for a period ending thirty (30) days after the termination of the event giving rise to the delay.

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

ARTICLE 20 REPRESENTATIONS AND WARRANTIES.

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

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

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

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

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

(e) None of Borrower, Borrower's principals or Borrower's general contractor has been suspended or debarred by the City, the Department of Industrial Relations, or any Governmental Agency, nor has Borrower, any of its principals or its general contractor has been suspended, disciplined or prohibited from contracting with the City or any Governmental Agency. Further, Borrower certifies that neither it nor any of its principals is listed by the General Services Administration as debarred, suspended, ineligible or voluntarily excluded from receiving the Funds on the Agreement Date. In addition, Borrower will review the list to ensure that any contractor or subcontractor who bids for a contract in excess of \$100,000 is not debarred, suspended, ineligible or voluntarily excluded from participating in federal programs and activities in addition to obtaining the certification of each contractor or subcontractor whose bid is accepted.

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

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

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

ARTICLE 21 NOTICES.

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

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

To Borrower: The Kelsey Civic Center, L.P.
 c/o Mercy Housing California
 1256 Market Street
 San Francisco, CA 94102
 Attn: President

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

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

ARTICLE 22 GENERAL PROVISIONS.

22.1 Subordination. The Deed of Trust may be subordinated to other financing secured by and used for development of the Project (in each case, a "**Senior Lien**"), but only if MOHCD determines in its sole discretion that subordination is necessary to secure adequate acquisition, construction, rehabilitation and/or permanent financing to ensure the viability of the Project. Following review and approval by MOHCD and approval as to form by the City Attorney's Office, the Director of MOHCD or his/her successor or designee will be authorized to execute any approved subordination agreement without the necessity of any further action or approval. The Declaration of Restrictions will not be subordinated to any financing secured by and used for the Project.

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

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

22.4 Entire Agreement. This Agreement and its Exhibits incorporate the terms of all agreements made by the City and Borrower with regard to the subject matter of this Agreement. No alteration or variation of the terms of this Agreement will be valid unless made in writing and signed by the parties hereto. No oral understandings or agreements not incorporated herein will be binding on the City or Borrower.

22.5 City Obligations. The City's sole obligation under this Agreement is limited to providing the Funds as described in this Agreement, up to the Funding Amount. Under no

circumstances, including breach of this Agreement, will the City be liable to Borrower for any special or consequential damages arising out of actions or failure to act by the City in connection with any of the City Documents.

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

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

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

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

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

22.11 Successors. Except as otherwise limited herein, the provisions of this Agreement bind and inure to the benefit of the undersigned parties and their heirs, executors, administrators,

legal representatives, successors and assigns. This provision does not relieve Borrower of its obligation under the City Documents to obtain the City's prior written consent to any assignment or other transfer of Borrower's interests in the Loan, the Site or the ownership interests in Borrower.

22.12 Reserved.

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

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

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

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

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

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

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

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

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

EXHIBITS

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

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

THE CITY:

CITY AND COUNTY OF SAN
FRANCISCO, a municipal corporation

By: _____
London N. Breed
Mayor

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

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____
Deputy City Attorney

BORROWER:

The Kelsey Civic Center, L.P.,
a California limited partnership

By: Mercy Kelsey Civic Center LLC
a California limited liability company,
its managing general partner

By: Mercy Housing Calwest,
a California nonprofit public
benefit corporation,
its sole member/manager

By: _____
Ramie Dare,
Vice President

By: The Kelsey Civic Center LLC,
a California limited liability company,
its co-general partner

By: The Kelsey,
a California nonprofit public
benefit corporation,
its sole member/manager

By: _____
Micaela Erin Connery,
Chief Executive Officer

EXHIBIT A
Schedules of Income and Rent Restrictions

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

Unit Size	No. of Units	Maximum Income Level
0 BR	26	50% of Median Income
2 BR	4	50% of Median Income
0 BR	11	70% of Median Income
2 BR	13	70% of Median Income
0 BR	42	80% of Median Income
2 BR	14	80% of Median Income
0 BR	1	Manager’s Unit
2 BR	1	Manager’s Unit

Twenty-Eight (28) Units will be rented to people with disabilities who are eligible to receive home and community-based services, including 14 Units set aside for GGRC clients that will receive Section 811 PRA subsidy during the period in which the Section 811 PRA or an equivalent rental subsidy program is provided to the Project, as long as these subsidies are available.

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

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

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

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

3. Notwithstanding the foregoing, and subject to the terms of the Section 811 Program, if the Section 811 PRA project-based rental assistance is terminated or substantially reduced, the occupancy restrictions set forth in this Declaration may be adjusted, but only to the minimum extent required for Project financial feasibility, as determined by MOHCD, in its reasonable discretion in accordance with substantially similar underwriting criteria used by MOHCD to evaluate the Project's financial feasibility prior to the Agreement Date, and in any event not to exceed sixty percent (60%) of area median income, as published by TCAC (the "TCAC Median Income" and the monthly rent paid by the Qualified Households may not exceed (a) thirty percent (30%) of sixty percent (60%) of TCAC Median Income (b) less utility allowance. On an annual basis, Borrower will convert the TCAC Median Income and maximum rent to the corresponding published MOHCD maximum income level and maximum rent level, respectively, and provide MOHCD with supporting documentation. In such event, MOHCD shall use good faith efforts to meet with the Borrower, within fifteen (15) days after Borrower's written request, and determine any rent increase within sixty (60) days after Borrower's initial written request to meet. In the event of a conflict or inconsistency between the foregoing requirements and Section 811 Requirements (during such time that the Section 811 Requirements are in effect), the Section 811 Requirements shall be controlling.

EXHIBIT B-1
Table of Sources and Uses of Funds

Application Date:
Project Name:
Project Address:
Project Sponsor:

12/8/22
The Kelsey Civic Center
240 Van Ness Ave
Mercy Housing California/The Kelsey

Units: 112
Bedrooms: 144
Beds:

SOURCES	23,684,459	1,551,000	37,334,401	20,000,000	1,000,000	868,044	1,000,000	2,942,391	143,559	-	Total Sources	88,523,854	Comments
						MOHCD Accrued Deferred Interest	GGRC	The Kelsey Sponsor Loan	The Kelsey Accrued Deferred Interest				
Name of Sources: MOHCD/OcII Perm Loan HCD - Accelerator HCD - ASHC MOHCD Bridge for AHP													

USES

ACQUISITION													
Acquisition cost or value	24,590											24,590	
Legal / Closing costs / Broker's Fee												0	
Holding Costs												0	
Transfer Tax												0	
TOTAL ACQUISITION	24,590	0	0	0	0	0	0	0	0	0	0	24,590	

CONSTRUCTION (HARD COSTS)

Unit Construction/Rehab	165,529	1,551,000	37,334,401	15,088,796							54,139,726	FF&E below in soft costs, includes GC contingency	
Commercial Shell Construction											0	In Comm S&U	
Demolition	850,000										850,000	Demolition not a part of positive construction deal. Structured as forgivable loan, but still shown here as a part of the MOHCD contribution.	
Environmental Remediation											0		
Onsight Improvements/Landscaping				1,843,945							1,843,945		
Offsite Improvements											0		
Infrastructure Improvements											0	HOPE SF/OcII costs for streets etc.	
Parking				49,180							49,180	Rent for McBaines Lot for staging/laydown. Not in Cahill contract.	
GC Bond Premium/GC Insurance/GC Taxes				2,318,595							2,318,595		
GC Overhead & Profit				544,830	1,000,000			573,829			2,118,659		
CG General Conditions	139,802			154,654				426,171	2,224,218		2,944,845		
Sub-total Construction Costs	1,155,331	1,551,000	37,334,401	20,000,000	1,000,000	0	1,000,000	2,224,218	0	0	64,264,950		
Design Contingency (remove at DD)											0	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+	0.0%
Bid Contingency (remove at bid)											0	5% up to \$30MM HC, 4% \$30-\$45MM, 3% \$45MM+	0.0%
Plan Check Contingency (remove/reduce during Plan Review)								518,392			518,392	4% up to \$30MM HC, 3% \$30-\$45MM, 2% \$45MM+	0.8%
Hard Cost Construction Contingency	3,001,110							199,781			3,200,891	5% new construction / 15% rehab	5.0%
Sub-total Construction Contingencies	3,001,110	0	0	0	0	0	0	718,173	0	0	3,719,283		
TOTAL CONSTRUCTION COSTS	4,156,441	1,551,000	37,334,401	20,000,000	1,000,000	0	1,000,000	2,942,391	0	0	67,984,233		

SOFT COSTS

Architecture & Design													
Architect design fees	1,560,506										1,560,506	See MOHCD ABE Fee Guidelines: http://sfmohcd.org/documents-reports-and-forms	
Design Subconsultants to the Architect (incl. Fees)	504,060										504,060		
Architect Construction Admin	566,500										566,500		
Reimbursables											0		
Additional Services											0		
Sub-total Architect Contract	2,631,066	0	0	0	0	0	0	0	0	0	2,631,066		
Other Third Party design consultants (not included under Architect contract)											0	Title 24, CUAC modeling, GPR, Commissioning, Waterproofing, Building Maintenance, Security Design, Universal Design, Telecom/WiFi	
Total Architecture & Design	3,023,513	0	0	0	0	0	0	0	0	0	3,023,513		
Engineering & Environmental Studies													
Survey	33,670										33,670	Survey and lot line adjustment	
Geotechnical studies	56,728										56,728		
Phase I & II Reports	109,179										109,179	Includes asbestos and lead reports	
CEQA / Environmental Review consultants											0		
NEPA / 106 Review											0		
CNA/PNA (rehab only)											0		
Other environmental consultants	207,540										207,540	Acumen Industrial Hygiene - air quality monitoring during demolition and construction, \$150k estimate for generator tax.	
Total Engineering & Environmental Studies	407,117	0	0	0	0	0	0	0	0	0	407,117		
Financing Costs													
Construction Financing Costs													
Construction Loan Origination Fee	335,990										335,990		
Construction Loan Interest	6,112,437										6,112,437		
Title & Recording	122,950										122,950		
CDLAC & CDIAC fees	0										0		
Bond Issuer Fees	37,600										37,600	Construction Lender Expenses	
Other Bond Cost of Issuance											0		
Apple/HSV Construction Loan Interest + Fees	351,667										351,667		
Sub-total Const. Financing Costs	6,960,644	0	0	0	0	0	0	0	0	0	6,960,644		
Permanent Financing Costs													
Permanent Loan Origination Fee											0		
Credit Enhance. & Appl. Fee											0		
Title & Recording	49,180										49,180		
Sub-total Perm. Financing Costs	49,180	0	0	0	0	0	0	0	0	0	49,180		
Total Financing Costs	7,009,824	0	0	0	0	0	0	0	0	0	7,009,824		
Legal Costs													
Borrower Legal fees	137,704										137,704	Construction and perm closings	
Land Use / CEQA Attorney fees											0		
Tax Credit Counsel											0		
Bond Counsel											0		
Construction Lender Counsel	70,000										70,000		
Permanent Lender Counsel											0		
Other Legal (specify)											0		
Total Legal Costs	207,704	0	0	0	0	0	0	0	0	0	207,704		
Other Development Costs													
Appraisal	14,754										14,754		
Market Study	23,819										23,819		
Insurance	885,240										885,240	Based on Mercy Risk team estimate + escalating to 2022 new rate	
Property Taxes											0		
Accounting / Audit	60,000										60,000		
Organizational Costs											0		
Entitlement / Permit Fees	1,066,468										1,066,468	School Impact Fees, Site Permit/Addenda, SIP, Public Art	
Marketing / Rent-up	701,799										701,799	Includes staff salaries, marketing, and concessions for 80% units	
Furnishings	224,000										224,000	\$2,000/unit; See MOHCD UW Guidelines on: http://sfmohcd.org/documents-reports-and-forms	
PGE / Utility Fees	843,808										843,808	SFPUC water/wastewater, PG&E primary, Comcast trenching allowance	
TCAC App / Alloc / Monitor Fees											0		
Financial Consultant fees	89,500										89,500		
Construction Management fees / Owner's Rep	550,206										550,206	Includes Construction Manager/Owners Rep, Construction Testing and Inspections, and Window Water Testing	
Security during Construction											0		
Relocation	49,180										49,180	Only \$9k spent to date. Budgeting \$50,000 in the unlikely event there is a late claim.	
Financial Consultant fees: AHSC	24,787										24,787		
MOHCD Financial Advisor	45,000										45,000		
Other (specify)											0		
Total Other Development Costs	4,578,561	0	0	0	0	0	0	0	0	0	4,578,561		
Soft Cost Contingency													
Contingency (Arch, Eng, Fin, Legal & Other Dev)	1,127,850	0	0	0	0	0	0	0	0	0	1,127,850	Should be either 10% or 5% of total soft costs.	
TOTAL SOFT COSTS	16,360,569	0	0	0	0	0	0	0	0	0	16,360,569		

RESERVES

Operating Reserves	978,940										978,940		
Replacement Reserves											0		
Tenant Improvements Reserves											0		
Other (specify)											0		
Other (specify)											0		
Other (specify)											0		
TOTAL RESERVES	978,940	0	0	0	0	0	0	0	0	0	978,940		

DEVELOPER COSTS

Developer Fee - Cash-out Paid at Milestones	1,145,000										1,145,000		
Developer Fee - Cash-out At Risk	1,018,919										1,018,919		
Commercial Developer Fee											0	In Commercial S&U	
Developer Fee - GP Equity (also show as source)											0		
Developer Fee - Deferred (also show as source)											0		
Development Consultant Fees											0	Need MOHCD approval for this cost, N/A for most projects	
Accrued Deferred Interest (MOHCD + AHP / The Kelsey)						868,044			143,559		1,011,603		
TOTAL DEVELOPER COSTS	2,163,919	0	0	0	0	868,044	0	0	143,559	0	3,175,522		

TOTAL DEVELOPMENT COST	23,684,459	1,551,000	37,334,401	20,000,000	1,000,000	868,044	1,000,000	2,942,391	143,559	0	88,523,854		
Development Cost/Unit by Source	211,469	13,848	333,343	178,571	8,929	7,750	8,929	26,271	1,282	0	790,392		
Development Cost/Unit as % of TDC by Source	26.8%	1.8%	42.2%	22.6%	1.1%	1.0%	1.1%	3.3%	0.2%	0.0%	100.0%		
Acquisition Cost/Unit by Source	220	0	0	0	0	0	0	0	0	0	220		
Construction Cost (inc Const Contingency)/Unit By Source	37,111	13,848	333,343	178,571	8,929	0	8,929	26,271	0	0	607,002		
Construction Cost (inc Const Contingency)/SF	47.44	17.70	426.16	228.29	11.41	0.00	11.41	33.59	0.00	0.00	776.02		

*Possible non-eligible GO Bond/COP Amount: 3,944,198
City Subsidy/Unit: 211,468

Tax Credit Equity Pricing: N/A
Construction Bond Amount: N/A
Construction Loan Term (in months): 32 months
Construction Loan Interest Rate (as %): 6.60%

EXHIBIT B-2
Annual Operating Budget

Application Date:

12/8/2022

Total # Units:

112

First Year of Operations (provide data assuming that Year 1 is a full year, i.e. 12 months of operations):

2025

Project Name:

The Kelsey Civic Center

Project Address:

240 Van Ness Ave

Project Sponsor:

Mercy Housing California/The Kelsey

Correct errors noted in Col N!

INCOME	Total	Comments
Residential - Tenant Rents	1,834,980	Links from 'New Proj - Rent & Unit Mix' Worksheet
Residential - Tenant Assistance Payments (Non-LOSP)	294,696	Links from 'New Proj - Rent & Unit Mix' Worksheet
Commercial Space	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 0%
Residential Parking	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Rent Income	0	Links from 'Utilities & Other Income' Worksheet
Supportive Services Income		
Interest Income - Project Operations	0	Links from 'Utilities & Other Income' Worksheet
Laundry and Vending	6,240	Links from 'Utilities & Other Income' Worksheet
Tenant Charges	0	Links from 'Utilities & Other Income' Worksheet
Miscellaneous Residential Income	0	Links from 'Utilities & Other Income' Worksheet
Other Commercial Income	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 0%
Withdrawal from Capitalized Reserve (deposit to operating account)		
Gross Potential Income	2,135,916	
Vacancy Loss - Residential - Tenant Rents	(92,061)	Vacancy loss is 5% of Tenant Rents.
Vacancy Loss - Residential - Tenant Assistance Payments	(14,735)	Vacancy loss is 5% of Tenant Assistance Payments.
Vacancy Loss - Commercial	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 0%
EFFECTIVE GROSS INCOME	2,029,120	PUPA: 18,117

OPERATING EXPENSES

Management

Management Fee	87,360	1st Year to be set according to HUD schedule.
Asset Management Fee	26,009	
Sub-total Management Expenses	113,369	PUPA: 1,012

Salaries/Benefits

Office Salaries	156,885	Includes 1 PM, 1 APM
Manager's Salary		
Health Insurance and Other Benefits		
Other Salaries/Benefits		
Administrative Rent-Free Unit		
Sub-total Salaries/Benefits	156,885	PUPA: 1,401

Administration

Advertising and Marketing	3,120	
Office Expenses	44,970	
Office Rent		
Legal Expense - Property	6,000	
Audit Expense		
Bookkeeping/Accounting Services	27,800	Includes audit
Bad Debts		
Miscellaneous		
Sub-total Administration Expenses	81,890	PUPA: 731

Utilities

Electricity	91,000	Used Natalie Gubb Commons as comp.
Water	174,688	Includes water and sewer. Used Natalie Gubb Commons as comp.
Gas		
Sewer		
Sub-total Utilities	265,688	PUPA: 2,372

Taxes and Licenses

Real Estate Taxes	5,500	Includes CBD fees
Payroll Taxes	117,419	Staff taxes and benefits
Miscellaneous Taxes, Licenses and Permits	2,500	
Sub-total Taxes and Licenses	125,419	PUPA: 1,120

Insurance

Property and Liability Insurance	170,000	
Fidelity Bond Insurance		
Worker's Compensation		
Director's & Officers' Liability Insurance		
Sub-total Insurance	170,000	PUPA: 1,518

Maintenance & Repair

Payroll	132,051	1 FTE Maintenance, 1 FTE Janitor
Supplies	104,256	Includes external maintenance contracts
Contracts		
Garbage and Trash Removal	55,013	
Security Payroll/Contract	134,400	After hours/weekend front desk coverage
HVAC Repairs and Maintenance		
Vehicle and Maintenance Equipment Operation and Repairs		
Miscellaneous Operating and Maintenance Expenses	22,480	
Sub-total Maintenance & Repair Expenses	448,200	PUPA: 4,002

Supportive Services

	204,036	2 FTE Inclusion Concierge, includes weekday front desk coverage, supervision, and
Commercial Expenses	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 0%

TOTAL OPERATING EXPENSES

	1,565,487	PUPA: 13,978
--	-----------	--------------

Reserves/Ground Lease Base Rent/Bond Fees

Ground Lease Base Rent	15,000	Ground lease with MOHCD	Provide additional comments here, if needed.
Bond Monitoring Fee	n/a		
Replacement Reserve Deposit	56,000		
Operating Reserve Deposit			
Other Required Reserve 1 Deposit			
Other Required Reserve 2 Deposit			
Required Reserve Deposits, Commercial	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 0%	
Sub-total Reserves/Ground Lease Base Rent/Bond Fees	71,000	PUPA: 634	

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

	1,636,487	PUPA: 14,611
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NET OPERATING INCOME (INCOME minus OP EXPENSES)

	392,633	PUPA: 3,506
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DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)

Hard Debt - First Lender	209,918	Perm Loan	Provide additional comments here, if needed.
Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Lender)	84,000	HCD - AHSC	Provide additional comments here, if needed.
Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender)	0		Provide additional comments here, if needed.
Hard Debt - Fourth Lender	0		Provide additional comments here, if needed.
Commercial Hard Debt Service	0	from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 0%	
TOTAL HARD DEBT SERVICE	293,918	PUPA: 2,624	

CASH FLOW (NOI minus DEBT SERVICE)

	98,715	
--	--------	--

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

	1.34	
--	------	--

USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL

"Below-the-line" Asset Mgt fee (uncommon in new projects, see policy)		
Partnership Management Fee (see policy for limits)	25,130	
Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits)		
Other Payments		
Non-amortizing Loan Pmnt - Lender 1 (select lender in comments field)		Provide additional comments here, if needed.
Non-amortizing Loan Pmnt - Lender 2 (select lender in comments field)		Provide additional comments here, if needed.
Deferred Developer Fee (Enter amt <= Max Fee from cell I130)		Def. Develop. Fee split: 0%

TOTAL PAYMENTS PRECEDING MOHCD

	25,130	PUPA: 224
--	--------	-----------

RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)

	73,585	
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Residual Receipts Calculation

Does Project have a MOHCD Residual Receipt Obligation?

Yes

Project has MOHCD ground lease?

Yes

Will Project Defer Developer Fee?

No

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

33%

% of Residual Receipts available for distribution to soft debt lenders if

67%

Soft Debt Lenders with Residual Receipts Obligations	(Select lender name/program from drop down)	Total Principal Amt	Distrib. of Soft Debt Loans
MOHCD/OCII - Soft Debt Loans	All MOHCD/OCII Loans payable from res. rects	\$22,668,930	52.94%
MOHCD/OCII - Ground Lease Value or Land Acq Cost	Ground Lease Value	\$150,000	0.35%
HCD (soft debt loan) - Lender 3	HCD - AHSC	\$20,000,000	46.71%
Other Soft Debt Lender - Lender 4			0.00%
Other Soft Debt Lender - Lender 5			0.00%

MOHCD RESIDUAL RECEIPTS DEBT SERVICE

MOHCD Residual Receipts Amount Due	26,143	67% of residual receipts, multiplied by 53.29% -- MOHCD's pro rata share of all soft debt
Proposed MOHCD Residual Receipts Amount to Loan Repayment	26,143	Enter/override amount of residual receipts proposed for loan repayment.
Proposed MOHCD Residual Receipts Amount to Residual Ground Lease	0	If applicable, MOHCD residual receipts amt due LESS amt proposed for loan repymt.

REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE

	47,442	
--	--------	--

NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE

HCD Residual Receipts Amount Due	22,913	67% of residual receipts, multiplied by 46.71% -- HCD - AHSC's pro rata share of all soft debt
Lender 4 Residual Receipts Due	0	
Lender 5 Residual Receipts Due	0	
Total Non-MOHCD Residual Receipts Debt Service	22,913	

REMAINDER (Should be zero unless there are distributions below)

	24,528	
Owner Distributions/Incentive Management Fee	24,528	100% of Borrower share of 33% of residual receipts
Other Distributions/Uses	0	
Final Balance (should be zero)	0	

EXHIBIT B-3
20-Year Cash Flow Proforma

EXHIBIT C
Tenant Income Certification Form

TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ Recertification ☐ Other _____

Effective Date: _____
Move-In Date: _____
(MM-DD-YYYY)

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ TCAC#: _____ BIN#: _____
Address: _____ If applicable, CDLAC#: _____
Unit Number: _____ # Bedrooms: _____ Square Footage: _____

PART II. HOUSEHOLD COMPOSITION

☐ Vacant (Check if unit was vacant on December 31 of the Effective Date Year)

HH Mbr #	Last Name	First Name	Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	Student Status (Check One)	Last 4 digits of Social Security #
1				HEAD		FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
2						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
3						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
4						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
5						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
6						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	
7						FT <input type="checkbox"/> /PT <input type="checkbox"/> /NA <input type="checkbox"/>	

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	\$	\$	\$	\$

Add totals from (A) through (D), above

TOTAL INCOME (E):

\$

PART IV. INCOME FROM ASSETS

HH Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset

TOTALS:

\$

\$

Enter Column (H) Total

Passbook Rate

If over \$5000

\$

X

0.06%

=

(J) Imputed Income

\$

Enter the greater of the total of column I, or J: imputed income

TOTAL INCOME FROM ASSETS (K)

\$

(L) Total Annual Household Income from all Sources [Add (E) + (K)]

\$

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature

(Date)

Signature

(Date)

Signature

(Date)

Signature

(Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY**RECERTIFICATION ONLY:**

TOTAL ANNUAL HOUSEHOLD
INCOME FROM ALL SOURCES:
From item (L) on page 1

\$

Unit Meets Federal
Income Restriction at:
☐ 60% ☐ 50%

Current Federal LIHTC
Income Limit x 140%:

\$

Current Federal LIHTC Income Limit per
Family Size (Federal Income Restriction at
60%, 50% or A.I.T. (20% - 80%)):

\$

Or Federal A.I.T. at:
☐ 80% ☐ 70% ☐ 60% ☐ 50%
☐ 40% ☐ 30% ☐ 20%

Household Income exceeds
140% at recertification:
☐ Yes ☐ No

If Applicable, Current Federal Bond
Income Limit per Family Size:

\$

Unit Meets State Deeper
Targeting Income Restriction
at:

Household Size at Move-in:

Household Income as of Move-in:

\$

☐ Other _____%

PART VI. RENT

Tenant Paid Monthly Rent:

\$

Federal Rent Assistance:

\$

*Source: _____

Monthly Utility Allowance:

\$

Non-Federal Rent Assistance:

\$

(*0-8)

Other Monthly Non-optional charges:

\$

Total Monthly Rent Assistance: \$

GROSS MONTHLY RENT FOR UNIT:
(Tenant paid rent plus Utility Allowance &
other non-optional charges)

\$

*Source of Federal Assistance

- 1 **HUD Multi-Family Project Based Rental Assistance (PBRA)
- 2 Section 8 Moderate Rehabilitation
- 3 Public Housing Operating Subsidy
- 4 HOME Rental Assistance
- 5 HUD Housing Choice Voucher (HCV), tenant-based
- 6 HUD Project-Based Voucher (PBV)
- 7 USDA Section 521 Rental Assistance Program
- 8 Other Federal Rental Assistance
- 0 Missing

Maximum Federal LIHTC Rent Limit for
this unit:

\$

If Applicable, Maximum Federal & State
LIHTC Bond Rent Limit for this unit:

\$

Unit Meets Federal Rent Restriction at:

☐ 60% ☐ 50%

Or Federal A.I.T. at:

☐ 80% ☐ 70% ☐ 60%
☐ 50% ☐ 40% ☐ 30%
☐ 20%

** (PBRA) Includes: Section 8 New Construction/Substantial Rehabilitation;
Section 8 Loan Management; Section 8 Property Disposition; Section 202
Project Rental Assistance Contracts (PRAC)

If Applicable, Unit Meets Bond Rent
Restriction at:

☐ 60% ☐ 50%

Unit Meets State Deeper
Targeting Rent Restriction at:

☐ Other: _____%

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ Yes ☐ No

If yes, Enter student explanation*
(also attach documentation)

Enter
1-5

*Student Explanation:

- 1 AFDC / TANF Assistance
- 2 Job Training Program
- 3 Single Parent/Dependent Child
- 4 Married/Joint Return
- 5 Former Foster Care

PART VIII. PROGRAM TYPE

Identify the program(s) for which this household's unit will be counted toward the property's occupancy requirements.

Select one of the following.

- ☐ 9% Allocated Federal Housing Tax Credit
☐ 4% Allocated Federal Housing Tax Credit
☐ Tax-Exempt Bond Only (No tax credits)

Select all that apply.

- ☐ HOME (including TCAP)
☐ CDBG
☐ Other HUD, including 202, 811, and 236
☐ National Housing Trust Fund
☐ USDA Rural Housing Service, including 514, 515, and 538
☐ Other state or local housing programs

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proof and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

PART IX. SUPPLEMENTAL INFORMATION FORM

The California Tax Credit Allocation Committee (CTCAC) requests the following information in order to comply with the Housing and Economic Recovery Act (HERA) of 2008, which requires all Low Income Housing Tax Credit (LIHTC) properties to collect and submit to the U.S. Department of Housing and Urban Development (HUD), certain demographic and economic information on tenants residing in LIHTC financed properties. Although the CTCAC would appreciate receiving this information, you may choose not to furnish it. You will not be discriminated against on the basis of this information, or on whether or not you choose to furnish it. If you do not wish to furnish this information, please check the box at the bottom of the page and initial.

Enter both Ethnicity and Race codes for each household member (see below for codes).

TENANT DEMOGRAPHIC PROFILE						
HH Mbr #	Last Name	First Name	Middle Initial	Race	Ethnicity	Disabled
1						
2						
3						
4						
5						
6						
7						

The Following Race Codes should be used:

- 1** – White – A person having origins in any of the original people of Europe, the Middle East or North Africa.
- 2** – Black/African American – A person having origins in any of the black racial groups of Africa. Terms such as “Haitian” apply to this category.
- 3** – American Indian/Alaska Native – A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
- 4** – Asian – A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent:
- 4a – Asian India 4e – Korean
4b – Chinese 4f – Vietnamese
4c – Filipino 4g – Other Asian
4d – Japanese
- 5** – Native Hawaiian/Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands:
- 5a – Native Hawaiian 5c – Samoan
5b – Guamanian or Chamorro 5d – Other Pacific Islander

6 – Other

7 – Did not respond. (Please initial below)

Note: Multiple racial categories may be indicated as such: 31 – American Indian/Alaska Native & White, 41 – Asian & White, etc.

The Following Ethnicity Codes should be used:

- 1** – Hispanic – A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. Terms such as “Latino” or “Spanish Origin” apply to this category.
- 2** – Not Hispanic – A person not of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- 3** – Did not respond. (Please initial below)

Disability Status:

1 – Yes

If any member of the household is disabled according to Fair Housing Act definition for handicap (disability):

- A physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment or being regarded as having such an impairment. For a definition of “physical or mental impairment” and other terms used, please see 24 CFR 100.201, available at <http://fairhousing.com/legal-research/hud-regulations/24-cfr-100201-definitions>.
- “Handicap” does not include current, illegal use of or addiction to a controlled substance.
- An individual shall not be considered to have a handicap solely because that individual is a transgender.

2 – No

3 – Did not respond (Please initial below)

☐ **Resident/Applicant:** I do not wish to furnish information regarding ethnicity, race and other household composition.

(Initials) _____
(HH#) 1. 2. 3. 4. 5. 6. 7.

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Enter the type of tenant certification: Initial Certification (move-in), Recertification (annual recertification), or Other. If other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual income recertification's, this effective date should be no later than one year from the effective date of the previous (re)certification.
Move-In Date	Enter the most recent date the household tax credit qualified. This could be the move-in date or in an acquisition rehab property, this is not the date the tenant moved into the unit, it is the most recent date the management company income qualified the unit for tax credit purposes.
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
TCAC#	Enter the project number assigned to the property by TCAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: CA-2010-123
BIN #	Enter the building number assigned to the building (from IRS Form 8609).
Address	Enter the physical address of the building, including street number and name, city, state, and zip code.
If applicable, CDLAC#	If project is awarded 4% bonds please enter the project number assigned to the property by CDLAC. Please include hyphens between the state abbreviation, four digit allocating year, and project specific number. For example: 16-436
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.
Square Footage	Enter the square footage for the entire unit.
Vacant Unit	Check if unit was vacant on December 31 of requesting year. For example, for the collection of 2011 data, this would refer to December 31, 2011.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following definitions:

H	Head of Household	S	Spouse	U	Unborn Child/Anticipated
A	Adult Co-Tenant	O	Other Family Member		Adoption or Foster
C	Child	F	Foster child(ren)/adult(s)		
L	Live-in Caretaker	N	None of the above		

Date of Birth	Enter each household member's date of birth.
Student Status	Check FT for Full-time student, PT for Part-time student, or N/A if household member is not a student and question does not apply.
Last Four Digits of Social Security Number	For each tenant 15 years of age or older, enter the last four digits of the social security number or the last four digits of the alien registration number. If the last four digits of SSN or alien registration is missing, enter 0000. For tenants under age 15, social security number not required, although please enter 0000.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List **each** respective household member number from Part II. Include anticipated income only if documentation exists verifying pending employment. If any adult states zero-income, please note "zero" in the columns of Part III.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.
Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. If individual household member income is provided, list the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 0.06% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)	
Row (L)	Total Annual Household Income From all Sources	Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Federal LIHTC Income Limit per Unit Meets Federal Income Restriction at 60%, 50% or A.I.T (20% - 80%)	Enter the Current Move-in Income Limit for the household size – specifically, the max income limit for the federal 60%, 50% or A.I.T (20% - 80%) set aside.
Current Bond Income Limit per Family Size	Enter the Current most restrictive Move-in Income Limit for the household size – specifically, the max income limit incorporating both federal and in some instances more restrictive state standards as reflected in the 50% or 60% set aside detailed in the Bond Regulatory Agreement.

Household Income at Move-in	For recertifications only. Enter the household income from the move-in certification.
Household Size at Move-in	Enter the number of household members from the move-in certification.
Current Federal LIHTC Income Limit x 140%	For recertifications only. Multiply the current LIHTC Maximum Move-in Income Limit by 140% and enter the total. 140% is based on the Federal Set-Aside of 20/50 or 40/60, or A.I.T. (20% - 60% = 140% X 60%, 70% = 140% X 70% and 80% = 140% X 80%) as elected by the owner for the property, not deeper targeting elections of 30%, 40%, 45%, 50%, etc. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the LIHTC Income Limit per Family Size at Move-in date (above), then the available unit rule must be followed.
Unit Meets Federal Income Restriction at or Federal A.I.T. at	Check the appropriate box for the income restriction that the household meets according to what is required by the federal set-aside(s) for the project.
Unit Meets State Deeper Targeting Income Restriction at	If your agency requires an income restriction lower than the federal limit, enter the percent required.

Part VI - Rent

Tenant Paid Monthly Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Federal Rent Assistance	Enter the amount of rent assistance received from a federal program, if any.
Non-Federal Rent Assistance	Enter the amount of non-federal rent assistance received, if any.
Total Monthly Rent Assistance	Enter the amount of total rent assistance received, if any.
Source of Federal Rent Assistance	If federal rent assistance is received, indicate the single program source.
Monthly Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other Monthly Non-Optional Charges	Enter the amount of <u>non-optional</u> charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Monthly Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges. The total may NOT include amounts other than Tenant Paid Rent, Utility Allowances and other non-optional charges. In accordance with the definition of Gross Rent in IRC §42(g)(2)(B), it may not include any rent assistance amount.
Maximum LIHTC Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent limit for the federal 50%, 60% or A.I.T. (20% - 80%) set aside. This does not include state deeper targeting levels.
Maximum LIHTC Bond Rent Limit for this unit	Enter the maximum allowable gross rent for the unit. This amount must be the maximum amount allowed by the Current Income Limit per Family Size – specifically, the max rent incorporating both federal and in some instances more restrictive state standards as reflected in the 50% or 60% set aside detailed in the Bond Regulatory Agreement.
Unit Meets Federal Rent Restriction at or Federal A.I.T. at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal set-aside(s) for the project.
Unit Meets Bond Rent Restriction at	Indicate the appropriate rent restriction that the unit meets according to what is <u>required</u> by the federal and state law for the project.
Unit Meets State Deeper Targeting Rent Restriction at	If your agency requires a rent restriction lower than the federal limit, enter the percent required.

Part VII - Student Status

If all household members are full time* students, check “yes”. Full-time status is determined by the school the student attends. If at least one household member is not a full-time student, check “no.”

If “yes” is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

Part VIII – Program Type

Select the program(s) for which this household's unit will be counted toward the property's occupancy requirements. One response from the first column must be selected.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

PART IX. SUPPLEMENTAL INFORMATION

Complete this portion of the form at move-in and at recertification's (only if household composition has changed from the previous year's certification).

Tenant Demographic Profile

Complete for each member of the household, including minors. Use codes listed on supplemental form for Race, Ethnicity, and Disability Status.

Resident/Applicant Initials

All tenants who wish not to furnish supplemental information should initial this section. Parent/Guardian may complete and initial for minor child(ren).

EXHIBIT D
First Source Hiring Requirements and Numerical Goals

Borrower's use of Funds triggers the following hiring requirements imposed by the City's First Source Hiring Ordinance (San Francisco Administrative Code Chapter 83). Borrower will, or will require its general contractor to, separately execute a First Source Hiring Agreement with the City as set forth below, although the lack of such a separate execution will not affect the requirements of Chapter 83 as incorporated herein.

A. Incorporation of Administrative Code Provisions by Reference. The provisions of Chapter 83 of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Contractor will comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this Section and not defined in this Agreement have the meanings assigned to such terms in Chapter 83.

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

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

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

E. Liquidated Damages. Borrower agrees:

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

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

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

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

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

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

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

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

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

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

EXHIBIT E
Governmental Requirements

1. Prevailing Wages and Working Conditions. Any undefined, initially-capitalized term used in this Section shall have the meaning given to such term in San Francisco Administrative Code Section 6.1. Every contract for the rehabilitation or construction of housing assisted with Funds must comply with Chapter I (commencing with Section 1720) of Part 7 of the California Labor Code (pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations) and contain a provision requiring: (1) the payment of not less than the Prevailing Rate of Wage to all laborers and mechanics employed in the development of any part of the housing, (2) provide the same hours, working conditions and benefits as in each case are provided for similar work performed in San Francisco County, and (3) employ Apprentices in accordance with state law and San Francisco Administrative Code Section 6.22(n), (collectively, "Prevailing Wage Requirements"). The Prevailing Wage Requirements of this Section apply to all laborers and mechanics employed in the development of the Project, including portions other than the assisted Units. Borrower agrees to cooperate with the City in any action or proceeding against a Contractor or Subcontractor that fails to comply with the Prevailing Wage Requirements. If applicable, Borrower must include, and require its Contractors and Subcontractors (regardless of tier) to include, the Prevailing Wage Requirements and the agreement to cooperate in City enforcement actions in any Construction Contract with specific reference to San Francisco Administrative Code Chapter 6.

2. Environmental Review. The Project will meet the requirements of the California Environmental Quality Act (Cal. Pub. Res. Code §§ 2100 *et seq.*) and implementing regulations.

3. Conflict of Interest.

(a) Except for approved eligible administrative or personnel costs, no employee, agent, consultant, officer or official of Borrower or the City who exercises or has exercised any function or responsibilities with respect to activities assisted by Funds, in whole or in part, or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in or benefit from the activities assisted under this Agreement, or have an interest, direct or indirect, in any contract, subcontract or agreement with respect thereto, or in the proceeds thereunder either for himself/herself or for those with whom he/she has family or business ties, during his/her tenure and for one year thereafter. In order to carry out the purpose of this Section, Borrower will incorporate, or cause to be incorporated, in all contracts, subcontracts and agreements relating to activities assisted under the Agreement, a provision similar to that of this Section. Borrower will be responsible for obtaining compliance with conflict of interest provisions by the parties with whom it contracts and, in the event of a breach, Borrower will take prompt and diligent action to cause the breach to be remedied and compliance to be restored.

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

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

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

5. Lead-Based Paint. Borrower will satisfy the requirements of Chapter 36 of the San Francisco Building Code ("Work Practices for Exterior Lead-Based Paint") and the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821 *et seq.*) and implementing regulations at 24 CFR part 35. Borrower will also comply with the

provisions contained in 17 CCR 350000 *et seq.*, and 8 CCR 1532.1 and all other applicable Laws governing lead-based hazards.

6. Relocation. Borrower will comply with any applicable requirements of the California Relocation Assistance Act (Cal. Gov. Code §§ 7260 *et seq.*) and implementing regulations in Title 25, Chapter 6 of the California Administrative Code and similar Laws.

7. Low-Income Hiring Requirements. The use of Funds triggers compliance with certain hiring requirements imposed by the City's First Source Hiring Ordinance (S.F. Admin. Code Chapter 83). To ensure compliance with those requirements, Borrower must include the provisions attached as **Exhibit D** in its contract with the general contractor for the Project. Borrower will be responsible to the City for ensuring compliance with the requirements listed on **Exhibit D**.

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

(a) Borrower Will Not Discriminate. In the performance of this Agreement, Borrower agrees not to discriminate against any employee, City and County employee working with Borrower or any subcontractor, applicant for employment with Borrower or any subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services or membership in all business, social or other establishments or organizations operated by Borrower on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, height, weight, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

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

(c) Non-Discrimination in Benefits. Borrower does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco or where the work is being performed for the City or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Condition to Contract. As a condition to this Agreement, Borrower will execute the “Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits” form (Form CMD-12B-101) with supporting documentation and secure the approval of the executed form by the San Francisco Contract Monitoring Division.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B (“Nondiscrimination in Contracts”) and 12C (“Nondiscrimination in Property Contracts”) of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Borrower will comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters of the Administrative Code, including the remedies provided in such Chapters. Without limiting the foregoing, Borrower understands that pursuant to Sections 12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Borrower and/or deducted from any payments due Borrower.

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

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

11. Preservative-Treated Wood Containing Arsenic. Borrower may not purchase preservative-treated wood products containing arsenic until the Deed of Trust has been fully reconveyed unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of Environment under Section 1304 of the Code. The term “preservative-treated wood containing arsenic” will mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Borrower may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Borrower from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” will mean a pressure-treated wood that is

used for construction purposes or facilities that are partially or totally immersed in saltwater.

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

- (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval;
- (b) knowingly makes, uses or causes to be made or used a false record or statement to get a false claim paid or approved by the City;
- (c) conspires to defraud the City by getting a false claim allowed or paid by the City;
- (d) knowingly makes, uses or causes to be made or used a false record or statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the City; or
- (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

13. Sunshine Ordinance.

(a) Borrower acknowledges and agrees that this Agreement and the Application Documents are subject to Section 67.24(e) of the San Francisco Administrative Code, which provides that contracts, including this Agreement, grantee's bids, responses to Requests for Proposals (RFPs) and all other records of communications between City and persons or entities seeking contracts, will be open to inspection immediately after a contract has been awarded. Nothing in such Section 67.24(e) (as it exists on the date hereof) requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. All information provided by Borrower that is covered by such Section 67.24(e) (as it may be amended from time to time) will be made available to the public upon request. Further, Borrower specifically agrees to conduct any meeting of its governing board that addresses any matter relating to the Project or to Borrower's performance under this Agreement as a passive meeting. Further, Borrower specifically agrees that any meeting of the governing body of its general partner/manager that addresses any matter relating to the Project or to Borrower's performance under this Agreement will be conducted as a passive meeting.

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

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

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

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

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

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

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

17. Resource-Efficient Building Ordinance. Borrower acknowledges that the City and County of San Francisco has enacted San Francisco Environment Code Chapter 7 relating to resource-efficient City buildings and resource-efficient pilot projects. Borrower hereby agrees it will comply with the applicable provisions of such code sections as such sections may apply to the Property.

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

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

(b) The requirements of Chapter 12T will only apply to a Borrower's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, will apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, will apply only when the physical location of the employment or prospective employment of an individual is wholly or substantially within the City of San Francisco, and will not apply when the

application in a particular context would conflict with federal or state law or with a requirement of a government agency implementing federal or state law.

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

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

(e) Borrower or Subcontractor will not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection 16.16(d), above. Borrower or Subcontractor will not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

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

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

(h) Borrower understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City will have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Agreement.

