**File No.** 240884 **Committee Item No.** 9
**Board Item No.** 15

# COMMITTEE/BOARD OF SUPERVISORS

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**Committee:** Budget and Finance Committee **Date** September 25, 2024
**Board of Supervisors Meeting** **Date** October 1, 2024

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**Completed by:** Brent Jalipa **Date** September 19, 2024
**Completed by:** Brent Jalipa **Date** September 26, 2024

[Acquisition of Real Property - 3300 Mission Partners L.P. - 3300, 3306, and 3308 Mission Street - 100% Affordable Housing - $4,151,000 - Ground Lease with Annual Base Rent of $1 - Loan NTE $12,440,242 - Limited Payment Guaranty Not to Exceed $1,000,000]

**Resolution 1) approving and authorizing the Director of Property, on behalf of the San Francisco Mayor's Office of Housing and Community Development ("MOHCD"), to acquire real property located at 3300, 3306, and 3308 Mission Street ("Property") from 3300 Mission Partners L.P. ("Borrower") for $4,151,000 under an Agreement for Purchase and Sale ("Purchase Agreement"); 2) placing the Property under the jurisdiction of MOHCD for use in constructing affordable housing; 3) approving and authorizing the Director of Property and the Director of MOHCD to enter into a Ground Lease to lease the Property back to the Borrower for a term of 75 years and one 24-year option to extend and an annual base rent of $1 ("Ground Lease") in order to construct a 100% affordable, 35-unit multifamily rental housing development affordable to low-income households, including one manager unit, and ground floor commercial space (the "Project"); 4) approving and authorizing an Amended and Restated Loan Agreement in an amount not to exceed (NTE) $12,440,242 for a minimum loan term of 57 years ("Loan Agreement") to finance the development and construction of the Project; 5) approving and authorizing a limited payment guaranty in an amount not to exceed $1,000,000 from MOHCD for the benefit of Wincopin Circle LLLP ("Limited Payment Guaranty"); 6) adopting findings declaring that the Property is "exempt surplus land" pursuant to the California Surplus Lands Act; 7) determining that the less than market rent payable under the Ground Lease will serve a public purpose by providing affordable housing for low-income households in need, in accordance with Section 23.30 of the Administrative Code; 8) adopting findings that the Project and proposed transactions are consistent with the General Plan, and the eight priority**

**policies of Planning Code, Section 101.1; and 9) authorizing the Director of Property and/or the Director of MOHCD to make certain modifications to the Purchase Agreement, Ground Lease, Loan Agreement, and Limited Payment Guaranty, as defined herein, and take certain actions in furtherance of this Resolution, as defined herein.**

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

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

WHEREAS, On January 27, 2023, MOHCD issued a Notice of Funding Availability: ("NOFA") to solicit qualified affordable housing developers for site acquisition and predevelopment for new construction projects serving low-income households, including homeless households; and

WHEREAS, In response to the NOFA, MOHCD selected Bernal Heights Housing Corporation, a California nonprofit public benefit corporation, Tabernacle Community Development Corporation, a California nonprofit public benefit corporation, and Mitchelville Real Estate Group, a California limited liability company (collectively "Developers"), and the Developers formed 3300 Mission Partners L.P., a California limited partnership ("Borrower"), as an affiliate to acquire and develop property for affordable housing; and

WHEREAS, MOHCD supports the development and production of affordable housing by emerging developers, which MOHCD defines as entities that have developed, owned, rehabilitated, or operated at least one but not more than three similar affordable housing developments, to expand the capacity of small community-based organizations to develop and own affordable housing and mitigate historical barriers; and

WHEREAS, The NOFA required that applicants create opportunities to support the growth of emerging developers in primary development roles, as members of the development team, or as key members of selected development teams; and

WHEREAS, The Developers qualify as emerging developers under the NOFA; and

WHEREAS, On December 21, 2023, MOHCD provided a $4,151,000 loan to the Borrower ("Acquisition Loan") for the acquisition of real property located at 3300, 3306, and 3308 Mission Street in San Francisco (the "Property"), and a $2,349,000 loan to the Borrower for predevelopment activities related to the development of affordable housing on the Property; and

WHEREAS, The Borrower acquired the Property and completed predevelopment activities for the development and construction on the Property of a 100% affordable, 35-unit multifamily rental housing development (including one manager's unit) affordable to low-income households, between 30% to 80% of MOHCD's area median income ("MOHCD AMI"), and including approximately 776 square feet of ground floor commercial space (collectively, the "Project"); and

WHEREAS, On February 12, 2024, by Notice of Final Approval of an AB 2011 Project, the Planning Department by Case No. 2023-006512PRJ determined that the development of the Project met all the standards of the Planning Code and would be eligible for ministerial approval under California Government Code, Section 65912.110

(Assembly Bill 2011), California Public Resources Code, Section 21080, and the CEQA Guidelines, Sections 15002(i)(1), 15268 and 15369, and would therefore not be subject to the California Environmental Quality Act ("CEQA"); a copy of the Planning Department's Notice of Final Approval of an AB 2011 Project is on file with the Clerk of the Board of Supervisors in File No. 240884, and is incorporated herein by reference; and

WHEREAS, By letter dated February 12, 2024, the Planning Department determined the Project was consistent with the City's General Plan, and eight priority policies of Planning Code, Section 101.1 (the "Planning Department Letter"); a copy of the Planning Department Letter is on file with the Clerk of the Board of Supervisors in File No. 240884, and is incorporated herein by reference; and

WHEREAS, City, through MOHCD and the Real Estate Division, in consultation with the Office of the City Attorney, has negotiated the Purchase Agreement to acquire the Property from the Borrower for $4,151,000 in exchange for MOCHD's deemed repayment of the principal and accrued interest of the Acquisition Loan as described in the Acquisition Loan secured promissory note and loan agreement; copies of the Purchase Agreement and Acquisition Loan secured promissory note and loan agreement are on file with the Clerk of the Board of Supervisors in File No. 240884, incorporated herein by reference; and

WHEREAS, The Director of Property determines the Property to be at or below fair market value; and

WHEREAS, MOHCD and the Director of Property have approved the form of the Ground Lease between the City and the Borrower, pursuant to which the City will lease the Property to the Borrower for a term of 75 years and one 24-year option to extend and a base rent of $1 per year, in exchange for the Borrower's agreement, among other things, to construct and operate the Project with rent levels affordable to households up to 80% of

MOHCD AMI; a copy of the Ground Lease in a form substantially approved is on file with the Clerk of the Board of Supervisors in File No. 240884, and is incorporated herein by reference; and

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

WHEREAS, The Property is "exempt surplus land," as defined in California Government Code, Section 54221(f)(1), because the Project will restrict 100% of the residential units to very low and low-income persons and families, pursuant to California Government Code, Section 25539.4; and

WHEREAS, MOHCD is also providing the Borrower with new financial assistance to leverage other funding sources in order for Borrower to construct the Project; and

WHEREAS, On August 16, 2024, the Citywide Affordable Housing Loan Committee, consisting of MOHCD, Department of Homeless and Supportive Housing, the Office of Community Investment and Infrastructure, and the Controller's Office of Public Finance recommended approval to the Mayor of an increase in the loan to the Borrower for the Project for a total amount not to exceed $12,440,242 in local funds under an Amended and Restated Loan Agreement, a copy of which is in a form substantially approved is on file with the Clerk of the Board of Supervisors in File No. 240884, and is incorporated herein by reference ("Loan Agreement"); and

WHEREAS, The Loan Agreement would be entered into under the following material terms: (i) a minimum term of 57 years; (ii) simple interest of at least 3% but no more than the long-term applicable federal rate as of the closing date; (iii) annual repayment of the Loan Agreement by Borrower through residual receipts from the Project; (iv) the Project shall be restricted for life of the Project as affordable housing to low-income households with annual

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

WHEREAS, Borrower intends to subdivide the Property into one residential parcel and one commercial parcel, and if Borrower meets certain conditions described in the Ground Lease after the Project has been constructed, MOHCD intends to seek further Board approval to amend the Ground Lease to remove the commercial parcel from the Ground Lease and enter into a separate commercial ground lease with Borrower's affiliate for the commercial parcel; and

WHEREAS, Pursuant to the First Amended and Restated Agreement of Limited Partnership of the Borrower, Wincopin Circle LLLP, a Maryland limited liability limited partnership ("Investor"), will provide equity for the construction and completion of the Project; and

WHEREAS, As an emerging developer, Developer has limited assets and reserves to satisfy all of its obligations to the Investor, and Investor requested MOHCD provide a limited payment guaranty in an amount not to exceed $1,000,000 in the event Developer cannot complete its obligations to the Project and to the Investor ("Limited Payment Guaranty"); and

WHEREAS, MOHCD desires to provide the Limited Payment Guaranty until the Project converts to permanent financing (approximately three years) in accordance with the documents substantially the form on file with the Clerk of the Board of Supervisors in File No. 240884, and in such final forms as approved by the MOHCD Director and the City Attorney; now, therefore, be it

RESOLVED, That the Board of Supervisors hereby finds that the Project (and associated actions necessary to effectuate the Project) is consistent with the General Plan, and with the eight priority policies of Planning Code, Section 101.1, for the same reasons as

set forth in the Planning Department Letter, and hereby incorporates such findings by reference as though fully set forth in this Resolution; and, be it

FURTHER RESOLVED, That the Board of Supervisors hereby finds, in consideration of the foregoing, that the Property is "exempt surplus land," as defined in California Government Code, Section 54221(f)(1), because the Project will restrict 100% of the residential units to very low and low-income persons and families, pursuant to California Government Code, Section 25539.4; and, be it

FURTHER RESOLVED, That in accordance with the recommendation of the Director of MOHCD and the Director of Property, the Board of Supervisors approves the Purchase Agreement, in substantially the form presented to the Board, and authorizes the Director of MOHCD and the Director of Property to execute and deliver the Purchase Agreement, in substantially the form presented to the Board, and any such other documents that are necessary or advisable to complete the transaction contemplated by the Purchase Agreement, and to effectuate the purpose and intent of this Resolution; and, be it

FURTHER RESOLVED, That MOHCD has legal authority, is willing, and is in a position financially and otherwise to assume immediate care and maintenance of the Property, and that the Director of Property is hereby authorized to accept the deed to the Property from the Borrower upon the closing in accordance with the terms and conditions of the Purchase Agreement, to place the Property under the jurisdiction of MOHCD, and to take any and all steps (including, but not limited to, the execution and delivery of any and all certificates, agreements, notices, consents, escrow instructions, closing documents and other instruments or documents) as the Director of Property deems necessary or appropriate in order to acquire the Property pursuant to the Purchase Agreement, or to otherwise effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Director of Property of any such documents; and, be it

FURTHER RESOLVED, That in accordance with the recommendation of the Director of MOHCD and the Director of Property, the Board of Supervisors approves the Ground Lease in substantially the form presented to the Board, and authorizes the Director of Property (or the Director's designee, as used throughout) and Director of MOHCD (or the Director's designee, as used throughout), to execute and deliver the Ground Lease, in substantially the form presented to the Board, and any such other documents or agreements (including such agreements to provide adequate or additional security or indemnities as required by lenders to consummate the financing of the Project or lease of the Property) that are necessary or advisable, in consultation with the City Attorney, to complete the transaction contemplated by the Ground Lease and to effectuate the purpose and intent of this Resolution, and determines 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; and, be it

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

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

FURTHER RESOLVED, That the Board of Supervisors authorizes the Director of Property and/or Director of MOHCD, in consultation with the City Attorney, to enter into any additions, amendments, or other modifications to the Purchase Agreement, the Ground Lease, the Loan Agreement, and the Limited Payment Guaranty, and any other documents or instruments necessary in connection therewith (including, without limitation, preparation and attachment or, or changes to, any of all of the exhibits and ancillary agreements), that the Director of Property and/or Director of MOHCD determine are in the best interests of the City, do not materially decrease the benefits to the City with respect to the Property, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transaction contemplated in the Purchase Agreement, the Ground Lease, the Loan Agreement, and the Limited Payment Guaranty, and that effectuate the purpose and intent of this Resolution, such determination to be conclusively evidenced by the execution and delivery by the Director of Property and/or the Director of MOHCD of any such additions, amendments, or other modifications; and, be it

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

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

FURTHER RESOLVED, That within thirty (30) days of the Purchase Agreement, the Ground Lease, the Limited Payment Guaranty, and the Loan Agreement being fully executed

by all parties, MOHCD shall provide the final agreements to the Clerk of the Board for inclusion into the official file.

RECOMMENDED:

/s/
Andrico Q. Penick, Director of Property

/s/
Daniel Adams, Director
Mayor's Office of Housing and Community Development

| Item 9<br>File 24-0884 | Department:<br>Mayor's Office of Housing and Community Development |
|---|---|

## EXECUTIVE SUMMARY

### Legislative Objectives

- The proposed resolution would approve: (a) the acquisition of 3300, 3306, and 3308 Mission Street, the site of a proposed affordable housing project, from 3300 Mission Partners, L.P. for $4,151,000; (b) a ground lease for a term of 75 years, with a 24-year option to extend and an annual base rent of $1; (c) a not-to-exceed $12,440,242 amended and restated loan agreement for a minimum loan term of 57 years; and (d) a limited payment guaranty in an amount not to exceed $1,000,000 for approximately 3 years.

### Key Points

- The proposed 3300 Mission project will include a six-story building with 35 studio units of affordable housing, residential community space, and up to 776 square feet of commercial space on the ground floor. Rent will range from 30 to 80 percent of the Mayor's Office of Housing and Community Development (MOHCD) Area Median Income.
- In December 2023, the City awarded 3300 Mission L.P. a $6,500,000 loan, which included $4,151,000 to acquire the property and a $2,349,000 loan for predevelopment activities. MOHCD proposes to amend the loan agreement to increase the loan amount by up to $10,091,242 to complete development and construction, including permanent financing.

### Fiscal Impact

- Total development costs are $41 million or $1.2 million per unit, including acquisition costs. The City's total subsidy for the housing development costs, including acquisition costs, is $16,591,242, or $474,035 per unit, which exceeds the $350,000 maximum in the NOFA.
- Sources of funds for the proposed amended loan of up to $12,440,242 include $11,246,205 in Housing Trust Funds and $1,194,037 in 2023 Certificates of Participation (COP) funds. The source of the City's acquisition loan, which will be forgiven as part of the property purchase, was 2023 COP funds. The source of the limited payment guaranty is the Housing Trust Fund.

### Policy Consideration

- MOHCD is providing certain exceptions for the project because the project is sponsored by an Emerging Developer, in support of MOHCD goals to encourage participation by smaller community-oriented developers. Due to the small size of the project and increased projected costs, the proposed project does not include any units for homeless households and exceeds the maximum subsidy under the NOFA. The site is also not located in a priority area under the NOFA.

### 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) any such contract that 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

### Project Selection for Acquisition and Predevelopment Financing

In January 2023, the Mayor's Office of Housing and Community Development (MOHCD) issued a Notice of Funding Availability (NOFA) for $40 million in designated City funding for site acquisition and predevelopment financing of affordable housing. The NOFA stated that MOHCD intended to provide 25 to 50 percent of total funding to sites located in California Debt Limit Allocation Committee (CDLAC)-defined "High/Highest-resource" areas[1] and provide remaining funding to sites in Priority Equity Geographies[2] as defined in the Housing Element. Additionally, the following goals were established in conjunction with the NOFA:

- Competitiveness for CDLAC funding, including sites that: (a) qualify as High/Highest Resource family development; (b) include at least 45 percent of units for homeless households; and (c) will be developed by a team that qualifies for the BIPOC funding pool
- Construction to start in December 2026
- Interim Use of the site through construction start in December 2026
- Maximized density
- City subsidy of no more than $350,000 per unit including acquisition costs

[1] CDLAC incorporates the California Tax Credit Allocation Committee (CTCAC) and California Department of Housing and Community Development's (HCD) Opportunity Map designations into their application process. High Resource Areas are those that have been shown by research to be associated with positive socioeconomic outcomes for low-income households.

[2] The Department of Public Health (DPH) defines Priority Equity Geographies as areas with a higher density of vulnerable populations, including but not limited to seniors, people of color, youth linguistically isolated households, people with disabilities, and people who are unemployed or living in poverty.

- At least 25 percent of units for households experiencing homelessness, subsidized by the City's Local Operating Subsidy Program (LOSP)
- At least 30 percent of units for extremely low-income households, which may include homeless households
- Alignment with MOHCD racial equity goals

Proposals were due April 7, 2023, and were evaluated by four MOHCD staff and one staff person from the Department of Homelessness and Supportive housing (HSH) on experience (40 points) and various project attributes (60 points).

On May 30, 2023, the NOFA was amended to add $26.5 million in other, unspecified, MOHCD funds, for a total amount of $66.6 million in funding availability.[3] Proposals were due a week later on June 7, 2023, and were evaluated by the same panel using the same criteria as the original NOFA. In response to the NOFA, MOHCD awarded financing to five projects[4] including the 3300 Mission project, sponsored by Bernal Heights Housing. Exhibit 1 below summarizes the results of the developer procurement.

[3] The MOHCD Memo for 2023 Acquisition NOFA Recommendations indicates that the scoring panel requested $2,500,000 in additional funds to satisfy the full acquisition and predevelopment costs for the 249 Pennsylvania project. Neither the $24,000,000 funding request amount nor explanation of when 1234 Great Highway was added to applicant pool was discussed in MOHCD's memo. According to MOHCD, additional funding was identified before the NOFA process was complete and the evaluation panel had already been assembled, so it was more efficient to solicit new proposals under the open solicitation rather than devise a new one.

[4] Three other proposals were submitted but disqualified because they did not meet minimum qualifications.

**Exhibit 1: Sites Awarded Funds and Scoring Under 2023 Acquisition and Predevelopment NOFA**

| Project | Developer | NOFA Score (out of 100) | Estimated Number of Units | Funding Award |
|---|---|---|---|---|
| **250 Laguna Honda** | Mission Housing Development Corporation | 83.2 | 115 | $6,500,000 |
| **3300 Mission** | Bernal Heights Housing | 82.4 | 40 | $6,500,000 |
| **650 Divisadero** | Jonathan Rose Co & Young Community Developers | 80.0 | 95 | $15,000,000 |
| **249 Pennsylvania** | Tenderloin Neighborhood Development Corporation & Young Community Developers | 79.0 | 120 | $13,000,000 |
| **1234 Great Highway** | Tenderloin Neighborhood Development Corporation | 75.0 | 216 | $24,000,000 |
| **Total** | | | **586** | **$65,000,000** |

Source: MOHCD Memo for 2023 Acquisition NOFA Recommendations
Note: The Board of Supervisors approved resolutions authorizing the loans for 1234 Great Highway (File 23-1198) and 650 Divisadero (File 23-1199) in December 2023 and 249 Pennsylvania (File 24-0234) in April 2024. The initial acquisition and predevelopment loans for 250 Laguna Honda and 3300 Mission did not require Board of Supervisors' approval since the loan amounts were below $10 million.

### 3300 Mission Street

The proposed 3300 Mission project will include a six-story building with 35 studio units (including one manager's unit), residential community space, and up to 776 square feet of commercial space on the ground floor. Rent for the residential units will range from 30 to 80 percent of MOHCD Area Median Income. Given the Project's small size, the loan committee waived MOHCD's requirement to reserve at least 25 percent of units for homeless households.

This development is a new construction and adaptive reuse project in the Bernal Heights neighborhood. The site, formerly occupied by the Graywood Hotel and the 3300 Club, was destroyed in a fire in 2016. The redevelopment will preserve the existing façade, which will be major drivers of project costs due to its small, narrow triangular shape, and will add three additional stories. The remainder of the building is unsalvageable and will be demolished. The building is not designated as historic nor is it contributing to a historic district. The façade must be maintained to allow the project to qualify for entitlements streamlining under California Senate Bill 35 (SB35). SB35 prohibits demolition of buildings that have been occupied by tenants in the past 10 years, and there is no exception for buildings destroyed by fire according to the MOHCD Loan evaluation on the proposed gap loan.

Construction is anticipated to begin in November 2024 and is expected to be completed by June 2026. Construction is set to begin earlier than the December 2026 date mentioned in the NOFA due to the project's small size, which made it less competitive for state Housing and Community Development (HCD) funding based on its size and location.

**Project Sponsor**

The project is being developed by three Black-led organizations: Bernal Heights Housing Corporation (BHHC), Tabernacle Community Development Corporation (TCDC) and Mitchelville Real Estate Group (MREG). These developers formed 3300 Mission L.P., a California limited partnership. This is the only all Black-led development team currently in MOHCD's pipeline and underscores MOHCD's commitment to expanding opportunities to smaller and Black-led developers. MOHCD is providing certain exemptions to underwriting guidelines (discussed below) because the project is sponsored by an "Emerging Developer," defined as a developer that has developed, rehabilitated, owned, or operated between one and three affordable housing developments comparable to the proposed project.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would:

1) Approve the acquisition of 3300, 3306, and 3308 Mission Street, from 3300 Mission Partners, L.P. (a California limited partnership) for $4,151,000;
2) Place the property under MOHCD jurisdiction for affordable housing construction;
3) Approve a ground lease with from 3300 Mission Partners, L.P. for a term of 75 years, with a 24-year option to extend and an annual base rent of $1;
4) Approve a not-to-exceed $12,440,242 amended and restated loan agreement for a minimum loan term of 57 years between the City and 3300 Mission Partners, L.P.;
5) Find that the 3300, 3306, and 3308 Mission Street property is exempt from the California Surplus Land Act;
6) 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;
7) Find that the project and related transactions are consistent with the City's General Plan and the priority policies of the Planning Code;
8) Approve a limited payment guaranty in an amount not to exceed $1,000,000 until the Project converts to permanent financing.
9) Authorize the Director of Property and the Director of MOHCD to amend the Purchase Agreement, Ground Lease, Loan Agreement, and Limited Payment Guaranty provided amendments do not increase the obligations or liabilities to the City.

**Purchase and Sale Agreement**

The project Sponsor acquired the site in June 2023 with a loan from the Housing Accelerator Fund (HAF) totaling $3,850,000, which was less than the appraised value of the land ($5,200,000) as of August 2022. MOHCD subsequently provided 3300 Mission L.P. with a $6,500,000 loan, which

included $4,151,000 to acquire the property (including closing costs and accrued interest on the HAF loan) and a $2,349,000 loan for predevelopment activities.

The proposed Purchase and Sale Agreement will transfer ownership of the property from the project sponsor to the City. Upon land transfer to the City, the original MOHCD acquisition loan of $4,151,000 with zero percent interest will be considered paid in full. The loan amount to be forgiven ($4,151,000) is greater than the September 2024 appraised value of the land ($2,940,000) but less than the August 2022 appraised value of the land ($5,200,000), due to a decline in property values since the purchase.[5]

**Ground Lease & Affordability Restrictions**

The proposed ground lease has a term of 75 years and gives 3300 Mission Partners, L.P. one 24-year extension option, for a maximum term of 99 years. During the initial lease term, the proposed base rent is $1 per year plus residual rent payable from residual receipts after full repayment of the MOHCD loan, up to a total rent of 10 percent of appraised fair market value. (Consistent with MOHCD's Residual Receipts policy, the term "residual receipts" refers to up to two-thirds of net income after operating costs, ground lease base rent, and replenishing operating reserves.) As allowed under MOHCD Underwriting Guidelines, base rent is lower than the standard of $15,000 per year because the project is sponsored by an Emerging Developer. Base rent during the extension period would be negotiated between 3300 Mission Partners, L.P. and the City and would have to be at least the annual rent of the initial lease term.

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 recorded against the property as a Declaration of Restrictions. The unit mix by maximum income level is shown in Exhibit 2 below.

**Exhibit 2: Income and Rent Restrictions**

| Maximum Income Level | Studio |
|---|---|
| 30% of AMI | 11 |
| 60% of AMI | 10 |
| 80% of AMI | 13 |
| Unrestricted (Manager's Unit) | 1 |
| **Total** | **35** |

Source: Draft Declaration of Restrictions

**Loan Agreement**

The original loan agreement provided by MOHCD in 2023 included $2,349,000 for predevelopment costs. MOHCD proposes to amend the loan agreement to increase the loan amount by up to $10,091,242 to complete development and construction, including permanent

[5] The August 2022 appraisal valued the property at $5,680,000, including the land value of $5,200,000 and $480,000 in shell improvements due to the condition of the building. The September 2024 appraisal did not value the shell improvements, so we use the land value for both estimates for consistency.

financing. Under the proposed amended loan agreement, the total loan amount would increase up to $12,440,242.

The project sponsor 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. The interest rate is three percent per year.

*Bridge Loan*

Under the proposed loan agreement, $2,100,000 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 an AHP loan in 2025 and if not successful, again in 2026 according to the proposed Amended and Restated Loan Agreement.

**Loan Documents**

The proposed resolution also approves the following associated loan documents:

- Declaration of Restrictions, which requires the Project Sponsor to maintain the housing affordability levels defined in the loan agreement for the life of the project, even after the loan is paid in full or otherwise satisfied;
- The Amended and Restated Secured Promissory Note for the loan; and
- The Deed of Trust between 3300 Mission Partners L.P. and Chicago Title Insurance Company, on behalf of the City as lender.

**Limited Payment Guaranty**

In addition to the loan, the Project is requesting support in meeting their liquidity guarantee, which lenders and investors require to ensure sponsors have enough cash to address additional development costs. According to MOHCD's Loan Evaluation memo on the proposed loan, as a small developer, the project sponsor does not have significant cash resources to use for reserves. As a result, they are requesting a limited payment guaranty in an amount not to exceed $1 million until the Project converts to permanent financing.

The proposed resolution approves the following associated documents:

- The Funding Agreement between the City and the project Sponsor for the benefit of Wincopin Circle LLLP (the Limited Partner) stipulating that MOHCD agrees to lend the Project Sponsor $1 million pursuant to the terms of the Demand Note if needed to fulfill obligations of the project, provided that the Project Sponsor is unable to meet the obligations with its own funds. The agreement expires in three years or the date when the Project converts to permanent financing, whichever is earlier.
- The Demand Note between the borrower (BHHC, TCDC, and MREG) and the City, stipulating that the borrower will repay the City for the loan amount, which does not accrue interest, upon demand.

- The Pledge Agreement between BHHC, TCDC, and MREG and 3300 Mission Partners L.P., under which BHHC, TCDC, and MREG pledge and assign rights and obligations under the Demand Note to 3300 Mission Partners L.P.

**Sponsor Performance**

According to the MOHCD loan evaluation, there are no outstanding performance issues with any of the Sponsors.

## FISCAL IMPACT

**Total Development Costs**

Total development costs are $41 million or $1.2 million per unit, including acquisition costs, as shown in Exhibit 3 below. Of the approximately $41 million, $16.6 million (40%) are City funds, and $24.4 million (60%) are private funds (which benefit from tax credits awarded to the project).