19. Food Service Waste Reduction Requirements. Borrower agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully

set forth. This provision is a material term of this Agreement. By entering into this Agreement, Borrower agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Borrower agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount will not be considered a penalty, but rather agreed monetary damages sustained by City because of Borrower's failure to comply with this provision.

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

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

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

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

EXHIBIT F
Lobbying/Debarment Certification Form

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

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

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

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

The Kelsey Civic Center, L.P.
a California limited partnership

By: Mercy Kelsey Civic Center LLC
a California limited liability company,
its managing general partner

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____

Ramie Dare,
Vice President

By: The Kelsey Civic Center LLC,
a California limited liability company,
its co-general partner

By: The Kelsey,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Micaela Erin Connery,
Chief Executive Officer

EXHIBIT G
Form of Annual Monitoring Report

Mayor's Office of Housing and Community Development
City and County of San Francisco



London N. Breed
Mayor

Eric D. Shaw
Director

October 21, 2020

Notice of Availability of 2020 Annual Monitoring Report Form
(plus reminders of Marketing Procedure and Serious Incident Protocol)

The Mayor's Office of Housing and Community Development (MOHCD) is pleased to announce the availability of the Annual Monitoring Report (AMR) forms for Reporting Year 2020 (RY2020). The forms are now available to be downloaded from the [Asset Management page](#) of the MOHCD web site. In addition, training videos on how to complete the AMR are available. See below for more information.

IMPORTANT INFORMATION RELATED TO COVID-19

MOHCD recognizes the impact that the COVID-19 crisis is having on the organizations that we support, especially those providing essential services. It is vitally important to take measures to protect your staff, residents and clients from contracting and spreading COVID-19. We urge all affordable housing owners and managers to follow the guidelines, recommendations and orders from the U.S. [Centers for Disease Control](#), the [State of California](#) and the San Francisco [Department of Public Health](#). MOHCD is also taking action to address the needs of the projects under our purview:

- MOHCD [published a memo](#) clarifying MOHCD's current Operating Reserves requirements.
- MOHCD extended the 2020 AMR due date by one month (see below for detailed info) for projects whose business year ran from 7/1/2019 to 6/30/2020.

MOHCD is allowing project sponsors to retain a larger share of 2020 surplus cash/residual receipts than is allowed under their financing agreements with MOHCD. For more information, read the notice regarding the [COVID-19 Allowance](#). This opportunity is limited to projects whose business year ran from 7/1/2019 to 6/30/2020. The COVID-19 Allowance may not be available to some projects that are subject to MOHCD financing, regulatory or ground lease agreements that include limits on distributions of surplus cash/residual receipts. To benefit from the Allowance, owners of such projects will have to request amendments to those agreements that would remove such limits. For more information, read the ["Notice Regarding Option to Remove Caps on Distributions of Residual Receipts."](#)

If this crisis is preventing you from responding thoroughly and quickly to any request from MOHCD, please do whatever you can to let us know of your limitations and to propose alternatives. Thank you for everything that you are doing on behalf of the people your organization serves and for all of the people of San Francisco.

Deadline: For projects whose business year ended June 30, 2020, the report will be due on January 8, 2021, for the period 7/1/2019-6/30/2020, unless noted otherwise in a project-specific notice sent by MOHCD. For any projects whose 2020 business year ended or will end on different dates than those above, the report will be due 5 months from the last date of that business year.

Completion and Submission Instructions

The Annual Monitoring Report consists of the following four parts:

I. AMR_RY2020 – project name.xlsx – This is a Microsoft Excel spreadsheet that is comprised of the following worksheets:

Instructions	3C. Demographic Summary
1A. Property & Residents	4. Narrative
1B. Transitional Programs	5. Project Financing
1C. Eviction Data	6. Services Funding
2. Fiscal Activity	7. Supplementary Audit Information
3A. Occupancy & Rent Info	Required by MOHCD
3B. Demographic Information	➤ Completeness Tracker

Provide all applicable information that is requested in worksheets 1-7. Use the Instructions to help you complete each form and the Completeness Tracker to help you to determine when each worksheet is complete.

Use Question #1 on the Narrative worksheet to explain any data that you provide that may be unclear or better understood with additional information. In addition, certain questions in this report prompt you to supply an explanation for your answers on the Narrative worksheet. *Failure to supply the required explanation will render your submission incomplete.*

Submit this report as an Excel file only; do not convert it to pdf or another file type. Changing the format of AMR_RY2020.xlsx without MOHCD's prior approval is not allowed. Do not overwrite any validations for any of the cells, alter any formulas or add or delete any rows or columns. If you need to revise the form in order to successfully complete the report, submit a request to moh.amr@sfgov.org.

II. Owner Compliance Certification Form and Documentation of Insurance

The certification form is a Microsoft Word document that must be completed, signed and dated by the Executive Director (or other authorized officer) of the entity that owns the project. Scan the form along with documentation of insurance and email it to MOHCD as a single document. For each project, you must provide certificates of liability insurance *and* property insurance that are *current as of the date of submittal of the AMR*.

III. Audited Financial Statements

Provide financial statements for the project for Reporting Year 2020. They must be prepared by a certified public accountant in accordance with generally accepted accounting principles, applicable regulations and laws and with the City's "[Audit Requirements for MOHCD-Funded Projects](#)" a copy of which is posted on [MOHCD's Asset Management web page](#). If the project is owned by a single asset entity, provide separate financial statements just for the project, otherwise provide audited statements for the parent corporation. Also include copies of any Management Letters and special notes from the auditor that pertain to the property and the financial statements.

MOHCD's audit requirements call for the preparation of a supplemental section to the financial statements that includes the following:

- schedule of operating revenues
- schedule of operating expenses
- computation of cash flow/surplus cash
- summary of project reserve activity

The supplemental section may be prepared by using worksheet #7 of the AMR or a form generated by the accounting system of the project owner or the auditor.

IMPORTANT: Audited financial statements are a required submittal of the Annual Monitoring Report. Do not submit the AMR until the audit has been finalized. AMRs that are submitted without an audit or with a draft audit will not be accepted.

IV. Waiting List

Submit a copy of the project's waiting list that is current as of the date of submittal. The waiting list must include the following information for each person or household who has applied to live at the project and is still waiting to be considered for an available unit:

- name of head-of-household
- contact information
- date of application
- number of people in the household

- stated household income
- desired unit size

This requirement is not applicable to transitional housing projects, residential treatment programs, shelters, group homes or permanent supportive housing for homeless people that is leased through a closed referral system.

Completed AMRs must be submitted electronically, via *one email message per project* to moh.amr@sfgov.org. If the documents that comprise the report are too large to attach to a single email, compress the files into a zip file and attach it to the email.

AMR Training – On-Demand Videos

To facilitate completion of the AMR by project sponsors, MOHCD has created training videos that provide step-by-step instructions on how to complete the Excel reporting form and how to submit the report overall. There are ten video modules that vary in length from two to 30 minutes and may be viewed on-demand from the [Asset Management page](#) of the MOHCD web site. We strongly encourage all persons who are involved in preparing the AMR to watch the videos. If you experience any technical difficulties with accessing and viewing the videos, please contact Ricky Lam at ricky.lam@sfgov.org or 415-701-5542.

Marketing Procedure for Available Units and Waiting List Openings

Before advertising the availability of units for lease in a project or the opening of the waiting list, owners and property managers *must* notify MOHCD of this action by completing a [Marketing Plan Template](#) and submitting it to the assigned staff person on MOHCD's asset management and compliance monitoring team. The template is available on the [Asset Management page](#) of our web site, under "Marketing Requirements for MOHCD-Financed Multifamily Rental Projects." Once the marketing plan is approved, MOHCD will post information about the available units or opening of the waiting list on [DAHLIA](#) – the City's internet portal where members of the public may get information and apply for affordable housing. General information for people seeking affordable housing in San Francisco can also be found on our web site at [this location](#).

Serious Incident Protocol

To ensure that MOHCD is kept informed of serious incidents that occur at projects financed by this office, we have established the following protocol for reporting serious, negative events such as accidents, criminal activity or equipment failure. The report should be filed only after emergency procedures have been followed and the situation has been stabilized.

MOHCD requests that owners of projects financed by this office notify us in writing if a serious incident occurs at their properties and meets one or more of the following parameters:

- Involves serious injury or death
- Is a serious, violent crime that involves a major police action (e.g. shooting)
- Causes the building or a significant number of units to be off-line
- Requires a resident to move out of a unit one month or longer
- Damage to the building is significant enough to require the use of reserves

The owner should notify the MOHCD asset manager assigned to the project and provide the following information:

- The date of the incident
- A description of the incident
- A description of what has been and is being done in response
- The name, phone and email of the staff that should be contacted if there are questions
- Confirmation that 1) the property insurance is current and 2) the insurance company has been contacted; a brief summary of their response, if available
- Statement of whether or not the organization plans to use the project's reserves to pay for corrective action

Asset Management Team

MOHCD 1 South Van Ness Avenue, 5th Floor San Francisco, CA 94103

<http://sfmohcd.org> P. 415-701-5500 F. 415-701-5501

**Owner Compliance Certification and Insurance & Tax Certification Form
2020 Annual Monitoring Report
San Francisco Mayor's Office of Housing and Community Development**

***** This form must be completed by Project Owner or authorized agent. *****

Complete this form, sign and date it, scan it along with current liability and property insurance certificates into a single PDF file, then email the file along with AMR_RY2020 – project name.xlsx, audited financial statements, and current waiting list to moh.amr@sfgov.org.

Project Name: _____

Project Street Address: _____

Reporting Period – Start Date: _____ End Date: _____

Owner Compliance Certification

The undersigned owner, having received housing development funds pursuant to a housing development program funding agreement/s entered into with the City and County of San Francisco ("CCSF") for the purpose of purchasing, constructing and/or improving low-income housing, does hereby certify as follows:

*Initial all statements below, and supply data to make the statement complete where needed (look for underlined blanks; e.g.: ____). **For any statements that are not true or require additional clarification, you must supply a detailed explanation on the Annual Monitoring Report Narrative Worksheet.** The failure to provide a conforming response to all statements below will render incomplete the entire Annual Monitoring Report ("AMR") submission for this project, which may result in a default condition under the funding agreement/s, and also subject the owner to scoring penalties in future efforts to obtain funding from MOHCD for this project and any other project.*

	True	False	
1			The CCSF Mayor's Office of Housing and Community Development ("MOHCD") has been alerted by the owner prior to any actions taken by the owner that affect the value of the property associated with this project, including but not limited to the establishment of any liens or encumbrances on the property; and, where required, the owner has obtained written authorization from MOHCD prior to taking any such actions.
2			The undersigned is not in default of the terms of any Agreements with CCSF for this project, nor has it been in default on any other loans, contracts or obligations on this property during the reporting period.
3			The undersigned has not been the subject of any actions relating to any other loans, contracts or obligations on this property which might have a material adverse financial impact on the property.
4			The owner has not lost or failed to renew funding for supportive services for the project during the reporting period and has made available (or caused to be made available through another party) all supportive services that are required by existing, applicable funding and regulatory agreements.
5			The owner has not lost or failed to renew funding for operating subsidy/ies for the project during the reporting period.
6			For any existing operating subsidies supporting the project, during the reporting period, the owner submitted a request for the maximum increase possible.
7			The owner has paid all taxes due for the reporting period and prior reporting periods.
8			The undersigned has marketed the units in the manner set forth in the marketing and resident selection provisions of the funding agreement/s entered into with CCSF.

Owner Compliance Certification and Insurance & Tax Certification Form
2020 Annual Monitoring Report
San Francisco Mayor's Office of Housing and Community Development

	True	False	
9			The project has met affordability and other leasing provisions set forth in the funding agreement/s entered into with CCSF during the entire reporting period. As of the end date of the reporting period, _____ units (<i>supply exact number</i>) were occupied or held vacant and available for rental by low-income tenants meeting the income qualifications pursuant to the funding agreement/s entered into with CCSF.
10			The undersigned has obtained a tenant income certification and/or third party documentation to support that certification from each tenant household occupying a unit restricted to occupancy by income-qualified tenants. All income certifications are maintained onsite with respect to each qualified tenant who resides in a unit or resided therein during the immediately preceding business year.
11			The total charges for rent and a utility allowance to each income-qualified tenant in a restricted unit do not exceed the maximum rent specified in the funding agreement/s entered into with CCSF as adjusted by the most recent HUD income and rent figures, which have been taken from the figures that are supplied by MOHCD on its website.
12			All withdrawals from the replacement and operating reserve accounts have been made in accordance with the MOHCD funding agreement/s, unless approved in writing by MOHCD.
13			Security deposits required of tenants of the project are in accordance with applicable laws and the funding agreement/s entered into with CCSF.
14			The undersigned has obtained and will maintain insurance policies in accordance with requirements of the funding agreement/s entered into with CCSF as may be reasonably updated from time to time, and has supplied with this AMR certificates of insurance that are current through the end of the reporting period.
15			The undersigned has maintained the units and common areas in a decent, safe and sanitary manner in accordance with all local health, building, and housing codes and in accordance with the HUD Housing Quality Standards.
16			The data submitted in Section 1A – Property & Residents of the Annual Monitoring Report regarding any violation/s of any health, building, or housing codes is complete and accurate; all required copies of violations/citations that were not resolved by the end of the reporting periods are also included with this AMR submission.
17			The undersigned has made best efforts to: (a) keep the units in good repair and available for occupancy; (b) keep the Project fully rented and occupied; and (c) maximize rental revenue at the Project by increasing tenant rents, and if applicable, contract rents and commercial rents, the maximum amount permitted under all current regulatory agreements, contracts, regulations and leases, without causing undue rent burden on residential tenants.
18			All questions in the Annual Monitoring Report submitted for this reporting period have been answered fully and truthfully; answers have been supplied for all of questions requiring detailed responses on the Annual Monitoring Narrative Worksheet and any related documents have been submitted as attachments.
19			The project has received additional equity proceeds in the amount of \$_____ (<i>supply amount</i>) from low-income housing tax credit investors during the reporting period.
20			Accurate information has been provided in Worksheet 2 - Fiscal Activity about any Federal Program Income earned by this project during the reporting period.
21			Any amounts charged as Asset Management Fees are reflected accurately under Income & Expenses in Worksheet 2 - Fiscal Activity of the Annual Monitoring Report, and all such amounts have been used exclusively toward asset management of this

**Owner Compliance Certification and Insurance & Tax Certification Form
2020 Annual Monitoring Report
San Francisco Mayor's Office of Housing and Community Development**

	True	False	
			project. Asset Management Fees taken beyond pre-approved levels have been documented as required in response to question 7 in Section 4 - Narrative.
22			The calculation of cash flow in Worksheet 2 - Fiscal Activity accurately reflects all expenses incurred and income earned, and the proposed distribution of any Residual Receipts would be in accordance with all relevant agreements and policies.
23			The Waiting List that has been submitted with the 2020 Annual Monitoring Report is an accurate and correct record as of the last day of the reporting period of the households who have applied to live at the Project, including the name of the head-of-household (or a suitable alternative), date of application, number of people in the household, stated household income and desired unit size.

Property and Liability Insurance

Enter the information requested below, and attach a current copy (each) of the Property and Liability Insurance Certificates. SCAN the documents and send them as an attachment along with the complete AMR to MOHCD via e-mail to: moh.amr@sfgov.org.

Property Insurance		
	Property Street Address:	
	Policy Number:	
	Policy Effective Date:	
	Policy Expiration Date:	
Liability Insurance		
	Property Street Address:	
	Policy Number:	
	Policy Effective Date:	
	Policy Expiration Date:	

Tax Certification

Enter the information requested below. You do **NOT** need to submit copies of the invoice or checks used to pay the tax.

Property Tax		
	Tax Year:	
	Amount of Tax Paid:	
	Date Paid:	
	Amount outstanding from taxes due for Reporting Period:	
	Amount outstanding from taxes due prior to Reporting Period:	

***** This form must be completed by Project Owner or authorized agent. *****

The undersigned, acting under authority of the ownership of this project, executes this Certification, subject to the pains and penalties of perjury, and certifies that the foregoing is true and correct in all respects.

Signature: _____ Date: _____

Name: _____ Title: _____

Annual Monitoring Report - Instructions - Reporting Year 2020 - Mayor's Office of Housing & Community Development

The instructions and definitions below are organized by the worksheets contained within this Annual Monitoring Report. Please review the instructions below and within each worksheet thoroughly as instructions may have changed.

Updated 12/21/2020

1A. Property & Residents

Please follow the instructions provided on the worksheet.

1B. Transitional Programs Only

Use this worksheet to report the activity only of a transitional housing program, including program capacity, number of people served, length of stay and destination upon exit. Please follow the instructions provided on the worksheet.

1C. Eviction Data

MOHCD is required to collect this data by San Francisco Administrative Code Sections 20.500-20.508. Please follow the instructions provided on the worksheet.

2. Fiscal Activity

Income and Expenses

The purpose of the Income and Expenses form is to track actual income and expenses over the reporting period. In addition to the instructions below, please follow instructions provided on the worksheet.

INSTRUCTIONS:

Column B - "Description of Income Accounts" and "Description of Expense Accounts". A complete description of the Income Accounts and Expense Accounts are provided below. Refer to the descriptions when completing the Fiscal Activity Worksheet. The Chart of Accounts uses account categories prescribed by generally accepted accounting principles and closely follows accounts prescribed by HUD, the State of California's Housing and Community Development Department, and the City's Quarterly Program Income Worksheet.

Column D - "Account Number". Each number represents an account in the Chart of Accounts, see below for more info.

Column F - "Residential". This column is for the essential recurring income and expenses related to the operation of a rental housing property, group home, project serving special needs populations or a transitional housing program.

Column H - "Non-Residential". This column is used to report income and expenses related to commercial space or other non-residential space in a project.

Income

Rental Income

5120 Housing Units Gross Potential Tenant Rents. This account records gross rent payable by the tenant for all residential units. Offsetting debits to this account are Account 6331, Administrative Rent Free Unit.

5121 Rental Assistance Payments. This account records rental assistance payments received or earned by the project through the LOSP, HUD Section 8 program (project-based or tenant-based assistance), HUD Section 202/811 programs, Shelter Plus Care program, HOPWA program, Rent Supplement, HOME Tenant-Based Assistance and VASH.

5140 Commercial Unit Rents. This account records gross rental income from stores, offices, rented basement space, furniture and equipment or other commercial facilities provided by the property.

Vacancy Loss

5220 Rent Income - Residential Units Vacancy Loss. ENTER AS NEGATIVE NUMBER. This account records total loss of residential rental income due to vacant residential units.

5240 Rent Income - Commercial Units Vacancy Loss. ENTER AS NEGATIVE NUMBER. This account records total loss of commercial rental income due to vacant commercial units.

Other Income

5170 Garage and Parking Spaces. This account records the gross rental income from all garage and parking spaces.

5190 Miscellaneous Rent Income. This account records gross rental income expectancy not otherwise described above.

5300 Supportive Services Income. Accounts in this series are used primarily by group home projects or other projects restricted to a special needs population (e.g., group home for mentally disabled or senior apartments). These accounts record revenues received or payable (other than rents) for services provided to tenants (e.g., meal services, housekeeping, etc.). Supportive service-related expenses are charged to accounts in the 6900 series. Enter the total of all revenues received or payable, and identify the source(s) of the income in cell D39.

5400 Interest Income - Project Operations. This account records interest income received or accrued on the Project Operating Account/s; DO NOT RECORD interest earned on the Replacement Reserve or Operating Reserve here.

5910 Laundry and Vending. This account records project revenues received from laundry and vending machines owned or leased by the project.

5920 Tenant Charges. This account records charges collected from tenants for damages to apartment units and for fees paid by tenants for cleaning of an apartment unit (other than regular housekeeping services), any security deposits forfeited by tenants moving out of the project and charges assessed to tenants for rent checks returned for insufficient funds and for late payment of rents.

5990 Other Revenue. This account records project revenue not otherwise described in the above revenue accounts.

Expenses **Management**

6320 Management Fee. This account records the cost of management agent services contracted by the project. This account does not include charges for bookkeeping or accounting services paid directly by the project to either the management agent or another third party.

Salaries/Benefits

6310 Office Salaries. This account records salaries paid to office employees whether the employees work on site or not. Front-line responsibilities include for example, taking applications, verifying income and processing maintenance requests. The account does not include salaries paid to occupancy, maintenance and regional supervisors who carry out the agent's responsibility for overseeing or supervising project operations and personnel. These salaries are paid from the management fee. This account also does not include the project's share of payroll taxes (Account 6711) or other employee benefits paid by the project.

6330 Manager's Salary. This account records the salary paid to property managers. It does not include the project's share of payroll taxes or other employee benefits or compensation provided to residents managers in lieu of residents managers' salary payments.

6723 Employee Benefits: Health Insurance & Disability Insurance. This account records the cost of employee benefits paid and charged to the project for health insurance and disability insurance.

XXXX Employee Benefits: Retirement & Other Salary/Benefit Expenses. This account records the cost of employee benefits paid and charged to the project for retirement and any other employee salary/benefits.

6331 Administrative Rent Free Unit. This account records the contract rent of any rent free unit provided to a resident manager which would otherwise be considered revenue producing.

Administration

6210 Advertising and Marketing. This account records the cost of advertising the rental property.

6311 Office Expenses. This account records office expense items such as supplies, postage, stationery, telephone and copying.

6312 Office Rent. This account records the rental value of an apartment, otherwise considered potentially rent-producing, but used as the project office or as a model apartment. The account is normally debited by journal entry.

6340 Legal Expense - Property. This account records legal fees or services incurred on behalf of the project (as distinguished from the borrower/grantee entity). For example, agents charge legal fees for eviction procedures to this account.

6350 Audit Expense. This account records the auditing expenses incurred by the project that are directly related to requirements for audited financial statements and reports. This account does not include the auditor's charge for preparing the borrower/grantee's Federal, State and local tax returns. This account does not include the cost of routine maintenance or review of the project's books and records.

6351 Bookkeeping Fees/Accounting Services. This account records the cost of bookkeeping fees or automated accounting services not included in the management fee but paid to either the agent or a third party.

6370 Bad Debts. This account records by journal entry the amount of tenant accounts receivable that the agent estimates uncollectible at the end of the accounting period.

6390 Miscellaneous Administrative Expenses. This account records administrative expenses not otherwise classified in the 6300 Series. If the project had miscellaneous administrative expenses greater than \$10,000, a detailed itemization of these expenses must be provided in the Narrative worksheet.

Utilities

6450 Electricity

6451 Water

6452 Gas

6453 Sewer

Taxes and Licenses

6710 Real Estate Taxes. This account records payments made for real estate taxes of the project.

6711 Payroll Taxes (Project's Share). This account records the project's share of FICA and State and Federal Unemployment taxes.

6790 Miscellaneous Taxes, Licenses and Permits. This account records any taxes, licenses, permit fees or costs of insurance assessed to the property and not otherwise categorized in the 6700 Series.

Insurance

6720 Property and Liability Insurance. This account records the cost of project property and commercial general/auto liability insurance.

6721 Fidelity Bond Insurance. This account records the cost of insuring project employees who handle cash.

6722 Workers' Compensation. This account records the cost of workers' compensation insurance for project employees.

6724 Directors and Officers Liabilities Insurance. This account records the cost of insurance to cover financial protection for the directors and officers of the ownership entity in the event they are sued in conjunction with the performance of their duties as they relate to the property.

Maintenance and Repairs

6510 Payroll. This account records the salaries of project employees whose perform services including but not limited to janitorial/cleaning, exterminating, grounds, repairs, elevator maintenance and decorating. This account does not include the property's share of payroll taxes (FICA and Unemployment) or other employee benefits paid by the property.

6515 Supplies. This account records all cost of supplies charged to the property for janitorial cleaning, exterminating, grounds, repairs and decorating.

6520 Contracts. This account records the cost of contracts the owner or agent executes with third parties on behalf of the property for janitorial/cleaning, exterminating, grounds, repairs, elevator maintenance and decorating.

6525 Garbage and Trash Removal. This account records the cost of removing garbage and rubbish from the project. The account does not include salaries paid to janitors who collect the trash.

6530 Security Payroll/Contract. This account records the project's payroll costs attributable to the protection of the project or the costs of a protection contract that the owner or agent executes on behalf of the project.

6546 HVAC Repairs and Maintenance. This account records the cost of repairing and maintaining heating or air conditioning equipment owned by the project. Agents should capitalize repairs of significant amounts which extend the useful life of the equipment.

6570 Vehicle and Maintenance Equipment Operation and Repairs. This account records the cost of operating and repairing project motor vehicles and maintenance equipment. Motor vehicle insurance is not included in this account but is charged to account 6720.

6590 Miscellaneous Operating and Maintenance Expenses. This account records the cost of maintenance and repairs not otherwise classified in the 6400 and 6500 account Series. If the project had miscellaneous operating and maintenance expenses greater than \$10,000, a detailed itemization of these expenses must be provided in the Narrative worksheet.

Supportive Services

6900 Supportive Service Expenses. Accounts in this series are used primarily by group home projects and other projects restricted to a special needs population. The accounts record expenses directly related to special services provided to the tenants (e.g., food, housekeeping, case managers, social activity coordinator, etc.).

Reserve Account Activity

1320 Replacement Reserve Required Annual Deposits. This account records the required amount of deposits made to a segregated Replacement Reserve bank account from the project's Operating Account during the reporting period. See below for more guidance about data entry required for replacement reserve eligible expenditures.

1365 Operating Reserve Deposits. This account records amount of deposits made to a segregated Operating Reserve bank account from the project's Operating Account during the report period.

XXXX Operating Reserve Account Withdrawals. Enter the total amount of withdrawals made from the Operating Reserve, which will be deposited into the project's Operating Account during the reporting period.

1330 Other Reserve Accounts - Deposits. This account records amount of deposits made to segregated reserve bank accounts not identified above during the report period. Deposits are assumed to have been funded by the project's operating account and will decrease the surplus cash amount in row 136. You should provide the name of the account in cell D132.

XXXX Other Reserve Accounts - Withdrawals. This line is used to record the amount of withdrawals made from other segregated reserve bank accounts during the reporting period. Withdrawals entered are assumed to have been deposited into the project's operating account and will increase the surplus cash amount in row 136. You should provide the name of the account in cell D133.

3A. Occupancy & Rent Info

Accurate and complete household and tenancy data must be submitted on the Occupancy & Rent Info worksheet as evidence that the project complies with the income eligibility and rent affordability restrictions of MOHCD's funding agreements. Enter the data described below into the chart in Section 3A - Occupancy & Rent Info for the tenant population that occupied the project as of the end of the reporting period.

- **NEW:** for each VACANT unit, in column D, enter the unit number, follow by "- Vac". For example, if Unit 201 was vacant, in column D, enter "201 - Vac."
- Identify manager's unit with the unit number, follow by "- Mgr". For example, if the manager occupies Unit 501, in column D, enter "501 - Mgr."
- For vacant units and manager's units, you must supply data in columns D, E, P, R and T. All other columns should be left blank.

COLUMN	DESCRIPTION
--------	-------------

C.	Row Number. Do not enter data in this column.
----	--

D.	Unit No. Enter the unit number (or bed number for transitional or group housing) for each unit/bed in the property.
----	--

E.	Unit Type. Use the drop down menu to select the unit type (also shown below):
----	--

Bed = (measurement for Group homes or transitional housing)

"SRO" = Single Room Occupancy unit

"Studio" = Studio unit

"1BR" = 1 Bedroom unit

"2BR" = 2 Bedroom unit
"3BR" = 3 Bedroom unit
"4BR" = 4 Bedroom unit
"5+BR" = 5 or more Bedroom unit

F. **Is the Unit Fully-Accessible or Adaptable?** Use the drop down menu to indicate which

"Accessible - Mobility" = The unit is fully-accessible for persons with mobility impairment.

"Accessible - Communication" = The unit is fully-accessible for persons with visual and hearing impairment.

"Mobility & Communication" = The unit is fully-accessible for persons with mobility, visual and hearing impairment.

"Adaptable" = The unit was designed to be accessible, but some accessibility features may have been omitted or concealed.

"Not Accessible or Adaptable" = Not Accessible or Adaptable.

G. **Date of Initial Occupancy.** Enter the date when the tenant occupied their *first unit in the project*. For tenants who have transferred to another unit in the project, this date will be different than the date when they moved into their current unit.

H. **Household Annual Income at Initial Occupancy.** Enter the tenant's annual household income from the initial income certification that was done before they moved into their *first unit in the project*. For tenants who have transferred to another unit in the project, this amount will be different than the amount from the certification that was done when they moved into their current unit.

I. **Household Size at Initial Occupancy.** Enter the number of people that was in the tenant's household when they occupied their first unit in the project. For tenants who have transferred to another unit in the project, this number may be different than it was when they moved into their current unit.

J. **Date of Most Recent Income Recertification.** Enter date of most recent income recertification. Leave blank for vacant units.

K. **Household Annual Income as of Most Recent Recertification within reporting period.** Enter annual income of the household from the most recent recertification. OK to leave blank ONLY if ALL funders do not require annual income recertifications.

L. **Household Size as of Most Recent Recertification within reporting period.** Enter the number of occupants in the unit from the most recent recertification within the reporting period.

M. **Minimum Occupancy for Unit Type.** The data here is automatically entered from items 25-31 on Worksheet #1A.

N. **Maximum Occupancy for Unit Type.** The data here is automatically entered from items 25-31 on Worksheet #1A.

O. **Overhoused or Overcrowded?** The data here is automatically generated based on entries in column K and on items 26-32 on Worksheet #1A.

P. **Overhoused or Overcrowded - Narrative** A household is "Overhoused" if there are fewer people residing in the unit than the minimum occupancy. "Overcrowded" means that there are more people residing in the unit than the maximum occupancy. If the data in column N indicates that the household is overhoused or overcrowded, please describe any extenuating circumstances that justify the overhoused/overcrowded status and summarize efforts that you have made to transfer the tenant to a unit that is appropriate for the size of the household, if applicable.

Q. **Is this Unit a HOPWA set-aside unit? (yes/no).** "HOPWA set-aside" units are required when HOPWA capital funding is used to acquire, construct or rehab a project.

R. **Rental Assistance.** From the drop-down menu, select one code only to indicate the type of assistance, if any, being provided to the tenant (low-income units only). Select "None" if no rental assistance comes with the unit or none is provided to the tenant.

"RAD - PBV" = As a result of a RAD (Rental Assistance Demonstration) conversion, the project unit comes with a RAD Project-Based Section 8 subsidy that will remain with the unit after the tenant moves out.

"TPV" = As a result of a RAD (Rental Assistance Demonstration) conversion, the project unit comes with a HUD Tenant Protection Voucher subsidy to help prevent displacement and/or stabilize the property.

"Section 8 - Project Based" = The unit comes with Section 8 subsidy that will remain with the unit after the tenant moves out.

"Section 8 - Tenant Voucher" = Tenant is receiving assistance through the Section 8 Certificate or Voucher programs.

"PRAC - 202" = The unit receives a subsidy through a Project Rental Assistance Contract from HUD's 202 program.

"PRAC - 811" = The unit receives a subsidy through a Project Rental Assistance Contract from HUD's 811 program.

"S+C" = Tenant is receiving tenant-based assistance, or the unit has project-based assistance, from the Shelter Plus Care program.

"HOPWA" = The unit is a HOPWA-designated unit under the project funding from the Housing Opportunities for People With AIDS program. While HOPWA is not a source of tenant-based assistance, if the tenant is receiving any other form of subsidy, please report on the amount of Rental Assistance on this worksheet and note the source of the Rental Assistance in the Narrative section of the AMR.

"VASH" = Tenant is receiving tenant-based assistance, or the unit comes with project-based rental assistance, from the Veterans Administration Supportive Housing program.

"LOSP" = The unit receives a subsidy through the City's Local Operating Subsidy Program.

"DAH (DPH)" = The unit receives a subsidy through the City's Direct Access to Housing Program of DPH.

"HSA Master Lease" = The unit receives a subsidy through the City's Master Lease Program of the Human Services Agency.

"MHSA" = The unit receives a subsidy under CA HCD's Mental Health Services Act.

"HOME TBA" = Tenant receives assistance from a HOME-funded rental assistance program.

"Rent Supplement" = Tenant receives a supplemental rent payment from an outside agency.

"Other" = Tenant is receiving, or unit comes with, rental assistance through another Federal, State or local program.

- S. **Amount of Rental Assistance.** Enter the dollar amount of rental assistance that is paid on behalf of the household/tenant.
- T. **Amount of Maximum Gross Rent Allowed for Unit.** Enter the maximum rent for the unit that is allowed by the most restrictive funder of the project.
- U. **Amount of Tenant Paid Rent for Unit.** Enter only the amount of rent that the tenant pays. Do not include any rental assistance paid on behalf of the tenant by another party.
- V. **Utility Allowance.** If the tenant pays for utilities, enter the Utility Allowance allowed for the unit. Enter zero (0) if the Utilities are paid by the project.
- W. **Household Rent Burden.** THIS IS A SELF-CALCULATING CELL - ENTER NO DATA HERE. If the rent burden is 100% or greater, it is likely that the amount of tenant paid rent and/or the amount of HH income is incorrect, please review the data for accuracy. Typically, rent burdens should be 60% or less. If a unit has a rent subsidy, the typical requirement is for tenants to pay 30% of income toward rent.
- X. **Date of Most Recent Rent Increase within the Reporting Period.** ONLY FOR UNITS THAT DO NOT HAVE RENTAL ASSISTANCE OR SUBSIDY. Enter date of most recent rent increase for unit.
- Y. **Amount of Most Recent Rent Increase within the Reporting Period.** ONLY FOR UNITS THAT DO NOT HAVE RENTAL ASSISTANCE OR SUBSIDY. Enter amount of most recent rent increase for unit.
- Z. **Percentage of Most Recent Rent Increase.** THIS IS A SELF-CALCULATING CELL - ENTER NO DATA HERE.

3B. Demographic

Gender and Sexual Orientation: on June 30, 2017, MOHCD published and distributed a Notice regarding new requirements to collect this demographic data. Click this cell to review the [Notice](#) if you have any questions about this.

Gender. Provide info for the Head of Household. The 8 possible answers for Gender are:

- Female
- Male
- Genderqueer/Gender Non-binary
- Trans Female
- Trans Male
- Not listed
- Declined/Not Stated
- Question Not Asked

Sexual Orientation. Provide info for the Head of Household. The 7 possible answers for Sexual Orientation are:

- Bisexual
- Gay /Lesbian/Same-Gender Loving
- Questioning /Unsure
- Straight/Heterosexual
- Not listed
- Decline to Answer
- Not Stated

Elderly Household. For each residential unit, enter "Yes" if the anyone in the household is a person that is at least 62 years of age. Enter "No" if everyone in the household is younger than 62.

Number of Children Under Age 18 in Household. Enter the number of occupants in the unit that were under age 18 as of the end date of the reporting period.

Disability. If any members of the household have any of the listed disabilities, select the disability from the drop-down menu. Select "None" if the unit is not occupied by any tenants with a listed disability.

3C. Summary of Reported Household Demographics

No data entry required. Output based on information reported from Worksheets 3A and 3B.

4. Narrative

Please follow the instructions provided on the worksheet.

5. Project Financing

Supply the info requested about all current financing of the project. Lenders should be listed in lien order, i.e., with the most-senior lender in the first lien position, the most-junior lender in last lien position.

6. Services Funding

For each service that is provided based on your answers to questions 51-61 on Worksheet 1A, you must supply additional info about each service provider on Worksheet 6. Services Funding.

7. Supplementary Audit Information - Required by MOHCD

Use this template to satisfy the audit requirement for MOHCD-funded projects. Project Owners/auditors may enter data directly into this worksheet and then print it to create the required Supplemental Schedules in the Audited Financial Statement. Alternatively, the audit requirement may be satisfied by using a form generated by the Sponsor's accounting system, as long as the form includes all the elements contained within MOHCD's template.

Completeness Tracker

Use this worksheet to track your work and to verify that you have completed all required data entry.

Links to Relevant Policies

Double click on the following web links to access the policy documents posted at SFGOV for your reference. The web address of the pages on the web are included for manual navigation as well.

[MOHCD Forms Page at SFMOHCD.ORG](http://sfmohcd.org/documents-reports-and-forms)

<http://sfmohcd.org/documents-reports-and-forms>

[Program Income Overview](http://sfmohcd.org/sites/default/files/FileCenter/Documents/5141-MOH_ProgIncomeOverview.pdf)

http://sfmohcd.org/sites/default/files/FileCenter/Documents/5141-MOH_ProgIncomeOverview.pdf

[MOHCD Residual Receipt Policy](http://sfmohcd.org/sites/default/files/Documents/CURRENTResidualRecPolicy%202016.pdf)

<http://sfmohcd.org/sites/default/files/Documents/CURRENTResidualRecPolicy%202016.pdf>

[MOHCD Insurance Requirements Policy](http://sfmohcd.org/sites/default/files/FileCenter/Documents/5140-INSURANCE%20EXHIBIT%20K_2014-05-21.pdf)

http://sfmohcd.org/sites/default/files/FileCenter/Documents/5140-INSURANCE%20EXHIBIT%20K_2014-05-21.pdf

[MOHCD Operating Fees Policy](http://sfmohcd.org/sites/default/files/Documents/CURRENT%20OperatingFeesPolicy%202016.pdf)

<http://sfmohcd.org/sites/default/files/Documents/CURRENT%20OperatingFeesPolicy%202016.pdf>

**Annual Monitoring Report - Property & Residents - Reporting Year 2020 -
Mayor's Office of Housing & Community Development**

#	IDENTIFYING INFO				
1	Reporting Period Start Date (m/d/yyyy)				
2	Reporting Period End Date (m/d/yyyy)				
3	Property Name (select from drop down)				
4	Property Full Street Address (e.g. "123 Main Street")				
CONTACT INFO					
5	Sponsor Executive Director Name				
6	Phone Number				
7	E-mail				
8	Property Management Company				
9	Property Manager Name				
10	Phone Number				
11	E-mail				
12	Property Supervisor Name				
13	Phone Number				
14	E-mail				
15	Property Owner Name				
16	Property Owner Contact Person				
17	Phone Number				
18	E-mail				
19	Asset Manager Name				
20	Phone Number				
21	E-mail				
22	AMR Preparer's Name				
23	Phone Number				
24	E-mail				
PROPERTY/MARKETING INFO					
25	Is the project any of the following: Transitional Housing, Residential Treatment Program, Shelter or Transitional Group Home? (select "yes" or "no" from the drop-down menu to the left.) <i>If you answer "yes", skip questions 26 through 39 below, and continue with question 40. Also, you must complete worksheet "1B.TransitionalProg."</i>				
What is the Unit Mix for the Property? Please include any manager's units in this tally.					
	Unit Types	Number Of Units	Occupancy Standard: Minimum HH Size for this Unit Type*	Occupancy Standard: Maximum HH Size for this Unit Type*	*Occupancy Standards should be described in project's Approved Tenant Selection and Marketing Plan. If not defined there, supply the standards used organization-wide.
26	Single Room Occupancy (SRO) Units		1		
27	Studio Units		1		
28	One-Bedroom (1BR) Units		1		
29	Two-Bedroom (2BR) Units				
30	Three-Bedroom (3BR) Units				
31	Four-Bedroom (4BR) Units				
32	Five- or More (5+BR) Bedroom Units				
33	TOTAL # Units---->	0			

34		Vacancies - How many vacancies occurred at the project during the reporting period? (Be sure that the number you report here is not less than the number of vacant units that are included on worksheet 3.)
35	0	Evictions - How many evictions occurred during the reporting year? (This data in this field is automatically calculated from the data that is entered on worksheet 1C. You must complete worksheet 1C, unless the project is transitional housing, a residential treatment program, a shelter or a transitional group home.)
36		Vacant Unit Rent-Up Time - (in DAYS) State the average vacant unit rent-up time. This is the period from the time a household moves out to when the unit is rented again. # 4 Please EXCLUDE any units that are being held vacant to support rehabilitation or other temporary relocation needs. If this period exceeds 30 days, you must answer Question # 4 on the Narrative worksheet. (Click on # 4 at left to jump to Narrative worksheet.)
37		Waiting List - How many applicants are currently on the waiting list? (Please also submit a copy of the waiting list, see AMR submission instructions.)
38		When was the waiting list last updated? (m/yyyy)
39		# 5 Affirmative Marketing - Did you conduct any marketing of the project during the reporting period? If you conducted marketing during the reporting period, you must answer Question #5 on the Narrative worksheet. (Click on #5 at left to jump to Narrative worksheet.)
40		What is the date of the last Capital Needs Assessment? (m/d/yyyy)
41		What is the projected date of the next Capital Needs Assessment? (m/d/yyyy)
42		# 2 How many Health, Building or Housing Code Violations were issued against the property in the reporting year? (If there were no violations enter "0"). If the property was cited for code violations in the reporting year or has open, unresolved violations from prior years as indicated below, you must answer Question #2 on the Narrative worksheet. (Click on #2 at left to jump to Narrative worksheet.)
43		# 2 How many Health, Building or Housing Code Violations were open from prior years?
44		How many Health, Building or Housing Code Violations were cleared in the reporting year?
45		# 3 Are there urgent Major Property Repairs needed on the property in the next two years? (Yes/No) If there are needed major repairs you must answer Question #3 on the Narrative worksheet. (Click on #3 at left to jump to Narrative worksheet.)