**Exhibit 3: Total Development Costs**

| Sources and Uses | Amount |
|---|---|
| Sources | |
| MOHCD Acquisition Loan | 4,151,000 |
| MOHCD Gap Loan (proposed) | 12,440,242 |
| Limited Partner Equity | 24,400,800 |
| **Total Sources** | **$40,992,042** |
| Uses | |
| Acquisition (incl. holding costs) | 4,151,000 |
| Hard Costs (incl. 14.6% contingency) | 23,802,873 |
| Soft Costs (incl. 5.2% contingency) | 10,201,119 |
| Reserves | 212,050 |
| Developer Fee | 2,625,000 |
| **Total Uses** | **$40,992,042** |

Source: MOHCD
Note: The proposed $12,440,242 loan does not include the $1,000,000 liquidity guarantee from MOHCD.

**Funding Sources for City Loan**

Sources of funds for the proposed amended and restated loan of up to $12,440,242 include:

- $11,246,205 in Housing Trust Fund funds, and
- $1,194,037 in 2023 Certificates of Participation (COPs) funds.

The source of the City's acquisition loan, which will be forgiven as part of the property purchase, is 2023 Certificates of Participation funds.

The source of the $1 million limited payment guaranty is the Housing Trust Fund.

**City Subsidy per Housing Unit**

The City's total subsidy for the housing development costs, including acquisition costs, is $16,591,242 million, or $474,035 per unit, which exceeds the maximum City subsidy of $350,000 per unit (including the cost of land) under the NOFA. According to MOHCD, the higher subsidy is attributed to lower projected costs at the time of the award, increased site-specific costs, and design limitations that reduced the number of units from the originally planned 40 to 35. Excluding acquisition costs, the city subsidy is $12,440,242, or $355,435 per unit. The City subsidy per unit is shown in Exhibit 4 below.

**Exhibit 4: City Subsidy for Affordable Housing Units**

| | |
|---|---|
| Number of Units | 35 |
| Total residential area (sq. ft.) | 19,460 |
| Development Cost | $40,992,042 |
| Total City subsidy | $16,591,242 |
| Development cost per unit | $1,171,201 |
| City Subsidy per unit | $474,035 |
| City Subsidy per sq. ft. | $853 |

Source: MOHCD

According to the MOHCD loan evaluation memo for the proposed gap loan, the construction cost per square foot for the Project is 116 percent more than comparable projects, although it is similar on a per unit basis to comparable projects. Costs per square foot are greater than comparable projects due to: (a) small project size of 35 units compared to comparable projects' average of 76 units, reducing economies of scale; (b) a three-story historic façade being preserved; and (c) significant foundation work anticipated to add three additional floors. In addition, soft costs for the Project are 152 percent higher per square feet than comparable projects due to the relatively small size of the project limiting the ability to spread costs across a larger number of units. There are limited projects of this small size to compare to in recent years and few recent projects in MOHCD's portfolio have fewer than 50 units.

**Operating Budget**

Project revenue consists of tenant rents and laundry and vending charges. According to the 20-year cash flow analysis for the project, the project will have sufficient revenues to cover operating expenses, reserves, and management fees. However, cash flow is not sufficient to pay management fees and investor fees for ten years of the next twenty years. According to MOHCD's loan evaluation, the Sponsor will seek additional funding sources such as Project-Based Vouchers (PBVs) from the San Francisco Housing Authority to subsidize the 30 percent AMI units. If the vouchers are not secured, the Project would not fully fund management fees to the Sponsor. According to MOHCD staff, management fees are additional income to the Sponsor and not a required payment. A portion of net income after operating expenses (residual receipts) will be used to repay the MOHCD loan in years 16 through 19. However, the Project is not expected to generate sufficient net revenues to make residual rent payments under the proposed Ground Lease.

## POLICY CONSIDERATION

**Exceptions for Emerging Developer**

MOHCD is providing certain exceptions for the project because the project is sponsored by an Emerging Developer, in support of MOHCD goals to encourage participation by smaller community-oriented developers. MOHCD is proposing to provide a liquidity guaranty of up to $1 million because the sponsor does not have significant cash resources to use as reserves during development. In addition, as allowed under MOHCD Underwriting Guidelines, MOHCD is providing the following exceptions because the project is sponsored by an Emerging Developer:

- Base rent under the proposed ground lease ($1 per year) is lower than the standard of $15,000 per year; and
- Waiver of annual repayments of MOHCD loan with residual receipts for the first five years under the proposed amended and restated loan agreement.
- The portion of residual receipts due to the City for loan repayment will be 50 percent instead of 66 percent under the proposed amended and restated loan agreement.

**Exceptions from NOFA Requirements and Funding Goals**

The proposed project does not meet some of the goals of the NOFA due to the small size of the project and increased projected costs compared to the time of funding award. Specifically:

- The project does not provide any units for homeless households (the NOFA had a goal of projects setting aside at least 25% of units for formerly homeless, which would amount to 9 units in this project)
- The City subsidy per unit ($474,035) exceeds the maximum of $350,000 per unit in the NOFA

In addition, the site is located in a "moderate" resource area rather than a High/Highest resource area and is not located in a Priority Equity Geography. Location in a High/Highest resource area or a Priority Equity Geography was not a requirement under the NOFA although the NOFA stated that it was MOHCD's intention to use funding for projects in these areas. However, the $40 million in Certificates of Participation funding that largely funded acquisition and predevelopment loans under the NOFA was allocated by the Board of Supervisors to support acquisitions in High resource areas.[6] As noted above, the project meets other criteria in the NOFA, including creating opportunities for emerging developers and serving low-income households.

[6] In 2022, the Board of Supervisors appropriated $112 million in Certificates of Participation proceeds for FY 2022-2023 intended to develop and repair the City's affordable housing stock in line with the General Plan's housing element. This funding, administered by MOHCD, allocates $40 million for acquisition of 100 percent affordable housing projects in CDLAC-designated high-resource areas

## RECOMMENDATION

Approve the proposed resolution.

# AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE

by and between
3300 MISSION PARTNERS L.P., a California limited partnership,
as Seller

and

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation,
as Buyer

For the Purchase and Sale of

3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA

[_____, 2024]

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LIST OF EXHIBITS

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SCHEDULE 1 – SELLER'S ENVIRONMENTAL DISCLOSURE

**AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE**
(3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA)

THIS AGREEMENT OF PURCHASE AND SALE FOR REAL ESTATE (this "Agreement") dated for reference purposes only as of [_____, 2024] is by and between 3300 MISSION PARTNERS L.P., a California limited partnership ("Seller"), and the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Buyer" or "City").

IN CONSIDERATION of the payment of the Purchase Price (defined below) by City, and the respective agreements contained in this Agreement, Seller and City agree as follows:

## 1. PURCHASE AND SALE

### 1.1 Property Included in Sale

Seller agrees to sell and convey to City, and City agrees to purchase from Seller, subject to the terms, covenants and conditions hereinafter set forth, the following:

**(a)** the real property consisting of approximately 3,072 (0.072) acres of land, located in the City and County of San Francisco, commonly known as 3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, and more particularly described in Exhibit A attached hereto (the "Land");

**(b)** all improvements and fixtures located on the Land (collectively the "Improvements") including a three-story, plus basement, mixed-use building;

**(c)** any and all rights, privileges, and easements incidental or appurtenant to the Land or Improvements, including, without limitation, any and all minerals, oil, gas and other hydrocarbon substances on and under the Land, as well as any and all development rights, air rights, water, water rights, riparian rights and water stock relating to the Land, and any and all easements, rights-of-way or other appurtenances used in connection with the beneficial use and enjoyment of the Land or Improvements, and any and all of Seller's right, title and interest in and to all roads and alleys adjoining or servicing the Land or Improvements (collectively, the "Appurtenances").

All of the items referred to in Subsections (a), (b), and (c) above are collectively referred to as the "Property."

## 2. PURCHASE PRICE

### 2.1 Purchase Price

The total purchase price for the Property is [Four Million One Hundred Fifty One Thousand] and No/100 Dollars ($4,151,000)] (the "Purchase Price").

### 2.2 Payment

City previously loaned Four Million One Hundred Fifty One Thousand ($4,151,000.00) (the “City Loan”) to acquire the Property.

On the Closing Date (as defined in Section 6.2 Closing Date), City will pay the Purchase Price as a credit toward the unpaid principal balance of the City Loan.

### 2.3 Funds

Except for the credit as provided in Section 2.2, all payments made by any party to this Agreement shall be in legal tender of the United States of America, paid by Controller's warrant or in cash or by wire transfer of immediately available funds to Title Company (as defined in Section 3.2), as escrow agent.

## 3. TITLE TO THE PROPERTY

### 3.1 Conveyance of Title to the Property

At the Closing Seller shall convey to City, or its nominee, marketable and insurable fee simple title to the Land, the Improvements and the Appurtenances, by duly executed and acknowledged grant deed in the form attached hereto as Exhibit B (the "Deed"), subject to the Accepted Conditions of Title (as defined in Section 3.2 Title Insurance).

### 3.2 Title Insurance

Delivery of title in accordance with the preceding Section shall be evidenced by the commitment of Chicago Title Insurance Company (the "Title Company") to issue to City an ALTA extended coverage owner's policy of title insurance (Form ALTA 2006 – updated 6/17/2006) (the "Title Policy") in the amount of the Purchase Price, insuring fee simple title to the Land, the Appurtenances and the Improvements in City free of the liens of any and all deeds of trust, mortgages, assignments of rents, financing statements, rights of tenants or other occupants and all other exceptions, liens and encumbrances except solely for the Accepted Conditions of Title pursuant to Section 5.1(a) below. The Title Policy must provide full coverage against mechanics' and materialmen's liens arising out of the construction, repair or alteration of any of the Property, and contain an affirmative endorsement that there are no violations of restrictive covenants, if any, affecting the Property such special endorsements as City may reasonably request.

## 4. Intentionally Omitted

## 5. ENTRY

At all times prior to the Closing Date Seller shall afford City and its Agents reasonable access to the Property and all books and records located therein for the purposes of satisfying City with respect to the representations, warranties and covenants of Seller contained herein and the satisfaction of the Conditions Precedent including, without limitation, the drilling of test wells and the taking of soil borings. City hereby agrees to indemnify and hold Seller harmless from any damage or injury to persons or property caused by the active negligence or willful misconduct of City or its Agents during any such entries onto the Property prior to the Closing, except to the extent such damage or injury is caused by the acts or omissions of Seller or any of 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 the Property, including the Improvements. In the event this Agreement is terminated for any reason other than Seller's default hereunder, City shall restore the Property to substantially the condition it was found subject to applicable laws. This indemnity shall survive the termination of this Agreement or the Closing, as applicable, provided that Seller must give notice of any claim it may have against City under such indemnity (i) within six (6) months of such termination if the claim is brought by a third party against Seller or (ii) within three (3) months of such termination or the Closing Date, as applicable, if the claim involves damage to Seller's Property or any other claim not brought by a third party against the Seller.

**5.1 City's Conditions to Closing**

The following are conditions precedent to City's obligation to purchase the Property (collectively, "Conditions Precedent"):

**(a)** City shall have reviewed and approved title to the Property, as follows:

**(i)** Within seven (7) days after the date City and Seller execute this Agreement, Seller shall deliver to City a current extended coverage preliminary report on the Real Property, issued by Title Company, accompanied by copies of all documents referred to in the report (collectively, the "Preliminary Report");

**(ii)** Within the period referred to in clause (i) above, or at such later date as may be agreed to by City, Seller shall deliver to Buyer copies of any existing or proposed easements, covenants, restrictions, agreements or other documents that affect the Property, and are not disclosed by the Preliminary Report; and

**(iii)** City may at its option arrange for an "as-built" survey of the Real Property and Improvements prepared by a licensed surveyor (the "Survey"). Such survey shall be acceptable to, and certified to, City and Title Company and in sufficient detail to provide the basis for and the Title Policy without boundary, encroachment or survey exceptions.

**(iv)** City shall advise Seller, prior to Closing, what exceptions to title, if any, City is willing to accept (the "Accepted Conditions of Title"). City's failure to so advise Seller within such period shall be deemed disapproval of title. Seller shall have ten (10) days after receipt of City's notice of any objections to title to give City: (A) evidence satisfactory to City of the removal of all objectionable exceptions from title or that such exceptions will be removed or cured on or before the Closing; or (B) notice that Seller elects not to cause such exceptions to be removed. If Seller gives notice under clause (B), City shall have ten (10) business days to elect to proceed with the purchase or terminate this Agreement. If City shall fail to give Seller notice of its election within such ten (10) days, City shall be deemed to have elected to terminate this Agreement. If Seller gives notice pursuant to clause (A) and fails to remove any such objectionable exceptions from title prior to the Closing Date, and City is unwilling to take title subject thereto, Seller shall be in default hereunder and City shall have the rights and remedies provided herein or at law or in equity.

**(b)** City's review and approval of the physical and environmental conditions of the Property, including, without limitation, structural, mechanical, electrical and other physical conditions of the Property. Such review may include an examination for the presence or absence of any Hazardous Material (as defined in Section 8.1(j)

**(c)** City's review and approval of the compliance of the Property with all applicable laws, regulations, permits and approvals.

**(d)** City's review and approval of **(i)** the following documents, all to the extent such documents exist and are either in the possession or control of Seller or may be obtained by Seller through the exercise of commercially reasonable efforts: structural calculations for the Improvements; site plans; certified copies of the as-built plans and specifications for the Improvements; recent inspection reports by Seller's engineers; service contracts; utility contracts; maintenance contracts; employment contracts, management contracts; brokerage and leasing commission agreements which may continue after Closing; certificates of occupancy; presently effective warranties or guaranties received by Seller from any contractors, subcontractors, suppliers or materialmen in connection with any construction, repair or alteration of the Improvements or any tenant improvements; insurance policies, insurance certificates of tenants, and reports of insurance carriers insuring the Property and each portion thereof respecting the claims history of the Property; environmental reports, studies, surveys, tests and assessments; soils and geotechnical reports; and any other contracts or documents of significance to the Property (collectively, the "Documents"); and **(ii)** such other information relating to the Property that is specifically requested by City of Seller in writing before the Closing (collectively, the "Other Information").

**(e)** Seller shall not be in default in the performance of any covenant or agreement to be performed by Seller under this Agreement, and all of Seller's representations and warranties contained in or made pursuant to this Agreement shall have been true and correct when made and shall be true and correct as of the Closing Date.

**(f)** The physical condition of the Property shall be substantially the same on the Closing Date as on the date of City's execution of this Agreement, reasonable wear and tear and loss by casualty excepted (subject to the provisions of Section 9.1 Risk of Loss), and, as of the Closing Date, except as may be otherwise expressly approved by the City, there shall be no litigation or administrative agency or other governmental proceeding, pending or threatened, which after the Closing would materially adversely affect the value of the Property or the ability of City to operate the Property for its intended use, and no proceedings shall be pending or threatened which could or would cause the change, redesignation or other modification of the zoning classification of, or of any building or environmental code requirements applicable to, any of the Property.

**(g)** Title Company shall be committed at the Closing to issue to City, or its nominee, (i) the Title Policy as provided in Section 3.2 Title Insurance

**(h)** The City's Mayor and the Board of Supervisors, in the respective sole discretion of each, shall have enacted a resolution approving, adopting and authorizing this Agreement and the transactions, on or before Closing Date.

**(i)** Seller shall have delivered the items described in Section 6.3 below Seller's Delivery of Documents on or before the Closing.

**(j)** Title Company shall have agreed to be the real estate reporting person for the Closing in compliance with the Reporting Requirements (as defined in Section 6.6 [Title Company as Real Estate Reporting Person] below).

The Conditions Precedent contained in the foregoing Subsections (a) through (j) are solely for the benefit of City. If any Condition Precedent is not satisfied, City shall have the right in its sole discretion either to waive in writing the Condition Precedent in question and proceed with the purchase or, in the alternative, terminate this Agreement, provided that the Conditions Precedent described in items h and j above may not be waived. The waiver of any Condition Precedent shall not relieve Seller of any liability or obligation with respect to any representation, warranty, covenant or agreement of Seller. In addition, the Closing Date may be extended, at City's option, for a reasonable period of time specified by City, to allow such Conditions Precedent to be satisfied, subject to City's further right to terminate this Agreement upon the expiration of the period of any such extension if all such Conditions Precedent have not been satisfied.

In the event the sale of the Property is not consummated because of a default under this Agreement on the part of Seller or if a Condition Precedent cannot be fulfilled because Seller frustrated such fulfillment by some affirmative act or negligent omission, City may, at its sole election, either **(1)** terminate this Agreement by delivery of notice of termination to Seller, whereupon Seller shall pay to City any title, escrow, legal and inspection fees incurred by City and any other expenses incurred by City in connection with the performance of its due diligence review of the Property, and neither party shall have any further rights or obligations hereunder, or **(2)** continue this Agreement pending City's action for specific performance and/or damages hereunder, including, without limitation, City's costs and expenses incurred hereunder.

**5.2 Cooperation with City**

Seller shall cooperate with City and do all acts as may be reasonably requested by City with regard to the fulfillment of any Conditions Precedent including, without limitation, execution of any documents, applications or permits, but Seller's representations and warranties to City shall not be affected or released by City's waiver or fulfillment of any Condition Precedent. Seller hereby irrevocably authorizes City and its Agents to make all inquiries with and applications to any person or entity, including, without limitation, any regulatory authority with jurisdiction as City may reasonably require to complete its due diligence investigations.

**5.3 Seller's Conditions to Closing**

The following is a condition precedent to Seller's obligation to sell the Property: City and Seller shall have executed a ground lease pursuant to which City shall ground lease the Property to Seller for the purposes of constructing and operating an affordable housing project (the "Ground Lease").

## 6. ESCROW AND CLOSING

### 6.1 Opening of Escrow

On or before the Effective Date (as defined in Article 11 General Provisions), the parties shall open escrow by depositing an executed counterpart of this Agreement with Title Company, and this Agreement shall serve as instructions to Title Company as the escrow holder for consummation of the purchase and sale contemplated hereby. Seller and City agree to execute such additional or supplementary instructions as may be appropriate to enable the escrow holder to comply with the terms of this Agreement and close the transaction; provided, however, that in the event of any conflict between the provisions of this Agreement and any additional supplementary instructions, the terms of this Agreement shall control.

### 6.2 Closing Date

The consummation of the purchase and sale contemplated hereby (the "Closing") shall be held and delivery of all items to be made at the Closing under the terms of this Agreement shall be made at the offices of Chicago Title Company located at One Embarcadero Center, Suite 250, San Francisco, California 94111, on [_____], 2024, or on such earlier date as City and Seller may mutually agree (the "Closing Date"), subject to the provisions of Article 5 Conditions Precedent. The Closing Date may not be extended without the prior written approval of both Seller and City, except as otherwise expressly provided in this Agreement. In the event 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 to the depositor thereof items which may have been deposited hereunder. Any such return shall not, however, limit the provisions hereof or otherwise relieve either party hereto of any liability it may have for its wrongful failure to close.

### 6.3 Seller's Delivery of Documents

At or before the Closing, Seller shall deliver to City through escrow, the following:

**(a)** a duly executed and acknowledged Deed;

**(b)** originals of the Documents and any other items relating to the ownership or operation of the Property not previously delivered to City;

**(c)** a properly executed affidavit pursuant to Section 1445(b)(2) of the Federal Tax Code in the form attached hereto as Exhibit C, and on which City is entitled to rely, that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code;

**(d)** a properly executed California Franchise Tax Board Form 590 certifying that Seller is a California resident if Seller is an individual or Seller has a permanent place of business in California or is qualified to do business in California if Seller is a corporation or other evidence satisfactory to City that Seller is exempt from the withholding requirements of Section 18662 of the State Tax Code;

**(e)** such resolutions, authorizations, or other partnership documents or agreements relating to Seller and its partners as City or the Title Company may reasonably require to demonstrate the authority of Seller to enter into this Agreement and consummate the transactions contemplated hereby, and such proof of the power and authority of the individuals executing any documents or other instruments on behalf of Seller to act for and bind Seller;

**(f)** closing statement in form and content satisfactory to City and Seller;

**(g)** a duly executed and acknowledged Memorandum of Ground Lease and a duly executed Ground Lease; and

**(h)** the duly executed certificate regarding the continued accuracy of Seller's representations and warranties as required by Section 5.1 hereof.

**6.4 City's Delivery of Documents and Funds**

At or before the Closing, City shall deliver to Seller through escrow the following:

**(a)** an acceptance of the Deed executed by City's Director of Property;

**(b)** a closing statement in form and content satisfactory to City and Seller; and

**(c)** a duly executed and acknowledged Memorandum of Ground Lease and a duly executed Ground Lease.

**6.5 Other Documents**

Seller and City shall each deposit such other instruments as are reasonably required by Title Company as escrow holder or otherwise required to close the escrow and consummate the purchase of the Property in accordance with the terms hereof.

**6.6 Title Company as Real Estate Reporting Person**

Section 6045(e) of the United States Internal Revenue Code of 1986 and the regulations promulgated thereunder (collectively, the "Reporting Requirements") require that certain information be made to the United States Internal Revenue Service, and a statement to be furnished to Seller, in connection with the Closing. Seller and City agree that if the Closing occurs, Title Company will be the party responsible for closing the transaction contemplated in this Agreement and is hereby designated as the real estate reporting person (as defined in the Reporting Requirements) for such transaction. Title Company shall perform all duties required of the real estate reporting person for the Closing under the Reporting Requirements, and Seller and City shall each timely furnish Title Company with any information reasonably requested by Title Company and necessary for the performance of its duties under the Reporting Requirements with respect to the Closing.

## 7. EXPENSES AND TAXES

**7.1 Apportionments**

The following are to be apportioned through escrow as of the Closing Date:

**(a) Utility Charges**

Seller shall cause all the utility meters to be read on the Closing Date, and will be responsible for the cost of all utilities used prior to the Closing Date. All utility deposits paid by

Seller shall remain the property of Seller and City shall reasonably cooperate to cause such deposits to be returned to Seller to the extent Seller is entitled thereto.

**(b) Other Apportionments**

Amounts payable under any contracts assumed pursuant hereto, annual or periodic permit or inspection fees (calculated on the basis of the period covered), and liability for other normal Property operation and maintenance expenses and other recurring costs shall be apportioned as of the Closing Date.

**7.2 Closing Costs**

Seller shall pay the cost of the Survey, if any, the premium for the Title Policy and the cost of the endorsements thereto, and escrow and recording fees. Seller shall pay the cost of any transfer taxes applicable to the sale. Seller shall be responsible for all costs incurred in connection with the prepayment or satisfaction of any loan, bond or other indebtedness secured by the Property including, without limitation, any prepayment fees, penalties or charges. Any other costs and charges of the escrow for the sale not otherwise provided for in this Section or elsewhere in this Agreement shall be allocated in accordance with the closing customs for San Francisco County, as determined by Title Company.

**7.3 Real Estate Taxes and Special Assessments**

General real estate taxes payable for the tax year prior to year of Closing and all prior years shall be paid by Seller at or before the Closing. General real estate taxes payable for the tax year of the Closing shall be prorated through escrow by Seller and City as of the Closing Date. At or before the Closing, Seller shall pay the full amount of any special assessments against the Property, including, without limitation, interest payable thereon, applicable to the period prior the Closing Date.

**7.4 Post-Closing Reconciliation**

If any of the foregoing prorations cannot be calculated accurately on the Closing Date, then they shall be calculated as soon after the Closing Date as feasible. Either party owing the other party a sum of money based on such subsequent prorations shall promptly pay such sum to the other party.

**7.5 Survival**

The provisions of this Section shall survive the Closing.

## 8. REPRESENTATIONS AND WARRANTIES

**8.1 Representations and Warranties of Seller**

Seller represents and warrants to and covenants with City as follows:

**(a)** To the best of Seller's knowledge, except for code violations caused by the fire at the Property that occurred prior to Seller's acquisition of the Property, there are now, and at the time of the Closing will be, no material physical or mechanical defects of the Property, and no violations of any laws, rules or regulations applicable to the Property, including, without limitation, any earthquake, life safety and handicap laws (including, but not limited to, the Americans with Disabilities Act).

**(b)** The Documents and Other Information furnished to City are all of the relevant documents and information pertaining to the condition and operation of the Property to the extent available to Seller, and are and at the time of Closing will be true, correct and complete copies of such documents.

**(c)** No document or instrument furnished or to be furnished by the Seller 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; provided however that for any documents or instruments furnished by Seller that were prepared by a third party, such representation shall only be to the best of Seller's knowledge.

**(d)** Seller does not have knowledge of any condemnation, either 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 the Property.

**(e)** There are no easements or rights of way which have been acquired by prescription or which are otherwise not of record with respect to the Property, and there are no easements, rights of way, permits, licenses or other forms of agreement which afford third parties the right to traverse any portion of the Property to gain access to other real property. There are no disputes with regard to the location of any fence or other monument of the Property's boundary nor any claims or actions involving the location of any fence or boundary.

**(f)** There is no litigation pending or, after due and diligent inquiry, to the best of Seller's knowledge, threatened, against Seller or any basis therefor that arises out of the ownership of the Property or that might detrimentally affect the use or operation of the Property for its intended purpose or the value of the Property or the ability of Seller to perform its obligations under this Agreement.

**(g)** Seller is the legal and equitable owner of the Property, with full right to convey the same, and without limiting the generality of the foregoing, Seller has not granted any option or right of first refusal or first opportunity to any third party to acquire any interest in any of the Property.

**(h)** Seller is a California limited partnership 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 Seller which are to be delivered to City at the Closing are, or at the Closing will be, duly authorized, executed and delivered by Seller, are, or at the Closing will be, legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their respective terms, are, and at the Closing will

be, sufficient to convey good and marketable title (if they purport to do so), and do not, and at the Closing will not, violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

**(i)** Seller represents and warrants to City that it has not been suspended, disciplined or disbarred by, or prohibited from contracting with, any federal, state or local governmental agency. In the event Seller has been so suspended, disbarred, disciplined 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, debarment, discipline or prohibition may result in the termination or suspension of this Agreement.

**(j)** Seller knows of no facts nor has Seller failed to disclose any fact that would prevent City from using and operating the Property after Closing in the normal manner in which it is intended.