46		<p>If the property has Immediate Capital Needs and lacks adequate funds in the Replacement Reserve (or elsewhere) to cover the costs, please supply the amount of funds needed to make up the difference, and supply additional explanation in question #3 of the Narrative report. (Click on # 3 at left to jump to Narrative worksheet.)</p>																				
<p>Resident Services: AN ANSWER IS REQUIRED FOR questions 51-61. Indicate below any services that were available to the residents free of charge, on site or at another designated location within 1/4 mile of the project. You must also provide additional information about each of the marked services below on Worksheet "6.Services"</p>																						
47		<p>Go To WS6 After School Program/s (y/n)</p>																				
48		<p>Go To WS6 Licensed Day Care Service (<i>participant fees are allowable for day care ONLY</i>) (y/n)</p>																				
49		<p>Go To WS6 Youth Program/s (y/n)</p>																				
50		<p>Go To WS6 Educational Classes (e.g. basic skills, computer training, ESL) (y/n)</p>																				
51		<p>Go To WS6 Health and Wellness Services/Programs (y/n)</p>																				
52		<p>Go To WS6 Employment Services (y/n)</p>																				
53		<p>Go To WS6 Case Management, Information and Referrals (y/n)</p>																				
54		<p>Go To WS6 Benefits Assistance and Advocacy; Money Management; Financial Literacy and Counseling (y/n)</p>																				
55		<p>Go To WS6 Support Groups, Social Events, Organized Tenant Activities (y/n)</p>																				
56		<p>Go To WS6 Other Service #1 - Please specify in column G.</p>																				
57		<p>Go To WS6 Other Service #2 - Please specify in column G.</p>																				
<p>POPULATION SERVED</p>																						
<p>Target / Actual Populations: As of the last day of the reporting period, what are the Actual and Target Populations (expressed as Number of Households) for the Project?</p>																						
<p><i>Under Target Population, enter the number of units at the project that, as a requirement of a specific funding source (e.g. 202, HOPWA, McKinney), are targeted to and set aside for the target populations shown in the table. Under Actual Population, enter the number of households at the project that, as of the end of the reporting period, contained at least one person who is a member of the populations shown in the table.</i></p>																						
		<table border="1"> <thead> <tr> <th colspan="2">Target Population</th> <th colspan="2">Actual Population</th> </tr> </thead> <tbody> <tr> <td>58</td> <td></td> <td>0</td> <td>Families</td> </tr> <tr> <td>59</td> <td></td> <td>0</td> <td>Persons with HIV/AIDS</td> </tr> <tr> <td>60</td> <td></td> <td>0</td> <td>Housing for Homeless</td> </tr> <tr> <td>61</td> <td></td> <td>0</td> <td>Mentally or Physically Disabled</td> </tr> </tbody> </table>	Target Population		Actual Population		58		0	Families	59		0	Persons with HIV/AIDS	60		0	Housing for Homeless	61		0	Mentally or Physically Disabled
Target Population		Actual Population																				
58		0	Families																			
59		0	Persons with HIV/AIDS																			
60		0	Housing for Homeless																			
61		0	Mentally or Physically Disabled																			

62			0	Senior Housing	0	Senior Housing
63			0	Substance Abuse	0	Substance Abuse
64			0	Domestic Violence Survivor	0	Domestic Violence Survivor
65			0	Veterans	0	Veterans
66			0	Formerly Incarcerated	0	Formerly Incarcerated
67			0	Transition-Aged Youth ("TAY")	0	Transition-Aged Youth ("TAY")

Remember, **SAVE YOUR WORK!**

Annual Monitoring Report - Transitional Programs - Reporting Year 2020 - Mayor's Office of Housing & Community Development					
Project Address:					
Project Capacity: What is the target capacity of this project? (All blanks in this section must be filled with a number of "0" or greater in order for the worksheet to be complete.)					
	A. Num Singles Not in Families	B. Num Families	C1. Num Adults in Families	C2. Num Children in Families	D. Num of Beds
1					
2	0		Total Households (Singles and Families) That Can Be Served		
Persons Served During Operating Year (All blanks in this section must be filled with a number of "0" or greater in order for the worksheet to be complete.)					
	A. Num Singles Not in Families	B. Num Families	C1. Num Adults in Families	C2. Num Children in Families	
3					Num on the first day of operating year
4					Num entering the program during the operating year
5	0		Total Households (Singles and Families) Served		
6					Num who left the program during the operating year
7	0	0	0	0	Num in the program on the last day of the operating year
8	0		Total Households in program on the last day of the operating year		
9	Capacity Utilization Rate (by Household as of last Day of Operating Year)				
If the Capacity Utilization Rate is LESS than 75% you must respond to the following:					
10	1. Explain the reason(s) why the capacity utilization rate is as low as it is; and				
11	2. Describe plan/s to raise the capacity utilization rate to at least 75%, with specific timeline.				
Length of Stay: For the 0 households that LEFT the program during the operating year, how many were in the project for the following lengths of time? (Total in cell H28 should match total of cells H14 + I14. All blanks in this section must be filled with a number of "0" or greater in order for the worksheet to be complete.)					
12	Less than 1 month				
13	1 to 2 months				
14	3 - 6 months				
15	7 months -12 months				
16	13 months - 24 months				
17	25 months - 3 years				
18	0		TOTAL # HH's that left the program		
Destination: For the 0 households reported to have LEFT the program during the operating year, how many left for the following destinations? (Total in cell H53 should match total of cells H14 + I14. All blanks in this section must be filled with a number of "0" or greater in order for the worksheet to be complete.)					
19	Rental - House or Apartment (no subsidy)				PERMANENT
20	Public Housing				
21	Section 8 Voucher				
22	Subsidized Rental - house or apartment				
23	Homeownership				
24	Moved in with family or friends				TRANSITIONAL
25	0		Permanent Housing Subtotal		
26	Transitional Housing for homeless persons				TRANSITIONAL
27	Moved in with family or friends TEMPORARILY				
28	0		Transitional Housing Subtotal		INSTITUTIONAL
29	Psychiatric hospital				
30	Inpatient alcohol or other drug treatment facility				
31	Jail/Prison				
32	Medical Facility				
33	0		Institutional Subtotal		OTHER
34	Emergency Shelter				
35	Places not meant for human habitation (e.g. street)				
36	Unknown				
37	Other				
38	0		Other Subtotal		TOTAL # HH's that left the program
39	0		TOTAL # HH's that left the program		

Annual Monitoring Report - Eviction Data - Reporting Year 2020 - Mayor's Office of Housing & Community Development

Project Address:

This section of the AMR must be completed for all projects, except for transitional housing or residential treatment services.

Number of households who lived in the project during the reporting period:

1 Number of households who lived in the project **AT ANY TIME** during the reporting period. Be sure to include all households that moved in during the reporting period.

Number of households in the project who received Notices of Eviction during the reporting period for each of the following reasons:
(If more than one reason applies to a household, report only the primary reason.)
You MUST answer every question (i.e., enter zero if applicable).

Ethnicity and Race data for households that received Notices of Eviction during the reporting period:

		enter # below	enter # below
2	Breach of Lease Agreement	Indigenous - American Indian/Native American	Black - African
3	Capital Improvement	Indigenous from Mexico, the Caribbean, Central America or South America	Black - African American
4	Condo Conversion	Other Indigenous	Black - Caribbean, Central American, South American or Mexican
5	Demolition	Asian - Chinese	Other Black
6	Denial of Access to Unit	Asian - Filipino	North African
7	Development Agreement	Asian - Japanese	West Asian
8	Ellis Act Withdrawal	Asian - Korean	Other Middle Eastern or North African
9	Failure to Sign Lease Renewal	Asian - Mongolian	Pacific Islander - Chamorro
10	Good Samaritan Tenancy Ends	Asian - Central Asian	Pacific Islander - Native Hawaiian
11	Habitual Late Payment of Rent	Asian - South Asian	Pacific Islander - Samoan
12	Illegal Use of Unit	Asian - Southeast Asian	Other Pacific Islander
13	Lead Remediation	Other Asian	White - European
14	Non-payment of Rent	Latino - Caribbean	Other White
15	Nuisance	Latino - Central American	Not Reported
16	Other	Latino - Mexican	0 Total (must match Total number in E29)
17	Owner Move In	Latino - South American	
18	Roommate Living in Same Unit	Other Latino	Gender data for households that received Notices of Eviction during the reporting period:
19	Substantial Rehabilitation	Sexual Orientation data for households that received Notices of Eviction during the reporting period:	Female
20	Unapproved Subtenant	Bisexual	Male
21	0 Total number of households who received Notices of Eviction	Gay/Lesbian/Same-Gender Loving	Genderqueer/Gender Non-Binary
		Questioning/Unsure	Trans Female
		Straight/Heterosexual	Trans Male
		Not Listed	Not Listed
		Declined / Not Stated	Declined / Not Stated
		0 Total (must match Total number in E29)	0 Total (must match Total number in E29)

Number of Unlawful Detainer actions filed in court by the owner against tenants in the project during the reporting period for each of the following reasons:
(If more than one reason applies to a household, report only the primary reason.)
You MUST answer every question (i.e., enter zero if applicable).

Ethnicity and Race data for households for which Unlawful Detainers were filed during the reporting period:

		enter # below	enter # below
22	Breach of Lease Agreement	Indigenous - American Indian/Native American	Black - African
23	Capital Improvement	Indigenous from Mexico, the Caribbean, Central America or South America	Black - African American
24	Condo Conversion	Other Indigenous	Black - Caribbean, Central American, South American or Mexican
25	Demolition	Asian - Chinese	Other Black
26	Denial of Access to Unit	Asian - Filipino	North African
27	Development Agreement	Asian - Japanese	West Asian
28	Ellis Act Withdrawal	Asian - Korean	Other Middle Eastern or North African
29	Failure to Sign Lease Renewal	Asian - Mongolian	Pacific Islander - Chamorro
30	Good Samaritan Tenancy Ends	Asian - Central Asian	Pacific Islander - Native Hawaiian
31	Habitual Late Payment of Rent	Asian - South Asian	Pacific Islander - Samoan
32	Illegal Use of Unit	Asian - Southeast Asian	Other Pacific Islander
33	Lead Remediation	Other Asian	White - European
34	Non-payment of Rent	Latino - Caribbean	Other White
35	Nuisance	Latino - Central American	Not Reported
36	Other	Latino - Mexican	0 Total (must match Total number in E56)
37	Owner Move In	Latino - South American	
38	Roommate Living in Same Unit	Other Latino	Gender data for households for which Unlawful Detainers were filed during the report period:
39	Substantial Rehabilitation	Sexual Orientation data for households for which Unlawful Detainers were filed during the report period:	Female
40	Unapproved Subtenant	Bisexual	Male
41	0 Total number of unlawful detainer actions filed	Gay/Lesbian/Same-Gender Loving	Genderqueer/Gender Non-Binary
		Questioning/Unsure	Trans Female
		Straight/Heterosexual	Trans Male
		Not Listed	Not Listed
		Declined / Not Stated	Declined / Not Stated
		0 Total (must match Total number in E56)	0 Total (must match Total number in E56)

Number of households Evicted from the project during the reporting period for the each of the following reasons:
(If more than one reason applies to a household, report only the primary reason.)
You MUST answer every question (i.e., enter zero if applicable).

Ethnicity and Race data for households that were Evicted during the reporting period:

		enter # below	enter # below
42	Breach of Lease Agreement	Indigenous - American Indian/Native American	Black - African
43	Capital Improvement	Indigenous from Mexico, the Caribbean, Central America or South America	Black - African American
44	Condo Conversion	Other Indigenous	Black - Caribbean, Central American, South American or Mexican
45	Demolition	Asian - Chinese	Other Black
46	Denial of Access to Unit	Asian - Filipino	North African
47	Development Agreement	Asian - Japanese	West Asian
48	Ellis Act Withdrawal	Asian - Korean	Other Middle Eastern or North African
49	Failure to Sign Lease Renewal	Asian - Mongolian	Pacific Islander - Chamorro
50	Good Samaritan Tenancy Ends	Asian - Central Asian	Pacific Islander - Native Hawaiian
51	Habitual Late Payment of Rent	Asian - South Asian	Pacific Islander - Samoan
52	Illegal Use of Unit	Asian - Southeast Asian	Other Pacific Islander
53	Lead Remediation	Other Asian	White - European
54	Non-payment of Rent	Latino - Caribbean	Other White
55	Nuisance	Latino - Central American	Not Reported
56	Other	Latino - Mexican	0 Total (must match Total number in E83)
57	Owner Move In	Latino - South American	
58	Roommate Living in Same Unit	Other Latino	Gender data for households that were Evicted during the reporting period:
59	Substantial Rehabilitation	Sexual Orientation data for households that were Evicted during the reporting period:	Female
60	Unapproved Subtenant	Bisexual	Male
61	0 Total number of households evicted (flows to question #35 on Worksheet 1A)	Gay/Lesbian/Same-Gender Loving	Genderqueer/Gender Non-Binary
		Questioning/Unsure	Trans Female
		Straight/Heterosexual	Trans Male
		Not Listed	Not Listed
		Declined / Not Stated	Declined / Not Stated
		0 Total (must match Total number in E83)	0 Total (must match Total number in E83)

	B	D	F	H	J
15	Annual Monitoring Report - Fiscal Activity - Reporting Year 2020 - Mayor's Office of Housing & Community Development				
16	INCOME & EXPENSES				
17	12 Month Report Period	Start Date:	1/0/1900	End Date:	1/0/1900
18	Number of Units-->	0			
19		Account			
20	Description of Income Accounts	Number	Residential	Non-Residential	Total
21					
22	Rental Income				
23	Housing Units - Gross Potential Tenant Rents	5120			
24	Rental Assistance Payments (identify ALL sources in row below if applicable, including LOSP funding)	5121			
25	Source/s---->				
26	Commercial Unit Rents	5140			
27	sub-total Gross Rental Income:		\$0.00	\$0.00	\$0.00
28	Vacancy Loss - enter amounts as negative numbers!				vacancy rate
29	Housing Units	5220		Must click & explain if Residential Vac Rate is > 15%	
30	Commercial	5240			0.00%
31	sub-total Vacancies:		\$0.00	\$0.00	\$0.00
32					
33	NET RENTAL INCOME:		\$0.00	\$0.00	\$0.00
34					
35	Other Income				
36	Garage and Parking Spaces	5170			
37	Miscellaneous Rent Income	5190			
38	Supportive Services Income - Do not enter supportive services income if it is tracked in a separate budget and not appropriate per MOHCD loan terms to be included in Residual Receipts calculation.	5300			
39	Supportive Services Income Source/s- identify program source(s) if applicable -->				
40	Interest Income - Project Operations (From Operating Account Only)	5400			
41	Laundry and Vending	5910			
42	Tenant Charges	5920			
43	Other Revenue	5990			
44	sub-total Other Income Received:		\$0.00	\$0.00	\$0.00
45					
46	TOTAL INCOME RECEIVED:		\$0.00	\$0.00	\$0.00
47					
48	INCOME & EXPENSES				
49		Account Number	Residential	Non-Residential	Total
50	Description of Expense Accounts				
51	Management				
52	Management Fee	6320			
53	"Above the Line" Asset Management Fee (amount allowable may be limited, see Asset Mgt. Fee Policy)				
54	sub-total Management Expense:		\$0.00	\$0.00	\$0.00
55	Salaries/Benefits				
56	Office Salaries	6310			
57	Manager's Salary	6330			
58	Employee Benefits: Health Insurance & Disability Insurance	6723			
59	Employee Benefits: Retirement & Other Salary/Benefit Expenses				
60	Administrative Rent Free Unit	6331			
61	sub-total Salary/Benefit Expense:		\$0.00	\$0.00	\$0.00
62	Administration				
63	Advertising and Marketing	6210			
64	Office Expenses	6311			
65	Office Rent	6312			
66	Legal Expense - Property	6340			
67	Audit Expense	6350			
68	Bookkeeping/Accounting Services	6351			
69	Bad Debts	6370			
70	Miscellaneous Administrative Expenses (must click & explain if >\$10k)	6390			
71	sub-total Administrative Expense:		\$0.00	\$0.00	\$0.00
72	Utilities				
73	Electricity	6450			
74	Water	6451			
75	Gas	6452			

	B	D	F	H	J
15	Annual Monitoring Report - Fiscal Activity - Reporting Year 2020 - Mayor's Office of Housing & Community Development				
76	Sewer	6453			
77	sub-total Utilities Expense:		\$0.00	\$0.00	\$0.00
78	Taxes and Licenses				
79	Real Estate Taxes	6710			
80	Payroll taxes	6711			
81	Miscellaneous Taxes, Licenses, and Permits	6719			
82	sub-total Taxes and License Expense:		\$0.00	\$0.00	\$0.00
83	Insurance				
84	Property and Liability Insurance	6720			
85	Fidelity Bond Insurance	6721			
86	Workers' Compensation	6722			
87	Directors & Officers Liabilities Insurance	6724			
88	sub-total Insurance Expense:		\$0.00	\$0.00	\$0.00
89	Maintenance and Repairs				
90	IMPORTANT NOTE RE: TREATMENT OF CAPITAL AND NON-CAPITAL MAINTENANCE REPAIR EXPENSES ELIGIBLE FOR PAYMENT BY REPLACEMENT RESERVE: If possible, exclude those from this section. If you do include those expenses here, be sure to record the amounts in rows 103 (non-capital) and 210:215 below (capital).				
91	Payroll	6510			
92	Supplies	6515			
93	Contracts	6520			
94	Garbage and Trash Removal	6525			
95	Security Payroll/Contract	6530			
96	HVAC Repairs and Maintenance	6546			
97	Vehicle and Maintenance Equipment Operation and Repairs	6570			
98	Miscellaneous Operating and Maintenance Expenses (must click & explain if >\$10k)	6590			
99	sub-total Maintenance Repair Expense:		\$0.00	\$0.00	\$0.00
100	Supportive Services: do not enter supportive services expenses if tracked in separate budget and not eligible to be counted against project income for residual receipts calculation.	6930			
101	SUB-TOTAL OPERATING EXPENSES:		\$0.00	\$0.00	\$0.00
102	Capital Maintenance Repairs/Improvements eligible for payment by Replacement Reserve. If capital costs were entered in amounts for Maintenance & Repairs section above and are eligible for payment by the Replacement Reserve, please enter details in Replacement Reserve-Eligible Expenditures below, beginning from row 207. Amounts provided in F210:215 will be linked to cell F102 and netted out from operating expenses.		\$0.00		
103	Non-Capital Maintenance Repair Expenses eligible for payment by Replacement Reserve. Only enter amounts here if they were included in amounts entered for Maintenance & Repairs section above and will be reimbursed by Replacement Reserve. Amount will be netted out from operating expenses. Enter as positive number.				
104	TOTAL OPERATING EXPENSES:		\$0.00	\$0.00	\$0.00
105					
106	Ground Lease Base Rent/Bond Fees/Reserves	Name of Lessor/ Bond Monitoring Agency/ Reserve Account			
107	Ground Lease - Base Rent (provide Lessor name to the right)				\$0.00
108	Bond Monitoring Fee				\$0.00
109	Replacement Reserve Required Annual Deposit (Source is Operating Account.) Enter as positive number.	1320			\$0.00
110	Operating Reserve Deposits (Source is Operating Account.) Enter as positive number.	1365			\$0.00
111	Operating Reserve Account Withdrawals (For deposits to Operating Account.) Enter as positive number.				\$0.00
112	Other Required Reserve Account Deposits (Source is Operating Account. Enter as positive number. Identify reserve account in next col) (1330)				\$0.00
113	Other Required Reserve Account Withdrawals (For deposit to Operating account. Enter as positive number. Identify account in next col ---->				\$0.00
114	Sub-total Ground Lease Base Rent/Bond Fees/Reserves		\$0.00	\$0.00	\$0.00
115					
116	TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)		\$0.00	\$0.00	\$0.00
117		Acct Num	Residential	Non-Residential	Total
118	1. TOTAL INCOME RECEIVED:		\$0.00	\$0.00	\$0.00
119	2. TOTAL OPERATING EXPENSES:		\$0.00	\$0.00	\$0.00
120	3. NET OPERATING INCOME:		\$0.00	\$0.00	\$0.00
121					
122	4. Debt Service (Principal and Interest)	Name of Lender / Describe Other Amt Paid	Residential	Non-Residential	Total
123	Lender1 - Principal Paid (provide lender name to the right)				
124	Interest Paid				
125	Other Amount (describe to the right)				
126	Lender2 - Principal Paid (provide lender name to the right)				
127	Interest Paid				
128	Other Amount (describe to the right)				
129	Lender3 - Principal Paid (provide lender name to the right)				

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15	Annual Monitoring Report - Fiscal Activity - Reporting Year 2020 - Mayor's Office of Housing & Community Development				
130	Interest Paid				
131	Other Amount (describe to the right)				
132	Lender4 - Principal Paid (provide lender name to the right)				
133	Interest Paid				
134	Other Amount (describe to the right)				
135	Total Debt Service Payments		\$0.00	\$0.00	\$0.00
136					
137	Surplus Cash, Detail (NOI minus Debt Service and Reserve Activity)		\$0.00	\$0.00	\$0.00
138					
139	If amount for Surplus Cash above is negative: - you must provide a detailed explanation to question #8 on the Narrative worksheet - you must NOT supply data for any of the fields for Uses of Surplus Cash below		Go to ws4 Narrative question #8		
140	Surplus Cash, Total----->				\$0.00
141	Distribution of Surplus Cash/Residual Receipts - (Response Required.) In the space below, please provide a detailed narrative summary of allowable distributions of Surplus Cash that accurately reflects the requirements under all MOHCD agreements as well as the requirements of other funders and any other agreements that govern. Please include the calculation methodology, applicable annual increases, etc. For proposed distribution amounts entered in column J, rows 143-165, select the distribution priority for each of the uses of cash flow/surplus cash in column H. If distribution of surplus cash is not allowed under MOHCD agreements or other funder agreements, enter N/A in the box below.				
142					
143	USES OF SURPLUS CASH THAT ARE AUTHORIZED TO BE PAID PRIOR TO CALCULATION OF RESIDUAL RECEIPTS PAYMENTS (IF APPLICABLE)			Distribution Priority (select below)	Leave cells below blank if Surplus Cash is <= \$0.
144	5. Operating Reserve Replenishments (Deposits made out of surplus cash to satisfy minimum balance requirements).				
145	6. "Below-the-line" Asset Mgt fee (prior written authorization from City/SFRA may be required, see Asset Mgt. Fee Policy).				
146	7a. Partnership Management fee due from this reporting period, if any (tax credit projects only; not allowed if project is beyond 15-year compliance period).				
147	7b. Partnership Management fee accrued but unpaid from PRIOR reporting periods, if any (tax credit projects only; per City policy, typically must be paid out of owner distribution, entries usually not allowed here).				
148	8a. Investor Services Fee (aka LP Asset Management Fee) due from this reporting period, if any (tax credit projects only; per City policy, not allowed if project is beyond 15-year compliance period).				
149	8b. Investor Services Fee (aka LP Asset Management Fee) accrued but unpaid from PRIOR reporting periods, if any (tax credit projects only; per City policy, typically must be paid out of owner distribution, entries usually not allowed here)).				
150	9. Deferred Developer fee, if any				
151	10. Other payments: use question #1 on the Narrative (worksheet #4) to provide details about any fees or other payments, including ground lease residual rent payments for a non-MOHCD/OCII ground lease. Failure to provide details will result in disallowance of this expense. You may only include payments that were approved by MOHCD at time of funding that are also explicitly authorized by a Partnership Agreement or similar project document.	Go to ws4 Narrative question #1			
152	11ai. Debt Pmt to other lender1: Principal Paid (note lender name to right)				
153	11aii. Debt Pmt to other lender1: Interest Paid				
154	11bi. Debt Pmt to other lender2: Principal Paid (note lender name to right)				
155	11bii. Debt Pmt to other lender2: Interest Paid				
156	Total Payments preceding Residual Receipts Calculation:				\$0.00
157					
158	12. RESIDUAL RECEIPTS				\$0.00
159				Distribution Priority (select below)	Leave cells below blank if Surplus Cash is <= \$0.
160	12a. MOHCD Residual Receipts Due for Loan Repayment				
161	12b. MOHCD Residual Receipts Due for Ground Lease Residual Rent Payment				
162	12c. Subtotal Residual Receipts Payments to MOHCD				\$0.00
163	12d. Residual Receipts Debt Pmt to other lender3 (note lender name to right)				

	B	D	F	H	J		
15	Annual Monitoring Report - Fiscal Activity - Reporting Year 2020 - Mayor's Office of Housing & Community Development						
164	12e. Residual Receipts Debt Pmt to other lender4 (note lender name to right)						
165	12f. Residual Receipts Debt Pmt to other lender5 (note lender name to right)						
166	Total Residual Receipts Payments:				\$0.00		
167	DO NOT SUBMIT YOUR PROPOSED RESIDUAL RECEIPT PAYMENT TO MOHCD WITH THIS AMR. MOHCD WILL REVIEW YOUR PROPOSED PAYMENT AND GENERATE AN INVOICE IF THE CALCULATION CAN BE VERIFIED AS APPROPRIATE; IF THE CALCULATION CANNOT BE VERIFIED, MOHCD WILL CONTACT YOU.						
168	Remaining Balance				\$0.00		
170							
171	Proposed Owner Distributions (provide description in column D and enter amount in column J. If an amount is entered, a description is required.)						
172	Proposed Other Distributions/Uses (provide description in column D and enter amount in column J. If an amount is entered, a description is required. If you had a Calendar Year LOSP surplus, please acknowledge that and note exact amount.)						
173							
174	Final Balance: should be ZERO except when Surplus Cash (cell J140) is negative				\$0.00		
175							
176	RESERVE ACCOUNT DETAILS						
177							
178	OPERATING RESERVE (Do not leave blanks for any questions asking for a number, enter zero instead.)						
179	Minimum Required Balance:						
180	Beginning Balance:						
181	Actual Annual Deposit from Operating Budget in Current Reporting Period (not editable, data entered in cash flow above, account number 1365):	\$0.00					
182	Additional Deposit (use ONLY to record deposits from the Op Budget attributable to a prior reporting period, or deposits made from an external source)						
183	Interest Earned:						
184	Annual Withdrawal Amount (enter as negative number):						
185	Ending Balance (don't edit cell -- calculated):	\$0.00					
186	Required Annual Deposit:						
187	Total Operating Expenses plus debt service (don't edit cell -- calculated)	\$0.00					
188	If the calculated percentage shown to the right (Op Reserve Account Ending Balance divided by Total Op Expenses) is less than 23.5%, you must describe how the project will remedy the shortfall in the adjacent cell. If the calculated percentage shown to the right is greater than 26.5%, you must explain why the Op Reserve balance exceeds MOHCD's requirement in the adjacent cell.	0.000%					
189							
190	REPLACEMENT RESERVE (Do not leave blanks for any questions asking for a number, enter zero instead.)						
191	Minimum Required Balance:						
192	Beginning Balance:						
193	Actual Annual Deposit:						
194	Interest Earned:						
195	Annual Withdrawal Amount (enter as negative number):						
196	Ending Balance (don't edit cell -- calculated):	\$0.00					
197	Required Annual Deposit (do not edit - taken from page 1 account number 1320):	\$0.00					
198	Describe how the amount of annual deposit and the minimum required balance is determined.						
199							
200	CHANGES TO REAL ESTATE ASSETS						
201	Enter Beginning and Ending Balances in each of the categories listed below. Changes in asset categories will auto calculate.	Balance, 1/00/1900	Changes	Balance, 1/00/1900			
202	Building & Improvements		\$0.00				
203	Offsite Improvements		\$0.00				
204	Site Improvements		\$0.00				
205	Land Improvements		\$0.00				
206	Furniture, Fixtures & Equipment		\$0.00				
207	Other		\$0.00				
208	Replacement Reserve-Eligible Expenditures: Provide details below about the Capital and non-Capital Expenditures that are Replacement Reserve-eligible.						

	B	D	F	H	J
15	Annual Monitoring Report - Fiscal Activity - Reporting Year 2020 - Mayor's Office of Housing & Community Development				
209	Capital Repairs and Improvements: Enter capital repairs and improvement costs associated with the reporting year. For each category in rows 201-207 above that shows a positive change, an entry is required in each corresponding category in rows 212-217. If the operating account is used initially to fund the repair, and is later reimbursed by the replacement reserve during the reporting year, show the repair cost under "Replacement Reserve". If the operating account is used to fund the repair and was not reimbursed by the replacement reserve during the reporting year, show the repair cost under "Operating Account." Use the section below to supply a description of the capital repairs and improvements made.				
210	Capital Repairs and Improvements Funded By:				
211	Capital Repairs and Improvements - Categories	Replacement Reserve	Operating Account	Other Source	Total Amount
212	Building & Improvements				\$0.00
213	Offsite Improvements				\$0.00
214	Site Improvements				\$0.00
215	Land Improvements				\$0.00
216	Furniture, Fixtures & Equipment				\$0.00
217	Other				\$0.00
218	Total	\$0.00	\$0.00	\$0.00	\$0.00
219	Description of Capital Repairs and Improvements				
220					
221	Non-Capital Replacement Reserve Eligible Expenditures (i.e., labor costs): Enter the amounts used to fund non-capital replacement reserve eligible expenditures. Use section below to supply explanations.				
222	Source				Amount
223	Paid out of Operating Budget, to be reimbursed by RR (shows the amount entered in row 103 above)				\$0.00
224	Paid Directly from Replacement Reserve				
225	Other Source				
226	Explanation of Non-Capital Replacement Reserve Eligible Expenditures	Total			\$0.00
227					
228	TOTAL REPLACEMENT RESERVE ELIGIBLE EXPENDITURES: the Replacement Reserve Withdrawal for the reporting period should not exceed the Total RR-eligible Expenditures. You must provide more details above or an explanation below if the RR withdrawal amount exceeds the Total RR-Eligible Expenditures.	RR Withdrawal Amount-->	\$0.00	Total RR-Eligible Expenditures-->	\$0.00
229	Notes About RR Withdrawal Amount in excess of Total RR-eligible Expenditures:				
230					
231					
232	FEDERAL PROGRAM INCOME REPORT				
233	This section must be completed if the project received any CDBG funding, even if the amount of CDBG program income during the reporting period was zero. For more information, use the following link or copy this web address for manual navigation:				
234					
235	http://www.sf-moh.org/Modules/ShowDocument.aspx?documentid=5141				
236	Overview of Federal (HOME and CDBG) Program Income				
237					
238	CDBG PROGRAM INCOME				
239	Proposed amounts to be used to fund eligible CDBG activities as described in the Federal CDBG Program Regulations at 24 CFR 570.201-206 and consistent with the City's 2020-2024 Consolidated Plan, 2020-2021 Action Plans as follows:	AMOUNT	DESCRIPTION		
240	Amount to be used for CDBG eligible activity#1 (provide amount in cell to the right, and activity description and regulation citation in column furthest to the right):				
241	Amount to be used for CDBG eligible activity#2 (provide amount in cell to the right, and activity description and regulation citation in column furthest to the right):				
242	Amount to be used for CDBG eligible activity#3 (provide amount in cell to the right, and activity description and regulation citation in column furthest to the right):				
243	Amount to be deposited for use on future eligible CDBG activities that will be undertaken by June 30, 2019 (provide amount in cell to the right, and activity description and regulation citation in column furthest to the right):				
244	Other (provide amount in cell to the right, plus activity description and regulation citation in column furthest to the right):				
245	Total CDBG Program Income Calculation (see instructions for guidance on how to calculate)				
246	To ensure the eligible use of CDBG Program Income, the recipient of federal CDBG funding hereby requests approval by the Mayor's Office of Housing and Community Development for the use of CDBG program income received during the 2020 reporting period as depicted above.				

Annual Monitoring Report - Occupancy & Rent Info - Reporting Year 2020 - Mayor's Office of Housing & Community Development					
Project Address:		Data supplied on this worksheet must be from the rent roll of the last month of the reporting period that was entered on worksheet 1A.	1/0/1900	# Units:	0

1

- [illegible]

**Annual Monitoring Report - Summary of Reported Household Demographics - Reporting Year 2020 -
Mayor's Office of Housing & Community Development**

Project Address:	Last Day of Reporting Period	1/0/1900	# Units:	0
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Household Size

	# Reported Households	% of Total
One Person Household	0	
Two Person Household	0	
Three Person Household	0	
Four Person Household	0	
Five Person Household	0	
Six Person Household	0	
Seven or more Person Household	0	
TOTAL Households*	0	
TOTAL Residents	0	

*Excludes 0 unit(s) reported as manager's or vacant unit(s).

Gender

	# Reported Head of HH	% of Total
Female	0	
Male	0	
Genderqueer/Gender Non-binary	0	
Trans Female	0	
Trans Male	0	
Not listed	0	
Declined/Not Stated	0	
Question Not Asked	0	
Total Head of Households	0	

Sexual Orientation

	# Reported Head of HH	% of Total
Bisexual	0	
Gay /Lesbian/Same-Gender Loving	0	
Questioning /Unsure	0	
Straight/Heterosexual	0	
Not listed	0	
Decline to Answer	0	
Not Stated	0	
Question Not Asked	0	
Total Head of Households	0	

Other Household Demographics

	# Reported
Elderly Households	0
Households with Children Under 18	0
Number of Children Under 18	0
Households with Tenant with Physical Disability	0
Households with Tenant with Visual Disability	0
Households with Tenant with Hearing Disability	0
Households with Tenant with Mental/Devt Disability	0
Households with Tenant with Other Disability	0
Households with Tenant with More than One Disability	0
Households with Tenant with No Disability	0

Target and Actual Population Served

Target Population		Actual Population	
0	Families	0	Families
0	Persons with HIV/AIDS	0	Persons with HIV/AIDS
0	Housing for Homeless	0	Housing for Homeless
0	Mentally or Physically Disabled	0	Mentally or Physically Disabled
0	Senior Housing	0	Senior Housing
0	Substance Abuse	0	Substance Abuse
0	Domestic Violence Survivor	0	Domestic Violence Survivor
0	Veterans	0	Veterans
0	Formerly Incarcerated	0	Formerly Incarcerated
0	Transition-Aged Youth ("TAY")	0	Transition-Aged Youth ("TAY")

<p align="center">Annual Monitoring Report - Narrative - Reporting Year 2020 - Mayor's Office of Housing & Community Development</p>

Project Street Address:

Reporting Period - Start Date: 1/0/1900

Reporting Period - End Date: 1/0/1900

MOHCD created the questions below to allow project owners to supply additional information about a small number of measurements that may indicate that a project is having difficulties. By providing this information, project owners will help provide context for the conclusions that can be made about the measurements. MOHCD will use the measurements and the information below to prioritize the projects that need closer scrutiny and support. Please supply as much information as is readily available.

1. Explanations & Comments

Use this space to record notes about any peculiarities in the data entry process. For example, if you entered a formula instead of a single number for a field, make a note here re: for which question on which worksheet that was done, and describe the formula & underlying numbers. Also use this field to describe in detail any amounts entered for "Other payments" on the worksheet "2.Fiscal," item 10.

Case No.	Case Name	Case Type	Case Status	Case Date	Case Location	Case Description	Case Notes	Case Comments	Case Actions
1	John Doe	Medical	Open	2023-01-01	New York	John Doe, 35, male, reported chest pain and shortness of breath.	Initial assessment: vital signs stable, no obvious trauma.	Referral to cardiologist for further evaluation.	Follow up in 2 weeks.
2	Jane Smith	Medical	Closed	2023-01-05	California	Jane Smith, 42, female, reported severe headache and dizziness.	Initial assessment: vital signs stable, no obvious trauma.	Referral to neurologist for further evaluation.	Follow up in 2 weeks.
3	Michael Brown	Medical	Open	2023-01-10	Texas	Michael Brown, 55, male, reported persistent cough and wheezing.	Initial assessment: vital signs stable, no obvious trauma.	Referral to pulmonologist for further evaluation.	Follow up in 2 weeks.
4	Sarah Johnson	Medical	Closed	2023-01-15	Florida	Sarah Johnson, 28, female, reported severe abdominal pain and nausea.	Initial assessment: vital signs stable, no obvious trauma.	Referral to gastroenterologist for further evaluation.	Follow up in 2 weeks.
5	David Wilson	Medical	Open	2023-01-20	Illinois	David Wilson, 60, male, reported persistent back pain and numbness.	Initial assessment: vital signs stable, no obvious trauma.	Referral to orthopedist for further evaluation.	Follow up in 2 weeks.
6	Emily Davis	Medical	Closed	2023-01-25	Ohio	Emily Davis, 30, female, reported severe anxiety and panic attacks.	Initial assessment: vital signs stable, no obvious trauma.	Referral to psychiatrist for further evaluation.	Follow up in 2 weeks.
7	Robert Miller	Medical	Open	2023-02-01	Georgia	Robert Miller, 45, male, reported persistent fatigue and weakness.	Initial assessment: vital signs stable, no obvious trauma.	Referral to endocrinologist for further evaluation.	Follow up in 2 weeks.
8	Lisa Anderson	Medical	Closed	2023-02-05	Arizona	Lisa Anderson, 38, female, reported severe joint pain and swelling.	Initial assessment: vital signs stable, no obvious trauma.	Referral to rheumatologist for further evaluation.	Follow up in 2 weeks.
9	Christopher Lee	Medical	Open	2023-02-10	Colorado	Christopher Lee, 50, male, reported persistent skin rash and itching.	Initial assessment: vital signs stable, no obvious trauma.	Referral to dermatologist for further evaluation.	Follow up in 2 weeks.
10	Amanda White	Medical	Closed	2023-02-15	Connecticut	Amanda White, 25, female, reported severe depression and suicidal thoughts.	Initial assessment: vital signs stable, no obvious trauma.	Referral to psychiatrist for further evaluation.	Follow up in 2 weeks.
11	Matthew Green	Medical	Open	2023-02-20	Delaware	Matthew Green, 40, male, reported persistent asthma attacks.	Initial assessment: vital signs stable, no obvious trauma.	Referral to pulmonologist for further evaluation.	Follow up in 2 weeks.
12	Olivia Black	Medical	Closed	2023-02-25	District of Columbia	Olivia Black, 32, female, reported severe menstrual pain and irregular cycles.	Initial assessment: vital signs stable, no obvious trauma.	Referral to gynecologist for further evaluation.	Follow up in 2 weeks.
13	Benjamin Taylor	Medical	Open	2023-03-01	Hawaii	Benjamin Taylor, 58, male, reported persistent vision changes and blurriness.	Initial assessment: vital signs stable, no obvious trauma.	Referral to ophthalmologist for further evaluation.	Follow up in 2 weeks.
14	Sophia Harris	Medical	Closed	2023-03-05	Idaho	Sophia Harris, 22, female, reported severe acne and skin irritation.	Initial assessment: vital signs stable, no obvious trauma.	Referral to dermatologist for further evaluation.	Follow up in 2 weeks.
15	Lucas King	Medical	Open	2023-03-10	Indiana	Lucas King, 48, male, reported persistent hearing loss and tinnitus.	Initial assessment: vital signs stable, no obvious trauma.	Referral to audiologist for further evaluation.	Follow up in 2 weeks.
16	Isabella Scott	Medical	Closed	2023-03-15	Iowa	Isabella Scott, 30, female, reported severe constipation and abdominal pain.	Initial assessment: vital signs stable, no obvious trauma.	Referral to gastroenterologist for further evaluation.	Follow up in 2 weeks.
17	Ethan Adams	Medical	Open	2023-03-20	Kansas	Ethan Adams, 52, male, reported persistent urinary issues and frequent urination.	Initial assessment: vital signs stable, no obvious trauma.	Referral to urologist for further evaluation.	Follow up in 2 weeks.
18	Aria Baker	Medical	Closed	2023-03-25	Kentucky	Aria Baker, 27, female, reported severe hair loss and thinning.	Initial assessment: vital signs stable, no obvious trauma.	Referral to dermatologist for further evaluation.	Follow up in 2 weeks.
19	Leo Clark	Medical	Open	2023-03-30	Louisiana	Leo Clark, 40, male, reported persistent joint pain and stiffness.	Initial assessment: vital signs stable, no obvious trauma.	Referral to rheumatologist for further evaluation.	Follow up in 2 weeks.
20	Mia Evans	Medical	Closed	2023-04-05	Maine	Mia Evans, 35, female, reported severe insomnia and sleep disturbances.	Initial assessment: vital signs stable, no obvious trauma.	Referral to psychiatrist for further evaluation.	Follow up in 2 weeks.
21	Noah Foster	Medical	Open	2023-04-10	Maryland	Noah Foster, 50, male, reported persistent blood pressure fluctuations.	Initial assessment: vital signs stable, no obvious trauma.	Referral to cardiologist for further evaluation.	Follow up in 2 weeks.
22	Charlotte Grant	Medical	Closed	2023-04-15	Massachusetts	Charlotte Grant, 28, female, reported severe allergic reactions and hives.	Initial assessment: vital signs stable, no obvious trauma.	Referral to allergist for further evaluation.	Follow up in 2 weeks.
23	Oliver Hill	Medical	Open	2023-04-20	Michigan	Oliver Hill, 45, male, reported persistent digestive issues and bloating.	Initial assessment: vital signs stable, no obvious trauma.	Referral to gastroenterologist for further evaluation.	Follow up in 2 weeks.
24	Amelia King	Medical	Closed	2023-04-25	Minnesota	Amelia King, 30, female, reported severe chronic pain and numbness.	Initial assessment: vital signs stable, no obvious trauma.	Referral to pain management specialist for further evaluation.	Follow up in 2 weeks.
25	Lucas Lee	Medical	Open	2023-05-01	Mississippi	Lucas Lee, 55, male, reported persistent urinary issues and frequent urination.	Initial assessment: vital signs stable, no obvious trauma.	Referral to urologist for further evaluation.	Follow up in 2 weeks.
26	Harper Miller	Medical	Closed	2023-05-05	Missouri	Harper Miller, 25, female, reported severe skin rashes and itching.	Initial assessment: vital signs stable, no obvious trauma.	Referral to dermatologist for further evaluation.	Follow up in 2 weeks.
27	Elijah Moore	Medical	Open	2023-05-10	Montana	Elijah Moore, 40, male, reported persistent vision changes and blurriness.	Initial assessment: vital signs stable, no obvious trauma.	Referral to ophthalmologist for further evaluation.	Follow up in 2 weeks.
28	Abigail Nelson	Medical	Closed	2023-05-15	Nebraska	Abigail Nelson, 32, female, reported severe menstrual pain and irregular cycles.	Initial assessment: vital signs stable, no obvious trauma.	Referral to gynecologist for further evaluation.	Follow up in 2 weeks.
29	Isaac Owen	Medical	Open	2023-05-20	Nevada	Isaac Owen, 50, male, reported persistent skin rash and itching.	Initial assessment: vital signs stable, no obvious trauma.	Referral to dermatologist for further evaluation.	Follow up in 2 weeks.
30	Emily Parker	Medical	Closed	2023-05-25	New Hampshire	Emily Parker, 28, female, reported severe depression and suicidal thoughts.	Initial assessment: vital signs stable, no obvious trauma.	Referral to psychiatrist for further evaluation.	Follow up in 2 weeks.
31	Samuel Reed	Medical	Open	2023-05-30	New Jersey	Samuel Reed, 45, male, reported persistent asthma attacks.	Initial assessment: vital signs stable, no obvious trauma.	Referral to pulmonologist for further evaluation.	Follow up in 2 weeks.
32	Madison Scott	Medical	Closed	2023-06-05	New Mexico	Madison Scott, 30, female, reported severe joint pain and swelling.	Initial assessment: vital signs stable, no obvious trauma.	Referral to rheumatologist for further evaluation.	Follow up in 2 weeks.
33	Benjamin Taylor	Medical	Open	2023-06-10	New York	Benjamin Taylor, 58, male, reported persistent vision changes and blurriness.	Initial assessment: vital signs stable, no obvious trauma.	Referral to ophthalmologist for further evaluation.	Follow up in 2 weeks.
34	Sophia White	Medical	Closed	2023-06-15	North Carolina	Sophia White, 22, female, reported severe acne and skin irritation.	Initial assessment: vital signs stable, no obvious trauma.	Referral to dermatologist for further evaluation.	Follow up in 2 weeks.
35	Lucas Black	Medical	Open	2023-06-20	North Dakota	Lucas Black, 48, male, reported persistent hearing loss and tinnitus.	Initial assessment: vital signs stable, no obvious trauma.	Referral to audiologist for further evaluation.	Follow up in 2 weeks.
36	Isabella Green	Medical	Closed	2023-06-25	Ohio	Isabella Green, 30, female,			

2. Code Violations

Provide the following for any violations or citations of Health or Building or Housing Codes that were issued during the reporting period, or were issued in a prior reporting period but remained open during any time of the current reporting period:

[illegible]

(add additional rows as needed)

**** ONLY FOR ALL VIOLATIONS THAT WERE NOT RESOLVED by the end of the reporting period: You must also attach a SCANNED copy of each Violation/Citation to your AMR submittal. ****

Violation or Citation #	Date Cleared	Issued By	Description of Remedy

(add additional rows as needed)

**** ONLY FOR ALL VIOLATIONS THAT WERE NOT RESOLVED by the end of the reporting period: You must also attach a SCANNED copy of each Violation/Citation to your AMR submittal. ****

3. Major Repairs

Describe any major repair or replacement needs that have been identified as being required within the next 2 years, and any related plans to pay for whatever is needed.

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4. Vacant Unit Rent-Up Time

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If the project had an average VACANT UNIT RENT-UP TIME greater than 30 days for question 36 on the worksheet "1A.Prop&Residents," you must supply the following:

- A description of the work done to analyze the cause/s of the high turnaround time, and what the identified causes are; and
- A description of the work done to identify means of reducing the turnaround time, and all viable remedies that have been identified; and
- A description of the plan to implement any remedies, including specific timelines for the implementation work.

--

5. Affirmative Marketing

Did you conduct any marketing of the project during the reporting period? If yes, please describe the marketing that was conducted, including

- a. when the marketing was conducted and how it was intended to reach populations least likely to apply for the project;
 - b. any advertising, direct mailings, emailings and web postings that were done; and
 - c. how many households were on the waiting list prior to the marketing and how many were on it after the marketing was completed.
-

6. Vacancy Rate -----

If the project had a VACANCY RATE greater than 15%, as may be shown above from the Income Expense section of the worksheet "2.Fiscal," you must supply the following:

- a. A description of the work done to analyze the cause/s of the vacancy rate, and what the identified causes are; and
 - b. A description of the work done to identify means of reducing the vacancy rate, and all viable remedies that have been identified; and
 - c. A description of the plan to implement any remedies, including specific timelines for the implementation work.
-

7. Miscellaneous Expenses: Administrative/Operating & Maintenance

If the project had miscellaneous administrative or miscellaneous operating & maintenance expenses greater than \$10,000 respectively, you must provide a detailed itemization of these individual expenses below. Total expenses must equal the total amount reported on the worksheet "2.Fiscal."

Misc. Admin Expenses

Expense Description	Amount	HUD Acct #	Notes
Total:	0.00		
Diff. from Fiscal Activity WS:			

Misc. Operating & Maintenance Expenses

Expense Description	Amount	HUD Acct #	Notes
Total:	0.00		
Diff. from Fiscal Activity WS:			

8. Negative Cash Flow

If the project had NEGATIVE CASH FLOW, as may be shown above from the Income Expense section of worksheet "2.Fiscal," you must supply the following:

- A description of the work done to analyze the cause/s of the shortfall, and what the identified causes are; and
- A description of the work done to identify remedies for the shortfall, and all viable remedies that have been identified; and
- A description of the plan to implement any remedies, including specific timelines for the implementation work.
- If the project has a Project-Based Section 8 Housing Assistance Payments (HAP) contract, please also supply the date of the last increase to the HAP contract, the date when the project will submit the next HAP contract rent increase, and any related comments about whether the project has been diligent in seeking annual increases to the HAP contract.

Annual Monitoring Report - Project Financing - Reporting Year 2020 - Mayor's Office of Housing & Community Development

Provide information about all current financing of the project. Lenders should be listed in lien order, i.e., with the most-senior lender in the first lien position, the most-junior lender in last lien position.

Project Address:

Current Project Financing

Lien Order	Lender (and Loan Program if applicable)	Loan Amount	Interest Rate	Maturity Date	Repayment Terms	Monthly Debt Service Payment	Outstanding Principal Balance As Of End of Reporting Period	Accrued Interest As Of End of Prior Reporting Period
1								
2								
3								
4								
5								
6								
7								
8								
9								
10								

Annual Monitoring Report - Services Funding - Reporting Year 2020 - Mayor's Office of Housing & Community Development

Completion of this page is required based on your answers to questions 51 thru 61 on worksheet 1A.Prop&Residents. Supply one row of data for each service that is being provided. (If more than one service is being provided by the same Provider under the same grant, please repeat the data for each service provided.)

Project Address:

[illegible]

Project Street Address:

Schedule of Operating Revenues
For the Year Ended January 0, 1900

Rental Income	Total
5120 Gross Potential Tenant Rents	\$0
5121 Rental Assistance Payments (inc. LOSP)	\$0
5140 Commercial Unit Rents	\$0
Total Rent Revenue:	\$0
 Vacancies	
5220 Apartments	\$0
5240 Stores & Commercial	\$0
Total Vacancies:	\$0
Net Rental Income: (Rent Revenue Less Vacancies)	\$0
 Other Revenue	
5170 Rent Revenue - Garage & Parking	\$0
5190 Misc. Rent Revenue	\$0
5300 Supportive Services Income	\$0
5400 Interest Revenue - Project Operations (From Operating Acct Only)	\$0
5400 Interest Revenue - Project Operations (From All Other Accts)	
5910 Laundry & Vending Revenue	\$0
5920 Tenant Charges	\$0
5990 Misc. Revenue	\$0
Total Other Revenue:	\$0
Total Operating Revenue:	\$0

Project Street Address:

Schedule of Operating Expenses
For the Year Ended January 0, 1900

Management	Total
6320 Management Fee	\$0
"Above the Line" Asset Management Fee	\$0
Total Management Expenses:	\$0
 Salaries/Benefits	
6310 Office Salaries	\$0
6330 Manager's Salary	\$0
6723 Employee Benefits: Health Insurance & Disability Insurance	\$0
Employee Benefits: Retirement & Other Salary/Benefit Expenses	\$0

6331 Administrative Rent Free Unit	\$0
Total Salary/Benefit Expenses:	\$0

Administration

6210 Advertising and Marketing	\$0
6311 Office Expenses	\$0
6312 Office Rent	\$0
6340 Legal Expense - Property	\$0
6350 Audit Expense	\$0
6351 Bookkeeping/Accounting Services	\$0
6370 Bad Debts	\$0
6390 Miscellaneous Administrative Expenses	\$0
Total Administrative Expenses:	\$0

Utilities

6450 Electricity	\$0
6451 Water	\$0
6452 Gas	\$0
6453 Sewer	\$0
Total Utilities Expenses:	\$0

Taxes and Licenses

6710 Real Estate Taxes	\$0
6711 Payroll taxes	\$0
6790 Miscellaneous Taxes, Licenses, and Permits	\$0
Total Taxes and Licenses Expenses:	\$0

Insurance

6720 Property and Liability Insurance	\$0
6721 Fidelity Bond Insurance	\$0
6722 Workers' Compensation	\$0
6724 Directors & Officers Liabilities Insurance	\$0
Total Insurance Expenses:	\$0

Project Street Address:

**Schedule of Operating Expenses
For the Year Ended January 0, 1900**

Maintenance and Repairs	Total
6510 Payroll	\$0
6515 Supplies	\$0
6520 Contracts	\$0
6525 Garbage and Trash Removal	\$0
6530 Security Payroll/Contract	\$0
6546 HVAC Repairs and Maintenance	\$0
6570 Vehicle and Maintenance Equipment Operation and Repairs	\$0
6590 Miscellaneous Operating and Maintenance Expenses	\$0
Total Maintenance and Repairs Expenses:	\$0

6900 Supportive Services \$0

Capital and Non-Capital Expenditures to be
Reimbursed from Replacement Reserve \$0

Total Operating Expenses: \$0

Financial Expenses

Enter amounts in yellow highlighted cells. Leave no cells blank. Enter "0" if applicable.

6820 Interest on Mortgage (or Bonds) Payable	
6825 Interest on Other Mortgages	
6830 Interest on Notes Payable (Long Term)	
6840 Interest on Notes Payable (Short Term)	
6850 Mortgage Insurance Premium/Service Charge	
6890 Miscellaneous Financial Expenses	
Total Financial Expenses:	<u>\$0</u>

6000 **Total Cost of Operations before Depreciation:** \$0

5060 **Operating Profit (Loss):** \$0

Depreciation & Amortization Expenses

Enter amounts in yellow highlighted cells. Leave no cells blank. Enter "0" if applicable.

6600 Depreciation Expense	
6610 Amortization Expense	
Operating Profit (Loss) after Depreciation & Amortization:	<u>\$0</u>

Net Entity Expenses

the right.

7190		
7190		
7190		
7190		
7190		
7190		
7190		
7190		
7190		
Total Net Entity Expenses:	<u>\$0</u>	

3250 **Change in Total Net Assets from Operations (Net Loss)** \$0

Amount computed in cell E139 should match audited financial statement.

Project Street Address:

**Computation of Operating Cash Flow/Surplus Cash
For the Year Ended January 0, 1900**

	Total
Operating Revenue	\$0
Interest earned on restricted accounts	\$0
Adjusted Operating Revenue	\$0
Operating Expenses	\$0
Net Operating Income	\$0
Other Activity	
Ground Lease Base Rent	\$0
Bond Monitoring Fee	\$0
Mandatory Debt Service - Principal	\$0
Mandatory Debt Service - Interest	\$0
Mandatory Debt Service - Other Amount	\$0
Deposits to Replacement Reserve Account	\$0
Deposits to Operating Reserve Account	\$0
Deposits to Other Restricted Accounts per Regulatory Agreement	\$0
Withdrawals from Operating Reserve Account	\$0
Withdrawals from Other Required Reserve Account	\$0
Total Other Activity:	\$0
Allocation of Non-Residential Surplus (LOSP only)	
Operating Cash Flow/Surplus Cash:	\$0

Distribution of Surplus Cash Ahead of Residual Receipts Payments

Select the Distribution Priority number from Worksheet 2. Fiscal Activity for payments to be paid ahead of residual receipts payments.

	Total
Total Cash Available for Residual Receipts Distribution:	\$0

Distribution of Residual Receipts

Select the Distribution Priority number from Worksheet 2. Fiscal Activity for payments to be paid with remaining residual receipts.

Total

Total Residual Receipts Distributions to Lenders: \$0

Proposed Owner Distribution \$0

Proposed Other Distribution/Uses \$0

Total Residual Receipts Distributions to Lenders and Owners: \$0

Project Street Address:

Summary of Replacement Reserve and Operating Reserve Activity
For the Year Ended January 0, 1900

	Replacement Reserve	Operating Reserve
Balance, January 0, 1900	\$0	\$0
Actual Annual Deposit	\$0	\$0
Interest Earned	\$0	\$0
Withdrawals	\$0	\$0
Balance, January 0, 1900	\$0	\$0

**Annual Monitoring Report - Completeness Tracker - Reporting Year 2020 -
Mayor's Office of Housing & Community Development**

This checklist is a tool to help you track progress toward completion. NOTE: Do not submit the AMR until all items are "COMPLETED."

Reporting Start Date:

1/0/00

Project Address:

Reporting End Date:

1/0/00

Submission Instructions:

Once all worksheets below are "COMPLETED", email the AMR, completed Owner Compliance Certification, along with the attachments required under the Insurance and Tax Certification per page 3 of the Owner Certification, waitlist, and audited financial statements to: moh.amr@sfgov.org.

The waiting list must include the following information for each person or household who has applied to live at the project and is still waiting to be considered for an available unit: name of head-of-household, contact information, date of application, number of people in the household, stated household income and desired unit size. Prior to submittal, the waiting list must be redacted to exclude any private information that should not be shared publicly, for example, Social Security numbers, ID numbers from other forms of identification, information related to disabilities or other health conditions. Please confer with legal counsel and let MOHCD know if you have any questions prior to submitting a copy of the project's waitlist. This requirement is not applicable to transitional housing projects, residential treatment programs, shelters, group homes or permanent supportive housing for homeless people that is leased through a closed referral system.

Worksheet 1A. Property & Residents	INCOMPLETE	
Questions 1 thru 4		Incomplete
Questions 5 thru 24		Incomplete
Questions 25 thru 39		Incomplete
Questions 40 thru 46		Incomplete
Questions 51 thru 57		Incomplete
Worksheet 1B. Transitional Programs	To Be Determined	
Questions 1 thru 11		To Be Determined
Questions 12 thru 18		To Be Determined
Questions 19 thru 39		To Be Determined
Worksheet 1C. Eviction Data	To Be Determined	
Question 1		To Be Determined
Questions 2 thru 21		To Be Determined
Questions 22 thru 41		To Be Determined
Questions 42 thru 61		To Be Determined
Worksheet 2. Fiscal Activity	INCOMPLETE	
Rental Income - Housing Unit GPTR		Incomplete
Vacancy Loss - Housing Units		Incomplete
Operating Expenses		Incomplete
Surplus Cash/Residual Receipts (Rows 140 - 174)		Incomplete
Operating Reserve (Rows 177 - 187)		Incomplete
Replacement Reserve (Rows 189 - 197)		Incomplete
Changes to Real Estate Assets (Rows 202 - 207)		Incomplete
Replacement Reserve Eligible Expenditures (Rows 210 - 229)		Incomplete
Program Income (Rows 240 - 245)		OK
Worksheet 3A. Occupancy & Rent Info	INCOMPLETE	
Does number of units entered on Worksheet 3A match total units entered on Worksheet 1A or the total households that can be served in Worksheet 1B?		To Be Determined
For each row for which a Unit Number is supplied, was data entered in all of the required cells?		To Be Determined
Narrative Provided for All rows indicating Overhoused or Overcrowded?		To Be Determined
Worksheet 3B. Demographic Information	To Be Determined	
Is Gender and Sexual Orientation/Identity selected for each household?		To Be Determined
Worksheet 4. Narrative	To Be Determined	
2		To Be Determined
3		To Be Determined
4		To Be Determined
5		To Be Determined
6		To Be Determined
7		To Be Determined
8		To Be Determined
Worksheet 5. Project Financing	INCOMPLETE	
Worksheet 6. Services Funding	To Be Determined	

EXHIBIT H

Tenant Selection Plan Policy

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

Application Process

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

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

- **Problems with the Referring Agency.** If at any point the housing provider has difficulty reaching or getting a response from the applicant and referring agency, the housing provider will immediately contact the referring agency, if possible, and the funding agency, DPH or HSA.
- **Limited English Proficiency Policy.** Throughout the application process, the housing provider will comply with City policy for language access requirements for applicants with limited English proficiency.

Reasonable Accommodation and Modification Policy

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

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

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

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

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

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

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

Notice of Denial and Appeal Process

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

EXHIBIT I

Tenant Screening Criteria Policy

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

Screening Criteria

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

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

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

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

EXHIBIT J

Developer Fee Policy

Mayor's Office of Housing and Community Development
Policy on Development Fees For Tax Credit Projects
Effective October 16, 2020

This MOHCD Policy on Development Fees for Tax Credit Projects applies to all developments seeking City funding in conjunction with new Tax Credit financing for the current project, including recapitalization projects with existing MOHCD loans. This does not apply to non-Tax Credit projects such as Small Sites Program (SSP) projects, which are subject to the SSP Program Guidelines. It also does not apply to HOPE SF or RAD projects, which are subject to separate developer fee policies.

Developers may include fees in their project budgets according to the terms below.

I. MINIMUM FEES: 5% of total development costs.

II. MAXIMUM FEES: Notwithstanding any other section of this Policy, the maximum Total Fee that may be included in basis is the Tax Credit limit (currently 15% of Eligible Basis) subject to the additional limitations identified below.

A. Total Development Fee

("Total Fee") for different project types are further detailed below, and reflect the sum of the Cash-Out Fee (Base, Additional, and Deferred) and Non Cash-Out Fee (Deferred and General Partner Equity Contribution).

B. Fee Components

1. Cash-Out Fee (Base and Additional)

Project Type	9% Project - Maximum Cash-Out Fee	4% Project - Maximum Cash-Out Fee	Notes
New Construction	TCAC Maximum	The lesser of TCAC Maximum or \$2,200,000 (Base) + \$10,000 per unit over 100 units (Additional), if additional cash-out requires no additional MOHCD gap funding.	
Newly Acquired and Substantially Rehabilitated (Per unit Hard Cost >= \$75,000)	TCAC Maximum	Same as new construction fee.	-Hard Cost is defined as "Total Construction Costs" summed in the MOHCD Application in cell K37, Tab 4b-PermS&U.
Substantial Rehabilitation (Per unit Hard Cost >= \$75,000) by Existing or Affiliate GP -- Includes New City Funds or Re-structured City Debt	50% TCAC Maximum	The lesser of TCAC maximum or \$1,100,000 (Base) + \$10,000 per unit over 100 units (Additional), if additional cash-out requires no additional MOHCD gap funding.	-Sponsor may take the allowable fee for Newly Acquired and Rehabilitated projects described above if 1) in the project's original syndication, sponsor did not take the maximum allowable developer fee; or 2) sponsor adds new affordable units to the project.

			<p>-Hard Cost is defined as “Total Construction Costs” summed in the MOHCD Application in cell K37, Tab 4b-Perms&U.</p> <p>-Sponsor cash out permissible only per MOHCD Cash Out Acquisition/Rehabilitation, Resyndication, and Refinancing Policy.</p>
Recapitalization, acquisition, or transfer with less than \$75,000 Per unit hard cost capital improvements	No Fee	No Fee	<p>-Hard Cost is defined as “Total Construction Costs” summed in the MOHCD Application in cell K37, Tab 4b-Perms&U.</p> <p>-Sponsor cash out permissible only per MOHCD Cash Out Acquisition/Rehabilitation, Resyndication, and Refinancing Policy.</p>

- a. A note about Cash-Out Additional Fee: If Eligible Basis is less than Threshold Basis, projects over 100 units may take up to \$10,000 per unit over 100 as cash-out fee, but only if such cash payment does not require additional gap funding from MOHCD (see MOHCD Application, Tab 8-DevFeeCalc, for calculation).
2. Cash-Out Fee (Deferred): If Eligible Basis is less than Threshold Basis, Developers may include a Cash-Out Deferred Fee component in the Total Fee up to the aggregate of 50% of surplus cash flow taken over the project’s first 15 years of operation (after typical payments of base ground rent, the general partner management fee, and investor asset management fee, if applicable). Cash-Out Deferred Fee is shown as both a source and a use of funds in the capital budget. Developers may use industry standard inflators of income and expenses to calculate Cash-Out Deferred Fee.
 - a. Distributions of surplus cash as Deferred Fee are in lieu of (not in addition to) the typical 33.3% distribution of surplus cash to the Sponsor. At Year 15 of operations, or earlier if the Deferred Fee is fully repaid before then, a surplus cash distribution shall commence at 33.3% of surplus cash (after typical payments of base ground rent, the general partner management fee, and investor asset management fee, if applicable).
 - b. For projects supported by the Local Operating Subsidy Program, Cash-Out Deferred Fee must be taken over a minimum time period of 5 years.
3. Non-Cash Out Fee (Deferred and General Partner Equity Contribution): Where Eligible Basis is less than Threshold Basis, Developers should include in Total Fee the maximum amount available for re-contribution as General Partner Equity or as Non-Cash Out Deferred Fee. It is

MOHCD's intent to use Deferred Fee and General Partner Equity Contribution up to 15% of Eligible Basis to reduce MOHCD's overall contribution to projects, so that MOHCD may invest its funds in the most projects possible. MOHCD will work with developers, lenders, and investors to ensure that the developer fee structure meets MOHCD financing goals and feasibility considerations.

4. Commercial Developer Fee is not addressed in this Policy. Please see MOHCD's Commercial Underwriting Guidelines for information regarding development fees associated with Commercial, Community Serving Commercial, and Public Benefit Use spaces.

III. FEE DISTRIBUTION: The Cash-Out Base Fee shall be divided equally between "Project Management Fee" and "At-Risk Fee" (subject to the "At-Risk Fee Adjustment" described below). Any Cash-Out Additional Fee will be distributed as At-Risk Fee. Cash-Out Fees (Base and Additional) shall be distributed according to achievement of certain development milestones, as follows:

Example below assumes Base Fee is \$2.2 M and Additional Fee is \$300,000.

Project Management Milestone	% of Fee Distributed	Fee Amount
Acquisition, if applicable, or predevelopment loan closing (or another agreed-upon milestone if acquisition is not applicable, e.g. being awarded a City-owned site through a RFQ/RFP process)*	15%	\$165,000
During Predevelopment with no more than 50% of the total Project Management Fee to be disbursed prior to construction closing*	35%	\$385,000
At Construction Closing	20%	\$220,000
During Construction (disbursed upon request depending on % of construction completion) or at Completion of Construction	20%	\$220,000
Project Close-Out: Placed-In-Service application; 100% lease-up; City approval of sponsor's project completion report and documents; and City acceptance of final cost certification.	10%	\$110,000
TOTAL PROJECT MANAGEMENT FEE	100%	\$1,100,000

***Joint Venture development team partners must split all Fee during the pre-development period 50%-50%. This helps ensure the new or emerging partner has access to Fee upfront to support their participation in the project and their capacity building.**

At-Risk Fee Milestone	% of Fee Distributed	Fee Amount
Qualified Occupancy (95% Leased up and Draft Cost Certification Audit)	20%	\$280,000
Permanent Loan Closing/Conversion (Final Cost Certification Audit)	50%	\$700,000
Project Close-Out: Placed-In-Service application; 100% lease-up; City approval of sponsor's project completion report and documents; and City acceptance of final cost certification.	30%	\$420,000
TOTAL AT-RISK FEE	100%	\$1,400,000

A. At-Risk Fee Adjustment

When outside funding sources limit the Cash Out Fee to a value less than allowed under this Policy (e.g., California's Department of Housing and Community Development), the Developer may still be paid a maximum of \$1.1M as a Project Management Fee and the At-Risk Fee shall be reduced to bring the total Cash-Out Fee (Base and Additional) in line with the outside funding source cap.

IV. WAIVERS OF THE DEVELOPER FEE POLICY

The Citywide Affordable Housing Loan Committee may approve a waiver or modification of any portion of this Policy for the purpose of assuring project feasibility. All recommendations related to this Policy are subject to the Mayor's approval in his or her sole discretion.

V. CDBG or HOME REQUIREMENTS

If MOHCD uses CDBG or HOME funds to pay the development fee, it is considered "program income", and, should MOHCD request it, the Sponsor must provide a report to MOHCD on its use of developer fees.

Recipients of CDBG administrative funding may not also receive a Project Management Fee for the same project covering the same time period.

VI. POLICY IMPLEMENTATION

This Policy applies to any development that has not received its gap financing commitment or debt restructuring approval from MOHCD by the effective date of the Policy.

EXHIBIT K

Hold Harmless Policy

Mayor's Office of Housing and Community Development
City and County of San Francisco



London N. Breed
Mayor

Kate Hartley
Director

Hold Harmless Policy for MOHCD's Income Limits & Maximum Rents
Effective: 5/3/2019 (update to the initial policy that was effective 2/19/2016)

Background

Every year, the United States Department of Housing and Urban Development ("HUD") publishes area median income ("AMI") data for jurisdictions across the United States. The City and County of San Francisco, acting through its Mayor's Office of Housing and Community Development ("MOHCD"), is a part of the San Francisco HUD Metropolitan Fair Market Rent Area ("SF HMFA"), which contains San Francisco, San Mateo and Marin County. MOHCD uses HUD's unadjusted AMI for SF HMFA as opposed to adjusted AMI, which is inflated to reflect high cost factors, to establish the income limits, maximum rents and sales prices that apply to affordable housing projects and programs regulated by MOHCD.

In 2016, MOHCD established a Hold Harmless Policy which stated that in any year when AMI decreased, MOHCD would maintain the income limits, maximum rents and sales prices at the previous year's levels in order to protect the operational integrity of affordable and inclusionary housing developments.

Purpose

This update to the Hold Harmless Policy (this "Policy") adds a limit to annual increases to income limits, maximum rents and sales prices published by MOHCD in order to mitigate the significant financial burden on low- and moderate-income tenants and homebuyers during periods of high escalation of AMI in San Francisco.

This Policy establishes the following:

- Limit annual increases to income limits, maximum rents, and sale prices to a maximum of 4%ⁱ
- Uphold the current policy of maintaining income limits, maximum rents and sales prices at the previous year's levels in years when AMI, as published by HUD, has decreased.

This Policy is intended to limit harm by:

1. Protecting tenants from displacement due to annual rent increases that would cause a significant financial burden; and
2. Protecting the operational integrity of housing developments so that owners are able to cover operating costs that typically increase annually, even when AMI decreases; and

3. Ensuring that San Francisco’s low-, moderate- and middle-income workforce retain access to homeownership opportunities.

Hold Harmless Limits

For the purpose of this Policy:

“HUD SF AMI” means the maximum income by household size, maximum rent by unit type, and maximum sales prices as published annually by MOHCD, derived from the median income determined by HUD for the San Francisco area, adjusted solely for household size, but not high housing cost area, also referred to as “Unadjusted Median Income”.

“MOHCD AMI” means the maximum income by household size, maximum rent by unit type, and maximum sales prices as published annually by MOHCD under this Policy.

“Housing Provider” means any person or entity that owns a multi-family property that is restricted for the purpose of affordable housing and/or subject to MOHCD administration, regulations, or policies.

Limited Increases: Annual increases to MOHCD AMI shall be limited to the lesser of: (1) the percentage amount necessary to adjust MOHCD AMI to match the then-current year’s HUD SF AMI, or (2) four percent (4%)ⁱ. This Policy limits year-over-year increases to MOHCD AMI to 4% in periods of high HUD SF AMI escalation, while allowing MOHCD AMI to “catch up” to HUD SF AMI during periods when HUD SF AMI grows slowly, is static, or decreases.

Limited Decreases: This update to the Policy does not eliminate the Hold Harmless Policy adopted in 2016. In years when the MOHCD AMI matches the HUD SF AMI, and the subsequent year’s HUD SF AMI decreases, MOHCD will maintain the MOHCD AMI from the previous year. If, in subsequent years, HUD SF AMI decreases again, stays flat, or increases to a level that is still lower than before the initial decrease, MOHCD will maintain its published AMI until such time as the HUD SF AMI increases to a level that is greater than the MOHCD AMI.

The application of this Policy may result in the creation of a calculation of MOHCD AMI that is different than the HUD SF AMI. The below chart demonstrates how this Policy would be applied over a hypothetical 6-year period:

	Base Year	Year 2		Year 3		Year 4		Year 5		Year 6	
	AMI	AMI	% Change	AMI	% Change	AMI	% Change	AMI	% Change	AMI	% Change
HUD SF AMI	100.0	108.0	8.0%	107	-0.9%	111	3.9%	109.0	-2.0%	112.5	3.2%
MOHCD AMI	100.0	104.0	4.0%	107	2.9%	111	3.9%	111	0.0%	112.5	1.2%

Utility Allowances

Notwithstanding anything to the contrary in this Policy, it is important to note that a Housing Provider will be required to lower net rents (i.e. tenant-paid rent) as the result of increases in utility allowances in years when the MOHCD AMI matches the HUD SF AMI, and HUD SF AMI has decreased or remained flat. MOHCD AMI establishes the limits for maximum gross rent (aka “Tier 2 rent” under the City’s Inclusionary Housing Manual),” which consists of tenant rent plus utility allowance. If HUD SF AMI decreases or remains flat, and therefore MOHCD AMI remain the same as the previous year, an increase in the utility allowance means that the tenant rent would have to be lowered.

Limited Hardship Waiver

MOHCD will consider, in its sole discretion, a waiver of this Policy from a Housing Provider with rental units restricted under contracts (i.e., loan agreement, grant agreement, or other agreement for funding from the City) with MOHCD upon demonstration that: (1) the MOHCD AMI imposes a financial hardship that puts at risk the Housing Provider's ability to cover reasonable operating costs and debt service, (2) existing tenants will not be unreasonably financially burdened by the Housing Provider's proposed rent increases, and (3) the Housing Provider is not in default under any contract with MOHCD. Any waiver from this Policy approved by MOHCD, in its sole discretion, shall apply for only one year. Housing Providers are solely responsible for providing MOHCD with any documentation requested by MOHCD to support a hardship waiver of this Policy.

ⁱ The application of the 4% increase is made on the amount for the 100% AMI level for a 4-person family. MOHCD continues to using rounding to the nearest \$50 on the calculations for all of the other income levels and household sizes. The use of rounding may create nominal differences in the percentage increases for all of the other max income levels and household sizes, as well as for all of the maximum rents.

EXHIBIT L
Insurance Requirements

Subject to approval by the City's Risk Manager of the insurers and policy forms Borrower will obtain and maintain, or caused to be maintained, the insurance and bonds as set forth below from the date of this Agreement or other applicable date set forth below throughout the Compliance Term at no expense to the City:

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

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

(b) commercial general liability insurance, with limits no less than Two Million Dollars (\$2,000,000) combined single limit per occurrence and Four Million Dollars (\$4,000,000) annual aggregate limit for bodily injury and property damage, including coverage for contractual liability; personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; products and completed operations; broad form property damage; and explosion, collapse and underground (XCU) coverage during any period in which Borrower is conducting any activity on, alteration or improvement to the Site with risk of explosions, collapse, or underground hazards;

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

(d) professional liability insurance of no less than Two Million Dollars (\$2,000,000) per claim and Four Million Dollars (\$4,000,000) annual aggregate limit covering all negligent acts, errors and omissions of Borrower's architects, engineers and surveyors. If the professional liability insurance provided by the architects, engineers, or surveyors is "Claims made" coverage, Borrower will assure that these minimum limits are maintained for no less than three (3) years beyond completion of the constructions or remodeling. Any deductible over Fifty Thousand Dollars (\$50,000) each claim will be reviewed by Risk Management; and

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

(f) as applicable, pollution liability and/or asbestos pollution liability covering the work being performed with a limit no less than Two Million Dollars (\$2,000,000) per claim or occurrence and Two Million Dollars (\$2,000,000) annual aggregate per policy. This

coverage will be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Borrower's contractor, provided that the policy will be "claims made" coverage and Borrower will require Borrower's contractor to maintain these minimum limits for no less than three (3) years beyond completion of the construction or remodeling.

2. Property Insurance. Borrower will maintain, or cause its contractors and property managers, as appropriate for each, to maintain, insurance and bonds as follows:

(a) Prior to construction: Intentionally omitted

(b) During the course of construction:

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

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

(c) Upon completion of construction:

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

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

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

3. Non-Residential Space. If and only to the extent applicable to Borrower's operation of the Project, Borrower will require that all nonresidential tenants' liability insurance policies include Borrower and the City as additional insureds, as their respective interests may appear. Throughout the term of any lease of non-residential space in the Project, Borrower will require commercial tenants to maintain insurance as follows:

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

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

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

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

(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.

4. General Requirements.

(a) Required Endorsements. Borrower's insurance policies will include the following endorsements:

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

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

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

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

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

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

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

(d) Claims Based Policies. All claims based on acts, omissions, injury or damage occurring or arising in whole or in part during the policy period must be covered. If any required insurance is provided under a claims-made form, Borrower will maintain coverage as follows:

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

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

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

(e) Additional Requirements.


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


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


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

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

Exhibit M
Early Release of Retention Contractors

	KELSEY CIVIC CENTER						
	GMP Early Releases: early or no retentions, early deposits, escalation, etc.						
	10/19/22						
Line Item / Subcontractor	Comments	Reduced Retention	No Retention	Early Deposits	Early Retention Releases	Early Authorization (for reasons listed below as well as secure pricing)	Escalation from a November 2022 start to a January 2023 start (assume get LOI in Oct. 2022)
Line 03 - Earthwork							
Granite Excavation		NO	NO	NO	Retention released when sub's work done		none per 10/10/22 email
Martin Ron						NO	didn't ask
Line 04 - Shoring, Underpinning & Soil Grouting		NA	NA	NA	NA	NA	NA
Line 05 - Ground Improvements (Rigid Inclusions)							
Malcolm Drilling		5%	NO	NO	45 days after completion	issued, early bid trade	re-asking
Line 06 - Structural Concrete							
Berkeley Cement Inc. (BCI)		release 50% of retention @ 80% complete of sub's work	NO	NO	Yes, see reduced retention note	Yes to hold rebar mat'l escalation in check, pending construction start date. LOI will work.	If get LOI, no escalation per 10/17/22 email
Line 07 - Masonry							
John Jackson Masonry		NO	NO	NO	NO	NO	NO
Line 08 - Structural Steel, Metal Stairs, & Misc. Iron							
BOK Panels				Yes		NO	didn't ask
Pacific Stair Corporation - Metal Stairs		NO	No retention on mat'l	TBD	NO	NO	if get LOI in October, no escalation
O'Kane Steel		NO	NO	yes for BOK	NO	NO	NO
Line 09 - Rough Carpentry	Cahill	NA	NA	NA	NA	NA	NA
Line 10 - Exterior Glazing							
Progress Glass	Peerless offers if get 20% deposit, lock in pricing for 1 year	NO	NO	NO	NO	NO	no cost impact except mat'l priced in today's \$'s till 10/23, see 10/11/22 mail response
Line 11 - Exterior Siding & Metal Panels							
Daley's Drywall		NO	NO	Yes, to hold mat'l pricing	NO	NO	to hold mat'l pricing, need 33% early deposit within 90 days from 9/27/22 (~\$332k)
West Coast ASM		NO	NO	NO	NO	NO	+\$22,271 per 9/27/22 email (in the GMP)
Line 12 - Plaster							
Valdez Plastering		NO	NO	NO	NO	NO	None per 9/30/22 email
Line 13 - Roofing & Waterproofing							
Coast Building Products		NO	NO	NO	NO	NO	None per 10/2/22 email
AlCal Roofing		NO	NO	NO	NO	NO	\$1,677 impact in GMP, assume get LOI in October
Line 14 - Sheet Metal, Flashing, Louvers & Exp Jts							
West Coast ASM		NO	NO	NO	NO	NO	None per 9/27/22 email
Line 15 - Exterior Building Maintenance System							
SITCO	Early Bid Trade	NO	NO	NO	NO	NO	None per 9/30/22 email
Line 16 - Caulking & Sealants							
PMR Sealant		NO	NO	NO	NO	NO	None per 10/17/22 email

	KELSEY CIVIC CENTER						
	GMP Early Releases: early or no retentions, early deposits, escalation, etc.						
	10/19/22						
Line Item / Subcontractor	Comments	Reduced Retention	No Retention	Early Deposits	Early Retention Releases	Early Authorization (for reasons listed below as well as secure pricing)	Escalation from a November 2022 start to a January 2023 start (assume get LOI in Oct. 2022)
<u>Line 17 - Gypcrete</u>	no gypcrete	NA	NA	NA	NA	NA	NA
<u>Line 18 - Metal Stud Framing & Drywall</u>							
North Counties Drywall JV w/ Trico		NO	NO	NO	NO	NO	None per 10/5/22 email
<u>Line 19 - Insulation & Firestopping</u>							
West Coast Insulation / Spring Valley		NO	NO	NO	NO	NO	None per 9/29/22 email
<u>Line 20 - Finish Carpentry</u>							
Unit Cabinets - Lanz Cabinets		NO	NO	NO	NO	NO	no cost impact per 10/12/22 email
Millwork & Cabinet Installation - Sullivan		NO	NO	NO	NO	NO	no cost impact per 9/22/22 email
Countertops - Cal Tile		NO	NO	NO	NO	NO	no cost impact per 9/21/22 email
<u>Line 21 - Doors, Frames & Hardware; Smoke Containment</u>							
Partition Specialties	their scope was VE'd - deleted	NO	NO	NO	NO	NO	n/a - scope deleted
RT Western		NO	NO	NO	NO	NO	no cost impact per 10/3/22 email
<u>Line 22 - Overhead Coiling Doors</u>							
DW Nicholson		NO	NO	yes, for Schweiss door, 50% deposit (~\$71k)	NO	NO	Cahill included escalation laready, no change, 9/21/22 sub reponse
<u>Line 23 - Tile & Stone</u>							
California Tile Installers		NO	NO	NO	NO	NO	no cost impact per 9/21/22 email
<u>Line 24 - Acoustical Ceilings & Wall Panels</u>							
Arrow Acoustics		NO	NO	for "specialty mat'ls"	NO	NO	None per 10/10/22 email
<u>Line 25 - Flooring - Carpet, Resilient, Wood, Polished Conc, Epoxy</u>							
DSB+		NO	NO	NO	NO	NO	\$0 escalation if get LOI in October
Bay Area Concrete		NO	NO	NO	50% retention released 45 days after completion of work	NO	didn't ask
Clean Cut Concrete		NO	NO	NO	NO	NO	no cost impact per 9/28/22 email
<u>Line 26 - Painting & Wall Coverings</u>							
Brite Painting		NO	NO	NO	NO	NO	add of \$6,824 (added to the gmp)
<u>Line 27 - Misc. Specialties & Equipment</u>							
Palmer Group	bike racks, etc. (supplier only)	NO	assume no retention, supplier only	50% deposit = ~\$23k	Yes	NO	responded but not definitive, re-asked 9/30/22
Universal Plastics	FRP	NO	NO	NO	NO	NO	no cost impact per 9/30/22 email
Peg Boards	kitchen peg boards (supplier only)	NO	assume no retention or early release	NO	assume yes or no retention	NO	didn't ask, small supplier
Specialties Etc.	mailboxes	NO	NO	NO	NO	NO	none per 9/30/22 email

	KELSEY CIVIC CENTER						
	GMP Early Releases: early or no retentions, early deposits, escalation, etc.						
	10/19/22						
Line Item / Subcontractor	Comments	Reduced Retention	No Retention	Early Deposits	Early Retention Releases	Early Authorization (for reasons listed below as well as secure pricing)	Escalation from a November 2022 start to a January 2023 start (assume get LOI in Oct. 2022)
Keane Fire & Safety	fire extinguishers (supplier only)	NO	assume no retention, supplier only	NO	NO	NO	didn't ask, small supplier
Line 28 - Pest Control							
Bird Solutions	Assume no retention on bed bug control \$9k	NO	assume no retention on \$9k	NO	NO	NO	9/22 - no escalation add
Line 29 - Signage							
Priority Architectural Graphics		NO	NO	NO	NO	NO	added \$3,911 to their bid
Line 30 - Toilet & Bath Accessories							
Specialties Etc.	also doing mailboxes & trash chute	NO	NO	NO	NO	NO	none per 9/30/22 email
Line 31 - Kitchen and laundry appliances							
Ferguson Enterprises	Retention on labor only	Retention on labor only	No retention on mat'l	NO	NO	NO	revised their bid, Cahill absorbed it
Line 32 - Trash Chutes & Compactors							
Specialties Etc.	also do toilet acc. & mailboxes	NO	NO	NO	NO	NO	none per 9/30/22 email
Line 33 - Window Treatments							
Cutting Edge Drapery		NO	NO	50% deposit = \$80K	NO	NO	9/21/22 - none per email response
Line 34 - Elevators							
Otis Elevator	Early bid trade	NO	NO	NO	NO	NO	re-asking 10/10, 10/17
Line 36 - Fire Protection System							
Pribuss Engineering	Early bid trade	NO	NO	NO	NO	Already have design authorization	none per 10/17/22 email
Line 37 - Plumbing							
O'Brien Mechanical		NO	NO	NO	NO	NO	assume no w/ a LOI, sub left it open
Line 38 - HVAC							
Monarch Mechanical		NO	NO	NO	Retention released when sub's work done		\$21,554, \$0 if get a LOI in October 2022
Line 39 - Electrical, Telephone & Data							
Brayer Electric		NO	NO	NO	NO	Allow for long lead equipment	mat'l escalation \$39,000, labor escalation \$22,400 included in GMP, assume get LOI in Oct.
Line 40 - Solar Panels - Photovoltaic							
Cal Solar		NO	NO	NO	NO	NO	no
Line 41 - Asphalt Paving & Striping - allowance		NA	NA	NA	NA	NA	NA
Line 42 - Site Concrete							
QLM	also doing landscape	NO	NO	NO	NO	NO	10/18 want 3.5% increase, allow \$35k
Line 43 - Landscape, Irrigation & Site Furnishings							


	KELSEY CIVIC CENTER						
	GMP Early Releases: early or no retentions, early deposits, escalation, etc.						
	10/19/22						
Line Item / Subcontractor	Comments	Reduced Retention	No Retention	Early Deposits	Early Retention Releases	Early Authorization (for reasons listed below as well as secure pricing)	Escalation from a November 2022 start to a January 2023 start (assume get LOI in Oct. 2022)
QLM	Deposit for planters	NO	NO	\$ 89,200	NO	NO	10/18 want 3.5% increase, allow \$35k
Line 44 - Site Utilities							
Granite Excavation	also doing earthwork / demo	NO	NO	NO	Retention released when sub's work done		none per 10/10/22 email
Sheeran Pipeline		NO	NO	NO	Assume yes, smaller SBE sub	NO	no per 9/27/22 email
Line 45 - Personnel Hoist							
McDonough	Early bid trade	no retention	no retention	NO	YES	NO	re-asking 10/10, 10/17
Line 46 - Tower Crane							
Maxim Crane	Early bid trade	NO	NO	NO	YES	Yes, to secure a crane to meet schedule	didn't ask
Line 47 - Scaffold							
Skyline Scaffold		no retention	no retention	NO	NO	NO	no escalation per 9/23/22 email
Line 48 - Site Security							
Jatagan		NO	NO	NO	NO	NO	no escalation per 9/21/22 email
Line 49 - Final Cleaning							
Capital Building Maintenance		NO	NO	NO	NO	NO	adds \$4,272 (in the gmp)

EXHIBIT N
Reserved

Exhibit O

EXHIBIT O
MOHCD Commercial Space Underwriting Guidelines

Mayor's Office of Housing and Community Development Commercial Space Underwriting Guidelines

Effective February 2, 2018

A. Applicability

The following Commercial Space Underwriting Guidelines (Guidelines) are intended to assist applicants for capital financing to prepare financing requests to the Mayor's Office of Housing and Community Development (MOHCD). They apply to new construction projects only. These Guidelines will also be used by MOHCD staff for purposes of evaluating funding requests and presenting them to the Citywide Affordable Housing Loan Committee for consideration. The Loan Committee maintains the right to set final terms and conditions for commitment of funds based on the actual circumstances of each project. MOHCD reserves the right to review and approve any requests for variations to these Guidelines. These Guidelines are subject to change.

B. Goals

1. To repay the City for costs related to the development of commercial spaces located within City-funded affordable housing properties.
2. To create vibrant neighborhoods, especially for those experiencing displacement of low-income residents, by facilitating the development of commercial space for Public Benefit and Community Serving Commercial Uses.
3. To recognize the dynamism and relationship to market conditions in commercial real estate that is not found in affordable housing while also mitigating against the market risk inherent in this dynamism.