**(k)** Seller hereby represents and warrants to and covenants with City that the following statements are true and correct and will be true and correct as of the Closing Date: (i) neither the Property nor to the best of Seller's knowledge any real estate in the vicinity of the Property is in violation of any Environmental Laws; (ii) the Property is not now, nor to the best of Seller's knowledge has it ever been, used in any manner for the manufacture, use, storage, discharge, deposit, transportation or disposal of any Hazardous Material, except as described in Schedule 1 ("Seller's Environmental Disclosure"); (iii) there has been no release and there is no threatened release of any Hazardous Material in, on, under or about the Property during the time Seller has owned the Property; (iv) there have not been and 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 Property, or if there have been or are any such tanks or wells located on the Property, their location, type, age and content has been specifically identified in Seller's Environmental Disclosure, they have been properly registered with all appropriate authorities, they are in full compliance with all applicable statutes, ordinances and regulations, and they have not resulted in the release or threatened release of any Hazardous Material into the environment; (v) the Property does not consist of any landfill or of any building materials that contain Hazardous Material; and (vi) the 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, to the best of Seller's knowledge, 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 the Property, or the migration of Hazardous Material from or to other property. As used herein, 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" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Section 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to 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 the Improvements or are naturally occurring substances on or about the Property; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids; and "source," "special nuclear" and "by-product" material as defined in the Atomic Energy Act of 1985, 42 U.S.C. Section 3011 et seq.

**(iii)** "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. 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).

**(l)** There are now, and at the time of Closing will be, no leases or other occupancy agreements affecting any of the Property. At the time of Closing there will be no outstanding written or oral contracts made by Seller for any of the Improvements that have not been fully paid for and Seller shall cause to be discharged all mechanics' or materialmen's liens arising from any labor or materials furnished to the Property prior to the time of Closing. There are no obligations in connection with the Property which will be binding upon City after Closing except for matters that are set forth in the Preliminary Report**.**

**(m)** Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Federal Tax Code.

**8.2 Indemnity**

Seller, on behalf of itself and its successors and assigns, hereby agrees to indemnify, defend and hold harmless City, its Agents and their respective successors and assigns, from and against any and all liabilities, claims, demands, damages, liens, costs, penalties, losses and expenses, including, without limitation, reasonable attorneys' and consultants' fees, resulting from any misrepresentation or breach of warranty or breach of covenant made by Seller in this Agreement or in any document, certificate, or exhibit given or delivered to City pursuant to or in connection with this Agreement. The foregoing indemnity includes, without limitation, costs incurred in connection with the investigation of site conditions and all activities required to locate, assess, evaluate, remediate, cleanup, remove, contain, treat, stabilize, monitor or otherwise control any Hazardous Material. The indemnification provisions of this Section shall survive beyond the Closing, or, if title is not transferred pursuant to this Agreement, beyond any termination of this Agreement.

## 9. RISK OF LOSS AND POSSESSION

### 9.1 Risk of Loss

If any of the Property is damaged or destroyed prior to the Closing Date, or if condemnation proceedings are commenced against any of the Property, then the rights and obligations of Seller and City hereunder shall be as follows:

**(a)** If such damage or destruction is fully covered by Seller's insurance except for the deductible amount thereunder, and the insurer agrees to timely pay for the entire cost of such repair, and such damage or destruction would cost less than One Hundred Thousand and No/100 Dollars ($100,000.00) (the "Threshold Damage Amount") to repair or restore, then this Agreement shall remain in full force and effect and City shall acquire the Property upon the terms and conditions set forth herein. In such event, City shall receive a credit against the Purchase Price equal to such deductible amount, and Seller shall assign to City at Closing all of Seller's right, title and interest in and to all proceeds of insurance on account of such damage or destruction pursuant to an instrument satisfactory to City.

**(b)** If such damage or destruction is not fully covered by Seller's insurance, other than the deductible amount, and would cost less than the Threshold Damage Amount to repair or restore, then the transaction contemplated by this Agreement shall be consummated with City receiving a credit against the Purchase Price at the Closing in an amount reasonably determined by Seller and City (after consultation with unaffiliated experts) to be the cost of repairing such damage or destruction.

**(c)** If the cost of such damage or destruction would equal or exceed the Threshold Damage Amount, or if condemnation proceedings are commenced against any of the Property, then, City shall have the right, at its election, either to terminate this Agreement in its entirety, or only as to that portion of the Property damaged or destroyed or subject to condemnation proceedings (in which case there shall be an equitable adjustment to the Purchase Price), or to not terminate this Agreement and purchase the Property (or the portion not damaged or affected by condemnation, as the case may be). City shall have thirty (30) days after Seller notifies City that an event described in this Subsection (c) has occurred to make such election by delivery to Seller of an election notice. City's failure to deliver such notice within such thirty (30)-day period shall be deemed City's election to terminate this Agreement in its entirety. If this Agreement is terminated in its entirety or in part pursuant to this Subsection (c) by City's delivery of notice of termination to Seller, then City and Seller shall each be released from all obligations hereunder pertaining to that portion of the Property affected by such termination. If City elects not to terminate this Agreement, Seller shall notify City of Seller's intention to repair such damage or destruction, in which case this Agreement shall remain in full force and effect, or notify City of Seller's intention to give City a credit against the Purchase Price at the Closing in the amount reasonably determined by City and Seller (after consultation with unaffiliated experts) to be the cost of repairing such damage or destruction and, in the event of a result of such condemnation proceeding, the value of any Property taken as a result of such proceeding, in which case this Agreement shall otherwise remain in full force and effect, and Seller shall be entitled to any proceeds of insurance or condemnation awards. Any repairs elected to be made by Seller pursuant to this Subsection shall be made within one hundred eighty (180) days

following such damage or destruction and the Closing shall be extended until the repairs are substantially completed. As used in this Section, the cost to repair or restore shall include the cost of lost rental revenue, including additional rent and base rent.

### 9.2 Insurance

Through the Closing Date, Seller shall maintain or cause to be maintained, at Seller's sole cost and expense, a policy or policies of general liability insurance in amounts equal to $1,000,000 per occurrence and $2,000,000 in the aggregate. Seller shall furnish City with evidence of such insurance upon request by City.

### 9.3 Possession

Possession of the Property shall be delivered to City on the Closing Date vacant and free of tenants or other occupants.

## 10. MAINTENANCE; CONSENT TO NEW CONTRACTS

### 10.1 Maintenance of the Property by Seller

Between the date of Seller's execution of this Agreement and the Closing, Seller shall maintain the Property in in the same manner Seller has maintained the Property as before the making of this Agreement, as if Seller were retaining the Property.

### 10.2 City's Consent to New Contracts Affecting the Property; Termination of Existing Contracts

After the Effective Date, Seller shall not enter into any lease or contract, or any amendment thereof, or permit any tenant of the Property to enter into any sublease, assignment or agreement pertaining to the Property, without in each instance obtaining City's prior written consent thereto. City agrees that it shall not unreasonably withhold or delay any such consent. Except for any agreements related to the development of the Project (which will not be assumed by the City but will encumber the Seller's leasehold interest in the Property), Seller shall terminate prior to the Closing, at no cost or expense to City, any and all management agreements affecting the Property that City does not agree in writing prior to the Closing to assume.

## 11. GENERAL PROVISIONS

### 11.1 Notices

Any notice, consent or approval required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon (i) hand delivery, against receipt, (ii) one (1) 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:

City: Real Estate Division
City and County of San Francisco

25 Van Ness Avenue, Suite 400
San Francisco, California 94102
Attn: Director of Property
Re: 3300 Mission Street

with copy to:

Office of the City Attorney
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4682
Attn: Real Estate Finance Team
Re: 3300 Mission Street

Seller:

3300 Mission Partners L.P.
c/o Bernal Heights Neighborhood Center
515 Cortland Avenue
San Francisco, CA 94110

with a copy to:

Goldfarb & Lipman, LLP
1300 Clay Street, 11th Floor
Oakland, California 94612

or to such other address as either party may from time to time specify in writing to the other upon five (5) days prior written notice in the manner provided above. For convenience of the parties, copies of notices may also be given by telefacsimile, to the telephone number listed above, or such other numbers as may be provided from time to time. However, neither party may give official or binding notice by facsimile. The effective time of a notice shall not be affected by the receipt, prior to receipt of the original, of a telefacsimile copy of the notice.

**11.2 Brokers and Finders**

Neither party has had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, 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 purchase and sale contemplated herein. In the event that 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 his or her claim shall be responsible for such commission or fee and shall indemnify and hold harmless the other party from all claims, costs, and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the indemnified party in defending against the same. The provisions of this Section shall survive the Closing.

**11.3 Successors and Assigns**

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

### 11.4 Amendments

Except as otherwise provided herein, this Agreement may be amended or modified only by a written instrument executed by City and Seller.

### 11.5 Continuation and Survival of Representations and Warranties

All representations and warranties by the respective parties contained herein or made in writing pursuant to this Agreement are intended to be, and shall remain, true and correct as of the Closing, shall be deemed to be material, and, together with all conditions, covenants and indemnities made by the respective parties contained herein or made in writing pursuant to this Agreement (except as otherwise expressly limited or expanded by the terms of this Agreement), shall survive the execution and delivery of this Agreement and the Closing, or, to the extent the context requires, beyond any termination of this Agreement. All statements contained in any certificate or other instrument delivered at any time by or on behalf of Seller in conjunction with the transaction contemplated hereby shall constitute representations and warranties hereunder.

### 11.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

### 11.7 Merger of Prior Agreements

The parties intend that this Agreement (including all of the attached exhibits and schedules, which are incorporated into this Agreement by reference) shall be the final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous oral or written agreements or understandings. The parties further intend that this Agreement shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including, without limitation, prior drafts or changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Agreement.

### 11.8 Parties and Their Agents; Approvals

The term "Seller" as used herein shall include the plural as well as the singular. If there is more than one (1) Seller, then the obligations under this Agreement imposed on Seller shall be joint and several. 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. All approvals, consents or other determinations permitted or required by City hereunder shall be made by or through City's Director of Property unless otherwise provided herein, subject to applicable law.

### 11.9 Interpretation of Agreement

The article, section and other headings of this Agreement and the table of contents are for convenience of reference only and shall not affect the meaning or interpretation of any provision contained herein. Whenever the context so requires, the use of the singular shall be deemed to

include the plural and vice versa, and each gender reference shall be deemed to include the other and the neuter. This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each party has been represented by experienced and knowledgeable legal counsel. Accordingly, any rule of law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties and this Agreement.

**11.10 Attorneys' Fees**

In the event that either party hereto fails to perform any of its obligations under this Agreement or in the event a dispute arises concerning the meaning or interpretation of any provision of this Agreement, the defaulting party or the non-prevailing party in such dispute, as the case may be, shall 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 hereunder (whether or not such action is prosecuted to a judgment). For purposes of this Agreement, reasonable attorneys' fees of the City's Office of the City Attorney 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 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" shall also include, 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 such fees were incurred. The term "costs" shall mean 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.

**11.11 Sunshine Ordinance**

Seller understands and agrees that under the 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 the City hereunder public records subject to public disclosure. Seller hereby acknowledges that the City may disclose any records, information and materials submitted to the City in connection with this Agreement.

**11.12 Conflicts of Interest**

Through its execution of this Agreement, Seller acknowledges that it is familiar with the provisions of Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which would constitute a violation of said provision, and agrees that if Seller becomes aware of any such fact during the term of this Agreement, Seller shall immediately notify the City.

### 11.13 Notification of Limitations on Contributions

Through its execution of this Agreement, Seller acknowledges that it is familiar with Section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the selling or leasing of any land or building to or from the City whenever such transaction would require the approval by a City elective officer, the board on which that City elective officer serves, or a board on which an appointee of that individual serves, from making any campaign contribution to (1) the City elective officer, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Seller acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of $50,000 or more. Seller further acknowledges that the prohibition on contributions applies to each Seller; each member of Seller's board of directors, and Seller's chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than twenty percent (20%) in Seller; any subcontractor listed in the contract; and any committee that is sponsored or controlled by Seller. Additionally, Seller acknowledges that Seller must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Seller further agrees to provide to City the names of each person, entity or committee described above.

### 11.14 Non-Liability of City Officials, Employees and Agents

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 Seller, its successors and assigns, in the event of any default or breach by City or for any amount which may become due to Seller, its successors and assigns, or for any obligation of City under this Agreement.

### 11.15 Counterparts

This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

### 11.16 Effective Date

As used herein, the term "Effective Date" shall mean the date on which the City's Board of Supervisors and Mayor enact a resolution approving and authorizing this Agreement and the transactions contemplated hereby, following execution of this Agreement by both parties.

### 11.17 Severability

If any provision of this Agreement or the application thereof to any person, entity or circumstance shall be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law, except to the

extent that enforcement of this Agreement without the invalidated provision would be unreasonable or inequitable under all the circumstances or would frustrate a fundamental purpose of this Agreement.

**11.18 Cooperative Drafting.**

This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, SELLER ACKNOWLEDGES AND AGREES THAT NO OFFICER OR EMPLOYEE OF CITY HAS AUTHORITY TO COMMIT CITY TO THIS AGREEMENT UNLESS AND UNTIL APPROPRIATE LEGISLATION OF CITY'S BOARD OF SUPERVISORS SHALL HAVE BEEN DULY ENACTED APPROVING THIS AGREEMENT AND AUTHORIZING THE TRANSACTIONS CONTEMPLATED HEREBY. THEREFORE, ANY OBLIGATIONS OR LIABILITIES OF CITY HEREUNDER ARE CONTINGENT UPON THE DUE ENACTMENT OF SUCH LEGISLATION, 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 ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY BY ANY DEPARTMENT, COMMISSION OR AGENCY OF CITY SHALL NOT BE DEEMED TO IMPLY THAT SUCH LEGISLATION WILL BE ENACTED NOR WILL ANY SUCH APPROVAL CREATE ANY BINDING OBLIGATIONS ON CITY.

*[SIGNATURES ON FOLLOWING PAGES]*

The parties have duly executed this Agreement as of the respective dates written below.

SELLER:

**3300 MISSION PARTNERS L.P.**,
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Holdings LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

BUYER: CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: /s/ Andrico Penick
Andrico Q. Penick
Director of Property

Date: [_____]

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: _____
Jessica Alfaro-Cassella
Deputy City Attorney

# EXHIBIT A

## REAL PROPERTY DESCRIPTION

All that certain real property located in the County of San Francisco, State of California, described as follows:

Commencing at the point formed by the intersection of the Southerly line of Twenty-Ninth Street with the Northwesterly line of Mission Street; running thence Southwesterly and along the said Northwesterly line of Mission Street, sixty-one (61) feet, five and three-eights (5 3/8) inches; thence at a right angle Northwesterly one hundred (100) feet to the Southerly line of Twenty-Ninth Street; and thence Easterly and along the said Southerly line of Twenty-Ninth Street, one hundred and seventeen (117) feet, three and three-eights (3 3/8) inches to the point of commencement.

Being Lot #1 of the Macrellish Subdivision of Lot Numbers 409 to 416, Precita Valley Lands, as per Map of said subdivision recorded in the Office of the County Recorder of the City and County of San Francisco on the 15th day of December, 1902.

Excepting therefrom, that portion conveyed to John Catto, recorded January 16, 1925, in Book 997, Page 261, of Official Records.

APN: Lot 001, Block 6635

Street Address: 3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA 94110

**EXHIBIT B**

**GRANT DEED**

| | |
|---|---|
| RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:<br><br>Director of Property<br>Real Estate Division<br>City and County of San Francisco<br>25 Van Ness Avenue, Suite 400<br>San Francisco, California 94102<br><br>The undersigned hereby declares this instrument to be exempt from Recording Fees (CA Govt. Code § 27383) and Documentary Transfer Tax (S.F. Bus. & Tax Reg. Code § 1105) | |

(Space above this line reserved for Recorder's use only)

**GRANT DEED**

(Block/Lot - 6635/001)

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, 3300 MISSION PARTNERS L.P., a California limited partnership, 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 Land and all of Grantor's right, title and interest in and to any and all roads and alleys adjoining or servicing the Property.

*[SIGNATURES ON FOLLOWING PAGE]*

Executed as of this [_____] day of [_____], 2024.

3300 MISSION PARTNERS L.P., a California limited partnership

By: **3300 MISSION PARTNERS L.P.**,
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Holdings LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

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

State of California )
) ss
County of San Francisco )

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the foregoing Grant Deed to the City and County of San Francisco, a municipal corporation, is hereby accepted pursuant to Board of Supervisors' Resolution No. 18110 Series of 1939, approved August 7, 1957, and Resolution No. [_____], approved [_____], and the grantee consents to recordation thereof by its duly authorized officer.

Dated: _____ By: _____
Andrico Q. Penick
Director of Property

**EXHIBIT C**

**CERTIFICATE OF TRANSFEROR**
**OTHER THAN AN INDIVIDUAL**
**(FIRPTA Affidavit)**

Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor is a foreign person. To inform the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, the transferee of certain real property located in the City and County of San Francisco, California, that withholding of tax is not required upon the disposition of such U.S. real property interest by [_____ _____], a [_____] ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. Transferor's U.S. employer identification number is [_____]; and

3. Transferor's office address is 3300 Mission Partners L.P., c/o Bernal Heights Neighborhood Center, 515 Cortland Avenue, San Francisco, CA 94110.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by the transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalty of perjury, I declare that I have examined this certificate and to the best of my knowledge and belief it is true, correct and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated: [_____, 20___].

# SCHEDULE 1

## SELLER'S ENVIRONMENTAL DISCLOSURE DOCUMENTS

1

# GROUND LEASE

This Ground Lease is dated as of [_____], 2024 (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 **3300 MISSION PARTNERS L.P.**, a California limited partnership, as tenant (the "**Tenant**").

## RECITALS

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

B. MOHCD issued a 2023 MOHCD Site Acquisition Notice of Funding Availability (the "**NOFA**") on January 27, 2023, to solicit qualified affordable housing developers for the Land. In response to the NOFA, MOHCD selected Bernal Heights Housing Corporation, a California nonprofit public benefit corporation, Tabernacle Community Development Corporation, a California nonprofit public benefit corporation, and Mitchelville Real Estate Group, a California limited liability Company (collectively "**Developers**"), to develop and construct an affordable housing project and lease the Land for the purpose of such new affordable housing. Developers formed the Tenant for the purpose of undertaking the activities described in the NOFA.

C. On August 16, 2024, the Citywide Affordable Housing Loan Committee made a recommendation to approve MOHCD's financing of Tenant's plan to develop the Land and construct thereon a 35-unit multifamily residential building, consisting of 34 rental units of affordable housing for low-income persons and 1 manager's unit and common areas (collectively, the "**Residential Project**"), and including to construct the commercial shell of a ground floor commercial space (the "**Commercial Space**," and together with the Residential Project, the "**Project**").

D. The Land includes, or will include, [2] parcels. One parcel will be developed and built for affordable housing (the "Residential Parcel") one parcel will be developed and used as the Commercial Space (the "Commercial Parcel").]

E. On [_____], 2024, the City's Board of Supervisors and the Mayor approved Resolution No. [_____], authorizing the City to enter into a ground lease with the Tenant to construct the Project on the Land.

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 construct the Project, and subject to the terms, covenants, agreements, and conditions set forth below, each and all of which the City and the Tenant mutually agree.

## ARTICLE 1 DEFINITIONS

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

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

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

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

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

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

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

**"Commercial Space"** has the meaning set forth in Recital C.

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

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

**"Community-Serving Purposes"** means a non-residential use that provides a direct benefit to the community in which the Project is located, including, but not limited to those described in the March 3, 2023 MOHCD Commercial Space Underwriting Guidelines.

**"Effective Date"** means the date the City records the Memorandum of Ground Lease against the Site, but in no event will the date be before the date of 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 earlier of: (i) the date the first certificate of occupancy of the Project is issued evidencing completion of construction activities are completed on the Project, or (ii) the third anniversary of the Effective Date.

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

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

**"Improvements"** means all physical improvements to be constructed and/or rehabilitated on the Site, 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, 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.

**"MOHCD"** means the Mayor's Office of Housing and Community Development for the City.

**"MOHCD Loan"** means the loan of the original principal amount of $[_____] evidenced by that certain Amended and Restated Secured Promissory Note executed by Tenant in favor of the City.

**"MOHCD Loan Documents"** means the loan documents by and between City and Tenant evidencing the MOHCD Loan.

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

**"Partnership Fees"** means [(i) a combined annual asset management and partnership management fee in the amount of $[50,249], increasing by [3.5]% annually, payable to the Tenant's general partner, and (ii) an annual investor services fee in the amount of $[7,500], increasing annually by [3.5]%, payable to the Tenant's Permitted Limited Partner.

**"Permitted Limited Partner"** means a [Wincopin Circle LLLP], as investor limited partner, and its successors and assigns as approved by the City (to the extent such approval is required under this Ground Lease).

**"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; (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, or annual servicing fees, if any, on any construction or permanent financing secured by the Project that has been approved by the City; (d) annual monitoring fees 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 or the Partnership Agreement; (g) the approved annual asset management fees indicated in the Annual Operating Budget and approved by the City; (h) any extraordinary expenses as approved in advance by the City; and (i) supportive services. Partnership Fees are not Project Expenses.

**"Project Income"** means all income and receipts 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 Site. Project Income does not include interest accruing on any portion of the Funding Amount or tenant's refundable security deposits. Project Income does not include interest accruing on any portion of the MOHCD Loan, if applicable, or refundable security deposits from Residential Occupants.

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

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

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

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

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

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

**"TCAC"** means the California Tax Credit Allocation Committee.

**"Tenant"** means 3300 Mission Partners 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.

## ARTICLE 2 TERM

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

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

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

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

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

## ARTICLE 3 FINANCIAL ASSURANCE

In accordance with the dates specified in the Schedule of Performance (Attachment 2), the Tenant will submit to the City for approval evidence satisfactory to the City that the Tenant has sufficient equity capital and commitments for construction and permanent financing, and/or such other evidence of capacity to proceed with the construction of the Project in accordance with this Ground Lease, as is acceptable to the City. 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 [Nine Hundred Seventy One Thousand and No/Dollars ($970,000.00)] (the "**Annual Rent**") per year for each year of the Term of this Ground Lease. Annual Rent consists of Base Rent and Residual Rent, as defined in Section 4.02 below, without offset of any kind (except as otherwise permitted by this Ground Lease) and without necessity of demand, notice, or invoice. Annual Rent will be re-determined on the fifteenth (15th) anniversary of the date of the first payment of Base Rent pursuant to Section 4.02(a) below and every fifteen (15) years thereafter, and will be equal to ten percent (10%) of the appraised fair market value of the Site as determined by an MAI appraiser selected

by and at the sole cost of the Tenant. Any such adjustment will be made to the Residual Rent and not to the Base Rent.

4.01(b) If the Tenant elects to extend the term of this Ground Lease pursuant to ARTICLE 2 above, Annual Rent (along with any potential future adjustments) during any such extended term will be set by mutual agreement of the parties; provided, however, that Annual Rent during the extended term will in no event be less than the Annual Rent set forth in Section 4.01(a) above. If the parties cannot agree on Annual Rent for the extended term, either party may invoke a neutral third-party process and the parties will agree on a neutral third-party appraiser to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. Notwithstanding the foregoing, after the neutral third-party process, Tenant, in its sole discretion, may rescind the Extension Notice 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, [One Dollar ($1.00)] 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 at the long-term applicable federal rate as of the Effective Date until paid] [will not accrue] ("**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, [Nine Hundred Sixty Nine Thousand Nine Hundred Ninety Nine and No/100 Dollars ($969,999.00)] [Annual Rent less Base Rent], subject to any periodic adjustments under Section 4.01(a). Residual Rent will be due in arrears on [June 30th] following each Lease Year. Except as otherwise provided in Section 26.07(a), Residual Rent will be payable only to the extent of Residual Receipts as provided in Section 6.02(g) below and after full repayment of the MOHCD Loan, and any unpaid Residual Rent [will not accrue] [up to [$_____] in any given Lease Year shall accrue and compound annually at an interest rate equal to the long-term applicable federal rate as of the Effective Date, and shall be paid in a later year from available Residual Receipts (the "Accruing Residual Rent")]. 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 [June 30th] 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. [The Accruing Residual Rent shall be due and payable in all events upon the earlier of (i) any sale of the Project (other than a sale to Tenant's affiliate) and (ii) expiration of the Lease Term.]

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.

## ARTICLE 6 TENANT COVENANTS

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

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

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

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

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

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

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

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

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

6.02(g) Permitted Uses of Residual Receipts. All annual Project Income, before the calculation of Residual Receipts, will be used to pay Project Expenses, including but not limited to Base Rent, and Partnership Fees. No Residual Receipts shall be due to City in the first five years of operation, starting from the First Lease Payment Year**.** 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 and replacement reserve accounts, if necessary, up to the amount required by Lenders or the Permitted Limited Partner;

iii. Third, one-half (1/2) of remaining Residual Receipts to the City. The City's portion of Residual Receipts 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 First Amended and Restated Agreement of Limited Partnership 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 other Lenders.

6.03 City Deemed Beneficiary of Covenants. In amplification, and not in restriction, of the provisions of the preceding subsections, it is intended and agreed that the City will be deemed beneficiary of the agreements and covenants provided in this ARTICLE 6 for in its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Those agreements and covenants will run in favor of the City for the entire term of those agreements and covenants, without regard to whether the City has at any time been,

remains, or is an owner of any land or interest therein, or in favor of, to which such agreements and covenants relate. The City will have the exclusive right, in the event of any breach of any such agreements or covenants, in each case, after notice and the expiration of cure periods, to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach of covenants, to which it or any other beneficiaries of such agreements or covenants may be entitled.

## ARTICLE 7 ANNUAL INCOME COMPUTATION, AND CERTIFICATION

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-based paint.

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 construction and operation of 34 units of affordable rental housing for Qualified Households and 1 manager's unit (collectively, the "**Residential Units**"), one unit of commercial space ("**Commercial Space**"), and common areas. Upon the completion of construction of the Project, one hundred percent (100%) of the Residential Units, with the exception of the manager's unit, in the Project will be occupied by or available for rental by Residential Occupants certified as Qualified Households, as set forth in MOHCD's Declaration of Restrictions and any amendments thereto mutually agreed upon by the parties. 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. Commercial Space may be used for Public Benefit Purposes, Community-Serving Purposes, or, with the approval of the City, which may not be unreasonably withheld, for Commercial Use. All leases of Commercial Space must be approved in advance by MOHCD, which approval will not be unreasonably withheld.

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

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

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

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

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

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

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

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

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

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

9.02(j) the washing of any vehicles or equipment; and

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

## ARTICLE 10 SUBDIVISION; CONSTRUCTION OF IMPROVEMENTS

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

10.02 Subdivision. Tenant and the City contemplate that Tenant may seek, at Tenant's expense, a subdivision (the "**Subdivision**") of the Site such that there will be two parcels: one (1) ground-floor commercial parcel, where the Commercial Space will be located, and a residential parcel where the Residential Units will be located, comprised of the basement, a portion of the first floor and the second ($2^{nd}$) through sixth ($6^{th}$) floors, together with common area. The Subdivision must be completed in strict compliance with all applicable Laws. Tenant understands and agrees that the Subdivision 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 approvals. Tenant may not seek any Subdivision approval without first obtaining the written consent of the City as Landlord under this Ground Lease and as fee owner of the Site. Tenant will bear all costs associated with applying for and obtaining any necessary or appropriate approval for the Subdivision and will be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of the Subdivision process; provided, however, any such condition that could affect use or occupancy of the Project or 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 Subdivision 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. The City will cooperate with Tenant in completing the Subdivision, in the City's reasonable discretion. Any and all Subdivision documents, including, but not limited to, maps, plans, reciprocal easement agreements, declarations, restrictions, and association documents, must be submitted to the City in draft form for the City's review, comment, and approval, and Tenant will comply with the City's requirements for such documents. 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 the Subdivision, the Subdivision process, or Tenant's failure to obtain

Subdivision approval, or failure by Tenant, its agents, or invitees to comply with the terms and conditions of any Subdivision approval.

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 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 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 construction of the Improvements.

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

performance bonds may be obtained by Tenant's general contractor and name Tenant and 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 will provide adequate and complete backup documentation for analysis of the appropriateness of any requested change to the Construction Documents (each, a "Change Order") to the City. This backup documentation shall include confirmation that the Change Order has been reviewed, vetted or 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 will be provided by the City within five (5) business days of receipt of Change Order. City will promptly review and accept or deny the Change Order within ten (10) business days of a complete submission by Tenant. In the event the City requests further information, the City will have no less than five (5) business days from receipt of such information to accept or deny the Change Order. In the event the City fails to accept, deny or issue request for further information related to the Change Order within the later of 10 business days from submission of the Change Order or 5 business days of receipt of additional information, the Change Order will be deemed accepted. If the City denies the Change Order, City will specify the reasons for the denial in writing. Tenant will submit on a monthly or more frequent basis or as requested by MOHCD, a contingency balance report (in Excel format or equivalent) which documents all Change Orders 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 construction of the Improvements on the Land, and that such 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 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 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 construction of the Improvements in the manner and at the times specified in this Ground Lease.

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

10.14 Access to Site. As of the Effective Date and until the City issues a Certificate of Completion (as defined in Section 11.01 below), Tenant will permit access to the Site to the City whenever and to the extent necessary to carry out the purposes of the provisions of this Ground Lease, at reasonable times and upon reasonable advance notice, and on an emergency basis without notice whenever the City believes that emergency access is required. After the City's issuance of a Certificate of Completion, access to the Premises will be governed by ARTICLE 24, below.

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

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. Tenant shall have the exclusive right to deduct, claim, retain and enjoy any and all rental income appreciation, gain, depreciation, amortization, and tax credits for federal and State tax purposes relating thereto, substitution therefor, fixtures therein and other property relating thereto.

## ARTICLE 14 ASSIGNMENT, SUBLEASE, OR OTHER CONVEYANCE

14.01 Assignment, Sublease, or Other Conveyance by Tenant. Tenant will not cause or permit any voluntary transfer, assignment, or encumbrance of its Leasehold Estate or its interest in the Premises or of any ownership interests in Tenant, or lease or permit a sublease on all or any part of the Premises, other than: (a) leases, subleases, or occupancy agreements to

Residential Occupants and Non-residential Occupants; or (b) security interests for the benefit of lenders securing loans for the Project as approved by the City on terms and in amounts as approved by the City in its reasonable discretion, (c) transfers from Tenant to a limited partnership or limited liability company formed for the tax credit syndication of the Project, where Tenant or an affiliated nonprofit public benefit corporation is the sole general partner or manager of that entity; (d) transfers of the general partnership or manager's interest in Tenant to a nonprofit public benefit corporation approved in advance by the City; (e) transfers of any limited partnership or membership interest in Tenant to an investor or affiliate of the Permitted Limited Partner under the tax credit syndication of the Project; (f) the grant or exercise of an option agreement between Borrower and Borrower's general partner or manager or any of its affiliates in connection with the tax credit syndication of the Project where such agreement has been previously approved in writing by the City; (g) transfer to Lender(s) or affiliates of Lender(s) through foreclosure or deed in lieu of foreclosure as provided in this Ground Lease; or (h) to remove or replace the General Partner in accordance with the terms of the Partnership Agreement, a transfer of any general partnership interest to a new general partner approved in advance by the City. Any other transfer, assignment, encumbrance, or lease without the City's prior written consent will be voidable and, at the City's election, constitute a default under this Agreement. The City's consent to any specific assignment, encumbrance, lease, or other transfer will not constitute its consent to any subsequent transfer or a waiver of any of the City's rights under this Ground Lease. Tenant will provide any background or supporting documentation that the City may require in assessing Tenant's request for approval. Tenant will submit to the City for review and, comment, and approval all leases to Non-residential Occupants, together with any supporting documentation as the City may request.

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

14.03 Transfer of Commercial Parcel. City and Tenant contemplate that before Tenant's conversion of its construction financing to permanent financing, Tenant may convey to Commercial Tenant the Commercial Parcel. As part of the conveyance, subject to City's receipt of all necessary approvals, City and Tenant will amend this Ground Lease to remove the Commercial Parcel from the Leasehold Estate, and City and Commercial Tenant will enter into a ground lease for the Commercial Parcel allowing for commercial uses of the Commercial Parcel, in accordance with all approvals and MOHCD's Commercial Underwriting Guidelines (the "Commercial Ground Lease"). Basic terms for the Commercial Ground Lease will include:

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

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

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

14.03(d) The annual rent for the Commercial Ground Lease will be equal to of 40% of the Net Commercial Cash Flow.

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

**ARTICLE 15 TAXES**

Subject to any available exemption, Tenant 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 Site. 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 Site that are incurred before the Effective Date.

## ARTICLE 16 UTILITIES

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

## ARTICLE 17 MAINTENANCE AND OPERATION

17.01 Maintenance. Tenant, at all times during the Term, will maintain or cause to be maintained the Premises in good condition and repair to the reasonable satisfaction of the City, including the exterior, interior, substructure, and foundation of the Improvements and all fixtures, equipment, and landscaping from time to time located on the Premises or any part of them. The City will not be obligated to make any repairs, replacements, or renewals of any kind, nature, or description whatsoever to the Site or any buildings or improvements now or 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. Following completion of the Improvements, Tenant will not make, or cause or suffer to be made, any repairs or other work for which a permit is required by any applicable building code, standard, or regulation without first obtaining the City's prior written consent and the required permit.

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

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

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

17.06 Operation. Following completion of the Improvements, Tenant will maintain and operate the consistent with the maintenance and operation of a safe, clean, well-maintained first-class residential 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 Space. 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 Site 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 one hundred twenty (120) days from receipt of such notice to cure the breach. If the City does not cure the breach within the 120-day period, or, if the breach is not reasonably susceptible to cure within that one hundred twenty (120) day period, begin to cure within one hundred twenty (120) days and diligently prosecute then cure to completion, then Tenant will have all of its rights at law or in equity by taking any or all of the following remedies: (i) terminating in writing this entire Ground Lease with the written consent of each Lender; (ii) prosecuting an action for damages; (iii) seeking specific performance of this Ground Lease; or (iv) any other remedy available at law or equity.

19.03 Breach by Tenant.

19.03(a) Default by Tenant

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

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

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

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

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

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

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

19.03(b) Notification and City Remedies. Upon the happening of any of the events described in Section 19.03(a) above, and before exercising any remedies, the City will notify Tenant, the Permitted Limited Partners, and each Lender in writing of the Tenant's purported breach, failure, or act in accordance with the notice provisions of ARTICLE 38, giving Tenant sixty (60) days from the giving of the notice to cure such breach, failure, or act. If Tenant (or the Permitted Limited Partner on behalf of Tenant) 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 Permitted Limited Partner and subject to Section 19.04 and ARTICLE 26, the City will have all of its rights at law or in equity, including, but not limited to

(i) the remedy described in Section 1951.4 of the California Civil Code (a landlord may continue the lease in effect after a tenant's breach and abandonment and recover rent as it becomes due, if the tenant has the right to sublet and assign subject only to reasonable limitations) under which it may continue this Ground Lease in full force and effect and the City may enforce all of its rights and remedies under this Ground Lease, including the right to collect rent when due. During the period Tenant is in default, the City may enter the Premises without terminating this Ground Lease and relet them, or any part of them, to third parties for Tenant's account. Tenant will be liable immediately to the City for all reasonable costs that the City incurs in reletting the Premises, including, but not limited to, broker's commissions, expenses of remodeling the Premises required by the reletting and like costs. Reletting can be for a period shorter or longer than the remaining Term, at such rents and on such other terms and conditions as the City deems advisable, subject to any restrictions applicable to the Premises. 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, (i) during the 15-year tax credit "compliance period" (as defined in Section 42 of the Internal Revenue Code, as amended) for the Project (the "Compliance Period"), the City may only terminate this Ground Lease for a default by Tenant under Section 19.03(a)(vi) above and (ii) during the Term, the City's ability to collect accrued and unpaid Residual Rent and any accrued and unpaid interest on unpaid Residual Rent will be limited to the City's rights and remedies against the Premises and Project, and Tenant and its partner will not be personally liable for Tenant's repayment of such accrued and unpaid Residual Rent and interest.

19.04 Rights of Permitted Limited Partner.

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

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

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

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

19.05 City's Right to Cure Tenant's Default. If Tenant defaults in the performance of any of its obligations under this Ground Lease, the City may at any time thereafter after notice and expiration of the applicable cure period (except in the event of an emergency as reasonably determined by the City, in which case the City 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 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, with any proceeds remaining after such restoration paid to Tenant. 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 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 Site or adjacent and underlying property, and for the cost of any work or service required by any Law, for the protection of persons or property from any risk, or for the abatement of any nuisance, created by or arising from the casualty or the damage or destruction caused thereby;

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

20.03(d) The remainder to Tenant.

20.04 Clean-up of Housing Site. If Tenant terminates this Ground Lease under the provisions of Sections 20.01 or 20.02, then Tenant must all clean up and remove all debris from the Site and adjacent and underlying property and leave the Site in a clean and safe condition and in compliance with all Laws upon surrender, as described in in Section 20.03(b). If the proceeds

of any insurance policy are insufficient to pay the clean-up and other costs described in Section 20.03(b), then Tenant must pay the portion of the costs not covered by the insurance proceeds.

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

## ARTICLE 21 DAMAGE TO PERSON OR PROPERTY; HAZARDOUS 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, lability 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 ("**PCB**s"), PCB-containing materials, all hazardous substances identified in the California Health & Safety Code 25316 and 25281(d), all chemicals listed under the California Health & Safety Code 25249.8, and any substance deemed a hazardous substance, hazardous material, hazardous waste, or contaminant under Environmental Law. The foregoing definition does not include substances that occur naturally on the Site or commercially reasonable amounts of hazardous materials used in the ordinary course of construction and operation of a mixed use development, provided they are used and stored in accordance with all applicable Laws.

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

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

21.03 Exculpation and Waiver. Tenant, as a material part of the consideration to be rendered to the City, hereby waives any and all Claims against the City related to its approval of this Ground Lease or rights or obligations as landlord under this Ground Lease, including without limitation all Claims arising from the joint or concurrent, active or passive, negligence of the Indemnified Parties, but excluding any Claims caused solely by the Indemnified Parties' willful misconduct or active gross negligence. The Indemnified Parties will not be responsible for or liable to Tenant, and Tenant hereby assumes the risk of, and waives and releases the Indemnified Parties from all Claims against the City related to its approval of this Ground Lease or rights or obligations as landlord under this Ground Lease for, any injury, loss, or damage to any person or property in or about the Premises by or from any cause whatsoever occurring on or after the Effective Date including, without limitation, (a) any act or omission of persons occupying adjoining premises or any part of the Premises adjacent to or connected with the

Premises, (b) theft, (c) explosion, fire, steam, oil, electricity, water, gas or rain, pollution or contamination, (d) stopped, leaking, or defective building systems, (d) construction or Site defects, (f) damages to goods, wares, goodwill, merchandise, equipment, or business opportunities, (g) Claims by persons in, 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 Site with risk of explosion, collapse, or underground hazards.

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

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

(iv) Professional Liability: Professional Liability insurance of no less than 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:

a. Reserved.

b. 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.

(2) Upon completion of construction:

a. 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 rehabilitation/construction projects that are unoccupied by Residential Occupants or Non-Residential Occupant, Tenant must obtain Property Insurance by the date that the project receives a Certificate of Substantial Completion.

b. Boiler and machinery insurance, comprehensive form, covering damage to, loss or destruction of machinery and equipment located on the Site

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

22.01(d) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions in excess of $25,000 must be declared to and approved by 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 any permitted subdivision under Section 10.02 above, and the 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 Subdivision or regulatory approval without first obtaining MOHCD's approval, which approval may not be unreasonably withheld or delayed. Throughout the Subdivision process and 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 complete the Subdivision and obtain permits; provided, however, Tenant may not agree to the imposition of conditions or restrictions in connection with its efforts to Subdivide or 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 subdivision approval and 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 Site at all reasonable times during normal business hours upon not less than forty-eight (48) hours' written notice to Tenant (except in the event of an emergency), subject to the rights of the occupants, tenants, and others lawfully permitted on the Site, for any of the following purposes:

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

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

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

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

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

24.02 In the event of any emergency, as reasonably determined by the City, at its sole option and without notice, the City may enter the Premises, 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 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 [Citizens 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 construction of the Improvements or to guarantee such completion; and no covenant or any other provision of this Ground Lease may be construed to obligate the Holder. However, if the Holder undertakes to complete or guarantee the completion of the construction of the Improvements, except as provided in Section 26.06(b), nothing in this Ground Lease will be deemed or construed to permit or authorize the Holder or its successors or assigns to devote the Premises or any portion thereof to any uses, or to construct any Improvements on the Site, other than those authorized under Section 9.01 and any reasonable modifications in plans proposed by the Holder or its successors in interest proposed for the viability of the Project approved by the City in its reasonable discretion under Section 10.16. Except as provided in Section 26.06(b), to the extent any Holder or its successors in interest wish to change such uses or construct different improvements, Holder or its successors in interest must obtain the advance written consent of the City.

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

25.04 Default by Tenant and the City's Rights.

25.04(a) Right of City to Cure a Default or Breach by Tenant under a Leasehold Mortgage. In the event of a default or breach by Tenant under any Leasehold Mortgage, and Tenant's failure to timely commence or diligently prosecute cure of the default or breach, the City may, at its option, cure the breach or default during the one hundred ten (110) days after the date that the Lender files a notice of default. If the City undertakes to cure the

default or breach, then the City will be entitled to reimbursement from Tenant of all costs and expenses reasonably incurred by the City. The City will also be entitled to a lien on the Leasehold Estate to the extent Tenant does not reimburse the costs and expenses. City's lien will be subject to the lien of any then-existing Leasehold Mortgage authorized by this Ground Lease, including any lien contemplated because of advances yet to be made. After ninety (90) days following the date of Lender filing a notice of default and expiration of all applicable cure periods under the terms of the applicable loan documents, the City will also have the right to assign Tenant's interest in the Ground Lease to another entity, subject to all Lenders' and Permitted Limited Partner's written consents, and which consent may be conditioned, among other things, on the assumption by the other entity of all obligations of the Tenant under the Leasehold Mortgage.

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

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

## ARTICLE 26 PROTECTION OF LENDER

26.01 Notification to the City. Promptly on the creation of any Leasehold Mortgage and as a condition precedent to the existence of any of the rights set forth in this ARTICLE 26, Tenant will cause each Lender to give written notice to the City of the Lender's address and of the existence and nature of its Leasehold Mortgage. Execution of Attachment 3 will constitute City's acknowledgement of Lender's having given such notice as is required to obtain the rights and protections of a Lender under this Ground Lease.

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, Lender will have sixty (60) days from the date of written notice from the City to Lender to cure the default; or

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

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

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 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, conditioned, or delayed, 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, conditioned, or delayed) and to the City's rights under Section 25.04.

26.06(b) each Subsequent Owner will take the Leasehold Estate subject to all of the provisions of this Ground Lease, and will, 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 the Residential Units without any limitations on the rents charged or the income of the occupants thereof, subject to any applicable regulatory agreement, restrictive covenant, or other encumbrance including, but not limited to, the MOHCD Declaration of Restrictions;

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

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

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

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

26.07(b) If the Subsequent Owner exercises its rights under Section 26.06(b) to operate the Project without being subject to Section 9.01, then Annual Rent will be set at the then fair market rental value taking into account any affordability restrictions agreed to by the Subsequent Owner, if any, and the Base Rent will be increased to the new fair market rent under this Section 26.07(b) and the provisions of Section 6.02(g) will be suspended; provided,

however, that the City will be entitled to reduce Annual Rent by any dollar amount (but not below zero) in its sole discretion and, in such case, the Subsequent Owner will be required to reduce rent charged to Residential Occupants on a dollar for dollar basis, with respect to such aggregate units occupied by Qualified Households as the City and the Subsequent Owner may agree. The fair market rental value will be determined by a jointly-commissioned appraisal (instructions prepared jointly by the Subsequent Owner and the City, with each party paying one half of the appraiser's fee) that will include a market land valuation, as well as a market land lease rent level. Absent a market land lease rent determination, the Annual Rent will be set at an amount equal to ten percent (10%) of the then appraised market land value. If the parties cannot agree on the joint appraisal instructions, either party may invoke a neutral third-party process to set the Annual Rent at fair market rent in accordance with the then-prevailing practice for resolving similar rent determination disputes in San Francisco or, in the event that there is no then-prevailing practice, in accordance with the rules of the American Arbitration Association. But, after the neutral third-party process, the Lender, in its sole discretion, may rescind its written notification of intent to not comply with Section 9.01 of this Ground Lease.

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

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

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

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

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

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 in the proceedings as an interested party.

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

26.11 City Bankruptcy.

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

26.11(b) The City acknowledges that (i) the Tenant seeks to construct 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 Site under section 363(f) of the Bankruptcy Code, free and clear of the Leasehold Estate.

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

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

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

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

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

26.12 Amendment. From the Effective Date through the Compliance Period, none of ARTICLE 4, ARTICLE 9, ARTICLE 13, ARTICLE 19 and ARTICLE 20, nor Sections 6.02, 14.01, 26.02, 26.03, or 26.06 may be amended without the written consent of Permitted Limited Partner.

**ARTICLE 27 CONDEMNATION AND TAKINGS**

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

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

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

27.04 Partial Taking. If any portion of the Premises is taken by condemnation, this Ground Lease will remain in effect, except that Tenant may, with 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 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 Leasehold Mortgage, use the proceeds of the taking to accomplish all necessary restoration to the Premises.

27.07 Award and Distribution. 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 outstanding Leasehold Mortgages and other outstanding or unpaid obligations and/or liabilities, including but not limited to, trade accounts, taxes, payroll accruals, and lease residuals, to the extent provided therein; and

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

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

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

## ARTICLE 28 ESTOPPEL CERTIFICATE

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

## ARTICLE 29 SURRENDER AND QUITCLAIM

29.01 Surrender.

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

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

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

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

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

Tenant will be liable to the City for all costs incurred in storing, removing, and disposing of abandoned Personal Property and repairing any damage to the Premises resulting from its removal. The City may elect to sell abandoned Personal Property and offset against the sales proceeds the City's storage, removal, and disposition costs without notice to Tenant or otherwise according to the procedures set forth in California Civil Code Section 1993, the benefits of which Tenant waives.

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

## ARTICLE 30 EQUAL OPPORTUNITY

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

## ARTICLE 31 CITY PREFERENCE PROGRAMS

To the extent permitted by applicable Law, Tenant will comply with the requirements of the City's current housing preference programs, as amended from time to time; provided, however, that such requirements will apply only to the extent permitted by the requirements of non-City funding approved by the City for the Project.

## ARTICLE 32 RESERVED

## ARTICLE 33 CONFLICT OF INTEREST

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

## ARTICLE 34 NO PERSONAL LIABILITY

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

## ARTICLE 35 ENERGY CONSERVATION

Tenant will use its best efforts to maximize provision of, and incorporation of, both energy conservation techniques and systems and improved waste-handling methodology in the 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 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 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: 3300 Mission Partners L.P.
c/o Bernal Heights Neighborhood Center
515 Cortland Avenue
San Francisco, CA 94110
Attention: Executive Director

With a copy to: Goldfarb & Lipman
1300 Clay Street, 11th Floor
Oakland, CA 94612

if to Permitted Limited Partner at:

Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.

70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, Maryland 21044
Attn: Asset Management

with a copy to:

Email: legal@enterprisecommunity.org
Attention: Chief Legal Officer

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

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

**ARTICLE 39 HEADINGS**

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

**ARTICLE 40 SUCCESSORS AND ASSIGNS**

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

**ARTICLE 41 TIME**

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

**ARTICLE 42 PARTIAL INVALIDITY**

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

## ARTICLE 43 APPLICABLE LAW; NO THIRD PARTY BENEFICIARY

This Ground Lease is governed by and construed under the laws of the State of California. This Ground Lease is entered into solely among, between, and for the benefit of, and may be enforced only by, the parties hereto and does not create rights in any other third party.

## ARTICLE 44 RESERVED

## ARTICLE 45 EXECUTION IN COUNTERPARTS

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

## ARTICLE 46 BROKERS

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

## ARTICLE 47 RECORDATION OF MEMORANDUM OF GROUND LEASE

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

## ARTICLE 48 SURVIVAL

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

**ARTICLE 49 RESERVED**

**ARTICLE 50 CITY PROVISIONS**

50.01 Non-Discrimination.

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

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

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

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

50.01(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by Parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Ground Lease as though fully set forth herein. Tenant must comply fully with and be bound by all of the provisions that apply to this Ground Lease under those Chapters of the Administrative Code, including, but not limited to, the

remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that under Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Ground Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

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

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

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

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

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

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

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

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

50.10 Requiring Health Benefits for Covered Employees. Unless exempt, Tenant will comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (the "**HCAO**"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended

from time to time. The provisions of Chapter 12Q are incorporated in this Ground Lease by reference and made a part of this Ground Lease as though fully set forth. The text of the HCAO is available on the web at www.sfgov.org/oca/lwlh.htm. Capitalized terms used in this Section and not defined in this Ground Lease have the meanings assigned to them in Chapter 12Q. Notwithstanding this requirement, City recognizes that the residential housing component of the Improvements is not subject to the HCAO.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50.14 Preservative Treated Wood Containing Arsenic. Tenant may not purchase preservative-treated wood products containing arsenic in the performance of this Ground Lease unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term “preservative-treated wood containing arsenic” means wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or

ammoniacal copper arsenate preservative. Tenant may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Tenant from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" means a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

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

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

(i) The disclosure is authorized by this Ground Lease;

(ii) Tenant received advance written approval from the Contracting Department to disclose the information; or

(iii) The disclosure is required by law or judicial order.

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

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

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

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

and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and County and its residents, and to prevent the further spread of graffiti.

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

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

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

monetary damages sustained by the City because of Tenant's failure to comply with this provision.

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

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

50.20 Criminal History in Hiring and Employment Decisions.

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

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

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

(6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.

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

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

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

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

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

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

## ARTICLE 51 COMPLETE AGREEMENT

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

## ARTICLE 52 AMENDMENTS

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

**ARTICLE 53 ATTACHMENTS**

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

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

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

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

**TENANT:**

**3300 MISSION PARTNERS L.P.**,
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Holdings LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

**CITY:**

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Q. Penick
Director of Property

By: _____
Daniel Adams
Director, Mayor's Office of Housing and Community Development

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____
Jessica Alfaro-Cassella
Deputy City Attorney

## ATTACHMENT 1

### LEGAL DESCRIPTION OF THE LAND

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

Commencing at the point formed by the intersection of the Southerly line of Twenty-Ninth Street with the Northwesterly line of Mission Street; running thence Southwesterly and along the said Northwesterly line of Mission Street, sixty-one (61) feet, five and three-eights (5 3/8) inches; thence at a right angle Northwesterly one hundred (100) feet to the Southerly line of Twenty-Ninth Street; and thence Easterly and along the said Southerly line of Twenty-Ninth Street, one hundred and seventeen (117) feet, three and three-eights (3 3/8) inches to the point of commencement.

Being Lot #1 of the Macrellish Subdivision of Lot Numbers 409 to 416, Precita Valley Lands, as per Map of said subdivision recorded in the Office of the County Recorder of the City and County of San Francisco on the 15th day of December, 1902.

Excepting therefrom, that portion conveyed to John Catto, recorded January 16, 1925, in Book 997, Page 261, of Official Records.

APN: Lot 001, Block 6635

Street Address: 3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA 94110

## ATTACHMENT 2

## SCHEDULE OF PERFORMANCE

1. Construction must commence by a date no later than January 30, 2025;

2. Construction must be completed by a date no later than October 1, 2026; and

3. Ninety five percent (95%) occupancy of the Units must be achieved by a date no later than January 31, 2027.

## 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: 3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA 94110 (LEASEHOLD MORTGAGE)

Dear Sir or Madam:

Under Section 25.01 of the Ground Lease, dated [_____, 20__], between the City and County of San Francisco ("City") and 3300 Mission Partners, L.P., a California limited partnership, we are formally requesting the City's consent to our placing a leasehold mortgage upon the leasehold estate of the above referenced development. The following information is provided in order for the City to provide its consent:

Lender:

Principal Amount:

Interest:

Term:

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

Sincerely,

**3300 MISSION PARTNERS L.P.**,
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Holdings LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

By signing this letter, the City consents to the leasehold mortgage, under the terms and conditions of Section 25.01 of the Ground Lease, dated [_____, 20___].

Mayor's Office of Housing and Community Development

_____

Daniel Adams, 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 [_____, 20__], 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 3300 Mission Partners, L.P., a California limited partnership, as tenant ("**Tenant**"), with respect to that certain Ground Lease (the "Lease") dated [_____, 20__], 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 [_____, 20__] in San Francisco, California.

TENANT:

**3300 MISSION PARTNERS L.P.**,
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Holdings LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

CITY:

CITY AND COUNTY OF SAN FRANCISCO,
a municipal corporation

By: _____
Andrico Q. Penick
Director of Property

By: _____
Daniel Adams
Director, Mayor's Office of Housing and Community Development

APPROVED AS TO FORM:

DAVID CHIU, City Attorney

By: _____
Jessica Alfaro-Cassella
Deputy City Attorney

**ATTACHMENT 5**

**FORM OF TENANT INCOME CERTIFICATION**

[Attached.

1

***DRAFT FOR COMMENT ONLY***

# AMENDED AND RESTATED LOAN AGREEMENT
# (CITY AND COUNTY OF SAN FRANCISCO
# 2023 CERTIFICATES OF PARTICIPATION, HOUSING TRUST FUND)

By and Between

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

and

**3300 MISSION PARTNERS L.P.**,
a California limited partnership

for

**3300 MISSION**
(3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA)

$[12,440,242]
2023 Certificates of Participation: $[1,194,037]
Housing Trust Fund: $[11,246,205]

Dated as of [_____], 2024

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**AMENDED AND RESTATED LOAN AGREEMENT**
(City and County of San Francisco
2023 Certificates of Participation, Housing Trust Fund)
(*3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA*)

**THIS AMENDED AND RESTATED LOAN AGREEMENT** ("Agreement") is entered into as of [_____], 2024, 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 **3300 MISSION PARTNERS, 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.