C. Definitions

1. **Affiliated Entity:** An entity that is either controlled by the Housing Owner, controls the Housing Owner, or is under common control with Housing Owner. Control, as used in the previous sentence, means the ownership, directly or indirectly, of the right to vote in or direct the ordinary operations of the entity.
2. **Commercial Space:** An entire undifferentiated commercial area for Public Benefit Use, Community Serving Commercial Use, or Commercial Use. If the Project is subdivided, then the Commercial Space would be a condominium or air rights parcel, separate from the Residential Space. It is possible to have more than one Commercial Space in a Project because the developer intends different uses (for example, a space finished to Warm Shell and where use will be Public Benefit Use, while another area is finished to Cold Shell and Commercial Use is intended). A Commercial Space may be demised into more than one Individual Tenant Space as appropriate.
3. **Commercial Use:** A land use, typically retail or other sales and services use, with the sole or chief emphasis on making financial gain and that is not a Public Benefit Use or Community Serving Commercial Use as defined below. Commercial Uses shall not include uses that, in MOHCD's sole discretion, are inconsistent with fostering a stable environment for families and children, including, but not limited to, bars, liquor stores,

tobacco product stores, recreational cannabis shops (medical cannabis dispensaries may be permitted in MOHCD's sole discretion, but only to the extent permitted by funding sources and applicable local, state, and federal law) or other uses that cater exclusively to adults.

4. **Commercial Entity:** A legal entity, separate from the Housing Owner, who may either master lease the Commercial Space from the Housing Owner or ground lease the Commercial Space directly from the City, as provided in Permitted Legal Structures, below.
5. **Commercial Project Costs:** The total of all hard and soft costs associated with the development of the Commercial Space.
6. **Community Serving Commercial Use:** A land use, typically retail or other sales and services use, that provides a direct benefit to the community, e.g. a food market with affordable and healthy produce and other goods, community banking, or other neighborhood serving uses that have a demonstrated benefit to the residents of the Project, as determined by MOHCD in its sole discretion.
7. **Commercial Space Master Tenant:** A Commercial Entity that is an Affiliated Entity and that leases the Commercial Space from the Housing Owner and subleases Individual Tenant Space(s) to Individual Commercial Tenant(s).
8. **Housing Owner:** The owner of the residential improvements at the Project.
9. **Cold Shell:** Commercial Space improvements as defined in detail under Item 18.
10. **Individual Commercial Tenant:** An occupant of Commercial Space rented from the Housing Owner or Commercial Entity (depending on legal structure).
11. **Individual Tenant Space:** Demised portion of the Commercial Space for lease to an Individual Commercial Tenant.
12. **Net Commercial Cash Flow:** Commercial Operating Income less the Commercial Operating Expenses for a Lease Year (or portion thereof). **Commercial Operating Expenses** means the reasonable and customary expenses of reasonable operating and routine maintenance and repair expenses incurred by the Housing Owner or Commercial Entity (depending on legal structure) in the operation of the Commercial Space, debt service, and MOHCD-approved reserves. **Commercial Operating Income** means all income and receipts in any form received by the Housing Owner or Commercial Entity (depending on legal structure) from the operation of the Commercial Space, including rents, fees, deposits, and reimbursements.
13. **Project:** A mixed-use, multifamily residential and commercial project built with substantial reliance on City funding, which may include one or more subdivided residential condominium/air rights parcels and commercial condominium/air rights parcels.
14. **Public Benefit Use:** A land use, typically programs or services, that primarily benefits low-income persons, 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. Examples include, but are not limited to, childcare centers, adult day health centers, nonprofit office space, public libraries, supportive services for the residents of the affordable housing development, health clinics that serve the local community at no or low cost, arts-related spaces that provide programs, and classes and/or exhibition spaces available to community members at no or low cost.

- 15. Residential Space:** The entire undifferentiated residential area for future demising and occupancy by residential tenants. If the Project is subdivided, then the Residential Space would be a condominium or air rights parcel, separate from the Commercial Space(s).
- 16. Tenant Improvement Allowance:** A budget allowance sized to accommodate the build out of Warm Shell improvements, which MOHCD may approve when the Individual Commercial Tenant/s is unknown at construction loan closing.
- 17. Warm Shell:** Commercial Space improvements as defined in detail under Item 18.
- 18. *Detailed definition of Cold Shell and Warm Shell improvements (see next page)***

<u>Scope/Trade</u>	<u>Cold Shell</u>	<u>Warm Shell (Cold Shell plus the following)</u> (Note: The cost of Warm Shell improvements should be included in the development budget either as a specific scope of work, if known, or as a Tenant Improvement Allowance, subject to MOHCD approval.)
Walls/Doors	Exterior/perimeter walls and doors. Exterior/perimeter walls must be finished with gyp and fire taping to Code. No partition walls or doors.	Partition walls and doors to Individual Tenant Space/s. Partition walls, doors and locks for bathrooms based on Individual Commercial Tenants and Code requirements.
Finish	Exposed concrete slab with rough-in Plumbing, depressed to allow for anticipated use (floor sinks, drains). Temporary ramps for Certificate of Completion, as required.	Finished floor to minimum specification of Individual Commercial Tenant or exposed slab with clearance to install flooring to level landing at door. Wall and ceiling finish, lighting and finish specialties in bathrooms.
Specialties	Code required signage. Exterior commercial signage program developed and approved by Planning and MOHCD.	Bathroom accessories. Exterior signage design, infrastructure, fabrication and installation.
Structural	Anchors for drop-ceiling. Anchors must be cast-in slab 4' on center in each direction. Coring or block-out for assumed HVAC rough-in.	Code required ramps and railings to assumed final finish floor and level landing at entrance(s).
Elevator	No	As required.

Mechanical	Stub out for heat-pump, space on roof for equipment, and pad (or sidewall where possible). Fire rated shaft for later ducting of restaurant hood(s); supply air / louver on exterior wall.	Venting of bathrooms and all other plumbing fixtures. Ductwork to connect location of heatpump to exterior. Code required smoke control. In the case of an approved restaurant use, minimum of one (1) grease duct plus make up air (MUA) duct to accommodate Type 1 hood. Type 2 hood shaft and venting may be considered. Does not include water heating and all other mechanical equipment.
Gas	Stub-out for gas and gas meter in meter room.	Submeters based on establishment of Individual Tenant Space/s.
Plumbing	Stub-out for domestic water supply and water meter in meter room. Storm sewer 4". Stub out all plumbing (supply and waste) to bathroom location(s). No finish.	Water meters based on establishment of Individual Commercial Tenant/s. Distribute domestic water, waste and vents to plumbing fixture locations within Individual Tenant Space/s. Finish plumbing.
Electrical	200A-600A 3 phase service. Meter in electrical room with service to Commercial Space. Stub out and conduit on ceiling for mechanical. Perimeter walls to have wall receptacles. Light fixtures in space connected to house meter to meet Certificate of Completion requirements only. Emergency lighting battery back-up.	Submeters based on established Individual Commercial Tenant/s and extension of stub-outs to Individual Tenant Space/s. Installation of sub panel at Individual Tenant Space/s.
Telco	Two (2) 2" conduits from MPOE to space for telecom/data/security. Temporary security camera connected to residential system until Commercial Space is occupied.	

Fire Protection/ Alarm	Building Fire Alarm shall be sized and zoned to include Commercial Space. State and Local SFFD Code requirements for Completion and Certificate of Occupancy must be met. Sprinkler shall be installed, activated and monitored.	Zoning of Fire Alarm to Individual Tenant Space/s and re-configuration / programming of main building fire panel.
Site Work	No	No

D. Permitted Legal Structures

a. Each of the following legal structures may be used for a Project, as permitted by MOHCD, taking into account the location of the Project, the community that the Project intends to serve, financing requirements and restrictions, and the capacity and expertise of the developer and Housing Owner. These Guidelines assume MOHCD owns the land on which the Project is located. In the rare scenario in which that is not the case, MOHCD and the Housing Owner will adjust these Guidelines accordingly to achieve the Goals articulated in Paragraph B and the same financing principles related to the use of MOHCD funds.

1. No Subdivision; Single Ground Lease. The real property is not subdivided and the entire property is ground leased to Housing Owner.

a. Direct Leases: Housing Owner leases directly to Individual Commercial Tenant(s); or

b. Commercial Master Lease: Housing Owner leases the Commercial Space to the Commercial Entity (which must be an Affiliated Entity) (the “Commercial Space Master Tenant”). The Commercial Space Master Tenant would then sublease the Individual Tenant Space(s) to Individual Commercial Tenant(s).

2. Subdivision. The real property is subdivided into a separate residential condominium or air rights parcel and a separate commercial condominium or air rights parcel (or subdivided into more than one separate parcels of either use).

a. Single Ground Lease. The real property is subdivided, and the City ground leases the entire property to the Housing Owner.

(i) Direct Leases: Housing Owner retains ownership of the leasehold for the Commercial Space and leases directly to Individual Commercial Tenant(s); or

(ii) Commercial Master Lease: Housing Owner retains ownership of the leasehold for the Commercial Space and leases the Commercial Space to a Commercial Space Master Tenant. The Commercial Space Master Tenant would then sublease the Individual Tenant Space(s) to Individual Commercial Tenant(s).

b. Separate Ground Leases.

(i) The City ground leases the Residential Space to the Housing Owner. The City separately ground leases the Commercial Space to the Commercial Entity. The Commercial Entity may or may not be an Affiliated Entity.

(ii) Where the Commercial Entity is a for-profit company, not related to the Housing Owner, and the Commercial Space will be used for Commercial Use, the City’s strong preference is that the subdivision be in the form of a condominium as opposed to an air rights parcel.

E. Underwriting Guidelines for All Permitted Legal Structures

1. The eligible uses of MOHCD Funds for Commercial Project Costs are:

- a. **Hard Costs:** Subject to approval by MOHCD, Borrower may request the use of MOHCD funds for the following:
 - i. **Commercial Uses:** Cold Shell only. However, MOHCD may provide funding for Warm Shell improvements required to be installed concurrent with residential construction (e.g. restaurant flue shafts with grease ducts and access panels on each floor, drain lines and anchor bolts installed in PT floor and ceiling slabs). If Housing Owner is working with the Commercial Entity or an Individual Commercial Tenant before or during construction, Housing Owner may install ducting to the exterior (roof or louvers on building exterior) as a reimbursable cost to Housing Owner by the Commercial Entity or the Individual Commercial Tenant. Costs for all Cold Shell and Warm Shell improvements must be repaid to MOHCD, in full or in part, through non-housing sources, according to the requirements set forth in Section I below.
 - ii. **Community Serving Commercial Uses:** Cold Shell and Warm Shell. Borrower is required to seek funding from other City and private sources, such as commercial loans, OEWD or the Child Care Fund, New Market Tax Credits, etc., as appropriate for the proposed use for the purpose of reducing funding required from MOHCD.
 - iii. **Public Benefit Uses:** Cold Shell and Warm Shell. Borrower is required to seek funding from other City and private sources such as commercial loans, OEWD or the Child Care Fund, New Market Tax Credits, etc. as appropriate for the proposed use, for the purpose of reducing funding required from MOHCD.
- b. **Soft Costs:** Subject to MOHCD approval and evaluated based on industry standards and market conditions for comparable projects and uses, including:
 - Construction management and consulting fees for coordination of tenant improvements with shell construction
 - Commercial broker fee
 - Commercial space lease-up reserve
 - Commercial space replacement reserve
 - Commercial space developer fee (see developer fee policy below)
 - Market analysis as is required by MOHCD
 - Future tenant improvements reserve
 - Pro rata share of Project development costs associated with Commercial Space (for example, financing costs and legal fees)

2. Conditions of MOHCD Funds.

- a. Market Analysis: Developer shall provide MOHCD a third party prepared market analysis (e.g. from a broker, appraiser, or market analyst) to determine appropriate terms for Market Rents, Rent Growth, Annual Rent Adjustments, Rent Concessions and/or Tenant Improvement Allowances, Vacancy, Expenses, Expense Growth, Management Fees, Leasing Agent Fees, and Reserves.
- b. Operating Budget. Developer shall provide the Housing Owner's or Commercial Entity's (depending on legal structure) commercial operating budget based on proposed use and market conditions consistent with the third party prepared Market Analysis provided for the project as defined above in 2.a. Commercial rents charged must be sufficient to cover all direct, shared, and allocated costs attributable to commercial use, including, but not limited to: pro-rata share of cleaning, maintenance and utility costs for shared bathrooms and hallways; pro-rata share of maintenance of fire sprinkler and fire alarm systems; pro-rata share of cleaning, maintenance and repair of the trash room; pro-rata share of maintenance and repair of the sidewalk, street trees and bike racks; pro-rata share of hydro-jetting of the sewer laterals; and pro-rata share of back-flow testing of the water lines. Commercial operating expenses shall include all utilities payable by the property for the Commercial Space, commercial property management and asset management fees, commercial operating and replacement reserves, and property taxes and insurance attributable to the Commercial Space.
- c. Leases and Letters of Intent. The Commercial Master Lease and business terms for Direct Leases and subleases are subject to review and approval by MOHCD, in accordance with the Market Analysis and these Guidelines.

F. Commercial Space Developer Fee

1. Commercial Uses: The lesser of \$100,000 or 15% of the non-residential depreciable basis, so long as the sum of the Commercial Space Developer Fee and the Residential Developer Fee do not exceed the developer fee limits allowed by TCAC. A one-time additional \$50,000 incremental fee will be allowed for completion of the condominium or air rights subdivision, subject to MOHCD approval of the subdivision and legal structure. The Commercial Space Developer Fee is payable only from non-MOHCD sources, e.g. commercial loan proceeds or transfer of the leasehold estate in the Commercial Space, etc.
2. Public Benefit Uses and Community Serving Uses: The lesser of \$250,000 or 15% of the non-residential depreciable basis, so long as the sum of the Commercial Space Developer Fee and the Residential Developer Fee do not exceed the developer fee limits allowed by TCAC. A one-time additional \$50,000 in fee will be allowed for completing the condominium or air rights subdivision, subject to MOHCD approval of the subdivision and legal structure. Half of the Commercial Space Developer Fee is payable

only from non-MOHCD sources, e.g. commercial loan proceeds, grants, or transfer of the leasehold estate in the Commercial Space.

3. Commercial Space Developer Fee; Net Developer Fee Maximums. To the extent allowable by TCAC, the Commercial Space Developer Fee is in addition to the net developer fee maximums pursuant to MOHCD Developer Fee Guidelines.

G. Change in Use

Change in use from Public Benefit Use or Community Serving Commercial Use to Commercial Use requires approval by MOHCD and will result in required repayment of the costs of Warm Shell improvements funded by MOHCD loan(s). Repayment will be calculated by amortizing the MOHCD-funded costs over the useful life of the improvements and sized based on the number of years the improvements did not serve a Public Benefit or Community Serving Commercial Use.

H. Single Ground Lease Additional Guidelines

The following ground lease terms apply where the City ground leases the entire property to the Housing Owner, whether or not the property has been subdivided.

1. Direct Lease
 - a. **40% City/60% Housing Owner:** 40% of Net Commercial Cash Flow will be paid by Housing Owner to City in the form of increased ground lease payment of Residual Rent (see MOHCD Policy on Ground Leases for defined terms). Housing Owner will retain 60% of Net Commercial Cash Flow.
 - b. Limit on Commercial Revenue: City recommends tax counsel guidance to avoid issues of unrelated business income.
2. Commercial Master Lease
 - a. **40% City/60% Affiliated Entity:** 40% of Net Commercial Cash Flow will be paid by Commercial Entity to Housing Owner and subsequently paid to City in the form of increased ground lease payment of Residual Rent. 60% of Net Commercial Cash Flow is payable to the Commercial Entity (ie. the Commercial Space Master Tenant). The Commercial Entity must be an Affiliated Entity.
 - b. Limit on Commercial Revenue: City recommends tax counsel guidance to avoid issues of unrelated business income.

I. Separate Ground Leases Additional Guidelines

The following MOHCD commercial loan repayment and commercial ground lease terms apply where the property has been subdivided, the City ground leases the Residential Space to the Housing Owner, and the City ground leases the Commercial Space(s) to the Commercial Entity(ies).

1. Reimbursement to MOHCD of Commercial Project Costs depends on the ownership structure and the type of use, as follows:

- a. Public Benefit Uses, Community Serving Commercial Uses, and Commercial Uses when the Commercial Entity is an Affiliated Entity:

Within the earlier of 90 days after 75% occupancy is achieved for Commercial Space or one year after the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy for the Commercial Space, the Commercial Entity must obtain a commercial loan commitment to repay MOHCD for all Commercial Project Costs included in MOHCD financing. The terms for any repayment source that requires a lien against the Commercial Space are subject to MOHCD approval. The commercial loan must close within 90 days following the issuance of a loan commitment. In the event that the commercial loan is not large enough to fully repay MOHCD for Commercial Project Costs, MOHCD will retain a second position Deed of Trust against the Commercial Space, securing a Note in the amount of any unpaid balance. Any outstanding balance on a MOHCD commercial loan will be payable upon refinance or transfer of the Commercial Space.

- b. Commercial Uses when the Commercial Entity is an unrelated third-party:

The Commercial Entity must repay MOHCD for all Commercial Project Costs included in MOHCD financing at close of purchase of the leasehold interest in the commercial condominium/air rights parcel and/or execution of the commercial ground lease. The terms for any repayment source that requires a lien against the Commercial Space are subject to MOHCD approval.

2. Commercial Space Ground Lease Payment and Payment on Any Outstanding MOHCD Commercial Loan

- a. Public Benefit Uses & Community Serving Commercial Uses: Annual ground lease payment equal to 40% of Net Commercial Cash Flow. However, if there is an outstanding MOHCD commercial loan, the 40% Net Commercial Cash Flow will first be used to pay down the MOHCD commercial loan and then to the annual ground lease payment. Commercial Entity will retain 60% of Net Commercial Cash Flow.
- b. Commercial Uses: Annual ground lease payment equal to market rent based on current comparable leases. Sizing of Base Rent and Residual Rent to be negotiated. If there is an outstanding MOHCD commercial loan (only applicable when the Commercial Entity is an Affiliated Entity), 40% Net Commercial Cash Flow will be used to pay off the MOHCD commercial loan and then go towards payment of Residual Rent, if applicable. Commercial Entity will retain 60% of Net Commercial Cash Flow.

3. Any transfer or sale of the Housing Owner's or Commercial Owner's ground lease interest in the Commercial Space parcel is subject to MOHCD approval as ground lessor. If the Project was developed as air rights parcels, MOHCD may require that the air rights subdivision be converted to condominiums before the Commercial Space may be transferred to an unaffiliated for-profit entity for Commercial Use.

4. Ground Lease Term: To be negotiated based on Market Analysis (see section E.2.a. for requirements for Market Analysis.)

EXHIBIT P
Residual Receipts Policy

Mayor's Office of Housing and Community Development

Residual Receipts Policy

Effective April 1, 2016

INTRODUCTION

The Mayor's Office of Housing and Community Development (MOHCD) typically requires annual payments under the Ground Leases and Loans provided for the purpose of developing or preserving affordable housing to the extent that making payments is feasible and does not jeopardize the long-term affordability or maintenance of safe and secure housing for its residents. Payments may be required under one or a combination of several structures, including amortization, deferral, or payment from residual receipts, depending on the circumstances.

When a development financed by MOHCD is projected to enjoy more income than is needed to pay expenses, service other debt, fully fund its reserves, and make approved payments out of surplus, it is MOHCD's policy that a portion of the remaining "residual" income be directed toward repayment of MOHCD's investment.

MOHCD also permits a modest portion of "residual" income to be distributed by the borrower. Distribution of any portion of "residual receipts" is conditioned on MOHCD's annual determination that certain performance standards and benchmarks have been met.

SUMMARY (see below for detailed requirements)

I. Definition of Residual Receipts	As depicted in the approved MOHCD Operating Budget Proforma for each project, the amount remaining in the annual operating budget after calculation of Net Operating Income (Project Income less Project Expenses) and allowable payments of surplus. .
II. Annual Residual Receipts Payments Due to MOHCD	Generally, $\frac{2}{3}$ rd s of residual receipts is payable to the City. Larger Tax Credit projects may be eligible to use an alternative $\frac{1}{2}$ - $\frac{1}{2}$ split for up the first 10 years of a new tax credit period, see the Developer Fee Policy for more details.
III. When more than one MOHCD contract requires residual payments	The approved MOHCD Operating Budget Proforma is a required exhibit to the last-executed MOHCD contract and must reflect a comprehensive summary of approved cash flow waterfall, listing of all lenders, relative lien positions, underlying loan terms and amounts owed to MOHCD annually across all MOHCD contracts.
IV. When a project has other Lenders in addition to MOHCD that require residual payments	The portion to be repaid to each Lender is typically determined by the proportional amount of capital funded under each loan. The approved MOHCD Operating Budget Proforma must include a list of all loans and details about projected amounts owed annually, including how the portion of residual receipts to be paid to each lender will be calculated, if not based on a proportional amount.
V. Conditions to Distribution of Residual Receipts to Borrower	Distribution of Residual Receipts may be made only upon: (1) MOHCD approval of Annual Monitoring Report; (2) determination by MOHCD that borrower is not in default; and (3) approval by MOHCD of amount of

	Distribution.
VI. Use of Residual Receipts Distributed to the Borrower	MOHCD strongly encourages borrowers to use distributions for activities in San Francisco that would be eligible uses under the CDBG Program Income rules (except to the extent that those rules may prohibit the use of funds for new construction).
VII. Uses of Project Income for Services and other Extraordinary Costs Associated with the Project	Any other use of the income derived from housing developed or preserved with MOHCD financing apart from ordinary and routine operating expenses, debt service or required reserves must be approved by the Loan Committee and the Mayor at the time MOHCD financing is committed and approved.
MOHCD Repayment Waiver Option	The repayment waiver option has been terminated.

I. Definition of Residual Receipts

- A. Residual Receipts is the amount remaining in the annual operating budget after calculation of Net Operating Income (Project Income less Project Expenses) and allowable payments from surplus.
- B. The project-specific Funding Agreements and/or Ground Leases define what Project Income entails and which Project Expenses are allowable. In general, the definition of allowable Project Expenses will include mandatory or “hard” debt service payments, minimum or Base Rent owed under a Ground or Land lease, and required annual payments into Reserve accounts. Each MOHCD contract will include a copy of the approved Operating Budget Proforma.
- C. When MOHCD requires repayments from Residual Receipts, the formula usually requires payment of a portion of the available Residual Receipts. The use of a proportional formula makes it is essential to clearly define which uses of surplus cash have been approved for payment prior to the calculation of the amount owed to MOHCD.
- D. The approved uses of any available surplus may also be referred to as the cash flow waterfall. The approved MOHCD Operating Budget Proforma is used to document the approved cash flow waterfall. In general, the following expenses may be a part of a cash flow waterfall:
 - 1. Fees payable to the project, the GP, the LP or the parent entity
 - 2. Fees payable to project funders
 - 3. “Soft” debt repayments to lenders / lessors

Please see the City’s Developer Fee Policy and Operating Fees Policy for a list of allowable fees and any applicable limits.

- E. Limited Partnership Agreements may also provide a narrative summary of the cash flow waterfall. In the event that a Limited Partnership Agreements is found to be inconsistent with the MOHCD Funding Agreement and/or the approved MOHCD Operating Budget Proforma, the MOHCD documents shall control.

II. Annual Residual Receipts Payments due under MOHCD Ground Leases & Loans

Except as recommended by the Loan Committee and approved by the Mayor on a project by project basis, the portion to be paid to the City shall be $\frac{2}{3}$ rds of Residual Receipts. Larger Tax Credit projects may be eligible to use an alternative $\frac{1}{2}$ - $\frac{1}{2}$ split for up the first 10 years of a new tax credit period and the borrower's portion of Residual Receipts shall be considered payment of Deferred Developer Fee. See the Developer Fee Policy for more details.

Any residual receipts payments shall be applied toward the unpaid balance of MOHCD loan/s according to the terms in the Promissory Note and/or Funding Agreement, and toward the payments required under the MOHCD Ground Lease.

III. When more than one MOHCD contract requires residual payments:

Some projects supported by MOHCD may be governed by more than one MOHCD contract. The MOHCD Operating Budget Proforma provides a comprehensive summary of the approved cash flow waterfall, a listing of all lenders, the relative position of each lien, the amounts owed and the relevant repayment terms, and will also reflect the cumulative amount of repayments owed to MOHCD annually across all MOHCD contracts. Projects governed by more than one MOHCD contract that extend or initiate a MOHCD contract after the effective date of this policy will be required to get approval of a new MOHCD Operating Budget Proforma.

IV. When a project has other Lenders in addition to MOHCD that require residual payments

- A. If any other project lenders besides MOHCD require repayment from residual receipts, the portion to be repaid to each Lender will typically be determined by the proportional amount of capital supplied under each loan. For example, if a project received a \$2 million loan from MOHCD and a \$3 million loan from another lender, MOHCD would receive $\frac{2}{5}$ ths of the amount available to be repaid, and the other lender would receive $\frac{3}{5}$ ths of the amount available to be repaid. The approved MOHCD Operating Budget Proforma must include a list of all Loans and provide an appropriate amount of detail about the projected amounts owed annually including details about how the portions to be paid to each lender will be calculated. If a project makes an agreement with any other lender/s after executing a MOHCD contract containing the final MOHCD-approved Operating Budget Proforma, prior to making any payments to such other lender/s, the project must request and be approved in writing to amend the MOHCD-approved Operating Budget Proforma to include the new lender/s.
- B. During operations, MOHCD will require Residual Receipts payments using MOHCD's method of calculating surplus and any amounts owed to the MOHCD. If there is a difference in the amount calculated to be owed to any other lenders under another lender's repayment calculation method when compared to MOHCD method, then each lender will be paid according to its calculation, so long as doing so would not result in a reduction in the amount payable to MOHCD.

V. Conditions to Distribution of Residual Receipts to Borrower

- A. Distribution of Residual Receipts to the borrower of a MOHCD loan, or lessee of a MOHCD ground lease, may be made only upon:
 - 1. MOHCD approval of the Annual Monitoring Report submitted for that year; and
 - 2. Determination by MOHCD that the borrower is not in default under terms of the Loan; and

3. Approval by MOHCD of the amount to be distributed.
- B. No distribution of Residual Receipts shall be made under any of the following circumstances:
 1. When a written notice of default has been issued by any lender or investor and such default has not been cured; or
 2. When the City determines that the borrower or the borrower's management agent has failed to maintain the housing and its surroundings in a safe and sanitary manner in accordance with local health, building, and housing codes; or
 3. If any operating expense, including debt service on non-City loans remains unpaid; or
 4. If any required reserve account is not fully funded according to the terms of the MOHCD contract/s; or
 5. In the event of any other material failure to comply with the provisions of the MOHCD contract/s.

VI. Use of Residual Receipts Distributed to the Borrower

MOHCD strongly encourages borrowers to use the portion of Residual Receipts that is not applied toward repayment of MOHCD's loan or payment of residual rent under a MOHCD ground lease for activities in San Francisco that would be eligible uses under the CDBG Program Income rules (except to the extent that those rules may prohibit the use of funds for new construction).

VII. Uses of Project Income for Services and other Extraordinary Costs Associated with the Project

- A. With the exception of Residual Receipts retained by a borrower pursuant to this policy, any other use of the income derived from housing developed or preserved with MOHCD financing apart from ordinary and routine operating expenses, debt service or required reserves must be approved by the Loan Committee and the Mayor at the time MOHCD financing is committed and approved.
- B. The Loan Committee may approve variations of this policy on a project-specific basis, including the payment of costs associated with the provision of social, educational, vocational, counseling or other supportive services to residents either as a project expense or out of that portion of Residual Receipts that would otherwise be repaid to the City.

Free Recording Requested Pursuant to
Government Code Section 27383

When recorded, mail to:
Mayor's Office of Housing and Community Development
of the City and County of San Francisco
1 South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn: Director
APN: Block 0811, Lot 204
Address: 240 Van Ness Ave., San Francisco, CA

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

**LEASEHOLD DEED OF TRUST, ASSIGNMENT OF RENTS,
SECURITY AGREEMENT AND FIXTURE FILING
(Property Address: 240 Van Ness Ave., San Francisco, CA)**

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (“Deed of Trust”) is made as of _____, 2023, by **THE KELSEY CIVIC CENTER, L.P.**, a California limited partnership (“Trustor”), whose address is 1256 Market Street, San Francisco, California 94102, to **OLD REPUBLIC TITLE COMPANY**, a California corporation (“Trustee”), whose address is 275 Battery Street, Suite 1500, San Francisco, California 94111, for the benefit of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, represented by the Mayor, acting through the Mayor's Office of Housing and Community Development (“Beneficiary”). This Deed of Trust is executed pursuant to an Amended and Restated Loan Agreement by and between Trustor and Beneficiary dated as of the date of this Deed of Trust, as it may be amended from time to time (the “Agreement”), the provisions of which are incorporated herein by reference. Definitions and rules of interpretation set forth in the Agreement apply to this Deed of Trust.

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

(a) that real property situated in the City and County of San Francisco, State of California, described in **Exhibit A** attached hereto and incorporated herein by reference (the “Land”), on which Trustor intends to construct a one hundred twelve (112)-unit multifamily rental housing development (the “Improvements”) affordable to low-income households, including twenty-eight (28) units for people with disabilities who are eligible to receive home and community-based services, and the Commercial Shell of a ground floor disability community cultural center (the “Commercial Space”), together known as The Kelsey Civic Center (the “Project”).

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

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

(d) all of Trustor's interest in and under that certain Ground Lease dated as of _____, 2023 by and between Beneficiary, as lessor, and Trustor, as lessee, including any options of any nature whatsoever, and any future interest of Trustor in fee title to the Land; and

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

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

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

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

(i) all books and records pertaining to any and all of the property described above, including records relating to tenants under any Leases, the qualifications of any tenants and any certificates, vouchers and other documents in any way related thereto and records

relating to the application and allocation of any federal, state or local tax credits or benefits;
and

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

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

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

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

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

(b) payment of the indebtedness evidenced by the Agreement and the Note in the original principal amount of Twenty Four Million Six Hundred Eighty Four Thousand Four Hundred Fifty Nine and No/100 Dollars (\$24,684,459.00), with interest, according to the terms of the Agreement and the Notes; and

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

3. Assignment of Rents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. Security Agreement and Fixture Filing.

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

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

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

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

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

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

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

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

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

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

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

(c) Fixture Filing. Certain of the Collateral is or will become “fixtures” (as that term is defined in the Uniform Commercial Code). This Deed of Trust, upon being filed for record in the real estate records of San Francisco County, shall operate also as a financing statement and fixture filing upon such of the Collateral that is or may become fixtures under the Uniform Commercial Code. Debtor's name and type and jurisdiction of entity are set forth in the introductory paragraph hereof. Debtor's address is set forth above. Debtor's EIN Number is 84-2120618. Secured Party's name and mailing address are set above.

6. Insurance and Condemnation Proceeds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“TRUSTOR:”

BORROWER:

The Kelsey Civic Center, L.P.,
a California limited partnership

By: Mercy Kelsey Civic Center LLC
a California limited liability company,
its managing general partner

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Ramie Dare,
Vice President

By: The Kelsey Civic Center LLC,
a California limited liability company,
its co-general partner

By: The Kelsey,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Micaela Erin Connery,
Chief Executive Officer

ALL SIGNATURES MUST BE NOTARIZED

EXHIBIT A
Legal Description of the Land

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

Beginning at the point of intersection of the Northerly line of Dr. Tom Waddell Place (Formerly Lech Walesa Street and formerly Ivy Street) (35.00 feet wide), with the Easterly line of Van Ness Avenue (125.00 feet wide); thence Northerly along said Easterly line of Van Ness Avenue 49.05 feet to a point distant thereon 70.95 feet Southerly from the Southerly line of Grove Street (108.00 feet wide); thence at a right angle Easterly 105.00 feet; thence at a right angle Northerly 70.95 feet to said Southerly line of Grove Street; thence at a right angle Easterly along said Southerly line of Grove Street, 72.21 feet to a point distant thereon 206.79 feet Westerly from the Westerly line of Polk Street (68.75 feet wide); thence at a right angle Southerly 120.00 feet to said Northerly line of Dr. Tom Waddell Place; thence at a right angle Westerly, along said Northerly line of Dr. Tom Waddell Place, 177.21 feet to the point of beginning.

Being a portion of Western Addition Block 68

The above legal description is pursuant to Certificate of Compliance recorded September 12, 2022 of Official Records under Recorder's Serial Number 2022085640.

Assessor's Block 0811, Lot 204 (formerly known as Lots 016, 021, 018 and portion of 019)

Street Address:
240 Van Ness Ave., San Francisco, CA

EXHIBIT A

Free Recording Requested Pursuant to
Government Code Section 27383 and 27388.1

Recording requested by and
when recorded mail to:
City and County of San Francisco
Mayor's Office of Housing
and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn: Director
APN: Block 0811, Lot 204
Address: 240 Van Ness Ave., San Francisco, CA

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

**DECLARATION OF RESTRICTIONS AND
AFFORDABLE HOUSING COVENANTS**
240 Van Ness Ave.

THIS DECLARATION OF RESTRICTIONS AND AFFORDABLE HOUSING COVENANTS (this “Declaration”) is made as of _____, 2023, by **THE KELSEY CIVIC CENTER, L.P.**, a California limited partnership (“Borrower”), in favor of the **CITY AND COUNTY OF SAN FRANCISCO**, represented by the Mayor, acting by and through the Mayor's Office of Housing and Community Development (the “City”).

RECITALS

A. The City is making a loan (the “Loan”) to Borrower of Housing Trust Fund, AHF Inclusionary Fees and AHF Jobs Housing Linkage Fees to finance costs associated with the development of the leasehold interest in the real property described in **Exhibit A** attached hereto and incorporated herein by reference (the land and the leasehold interest, the “Property”) as low-income affordable housing (the “Project”). The Loan is evidenced by, among other documents, an Amended and Restated Loan Agreement between the City and Borrower dated as of the date of this Declaration, as it may be amended from time to time (the “Agreement”). The Agreement is incorporated by reference in this Declaration as though fully set forth in this Declaration. Definitions and rules of interpretation set forth in the Agreement apply to this Declaration.

B. Pursuant to the Agreement, Borrower has agreed to comply with certain affordability covenants and other use and occupancy restrictions set forth in the Agreement (collectively, the “Regulatory Obligations”), commencing on the date the Deed of Trust is recorded in the Official Records of San Francisco County, and continuing for the Life of the Project (the “Compliance Term”), even if the Loan is repaid or otherwise satisfied or the Deed of Trust is reconveyed.

AGREEMENT

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

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

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

Unit Size	No. of Units	Maximum Income Level
0 BR	26	50% of Median Income
2 BR	4	50% of Median Income
0 BR	11	70% of Median Income
2 BR	13	70% of Median Income
0 BR	42	80% of Median Income
2 BR	14	80% of Median Income
0 BR	1	Manager's Unit
2 BR	1	Manager's Unit

Twenty-Eight (28) Units will be rented to people with disabilities who are eligible to receive home and community-based services, including the 14 Units set aside for GGRC referrals that will receive Section 811 PRA subsidy during the period in which the Section 811 PRA or an equivalent rental subsidy program is provided to the Project, as long as these subsidies are available.

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

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

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

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

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

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

3. If Borrower fails to (i) comply with the Regulatory Obligations and this Declaration to the City's satisfaction, in its sole discretion, and (ii) cure such default as set forth in **Section 19.1(c)** of the Agreement, the City will have the right to pursue any available remedy at equity or in law, including as set forth in **Section 19.2** of the Agreement, to enforce this Declaration. During the Compliance Term, the City may rely on the Deed of Trust and/or this Declaration, in the City's discretion, to enforce any of the City's rights under the City Documents. Borrower will pay the City's reasonable costs in connection with the City's enforcement of the terms of this Declaration and Regulatory Obligations, including, without limitation, the City's attorneys' fees and costs.

4. Notwithstanding the foregoing, and subject to the terms of the Section 811 Program, if the Section 811 PRA project-based rental assistance is terminated or substantially reduced, the occupancy restrictions set forth in this Declaration may be adjusted, but only to the minimum extent required for Project financial feasibility, as determined by MOHCD, in its reasonable discretion in accordance with substantially similar underwriting criteria used by MOHCD to evaluate the Project's financial feasibility prior to the Agreement Date, and in any event not to exceed sixty percent (60%) of area median income, as published by TCAC (the "TCAC Median Income" and

the monthly rent paid by the Qualified Households may not exceed (a) thirty percent (30%) of sixty percent (60%) of TCAC Median Income (b) less utility allowance. On an annual basis, Borrower will convert the TCAC Median Income and maximum rent to the corresponding published MOHCD maximum income level and maximum rent level, respectively, and provide MOHCD with supporting documentation. In such event, MOHCD shall use good faith efforts to meet with the Borrower, within fifteen (15) days after Borrower's written request, and determine any rent increase within sixty (60) days after Borrower's initial written request to meet. In the event of a conflict or inconsistency between the foregoing requirements and Section 811 Requirements (during such time that the Section 811 Requirements are in effect), the Section 811 Requirements shall be controlling.

[signature follows]

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

BORROWER:

The Kelsey Civic Center, L.P.,
a California limited partnership

By: Mercy Kelsey Civic Center LLC
a California limited liability company,
its managing general partner

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Ramie Dare,
Vice President

By: The Kelsey Civic Center LLC,
a California limited liability company,
its co-general partner

By: The Kelsey,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Micaela Erin Connery,
Chief Executive Officer

[ALL SIGNATURES MUST BE NOTARIZED.]

EXHIBIT A

(Legal Description of the Property)

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

Beginning at the point of intersection of the Northerly line of Dr. Tom Waddell Place (Formerly Lech Walesa Street and formerly Ivy Street) (35.00 feet wide), with the Easterly line of Van Ness Avenue (125.00 feet wide); thence Northerly along said Easterly line of Van Ness Avenue 49.05 feet to a point distant thereon 70.95 feet Southerly from the Southerly line of Grove Street (108.00 feet wide); thence at a right angle Easterly 105.00 feet; thence at a right angle Northerly 70.95 feet to said Southerly line of Grove Street; thence at a right angle Easterly along said Southerly line of Grove Street, 72.21 feet to a point distant thereon 206.79 feet Westerly from the Westerly line of Polk Street (68.75 feet wide); thence at a right angle Southerly 120.00 feet to said Northerly line of Dr. Tom Waddell Place; thence at a right angle Westerly, along said Northerly line of Dr. Tom Waddell Place, 177.21 feet to the point of beginning.

Being a portion of Western Addition Block 68

The above legal description is pursuant to Certificate of Compliance recorded September 12, 2022 of Official Records under Recorder's Serial Number 2022085640.

Assessor's Block 0811, Lot 204 (formerly known as Lots 016, 021, 018 and portion of 019)

Street Address:

240 Van Ness Ave., San Francisco, CA

AMENDED AND RESTATED SECURED PROMISSORY NOTE
(Housing Trust Fund, AHF Inclusionary Fees, AHF Jobs Housing Linkage Fees)

Principal Amount: \$24,684,459

San Francisco, CA

Date:

FOR VALUE RECEIVED, the undersigned, **THE KELSEY CIVIC CENTER, L.P.**, a California limited partnership ("Maker"), hereby promises to pay to the order of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, or holder (as the case may be, "Holder"), the principal sum of [Twenty Four Million Six Hundred Eighty Four Thousand Four Hundred Fifty Nine and No/100 Dollars (\$24,684,459.00)] (the "Funding Amount"), or so much of the Funding Amount as may be disbursed from time to time pursuant to the Agreement described in **Section 1** below, as provided in this Note.

1. Pursuant to a Loan Agreement dated October 22, 2021, by and between Holder and Maker (the "Original Loan Agreement"), Holder previously made a loan of \$2,000,000.00 to Maker (the "Original Loan") to conduct predevelopment activities in support of the construction of the Project. The Original Loan is further evidenced by a Secured Promissory Note dated October 22, 2021 ("Original Note").

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

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

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

5. Repayment of Funding Amount.

a. Subject to Section 13.4 of the Agreement, Maker must make annual payments of principal (each, a "Payment") in an amount equal to the Residual Receipts, if any, attributable to the prior calendar year/ beginning on the first June 30 after the end of the calendar year of the Completion Date, and continuing each June 30 thereafter up to and including the Maturity Date, as defined below (each, a "Payment Date"). All Payments will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan. The entire principal balance of the Loan, together with all accrued and unpaid default interest (if any) and other unpaid fees and costs incurred (all together, the "Payment"), will be due and payable on the date that is the later of (a) the fifty-seventh (57th) anniversary of the date the Deed of Trust is recorded in the Recorder's Office of San Francisco County or (b) the fifty-fifth (55th) anniversary of the Conversion Date (the "Maturity Date"). If the Maturity Date, including any Payment Date or Excess Proceeds Payment Date, falls on a weekend or holiday, it will be deemed to fall on the next succeeding business day.

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

7. Terms of Payment.

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

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

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

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

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

8. Default.

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

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

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

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

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

8.3 Subject to this Section, Holder will not seek or obtain judgment against Maker for the payment of any amounts due under this Note following a judicial or nonjudicial foreclosure of the Deed of Trust, and Holder's sole recourse against Maker for any default under this Note will be limited to the collateral for the Loan, provided, however, that this Section will be deemed void and of no effect if Maker challenges Holder's right to foreclose following an Event of Default in any legal proceeding on the grounds that the City Documents are not valid and enforceable under California law. This provision does not limit in any way Holder's right to recover sums arising under any obligation of Maker to indemnify Holder of sums incurred by Holder as a result of Maker's fraud, willful misrepresentation, misapplication of funds (including Loan Funds and Rents (as defined in the Deed of Trust)), waste or negligent or intentional damage to the collateral for the Loan.

9. Waivers.

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

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

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

10. Miscellaneous Provisions.

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

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

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

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

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

[Signature follows]

“MAKER”

The Kelsey Civic Center, L.P.,
a California limited partnership

By: Mercy Kelsey Civic Center LLC
a California limited liability company,
its managing general partner

By: Mercy Housing Calwest,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Ramie Dare,
Vice President

By: The Kelsey Civic Center LLC,
a California limited liability company,
its co-general partner

By: The Kelsey,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Micaela Erin Connery,
Chief Executive Officer

EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT

155-165 Grove and 240 Van Ness; San Francisco, CA

This Exclusive Negotiating Rights Agreement (the "**Agreement**") is entered into as of November 30, 2019 (the "**Effective Date**"), by and between the City and County of San Francisco, a municipal corporation, acting by and through the Director of Property (the "**City**") and Mercy Housing California, a California non-profit public benefit corporation (the "**Developer**"), on the basis of the following facts. The City and the Developer are each sometimes referred to herein as a "Party" and collectively as the "Parties".