B. On June 2, 2023, the City enacted Ordinance 102-23, which provided for the issuance of up to $146,800,000 in Certificates of Participation to finance and refinance certain capital improvement, affordable housing and community facilities development projects within the City and County of San Francisco, including site acquisition, demolition and site preparation, design work, construction, repairs, renovations, improvements and the equipment of such facilities, including through the retirement of certain commercial paper notes of the City issued for such purposes (the "2023 Certificates of Participation"). To the extent permitted by law, the City intends to reimburse with proceeds of the 2023 Certificates of Participation amounts disbursed under this Agreement to Borrower for the development and construction of affordable housing. The funds from the Housing Trust Fund and the 2023 Certificates of Participation provided under this Agreement will be collectively referred to herein as the "Funds."

C. MOHCD issued a Notice Of Funding Availability For Site Acquisition And Predevelopment Financing For New Affordable Rental Housing ("NOFA") on January 27, 2023, to solicit qualified affordable housing developers for site acquisition and predevelopment for new construction projects serving low-income households, including homeless households. In response to the NOFA, MOHCD selected the Bernal Heights Housing Corporation, Tabernacle Community Development Corporation, and Mitchelville Real Estate Group (collectively "Developers") to develop and construct the Project (as defined below). Developers formed the Borrower for the purpose of undertaking the activities described in the NOFA.

D. Borrower has acquired a leasehold interest in the real property located at 3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, California (the "Land") under a Ground Lease dated as of [_____], 2024 by and between Borrower and the

City (“Ground Lease”). Borrower desires to use the Funds to develop and construct a 35-unit multifamily rental housing development (“Improvements”), consisting of 34 rental units affordable to low-income households and 1 manager’s unit and common areas, and including the construction of the commercial shell of an approximately 776 square foot ground floor commercial space (the “Commercial Space”), which will be collectively known as 3300 Mission (the “Project”). If the context requires, the term "Improvements" will include the Commercial Space. [The Land includes [2] parcels, as show on Parcel Map No. [_____] dated [_____], recorded in the Official Records of the City and County of San Francisco as Instrument No. [_____] (the “Parcel Map”). Parcel [__] (as set forth on the Parcel Map) will be developed and built for affordable housing (the “Residential Parcel”) and Parcel [_] (as set forth on the Parcel Map) will be developed and used as the Commercial Space (the “Commercial Parcel”).]

E. The City previously loaned a total principal amount of Six Million Five Hundred Thousand and No/100 Dollars ($6,500,000.00) to conduct predevelopment activities in support of construction of the Project. The Original Loan is evidenced by the following documents: (1) a Loan Agreement dated as of December 21, 2023 (the “Original Loan Agreement”), (2) a Secured Promissory Note made by Borrower in an amount equal to Two Million Three Hundred Forty Nine Thousand and No/100 Dollars ($2,349,000.00) to the order of the City dated as of December 21, 2023 (the “Predev Note”), (3) a Secured Promissory Note made by Borrower in an amount equal to Four Million One Hundred Fifty One Thousand and No/100 Dollars ($4,151,000.00) to the order of the City dated as of December 21, 2023 (the “Acquisition Note”), (4) a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing for the benefit of the City dated as of January 24, 2024 and recorded in the Official Records on January 26, 2024 as Instrument No. 2024010477, (5) a Declaration of Restrictions and Affordable Housing Covenants in favor of the City dated as of January 24, 2023 [sic] and recorded in the Official Records on January 26, 2024 as Instrument No. 2024010478, and (6) a Developer Fee Agreement dated as of January 12, 2023.

F. The Citywide Affordable Housing Loan Committee has reviewed Borrower's application for additional 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 total amount of up to [Twelve Million Four Hundred Forty Thousand Two Hundred Forty Two and No/100 Dollars ($12,440,242.00)] (the "Funding Amount") under this Agreement to fund certain costs related to the Project. The Funding Amount is comprised of (i) 2023 Certificates of Participation in the amount of $[1,194,037] and (ii) Housing Trust Funds in the amount of $[11,246,205].

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

1. a construction loan from Citizens Bank, N.A. to Borrower in the total principal amount of approximately [Eighteen Million Four Hundred Ninety Two Thousand One Hundred Fifty and No/100 Dollars ($18,492,150.00)], pursuant to a loan agreement dated as of the date hereof; and

2. federal low-income housing tax credits reserved or allocated to the Project by the California Tax Credit Allocation Committee ("TCAC"), pursuant to its Preliminary Reservation of Low-Income Housing Tax Credits dated May 15, 2024.

H. On the Agreement Date, this Agreement will amend, restate, supersede and replace the Original Loan Agreement. Concurrently herewith, Borrower will also (i) execute an amended and restated promissory note in favor of the City to supersede and replace the Predev Note to evidence the Loan, (ii) execute and record a deed of trust to secure such amended and restated note, and (iv) execute and record an amended and restated declaration of restrictions. As of the Agreement Date, the City will cancel and return the Predev Note, in accordance with the terms thereof.

I. On [_____], 2024, 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**.

"Affiliated Commercial Owner" has the meaning set forth in **Section 16.2**.

"Agreement" means this 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 $[2,100,000] 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 $[2,100,000] from AHP awarded to Borrower for permanent financing of the Project.

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

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

"Approved Plans" has the meaning set for in **Section 5.2**.

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

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

"Borrower" means 3300 Mission Partners L.P., a California limited partnership whose general partners are Tabernal Alliance LLC, a California limited liability company, its managing general partner, and AJJLA Housing 2 LLC, a California limited liability company, its administrative general partner (collectively, the "General Partners") 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 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, 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**.

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

"Declaration of Restrictions" means a recorded amended and restated 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 leasehold 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. When Borrower conveys the Commercial Space as contemplated under this Agreement, the term “Deed of Trust” will only refer to the Deed of Trust on the portion(s) of the Site that includes the Improvements owned by Borrower, but excludes the Commercial Space.

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

“Developer” means, collectively, the Bernal Heights Housing Corporation, Tabernacle Community Development Corporation, and Mitchelville Real Estate Group, 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 financing, including bonds, into permanent financing; (d) the expense of a cost audit; and (e) allowed Developer Fees.

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

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

"Distributions" has the meaning set forth in **Section 13.1**.

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

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

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

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

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

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

"Expenditure Request" means a written request by Borrower for a Disbursement from the Funding Amount, which 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 F**.

"Funds" has the meaning set forth in **Recital B**.

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

"General Partner" means, collectively, Tabernal Alliance LLC, a California limited liability company, its managing general partner, and AJJLA Housing 2 LLC, a California limited liability company, its administrative general partner.

"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 D**.

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

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

"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 D**.

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

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

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

"Land" has the meaning set forth in **Recital D**.

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

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

“Limited Partner” means Wincopin Circle LLLP, a Maryland limited liability limited partnership, and its permitted successors and assigns.

"Loan" has the meaning set forth in **Recital F**.

"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, adjusted solely for household size, and derived in part from the income limits and area median income determined by HUD for the San Francisco area, but not adjusted for a 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 amended and restated 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 the 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 acquisition/construction/rehabilitation of the Project, as determined by the City in its sole discretion.

"Partnership Agreement" means the First Amended and Restated Agreement of Limited Partnership of the Borrower dated as of [_____, 20__], as amended from time to time.

**"Partnership Fees"** means [(i) a combined annual asset management and partnership management fee in the amount of $[50,249], increasing by [3.5]% annually, payable to the Tenant's general partner, and (ii) an annual investor services fee in the amount of $[7,500], increasing annually by [3.5]%, payable to the Tenant's Permitted Limited Partner.

"Payment Date" means the first [June 30th] following the Completion Date and each succeeding [June 30th] until the Maturity Date.

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

"Preferences and Lottery Manual" means MOHCD's Marketing, 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 C**. 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) annual monitoring fees and 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 under the Ground Lease; (f) required deposits to the Replacement Reserve Account, Operating Reserve Account and any other reserve account required under this Agreement or the Partnership 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. Partnership Fees are not Project Expenses.

"Project Income" means all income and receipts in any form received by Borrower from the operation of the Project, including, 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 Site. Project Income does not include interest accruing on any portion of the Funding Amount or tenant’s refundable security deposits.

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

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

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

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

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

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

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

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

"Retention" has the meaning set forth in **Section 4.7**.

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

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

"SFHA" means the San Francisco Housing Authority.

"Site" means the Land and the Improvements.

"Supportive Services" means providing a 0.5 Full Time Equivalent (FTE) service connector who, with support of other staff from Bernal Heights Neighborhood Center (BHNC), will provide: Health and Wellness Service Coordination: wellbeing checks, transportation support to hospitals or other health services, linkages to preventative and behavioral health care providers, health and nutrition education, health fairs, food pantries, and physical activity; Housing Retention Services: Housing stability support, eviction prevention, lease education, assistance with property management, housing inspections preparation, linkages to financial resources and/or education; Education and Skills for Stability: Parent support, budget planning and foundational financial literacy programs, workshops, referrals to BHNC employment

services, and referrals to outside agencies and providers; and Community Participation: Resident participation through community projects and events, volunteer opportunities, leadership programs, voter education and registration, see also **Section 3.9**.

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

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

"TCAC" means the California Tax Credit Allocation Committee.

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

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

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

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

"Unit" means a residential rental unit within the Project.

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

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

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

(b) Headings are for convenience only and do not define or limit any terms. References to a specific City Document or other document or exhibit mean the document,

together with all exhibits and schedules, as supplemented, modified, amended or extended from time to time in accordance with this Agreement. References to Articles, Sections and Exhibits refer to this Agreement unless otherwise stated.

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

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

ARTICLE 2 FUNDING.

2.1 Funding Amount. The City agrees to lend to Borrower a maximum principal amount equal to the Funding Amount in order to finance the construction and development of a 35-unit multifamily rental housing development, consisting of 34 rental units affordable to low-income households and 1 manager's unit and common areas, including construction of the shell of the Commercial Space. Borrower acknowledges and agrees that a portion of the Funding Amount is the AHP Bridge Loan. The Funding Amount will be disbursed according to the terms and subject to the conditions set forth in this Agreement.

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 July 20, 2022. Notwithstanding the foregoing, City will not approve any expenditure of 2023 Certificates of Participation Funds for expenses incurred by Borrower earlier than sixty (60) days prior to the City's declaration of its official intent to reimburse such expenses with proceeds of the 2023 Certificates of Participation.

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) Prior to the Completion Date, Borrower must provide an executed Letter of Intent from a commercial tenant who intends lease the Commercial Space.
(b) Should Project Based Vouchers or other subsidy become available, the Project team will apply for any Section 8 Project Based before the construction closing for the Project. Section 8 vouchers would allow the Project to support debt and additional property management staffing. Sponsor complete a NEPA in this scenario and comply with relevant labor standards of PBVs are awarded. Sponsor and MOHCD will revisit reduction in ground lease payment if the project receives Project Based Section 8 vouchers or other rental subsidies.

2.7 AHP Loan. Borrower will apply for an AHP loan for permanent financing of the Project to the Federal Home Loan Bank of San Francisco in 2025 and if not successful, again in 2026. If Borrower's application for the AHP loan is denied, Borrower will continue to apply for an AHP loan to the Federal Home Loan Bank of San Francisco until Borrower is no longer eligible for AHP funding. If awarded AHP funds, and subject to any requirements of the San Francisco Federal Home Loan Bank Affordable Housing Program, Borrower will use the AHP Loan to repay the AHP Bridge Loan, or any portion thereof, as set forth in Article 3. Borrower will submit to MOHCD a preliminary AHP application with a self-score prior to submission to the Federal Home Loan Bank.

2.8 Allocation of Funding Amount. Upon transfer of the Commercial Parcel as contemplated in Section 16.2, the Funding Amount will be allocated between the Residential Parcel and the Commercial Parcel as provided in Section 16.2.

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

3.1 Maturity Date. Borrower will repay all amounts owing under the City Documents on the date that is the later of (a) the fifty-seventh ($57^{th}$) anniversary of the date the Deed of Trust is recorded in the Recorder's Office of San Francisco County or (b) the fifty-fifth ($55^{th}$) anniversary of the Conversion Date, but in no event later than December 31, 2082 (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 at a rate of [at least three percent, but no more than the long-term applicable federal rate as of the Agreement Date] ([__%]) per annum, 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 and 3.5.2 below, the outstanding principal balance of the Loan, together with all accrued and unpaid interest, if any, will be due and payable on the Maturity Date according to the terms set forth in full in the Note. 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. Borrower will notify the City in writing within thirty (30) days after the later of the date on which Borrower receives its Form 8609 from the California Tax Credit Allocation Committee or the date on which Borrower receives Excess Proceeds from its Limited Partner or other financing sources. Borrower will repay all Excess Proceeds to the City no later than sixty (60) days after receipt of such notification, unless the City has elected to waive such payment. The City will use such Excess Proceeds to reduce the balance of the Loan.

3.5.2 Notification and Repayment of AHP Bridge Loan. 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 but significant changes do not include a reduction in anticipated rental income or reasonable delay in lease-up of the Project.

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.

3.8. Reserved.

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

## 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 amendment; (viii) subordination, nondisturbance and attornment agreements from each commercial tenant in possession, or holding any right of possession, of any portion of the Site (if applicable); and (ix) any other City Documents reasonably requested by the City.

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) The Loan will be In Balance.

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

4.7 Retention. In addition to the other conditions to Disbursements, Borrower acknowledges that the amount of hard costs or tenant improvements costs included in any Expenditure Request associated with rehabilitation or construction, when added to previously approved costs, may not exceed ninety percent (90%) of the approved budgeted costs on a line item basis. The remaining ten percent (10%) of approved budgeted hard costs or tenant improvement costs associated with rehabilitation or construction will be held by the City and/or other Project lenders (the "**Retention**") and may be released only upon satisfaction of all requirements listed in the Construction Representative'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.

(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. The City hereby approves the Construction Contract and plans and specifications for the Project provided to the City as of the Agreement Date.

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 [January 30, 2025]; (b) complete demolition, rehabilitation or construction by a date no later than [October 1, 2026], in accordance with the plans and specifications approved by the City, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect's or engineer's certificate of completion (the "Completion Date"); and (c) achieve occupancy of ninety-five percent (95%) of the Units by a date no later than [January 31, 2027].

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 twelve (12) 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, including but not limited to outlining the affirmative steps Borrower 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 and Tenant Selection Plan is consistent with the Mayor's Racial Equity statement and promotion of positive outcomes for African American San Franciscans. 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, in the event of a conflict between these provisions and the provisions of Section 42 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated therewith, the provisions of such Section 42 (and the applicable regulations) shall control.

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

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

(e) Notices to SFHA.

(f) Notices to MOHCD

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

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

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

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

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

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

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

ARTICLE 7 AFFORDABILITY AND OTHER LEASING RESTRICTIONS.

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

7.2 Borrower's Covenant.

(a) Borrower covenants to rent all Units (except one Unit reserved for the manager of the Project) at all times to households certified as Qualified Tenants at initial occupancy, as set forth in **Exhibit A**.

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

7.3 Rent Restrictions.

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

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

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

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

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

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

7.4 Certification.

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

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

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

7.5 Form of Lease. The form of lease for Tenants will provide for termination of the lease and consent to immediate eviction for failure to: (i) qualify as a Qualified Tenant if the Tenant has made any material misrepresentation in the initial income certification, or (ii) submit to Borrower an annual recertification of income. The initial term of the lease will be for a period of not less than one (1) year. Borrower will not terminate the tenancy or refuse to renew any lease of a Unit except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Laws or other good cause. Any termination or refusal to renew the lease for a Unit will be preceded by not less than thirty (30) days' written notice to the Tenant specifying the grounds for the action.

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

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

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.

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

8.2 Contracting With Management Agent.

(a) Borrower may contract or permit contracting with a management agent for the performance of the services or duties required in **Section 8.1(a)**, subject to the City's prior written approval of both the management agent and, at the City's discretion, the management contract between Borrower and the management agent, *provided, however,* that the arrangement will not relieve Borrower of responsibility for performance of those duties. Any management contract 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 [Caritas Management Corporation] as Borrower's management agent, subject to approval of the management contract.]

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

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

ARTICLE 9 GOVERNMENTAL APPROVALS AND REQUIREMENTS .

9.1 Approvals. Borrower covenants that it has obtained or will obtain in a timely manner and comply with all federal, state and local governmental approvals required by Law to

be obtained for the Project. Subject to **Section 17.2**, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

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

ARTICLE 10 PROJECT MONITORING, REPORTS, BOOKS AND RECORDS.

10.1 Generally.

(a) Borrower understands and agrees that it will be monitored by the City from time to time to assure compliance with all terms and conditions in this Agreement and all Laws. Borrower acknowledges that the City may also conduct periodic on-site inspections of the Project. Borrower will cooperate with the monitoring by the City and ensure full access to the Project and all information related to the Project as reasonably required by the City.

(b) Borrower will keep and maintain books, records and other documents relating to the receipt and use of all Funds, including all documents evidencing any Project Income and Project Expenses. Borrower will maintain records of all income, expenditures, assets, liabilities, contracts, operations, tenant eligibility and condition of the Project. All financial reports will be prepared and maintained in accordance with GAAP as in effect at the time of performance.

(c) Borrower will provide written notice of the replacement of its executive director, director of housing development, director of property management and/or any equivalent position within thirty (30) days after the effective date of such replacement.

10.2 Monthly Reporting. Borrower will submit monthly reports (the "MOHCD Monthly Project Update") describing progress toward developing the Project with respect to obtaining necessary approvals from other City departments, procuring architects, consultants and contractors, changes in scope, cost or schedule and significant milestones achieved in the past month and expected to be achieved in the coming month, community outreach completed, outcomes achieved related to racial equity goals, and commercial use programming. The MOHCD Monthly Project Update will be submitted by email in substantially the form requested by MOHCD until such time as the Project Completion Report is submitted to the City pursuant to **Section 10.5** below.

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

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

10.5 Project Completion Report. Within the specific time periods set forth below after the completion of rehabilitation or construction, the lease-up and/or permanent financing of the Project, as applicable, Borrower will provide to the City the reports listed below certified by Borrower to be complete and accurate. Subsequent to the required submission of the reports listed below, Borrower will provide to the City information or documents reasonably requested by the City to assist in the City's review and analysis of the submitted reports:

(a) within ninety (90) days after the Completion Date, a draft cost certification (or other similar project audit performed by an independent certified public accountant) identifying the sources and uses of all Project funds including the Funds;

(b) within one hundred-eighty (180) days after the Completion Date, a report on compliance with the applicable requirements under **Section 5.1** of this Agreement, including the type of work and the dollar value of such work; and

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

10.6 Response to Inquiries. At the request of the City, its agents, employees or attorneys, Borrower will respond promptly and specifically to questions relating to the income, expenditures, assets, liabilities, contracts, operations and condition of the Project, the status of any mortgage encumbering the Project and any other requested information with respect to Borrower or the Project.

10.7 Delivery of Records. At the request of the City, made through its agents, employees, officers or attorneys, Borrower will provide the City with copies of each of the following documents, certified in writing by Borrower to be complete and accurate:

(a) all tax returns filed with the United States Internal Revenue Service, the California Franchise Tax Board and/or the California State Board of Equalization on behalf of Borrower and any general partner or manager of Borrower;

(b) all certified financial statements of Borrower and, if applicable, its general partner or manager, the accuracy of which will be certified by an auditor satisfactory to the City; and

(c) any other records related to Borrower's ownership structure and the use and occupancy of the Site.

10.8 Access to the Project and Other Project Books and Records. In addition to Borrower's obligations under **Sections 2.4, 10.1, 10.2, 10.3, 10.4, 10.5**, **10.6** and **10.7** and any other obligations to provide reports or maintain records in any City Document, Borrower agrees that duly authorized representatives of the City will have: (a) access to the Project throughout the Compliance Term to monitor the progress of work on the Project and compliance by Borrower with the terms of this Agreement; and (b) access to and the right to inspect, copy, audit and examine all books, records and other documents Borrower is required to keep at all reasonable times, following reasonable notice, for the retention period required under **Section 10.9.**

10.9 Records Retention. Borrower will retain all records required for the periods required under applicable Laws.

ARTICLE 11 USE OF INCOME FROM OPERATIONS.

11.1 Project Operating Account.

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

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

ARTICLE 12 REQUIRED RESERVES.

12.1 Replacement Reserve Account.

(a) Commencing no later than sixty (60) days after the Completion Date, or any other date the City designates in writing, Borrower will establish or cause to be established a segregated interest-bearing replacement reserve depository account (the "Replacement Reserve Account"). On or before the 15th day of each month following establishment of the Replacement Reserve Account, Borrower will make monthly deposits from Project Income into the Replacement Reserve Account in the amount necessary to meet the requirements of this Section. The City may review the adequacy of deposits to the Replacement Reserve Account periodically and require adjustments as it deems necessary. All reserves held by any lenders or equity providers with respect to the Project will be credited toward the applicable City reserve requirement hereunder on a dollar for dollar basis.

(b) Monthly deposits will equal the lesser of: (i) 1/12th of 0.6% of Replacement Cost; or (ii) 1/12th of the following amount: $17,500 ($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, which approval will not be unreasonably withheld, conditioned or delayed.

12.2 Operating Reserve Account.

(a) Commencing no later than 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. All reserves held by any lenders or equity providers with respect to the Project will be credited toward the applicable City reserve requirement hereunder on a dollar for dollar basis.

(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, as allowable by Project Income.

(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 time the City determines the Loan is out of balance) under any City Document.

13.4 Borrower's Use of Residual Receipts for Development. To the extent that making a Distribution is not inconsistent with any other financing agreement for the Project, and subject to the limitations in this Article, with the City's prior written approval Borrower may retain a portion of Residual Receipts in lieu of using them to repay the Loan in an amount consistent with the Residual Receipts Policy attached hereto as **Exhibit P**, except as follows: 1) no Residual Receipts shall be due to City in the first five years of operation, starting from the First Lease Payment Year (as defined in the Ground Lease), and 2) the portion of Residual Receipts due to City shall be 50%. 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 Six Hundred Twenty Five Thousand and No/100 Dollars ($2,625,000.00)] 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, provided, however, if there is any conflict between the Partnership Development Fee Agreement and the Developer Fee Agreement, the Partnership Development Fee Agreement will control.

ARTICLE 16 TRANSFERS.

16.1 Permitted Transfers/Consent. Borrower will not cause or permit any voluntary transfer, assignment or encumbrance of its interest in the Site or Project or of any ownership interests in Borrower, or lease or permit a sublease on all or any part of the Project, other than: (a) leases, subleases or occupancy agreements to occupants of Units and/or Commercial Space in the Project; or (b) security interests for the benefit of lenders securing loans for the Project as approved by the City on terms and in amounts as approved by City in its reasonable discretion; (c) transfers from Borrower to a limited partnership or limited liability company formed for the

tax credit syndication of the Project, where Borrower or an affiliated nonprofit public benefit corporation is the sole general partner or manager of that entity or is the manager of a limited liability company that is the sole general partner or manager of that entity; (d) transfers of the general partnership or manager's interest in Borrower to a nonprofit public benefit corporation approved in advance by the City; (e) transfers of any limited partnership or membership interest in Borrower to an investor or affiliate of the Permitted Limited Partner pursuant to the tax credit syndication of the Project; (f) the grant or exercise of an option agreement between Borrower and Borrower's general partner or manager or any of its affiliates in connection with the tax credit syndication of the Project where such agreement has been previously approved in writing by the City; (g) 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; or (h) as provided in Section 16.2 regarding transfer of the Commercial Parcel. Any other transfer, assignment, encumbrance or lease without the City's prior written consent will be voidable and, at the City's election, constitute an Event of Default under this Agreement. The City's consent to any specific assignment, encumbrance, lease or other transfer will not constitute its consent to any subsequent transfer or a waiver of any of the City's rights under this Agreement.

16.2 Transfer of Commercial Space. On or before the Conversion Date, Borrower may transfer the Commercial Parcel to an affiliated entity organized to operate the Commercial Space, as reasonably approved by the City (the "**Affiliated Commercial Owner**"), and the City and the Borrower will amend the City Documents to the extent necessary to provide that the Loan applies to and the Deed of Trust encumbers only the Residential Parcel, and the Affiliated Commercial Owner and the City will enter into a commercial ground lease pursuant to MOHCD's Commercial Underwriting Guidelines or as otherwise approved by MOHCD; provided however, that if such transfer of the Commercial Parcel would risk the financial feasibility of the residential portion of the Project, MOHCD may consult with the Borrower and Limited Partner to consider alternative options to support the Project. Concurrently with execution of the ground lease for the Commercial Parcel with the Affiliated Commercial Owner, the City and the Affiliated Commercial Owner will enter into a loan agreement, and the Affiliated Commercial Owner will execute a Note and Deed of Trust on the same terms as set forth in the applicable City Documents (except as may be inapplicable to the Commercial Parcel) for a loan in an amount equal to the total costs incurred by the Borrower to complete the Commercial Space, projected to be $[761,154], as set forth in Exhibit B-1, which amount will be subtracted from the amount due under the Note due from Borrower to the City. City's obligations under this Section 16.2 are subject to City's receipt of all necessary approvals.

ARTICLE 17 INSURANCE AND BONDS; INDEMNITY.

17.1 Borrower's Insurance. Subject to approval by the City's Risk Manager of the insurers and policy forms, Borrower 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) injury or death to persons or damage to property or other loss occurring on or in connection with the Site or the Project, whether caused by the negligence or any other act or omission of Borrower or any other person or by negligent, faulty, inadequate or defective design, building, construction, rehabilitation or maintenance or any other condition or otherwise; (d) any claim of any surety in connection with any bond relating to the construction or rehabilitation of any improvements or offsite improvements; (e) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee that relates to or arises out of the City Documents, the Loan, the Site or the Project or any transaction contemplated by, or the relationship between Borrower and the City or any action or inaction by the City under, the City Documents; (f) the occurrence, until the expiration of the Compliance Term, of any Environmental Activity or any failure of Borrower or any other person to comply with all applicable Environmental Laws relating to the Project or the Site; (g) the occurrence, after the Compliance Term, of any Environmental Activity resulting directly or indirectly from any Environmental Activity occurring before the expiration of the Compliance Term; (h) any liability of any nature arising from Borrower's contest of or relating to the application of any Law, including any contest permitted under **Sections 9.1, 9.2** and **18.2**; or (i) any claim, demand or cause of action, or any investigation, inquiry, order, hearing, action or other proceeding by or before any Governmental Agency, whether meritorious or not, that directly or indirectly relates to, arises from or is based on the occurrence or allegation of any of the matters described in clauses (a) through (h) above, *provided that* no Indemnitee will be entitled to indemnification under this Section for matters caused solely by its own gross negligence or willful misconduct.