RECITALS

- A. The City is the owner of the following property:
155 Grove, 165 Grove and 240 Van Ness, further described in the attached Exhibit "A", collectively the "Site" or the "Project".
- B. In November, 2017, City issued a Request for Qualifications and Request for Proposals ("**RFQ/RFP**") for development of the Site as a net-zero energy opportunity project, and initial expressions of interest were due May 31, 2018. The RFQ/RFP provided that the successful respondent would be afforded the opportunity to develop the Site if the City, in its sole discretion, agreed to the terms and conditions of such a development. The Developer's proposal assumed that Developer would (i) enter into a long-term ground lease with the City for the Site, (ii) construct certain Improvements on the Site, and (iii) leverage private and public financing and private fundraising to build and maintain the Improvements on the Site.
- C. The Parties anticipate that the proposed development project on the Site (the "**Project**"), if approved, will be developed over several years under a ground lease from the City.
- D. The Developer intends to seek financing for the Project from sources that may include, without limitation, proceeds from the issuance of tax-exempt bonds and private investment through the low-income housing tax credits program, private fundraising, State Housing and Community Development programs such as the Infill Infrastructure Grant Program and Multifamily Housing Program, State Department of Developmental Services, and Federal Home Loan Bank Affordable Housing Program. In addition to the sources listed above, the Parties recognize that the Developer may choose to request local funds to assist in entitling or developing the site. The Parties recognize and acknowledge that a full determination of the feasibility of the Project has not occurred and that further analysis of the feasibility of the Project is required, including with respect to the proposed funding sources, ownership structure, federal and state environmental requirements, and other governmental approval requirements.
- E. Under this Agreement, the Parties intend to negotiate the terms and conditions of a ground lease for the Site and permitted development of the Site, subject to the Developer's satisfaction of specified milestones. The purpose of this Agreement is to establish the procedures and standards for the negotiation by the City and the Developer of the ground lease and related Project documents (collectively, the "**Ground Lease**"), pursuant to which, among

other matters, if specified preconditions are satisfied: (i) the City will lease the Site to the Developer and convey the existing improvements on the Site to the Developer, and (ii) the Developer will develop and maintain the Site under terms and conditions generally consistent with Developer's response to the City-issued RFQ/RFP. As more fully set forth below, the Developer acknowledges and agrees that this Agreement in itself does not obligate either Party to acquire or convey any property, does not grant the Developer the right to develop the Site, and does not guarantee that the Ground Lease will be successfully negotiated or approved.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1 EXCLUSIVE NEGOTIATION RIGHTS

Section 1.1 Recitals. The above Recitals are hereby expressly incorporated herein and made a part of this Agreement by this reference.

Section 1.2 Good Faith Negotiations. During the Negotiating Period, the City and the Developer shall negotiate diligently and in good faith the terms of the Ground Lease and the Project. Among the issues to be addressed in the negotiations are the physical and land title conditions of the Site, remediation of any adverse hazardous materials conditions, the development schedule for the Site, the general financing contemplated for development of the Site, and design considerations for the Site. For any outstanding issues at the end of the Negotiating Period, as defined in Section 1.3 below, the Parties will mutually agree how such issues will be resolved in the Ground Lease.

The Parties acknowledge and agree that the following business points have been agreed upon and forms the basis for further negotiations:

(a) The Ground Lease shall have a term of seventy-five (75) years, with a twenty-four (24) year extension option.

(b) The annual ground lease payment payable from Developer to City for the Project is fifteen thousand dollars (\$15,000) ("**Lease Payment**"). The Lease Payment shall be payable in the manner as set forth in the Ground Lease, which may include an adjustment during the option extension period.

(c) The Developer shall seek entitlements for the Project that will facilitate construction of approximately 102 units of affordable housing, as conceptually outlined in Exhibit B (the "**Concept Development Plan**").

(d) If Developer and City mutually agree in their reasonable discretion that an option to ground lease is required for any Project funding applications, Developer and City agree that they shall negotiate in good faith a form of option to ground lease that will 1) Incorporate these terms as well as any other mutually agreed upon Ground Lease terms; 2) Have an option term no greater than the Negotiating Period (with applicable Extension Period); and 3) Remain subject to approval by the Board of Supervisors and Mayor, in their sole and separate discretion.

Section 1.3 Negotiating Period.

(a) The Negotiating Period under this Agreement (the "**Negotiating Period**") shall be for a period of forty-five (45) months, and shall commence as of the Effective Date and shall expire at 5:00 p.m. Pacific Time on the date which is forty-five (45) months thereafter, unless earlier terminated pursuant to this Agreement. The Negotiating Period may be extended at the request of the Developer for up to three (3) successive periods of ninety (90) days each (each "**Extension Period**"), provided that the Developer delivers a written request for such extension prior to expiration of the Negotiating Period or applicable Extension Period, and provided further that the Developer is not then in default under this Agreement.

(b) If the final Ground Lease has not been approved by the Board of Supervisors and Mayor by the end of the Negotiating Period (as the Negotiating Period may be extended), then this Agreement shall terminate and neither Party shall have any further rights or obligations under this Agreement. If a Ground Lease is executed by the Parties, then upon such execution, this Agreement shall terminate, and all rights and obligations of the Parties for the Site shall be as set forth in the executed Ground Lease.

Section 1.4 Early Termination by City. The City may terminate this Agreement during the Negotiating Period by delivering written notice to the Developer upon the occurrence of any of the following:

(i) If, after sixty (60) days written notice from City, the Developer has failed to perform any material obligation under this Agreement, including failure to meet a milestone in the Schedule of Performance (a "**Performance Default**"); provided, however, that if Developer's Performance Default cannot reasonably be cured within sixty (60) days, Developer shall not be in default of this Agreement and City shall not have the right to terminate this Agreement if Developer diligently and in good faith begins to cure the Performance Default during the 60 day period and diligently prosecutes the same to completion, provided further that, in no event shall the Term of this Agreement extend beyond the Negotiating Period (or applicable Extension Period) without the prior written consent of the Director of Property.

(ii) Any attempted assignment of this Agreement, or any dissolution, merger, consolidation or other reorganization of Developer, without the prior consent of the City, as set forth in Section 3.9.

(iii) The appointment of a receiver to take possession of all or substantially all of the assets of Developer, or an assignment by Developer for the benefit of creditors, or any action taken or suffered by Developer under any insolvency, bankruptcy, reorganization, moratorium or other debtor relief act or statute, whether now existing or hereafter amended or enacted, if any such receiver, assignment or action is not released, discharged, dismissed or vacated within sixty (60) days.

(iv) If, after sixty (60) days written notice from City that the parties are at an impasse and continued negotiations are not likely to result in a successful Ground Lease or Project, and the City includes in such notice the matters that, in City's reasonable discretion, must be agreed

to by the Developer to continue with this Agreement, the Developer does not agree in writing to use good faith efforts to satisfy the matters contained in the City's notice; provided, the City and Developer agree to meet and confer in good faith during such 60 day period to see if the impasse can be successfully resolved.

Section 1.5 Developer Termination. The Developer may terminate this Agreement, at any time and for any reason by delivery of written notice of termination to City. Upon any such transfer, the Developer agrees to convey to the City, without representation or warranty, all materials and information that the Developer possesses or controls with respect to the Site, including all engineering and other studies, due diligence materials, conceptual and architectural drawings, and the like. The Developer shall have no liability for the truth or accuracy of any such materials but agrees that the City may use any such materials for its own purpose in furtherance of any future development of the Site.

Section 1.6 Exclusive Negotiations. During the Negotiating Period (or applicable Extension Period), the City shall negotiate exclusively, diligently and in good faith with Developer as set forth herein and shall not negotiate with any other person or entity regarding the development of the Site or solicit or entertain bids or proposals to do so, with the exception of any interim uses of the Site that may be entertained by the City, that do not conflict with either the Schedule of Performance, Milestones or physical Site characteristics desired by Developer upon effectiveness of any potential Ground Lease, and which uses shall terminate at least one hundred twenty days prior to the effective date of the Ground Lease. The Director of Property or their designee, working closely with the Planning Department, Mayor's Office of Housing and Community Development and other applicable City Officials, shall act as the lead representative of the City in negotiating the substance of the Ground Lease and the related Project entitlements. The Director of Property shall consult with staff from affected City agencies, as and when required.

ARTICLE 2 NEGOTIATION TASKS

Section 2.1 Overview. To facilitate negotiation of the Ground Lease, the Parties shall use reasonable good faith efforts to accomplish the tasks set forth in this Article 2 in a timeframe that will support negotiation and execution of a mutually acceptable Ground Lease for the Site before the end of the Negotiating Period.

Section 2.2 Ground Lease. During the Negotiating Period, the Parties shall negotiate in good faith the terms of the Ground Lease, consistent with this Agreement, the RFQ/RFP, and any information discovered during the Negotiating Period that is relevant to the Project and the Site or that impacts the likelihood of receiving all required approvals for the Project.

Section 2.3 Schedule of Performance; Milestones.

(a) The Developer shall comply with the following schedule of performance (each, a "milestone") for the development of the Project and as conditions precedent toward effectuating a Ground Lease ("**Schedule of Performance**");

Secure and Close on Pre-Development Funding	February 1, 2020
Submit Project Application to Planning Department	June 1, 2020
Complete Environmental Surveys and Testing	June 1, 2020
Complete Community Planning Process and Stakeholder Meetings	May 1, 2021
Complete Conceptual, Schematic and Design Development Drawings	December 31, 2021
Complete Construction Drawings to 100% CD's	September 1, 2022
Secure Final Map of Site	January 1, 2022
Secure Site Permit Approval	November 1, 2023
Secure all Necessary Private Fundraising Commitments	December 1, 2023

(b) The City's Director of Property may, at his or her reasonable discretion, provide Developer with an extension for a milestone date in the Schedule of Performance. Any extension to the Negotiation Period (beyond the Extension Period) of more than six (6) months will be subject to the City Board of Supervisors and Mayor approval, each in their sole discretion.

Section 2.4 Final Reports. The Developer shall provide the City with copies of all final third party reports, studies, analyses and similar documents commissioned by the Developer with respect to this Agreement and the development of the Site, promptly upon their completion. The Developer makes no representation or warranty and shall have no liability to the City as to the accuracy or reliability of any such materials, but the Developer agrees that the City may use all such materials and information for any purpose.

Section 2.5 Environmental Review.

(a) The Developer shall fund, prepare or shall cause to be prepared all environmental documentation required by California Environmental Quality Act ("**CEQA**") and/or the National Environmental Policy Act ("**NEPA**") for the Ground Lease and the Project; provided, however, that nothing in this Agreement shall be construed to compel the City to approve or make any particular finding with respect to such CEQA and/or NEPA documentation submitted. The Developer shall provide such information about the Project as may be required to enable the City to complete any required environmental analysis. The Project ultimately proposed by the Developer shall be subject to a process of thorough public review and input and all necessary and appropriate approvals; that process must include environmental review under CEQA before a City department, commission, or any other City decision-maker may consider approving a project or ground lease; and the Project will require discretionary approvals by a number of government bodies after public hearings and environmental review.

(b) Nothing in this Agreement commits, or shall be deemed to commit, the City or a City official to approve or implement any project, and they may not do so until environmental review of the Project as required has been completed. Accordingly, all references to the "Project" in this Agreement shall mean the proposed project as revised and subject to future environmental review and consideration by the City. The City and any other public agency with jurisdiction over any part of the Project shall have the absolute discretion before approving that project to: (i) make such modifications to the Project as may be necessary to mitigate significant

environmental impacts; (ii) select other feasible alternatives to avoid or substantially reduce significant environmental impacts; (iii) require the implementation of specific measures to mitigate any specific impacts of the Project; (iv) balance the benefits of the Project against any significant environmental impacts before taking final action if such significant impacts cannot otherwise be avoided; and (v) determine whether or not to proceed with the Project.

Section 2.6 Organizational Documents. The Developer shall provide the City with copies of its organizational documents evidencing that the Developer exists and is in good standing to perform its obligations under this Agreement.

Section 2.7 City Utilities. The Developer shall consult with the utility companies serving the Site to determine if existing utility facilities require expansion, relocation or undergrounding in connection with development of the Project. The City (at no additional cost to the City) shall assist and cooperate with the Developer in such consultations.

Section 2.8 Progress Reports. The Developer shall make monthly progress reports advising the City on the studies being made and matters being evaluated by the Developer with respect to this Agreement and the Project. Such progress reports shall be in writing.

ARTICLE 3 GENERAL PROVISIONS

Section 3.1 Limitation of Agreement.

(a) Nothing in this Agreement shall obligate any City department to expend funds or resources in connection with the proposed Ground Lease (other than staff time for negotiations). This Agreement shall not obligate the Developer or the City to enter into any Ground Lease. By execution of this Agreement, neither the City nor the Developer is committing itself to or agreeing to undertake acquisition, disposition, or exercise control over the Site. Execution of this Agreement by the City is merely an agreement to conduct a period of exclusive negotiations in accordance with the terms hereof, reserving for subsequent Board of Supervisor and Mayor action the final discretion and approval regarding the Project and the Ground Lease and all proceedings and decisions in connection therewith. Upon the completion of negotiations for the Ground Lease, if successful, the Director of Property agrees to seek Board and Mayor approval of the Ground Lease and the Project. Any such approval shall be given or denied in the sole discretion of the Board and the Mayor, in accordance with applicable law, and City staff shall not be required to lobby Board members or the Mayor to obtain such approvals or continue seeking approvals following an initial Board action on the Ground Lease and Project.

(b) Any Ground Lease resulting from negotiations shall become effective only if and after it is approved by the City following conduct of all legally required procedures, and executed by duly authorized representatives of the City and the Developer. Until and unless a Ground Lease is signed by the Developer, approved by the City's Board of Supervisors and Mayor, in their sole and separate discretion, and executed by the City, no agreement drafts, actions, deliverables, or communications arising from the performance of this Agreement shall impose any legally binding obligation on the Developer or the City to enter into or support

entering into a Ground Lease or be used as evidence of any oral or implied agreement by the Developer or the City to either into any other legally binding document.

Section 3.2 City Acting as Owner of Real Property. Developer acknowledges and agrees that City is entering into this Agreement 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 Agreement shall limit the Developer's obligation to obtain all required regulatory approvals for the Project, including from City departments, boards or commissions as needed. Developer shall be solely responsible for obtaining any and all such regulatory approvals, although Developer shall not seek any regulatory approval from a City agency or department without first obtaining the consent of the Director of Property, which consent will not be unreasonably withheld.

Section 3.3 Notices. Formal notices, demands and communications between the Parties shall be sufficiently given if, and shall not be deemed given unless, dispatched by certified mail, postage prepaid, return receipt requested, or sent by express delivery or overnight courier service, to the office of the Parties shown as follows, or such other address as the Parties may designate in writing from time to time.

City: Director of Property c/o John Updike, Senior Project Manager
25 Van Ness, Suite 400
San Francisco, CA 94102

With copies to: Dennis J. Herrera, City Attorney
City Hall, Rm. 234
1 Dr. Carlton B. Goodlett Pl.
San Francisco, CA 94102
Attn: Real Estate (155 Grove)

Developer: Doug Shoemaker, President
Mercy Housing California
1256 Market Street
San Francisco, CA 94102

With a copy to: Evan Gross, Partner
Gubb & Barshay LLP
505 14th Street, Suite 450
Oakland, CA 94612

Such written notices, demands, and communications shall be effective on the date shown on the delivery receipt as the date delivered, the date on which delivery was refused, or the date the notice was returned as undeliverable.

Section 3.4 Non-Liability of Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to the Developer in the event of any

default or breach of this Agreement by the City, or for any amount which may become due to the Developer or any of its successors in interest. No member, official, employee or agent of the Developer shall be personally liable to the City in the event of any default or breach of this Agreement by the Developer, or for any amount which may become due to the City or any of its successors in interest.

Section 3.5 Waiver of Lis Pendens. It is expressly understood and agreed by the Parties that no lis pendens shall be filed against any portion of the Site with respect to this Agreement or any dispute or act arising from it.

Section 3.6 Access to Site. During the Negotiation Period, the Developer and its agents shall have access to the Site as agreed to between the City and the Developer. The City may require Developer to enter into a separate waiver or permit in connection with any access to the Site.

Section 3.7 Costs and Expenses. Each Party shall be responsible for its own costs and expenses in connection with any activities and negotiations undertaken in connection with this Agreement. Each party shall incur expenses under this Agreement, and it agrees to do so at its sole risk, without any expectation of reimbursement under any circumstance.

Section 3.8 No Commissions. The City shall not be liable for any real estate commissions or brokerage fees that may arise from this Agreement or any Ground Lease that may result from this Agreement. The City represents that it has engaged no broker, agent, or finder in connection with this transaction. The Developer shall defend and hold the City harmless from any claims by any broker, agent, or finder retained by the Developer.

Section 3.9 Assignment. The Parties acknowledge that the City has entered into this Agreement on the basis of the special skills, capabilities, and experience of the Developer. This Agreement is personal to the Developer. The Developer shall not assign this Agreement without the prior written consent of the City; provided, however, that the Developer may assign this Agreement to an affiliate of the Developer, so long as the Developer provides documentation, reasonably acceptable to the City, that such affiliate is directly under the control of the Developer, has the same or greater financial capacity as the Developer, and such affiliate executes an assignment and assumption agreement in a form reasonably acceptable to the City. Any cumulative or aggregate sale, transfer, or hypothecation of more than 50% of the total capital stock or other ownership rights of Developer, shall require the prior written consent of City, provided that City shall not unreasonably withhold its consent to such change in ownership if the day to day management of the Project will not change and the assignee demonstrates substantially the same level of expertise, affordable housing development experience and financial capability as was demonstrated by Developer in its responses to the RFQ/RFP. Upon any permitted assignment hereunder, the assigning party shall automatically without the need for further documentation be released of all of its obligations under this Agreement that are assumed by the assignee under such assignment and assumption agreement. Any attempted assignment or transfer of the Developer's rights under this Agreement that requires the City's prior consent as set forth above, but for which the Developer does not obtain such consent, shall be considered an event of default.

Section 3.10 Default. Failure by any Party to perform its obligations as provided in this Agreement shall constitute an event of default hereunder. The non-defaulting Party shall give written notice of a default to the defaulting Party, specifying the nature of the default and the required action to cure the default. The parties agree to meet and confer in good faith for up to sixty (60) days following the delivery of the notice of default to see if the matter can be resolved. If the matter is not finally resolved within sixty (60) days following deliver of the notice of default, subject to extensions as set forth in Section 1.4 for diligent prosecution of cures that have commenced within the sixty (60) day period, the nondefaulting party may terminate this Agreement.

Section 3.11 Termination Remedy; No Liability. The parties are entering into this Agreement in order to cooperate in negotiating the substance of the Ground Lease and the Project. The parties understand and agree that the City would not be willing to enter into this Agreement if it could result in any liability or cost to the City. In the event of an uncured default by the City or the Developer, following the notice and cure periods set forth above, the non-defaulting Party may terminate this Agreement without cost or liability by delivery of a written notice of termination, which will take effect immediately upon delivery. Termination of this Agreement shall be the sole remedy, provided, however, that Developer shall also have the right to seek an injunction from a court of competent jurisdiction if City breaches its obligation under Section 1.6 with respect to negotiating with, or entertaining bids or proposals from, any other person or entity during the Negotiating Period, as may be extended by an Extension Period. Except as set forth in Section 3.13 (for attorneys' fees and costs), neither party is responsible for any damages to the other party. Each party agrees to proceed at its sole risk, and neither party shall not be entitled to any reimbursement for staff time, lost opportunity, lost profit, or costs incurred, regardless of the nature of the default. This limitation on damages and liability is a material part of this Agreement, and the City would not be willing to enter into this Agreement without this limitation.

Section 3.12 Indemnification. In connection with any access to the Site, the Developer shall indemnify the City as set forth in a separate permit to enter. Any such indemnity or reimbursement obligation shall not be subject to the damages limitations set forth in this Agreement.

Section 3.13 Legal Action.

(a) If any legal action (including any arbitration or mediation proceeding) is commenced to interpret or to enforce the terms of this Agreement or any termination of this Agreement, then the Party prevailing in any such action shall be entitled to recover against the Party not prevailing all reasonable attorneys' fees and costs incurred in such action (and any subsequent action or proceeding to enforce any judgment entered pursuant to an action on this Agreement).

(b) Any lawsuit relating to this Agreement shall be filed in the state court of the City and County of San Francisco or in the federal court with jurisdiction in the City and County of San Francisco.

Section 3.14 Actions by the City. Except as set forth herein to the contrary, all City actions relating to this Agreement and all City approvals or consents (not including any regulatory actions) shall be made by the Director of Property.

Section 3.15 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 3.16 Notification of Limitations on Contributions. By executing this Agreement, the Developer acknowledges its obligations under section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with, or is seeking a contract with, any department of the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, for a grant, loan or loan guarantee, or for a development agreement, from making any campaign contribution to (i) a City elected official if the contract must be approved by that official, a board on which that official serves, or the board of a state agency on which an appointee of that official serves, (ii) a candidate for that City elective office, or (iii) a committee controlled by such elected official or a candidate for that office, at any time from the submission of a proposal for the contract until the later of either the termination of negotiations for such contract or twelve months after the date the City approves the contract. The prohibition on contributions applies to each prospective party to the contract; each member of the Developer's board of directors; chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 10% in the Developer; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by the Developer. The Developer certifies that it has informed each such person of the limitation on contributions imposed by Section 1.126 by the time it submitted a proposal for the contract, and has provided the names of the persons required to be informed to the City department with whom it is contracting..

Section 3.17 No Joint Liability; No Third Party Beneficiaries. Nothing in this this Agreement shall be construed as giving a party the right or ability to bind other parties and nothing in this this Agreement shall be construed to create any joint liability with regard to, or as a result of, the activities undertaken by any of the parties, their employees, officers and/or agents. All employees, officers and/or agents of a party shall remain employees, officers and/or agents of that party and shall be subject to the laws, procedures, rules and policies governing that party's employees, officers and/or agents. There are no third party beneficiaries of this Agreement.

Section 3.18 Sunshine. The Developer understands and agrees that under the City's Sunshine Ordinance (S.F. Administrative Code Chapter 67) and the State Public Records Law (Gov't Code section 6250 et seq.) apply to this this Agreement and any and all records and materials submitted to the City in connection with this this Agreement.

Section 3.19 Entire Agreement; Time is of the Essence. This Agreement constitutes the entire agreement of the Parties regarding the proposed Ground Lease and Project. The Parties to this Agreement have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement (including but not limited to Civil Code Section 1654 as may be amended from time to time). Time is of the essence on all matters relating to this Agreement.

Section 3.20 Amendment. Any amendment or other modification of this Agreement must be in a written instrument executed by the City and the Developer that expresses the intent to amend or otherwise modify this Agreement.

Section 3.21 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

APPROVED AS TO FORM:



Deputy City Attorney

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: 

Name: Andrico Q. Penick 4/8/20

Title: Director of Property

CONCUR:

By: THE KELSEY, INC., a
California non-profit public benefit
corporation

By: 

Name: Micaela Connor

Its: Chief Executive Officer

DEVELOPER:

By: MERCY HOUSING CALIFORNIA, a
California non-profit public benefit
corporation

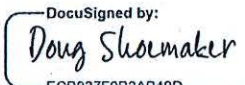
By: 
Name: Doug Shoemaker
Its: President

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF SAN FRANCISCO, IN THE COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

TRACT ONE: COMMENCING AT A POINT ON THE SOUTHERLY LINE OF GROVE STREET, DISTANT THEREON 105 FEET EASTERLY FROM THE EASTERLY LINE OF VAN NESS AVENUE; RUNNING THENCE EASTERLY ALONG SAID LINE OF GROVE STREET 72 FEET 2-3/4 INCHES, MORE OR LESS, TO A POINT DISTANT THEREON 206 FEET 9-1/2 INCHES WESTERLY FROM THE WESTERLY LINE OF POLK STREET; THENCE AT A RIGHT ANGLE SOUTHERLY 120 FEET TO THE NORTHERLY LINE OF IVY STREET; THENCE AT A RIGHT ANGLE WESTERLY ALONG SAID LINE OF IVY STREET 68 FEET 2-3/4 INCHES, MORE OR LESS, TO A POINT DISTANT THEREON 109 FEET EASTERLY FROM THE EASTERLY LINE OF VAN NESS AVENUE; THENCE AT A RIGHT ANGLE NORTHERLY 75 FEET; THENCE AT A RIGHT ANGLE WESTERLY 4 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 45 FEET TO A POINT OF COMMENCEMENT. BEING PART OF WESTERN ADDITION BLOCK NO. 68.

TRACT TWO: COMMENCING AT A POINT ON THE EASTERLY LINE OF VAN NESS AVENUE, DISTANT THEREON 45 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF GROVE STREET; RUNNING THENCE SOUTHERLY ALONG SAID LINE OF VAN NESS AVENUE 50 FEET; THENCE AT A RIGHT ANGLE EASTERLY 109 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 50 FEET; THENCE AT A RIGHT ANGLE WESTERLY 109 FEET TO THE POINT OF COMMENCEMENT. BEING A PORTION OF WESTERN ADDITION BLOCK NO. 68.

LOT 016, 019 & 021, BLOCK 0811

EXHIBIT B

Excerpts of Key Items from Developer's Response to RFQ/RFP and Conceptual Development Plan

The Kelsey Civic Center will be a vibrant, inclusive urban community that champions where people of all abilities and incomes thrive. A beacon of sustainability and resiliency, The Kelsey Civic Center will model carbon-neutral and resilient urban regeneration. The building will take cues from the City's heritage—cultural, civic, and architectural—while anticipating a more just and healthy future for our City and our planet. Located in the heart of San Francisco's Civic Center, the project is inspired by three deeply connected core values: inclusion, connection, and sustainability. Mercy Housing California, The Kelsey, WRNS Studio, and Common Coliving have built a multi-disciplinary community-based partnership to fund, design, build, and support this landmark housing project which includes 102 homes for San Franciscans of all abilities, incomes, and backgrounds.

The community at The Kelsey Civic Center is inclusive by design. *The Kelsey Civic Center goes well beyond the 33% affordability requirement to create a mixed income community for households earning 120% Area Median Income and below, that includes those who are fully reliant on public assistance, and people working minimum wage jobs, to the missing middle class who are priced out of market- rate housing but also left out of most affordable developments. Furthermore, people with disabilities will be included across all income levels and universal design principles will help ensure that the building is fully accessible. A ground-level commercial space will house a green business that employs people with disabilities. A community garden, pop-up commercial space and live-work units will support vocational training programs that offer people with disabilities the opportunity to learn skills and participate in the green economy.*

Residents will share and connect at The Kelsey Civic Center. *The development's coliving approach—small units, large common spaces, and an integrated public realm—will address the need for smart, dense, and sustainable growth in San Francisco. While each resident will enjoy private space within an efficiently-sized and well-designed living unit, all members will also have access to communal spaces for cooking, eating, relaxing, and connecting with neighbors. In addition to cost and rent savings, the coliving model minimizes resource waste and supports low embodied carbon design. Live-in Inclusion Concierges™ will program events and services for residents and the neighborhood that foster connection and community impact.*

The Kelsey Civic Center responds to C40 's global call for carbon-neutral and resilient urban regeneration with a response that is uniquely San Francisco. *By addressing one of the most critical issues of our time—affordable housing—the project shows, in a way that is replicable, that the highest level of sustainable and resilient design is possible for everyone and in a way that is resonant to our citizens. We'll build an all-electric zero operational carbon building with on-site renewable energy and energy storage. Numerous integrated design strategies will help achieve the carbon-neutrality goal, including the use of materials like concrete and wood, structural*

materials like polished concrete that double as finish materials, and the coliving model. As a means of supporting biodiversity, urban re-vegetation and agriculture—and in place of the existing Please Touch Garden—The Kelsey Civic Center will offer a public garden located within the building's courtyard.

The Kelsey Civic Center won't just benefit our community; it will offer a new model of housing that makes evident the virtuous cycle between inclusion, connectedness, sustainability, and resiliency.

FILE NO. 210118

RESOLUTION NO. 95-21

1 [Conveyance and Exchange of Real Property - 234 Van Ness, LLC - 240 Van Ness Avenue
and 234 Van Ness Avenue]

2
3 **Resolution approving and authorizing the Director of Property to convey a portion of**
4 **City-owned real property, located at 240 Van Ness Avenue, in exchange for the real**
5 **property located at 234 Van Ness Avenue with 234 Van Ness, LLC; such conveyance is**
6 **preceded by reconfiguring the properties to deliver a single developable parcel to the**
7 **City for the purposes of building affordable housing; adopting findings that the**
8 **conveyance and exchange is consistent with the General Plan, and the eight priority**
9 **policies of Planning Code, Section 101.1; authorizing the Director of Property to**
10 **execute documents, make certain modifications and take all actions necessary or**
11 **advisable to effectuate the purpose of this Resolution, as defined herein; and adopting**
12 **findings under the California Environmental Quality Act.**

13
14 WHEREAS, The Mayor's Office of Housing and Community Development
15 ("MOHCD") is responsible for the funding and development of affordable housing in the City of
16 and County of San Francisco; and

17 WHEREAS, Mercy Housing California, a California non-profit housing developer,
18 and the Kelsey, a California non-profit corporation, received an award from Reinventing Cities,
19 a global design competition organized by C40, for the design of the Kelsey Civic Center
20 project ("Affordable Project"); and

21 WHEREAS, The Affordable Project will include units set aside for individuals with
22 disabilities and fully accessible units and all-electric features to address climate change; and

23 WHEREAS, The City desires to exchange a portion of real property (Assessor's
24 Parcel Block No. 0811, Lot No. 019) located at 240 Van Ness Avenue ("City Property") in
25 exchange for the entirety of 234 Van Ness Avenue ("Seller Property"), in order to reconfigure

1 the properties for the delivery of a single developable parcel ("Parcel A") to the City that will be
2 the site of the Affordable Project; and

3 WHEREAS, The Director of Property determines the fair market value of the
4 property being acquired by the City to be of equal or greater value than the City property
5 being transferred to the Seller; and

6 WHEREAS, The Director of Property will initiate the process for Parcel A to be
7 assembled through the application of lot line adjustments and recordation of a new parcel
8 map consisting of Seller Property, 155 Grove Street, currently under the jurisdiction of the
9 Director of Property, and 165 Grove Street, currently under the jurisdiction of MOHCD, to
10 deliver a new single parcel to the City with jurisdiction to MOHCD; and

11 WHEREAS, Mercy Housing Corporation has an exclusive negotiation agreement
12 with the City, acting by and through the Director of Property, dated November 30, 2019, to
13 construct the Affordable Project on Parcel A, a copy of which is on file with the Clerk of the
14 Board in File No. 191111; and

15 WHEREAS, 234 Van Ness, LLC (the "Seller") and City, through the Real Estate
16 Division, after consultation with the Office of the City Attorney, have negotiated an Agreement
17 for the Exchange and Conveyance of Real Estate, a copy of which is on file with the Clerk of
18 the Board in File No. 210118 (the "Exchange Agreement"), to convey the City Property and
19 acquire the Seller Property; and

20 WHEREAS, The Planning Department, through General Plan Referral letter dated
21 January 25, 2021, found that the Affordable Project and Exchange Agreement are not defined
22 as a Project under the California Environmental Quality Act ("CEQA") Guidelines, Sections
23 15378 and 15060(c)(2) (the "CEQA Determination"), and is consistent with the General Plan,
24 and the eight priority policies of Planning Code, Section 101.1 (the "General Plan Findings"),
25

1 which letter is on file with the Clerk of the Board of Supervisors in File No. 210118, and
2 incorporated herein by reference; and

3 RESOLVED, That MOHCD has legal authority, is willing, and is in a position
4 financially and otherwise to assume jurisdiction of Parcel A; and, be it

5 FUTHER RESOLVED, This Board affirms the CEQA determination and adopts
6 General Plan Findings, that this proposed conveyance and acquisition is consistent with the
7 General Plan; and, be it

8 FURTHER RESOLVED, That in accordance with the recommendation of the
9 Director of MOHCD and the Director of Property, the Board of Supervisors approves the
10 Exchange Agreement in substantially the forms presented to the Board, and authorizes the
11 Director of Property (or the Director's designee, to be applied throughout) to accept the deed
12 to Seller Property upon the closing in accordance with the terms and conditions of the
13 Exchange Agreement, reconfigure the Seller Property with 155 Grove Street and 165 Grove
14 Street to assemble Parcel A, and to take any and all actions (including, but not limited to, the
15 execution and delivery of any and all certificates, agreements notices, consents, escrow
16 instructions, closing documents and other instruments or documents) as the Director of
17 Property, after consultation with the Director of MOHCD and the Office of the City Attorney,
18 deems necessary, or appropriate in order to convey the City Property in exchange for the
19 Seller Property pursuant to the Exchange Agreement, or to otherwise effectuate the purpose
20 and intent of this Resolution, such determination to be conclusively evidenced by the
21 execution and delivery by the Director of Property of any such documents; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of
23 Property and Director of MOHCD (or the Director's designee), in consultation with the City
24 Attorney, to enter into any additions, amendments, or other modifications to the Exchange
25 Agreement and any other documents or instruments necessary in connection therewith, that

1 the Director of Property and Director of MOHCD determines are in the best interests of the
2 City, do not materially decrease the benefits to the City with respect to the Seller Property, do
3 not materially increase the obligations or liabilities of the City, and are necessary or advisable
4 to complete the transaction contemplated in the Exchange Agreement and that effectuate the
5 purpose and intent of this Resolution, such determination to be conclusively evidenced by the
6 execution and delivery by the Director of Property of any such additions, amendments, or
7 other modifications; and, be it

8 FURTHER RESOLVED, That under the Exchange Agreement City shall indemnify
9 and hold harmless the Seller from, and agree to defend the Seller against, any and all claims,
10 costs and expenses, including without limitation, reasonable attorneys' fees, incurred as a
11 result of any negligent acts or omissions of City, its agents or invitees in, on or about the City
12 Property and, or Seller Property; and, be it

13 FURTHER RESOLVED, That all actions heretofore taken by the offices of the City
14 with respect to the Exchange Agreement and effectuating the purpose of this Resolution are
15 hereby approved, confirmed and ratified; and, be it

16 FURTHER RESOLVED, That MOHCD is hereby authorized to pay 50% of the
17 customary costs associated with escrow and closing, plus any costs City incurs if it elects to
18 procure title insurance, related to the Exchange Agreement; and, be it

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

\$100,000 Available for Escrow and Closing Costs:

Fund ID: 10580	Fund title: SR Citywide Affordable Housing
Department ID: 232065	Department title: MYR Housing & Community Dev
Project ID: 10023908	Project title: Inclusionary Housing Reg
Authority ID: 17190	Authority title: MY Inclusionary Housing Reg
Account ID: 506070	Account title: Programmatic Projects-Budget
Activity ID: 0044	Activity title: Civic Center Kelsey

Existing real property at 240 Van Ness/150 Grove recorded in:

Fund ID: 32638	Fund title: FAC90GenFixed Assets
Department ID: 228875	Department title: ADM Real Estate Division
Authority ID: 10000	Authority title: General City Fixed Asset

/s/ _____
Ben Rosenfield
Controller

RECOMMENDED:

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

/s/ _____
Andrico Q. Penick
Director of Property



City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 210118

Date Passed: March 02, 2021

Resolution approving and authorizing the Director of Property to convey a portion of City-owned real property, located at 240 Van Ness Avenue, in exchange for the real property located at 234 Van Ness Avenue with 234 Van Ness, LLC; such conveyance is preceded by reconfiguring the properties to deliver a single developable parcel to the City for the purposes of building affordable housing; adopting findings that the conveyance and exchange is consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; authorizing the Director of Property to execute documents, make certain modifications and take all actions necessary or advisable to effectuate the purpose of this Resolution, as defined herein; and adopting findings under the California Environmental Quality Act.

February 24, 2021 Budget and Finance Committee - RECOMMENDED

March 02, 2021 Board of Supervisors - ADOPTED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 210118

I hereby certify that the foregoing
Resolution was ADOPTED on 3/2/2021 by
the Board of Supervisors of the City and
County of San Francisco.

A handwritten signature in black ink, appearing to read "Angela Calvillo".

Angela Calvillo
Clerk of the Board

A handwritten signature in blue ink, appearing to read "London Breed".

Mayor

3.12.21

Date Approved

AGREEMENT FOR THE EXCHANGE
AND CONVEYANCE OF REAL ESTATE

by and between the

CITY AND COUNTY OF SAN FRANCISCO
("City")

and

234 VAN NESS, LLC
("234 LLC")

For the conveyance and exchange of

a portion of City owned real property located at 240 Van Ness Avenue (APN 0811-019)

and

234 LLC owned real property located at 234 Van Ness Avenue (APN 0811-018)

January__, 2021

**AGREEMENT FOR THE EXCHANGE
AND CONVEYANCE OF REAL ESTATE**

This Agreement for the Exchange and Conveyance of Real Estate (this "**Agreement**"), dated for reference purposes only as of _____, 2021, by and between the City and County of San Francisco, a municipal corporation, acting by and through the Director of Property (the "**City**"), and 234 Van Ness, LLC, a California limited liability company ("**234 LLC**"), on the basis of the following facts. The City and 234 LLC are each sometimes referred to herein as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. The City, under the jurisdiction of the General Services Administration, Real Estate Division ("**RED**") is the owner of the following real property located in San Francisco, California: 240 Van Ness Avenue (Assessor's Parcel Number 0811-019, referred to herein as "**240 VN**" or "**Parcel 2**"), a 50 X 109 foot lot (approximately 5,450 total square feet) with a 50 X 105 foot building currently located on it ("**240 Building**"). 240 VN is further described in the attached **Exhibit A** ("**Current Diagram**").

B. 234 LLC is the owner of the following real property located in San Francisco, California: 234 Van Ness Avenue (Assessor's Parcel Number 0811-018, referred to herein as "**234 VN**" or "**Parcel 3**"), a 25 X 109 foot lot (approximately 2,725 total square feet,) with a 25 X 109 foot building currently located on it ("**234 Building**"). 234 VN is further described in the attached **Exhibit A**.

C. 250 Van Ness, LLC, a California limited liability company ("**250 LLC**"), which is under common ownership with 234 LLC, is the owner of the following property located in San Francisco: 250 Van Ness Avenue (Assessor's Parcel Number 0811-020, referred to herein as "**250 VN**"), with a building currently located on it ("**250 Building**"). 250 VN is further described in the attached **Exhibit A**. Hereinafter the owner of 234 VN or 250 VN may be referred to as "**McBaine**."

D. 234 VN and 250 VN may be referred to collectively, or individually as "**McBaine Property**". 240 VN and the 240 Building and 234 VN and the 234 Building are sometimes collectively referred to as the "**Property**."

E. The City, under the jurisdiction of RED, is the owner of the following real property located in San Francisco, California: 155 Grove Street (Assessor's Parcel Number 0811-016, referred to herein as "**155 Grove**") with a building currently located on it ("**Grove Building**"). 155 Grove is further described in the attached **Exhibit A**.

F. The City, under the jurisdiction of the Mayor's Office of Housing and Community Development ("**MOHCD**"), is the owner of the following real property located in San Francisco, California: 165 Grove Street (Assessor's Parcel Number 0811-021, referred to herein as "**165 Grove**"). 165 Grove is further described in the attached **Exhibit A**.

G. The Parties have identified mutual benefit from exchanging an approximately

25.95 X 105 square foot portion of the 240 VN (“**Parcel B**”) to McBaine, and 234 VN in its entirety to the City, in order to allow for a reconfiguration of the above referenced parcels, and eventual delivery of a single developable parcel to the City (Parcel A) and a new parcel (“Parcel B”) adjacent to 250 VN to McBaine. This new configuration is further described in **Exhibit B** (“**New Diagram**”).

H. Mercy Housing Corporation (“**Mercy**”) has an exclusive negotiation agreement with City, acting by and through the Director of Property, dated November 30, 2019, to negotiate its potential lease of Parcel A for construction of an affordable housing project (the “**Mercy ENA**”), which was concurred to by The Kelsey, a California non-profit corporation working with Mercy in support of the affordable housing project. By signing this Agreement, Mercy consents to, and The Kelsey concurs with, the reconfiguration of 240 VN as contemplated under this Agreement.

I. To allow for the reconfiguration, the Parties will enter into separate contracts with Mercy for the demolition of the 234 Building, the 240 Building and the Grove Building (collectively referred to herein as the “**Buildings**”).

J. To effectuate this exchange and reconfiguration of the parcels described above, the Parties will cooperate with Mercy to effectuate the conveyance of a deed for 234 VN to City, demolition of the Buildings, application for a lot line adjustment with the relevant City agencies and or departments, recordation of a new parcel map, and recordation and delivery of a Parcel B deed to McBaine and Parcel A deed to City, with jurisdiction to MOHCD. The formal maps and legal descriptions being used in the lot line adjustment application are attached as **Exhibit C** (“**Lot Line Adjustment**”).

K. Each Party acknowledges and agrees that this Agreement is subject to the approval of the Board of Supervisors, and in itself does not grant either Party the right to develop Parcels A or B. Development of any parcel is subject to the approval of the Board of Supervisors, and any relevant City regulatory agencies or departments.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1: PROPERTY EXCHANGE AND ESCROW

1.1. **Exchange of Property.** Subject to the terms and conditions in this Agreement, McBaine agrees to cause the conveyance of the 234 VN to City. The City agrees to deliver to the McBaine at Closing (as defined below), clear title to the new Parcel B (such actions are the “**Exchange**”).

1.2. **Exchange Values.** The Parties agree that, for purposes of the Exchange, the fair market value for Parcel B shall be deemed to be \$1,900,000 and that the fair market value for 234 VN shall be deemed to be \$1,900,000. Neither City nor McBaine will not be required to pay any consideration towards any purchase price.

1.3. **Effective Date and Escrow.** The Effective Date of this Agreement is the date the Director of Property executes this Agreement. Within ten (10) days following the Effective Date, the Parties shall open an escrow for the Exchange (“**Escrow**”) with Chicago Title Company in San

Francisco (the "**Title Company**") and deposit a fully executed copy of this Agreement with Title Company. This Agreement shall serve as instructions to Title Company as the escrow holder for consummation of the Exchange. McBaine and City agree to execute such additional or supplementary instructions as may be reasonably appropriate to enable the Title Company to comply with the terms of this Agreement and effect Closing; provided, however, that if there is any conflict between the provisions of this Agreement and any additional supplementary instructions, the terms of this Agreement shall control.

ARTICLE 2: INVESTIGATION; PROPERTY OPERATION

2.1 Investigation of City Property.

(a) Entry. At all times prior to the Closing Date (as defined in Section 6.1), City shall afford McBaine and its Agents (as defined in Section 9.14) access to 240 VN so McBaine, at its sole election, may independently conduct its due diligence review of all aspects of 240 VN and verify City's representations, warranties and covenants in this Agreement. McBaine shall give City notice of any planned entry of the 240 VN by email or phone to City at least twenty four (24) hours before such entry and shall conduct such entry and any inspections in a manner that reasonably minimizes interference with the current uses of the 240 VN.

(b) On-Site Testing. Notwithstanding anything to the contrary in this Section 2.1, McBaine shall not perform any on-site testing at the City Property without first obtaining the prior written consent of the Director of City's Administrative Services Real Estate Division (the "**Director of Property**"). To obtain such consent, McBaine shall notify the Director of Property of the identity of the party that will perform the testing, the proposed scope of the testing, and any other information reasonably requested by the Director of Property. City shall have the right to reasonably approve or disapprove of the proposed testing within ten (10) business days after receipt of such notice. In addition, City may condition any such approval on the maintenance of adequate general liability, pollution legal liability, business auto and workers compensation insurance by the entity performing such activities, the naming of City as additional insured under such insurance, and the release of any claims against City by the party performing such testing. If McBaine or its Agents takes any sample from the 240 VN, upon written request, McBaine shall provide to City a portion of such sample being tested to allow City, if it so chooses, to perform its own testing. City or its representative may be present to observe any testing or other inspection performed on 240 VN. If Closing does not occur for any reason, McBaine shall promptly deliver, or cause to be delivered, to City copies of any reports relating to any testing or other inspection of the 240 VN performed by McBaine or its respective Agents. Neither McBaine nor its Agents shall otherwise disclose such information to other parties unless and except to the extent required by Applicable Law (as defined in Section 9.8).