17.3 Duty to Defend. Borrower acknowledges and agrees that its obligation to defend the Indemnitees under **Section 17.2**: (a) is an immediate obligation, independent of its other obligations hereunder; (b) applies to any Loss which actually or potentially falls within the scope of **Section 17.2**, regardless of whether the allegations asserted in connection with such Loss are or may be groundless, false or fraudulent; and (c) arises at the time the Loss is tendered to Borrower by the Indemnitee and continues at all times thereafter. In the event any action or proceeding is brought against an Indemnitee by reason of a claim arising out of any Loss for which Borrower has indemnified the Indemnitees, upon written notice, Borrower will answer and otherwise defend the action or proceeding using counsel approved in writing by the Indemnitee at Borrower's sole expense. Each Indemnitee will have the right, exercised in its sole discretion,

but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt, demand, suit or judgment against the Indemnitee in connection with the matters covered by this Agreement. The Indemnitee will give Borrower prompt notice of any Loss and Borrower has the right to defend, settle and compromise any such Loss; provided, however, that the Indemnitee has the right to retain its own counsel at the expense of Borrower if representation of such Indemnitee by the counsel retained by Borrower would be inappropriate due to conflicts of interest between such Indemnitee and Borrower. An Indemnitee's failure to notify Borrower promptly of any Loss does not relieve Borrower of any liability to such Indemnity under **Section 17.2**, unless such failure materially impairs Borrower's ability to defend such Loss. Borrower will seek the Indemnified Party's prior written consent to settle or compromise any Loss if Borrower contends that such Indemnitee shares in liability with respect thereto.

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

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

ARTICLE 18 HAZARDOUS SUBSTANCES.

18.1 Borrower's Representations. Borrower represents and warrants to the City that, to the best of Borrower's actual knowledge, without independent investigation or inquiry as of the Agreement Date, the following statements are true and correct except as disclosed in the Phase I Environmental Site Assessment Report, dated March 21, 2023 and prepared by Partner Engineering and Science, Incorporated; Pre-Renovation Asbestos & Lead Based Paint Surey Report, dated March 24, 2023 and prepared by Partner Engineering; 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; 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.

18.3 Survival. Borrower and City agree that this Article 18 is intended as City's written request for information (and Borrower's response) concerning the environmental condition of the Site as security as required by California Code of Civil Procedure § 726.5; and each provision in this Article (together with any indemnity applicable to a breach of any such provision) with respect to the environmental condition of the Site as security is intended by City and Borrower to be an "environmental provision" for purposes of California Code of Civil Procedure § 736, and as such it is expressly understood that Borrower's duty to indemnify City hereunder will survive: (a) any judicial or non-judicial foreclosure under the Deed of Trust, or transfer of the Property in lieu thereof, (b) the release and reconveyance or cancellation of the Deed of Trust; and (c) the satisfaction of all of Borrower's obligation under the City Documents.

ARTICLE 19 DEFAULT.

19.1 Event of Default. Any material breach by Borrower of any covenant, agreement, provision or warranty contained in this Agreement or in any of the City Documents that remains uncured upon the expiration of any applicable notice and cure periods contained in any City Document will constitute an "Event of Default," including the following:

(a) Borrower fails to make any payment required under this Agreement within ten (10) days after the date when due; or

(b) Any lien is recorded against all or any part of the Site or the Project without the City's prior written consent, whether prior or subordinate to the lien of the Deed of Trust or Declaration of Restrictions, and the lien is not removed from title or otherwise remedied to the City's satisfaction within thirty (30) days after Borrower's receipt of written notice from the City to cure the default, or, if the default cannot be cured within a 30-day period, Borrower will have sixty (60) days to cure the default, or any longer period of time deemed necessary by the City, *provided that* Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion; or

(c) Borrower fails to perform or observe any other term, covenant or agreement contained in any City Document, and the failure continues for thirty (30) days after Borrower's receipt of written notice from the City to cure the default, or, if the default cannot be cured within a 30-day period, Borrower will have sixty (60) days to cure the default, or any longer period of time deemed necessary by the City, *provided that* Borrower commences to cure the default within the 30-day period and diligently pursues the cure to completion; or

(d) Any representation or warranty made by Borrower in any City Document proves to have been incorrect in any material respect when made; or

(e) All or a substantial or material portion of the improvements on the Site is damaged or destroyed by fire or other casualty, and the City has determined upon restoration or repair that the security of the Deed of Trust has been impaired or that the repair, restoration or replacement of the improvements in accordance with the requirements of the Deed of Trust is not economically practicable or is not completed within two (2) years of the receipt of insurance proceeds; or all or a substantial or material portion of the improvements is condemned, seized or appropriated by any non-City Governmental Agency or subject to any action or other proceeding instituted by any non-City Governmental Agency for any purpose with the result that the improvements cannot be operated for their intended purpose; or

(f) Borrower is dissolved or liquidated or merged with or into any other entity; or, if Borrower is a corporation, partnership, limited liability company or trust, Borrower ceases to exist in its present form and (where applicable) in good standing and duly qualified under the laws of the jurisdiction of formation and California for any period of more than ten (10) days; or, if Borrower is an individual, Borrower dies or becomes incapacitated; or all or substantially all of the assets of Borrower are sold or otherwise transferred except as permitted under **Section 16.1**; or

(g) Without the City's prior written consent, Borrower assigns or attempts to assign any rights or interest under any City Document, whether voluntarily or involuntarily, except as permitted under **Section 16.1**; or

(h) Without the City's prior written consent, Borrower voluntarily or involuntarily assigns or attempts to sell, lease, assign, encumber or otherwise transfer all or any portion of the ownership interests in Borrower or of its right, title or interest in the Project or the Site except as permitted under **Article 16**; or

(i) Without the City's prior written consent, Borrower transfers, or authorizes the transfer of, funds in any Account required or authorized under this Agreement; or

(j) Either the Deed of Trust or the Declaration of Restrictions ceases to constitute a valid and indefeasible perfected lien on the Site and improvements, subject only to Permitted Exceptions; or

(k) Borrower is subject to an order for relief by the bankruptcy court, or is unable or admits in writing its inability to pay its debts as they mature or makes an assignment for the benefit of creditors; or Borrower applies for or consents to the appointment of any receiver, trustee or similar official for Borrower or for all or any part of its property (or an appointment is made without its consent and the appointment continues undischarged and unstayed for sixty (60) days); or Borrower institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to Borrower or to all or any part of its property under the laws of any jurisdiction (or a proceeding is instituted without its consent and continues undismissed and unstayed for more than sixty (60) days); or any judgment, writ, warrant of attachment or execution or similar process is issued or levied against the Site, the

improvements or any other property of Borrower and is not released, vacated or fully bonded within sixty (60) days after its issue or levy; or

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

(m) Borrower fails to make any payments or disbursements required to bring the Loan in balance after the City determines that the Loan is out of balance; or

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

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

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

The Limited Partner shall be entitled to cure any default described in this Section 19.1 on behalf of Borrower, and the City shall accept such cure on the same terms as cure by Borrower

19.2 Remedies. During the pendency of an uncured Event of Default, the City may exercise any right or remedy available under this Agreement or any other City Document or at law or in equity. All of the City's rights and remedies following an Event of Default are cumulative, including:

(a) The City at its option may declare the unpaid principal balance of the Note, together with default interest as provided in the Note and any other charges due under the Note and the other City Documents, immediately due and payable without protest, presentment, notice of dishonor, demand or further notice of any kind, all of which Borrower expressly waives.

(b) The City at its option may terminate all commitments to make Disbursements or to release the Site from the Deed of Trust or Declaration of Restrictions, or, without waiving the Event of Default, the City may determine to make further Disbursements or to release all or any part of the Site from the Deed of Trust or Declaration of Restrictions upon terms and conditions satisfactory to the City in its sole discretion.

(c) The City may perform any of Borrower's obligations in any manner, in the City's reasonable discretion.

(d) The City, either directly or through an agent or court-appointed receiver, may take possession of the Project and enter into contracts and take any other action the City deems appropriate to complete or construct all or any part of the improvements, subject to modifications and changes in the Project the City deems appropriate.

(e) The City may apply to any court of competent jurisdiction for specific performance, or an injunction against any violation, of this Agreement or for any other remedies or actions necessary or desirable to correct Borrower's noncompliance with this Agreement.

(f) Upon the occurrence of an Event of Default described in **Section 19.1(k)**, the unpaid principal balance of the Note, together with default interest as provided in the Note and any other charges due under the Note and the other City Documents, will become due and payable automatically.

(g) All costs, expenses, charges and advances of the City in exercising its remedies or to protect the Project will be deemed to constitute a portion of the principal balance of the Note, even if it causes the principal balance to exceed the face amount of the Note, unless Borrower reimburses the City within ten (10) days of the City's demand for reimbursement.

19.3 Force Majeure. The occurrence of any of the following events will excuse performance of any obligations of the City or Borrower rendered impossible to perform while the event continues: strikes; lockouts; labor disputes; acts of God; 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) Except as disclosed in writing to the City, no action, suit or proceeding is pending or 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 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<br>Mayor's Office of Housing and Community Development<br>1 South Van Ness Avenue, 5th Floor<br>San Francisco, CA 94103<br>Attn: Director |
| To Borrower: | [3300 Mission Partners L.P.<br>c/o Bernal Heights Neighborhood Center<br>515 Cortland Avenue<br>San Francisco, CA 94110<br>Attention: Executive Director] |
| With a copy to Limited Partner: | Wincopin Circle LLLP<br>c/o Enterprise Community Asset Management, Inc.<br>11000 Broken Land Parkway, Suite 700<br>Columbia, MD 21044<br>Attn: Asset Management<br><br>and to:<br><br>Email: legal@enterprisecommunity.org<br>Attn: Chief Legal Officer |

or any other address a party designates from time to time by written notice sent to the other party in manner set forth in this Section.

21.2 Required Notices. Borrower agrees to provide notice to the City in accordance with **Section 21.1** of the occurrence of any change or circumstance that: (a) will have an adverse effect on the physical condition or intended use of the Project; (b) causes the Loan to be Out of Balance; or (c) will have a material adverse effect on Borrower's operation of the Property or ability to repay the Loan.

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

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.

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

EXHIBITS

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

H Tenant Selection Plan Policy
I MOHCD Tenant Screening Criteria Policy
J Developer Fee Policy
K Hold Harmless Policy
L Insurance Requirements
M Reserved
N Reserved
O MOHCD Commercial Underwriting Guidelines
P MOHCD Residual Receipts Policy

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at San Francisco, California as of the date first written above.

**THE CITY:**

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
London N. Breed
Mayor

By: _____
Daniel Adams
Director, Mayor's Office of Housing and Community Development

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____
Jessica Alfaro-Cassella
Deputy City Attorney

**BORROWER:**

**3300 MISSION PARTNERS L.P.**,
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company

Its: Administrative General Partner

By: Mitchelville Holdings LLC, a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

**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, with the exception of one unrestricted 0BR manager's unit:

| **Unit Size** | **No. of Units** | **Maximum Income Level** |
|---|---|---|
| 0BR | 11 | 30% of Median Income |
| 0BR | 15 | 55% of Median Income |
| 0BR | 8 | 80% of Median Income |
| 0BR | 1 | Manager's Unit |
| Total | 35 | |

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. To the extent the Borrower needs to repay the full outstanding loan balance by the Maturity Date, the rent restrictions above may be altered, but only to the extent necessary for the Project to refinance and repay the full outstanding loan balance by the Maturity Date, as determined in City's reasonable discretion. All Units with altered rent restrictions will at all times be occupied by Qualified Households whose household income does not exceed eighty percent (80%) of Median Income, and the monthly rent paid by the Qualified Tenants may not exceed (a) thirty percent (30%) of eighty percent (80%) of Median Income (b) less utility allowance. The maximum initial occupancy income level restrictions when averaged for all Residential Units in the Project may not exceed [sixty percent (60%)] of Median Income and subject to any applicable regulatory agreement, restrictive covenant, or other encumbrance. In such event, Borrower will provide the City with a written request no less than one year prior to the Maturity Date, and the City will use good faith efforts to meet with Borrower within fifteen (15) days

after Borrower’s request to meet. To the extent financially feasible, as mutually determined by the Parties, any such rent increase will be limited to (or will be first implemented with) any vacant units.

**EXHIBIT B-1**

Table of Sources and Uses of Funds

**EXHIBIT B-2**

Annual Operating Budget

**EXHIBIT B-3**

20-Year Cash Flow Proforma

**EXHIBIT C**

Tenant Income Certification Form

[To be attached.]

# 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 quantity; 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 attorney’s 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 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 12.M.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.

**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.

**3300 MISSION PARTNERS L.P.**,
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____

Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation,
a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Holdings LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

**EXHIBIT G**

Form of Annual Monitoring Report

[To be attached]

# 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.

[1]*See 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 record[2] 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

[To be attached]

**EXHIBIT K**

Hold Harmless Policy

[To be attached]

**EXHIBIT L**

Insurance Requirements

Subject to approval by the City's Risk Manager of the insurers and policy forms Borrower will obtain and maintain, or caused to be maintained, the insurance and bonds as set forth below from the date of this Agreement or other applicable date set forth below throughout the Compliance Term at no expense to the City:

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

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

(b) commercial general liability insurance, with limits no less than Two Million Dollars ($2,000,000) combined single limit per occurrence and Four Million Dollars ($4,000,000) annual aggregate limit for bodily injury and property damage, including coverage for contractual liability; personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; products and completed operations; broad form property damage; and explosion, collapse and underground (XCU) coverage during any period in which Borrower is conducting any activity on, alteration or improvement to the Site with risk of explosions, collapse, or underground hazards;

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

(d) professional liability insurance of no less than Two Million Dollars ($2,000,000) per claim and Four Million Dollars ($4,000,000) annual aggregate limit covering all negligent acts, errors and omissions of Borrower’s architects, engineers and surveyors. If the professional liability insurance provided by the architects, engineers, or surveyors is “Claims made” coverage, Borrower will assure that these minimum limits are maintained for no less than three (3) years beyond completion of the constructions or remodeling. Any deductible over Fifty Thousand Dollars ($50,000) each claim will be reviewed by Risk Management; and

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

(f) as applicable, pollution liability and/or asbestos pollution liability covering the work being performed with a limit no less than Two Million Dollars ($2,000,000) per claim or occurrence and Two Million Dollars ($2,000,000) annual aggregate per policy. This

coverage will be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Borrower's contractor, provided that the policy will be "claims made" coverage and Borrower will require Borrower's contractor to maintain these minimum limits for no less than three (3) years beyond completion of the construction or remodeling.

2. Property Insurance. Borrower will maintain, or cause its contractors and property managers, as appropriate for each, to maintain, insurance and bonds as follows:

(a) Prior to construction:

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

(b) During the course of construction:

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

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

(c) Upon completion of construction:

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

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

machinery and equipment with a deductible not to exceed Ten Thousand Dollars ($10,000) each loss, including the City as loss payee.

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

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

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

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

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

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

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

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

4. General Requirements.

(a) Required Endorsements. Borrower's insurance policies will include the following endorsements:

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

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

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

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

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

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

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

(d) Claims Based Policies. All claims based on acts, omissions, injury or damage occurring or arising in whole or in part during the policy period must be covered. If any required insurance is provided under a claims-made form, Borrower will maintain coverage as follows:

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

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

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

(e) Additional Requirements.

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

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

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

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

**Exhibit M**

Reserved.

**EXHIBIT N**

Reserved.

**EXHIBIT O**

Commercial Underwriting Guidelines

[To be attached]

**EXHIBIT P**

Residual Receipts Policy

[To be attached]

**AMENDED AND RESTATED**
**SECURED PROMISSORY NOTE**
(2023 Certificates of Participation, Housing Trust Fund)

Principal Amount: $[12,440,242] San Francisco, CA

Date: [_____], 2024

FOR VALUE RECEIVED, the undersigned, **3300 MISSION PARTNERS L.P.,** a California limited partnership ("**Make**r"), 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 [Twelve Million Four Hundred Forty Thousand Two Hundred Forty Two and No/100 Dollars ($12,440,242.00)] (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, together with interest thereon, as provided in this Note.

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

2. Interest. Interest will accrue on the principal balance outstanding under this Note from time to time at the rate of [at least three percent, but no more than the long-term applicable federal rate as of the Agreement Date] ([__%]), 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. As of the date of this Note, the outstanding interest is $[30,177].

3. 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.

4. Repayment of Funding Amount.

4.1 Subject to Section 13.4 of the Agreement, Maker will make annual payments of principal and interest (each, a "Payment") in an amount equal to the Residual Receipts, if any, attributable to the prior calendar year, beginning the first June 30th after the end of the calendar year of the Completion Date, and continuing each June 30th 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 unpaid principal balance of the Loan, together with all accrued and unpaid interest and unpaid costs and fees incurred, 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, but in no event later than December 31, 2082 (the "Maturity Date"). Any Payment Date, including any Excess Proceeds Payment Date, AHP Payment Date, and the Maturity Date, that falls on a weekend or holiday will be deemed to fall on the next succeeding business day.

4.2 Subject to Section 13.4 of the Agreement, Maker will make payments of principal and interest (each, an "Excess Proceeds Payment") in an amount equal to the Excess Proceeds, if any, on the date that is thirty (30) days after the later of the date on which Maker receives its Form 8609 from the California Tax Credit Allocation Committee or the date on which Maker receives Excess Proceeds from its limited partner or other financing sources (the "Excess Proceeds Payment Date"). All Excess Proceeds 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.

4.3 If Maker is awarded AHP funding for the Project, Maker will make a payment of principal and interest (an "AHP Payment") in an amount equal to the AHP Bridge Loan 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 Maker closes the loan for AHP funding and the AHP funds are disbursed to Maker ("AHP Payment Date"); provided, however, that if Maker 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 on the Maturity Date. The AHP Payment 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.

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

6. Terms of Payment.

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

6.2 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.

6.3 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.

6.4 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.

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

7. Default.

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

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

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

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

7.2 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.

7.3 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.

8. Waivers.

8.1 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.

8.2 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.

8.3 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.

9. Miscellaneous Provisions.

9.1 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.

9.2 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.

9.3 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.

9.4 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.

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

[signature follows]

**"MAKER"**

**3300 MISSION PARTNERS L.P.**,
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Holdings LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

# FUNDING AGREEMENT

**THIS FUNDING AGREEMENT** (this "***Agreement***") is entered into as of this _____ day of _____ 2024, by and among 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 ("***MOHCD***"), **BERNAL HEIGHTS HOUSING CORPORATION**, a California nonprofit public benefit corporation, with an address of [_____] ("***Bernal***"), **TABERNACLE COMMUNITY DEVELOPMENT CORPORATION**, a California nonprofit public benefit corporation, with an address of [_____] ("***Tabernacle***") and **MITCHELVILLE HOLDINGS LLC**, a California limited liability company, with an address of [_____] (together with Bernal and Tabernacle, the "***Guarantor***" and "***Developer***"), for the benefit of **WINCOPIN CIRCLE LLLP**, a Maryland limited liability partnership (together with its successors and assigns, the "***Limited Partner***"), and **3300 MISSION PARTNERS L.P.**, a California limited partnership (the "***Partnership***").

**WITNESSETH:**

**WHEREAS**, the Partnership was formed for the purpose of acquiring, owning, developing, constructing and/or rehabilitating, leasing, managing, operating, and, if appropriate or desirable, selling or otherwise disposing of a thirty-five (35) unit residential project in one (1) building located in San Francisco, California (the "***Project***");

**WHEREAS**, the Partnership is operating pursuant to a First Amended and Restated Agreement of Limited Partnership (the "***Partnership Agreement***");

**WHEREAS**, the Limited Partner is simultaneously acquiring a limited partnership interest in the Partnership pursuant to the Partnership Agreement;

**WHEREAS**, Guarantor is also the guarantor under a certain Guaranty Agreement dated on or about even date with this Agreement by and between Guarantor and the Partnership for the benefit of the Limited Partner (the "***Partnership Guaranty***"), whereby Guarantor has agreed to guaranty for the benefit of the Limited Partner the due and punctual performance by Tabernal Alliance LLC and AJJLA Housing 2 LLC (collectively, the "***General Partner***") of its obligations, as well as Guarantor's obligations as the Developer, under (i) the First Amended and Restated Agreement of Limited Partnership for the Partnership, as the same may be amended from time to time (the "***Partnership Agreement***"); and (ii) the Development Services Agreement dated on or about even date herewith, as the same may be amended from time to time, by and between the Partnership and the Developer (the "***Developer Agreement***"), as further described in the Partnership Guaranty;

**WHEREAS**, the Developer will receive a substantial Development Fee pursuant to the Developer Agreement;

**WHEREAS**, MOHCD will derive a material benefit from the Limited Partner's agreement to enter into the Partnership Agreement, to contribute equity to the Partnership, and to participate

in the Project, as MOHCD will be the owner of the real estate upon which the Project will be situated and will lease such real estate to the Partnership;

**WHEREAS**, MOHCD hereby acknowledges that the Limited Partner is acting in reliance on this Agreement, and it hereby enters into this Agreement to induce the Limited Partner to acquire an interest in the Partnership, to enter into the Partnership Agreement, to fund its equity investment in the Partnership, and to become the limited partner of the Partnership;

**WHEREAS**, MOHCD agrees that in the event General Partner or Guarantor becomes obligated to perform the Funded Obligations (as hereinafter defined), MOHCD will lend funds, without interest, to the Guarantor pursuant to a Demand Note controlled and governed by this Agreement and dated on or about even date herewith (the "***MOHCD Funds***") up to a maximum aggregate amount of ONE MILLION DOLLARS ($1,000,000) (the "***Funding Cap***"); and

**NOW, THEREFORE**, in consideration of the sum of ONE DOLLAR ($1.00), and for such other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound and with foregoing recitals being incorporated by reference, hereby agree as follows:

**1. Lending of MOHCD Funds.** Subject to the Funding Cap and Section 3, MOHCD hereby unconditionally agrees to lend to Guarantor the MOHCD Funds in accordance with the terms and conditions of this Agreement. The borrowing of any such MOHCD Funds shall subject the Guarantor to the repayment of the MOHCD Funds borrowed from MOHCD in accordance with the Demand Note dated on or about even date with this Agreement.

**2. Preliminary Notice to MOHCD of Imminent Obligations.** Guarantor shall notify MOHCD in writing promptly upon its reasonable belief that it may be called upon to satisfy the Funded Obligations (as defined below), which may require the Guarantor to submit a Request for Funds (as defined below) to MOHCD. This preliminary notice shall include written explanation as to the anticipated specific Funded Obligations (as defined below) that the Guarantor intends to satisfy with the MOHCD Funds and the anticipated amount of the Request for Funds (as defined below).

**3. Guarantor to First Look to Guarantor's Own Funds; Funded Obligations.** Upon written demand by the Partnership or the Limited Partner pursuant to Section 4, to the extent required under the terms of the Partnership Agreement and the Partnership Guaranty, MOHCD shall transmit MOHCD funds to Guarantor (via the account described in Section 4 below) as necessary for the Guarantor to perform the Obligations (as defined in the Partnership Guaranty) (the "***Funded Obligations***"); provided that, the Guarantor shall, if possible, first satisfy the Funded Obligations from its own funds.

**4. Procedure for Borrowing of MOHCD Funds.** If the General Partner or the Guarantor has not fully funded the Funded Obligations as required under the Partnership Agreement and the Partnership Guaranty within five (5) calendar days of demand for such funds by the Partnership or the Limited Partner ("***Failure to Perform***"), Guarantor or the Limited Partner shall request in writing funds from MOHCD ("***Request for Funds***") in the amount necessary for

Guarantor to fully satisfy the Funded Obligations ("***Required Funds***"); provided, that the amount of funds requested in the Request for Funds shall not cause the aggregate amount funded under the Demand Note to exceed the Funding Cap. The Request for Funds shall include a written explanation as to the specific Funded Obligations that the Guarantor will satisfy with the MOHCD Funds and the wiring instructions for the transfer of the MOHCD Funds. Guarantor shall simultaneously send a copy of the Request for Funds to the Limited Partner. Upon receipt of the Request for Funds, MOHCD shall have ten (10) business days to deposit MOHCD Funds in an amount equal to the amount of the Required Funds, but in no event in a maximum aggregate amount exceeding the Funding Cap, into an account designated by the Limited Partner, which funds shall be deemed to have been provided to Guarantor pursuant to this Agreement. Notwithstanding anything to the contrary herein, upon MOHCD's deposit of the MOHCD Funds into the account as described above, MOHCD's obligations with respect to that Request for Funds shall be deemed to be satisfied in full. Once the Funding Cap has been met, MOHCD's obligations under this Agreement shall be deemed to be satisfied in full.

**5. Limited Partner's Right to Request Funds.** If the Guarantor does not submit a Request for Funds to MOHCD and provide a copy to the Limited Partner within ten (10) days of a Failure to Perform, the Limited Partner, as an intended third-party beneficiary to this Agreement, shall have the right (i) to immediately submit a Request for Funds to MOHCD related to such Failure to Perform in accordance with the procedure described in Section 4; and (ii) to exercise all rights of the Guarantor under this Agreement.

**6. Covenant Regarding Use of MOHCD Funds.** Guarantor and the Partnership hereby covenant and agree that, upon receipt of MOHCD Funds, they shall immediately use the MOHCD Funds for the sole and limited purpose of satisfying the Funded Obligations with respect to which the MOHCD Funds were borrowed from MOHCD. Guarantor and the Partnership agree and covenant that the MOHCD Funds shall not be used for any other purpose.

**7. Remedies in Event of Default.** Upon the occurrence of a default by the MOHCD under this Agreement, the Guarantor, the Partnership, or the Limited Partner (as a third-party beneficiary to this Agreement), at such party's option, may (a) enforce the specific performance of this Agreement; or (b) pursue any legal or equitable remedy available to such party as a result of such default.

**8. Term.** The term of this Agreement as to the Obligations under the Partnership Guaranty shall begin on the date hereof and shall terminate on the earlier of: (i) the date of Loan Conversion (as such term is defined in the Partnership Agreement) and (ii) the third (3rd) anniversary of the date of this Agreement.

**9. Books and Records.** Guarantor shall keep and maintain books, accounts, reports, files, records and other documents relating directly the MOHCD Funds. Any duly authorized agent or representative of MOHCD shall, during regular business hours, have access to and the right to inspection, copy, audit and examine such books, records and other documents of such parties related to the MOHCD Funds.

**10. Notices.** All Notices to be given under this Agreement shall be sent to the Persons shown below. Any party may change its Notice address by providing Notice thereof to all other parties.