(c) Insurance. McBaine shall maintain, and shall require that its Agents maintain, public liability and property damage insurance in amounts and in form and substance adequate to insure against all liability of McBaine and its Agents, arising out of any entry or inspection of 240 VN, and McBaine shall provide City with evidence of such insurance coverage upon request from City. If McBaine conducts any on-site testing at 240 VN, McBaine, and any of its Agents performing such testing, shall maintain an occurrence-based commercial general liability insurance policy during the period of such testing, with coverage of at least One Million Dollars (\$1,000,000), to insure against all liability of McBaine and its Agents that arises out of any such testing. McBaine shall provide City with (or cause to be provided to City) evidence of such insurance coverage upon request from City.

(d) Indemnification. McBaine hereby agrees to indemnify, protect, defend and hold harmless City, including, but not limited to, all of its boards, commissions, departments, agencies and other subdivisions, all of the Agents of City, and their respective heirs, legal representatives, successors and assigns (collectively, the "**City Indemnified Parties**"), from and against any

Losses (defined as follows) arising out of or relating to the conduct of McBaine or its Agents, as applicable, or its or their activities during any entry on, under or about the 240 VN in performing any inspections, testings or inquiries thereof, whether prior to the date of this Agreement or during the term hereof, for any injuries or deaths to any party (including, without limitation, McBaine's Agents) and damage to any property, from McBaine's and its Agents activities, except to the extent caused by the negligence or willful misconduct of City or its Agents. The foregoing indemnity shall not include any claims resulting from the discovery or disclosure of pre-existing environmental conditions or the non-negligent aggravation of pre-existing environmental conditions on, in, under or about 240 VN. If McBaine's investigation of 240 VN causes any material alteration and this Agreement is terminated for any reason other than City's default hereunder, McBaine shall restore the 240 VN to substantially the same condition it was in prior to such investigation, subject to all Applicable Laws. This indemnity shall survive the termination of this Agreement or the Closing, as applicable.

"Loss" or "Losses" shall mean any and all claims, demands, losses, liabilities, damages (including foreseeable and unforeseeable consequential damages), liens, obligations, interest, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and reasonable costs and expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, or contingent or otherwise, including, without limitation, Attorneys' Fees and Costs. **"Attorneys' Fees and Costs"** shall mean any and all reasonable attorneys' fees, costs, expenses and disbursements, including, but not limited to, expert witness fees and costs, travel time and associated costs, transcript preparation fees and costs, document copying, exhibit preparation, courier, postage, facsimile, long-distance and communications expenses, court costs and the costs and fees associated with any other legal, administrative or alternative dispute resolution proceeding, fees and costs associated with execution upon any judgment or order, and costs on appeal.

2.2 Investigation of McBaine Property.

(a) Entry. At all times prior to the Closing Date, McBaine shall afford City and its Agents access to McBaine Property so City, at its sole election, may independently conduct its due diligence review of all aspects of McBaine Property and verify McBaine's representations, warranties and covenants in this Agreement. Such activities may include tests of the environmental condition of McBaine Property, including, without limitation, the drilling of test wells and the taking of soil borings. City shall give McBaine notice of any planned entry of McBaine Property by email or phone to McBaine at least two (2) business days before such entry and shall conduct such entry and any inspections in a manner that reasonably minimizes interference with the current uses of McBaine Property.

(b) On-Site Testing. Notwithstanding anything to the contrary in this Section 2.2, before performing any on-site testing of McBaine Property, City shall obtain McBaine's prior written consent. To obtain such consent, City shall notify McBaine of the identity of the party that will perform the testing, the proposed scope of the testing, and any other information reasonably requested McBaine. McBaine shall have the right to reasonably approve or disapprove the proposed testing within three (3) business days after receipt of such notice. In addition, McBaine may condition any such approval on the maintenance of adequate general liability, pollution legal liability, business auto and workers compensation insurance by the entity performing such activities, the naming of McBaine as additional insured under such insurance, and the release of any claims against McBaine by the party performing such testing. If City or its Agents takes any sample from McBaine Property, upon written request, City shall provide to McBaine a portion of such sample being tested to allow McBaine, if it so chooses, to perform its own testing. McBaine or its representative may be present to observe any testing or other inspection performed on McBaine Property. If Closing does not occur for any reason, City shall promptly deliver, or cause to be delivered, to McBaine all copies of any reports relating to any testing or other inspection of McBaine Property performed by City or its Agents. Neither City

nor its Agents shall otherwise disclose such information to other parties unless and except to the extent required by Applicable Law.

(c) Insurance. McBaine acknowledges that City is self-insured and shall not be required to maintain insurance in connection with City's inspection of McBaine Property; provided, however, that if City's Agents enter McBaine Property in connection with City's inspection of McBaine Property and such Agents are not City employees or officers, City shall require such Agents to maintain the types and amounts of insurance set forth in Section 2.2(b).

(d) Indemnification. City hereby agrees to indemnify, protect, defend and hold harmless McBaine, including, but not limited to, all of its directors, officers, members, managers, employees, agents, and representatives, including all Agents of McBaine, and their respective heirs, legal representatives, successors and assigns (collectively, the "**McBaine Indemnified Parties**"), from and against any Losses arising out of or relating to the conduct of City or its Agents, as applicable, or its or their activities during any entry on, under or about McBaine Property in performing any inspections, testings or inquiries thereof, whether prior to the date of this Agreement or during the term hereof, including, without limitation, any injuries or deaths to any party (including, without limitation, City's Agents) and damage to any property, from any cause whatsoever, except to the extent caused by the negligence or willful misconduct of McBaine. The foregoing indemnity shall not include any claims resulting from the discovery or disclosure of pre-existing environmental conditions or the non-negligent aggravation of pre-existing environmental conditions on, in, under or about McBaine Property. If City's investigation of McBaine Property causes any material alteration and this Agreement is terminated for any reason other than McBaine's default hereunder, City shall restore McBaine Property to substantially the same condition it was in prior to such investigation, subject to all Applicable Laws. This indemnity shall survive the termination of this Agreement or the Closing, as applicable.

2.3 Property Agreements; No New Improvements. From the Effective Date until the Closing or earlier termination of this Agreement, neither Party shall enter into any binding lease or contract with respect to the Property or construct any improvements on the Property without first obtaining the other Party's prior written consent to such action, which consent shall not be unreasonably withheld or delayed.

ARTICLE 3: [reserved]

ARTICLE 4: TITLE

4.1 Permitted Title Exceptions to the New Parcel.

(a) Parcel B Permitted Title Exceptions. At the Closing, City shall convey all of its right, title and interest in and to Parcel B to McBaine by using the form of deed attached hereto as Exhibit D (the "**City Deed**"). Title to Parcel B shall be subject to (i) liens of local real estate taxes and assessments that are not yet payable, (ii) all existing exceptions and encumbrances, whether or not disclosed by a current preliminary title report or the public records or any other documents reviewed by in its due diligence investigation of Parcel B, but excluding any monetary liens other than for such taxes and assessments, and any other exceptions to title which would be disclosed by an accurate and thorough investigation, survey, or inspection of 240 VN, and (iii) all items of which McBaine has actual or constructive notice or knowledge. All of the foregoing permitted exceptions to title shall be referred to collectively as the "**Parcel B Permitted Title Exceptions**". Without limiting the foregoing, McBaine acknowledges receipt of a preliminary report issued by the Title Company under Order No. _____, dated as of _____, 202_, covering 240 VN and approves all of the exceptions contained therein. If McBaine elects to obtain a policy of owner's title insurance for the Parcel, B such insurance shall be at McBaine's sole cost and expense.

(b) McBaine Property Permitted Title Exceptions. Prior to Closing, within ten (10) business days following the adoption and approval of Resolution(s) submitted to the Board of Supervisors and Mayor of San Francisco authorizing this transaction, including the development of Parcel A for affordable housing, McBaine shall convey its right, title and interest in and to 234 VN to City by using the form of deed attached hereto as **Exhibit E** (the "**McBaine Deed**"). Title to McBaine Property shall be subject to (i) pro rated liens of local real estate taxes and assessments that are not yet payable, (ii) the exceptions shown as Item _____ in the preliminary report issued by the Title Company for Title No. _____, dated _____, 202_, and (iii) any other exceptions approved in writing by City in its sole discretion. All of the foregoing permitted exceptions to title shall be referred to collectively as the "**McBaine Property Permitted Title Exceptions**" and shall be reflected in a CLTA owner's title insurance policy (the "**City Title Policy**") issued by the Title Company to City, with such coinsurance or reinsurance and direct access agreements and endorsements as City may reasonably request, in an amount specified by City to the Title Company, insuring City's fee interest in 234 VN, subject only to McBaine Property Permitted Title Exceptions, all at the sole cost and expense of City.

(c) Title Defect. If at the time scheduled for Closing, any of the Property is (i) subject to possession by others, (ii) subject to rights of possession other than those of McBaine or City, as the case may be, or (iii) encumbered by a lien, encumbrance, covenant, assessment, easement, lease, tax or other matter (except for a Parcel B Permitted Title Exception or a McBaine Property Permitted Title Exception, or anything caused by the action or inaction of the acquiring Party) that would materially affect the proposed development or use of such Property, as determined by the acquiring Party in its sole discretion ("**Title Defect**"), City or McBaine, as the case may be, will have up to sixty (60) days from the date scheduled for Closing to cause the removal of the Title Defect. The Closing will be extended to the earlier of five (5) business days after the Title Defect is removed or the expiration of such sixty (60) day period (the "**Extended Closing**").

(d) Remedies With Respect to Uncured Title Defect. If a Title Defect still exists at the date specified for the Extended Closing, unless the Parties mutually agree to further extend such date, the acquiring Party of such affected Property may by written notice to the other Party either (i) terminate this Agreement or (ii) accept conveyance of such affected Property. If the acquiring Party accepts conveyance of such affected Property, the Title Defect will be deemed waived but solely with respect to any action by the acquiring Party against the other Party. If the acquiring Party does not accept conveyance of the affected Property and fails to terminate this Agreement within seven (7) days after the date specified for the Extended Closing, or any extension provided above, either Party may terminate this Agreement upon three (3) days' written notice to the other Party. If this Agreement is terminated under this Section, neither Party shall have any further remedies under this Agreement against the other Party with respect to such termination nor any other rights or remedies, except for those that expressly survive the termination of this Agreement.

4.2 Responsibility for Title Insurance. Each Party understands and agrees, on behalf of itself and its transferees, that the right, title and interest in the Property conveyed by such Party on the Closing Date shall not exceed that vested in such Party immediately prior to the Closing Date, and neither Party is under any obligation to furnish any policy of title insurance in connection with this transaction. Each Party recognizes that any physical monument of any of the Property's boundary lines may not correspond to the legal description of such Property. Neither Party shall be responsible for any discrepancies in the area or location of the property lines or any other matters that an accurate survey or inspection might reveal. It is the sole responsibility of each Party to obtain a survey and a policy of title insurance, if desired, and to investigate any and all title, survey and inspection matters affecting the Property it intends to acquire under this Agreement.

4.3 Legal Descriptions; Parcel Legal Status.

(a) Parcel B is currently not a separate legal parcel and the Parties agree to use the legal description for Parcel B within **Exhibit C** ("Lot Line Adjustment Application Legal Descriptions and Maps" and the legal description for McBaine Property (the "**McBaine Legal Description**") within **Exhibit C** to effect the Exchange; provided that Parcel B Legal Description shall be amended, if necessary, to conform to the Record Survey.

(b) Parcel B is a portion of 240 VN. As a condition to closing, City shall cause a Record Survey and the City Quitclaim Deed in the form of **Exhibit D** and 234 shall cause the 234 Grant Deed in the form of **Exhibit E** to be recorded in the Official Records of San Francisco County prior to Closing (the "**Record Survey Condition**"). The existing parcel map and the post-Exchange parcel maps are detailed in **Exhibit C**. McBaine acknowledges and agrees that City is accepting McBaine Property from McBaine pursuant to this Agreement in its proprietary capacity, not its regulatory capacity.

(c) The obligations of each Party to convey title to property not currently legally subdivided to the other under this Agreement are conditioned on the approval by the City exercising its regulatory authority of a subdivision creating such property as a legal parcel and the satisfaction of the Record Survey Condition.

ARTICLE 5: REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of McBaine. McBaine represents and warrants to and covenants with City as of the Effective Date and as of the Closing Date as set forth below. "**McBaine's actual knowledge**" means the actual knowledge of Justin McBaine, without a duty of independent inquiry and without personal liability.

(a) To McBaine's actual knowledge, no document or instrument furnished or to be furnished by McBaine to the City in connection with this Agreement contains or will contain any untrue statement of material fact or omits or will omit a material fact necessary to make the statements contained therein not misleading, under the circumstances under which any such statement shall have been made.

(b) The copies of the leases affecting 234 VN provided by McBaine to the City are true and complete copies of all leases in effect with respect to 234 VN.

(c) To McBaine's actual knowledge, no condemnation, has either been instituted or planned to be instituted by any governmental or quasi-governmental agency other than City which could detrimentally affect the use, operation or value of McBaine Property.

(d) To McBaine's actual knowledge, McBaine has not received notice of (i) a claim to any easements or rights of way which have been acquired by prescription or which are otherwise not of record with respect to McBaine Property, (ii) a claim to any easements, rights of way, permits, licenses or other forms of agreement which afford third parties the right to traverse any portion of McBaine Property to gain access to other real property, or (iii) any disputes with regard to the location of any fence or other monument of McBaine Property's boundary nor any claims or actions involving the location of any fence or boundary.

(e) There is no litigation pending or, after due and diligent inquiry, to McBaine's actual knowledge, threatened, against McBaine or any basis therefor that arises out of the ownership of McBaine Property or that might detrimentally affect the use or operation of McBaine Property for its intended purpose as an affordable housing site, or the value of McBaine Property or the ability of McBaine to perform its obligations under this Agreement.

(f) McBaine is the legal and equitable owner of McBaine Property, collectively own the entire McBaine Property and have the full right to convey the same, and without limiting the generality of the foregoing, McBaine has not granted any option or right of first refusal or first opportunity to any third party to acquire any interest in any of McBaine Property. The leases between 234 VN and the tenants in the 234 Building include provisions permitting 234 VN to terminate such leases upon no more than 60 days' prior notice and accordingly McBaine will terminate the leases pursuant to such provisions prior to demolition of 234 VN and therefore no entities or individuals will have a claim for relocation assistance related to the conveyance of 234 VN to City.

(g) 234 LLC and 250 LLC are limited liability companies, duly organized and validly existing under the laws of the State of California, and is in good standing under the laws of the State of California; this Agreement and all documents executed by McBaine which are to be delivered to City at the Closing are, or at the Closing will be, duly authorized, executed and delivered by each of the parties that comprise McBaine, are, or at the Closing will be, legal, valid and binding obligations of such party, enforceable against such party in accordance with their respective terms, and do not, and at the Closing will not, violate any provision of any agreement or judicial order to which such party is a party or to which McBaine or the McBaine Property is subject.

(h) McBaine represents and warrants to City that it has not been suspended by or prohibited from contracting with, any federal, state or local governmental agency. If McBaine has been so suspended or prohibited from contracting with any governmental agency, it shall immediately notify the City of same and the reasons therefore together with any relevant facts or information requested by City. Any such suspension or prohibition may result in the termination or suspension of this Agreement.

(i) McBaine hereby represents and warrants to and covenants with City that, to McBaine's actual knowledge, other than as set forth in the Phase 1 ESA and the Pre-Demo Report, the following statements are true and correct and will be true and correct as of the Closing Date: (i) the McBaine Property is not in violation of any Environmental Laws; (ii) the McBaine Property is not now has it ever been used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material; (iii) there has been no release and there is no threatened release of any Hazardous Material in, on, under or about the McBaine Property; (iv) there are not now any underground storage tanks, septic tanks or wells or any aboveground storage tanks at any time used to store Hazardous Material located in, on or under the McBaine Property; (v) the McBaine Property does not consist of any landfill or of any building materials that contain any Hazardous Material; and (vi) the McBaine Property is not subject to any claim by any governmental regulatory agency or third party related to the release or threatened release of any Hazardous Material, and there is no inquiry by any governmental agency (including, without limitation, the California Department of Toxic Substances Control or the Regional Water Quality Control Board) with respect to the presence of Hazardous Material in, on, under or about McBaine Property, or the migration of Hazardous Material from or to other property. As used in this Agreement, the following terms shall have the meanings below:

(i) **"Environmental Laws"** shall mean any present or future federal, state or local laws, ordinances, regulations or policies relating to Hazardous Material (including, without limitation, their use, handling, transportation, production, disposal, discharge or storage) or to health and safety, industrial hygiene or environmental conditions in, on, under or about the Property, including, without limitation, soil, air and groundwater conditions.

(ii) **"Hazardous Material"** shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to

the environment. "Hazardous Material" includes, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or under Section 25281 or 25316 of the California Health & Safety Code; any "hazardous waste" as defined in Section 25117 or listed under Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials (whether or not such materials are part of the structure of any existing improvements on the Property, any improvements to be constructed on the Property, or are naturally occurring substances on, in or about the Property); and petroleum, including crude oil or any fraction, and natural gas or natural gas liquids. "Hazardous Material" shall not include any material used or stored at the Property in limited quantities and required in connection with the routine operation and maintenance of the Property, if such use and storage complies with all applicable Hazardous Material Laws.

(iii) **"Hazardous Material Laws"** shall mean any present or future federal, state or local laws, rules, regulations or policies relating to Hazardous Material (including, without limitation, its handling, transportation or release) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Property and any other property, including, without limitation, soil, air, air quality, water, water quality and groundwater conditions. "Hazardous Materials Laws" includes, without limitation, CERCLA, as amended by SARA, the RCRA, the Clean Water Act, TSCA, the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.), the California Superfund law, the Hazardous Waste Control Act (California Health and Safety Code Section 25100 et seq.), the Business Plan Law, Porter-Cologne Water Quality Control Act (California Water Code Section 13000 et seq.), Proposition 65, City's Pesticide Ordinance (Chapter 39 of the San Francisco Administrative Code), and Article 20 of the San Francisco Public Works Code ("Analyzing Soils for Hazardous Waste").

(iv) **"Release" or "threatened release"** when used with respect to Hazardous Material shall include any actual or imminent spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into or inside any of the improvements, or in, on, under or about the Property or into the environment. Release shall include, without limitation, "release" as defined in Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Section 9601).

(j) At the time of Closing there will be no leases or occupancy agreements to which McBaine is a party affecting 234 VN. At the time of Closing, there will be no outstanding written or oral contracts made by McBaine for any improvements located on 234 VN that have not been fully paid for and McBaine shall cause to be discharged all mechanics' or materialmen's liens arising from any labor or materials furnished to 234 VN on behalf of McBaine or its Agents prior to Closing. There are no obligations in connection with 234 VN incurred prior to Closing which will be binding upon City after Closing.

(k) 234 LLC, 250 LLC, and McBaine are not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code and McBaine is not subject to withholding under Section 18662 of the California Revenue and Taxation Code.

5.2 Hazardous Substance Disclosure. California law requires sellers to disclose to buyers the presence or potential presence of certain Hazardous Materials. Accordingly, each of City and McBaine is hereby advised that occupation of Parcel B or 234 VN may lead to exposure to Hazardous Materials such as, but not limited to, gasoline, diesel and other vehicle fluids, vehicle exhaust, office maintenance fluids, tobacco smoke, methane and building materials containing chemicals, such as formaldehyde. By execution of this Agreement, each of City and McBaine acknowledges that the notices and warnings set forth above satisfy the requirements of California Health and Safety Code Section 25359.7 and related statutes. In addition, each of City and

McBaine acknowledge receipt of that certain Phase 1 Environmental Site Assessment Report dated May 5, 2020 prepared by Partner Engineering and Science, Inc. (the "Phase 1 ESA") and that certain Asbestos, Lead, PCBs and Other Hazardous Building Materials Investigation Pre-Demolition Survey Report dated October 2020 prepared by Acumen Industrial Hygiene, Inc. (the "Pre-Demo Report").

5.3 As-Is Condition of Parcel B; Release of City. MCBAIN SPECIFICALLY ACKNOWLEDGES AND AGREES THAT CITY IS CONVEYING AND MCBAIN IS ACQUIRING CITY'S INTEREST IN PARCEL B ON AN "AS IS WITH ALL FAULTS" BASIS. MCBAIN IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM CITY OR ITS AGENTS AS TO ANY MATTERS CONCERNING PARCEL B, ITS SUITABILITY FOR MCBAIN'S INTENDED USES OR ANY OF THE PROPERTY CONDITIONS THEREOF. MCBAIN ACKNOWLEDGES THAT PARCEL B IS NOT A SEPARATE LEGAL PARCEL AS OF THE EFFECTIVE DATE. CITY DOES NOT GUARANTEE THE LEGAL, PHYSICAL, GEOLOGICAL, ENVIRONMENTAL, ZONING, OTHER CONDITIONS OF PARCEL B OR THE SUITABILITY OF PARCEL B FOR ANY USE, NOR DOES IT ASSUME ANY RESPONSIBILITY FOR THE COMPLIANCE OF PARCEL B OR ITS USE WITH ANY APPLICABLE LAWS. IT IS MCBAIN'S SOLE RESPONSIBILITY TO DETERMINE ALL BUILDING, PLANNING, ZONING AND OTHER REGULATIONS AND APPLICABLE LAWS, INCLUDING ANY PUBLIC TRUST CLAIMS, RELATING TO PARCEL B AND THE USES TO WHICH IT MAY BE PUT.

As part of its agreement to accept Parcel B in its "as is and with all faults" condition, McBaine, on behalf of itself and its successors and assigns, waives any right to recover from, and forever releases and discharges, City or its respective Agents, and their respective heirs, successors, legal representatives and assigns, from any and all Losses, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the use of Parcel B by City or its Agents or invitees, (ii) any failure of Parcel B to comply with the Subdivision Map Act, or (iii) the physical, geological or environmental condition of Parcel B, including, without limitation, any Hazardous Material in, on, under, above or about Parcel B and any federal, state, local or administrative law, rule, regulation, order or requirement applicable thereto, including, without limitation, all Environmental Laws.

In connection with the foregoing release, McBaine expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

By placing its initials below, McBaine specifically acknowledges and confirms the validity of the releases made above and the fact that McBaine was represented by counsel who explained, at the time of this Agreement was made, the consequences of the above releases.

INITIALS: McBaine: JP/12/5

5.6 As-Is Condition of 234 VN Property; Release of McBaine. CITY SPECIFICALLY ACKNOWLEDGES AND AGREES THAT MCBAIN IS CONVEYING AND CITY IS ACQUIRING MCBAIN'S INTEREST IN 234 VN ON AN "AS IS WITH ALL FAULTS" BASIS. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 4.1 ABOVE, CITY IS RELYING SOLELY ON ITS INDEPENDENT INVESTIGATION AND NOT ON ANY

REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM MCBAINES OR ITS AGENTS AS TO ANY MATTERS CONCERNING 234 VN, ITS SUITABILITY FOR CITY'S INTENDED USES OR ANY OF THE PROPERTY CONDITIONS THEREOF. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 4.1 ABOVE, MCBAINES DOES NOT GUARANTEE THE LEGAL, PHYSICAL, GEOLOGICAL, ENVIRONMENTAL, ZONING, OTHER CONDITIONS OF 234 VN OR THE SUITABILITY OF 234 VN FOR ANY USE, NOR DOES IT ASSUME ANY RESPONSIBILITY FOR THE COMPLIANCE OF 234 VN OR ITS USE WITH ANY APPLICABLE LAWS. IT IS CITY'S SOLE RESPONSIBILITY TO DETERMINE ALL BUILDING, PLANNING, ZONING AND OTHER REGULATIONS AND APPLICABLE LAWS RELATING TO 234 VN AND THE USES TO WHICH IT MAY BE PUT.

As part of its agreement to accept 234 VN in its "as is and with all faults" condition, City, on behalf of itself and its successors and assigns, waives any right to recover from, and forever releases and discharges, McBaine and its respective Agents, and their respective heirs, successors, legal representatives and assigns, from any and all Losses, whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be connected with (i) the use of 234 VN by McBaine or its Agents or invitees, (ii) any failure of 234 VN to comply with the Subdivision Map Act, or (iii) the physical, geological or environmental condition of 234 VN, including, without limitation, any Hazardous Material in, on, under, above or about 234 VN and any federal, state, local or administrative law, rule, regulation, order or requirement applicable thereto, including, without limitation, all Environmental Laws. In connection with the foregoing release, City expressly waives the benefits of Section 1542 of the California Civil Code, which provides as follows

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

By placing its initials below, City specifically acknowledges and confirms the validity of the releases made above and the fact that City was represented by counsel who explained, at the time of this Agreement was made, the consequences of the above releases.

INITIALS: City: _____

ARTICLE 6: CONDITIONS PRECEDENT TO CLOSING

6.1 City's Conditions Precedent. The following are conditions precedent to City's obligations under this Agreement as of the Closing Date to acquire 234 VN and convey Parcel B to McBaine (each, a "**City Condition Precedent**", and collectively, the "**City's Conditions Precedent**"):

(a) No event of default (or event which upon the giving of notice or the passage of time or both shall constitute an event of default) shall exist on the part of McBaine under this Agreement, and each of McBaine's representations and warranties under this Agreement shall be true and correct.

(b) McBaine shall have performed all of the obligations under this Agreement it is required to perform on or before the Closing, including any action required to complete demolition of the 234 Building and the Lot Line Adjustment, depositing into Escrow any sums required to be paid by Company under this Agreement.

(c) The Title Company shall be irrevocably committed to issue the City Title Policy at Closing on payment by City of all required premiums.

(d) There shall be no pending or threatened (i) condemnation, environmental or other pending governmental proceedings in respect of McBaine Property that would materially and adversely affect City's use thereof or (ii) litigation affecting McBaine Property.

(e) There shall be no material adverse change in the condition of McBaine Property from the Effective Date to the Closing Date, unless such change is caused by the acts of City or its Agents.

(f) McBaine shall have removed all of its equipment and personal property from McBaine Property, if any.

(g) The Exchange shall have been finally approved by all applicable City departments and agencies, in their respective sole discretion, on or before the Closing Date.

(h) A Resolution approving of the creation of Parcel B and the Exchange (the "**Resolution**") in accordance with and subject to City's Charter shall have been adopted by City's Board of Supervisors and Mayor, in their respective sole and absolute discretion, and duly enacted (the "**City Approval Condition**").

(i) The Record Survey Condition shall be satisfied.

(j) As of the Closing Date, there shall be no tenants in occupancy of the 234 Building.

(k) Demolition of the 234 Building shall have been completed as evidenced by the approval of final inspection and satisfaction of all conditions imposed in the demolition permit issued by the City.

(l) The filling of the existing basement space following demolition of the 234 Building to adjacent Van Ness Avenue sidewalk grade with engineered compacted fill has been completed as certified to City by the independent engineering consultant which observed such work

(m) All of the forgoing conditions in this Section 6.1 shall have been satisfied by June 30, 2022.

6.2 Failure of City's Conditions Precedent; Cooperation of McBaine. Each City Condition Precedent is intended solely for the benefit of City. If any City Condition Precedent is not satisfied by the Closing Date or by the date otherwise provided above, City may, at its sole election and by written notice to McBaine, extend the date for satisfaction of the condition, waive the condition in whole or part, conditionally waive the condition in whole or in part, or terminate this Agreement. Notwithstanding anything to the contrary in the foregoing, if any such conditional waiver is not acceptable to McBaine in its sole discretion, McBaine may reject such conditional waiver, in which event the original City Condition Precedent shall remain effective, and if not satisfied, shall entitle City to terminate this Agreement. If City elects to so terminate this Agreement, then upon any such termination, neither Party shall have any further rights nor obligations hereunder except for those that expressly survive termination of this Agreement.

McBaine shall cooperate with City and do all acts as may be reasonably requested by City to fulfill any City Condition Precedent, including, without limitation, execution of any documents, applications or permits. McBaine's representations and warranties to City shall not be affected or released by City's waiver or fulfillment of any City Condition Precedent.

McBaine hereby irrevocably agrees that City and its Agents may make all inquiries with and applications to any party, including, without limitation, any regulatory authority with jurisdiction as City may reasonably require to complete its due diligence investigations.

6.3 McBaine Conditions Precedent. The following are conditions precedent to McBaine's obligations under this Agreement to acquire Parcel B and to cause 234 VN to be conveyed to City (each, a "**McBaine Condition Precedent**", and collectively, the "**McBaine Conditions Precedent**"):

(a) No event of default (or event which upon the giving of notice or the passage of time or both shall constitute an event of default) shall exist on the part of City under this Agreement and each of City's representations and warranties under this Agreement shall be true and correct.

(b) City shall have performed all of the obligations under this Agreement it is required to perform on or before the Closing, including depositing into Escrow any sums required to be paid by City under this Agreement.

(c) There shall be no pending or threatened (i) condemnation, environmental or other pending governmental proceedings in respect Parcel B that would materially and adversely affect McBaine's intended use thereof or (ii) litigation affecting Parcel B.

(d) There shall be no material adverse change in the condition of Parcel B, from the Effective Date to the Closing Date, that may impact McBaine's intended use of Parcel B.

(e) The City Approval Condition and the Record Survey Condition shall have been completed.

(f) Demolition of the 240 Building shall have been completed as evidenced by the approval of final inspection and satisfaction of all conditions imposed in the demolition permit issued by the City.

(g) The filling of the existing basement space following demolition of the 240 Building to adjacent Van Ness Avenue sidewalk grade with engineered compacted fill has been completed as certified to McBaine by the independent engineering consultant which observed such work.

(h) All of the forgoing conditions in this Section 6.3 shall have been satisfied by June 30, 2022.

6.4 Failure of Any McBaine Conditions Precedent. Each McBaine Condition Precedent is intended solely for the benefit of McBaine. If any McBaine Condition Precedent is not satisfied on or before the required completion date specified therefor (or by the date otherwise provided above or as such date may be extended as permitted hereby), McBaine may, at its option and by written notice to City, extend the date for satisfaction of the condition, waive the condition in whole or in part or conditionally waive in whole or in part, in writing the condition precedent or terminate this Agreement. Notwithstanding anything to the contrary in the foregoing, if any such conditional waiver is not acceptable to City in its sole discretion, City may reject such conditional waiver, in which event the original McBaine Condition Precedent shall remain effective, and if not satisfied, shall entitle McBaine to terminate this Agreement. If McBaine elects to so terminate this Agreement, neither Party shall have any further rights or obligations hereunder except for those that expressly survive the termination of this Agreement.

6.5 Notification Obligation.

(a) From and after the Effective Date through to the Closing Date, City shall promptly deliver written notice to notify McBaine if City becomes aware of or receives notice of any actual or threatened litigation with respect to Parcel B, any violation of Applicable Law affecting or related to Parcel B, or any other material adverse change in the condition of Parcel B. Such notification shall include all material facts known by City relative to such matter.

(b) From and after the Effective Date through to the Closing Date, McBaine shall promptly deliver written notice to City if McBaine becomes aware of or receives notice of any actual or threatened litigation with respect to McBaine Property, any violation of Applicable Law affecting or related to McBaine Property, or any other material adverse change in the condition of McBaine Property. Such notification shall include all material facts known by McBaine relative to such matter.

ARTICLE 7: CLOSING

7.1 Closing Date. "**Closing**" shall mean the consummation of the Exchange pursuant to the terms and conditions of this Agreement, and the date on which the Closing shall occur shall be on or before the fifth (5th) Business Day immediately following the satisfaction of the City Approval Condition (the "**Closing Date**"). The Closing Date may not be extended without the prior written approval of the Parties, except as otherwise expressly provided in this Agreement. If the Closing does not occur on or before the Closing Date, Title Company shall, unless it is notified by both Parties to the contrary within five (5) days after the Closing Date, return each item deposited in Escrow to the Party that deposited such item. Any such return shall not, however, limit the provisions hereof or otherwise relieve either Party of any liability it may have for its wrongful failure to perform its obligations under this Agreement.

7.2 Deposit of Documents for Closing.

(a) At least one (1) Business Day before the Closing Date, City shall deposit the following items into Escrow:

(i) Parcel B Deed, duly executed and acknowledged by City and conveying Parcel B to McBaine (or to McBaine's nominee, provided such nominee is reasonably acceptable to City) subject to Parcel B Permitted Title Exceptions;

(ii) any funds City is required to deposit into Escrow in accordance with this Agreement;

(iii) a certified copy of the Resolution;

(iv) an owner's affidavit to the Title Company in a form reasonably acceptable to City, regarding the status of parties in possession and any work of improvement which might be the subject of a mechanics lien and providing indemnification from any such lien on Parcel B; and

(iii) a preliminary closing statement approved by City.

(b) At least one (1) Business Day before the Closing Date, McBaine shall deposit the following items into Escrow:

(i) the 234 VN Deed, duly executed and acknowledged by McBaine and conveying 234 VN to City subject to McBaine Property Permitted Title Exceptions;

(ii) an owner's affidavit to the Title Company in a form reasonably acceptable to City, regarding the status of parties in possession and any work of improvement which might be the subject of a mechanics lien and providing indemnification from any such lien on 234 VN;

(iii) any funds McBaine is required to deposit into Escrow in accordance with this Agreement; and

(iv) a preliminary closing statement approved by McBaine.

(c) City and McBaine shall each deposit such other instruments as are reasonably required by the Title Company or otherwise required to effect Closing in accordance with the terms hereof.

(d) As of Closing, the Title Company shall record in the Official Records the certified copy of the Resolution, any and all documentation requisite to the Lot Line Adjustment and the Parcel B Deed and the 234 Deed.

(e) As of Closing, the Title Company shall issue the City Title Policy to City, at City's expense, and McBaine Title Policy to McBaine, at McBaine's expense.

(f) Unless the Parties otherwise expressly agree in writing at or prior to the Closing Date, as of Closing, all pre-conveyance conditions of the Parties with respect to the Property shall be deemed satisfied or waived by the Party or Parties benefited by such condition.

7.3 Expenses. Any transfer taxes assessed on the conveyance of Parcel B to McBaine and any fees related to the recording of the McBaine Deed pursuant to this Agreement shall be paid by McBaine and any transfer taxes assessed on the conveyance of 234 VN Property to City pursuant to this Agreement and any fees related to recording the Parcel B Deed shall be waived in this transaction. The Parties shall each pay fifty percent (50%) of any Escrow fees for the Closing.

7.4 Prorations. Any real property taxes or assessments for the Property shall be prorated as of the Closing Date. McBaine shall pay for all utilities used at McBaine Property prior to the Closing Date and for all utilities used at Parcel B on and after the Closing Date. City shall pay for all utilities used at Parcel B prior to the Closing Date and for all utilities used at 234 VN on and after the Closing Date. Any utility deposits paid by City for Parcel B prior to the Closing Date shall remain the property of City, and McBaine shall reasonably cooperate to cause the return of such deposits to City to the extent City is entitled thereto. Any utility deposits paid by McBaine for 234 VN prior to the Closing Date shall remain the property of McBaine, and City shall reasonably cooperate to cause the return of such deposits to McBaine to the extent McBaine is entitled thereto. If any of the foregoing prorations cannot be accurately calculated on the Closing Date, they shall be calculated as soon as reasonably feasible after the Closing Date. Either Party owing the other Party a sum of money based on such subsequent prorations shall promptly pay such sum to the other Party.

ARTICLE 8: DEFAULT AND REMEDIES

8.1 Default; Right to Specific Performance. If either Party fails to perform its obligations under this Agreement (except as excused by the other Party's default), including, without limitation, a failure to convey Parcel B or 234 VN at the time and in the manner provided for hereunder, the Party claiming default may, at its sole election, make written demand for performance. If the Party receiving such demand for performance fails to comply with such written demand within thirty (30) days after such notice is delivered, the Party claiming default will have the option to (i) waive such default, (ii) demand specific performance or (iii) terminate this Agreement, in each case by written notice to the defaulting Party. If a Party becomes aware

of a default by the other Party under this Agreement that relates to Parcel B or 234 VN before the Closing Date and the Party elects to proceed with the Closing, then the Party that elects to proceed shall be deemed to have waived the default.

8.2 Termination. If any Party terminates this Agreement pursuant to this Article 8, such Party shall have the right to seek all legal remedies available to such Party.

ARTICLE 9: GENERAL PROVISIONS

9.1 Notices. Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to be delivered upon (i) personal delivery, or the day the addressee refuses to accept such delivery, (ii) one (1) business day after being deposited with a reliable overnight courier service, or (iii) two (2) days after being deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, and addressed as follows:

If to McBaine:	234 Van Ness, LLC c/o ALDiLa Investments 1686 Union Street, Suite 203 San Francisco, CA 94123 Attn: Justin McBaine Telephone: (415) 466-8239
With a copy to:	Farella Braun + Martel LLP 235 Montgomery Street San Francisco, CA 94104 Attn: Richard M. Shapiro Telephone: (415) 954-4934
If to City:	Director of Property City and County of San Francisco 25 Van Ness Avenue, Suite 400 San Francisco, CA 94102 Facsimile: (415) 554-9216 Telephone: (415) 554-9875
With a copy to:	Office of the City Attorney Room 234, City Hall 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102 Attn: Heidi Gewertz Facsimile: (415) 554-4755 Telephone: (415) 554-4703 _____

For the convenience of the Parties, copies of notice may also be given by facsimile, but a Party may not give official or binding notice by facsimile and the effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a facsimile copy of the notice.

Every notice given to a Party pursuant to this Agreement must state (or must be accompanied by a cover letter that states) substantially the following: (A) the Section of this Agreement under which the notice is given and the action or response required, if any; (B) if applicable, the period of time within which the recipient of the notice must respond thereto; (C) if approval is being requested, shall be clearly marked "Request for Approval"; and (D) if a

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

Any mailing address or facsimile number may be changed at any time by giving written notice of such change in the manner provided above at least ten (10) days prior to the effective date of the change. If delivery of any notice given pursuant to this Agreement is rejected, such notice shall be deemed to have been made on the attempted delivery date.

9.2 Amendments. Except as otherwise provided in this Agreement, this Agreement may be amended or modified only by a written instrument executed by City and McBaine. The Director of Property of City (or any successor City officer as designated by law) shall have the authority to consent to any non-material changes to this Agreement. For purposes hereof, "non-material change" shall mean any change that does not materially reduce the consideration to City under this Agreement or otherwise materially increase the liabilities or obligations of City under this Agreement. Material changes to this Agreement shall require the approval of City's Board of Supervisors by resolution.

9.3 Severability. If any provision of this Agreement, or its application to any party or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other party or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement.

9.4 Non-Waiver. Except as expressly set forth herein to the contrary, a Party's delay or failure to exercise any right under this Agreement shall not be deemed a waiver of that or any other right contained in this Agreement.

9.5 Successors and Assigns. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their respective successors, heirs, legal representatives, administrators and assigns. Neither Party's rights or obligations hereunder shall be assignable without the prior written consent of the other Party; provided, however, even if the other Party approves any such proposed assignment, in no event shall the assigning Party be released of any of its obligations hereunder.

9.6 Consents and Approvals. Any approvals or consents of City required under this Agreement may be given by the Director of Property, unless otherwise provided in the City Charter or applicable City ordinances. Any approvals or consents of McBaine required under this Agreement may be given by Justin McBaine.

9.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

9.8 Applicable Laws. "**Applicable Laws**" shall mean all present and future applicable laws, ordinances, rules, regulations, resolutions, statutes, permits, authorizations, orders, requirements, covenants, conditions and restrictions, whether or not in the contemplation of the Parties, that may affect or be applicable to the Property or any part of the Property (including, without limitation, any subsurface area) or the use of the Property. "Applicable Laws" shall include, without limitation, any environmental, earthquake, life safety and disability laws, and all consents or approvals required to be obtained from, and all rules and regulations of, and all building and zoning laws of, all federal, state, county and municipal governments, the departments, bureaus, agencies or commissions thereof, authorities, board of officers, any national or local board of fire underwriters, or any other body or bodies exercising similar functions, having or acquiring jurisdiction of Parcel B or 234 VN, as applicable. The term

"Applicable Law" shall be construed to mean the same as the above in the singular as well as the plural.

9.9 No Brokers or Finders. Each Party warrants to the other Party that no broker or finder was instrumental in arranging or bringing about this transaction and that there are no claims or rights for brokerage commissions or finder's fees in connection with the transactions contemplated by this Agreement. If any party brings a claim for a commission or finder's fee based on any contact, dealings, or communication with McBaine or City, then the Party through whom such party makes a claim shall defend the other Party(ies) from such claim, and shall indemnify, protect, defend and hold harmless the indemnified Party from any Losses that the indemnified Party incurs in defending against the claim. The provisions of this Section shall survive the Closing, or, if the conveyance is not consummated for any reason, any termination of this Agreement.

9.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

9.11 Interpretation of Agreement.

(a) Exhibits. Whenever an "Exhibit" is referenced, it means an attachment to this Agreement unless otherwise specifically identified. All such Exhibits are incorporated herein by reference.

(b) Captions. Whenever a section, article or paragraph is referenced, it refers to this Agreement unless otherwise specifically identified. The captions preceding the articles and sections of this Agreement have been inserted for convenience of reference only. Such captions shall not define or limit the scope or intent of any provision of this Agreement.

(c) Words of Inclusion. The use of the term "including," "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

(d) References. Wherever reference is made to any provision, term or matter "in this Agreement," "herein" or "hereof" or words of similar import, the reference shall be deemed to refer to any and all provisions of this Agreement reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered, section or paragraph of this Agreement or any specific subdivision thereof.

(e) Recitals. If there is any conflict or inconsistency between the recitals and any of the remaining provisions of this Agreement, the remaining provisions of this Agreement shall prevail. The Recitals in this Agreement are included for convenience of reference only and are not intended to create or imply covenants under this Agreement.

9.12 Entire Agreement. This Agreement (including the exhibits) contains all the representations and the entire agreement between the Parties with respect to the subject matter herein. Any prior correspondence, memoranda, agreements, warranties or representations relating to such subject matter are superseded in total by this Agreement (and such other agreements to the extent referenced herein). No prior drafts of this Agreement or changes from those drafts to the executed version of this Agreement shall be introduced as evidence in any litigation or other dispute resolution proceeding by either Party or any other party and no court or other body shall consider those drafts in interpreting this Agreement.

9.13 Survival. Any and all other representations, warranties and indemnities of the Parties contained herein (including the Exhibits), shall survive the Closing or termination of this Agreement.

9.14 Parties and Their Agents. As used herein, the term "**Agents**" when used with respect to either Party shall include the agents, employees, officers, contractors and representatives of such Party. McBaine is comprised of more than one party, and McBaine's obligations under this Agreement shall be joint and several among such parties.