**If to Guarantor:** [_____]

**If to Partnership:** [_____]

**If to MOHCD:** City and County of San Francisco
Mayor's Office of Housing and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attn: Director

**If to Limited Partner:** Wincopin Circle LLLP
c/o Enterprise Community Asset Management, Inc.
70 Corporate Center
11000 Broken Land Parkway, Suite 700
Columbia, Maryland 21044
Telephone: (410) 964-0552
Attention: Asset Management

**11. Miscellaneous.** This Agreement (a) may be amended only by a writing signed by all of the parties, with the prior consent of the Limited Partner; (b) may be executed in several counterparts, each of which is deemed an original but all of which constitute one and the same instrument; (c) is governed by, and will construed and enforced in accordance with, the laws of the State of California without giving effect to any conflict of laws rules; and (d) is binding upon and will insure to the benefit of, the parties and their respective successors and assigns.

**12. Fully Integrated.** This Agreement contains a full and complete expression of the terms of the agreements between the parties and supersedes any prior oral or written agreements or understandings, which shall have a bearing on this Agreement.

**13. Modification.** This Agreement may not be modified, except by a writing signed by all of the parties with the same formalities as this Agreement. The waiver by a party of any breach or violation of any provision of this Agreement must be in writing, and any such waiver will not operate as, or be construed to be, a waiver of any subsequent breach or violation.

**14. No Right to Offset or Counterclaim.** MOHCD agrees that no portion of the MOHCD Funds due from MOHCD to the Guarantor or the Partnership shall be offset or reduced by a counterclaim or amounts that may be owed by the Guarantor, the General Partner, the Partnership or any other affiliate of MOHCD to MOHCD, now or hereafter.

**15. Removal of General Partner.** Subject to Section 8 hereof, the parties acknowledge that, notwithstanding any removal of the General Partner in accordance with the terms of the Partnership Agreement, or voluntary or involuntary withdrawal of the General Partner from the

Partnership, the obligation of MOHCD, as set forth in this Agreement and the Demand Note, shall remain in full force and effect with respect to the Guarantor under the Partnership Guaranty during the term of this Agreement.

**16. Waiver.** The obligations of MOHCD shall remain in full force and effect without regard to, and shall not be affected or impaired by, (i) any amendment or modification of or addition or supplement to the Partnership Guaranty or the Partnership Agreement; (ii) any extension, indulgence or other action or inaction in respect of the Partnership Guaranty, or any exercise or non-exercise of any right, remedy, power or privilege in respect of the Partnership Guaranty; (iii) any default by the Guaranty or the Partnership under, or any illegality or unenforceability of, or any irregularity or defect in, the Partnership Guaranty, or any provision of this Agreement; (iv) any event of bankruptcy, insolvency, reorganization or similar proceeding involving or affecting the Guarantor, the General Partner or the Partnership; or (v) any other circumstances, whether or not MOHCD shall have actual or constructive notice or knowledge thereof. MOHCD hereby waives to the fullest extent permitted by law, any and all notices and defenses to which it may be entitled by law to its funding obligations hereunder, including, without limitation, notice of acceptance of this Agreement by Guarantor, the Partnership, the General Partner, or the Limited Partner or any requirement of diligence on the part of a Guarantor, the Partnership, the General Partner, or the Limited Partner.

17. **Intended Beneficiary**. The parties intend that the Limited Partner and its successors, assigns or transferees, shall be a direct third-party beneficiary of this Agreement.

18. **Source of Funds**. Notwithstanding anything to the contrary contained herein or contained in the Demand Note or Pledge Agreement – Demand Note, MOHCD agrees that the MOHCD Funds shall not be sourced from tax-exempt bond proceeds or federal grants, or require affordability or occupancy restrictions that are more stringent than the restrictions applicable to the Project as of the date of this Agreement.

**IN WITNESS WHEREOF**, the parties, intending to be legally bound hereby, have executed this Agreement, under seal, the day and year first above written.

**{Signatures of the Parties on the Following Page}**

**PARTNERSHIP**

[Signature block]

**GUARANTOR/DEVELOPER**

[Signature block]

**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

By: _____
Daniel Adams
Director, Mayor's Office of Housing and Community Development

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____
Jessica Alfaro-Cassella
Deputy City Attorney

# PLEDGE AGREEMENT – DEMAND NOTE

**THIS PLEDGE AGREEMENT – DEMAND NOTE** (this "Agreement") is made this _____ day of _____ 2024, by and among **BERNAL HEIGHTS HOUSING CORPORATION**, a California nonprofit public benefit corporation, with an address of [_____] ("***Bernal***"), **TABERNACLE COMMUNITY DEVELOPMENT CORPORATION**, a California nonprofit public benefit corporation, with an address of [_____] ("***Tabernacle***") and **MITCHELVILLE HOLDINGS LLC**, a California limited liability company, with an address of [_____] (together with Bernal and Tabernacle, the "***Guarantor***") and **3300 MISSION PARTNERS L.P.**, a California limited partnership (the "***Partnership***"), with an address of [_____].

**WITNESSETH:**

**WHEREAS**, the Partnership was formed for the purpose of acquiring, owning, developing, constructing and/or rehabilitating, leasing, managing, operating, and, if appropriate or desirable, selling or otherwise disposing of a thirty-five (35) unit residential project in one (1) building located in San Francisco, California (the "***Project***"); and

**WHEREAS**, the Partnership is operating pursuant to a First Amended and Restated Agreement of Limited Partnership (the "***Partnership Agreement***"); and

**WHEREAS**, the Guarantor is the guarantor under a certain Guaranty Agreement dated on or about even date with this Agreement by and between Guarantor and the Partnership for the benefit of **WINCOPIN CIRCLE LLLP**, a Maryland limited liability partnership, its successors and assigns (the "***Limited Partner***"); and

**WHEREAS**, the Guarantor is also the guarantor and borrower under a certain Funding Agreement and Demand Note, both dated on or about even date with this Agreement, whereby 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, as lender, agreed to lend certain funds, without interest, to the Guarantor, as borrower, up to a maximum aggregate amount of ONE MILLION DOLLARS ($1,000,000), in the event that Guarantor became obligated to perform the Funded Obligations, pursuant to the Guaranty Agreement and as defined in the Funding Agreement; and

**WHEREAS**, the Guarantor is required to pledge the Demand Note to the Partnership for the benefit of the Project pursuant to the Partnership Agreement and the Guaranty Agreement, Section 2, Covenant of the Guarantor; and

**NOW, THEREFORE**, in consideration of the sum of ONE DOLLAR ($1.00), and for such other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto, intending to be legally bound and with foregoing recitals being incorporated by reference, hereby agree as follows:

1. **Pledge.** Guarantor hereby pledges and assigns all of its rights and obligations under the Demand Note to the Partnership for the sole and exclusive benefit of the Project.

2. **Covenants.** Guarantor hereby covenants to the Partnership that it shall (a) perform all of its obligations under the Guaranty Agreement, Funding Agreement, and Demand Note; (b) not amend, modify, or otherwise alter or vary the terms of the Guaranty Agreement, Funding Agreement, and/or Demand Note without the prior written consent of the Partnership; and (c) immediately inform the Partnership of any event of default under the Guaranty Agreement, Funding Agreement, and/or Demand Note.

3. **Obligations.** The Partnership or any of its partners may exercise any or all of the Guarantor's rights and assume any or all of the Guarantor's obligations, including the right to receive payment, under the Demand Note immediately upon giving or receiving written notice or in the event of a default under the Guaranty Agreement, Funding Agreement, and/or Demand Note.

4. **Term.** This Agreement shall commence as of the date hereof and shall remain in full force and effect until the date the General Partner satisfies its obligations under Section 5.14 of the Partnership Agreement, at which time, this Agreement shall automatically terminate.

5. **Execution.** This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

6. **Interpretation.** This Agreement shall be construed, interpreted, and applied in accordance with the laws of the State of California and as if written by the Guarantor and Partnership equally.

7. **Intended Beneficiary.** The parties intend that the Limited Partner and its successors, assigns or transferees, shall be a direct third-party beneficiary of this Agreement.

**IN WITNESS WHEREOF**, the parties, intending to be legally bound hereby, have executed this Agreement, under seal, the day and year first above written.

| **PARTNERSHIP** | **GUARANTOR/DEVELOPER** |
| --- | --- |
| [Signature block] | [Signature block] |

**DEMAND NOTE**
**California**

**_____ _____, 2024** **$1,000,000**

**BORROWER:** **BERNAL HEIGHTS HOUSING CORPORATION,** a California nonprofit public benefit corporation, with an address of [_____].

**TABERNACLE COMMUNITY DEVELOPMENT CORPORATION,** a California nonprofit public benefit corporation, with an address of [_____].

**MITCHELVILLE HOLDINGS LLC,** a California limited liability company, with an address of [_____].

**LENDER:** **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, with an address of 1 South Van Ness Avenue, 5th Floor, San Francisco, CA 94103, Attn: Director.

**Promise to Pay**. For value received, and intending to be legally bound, Borrower promises to pay to the order of the Lender, ON DEMAND, the principal sum of **ONE MILLION DOLLARS ($1,000,000)** (the "Maximum Principal Amount") or the outstanding principal amount of this Note (the "Outstanding Principal Amount"), if less; plus interest as agreed below and all reasonable fees and costs (including reasonable attorneys' fees and disbursements, whether for internal or outside counsel) the Lender incurs (whether before or after the entry of a judgment by Lender against Borrower hereunder) in order to collect any amount due under this Note, to negotiate or document a workout or restructuring, or to preserve its rights or realize upon any guaranty or other security for the payment of this Note ("Expenses").

**Authorized Representatives.** This Note is issued by Borrower to the Lender in connection with a certain loan made available by the Lender to Borrower (the "Loan"). The Lender may make any loan or advance pursuant to the Loan in reliance upon any oral, telephonic, written, teletransmitted or other request (the "Request(s)") that the Lender in good faith believes to be valid and to have been made by Borrower or on behalf of Borrower by any officer, employee or representative of Borrower who is authorized or designated as a signer of loan documents under the provisions of Borrower's most recent resolutions or similar documents on file with the Lender (each an "Authorized Person"). By reason thereof, Borrower hereby assumes all risk of loss and responsibility for, and releases and discharges the Lender from any and all responsibility or liability for, and agrees to indemnify, reimburse on demand and hold Lender harmless from, any and all claims, actions, damages, losses, liability and expenses by reason of, arising out of, or in any way connected with or related to: (i) Lender accepting, relying on and acting upon any Request or other instructions with respect to the Loan; or (ii) any such error, omission, misinterpretation, fraud or mistake, provided such error, omission, misinterpretation, fraud or mistake is not directly caused by the Lender's gross negligence or willful misconduct. The Lender shall incur no liability to Borrower or to any other person as a direct or indirect result of making any Loan pursuant to this paragraph.

**Interest.** The Outstanding Principal Amount of this Note shall not bear or earn interest.

**Demand Facility.** This is a pay-on-demand Note and the Loan hereunder shall become immediately due and payable upon demand by the Lender; provided, however, that the Outstanding Principal Amount of this Note and all accrued and unpaid interest shall automatically become immediately due and payable if Borrower or any guarantor or endorser of this Note commences or has commenced against it any bankruptcy or insolvency proceeding. Borrower hereby waives protest, presentment and notice of any kind in connection with this Note.

**Payments.** Payments shall be made in immediately available United States funds to the Lender at:

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

**Purpose.** Borrower certifies that the Loan shall only be used pursuant to the terms and conditions of the Funding Agreement dated on or about the date hereof and for the sole and limited purpose of satisfying the Funded Obligations, as such term is defined in the Funding Agreement. Lender's obligation hereunder shall be a recourse obligation of Lender.

**Authorization.** Borrower, if a corporation, partnership, limited liability company, trust or other entity, represents that it is duly organized and in good standing or duly constituted in the state of its organization and is duly authorized to do business in all jurisdictions material to the conduct of its business; that the execution, delivery and performance of this Note has been duly authorized by all necessary regulatory and corporate or partnership action or by its governing instrument; that this Note has been duly executed by an authorized officer, member, partner or trustee and constitutes a binding obligation enforceable against Borrower and not in violation of any law, court order or agreement by which Borrower is bound; and that Borrower's performance is not threatened by any pending or threatened litigation.

**Miscellaneous.** This Note, together with any related loan and security agreements, contains the entire agreement between the Lender and Borrower with respect to each Loan, and supersedes every course of dealing, other conduct, oral agreement and representation previously made by the Lender. All rights and remedies of the Lender under applicable law and this Note are cumulative and not exclusive. No single, partial or delayed exercise by the Lender of any right or remedy shall preclude the subsequent exercise by the Lender at any time of any right or remedy of the Lender without notice. No waiver or amendment of any provision of this Note shall be effective unless made specifically in writing by the Lender. No course of dealing or other conduct, no oral agreement or representation made by the Lender, and no usage of trade, shall operate as a waiver of any right or remedy of the Lender. No waiver of any right or remedy of the Lender shall be effective unless made specifically in writing by the Lender. Borrower agrees that in any legal proceeding, a copy of this Note kept in the Lender's course of business may be admitted into evidence as an original. This Note is a binding obligation enforceable against Borrower and its successors and assigns and shall inure to the benefit of the Lender and its successors and assigns. If a court deems any provision of this Note invalid, the remainder of the Note shall remain in effect. Section headings are for convenience only. Singular number includes plural and neuter gender includes masculine and feminine as appropriate.

**Notices.** Any demand or notice hereunder or under any applicable law pertaining hereto shall be in writing and duly given if delivered to Borrower (at its address on the Lender's records) or to the Lender (at the address on page one). Such notice or demand shall be deemed sufficiently given for all purposes when delivered (i) by personal delivery and shall be deemed effective when delivered, or (ii) by mail or courier and shall be deemed effective three (3) business days after deposit in an official depository maintained by the United States Post Office for the collection of mail or one (1) business day after delivery to a nationally recognized overnight courier service (e.g., Federal Express). Notice by e-mail is not valid notice under this or any other agreement between Borrower and the Lender.

**Governing Law; Jurisdiction.** This Note has been delivered to and accepted by the Lender and will be deemed to be made in the State of California. Except as otherwise provided under federal law, this Note will be interpreted in accordance with the laws of the State of California excluding its conflict of laws rules. **BORROWER HEREBY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT IN THE STATE OF CALIFORNIA IN A COUNTY OR JUDICIAL DISTRICT WHERE THE LENDER MAINTAINS AN OFFICE AND CONSENTS THAT THE LENDER MAY EFFECT ANY SERVICE OF PROCESS IN THE MANNER AND AT BORROWER'S ADDRESS SET FORTH ABOVE FOR PROVIDING NOTICE OR DEMAND; PROVIDED THAT NOTHING CONTAINED IN THIS NOTE WILL PREVENT THE LENDER FROM BRINGING ANY ACTION, ENFORCING ANY AWARD OR JUDGMENT OR EXERCISING ANY RIGHTS AGAINST BORROWER INDIVIDUALLY, AGAINST ANY SECURITY OR AGAINST ANY PROPERTY OF BORROWER WITHIN ANY OTHER COUNTY, STATE OR OTHER FOREIGN OR DOMESTIC JURISDICTION.** Borrower acknowledges and agrees that the venue provided above is the most convenient forum for both the Lender and Borrower. Borrower waives any objection to venue and any objection based on a more convenient forum in any action instituted under this Note.

**Acknowledgment**. Borrower acknowledges that it has read and understands all the provisions of this Note, including the **Governing Law** and **Jurisdiction**, and has been advised by counsel as necessary or appropriate.

DEEMED EXECUTED UNDER SEAL, as of _____ _____, 2024.

**BORROWER**

[Signature block]

**[Notary block]**

Free Recording Requested Pursuant to
Government Code Section 27383

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: Loan Administrator
Block/Lot: 6635/001
----------Space Above This Line for Recorder's Use----------

**AMENDED AND RESTATED**
**DECLARATION OF RESTRICTIONS AND**
**AFFORDABLE HOUSING COVENANTS**
(3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA)

**THIS AMENDED AND RESTATED DECLARATION OF RESTRICTIONS AND AFFORDABLE HOUSING CONVENANTS** (this "Declaration") is made as of [_____], 2024, by **3300 MISSION PARTNERS 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 Funds and 2023 Certificates of Participation 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. This Declaration amends and restates the Declaration of Restrictions and Affordable Housing Covenant between City and Borrower dated as of January 24, 2023 [sic] and recorded in the Official Records of the City and County of San Francisco on January 26, 2024 as Document No. 2024010478. 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 With the exception of one Unit reserved for the manager of the Project, 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** |
|---|---|---|
| 0BR | 11 | 30% of Median Income |
| 0BR | 15 | 55% of Median Income |
| 0BR | 8 | 80% of Median Income |
| 0BR | 1 | Manager's Unit |
| Total | 35 | |

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

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

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

1.3 For the avoidance of any doubt, notwithstanding any repayment of the Loan or otherwise satisfied or if the Deed of Trust is reconveyed, Borrower will comply with the applicable terms of the Agreement as if fully set forth herein, including, without limitation, Article 6 (Marketing), Article 7 (Affordability and Other Leasing Restrictions), Article 8 (Maintenance and Management of the Project), Article 9

(Governmental Approvals and Requirements), Article 10 (Project Monitoring, Reports, Books and Records), Article 11 (Use of Income From Operations), Article 12 (Required Reserves), Article 16 (Transfers), Article 17 (Insurance and Bonds; Indemnity), Article 18 (Hazardous Substances), and Article 19 (Default).

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

3. If Borrower fails to (i) comply with the Regulatory Obligations and this Declaration to the City's satisfaction, in its sole discretion, and (ii) cure such default as set forth in **Section 19.1(c)** of the Agreement, the City will have the right to pursue any available remedy at equity or in law, including as set forth in **Section 19.2** of the Agreement, to enforce this Declaration. Notwithstanding the foregoing, Borrower's limited partner shall have the right to cure any default hereunder, and the City shall accept or reject such cure on the same terms as if rendered by the Borrower. The City shall provide notice of any default hereunder to Borrower's limited partner pursuant to Section 21.3 of the Agreement. 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.

[signatures follow]

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

**3300 MISSION PARTNERS L.P.**,
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Executive Director

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Holdings LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

[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:

Commencing at the point formed by the intersection of the Southerly line of Twenty-Ninth Street with the Northwesterly line of Mission Street; running thence Southwesterly and along the said Northwesterly line of Mission Street, sixty-one (61) feet, five and three-eights (5 3/8) inches; thence at a right angle Northwesterly one hundred (100) feet to the Southerly line of Twenty-Ninth Street; and thence Easterly and along the said Southerly line of Twenty-Ninth Street, one hundred and seventeen (117) feet, three and three-eights (3 3/8) inches to the point of commencement.

Being Lot #1 of the Macrellish Subdivision of Lot Numbers 409 to 416, Precita Valley Lands, as per Map of said subdivision recorded in the Office of the County Recorder of the City and County of San Francisco on the 15th day of December, 1902.

Excepting therefrom, that portion conveyed to John Catto, recorded January 16, 1925, in Book 997, Page 261, of Official Records.

APN: Lot 001, Block 6635

Street Address: 3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA

# 3300 Mission

BUDGET AND FINANCE COMMITTEE

September 25, 2024

William Wilcox, Tax-Exempt Bond Program Manager
Mayor's Office Of Housing And Community Development

# File #240884: Acquisition, Ground Lease, Loan, Limited Payment Guaranty

Resolution 1) approving and authorizing the Director of Property, on behalf of the San Francisco Mayor's Office of Housing and Community Development ("MOHCD"), to acquire real property located at 3300, 3306, and 3308 Mission Street ("Property") from 3300 Mission Partners L.P. ("Borrower") for $4,151,000 under an Agreement for Purchase and Sale ("Purchase Agreement"); 2) placing the Property under the jurisdiction of MOHCD for use in constructing affordable housing; 3) approving and authorizing the Director of Property and the Director of MOHCD to enter into a Ground Lease to lease the Property back to the Borrower for a term of 75 years and one 24-year option to extend and an annual base rent of $1 ("Ground Lease") in order to construct a 100% affordable, 35-unit multifamily rental housing development affordable to low-income households, including one manager unit, and ground floor commercial space (the "Project"); 4) approving and authorizing an Amended and Restated Loan Agreement in an amount not to exceed (NTE) $12,440,242 for a minimum loan term of 57 years ("Loan Agreement") to finance the development and construction of the Project; 5) approving and authorizing a limited payment guaranty in an amount not to exceed $1,000,000 from MOHCD for the benefit of Wincopin Circle LLLP ("Limited Payment Guaranty");

## 3300 MISSION: BUDGET AND FINANCE COMMITTEE AGENDA ITEMS

# PROJECT TIMELINE – 3300 Mission

- The site has been a vacant husk since a 2016 fire destroyed the bar and Single Room Occupancy (SRO) hotel previously at the site, leaving the building uninhabitable.
- Development team acquires property in June 2023
- Then later in June 2023 project is awarded $6.5m in acquisition and predevelopment funds from MOHCD NOFA
- July 2024 project awarded $25m in 9% Low Income Housing Tax Credits
- November 2024 construction to begin
- May 2026 Lease Up begins

# PROJECT

- Located in Bernal Heights corridor of Mission Street, which has seen almost no affordable housing production in recent years
- 35 studio units affordable to households making 30% to 80% of Area Median Income (AMI)
- Bernal Heights Neighborhood Center will provide on-site services
- Commercial Space
  - 700 Square Foot Ground Floor Commercial Space with tenant TBD
- Project team consists of:
  - Bernal Heights Housing Corporation
  - Tabernacle Community Development Corporation
  - Mitchelville Real Estate Group

# PERMANENT FINANCING

| | |
|---|---|
| Total Development Sources | $36.8M |
| ▪ MOHCD Predevelopment Loan (Existing) | $2.349,000 |
| ▪ MOHCD Permanent Gap Loan (Today) | $7,991,242 |
| ▪ MOHCD FHLB AHP Bridge Loan (Today) | $2,100,000 |
| ▪ 9% Tax Credit Equity (Enterprise) | $24,400,800 |

MOHCD to Acquire Land and Ground Lease Property to Developer

- $4,151,000 existing MOHCD acquisition loan deemed repaid upon transfer of the land

Emerging Developer Capacity Guaranty

- $1,000,000 guaranty for shorter of construction period or three years to support emerging developers who otherwise would be unable to develop housing

William Wilcox, Tax-Exempt Bond Program Manager, MOHCD

Gina Dacus, Bernal Heights Neighborhood Center

Todd Clayter, Tabernacle Community Development Corporation

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900

**Citywide Affordable Housing Loan Committee**

Mayor's Office of Housing and Community Development
Department of Homelessness and Supportive Housing
Office of Community Investment and Infrastructure
Controller's Office of Public Finance

# 3300 Mission St.

# $12,440,242 Funding Amount, including AHP bridge loan of $2,100,000 Final Gap Commitment

# $1,000,000 Liquidity Guaranty Loan

| | |
|---|---|
| Evaluation of Request for: | Final Gap |
| Loan Committee Date: | August 16, 2024 |
| Prepared By: | William Wilcox, Bond Manager |
| MOHCD Asset Manager: | Scott Madden |
| MOHCD Construction Rep: | Robin Wang |
| Sources and Amounts of New Funds Recommended: | $10,091,242 Housing Trust Funds |
| Sources and Amounts of Previous City Funds Committed: | $2,349,000 Predevelopment Loan<br>$1,154,963 Housing Trust Funds<br>$1,194,037 2023 Certificates of Participation (COPS) |
| Total MOHCD Gap Loan | $12,440,242 |

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



| | |
|---|---|
| NOFA/PROGRAM/RFP: | 2023 Site Acquisition and Pre-development Financing for New Affordable Rental Housing |
| Applicant/Sponsor(s) Name: | 3300 Mission Partners L.P. |

# EXECUTIVE SUMMARY

**Sponsor Information:**

| | | | |
|---|---|---|---|
| Project Name: | 3300 Mission St | Sponsor(s): | Bernal Heights Housing Corporation (BHHC), Tabernacle Community Development Corporation (TCDC), Mitchelville Real Estate Group (MREG) |
| Project Address (w/ cross St): | 3300 Mission Street, San Francisco, CA 94110 (Cross Street: 29th St) | Ultimate Borrower Entity: | 3300 Mission Partners L.P. |

**Project Summary:**

3300 Mission Street is a new construction and adaptive reuse project at the site of the former Graywood Hotel and the 3300 Club, a bar, in the Bernal Heights neighborhood, which were destroyed in a fire in 2016. This development will maintain and adaptively reuse the original building façade and visual character but otherwise completely rebuild the structure and add three additional stories. The project will address an otherwise blighted corner in a vibrant commercial corridor that due to the complexities of the site and current market conditions may have otherwise remained vacant for years to come save for the charred husk of the former building. Rebuilding on this site within 10 years of the fire required maintaining the existing façade to utilize entitlement streamlining. The small size and narrow triangular shape of the parcel along with maintaining the existing façade are the major drivers of the cost of the project. The new building will feature 35 studio units (including one manager unit) ranging from 30-80% MOHCD AMI (Project). The ground floor will include approximately 776 square feet of commercial space whose programming is still to be determined.

The current request is for approval of a final gap loan of $12,440,242 which is an additional $10,091,242 in gap funding beyond the already committed $2,349,000 in predevelopment funds and $4,151,000 acquisition funds. In addition, the project is requesting a $1 million liquidity guarantee assistance loan to support these small developers in pursuing their first project as lead developers. The Project was awarded 9% LIHTC earlier this year and has a construction closing deadline of November 2024 with stabilization and full lease up planned for the end of 2026. Loan Committee approved the acquisition of the Site in August 2023 in the amount of $4,151,000. That portion of the loan will be considered paid in full once the Site transfers to MOHCD at construction start.

The development team is made up of the Bernal Heights Housing Corporation (BHHC), Tabernacle Community Development Corporation (TCDC) and Mitchelville Real Estate Group (MREG, together the Sponsor). The three organizations are each taking the lead on different parts of the Project, as noted in the joint venture agreement delegating these tasks, which is attached as Attachment M. This is the only all Black-led development team in MOHCD's current pipeline. This Project represents MOHCD's commitment to expanding opportunities for smaller, Black-led emerging developers.