9.15 Attorneys' Fees. If either Party hereto fails to perform any of its respective obligations under this Agreement or if any dispute arises between the Parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting Party or the Party not prevailing in such dispute, as the case may be, shall pay any and all reasonable Attorneys' Fees and Costs incurred by the other Party on account of such default or in enforcing or establishing its rights hereunder, including without limitation, court costs. Any such Attorneys' Fees and Costs incurred by either Party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such Attorneys' Fees and Costs obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment. For purposes of this Agreement, the reasonable fees of attorneys of the Office of City Attorney of the City and County of San Francisco shall 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 such services were rendered who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office.

9.16 Time of Essence. Time is of the essence with respect to the performance of the Parties' respective obligations contained herein.

9.17 Non-Liability. Notwithstanding anything to the contrary in this Agreement, no elective or appointive board, commission, member, officer, employee or agent of City shall be personally liable to McBaine or its successors and assigns, if there is any default or breach by City or for any amount which may become due hereunder, or for any obligation of City under this Agreement. Notwithstanding anything to the contrary in this Agreement, no officers, directors, members, shareholders, employees or Agents of McBaine (or of its successors or assigns) shall be personally liable to City, or its successors and assigns, if there is any default or breach by McBaine or for any amount which may become due to City, or its successors and assigns, or for any obligations of McBaine under the terms of this Agreement.

9.18 Tropical Hardwoods and Virgin Redwoods. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood wood product or virgin redwood or virgin redwood wood product.

9.19 Sunshine Ordinance. McBaine understands and agrees that under City's Sunshine Ordinance (San Francisco Administrative Code, Chapter 67) and the State Public Records Law (Gov. Code Section 6250 *et seq.*), this Agreement and any and all records, information, and materials submitted to City hereunder are public records subject to public disclosure. McBaine hereby acknowledges that City may disclose any records, information and materials submitted to City in connection with this Agreement.

9.20 MacBride Principles - Northern Ireland. City 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.* City also urges companies to do business with corporations that abide by the MacBride Principles. McBaine acknowledges that it has read and understands the above statement of City concerning doing business in Northern Ireland.

9.21 Relationship of the Parties. The relationship between the Parties hereto is solely that of transferor and transferee of real property.

9.22 Prohibition Against Making Contributions to City. McBaine acknowledges that no party that contracts with City for the rendition of personal services, or the furnishing of any material, supplies or equipment to City, or for selling any land or building to City, whenever such transaction would require approval by a City elective officer, or the board on which that City elective officer serves, shall make any contribution to such an officer or candidate at any time between commencement of negotiations and either the completion of, or the termination of, negotiations for such contract.

9.23 Effective Date. This Agreement shall become effective upon the first day ("**Effective Date**") on which each of the following events has occurred: (i) the Parties have duly executed and delivered this Agreement, and (ii) the City Approval Condition has been satisfied. The Parties shall confirm in writing the Effective Date of this Agreement once such date has been established pursuant to this Section; provided, however, the failure of the Parties to confirm such date in writing shall not have any effect on the validity of this Agreement. Where used in this Agreement or in any of its attachments, references to the "Effective Date" will mean the Effective Date as established and confirmed by the Parties pursuant to this Section.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, MCBAIN ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL A RESOLUTION OF CITY'S BOARD OF SUPERVISORS THAT APPROVES OF THIS AGREEMENT AND AUTHORIZES THE TRANSACTIONS CONTEMPLATED HEREBY HAS BEEN DULY ENACTED. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH A RESOLUTION, AND THIS AGREEMENT SHALL BE NULL AND VOID IF CITY'S BOARD OF SUPERVISORS AND MAYOR DO NOT APPROVE THIS AGREEMENT IN THEIR RESPECTIVE SOLE DISCRETION. APPROVAL OF THE TRANSACTIONS CONTEMPLATED HEREBY BY ANY EMPLOYEES, DEPARTMENTS OR COMMISSIONS OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH RESOLUTION WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The Parties have duly executed this Agreement as of the respective dates written below.

MCBAINE:

234 VAN NESS, LLC, a California limited liability company

Date: 1/26/21

By: J. Patterson McBaine
Its: Manager

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

Date: 3/29/2021

By: Andrico Penick
Andrico Q. Penick
Director of Property

MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT:

Date: 3/21/2021

By: Lydia Ely
Name: Lydia Ely
Title: Deputy Director for Housing

APPROVED AS TO FORM:

DENNIS J. HERRERA, City Attorney

By: Heidi Gewertz
Heidi J. Gewertz
Deputy City Attorney

[CONSENTS ON FOLLOWING PAGE]

The undersigned (i) consents to the negotiations by the City and McBaine under this Agreement and any Exchange Agreement, (ii) consents to the reconfiguration of the City Property that would occur if McBaine and City enter into and consummate an Exchange Agreement to exchange the City Parcel for McBaine Property, and (iii) agrees the Mercy ENA is modified to approve any reconfiguration of the City Property that occurs if the City exchanges the City Parcel for McBaine Property.

By: MERCY HOUSING CALIFORNIA,
a California non-profit public benefit corporation

By: 
Name: Barbara Gualco
Its: Vice President

CONCUR:

The undersigned (i) concurs with the negotiations by the City and McBaine under this Agreement and any Exchange Agreement, (ii) concurs with the reconfiguration of the City Property that would occur if McBaine and City enter into and consummate an Exchange Agreement to exchange the City Parcel for McBaine Property, and

(iii) acknowledges the Mercy ENA is modified to approve any reconfiguration of the City Property that occurs if the City exchanges the City Parcel for McBaine Property.

THE KELSEY,
a California non-profit corporation

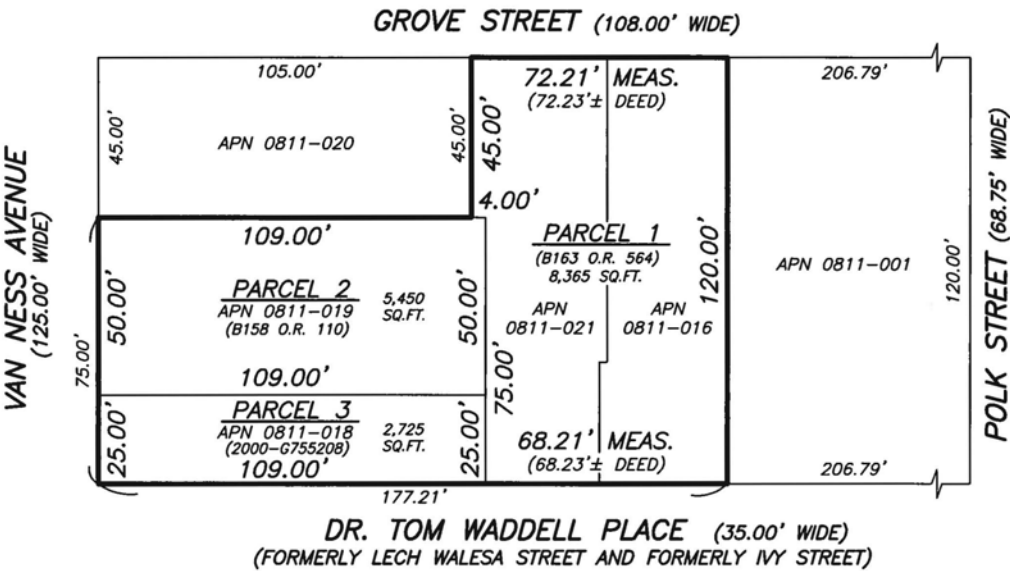
By: 
Name: Micaela Connery
Title: CEO

EXHIBIT A

CURRENT PARCEL CONFIGURATION

(SEE ATTACHED)

EXHIBIT A



GENERAL NOTES

- 1. ALL PROPERTY LINE ANGLES ARE 90 DEGREES UNLESS NOTED OTHERWISE.
- 2. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

LEGEND

- APN ASSESSOR'S PARCEL NUMBER
- MEAS. MEASURED
- O.R. OFFICIAL RECORDS
- PERIMETER BOUNDARY LINE OF EXISTING PARCELS 1, 2 & 3
- EXISTING LOT LINE

CURRENT CONFIGURATION

ASSESSOR'S BLOCK 0811
SAN FRANCISCO, CALIFORNIA

BY JP CHKD. BR DATE 12-17-20 SCALE 1"=40' SHEET 1 OF 1 JOB NO. S-9956

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

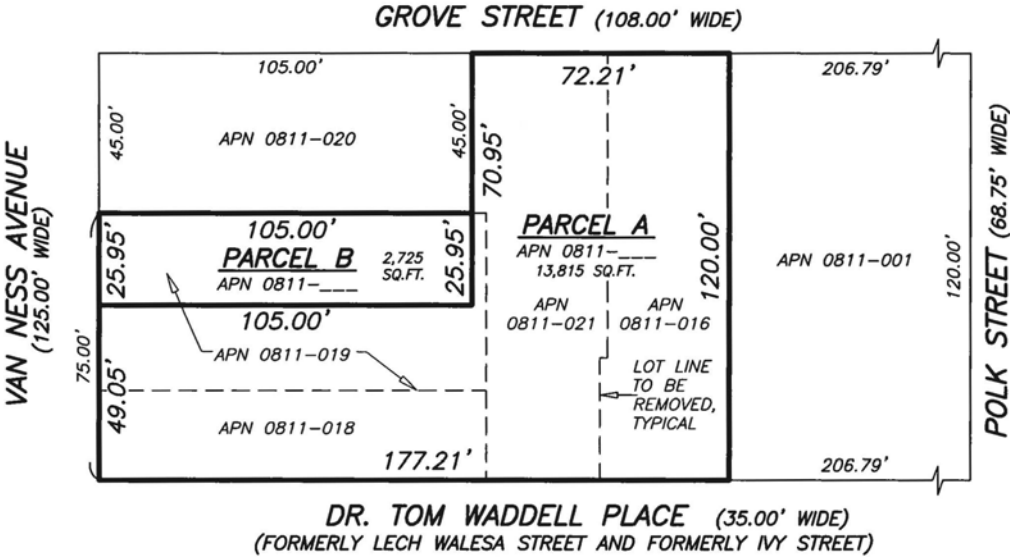
859 HARRISON STREET
SAN FRANCISCO, CA. 94107
(415) 543-4500
S-9956_BNDY PLAT.DWG

EXHIBIT B

FINAL PARCEL CONFIGURATION

(SEE ATTACHED)

EXHIBIT B



GENERAL NOTES

1. ALL PROPERTY LINE ANGLES ARE 90 DEGREES UNLESS NOTED OTHERWISE.
2. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.

LEGEND

- APN ASSESSOR'S PARCEL NUMBER
— BOUNDARY LINE OF PROPOSED PARCELS A & B
--- EXISTING LOT LINE

FINAL
CONFIGURATION

ASSESSOR'S BLOCK 0811
SAN FRANCISCO, CALIFORNIA

BY JP CHKD. BR DATE 12-17-20 SCALE 1"=40' SHEET 1 OF 1 JOB NO. S-9956

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

859 HARRISON STREET
SAN FRANCISCO, CA. 94107
(415) 543-4500
S-9956_BNDY PLAT.DWG

EXHIBIT C

LOT LINE ADJUSTMENT APPLICATION LEGAL DESCRIPTIONS AND MAP

(SEE ATTACHED)

EXHIBIT "A"

EXISTING PARCEL DESCRIPTIONS

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

PARCEL 1: APN 0811-016 & 0811-021 (B163 O.R. 564 – 7/26/1967)

COMMENCING AT A POINT ON THE SOUTHERLY LINE OF GROVE STREET, DISTANT THEREON 105 FEET EASTERLY FROM THE EASTERLY LINE OF VAN NESS AVENUE; RUNNING THENCE EASTERLY ALONG SAID LINE OF GROVE STREET 72 FEET 2-3/4 INCHES, MORE OR LESS, TO A POINT DISTANT THEREON 206 FEET 9-1/2 INCHES WESTERLY FROM THE WESTERLY LINE OF POLK STREET; THENCE AT A RIGHT ANGLE SOUTHERLY 120 FEET TO THE NORTHERLY LINE OF IVY STREET; THENCE AT A RIGHT ANGLE WESTERLY ALONG SAID LINE OF IVY STREET 68 FEET 2-3/4 INCHES, MORE OR LESS, TO A POINT DISTANT THEREON 109 FEET EASTERLY FROM THE EASTERLY LINE OF VAN NESS AVENUE; THENCE AT A RIGHT ANGLE NORTHERLY 75 FEET; THENCE AT A RIGHT ANGLE WESTERLY 4 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 45 FEET TO THE POINT OF COMMENCEMENT.

BEING PART OF WESTERN ADDITION BLOCK NO. 68.

PARCEL 2: APN 0811-019 (B158 O.R. 110 – 7/7/1967)

COMMENCING AT A POINT ON THE EASTERLY LINE OF VAN NESS AVENUE DISTANT THEREON 45 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF GROVE STREET; RUNNING THENCE SOUTHERLY ALONG SAID LINE OF VAN NESS AVENUE 50 FEET; THENCE AT A RIGHT ANGLE EASTERLY 109 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 50 FEET; THENCE AT A RIGHT ANGLE WESTERLY 109 FEET TO THE POINT OF COMMENCEMENT.

BEING A PORTION OF WESTERN ADDITION BLOCK NO. 68.

PARCEL 3: APN 0811-018 (2000-G755208)

BEGINNING AT A POINT FORMED BY THE INTERSECTION OF THE NORTHERLY LINE OF IVY STREET (LECH WALESA STREET) WITH THE EASTERLY LINE OF VAN NESS AVENUE; RUNNING THENCE NORTHERLY ALONG THE SAID EASTERLY LINE OF VAN NESS AVENUE 25 FEET; THENCE AT A RIGHT ANGLE EASTERLY 109 FEET; THENCE AT A RIGHT ANGLE SOUTHERLY 25 FEET TO THE NORTHERLY LINE OF IVY STREET (LECH WALESA STREET); AND THENCE WESTERLY ALONG THE NORTHERLY LINE OF IVY STREET (LECH WALESA STREET) 109 FEET TO ITS INTERSECTION WITH THE EASTERLY LINE OF VAN NESS AVENUE AND THE POINT OF BEGINNING.

BEING PORTION OF WESTERN ADDITION BLOCK NO. 68.



S-9956
12-10-2020

EXHIBIT "B"
NEW PARCEL DESCRIPTIONS

PARCEL A

APN 0811-_____ (FORMERLY APN 0811-016, 0811-018, 0811-021 AND A PORTION OF 0811-019)

ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF DR. TOM WADDELL PLACE (FORMERLY LECH WALESA STREET AND FORMERLY IVY STREET)(35.00 FEET WIDE), WITH THE EASTERLY LINE OF VAN NESS AVENUE (125.00 FEET WIDE); THENCE NORTHERLY ALONG SAID EASTERLY LINE OF VAN NESS AVENUE 49.05 FEET TO A POINT DISTANT THEREON 70.95 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF GROVE STREET (108.00 FEET WIDE); THENCE AT A RIGHT ANGLE EASTERLY 105.00 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 70.95 FEET TO SAID SOUTHERLY LINE OF GROVE STREET; THENCE AT A RIGHT ANGLE EASTERLY ALONG SAID SOUTHERLY LINE OF GROVE STREET, 72.21 FEET TO A POINT DISTANT THEREON 206.79 FEET WESTERLY FROM THE WESTERLY LINE OF POLK STREET (68.75 FEET WIDE); THENCE AT A RIGHT ANGLE SOUTHERLY 120.00 FEET TO SAID NORTHERLY LINE OF DR. TOM WADDELL PLACE; THENCE AT A RIGHT ANGLE WESTERLY, ALONG SAID NORTHERLY LINE OF DR. TOM WADDELL PLACE, 177.21 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF WESTERN ADDITION BLOCK 68.

PARCEL B

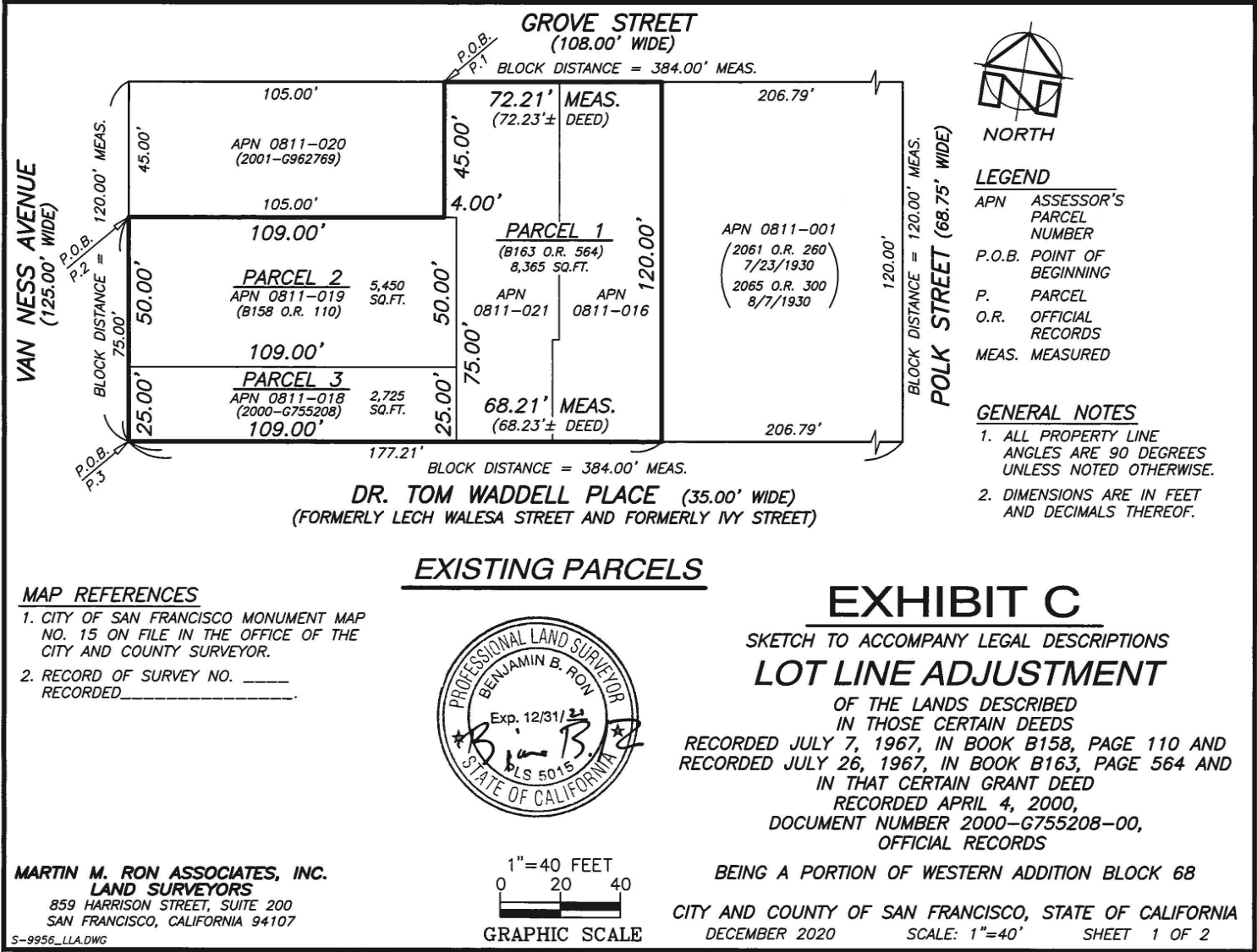
APN 0811-_____ (FORMERLY A PORTION OF APN 0811-019)

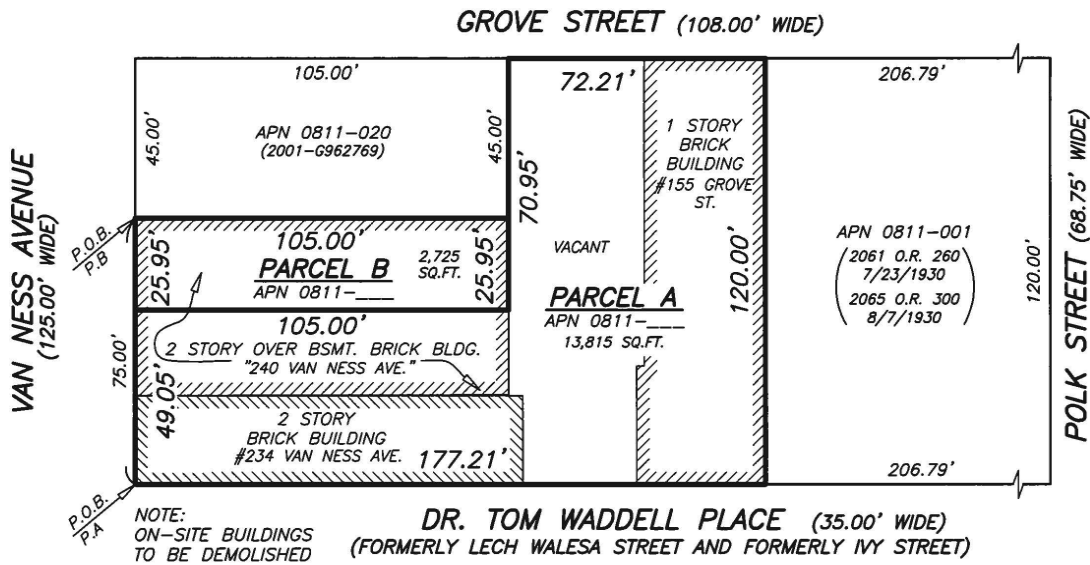
ALL THAT REAL PROPERTY SITUATED IN THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA,
DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EASTERLY LINE OF VAN NESS AVENUE (125.00 FEET WIDE), DISTANT THEREON 45.00 FEET SOUTHERLY FROM THE SOUTHERLY LINE OF GROVE STREET (108.00 FEET WIDE); THENCE SOUTHERLY ALONG SAID EASTERLY LINE OF VAN NESS AVENUE 25.95 FEET ; THENCE AT A RIGHT ANGLE EASTERLY 105.00 FEET; THENCE AT A RIGHT ANGLE NORTHERLY 25.95 FEET; THENCE AT A RIGHT ANGLE WESTERLY 105.00 FEET TO THE POINT OF BEGINNING.

BEING A PORTION OF WESTERN ADDITION BLOCK 68.







NEW PARCELS



MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS
859 HARRISON STREET, SUITE 200
SAN FRANCISCO, CALIFORNIA 94107

S-9956_LLA.DWG

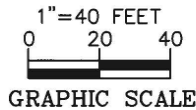


EXHIBIT C

SKETCH TO ACCOMPANY LEGAL DESCRIPTIONS

LOT LINE ADJUSTMENT

OF THE LANDS DESCRIBED
IN THOSE CERTAIN DEEDS
RECORDED JULY 7, 1967, IN BOOK B158, PAGE 110 AND
RECORDED JULY 26, 1967, IN BOOK B163, PAGE 564 AND
IN THAT CERTAIN GRANT DEED
RECORDED APRIL 4, 2000,
DOCUMENT NUMBER 2000-G755208-00,
OFFICIAL RECORDS

BEING A PORTION OF WESTERN ADDITION BLOCK 68

CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA
DECEMBER 2020 SCALE: 1"=40' SHEET 2 OF 2

EXHIBIT D

CITY FORM DEED

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

234 Van Ness, LLC
c/o AIDiLa Investments
1686 Union Street, Suite 203
San Francisco, CA 94123

Documentary Transfer Tax of \$_____ based on
full value of the property conveyed

(Space above this line reserved for Recorder's use only)

QUITCLAIM DEED

(Portion of Assessor's Parcel No. 0811-019)

FOR VALUABLE CONSIDERATION, receipt and adequacy of which are hereby
acknowledged, the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation
("Grantor"), pursuant to Resolution No. _____, adopted by the Board of Supervisors
on _____, 202_ and approved by the Mayor on _____, 202_, hereby
RELEASES, REMISES AND QUITCLAIMS to _____,
any and all right, title and interest Grantor may have in and to the real property located in the
City and County of San Francisco, State of California, described on the attached Exhibit A.

Executed as of _____.

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

Dated: _____

By: _____
Andrico Q. Penick
Director of Property

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

[NAME OF DEPUTY]
Deputy City Attorney

CERTIFICATE OF ACKNOWLEDGMENT
OF NOTARY PUBLIC

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

State of California)
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____

EXHIBIT E

MCBAINE (234 VAN NESS) FORM DEED

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:
Director of Property
Real Estate Division
City and County of San Francisco
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Documentary Transfer Tax of \$0 based on
full value of the property conveyed

(Space above this line reserved for Recorder's use only)

GRANT DEED

(Assessor's Parcel No. 0811-018)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, 234 VAN NESS LLC., a California limited liability corporation, ("Grantor"), hereby grants to the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the real property located in the City and County of San Francisco, State of California, described on Exhibit A attached hereto and made a part hereof (the "Property").

TOGETHER WITH any and all rights, privileges and easements incidental or appurtenant to the Property, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Property, as well as any and all development rights, air rights, water, water rights, riparian rights and water stock relating to the Property, and any and all easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Property and all of Grantor's right, title and interest in and to any and all roads and alleys adjoining or servicing the Property.

Executed as of _____.

Dated: _____

By: _____
Name:
Its:

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

State of California)
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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

State of California)
County of San Francisco)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

This is to certify that the interest in real property conveyed by this deed dated _____ from the first part to the City and County of San Francisco, is hereby accepted pursuant to Board of Supervisors' Resolution No. 18110 Series of 1939, approved August 7, 1957, and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____ By: _____
Andrico Q. Penick
Director of Property



NOTICE OF FINAL APPROVAL OF AN SB 35 PROJECT

Date: June 3, 2021
BPA No.: **2021.0104.2034**
Planning Record No. **2020-010648PRJ**
Project Address: **240 Van Ness Avenue (aka “The Kelsey Civic Center”)**
Zoning: C-3-G (Downtown - General) District
70-X Height and Bulk District
Block/Lot: 0811/016, 018, 019 and 021
Project Sponsor: Fiona Ruddy
Mercy Housing California
1256 Market Street
San Francisco, CA 94102
Staff Contact: Claudine Asbagh – (628) 652-7329
claudine.asbagh@sfgov.org

Project Description

This project will consolidate four current parcels into a single parcel of approximately 13,518 square feet and demolish the three existing structures. The project will construct an eight (8) story multi-family residential building with 110 affordable units and two managers units, for a total of 112 units, including 80 studio units and 32 two-bedroom units. Twenty-five percent (25%) of the units reserved for households with disabilities who receive home and community based services (HCBS). The building includes residential commons, community rooms, service spaces and management areas at the ground floor, as well as a commercial space facing City Hall (to be developed under a separate permit). A garden courtyard at the ground floor will be accessible to the wider community. The project includes 56 Class 1 bicycle parking spaces for residents.

Background

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

On December 21, 2020, Fiona Ruddy submitted an SB 35 Application for the project at 240 Van Ness Avenue. Department staff determined that the SB 35 Application was complete, and that the proposed project was eligible for SB 35 on January 22, 2021.

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

Project approval

The Project Sponsor seeks to proceed pursuant to Planning Code Section 206.6, Individually Requested State Density Bonus Law, Government Code Section 65915 et seq (the State Law. Under the State Law, a housing development that includes affordable housing is entitled to additional density concessions and incentives, and waivers from development standards that might otherwise preclude the construction of the project. Since the Project Sponsor is providing 110 units of housing affordable to lower- and very low-income households, the project is entitled to a density bonus of 50%, unlimited waivers, and up to three concessions/incentives. The project sponsor is seeking waivers from the development standards for setbacks and streetwall height (Planning Code Section 132.1), rear yard (Planning Code Section 134), open space (Planning Code Section 135), dwelling unit exposure (Planning Code Section 140), active use and transparency (Planning Code Section 145.1), bicycle parking (Planning Code Section 155.2) Reduction of Ground-Level Wind Currents in C-3 Districts ("wind" - Planning Code Section 149) and building height (Planning Code Section 260). and. The project sponsor has requested a concession/incentive from the development standards for Height Restrictions on Structures Shadowing Property Under the Jurisdiction of the Recreation and Park Commission ("shadow" - Planning Code Section 295)

Concessions and Incentives

The Project has requested a concession/incentive from Height Restrictions on Structures Shadowing Property Under the Jurisdiction of the Recreation and Park Commission, otherwise known as "shadow" (Planning Code Section 295). Pursuant to Planning Code Section 206.6, the Department shall grant the concession or incentive requested by the applicant unless the Department makes a written finding, based upon substantial evidence, of any of the following:

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

The requested incentive results in actual cost and identifiable cost reductions for the project. The project is approximately one block from Civic Center Plaza. Pursuant to Planning Code Section 295, developments exceeding 40 feet in height may not cast new shadow on the park without increasing the amount of available shadow hours per year, or "shadow budget." By seeking an incentive from this requirement, project costs are reduced in several ways: first, the project does not require an extensive analysis, prepared by a qualified consultant, to determine the potential impacts of the development on Civic Center Plaza. Should the project cast shadow on Civic Center Plaza, it would need to be reduced in size, which would result in a project that does not include enough units to be competitive for project financing.

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

The requested concessions/incentives from the development standards for shadow would not result in a specific, adverse impact to public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources.

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

The requested concessions/incentives from the development standards for shadow would not be contrary to state or federal law.

Waivers

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

The requested are required to accommodate the proposed project with the density bonus and the requested concessions or incentives permitted by the Density Bonus Law. Waivers from setbacks and streetwall height, rear yard, open space, dwelling unit exposure, and height allow the project sponsor to construct an L-shaped building with an interior courtyard, which better responds to the configuration of the lot and maximizes the number of units on the site. The proposed L-shaped massing also improves the quality of the units, as it provides better access to light and air for all of the units in the building. The requested waiver from wind allows the project to proceed with the proposed massing without the need to further sculpt the building to reduce potential ground level wind currents, which would result in the loss of units. Waivers from bicycle parking, active uses and transparency allow the project to maximize the amenities and services available to residents in the project and the community at large. The project has three street frontages, and literal enforcement of these requirements would drastically reduce the area necessary to adequately support the households in the project. Denial of any of these waivers could preclude the development with the density bonus allowed by the State Density Bonus Law.

The project is not seeking any waivers that would have an adverse impact to real property listed on the California Register of Historical Resources, and is not seeking any waiver that is contrary to state or federal law.

The Department has determined that the project meets all the objective standards of the Planning Code and has completed design review of the project. The project has been approved in accordance with the provisions of SB 35, as recorded in Building Permit Application No. 2021.0104.2034.




GENERAL PLAN REFERRAL

January 25, 2021

Case No.: 2020-011943GPR
Block/Lot No.: 234 VN (0811-018) to City in exchange for a portion of City owned 240 VN (0811-019)
Project Sponsor: City and County of San Francisco, by and through GSA - the Real Estate Division
Applicant: Sandi Levine – (415) 361-1555
Sandi.Levine@sfgov.org
25 Van Ness Avenue, Suite 400
San Francisco, CA 94102
Staff Contact: Sheila Nickolopoulos – (628) 652-7442
Sheila.Nickolopoulos@sfgov.org

Recommended By:



Rich Hillis, Director of Planning

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

Project Description

This is an exchange in property enabling the eventual merger of contiguous City owned parcels and future construction of an affordable housing project that will be subject to all requisite regulations and development processes.

234 Van Ness (0811-018) will be transferred to the City from private owner.

Following demolition of existing buildings on the multiple parcels involved, and a lot line adjustment, a new parcel consisting of a portion of City owned 240 Van Ness (0811-019) will be created and transferred to the private owner who currently owns 234 Van Ness.

Demolition approvals and the lot line adjustment will be addressed in separate submissions to the City by the Mayor's Office of Housing and Community Development and or its agents.

This General Plan Referral and associated CEQA review is requested in conjunction with the proposed conveyance/acceptance of City property and is not specific to any future projects or developments on the properties.

Environmental Review

The proposed project is a real estate transaction only and not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.

General Plan Compliance and Basis for Recommendation

As described below, the proposed exchange in property enabling the eventual merger of contiguous City owned parcels is consistent with the Eight Priority Policies of Planning Code Section 101.1 and is, on balance, in conformity with the Objectives and Policies of the General Plan.

This GPR is for the proposed exchange in property. That exchange will enable the eventual merger of contiguous City owned parcels and the future construction of affordable housing on the site. That housing development will also align with the following General Plan objectives.

The Note: General Plan Objectives are shown in **BOLD UPPER CASE** font; Policies are in **Bold** font; staff comments are in *italic* font.

CIVIC CENTER AREA PLAN

OBJECTIVE 4

PROTECT AND ENHANCE HOUSING RESOURCES IN THE CIVIC CENTER AREA.

Policy 4.2

Encourage new infill housing at a compatible density.

Expanding the supply of housing in the Civic Center Area will complement and enhance the existing housing in the area by providing a broader residential presence.

Increasing the supply of housing in the Civic Center Area will allow more residents to benefit from the Civic Center Area's convenient accessibility to major culture, employment and shopping centers

The project will enable the eventual increase in the supply of affordable housing in the Civic Center area.

DOWNTOWN AREA PLAN

OBJECTIVE 7

EXPAND THE SUPPLY OF HOUSING IN AND ADJACENT TO DOWNTOWN.

Policy 7.2**Facilitate the conversion of underused industrial and commercial areas to residential use.**

Opportunities exist for major new residential development in certain areas close to downtown.

- New housing can be provided there without significant displacement of existing residential units or commercial or industrial activity. In some areas, entire new residential neighborhoods can be created. In others, housing can be introduced on vacant or underused sites adjacent to sites that are and will remain in active commercial or industrial use.

The project will enable eventual new residential development in the Downtown Plan area.

Planning Code Section 101 Findings

Planning Code Section 101.1 establishes Eight Priority Policies and requires review of discretionary approvals and permits for consistency with said policies. The Project—an exchange in property enabling the eventual merger of contiguous City owned parcels—is found to be consistent with the Eight Priority Policies as set forth in Planning Code Section 101.1 for the following reasons:

1. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses enhanced;
The Project would not have a negative effect on existing neighborhood-serving retail uses and will not have a negative effect on opportunities for resident employment in and ownership of neighborhood-serving retail.
2. That existing housing and neighborhood character be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods;
The Project would enable the eventual protection of economic diversity through the provision of affordable housing.
3. That the City's supply of affordable housing be preserved and enhanced;
The Project would enable the eventual enhancement of the City's supply of affordable housing.
4. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking;
The Project would not result in commuter traffic impeding MUNI transit service or overburdening the streets or neighborhood parking.
5. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced;
The Project would not cause displacement of the industrial or service sectors due to office development, and future opportunities for resident employment or ownership in these sectors would not be impaired.
6. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake;
The exchange in property will improve earthquake preparedness because it will enable the demolition of the seismically unsound building at 155 Grove as a step in the lot line adjustment required to deliver the new parcel to the private party.

7. That the landmarks and historic buildings be preserved;
The exchange in property would not have an adverse effect on the City's Landmarks and historic buildings.
8. That our parks and open space and their access to sunlight and vistas be protected from development;
The exchange in property enabling the eventual merger of contiguous City owned parcels would not have an adverse effect on the City's parks and open space and their access to sunlight and vistas.

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



San Francisco Ethics Commission

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

Phone: 415.252.3100 . Fax: 415.252.3112

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

Received On:

File #: 230063

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4

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

A Public Document

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

1. FILING INFORMATION

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

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

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

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Anne Romero	415-203-4951
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
MYR Mayor's Office of Hsg and Comm Dev.	anne.romero@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR The Kelsey Civic Center, L.P.	TELEPHONE NUMBER 415-355-7160
STREET ADDRESS (including City, State and Zip Code) 1256 Market Street San Francisco CA 94103	EMAIL fiona.ruddy@mercyhousing.org

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 230063
DESCRIPTION OF AMOUNT OF CONTRACT Annual Base Rent of \$15,000		
NATURE OF THE CONTRACT (Please describe) <p>Resolution is a request for approval for MOHCD to enter into a Ground Lease for real property owned by the City at 240 Van Ness Ave. for a lease term of 75 years and one 24 year option to extend and an annual base rent of \$15,000 to construct a 100% affordable, 112-unit multifamily rental housing development affordable to low-income households, including 28 units for people with disabilities who are eligible to receive home and community-based services and two resident manager units.</p> <p>75 Year Ground Lease and 24 year option to extend for City-owned property at 240 Van Ness</p>		

7. COMMENTS

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

9. AFFILIATES AND SUBCONTRACTORS

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

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Shoemaker	Doug	Other Principal Officer
2	Tuvilla	Alvin	Board of Directors
3	Gualco	Barbara	Board of Directors
4	Saab	Bruce	Board of Directors
5	Kuwanda	Elizabeth	Board of Directors
6	Dare	Ramie	Board of Directors
7	Ciraulo	Rich	Board of Directors
8	Sprague	Rick	Board of Directors
9	Dunn	Tim	Board of Directors
10	Bayley	Amy	Board of Directors
11	Payne	Chad	Board of Directors
12	Rosenblum	Joe	Board of Directors
13	Bas	Caroline	COO
14	Connery	Micaela	CEO
15	Lee	Aubrie	Board of Directors
16	LaVant	Andraea	Board of Directors
17	King	Carol weld	Board of Directors
18	Sullivan	Cate	Board of Directors
19	Kelly	Dom	Board of Directors

9. AFFILIATES AND SUBCONTRACTORS

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

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
20	Grigsby	Elizabeth	Board of Directors
21	Doyle	Erik	Board of Directors
22	Johnson	Lindsay	Board of Directors
23	Li	Shaina	Board of Directors
24	Cornell	Stephanie	Board of Directors
25	Wade	Steve	Board of Directors
26	Bonda	Swathi	Board of Directors
27	Goodman	Will	Board of Directors
28			
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38			

9. AFFILIATES AND SUBCONTRACTORS

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#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
39			
40			
41			
42			
43			
44			
45			
46			
47			
48			
49			
50			

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

10. VERIFICATION

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

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

SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK

DATE SIGNED

BOS Clerk of the Board



San Francisco Ethics Commission

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

Phone: 415.252.3100 . Fax: 415.252.3112

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

Received On:

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1. FILING INFORMATION

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2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
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3. FILER'S CONTACT

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

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
Anne Romero	415-203-4951
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
MYR Mayor's Office of Hsg. & Comm Dev.	anne.romero@sfgov.org

5. CONTRACTOR	
NAME OF CONTRACTOR The Kelsey Civic Center, L.P.	TELEPHONE NUMBER 415-355-7160
STREET ADDRESS (including City, State and Zip Code) 1256 Market Street, San Francisco CA 94103	EMAIL fiona.ruddy@mercyhousing.org

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 230063
DESCRIPTION OF AMOUNT OF CONTRACT Loan up to \$24,684,459		
NATURE OF THE CONTRACT (Please describe) Resolution is to request approval and authorization of a Loan Agreement in an amount not to exceed \$24,684,459 for a minimum loan term of 57 years to finance the development and construction of a 100% affordable, 112-unit multifamily rental housing development affordable to low-income households, including 28 units for people with disabilities who are eligible to receive home and community-based services, and two resident manager units at The Kelsey Civic Center.		

7. COMMENTS

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

9. AFFILIATES AND SUBCONTRACTORS

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

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Shoemaker	Doug	Board of Directors
2	Tuvilla	Alvin	Board of Directors
3	Gualco	Barbara	Board of Directors
4	Saab	Bruce	Board of Directors
5	Kuwanda	Elizabeth	Board of Directors
6	Clayton	Elizabeth	Board of Directors
7	Dare	Ramie	Board of Directors
8	Ciraulo	Rich	Board of Directors
9	Sprague	Rick	Board of Directors
10	Dunn	Tim	Board of Directors
11	Bayley	Amy	Board of Directors
12	Payne	Chad	Board of Directors
13	Rosenblum	Joe	Board of Directors
14	Bas	Caroline	COO
15	Connery	Micaela	CEO
16	Lee	Aubrie	Board of Directors
17	LaVant	Andraea	Board of Directors
18	King	Carol weld	Board of Directors
19	Sullivan	Cate	Board of Directors

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

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
20	Kelly	Dom	Board of Directors
21	Grigsby	Elizabeth	Board of Directors
22	Doyle	Erik	Board of Directors
23	Johnson	Lindsay	Board of Directors
24	Li	Shaina	Board of Directors
25	Conrell	Stephanie	Board of Directors
26	Wade	Steve	Board of Directors
27	Bonda	Swathi	Board of Directors
28	Goodman	Will	Board of Directors
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List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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☐ Check this box if you need to include additional names. Please submit a separate form with complete information. Select "Supplemental" for filing type.

10. VERIFICATION

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

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

SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK

DATE SIGNED

BOS Clerk of the Board

From: [Conine-Nakano, Susanna \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#); [Shaw, Eric \(MYR\)](#); [Penick, Andrico](#)
Cc: [Paulino, Tom \(MYR\)](#); [Nickolopoulos, Sheila \(MYR\)](#); [Gluckstein, Lisa \(MYR\)](#); [Geithman, Kyra \(MYR\)](#)
Subject: Mayor -- Resolution -- The Kelsey Ground Lease and Loan Agreement
Date: Tuesday, January 24, 2023 4:45:46 PM
Attachments: [Mayor -- Resolution -- The Kelsey Ground Lease and Loan Agreement.zip](#)

Hello Clerks,

Attached for introduction to the Board of Supervisors is a Resolution 1) approving and authorizing the Director of Property and the Mayor's Office of Housing and Community Development ("MOHCD") to enter into a Ground Lease for real property owned by the City located at 240 Van Ness Ave. ("Property") with The Kelsey Civic Center, L.P. for a lease term of 75 years and one 24-year option to extend and an annual base rent of \$15,000 ("Ground Lease") in order to construct a 100% affordable, 112-unit multifamily rental housing development affordable to low-income households, including 28 units for people with disabilities who are eligible to receive home and community-based services, and two resident manager units (the "Project"); 2) approving and authorizing a Loan Agreement in an amount not to exceed \$24,684,459 for a minimum loan term of 57 years ("Loan Agreement") to finance the development and construction of the Project; 3) adopting findings declaring that the Property is "exempt surplus land" pursuant to the California Surplus Lands Act; 4) determining that the less than market rent payable under the Ground Lease will serve a public purpose by providing affordable housing for low-income households in need, in accordance with Administrative Code, Section 23.3; 5) adopting findings that the Project and proposed transactions are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; 6) authorizing the Director of Property to execute the Ground Lease and the Director of MOHCD to execute the Loan Agreement, and make certain modifications to such agreements, as defined herein, and take certain actions in furtherance of this Resolution, as defined herein; and 7) to authorize the Director of Property and/or Director of MOHCD to enter into any additions, amendments, or other modifications to the Ground Lease and the Loan Agreement respectively, that do not materially increase the obligations or liabilities to the City and are necessary to effectuate the purposes of the Ground Lease and the Loan Agreement or this Resolution.

[@Shaw, Eric \(MYR\)](#) [@Penick, Andrico](#), Can you please reply-all to confirm your approval? Thanks!

Best,
Susanna

Susanna Conine-Nakano
Office of Mayor London N. Breed
City & County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102
415-554-6147