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



**Project Description:**

| | | | |
|---|---|---|---|
| Construction Type: | Type IIIA/Type IA podium | Project Type: | Rehab /New Const. |
| Number of Stories: | 6 + basement | Lot Size (acres and sf): | 0.072 acres / 3072 sf |
| Number of Units: | 35 | Architect: | BAR Architects & Interiors |
| Total Residential Area: | 19,460 sf | General Contractor: | Guzman Construction Group |
| Total Commercial Area: | 776 sf | Property Manager: | Caritas |
| Total Building Area: | 21,800 sf | Supervisor and District: | Hillary Ronen, District 9 |
| Land Owner: | 3300 Mission Partners L.P. | | |
| Total Development Cost (TDC): | $39,329,242 | Total Acquisition Cost: | $4,151,000 |
| TDC/unit: | $1,123,693 | TDC less land cost/unit: | $1,005,093 |
| Loan Amount Requested: | $12,440,242 | Request Amount / unit: | $355,435 less acquisition |
| HOME Funds? | No | Parking? | No |

## PRINCIPAL DEVELOPMENT ISSUES

- **Commercial Space:** The Project is slated to include ground floor commercial space. It will be a challenge to identify a use and potential tenant given the current retail environment and the cost to develop such a small space. The team has produced a detailed plan for leasing but there is no specific tenant, use, or operating budget identified at this time. They will condo-ize the space and the space is currently not envisioned to be a community serving use, so the loan will only be deferred if it is a community-serving use. Staff supports this request given the small size of the loan. See Section 4.5.2.
- **Existing Site Conditions & Project Costs:** In 2016 a major fire tore through the site destroying the existing bar and SRO leaving only the building façade, which has remained a blighted eyesore for eight years. This burned-out husk of a building also leaves a key portion of a major commercial corridor inactive. Given market conditions, the size and narrow triangular shape of the project, and requirement to maintain the existing façade in order to use entitlement streamlining – it was not likely that any redevelopment would occur on the site without public investment. The Project is 116% more expensive than comparable projects per square foot. The site configuration, existing façade, and small project size all contribute to this challenge. Due to the complexity of the project and refining construction plans, Project costs have increased by 19% since the predevelopment loan evaluation in 2023. Due to City budget constraints, the Sponsor must work with MOHCD to ensure costs do not increase further and reduce costs to lower the gap loan amount prior to closing. See Section 4.4.
- **Project Cash Flow:** Project has a narrow and declining cash flow due to 30% AMI units that do not have vouchers or other operating subsidy and marketing challenges for higher AMI studios. The Sponsor must pursue project-based subsidies including Veterans Administration and SFHA Project Based Vouchers and will set 80% AMI unit rents at levels that will be marketable given the unit size. See Sections 7.1 and 7.4.
- **Waiver for Emerging Developers:** The Project is requesting some waivers to MOHCD underwriting guidelines that are available for Emerging Developers. These include two items allowed under our underwriting guidelines: a decreased ground lease base rent payment of only $1 instead of $15,000 (see Section 4.1.1), and no payment of residual receipts for the first five years. There are two additional requests not contemplated under the underwriting guidelines: increased owner distribution of 50% instead of 33%, and MOHCD providing a separate fund to support liquidity guarantees. Staff supports these requests (see Section 7.1).
- **Basement Shoring Strategy:** Project is no longer able to use the initial shoring strategy because that would require collaboration from neighboring building, whose HOA has filed an appeal to the project's site permit. Given this the project is exploring a variety of other options but there is no final decision for the foundation at this time and this could result in additional costs. See Section 4.2.

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



## SOURCES AND USES SUMMARY

| Predevelopment Sources | Amount | Per Unit | Terms | Status |
|---|---|---|---|---|
| MOHCD Predev | $2,349,000 | $67,114 | 3 yrs @ 3% Def | Committed |
| MOHCD Acquisition | $4,151,000 | $118,600 | 3 yrs @ 0% Def; forgiven at construction closing | Committed |
| **Total** | **$6,500,000** | **$185,714** | | |

| Permanent Sources | Amount | Per Unit | Terms | Status |
|---|---|---|---|---|
| MOHCD Predev | $2,349,000 | $67,114 | 55 yrs @ 3% / Res Rec | Committed |
| MOHCD Perm Gap | $7,991,242 | $228,321 | 55 yrs @ 3% / Res Rec | This Request |
| MOHCD AHP Bridge | $2,100,000 | $60,000 | 55 yrs @ 3% / Res Rec | This Request |
| Tax Credit Equity | $24,400,800 | $697,166 | TC Equity: $0.915 PPC | Committed |
| **Total** | **$36,841,042** | **$1,052,601** | | |

| Permanent Uses | Amount | Per Unit | Per SF | Predev Amount | Change from Predev | Percent Change from Predev |
|---|---|---|---|---|---|---|
| Hard Costs | $23,802,873 | $680,082 | $1,316 | $19,580,819 | $4,222,054 | 22% |
| Soft Costs | $10,201,119 | $291,461 | $564 | $8,965,341 | $1,235,778 | 14% |
| Reserves | $212,050 | $6,059 | $12 | $105,045 | $107,005 | 102% |
| Developer Fee | $2,625,000 | $75,000 | $145 | $2,200,000 | $425,000 | 19% |
| **Total** | **$36,841,042** | **$1,052,601** | **$2,038** | **$30,851,205** | **$5,989,837** | **19%** |

| Emerging Developer Capacity Guarantee | Amount | Per Unit | Terms | Status |
|---|---|---|---|---|
| MOHCD Liquidity Guarantee | $1,000,000 | $28,571 | 3 yrs | This Request |

## BACKGROUND

### 1.1. Project History Leading to This Request.

3300 Mission Street currently sits vacant after a June 2016 fire left the structure uninhabitable. Previously the three-story building included commercial space on the first floor and 28 Single Room Occupancy (SRO) units, a combination of residential and tourist hotel units, on the second and third floors. The lot is approximately 3,072 square feet (Site).

Acquisition and rehabilitation of the Site was originally contemplated under MOHCD's Preservation/ Small Sites Program, which allows over-the-counter

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



applications and is based on a community ownership model (e.g., the Sponsor, and not the City, owns the land). However, given the poor condition of the building post-fire and the limitations on unit count if the Project were strictly rebuilt, it has been reconceived as a hybrid preservation/new construction project that retains elements of the old façade but adds additional stories and density to the maximum amount allowable under AB 2011. The façade cannot be demolished due to demolition prohibitions under AB 2011 for properties that had tenants in the past 10 years.

In June 2023 the development team acquired the Site using a loan from the Housing Accelerator Fund for $3,850,000. On June 22, 2023, the Project received a preliminary award of site acquisition funds from MOHCD's 2023 Site Acquisition NOFA for $6,500,000, which included $2,349,000 in predevelopment funds and $4,151,000 in acquisition funds.

The current design plan for the redevelopment of 3300 Mission will transform the property into a six-story, mixed-use building with approximately 21,700 square feet, designed for 35 studio units of affordable housing, a residential community space and up to 776 square feet of commercial/retail space on the first floor. The redevelopment will preserve the existing three-story facade along Mission Street and 29th Street and will connect with the new three-story structure above. The remainder of the building is unsalvageable and will be demolished. The façade is deteriorating and may require additional structural intervention and coordination with the Department of Building Inspection before construction begins.

Each studio unit will range from 267- 406 square feet and feature its own private bathroom and kitchen. The rents will be set to be affordable for households ranging from 30% to 80% of MOHCD Area Median Income. The Project will maximize the unit count by adding three stories to the existing building envelope while ensuring units are adequately sized for tenant needs. Under the current design all units are well above the TCAC minimum of 200 square feet for studio units.

The Project is pending the street improvement permit which is in queue for completeness review. The demolition and shoring permit has been received from the City. BART has preliminarily approved the project since it encroaches on the zone of influence. The projected construction start date is planned for 11/4/24 with completion on 6/30/26 and lease-up commencing thereafter. The project has 50% construction drawings and is working on receiving a final GMP by the end of August 2024.

1.2. Applicable NOFA/RFQ/RFP. (See Attachment E for Threshold Eligibility Requirements and Ranking Criteria)

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



3300 Mission Project was awarded $6,500,000 in funds as part of the 2023 Site Acquisition and Predevelopment Financing for New Affordable Rental Housing (NOFA). The submittal included a proposal for the redevelopment of 3300 Mission into a six-story, mixed-use building. The NOFA was issued January 27, 2023, and the award was made June 22, 2023. The Project scored 82.4/100 based on scoring that accounted for applicant experience, project concept, community engagement, service delivery, financing plans for cost containment, and racial equity strategy. The Project scored in the top 5 of 8 total applicants that met the threshold requirements. Based on that competitive scoring process this project was selected to receive a funding award.

1.3. Borrower/Grantee Profile. (See Attachment B for Borrower Org Chart; See Attachment C for Developer Resume and Attachment D for Asset Management Analysis)

1.3.1. Borrower.

3300 Mission Partners L.P. BHHC and TCDC (or single-purpose affiliated entities) together will serve as the Managing General Partner of the Limited Partnership, with ownership interests split 50/50. An affiliate entity of Mitchelville Company Inc., 100% owner of MREG, will serve as and own the Administrative General Partner.

1.3.2. Joint Venture Partnership.

MOHCD supported the initial collaboration by the development team of MREG, TCDC and BHHC as part of MOHCD's Emerging Developer capacity building work. MOHCD supported the initial formation of the joint venture that draws upon MREG's extensive affordable housing development experience and BHHC and TCDC's deep ties to the community.

Gina Dacus (BHHC), Todd Clayter (TCDC) and Andre White (MREG) are the primary points of contact for the project with Connie Xie (BHHC) and Rachel Cheong (MREG) providing additional regular support. Each organization leads on different work categories as outlined in the joint venture agreement, which is attached and serves as a memorandum of understanding outlining roles and responsibilities (Attachment M).

1.3.3. Demographics of Board of Directors, Staff and People Served.

| | Gender Identity | Race |
|---|---|---|
| Bernal Heights | M: 1 | Black or African American: 1 |

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| | | |
|---|---|---|
| Neighborhood Center Board | F: 4 | Caucasian/White: 4<br>Pacific Islander: 1 |
| Bernal Heights Housing Corporation Board | M:3<br>F: 2 | Black or African American: 2<br>Caucasian/White: 3 |
| Bernal Heights Neighborhood Center - All Staff | M: 10<br>F: 19<br>excluding consultants | Black or African American: 2<br>Caucasian/White: 2<br>Hispanic or Latino: 8<br>Pacific Islander: N/A<br>Asian: 15<br>*Note: Some staff identify with additional race/ethnicity |
| Tabernacle Community Development Corporation Board | M: 7<br>F: 2 | African American: 9 |
| Tabernacle Community Development Corporation - All Staff | M: 3<br>F: 1 | African American: 4 |
| Mitchelville Real Estate Group | M:1<br>F:2 | Black or African American: 1<br>White: 1<br>Asian: 1 |

1.3.4. Racial Equity Vision.

The 3300 Mission team's goal is to meet the needs of current and former San Franciscans who risk displacement from the City, and to stabilize and sustain the residents now and for generations to come, as much as possible through this Project. The development team will focus on providing opportunity to those historically adversely impacted by economic and social conditions resulting from discrimination, exclusion and institutional racism. This will require outreach and advocacy to displaced Certificate of Preference (COP) holders as well as BIPOC residents across the City. See marketing strategy in Section 4.11.

The 3300 Mission team comprises three Black-led organizations and will engage BIPOC-led professional services, contracting, property management and related enterprises to the fullest extent possible.

1.3.5. Relevant Experience.

BHHC has completed 18 developments with a total of 586 units including four commercial units. BHHC was part of the partnership that received an award for developing the 1100 Ocean Ave Apartments, a project that combines permanent supportive housing for extremely low-income and formerly homeless young adults with family housing.

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TCDC has served as a partner with other developers in numerous affordable housing developments including Alice Griffith HOPE SF. TCDC did not lead the development process on this project and is thus looking to increase their capacity through a larger leadership role in this Project.

MREG is specialized in strategic land advisory, project management, affordable housing development and acquisitions across California. MREG is led by Andre White who brings many years of project management, development consulting and financial analysis to the team. MREG's representative transactions in San Francisco include 4840 Mission, Potrero Block B & X, and India Basin (affordable housing phase). MREG has worked as an advisor or consultant on 426 units in San Francisco and a total of 1,986 units across California in both new construction and resyndications since 2019.

While BHHC and TCDC have experience in developing affordable housing properties for low-income households in San Francisco, neither has recently led the development of new construction properties. This Project represents a new opportunity for BHHC and TCDC to expand their development experience and ready themselves for future solo ventures. Working with MREG and outside consultants will support them through the development process for this Project.

1.3.6. Project Management Capacity. See attachment C, staff resumes.

Gina Dacus (BHHC), Todd Clayter (TCDC) and Andre White (MREG) are the primary points of contact for the Project with Connie Xie (BHHC) and Rachel Cheong (MREG) providing additional regular support. Each organization leads on different work categories as outlined in the joint venture agreement, which is attached (Attachment M).

BHHC and MREG will split Project planning and all three members take part in communications. All three organizations will take part in the entitlements and financing process. Community outreach is led by TCDC and BHHC. BHHC will oversee any right of return issues and MREG will take the lead on construction management with support from TCDC and BHHC. Resident engagement and services will all be coordinated by BHHC and TCDC, with BHHC serving as service provider. TCDC will oversee the third-party property management firm and BHHC will provide asset management (experience and staffing in Attachment D).

The team members on 3300 Mission Project are:

**BHHC**

1. Gina Dacus, Executive Director - 40 hours per month (0.25 FTE)
2. Miriam Noboa, Project Manager - 24 hours per month (0.15 FTE)
3. Adeline Siew, Controller - 16 hours per month (0.1 FTE)

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4. Connie Xie, Housing Development Coordinator - 80 hours per month (0.5 FTE)
5. Sulaiman Hyatt, Community organizer -48 hours per month (0.3 FTE)
6. Nyomi Hunt, Housing Intern - 48 hours per month (0.3 FTE)

**TCDC**

7. Dr. James McCray, Executive Director - 16 hours per month (0.1 FTE)
8. Todd Clayter, Project Manager - 56 hours per month (0.35 FTE)
9. Gerald Green, Project Manager - 24 hours per month (0.15 FTE)

**MREG**

10. Andre White, Project Manager - 32 hours per month (0.2 FTE)
11. Robin Shack, Project Administrator - 16 hours per month (0.1 FTE)
12. Rachel Cheong, Asst. Project Manager – 32 hours per month (0.2) FTE

1.3.7. Past Performance.

No outstanding performance issues with any of the Sponsors.

1.3.7.1. City audits/performance plans.

No audit issues with any Sponsors. Both BHHC and TCDC are in good standing with the community development team and received accolades for their community engagement and the quality of their work.

1.3.7.2. Marketing/lease-up/operations.

BHHC, TCDC and MREG have not led marketing for any new multifamily projects in the MOHCD portfolio in recent years under DAHLIA. Caritas Management Corporation, the property manager for the site, will be responsible for the marketing and lease-up plan.

Caritas will develop a comprehensive marketing plan in compliance with MOHCD requirements and it must be approved by MOHCD. Caritas has experience with lease-up of MOHCD properties. A recent lease up at Balboa Park Upper Yard was understaffed causing delays. Caritas will need to adequately staff the lease up to ensure timely occupancy.

Eviction and Existing Tenant Demographic Data in Sponsor Portfolio

**BHHC**

| Tenants by Ethnicity | Number of Tenants | Percent |
|---|---|---|
| Latino/Hispanic Origin | 266 | 39% |
| Not Hispanic or Latino Origin | 261 | 38% |

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| | | |
|---|---|---|
| Declined to State | 151 | 22% |

| Tenants by Race | Number of Tenants | Percent |
|---|---|---|
| White | 107 | 15% |
| Black or African American | 60 | 9% |
| American Indian or Alaska Native | 13 | 2% |
| Asian | 149 | 22% |
| Other | 173 | 25% |
| Declined to Report | 190 | 27% |

Evictions in Bernal Units:

1. 1100 Ocean - 1
2. Alemany - 4
3. Bernal Gateway 1

Total - 6 evictions the past 12 months.

**TCDC**

| Tenants by Ethnicity | Number of Tenants | Percent |
|---|---|---|
| Latino/Hispanic Origin | 157 | 13% |
| Not Hispanic or Latino Origin | 711 | 61% |
| Declined to State | 306 | 26% |

| Tenants by Race | Number of Tenants | Percent |
|---|---|---|
| White | 126 | 9% |
| Black or African American | 284 | 21% |
| American Indian or Alaska Native | 4 | 0.01% |
| Asian or Pacific Islander | 296 | 22% |

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| | | |
|---|---|---|
| Other | 193 | 14% |
| Declined to Report | 429 | 32% |

At the properties listed below, all of which TCDC has ownership interests, there have been no evictions within the past 12 months as follows:

- Robert B. Pitts - 0
- Westside Courts - 0
- Alice Griffith 2 & 4 - 0
- Tabernacle Vista - 0

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

| **Site Description** | |
|---|---|
| Zoning: | Mission Bernal Neighborhood Commercial district |
| Maximum units allowed by current zoning (N/A if rehab): | The base zoning restricts height to 40 feet and then the additional stories can be added using the 33-foot bonus over existing zoning allowed by the State Density Bonus law. Existing density limit is 1 unit per 600 square feet of lot space, which would be 5 units only. However, the State Density Bonus Law also enables unlimited density. Only 6 stories are feasible with the height limit and keeping the existing façade. |
| Seismic (if applicable): | Seismic Design Category D |
| Soil type: | Clayey sands/sedimentary deposit/ Confirmation pending Geotech report |
| Environmental Review: | There are no environmental issues. Phase I ESA was completed on 3/21/2023. No evidence of Recognized Environmental Conditions (RECs) and no further investigation recommended. |
| Adjacent uses (North): | Commercial - restaurants, salons, Ariel Architects, cafe liquor store, UPS Store, Stemful (childcare), USPS<br>Residential (condos) - 199 Tiffany Ave |
| Adjacent uses (South): | Safeway grocery store, restaurants, dispensary<br>Residential – 8-unit condominium (3310 Mission) |
| Adjacent uses (East): | Commercial - Fumi Curry & Ramen, PizzaHacker/ Bagel (restaurants), Atlas Plumbing and Rooter<br>Residential - Coleridge Park Homes (Senior housing - 47 units) |
| Adjacent uses (West): | Commercial - The Front Porch (restaurant), bar, dispensary |
| Neighborhood Amenities within 0.5 miles: | – Safeway is 350 feet from the Site<br>- Good Life Grocery is 0.4 miles from the Site<br>- Holly Park is 0.398 miles from the Site |

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| | |
|---|---|
| | - Precita Park is 0.475 miles from the Site<br>- Sutter Pacific Medical Center, St. Luke's Hospital (CPMC Mission Bernal Campus) is within 0.4 miles from the Site.<br>- Walgreens Pharmacy is 590 ft from the Site<br>- Bernal Library is 0.435 miles from the Site<br>- Junipero Serra Elementary School is a half-mile from Site |
| Public Transportation within 0.5 miles: | Muni within 0.5 miles are: 12, 14, 49, 24, 36, J<br>24th St. Mission Bart is 0.6 miles from Site |
| Article 34: | Approved for Article 34 Authority on 8/7/2023. |
| Article 38: | The California Energy Code requires the Project to include a fan forced MERV-13 filter, which meets the Article 38 requirements for the Project as well. |
| Accessibility: | Min. 15% of units will be Mobility units and 10% of units will be Communications units. All other units will be adaptable units. |
| Green Building: | Green Point Rated and All Electric design. |
| Recycled Water: | Exempt- The Project is located outside the designated recycled water use area and so is not subject to the SFPUC recycled water ordinance. |
| Storm Water Management: | The Project is located within the combined sewer area and will be subject to review for the SFPUC stormwater management ordinance. This will be further developed during predevelopment. |

2.1. Description.

The redevelopment of 3300 Mission will transform the property into a six-story, mixed-use building with approximately 21,700 square feet, 35 studio dwelling units, a residential community space and 776 square feet of commercial/retail space on the first floor. The redevelopment will preserve the existing three-story façade along Mission Street and 29th Street and will connect with the new three-story structure above; the remainder of the interior of the building is unsalvageable and will be demolished. The building is not designated as historic nor is it contributing to a historic district – thus maintaining the façade is only to comply with the limits on demolition of buildings that have been occupied by tenants in the past 10 years under AB2011.

Each studio unit will range in size from 267 square feet to 406 square feet and feature its own private bathroom and kitchen. This design maximizes the unit yield by adding three stories that respects the existing building.

2.2. Zoning.

The Project is eligible for and has utilized AB2011 streamlined entitlements approvals. It will also utilize the State Density Bonus Law, through which it will obtain three additional stories and will utilize four waivers. The additional 3 stories are on top of existing 40' limit, allowing a

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max of 73'. The Project is also receiving waivers for rear yard size, usable open space, and dwelling unit mix. The AB2011 application was submitted to the San Francisco Planning Department in October 2023 and received approval in February 2024.

2.3. Probable Maximum Loss.

N/A. While the façade will be maintained, it will not be part of the Project's structural system. The new post and beam structure behind the façade will carry the loads.

2.4. Local/Federal Environmental Review.

Project requested AB2011 + state density bonus for entitlement which exempts the Project from CEQA review. No NEPA or federal review is required at this time.

2.5. Environmental Issues.

- Phase I/II Site Assessment Status and Results. Phase I Environmental Site Assessment (ESA) was completed on March 21, 2023. No evidence of RECs and no further investigation recommended. The tax credit investor will confirm whether a Phase 2 is required.
- Potential/Known Hazards. The Hazardous Materials report was completed on March 24, 2023. Asbestos Containing Material (ACM) was not identified. Lead Based Paint was identified and will be properly remediated and disposed of as a part of the Project's demolition phase.

3. COMMUNITY SUPPORT

3.1. Prior Outreach.

The Sponsor hired a third-party communications consultant to create a 90-day plan outlining the community engagement approach and activities recommended to launch the public outreach process for the project. The consultants have continued to advise the development team on responding to constituent information requests.

In Fall 2023, the Project team sent out flyers and mailers informing the community of the redevelopment. Phase I of the outreach included face-to-face engagement with key stakeholders and the businesses along the Mission Bernal corridor where the site is located.

The team held a successful community open house for the Mission Bernal community at an art gallery located across the street from the project site on Saturday, December 9, 2023. This was an informal meeting where the community could drop by to learn from the project team which consisted of the development team, architects and its

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subconsultants that attended. Most concerns expressed have been about the height, shadows, and parking for the building. The Project team received an appeal letter from Department of Building Inspections on July 23, 2024 stating that the condo owners at 3310 Mission appealed the project's Site Development Permit. Previously, the team reached out to the 3310 Mission condo building and to the broker that sold each condo to the owners. The Sponsors were unable to have direct contact with the condo HOA because the broker informed them that the HOA had not been turned over to the homeowners at the time. Since then, the Sponsors attempted establish communication several times with no success.

3.2. Future Outreach.

In regard to responding to the appeal letter for the Site Development Permit, the project team is working with legal counsel to put together a briefing package that will be submit to the Board of Appeal by August 20, 2024. Given that the project is protected by AB2011, counsel believes that this issue will get resolved. Once the briefing package is submitted electronically, the respondents will have until August 22, 2024 to respond. The Sponsors will attend the hearing on Wednesday, August 28, 2024. MOHCD will also review the appeal response.

In addition to community outreach for the development of the Project, there will be extensive community engagement to encourage applications from BIPOC San Franciscans who have been displaced from the Bernal Heights vicinity and historically excluded from quality housing over the past century.

The Project Team anticipates restarting the small group and community outreach in late 2024. Bernal Heights Neighborhood Center brought on Sulaiman Hyatt as the Lead Community Organizer in June 2024 to manage the overall direction of BHNC's organizing and empowerment work and to be the main contact person for the community outreach for 3300 Mission. Sulaiman is working to build relationships with residents, neighbors and key stakeholders and mapping out the second phase of communication outreach which includes hosting a meeting to share out the construction timeline, commercial space input, and next milestones with the community. This will also include communication concerns regarding the sewer lines and street improvements that SFDPW has planned to do simultaneously around the construction timeline.

3.3. 1998 Proposition I Citizens' Right-To-Know.

Prop I Notice was posted as required on the property on July 26, 2023.

4. DEVELOPMENT PLAN

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## 4.1. Site Control.

The Sponsor purchased the property for $3,850,000 in June 2023 using a loan from the San Francisco Housing Accelerator Fund.

### 4.1.1. Proposed Property Ownership Structure

3300 Mission Partners L.P. has fee simple title to the property. Acquisition and rehabilitation of the Site was originally contemplated under MOHCD's Preservation/ Small Sites Program, which is based on a community ownership model (e.g., the Sponsor, and not the City, owns the land). However, given the Project's current new construction project type, the land will be transferred to the City prior to construction loan closing and then the City will ground lease the land back to the partnership. When the land is transferred the $4,151,000 acquisition note will be deemed repaid.

The Sponsor's Emerging Developer status makes the Project eligible for a waiver of portions of the City's Ground Lease policy, specifically the mandatory $15,000 annual ground lease base rent payment. The Project seeks a waiver for the mandatory annual ground lease payment and proposes$1 for this Project.

## 4.2. Proposed Design.

The redevelopment of 3300 Mission will transform the property into a six-story, mixed-use building with approximately 21,700 square feet, designed for 35 studio dwelling units of 100% affordable housing, a residential community space and 776 square feet of commercial/retail space on the first floor. The redevelopment will preserve the existing three-story façade along Mission Street and 29th Street and will connect with the new three-story structure above; the remainder of the interior of the building is unsalvageable and will be demolished. The Project will keep the facade and demolishing all other parts of the remaining structure. The Project will thus add six floors to the basement and will reinforce the basement and foundation below the current basement to support 6 new stories. In order to accommodate this the project is upgrading the basement slab and adding a new shoring/foundation system beneath. A historic consultant has been hired to assist in maintaining the aesthetic of the existing façade and has provided research and input on the architectural plans at each design stage . The consultant will continue to advise the architect during construction administration. The façade had to be preserved in order to access entitlement streamlining through AB2011, which does not allow for any demolition if tenants resided in the property within the past 10 years. There is no carve out in the legislation for fire or other disaster resulting in the inoperability of the property.

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Cost efficiency considerations were as below:

**Type of Construction** - One story of Type IA construction for the ground floor podium with 5 stories of Type IIIA wood framed construction.

**Basement Slab** - Retain existing basement and basement slab for the most economical foundation solution. This way the Project does not have to have the added construction cost of removing the basement and shoring and adding new foundation that extend past the basement slab of the adjoining building. The basement would then be used to accommodate building mechanical systems.

It is still unknown whether the design will require lowering the existing slab. Depending on the adjacent building's bottom of foundation level, there is potential that the new building's foundation may cause excess surcharge on their slab. The design team is working to avoid having to lower the slab. The Project is within the zone of influence of the BART tunnels.

The basement shoring strategy is still in flux because the Project is now focusing on designs that require no shoring agreement with the neighboring building because the owners of that property have filed an appeal of 3300 Mission Site Development Permit. Any change in the shoring may have additional cost impacts that will have to be mitigated through the existing budget. There are five proposed alternative strategies currently being investigated by the architect and structural engineer:

1. Underpinning
2. Creating a new foundation inside the property line and cantilevering the structure above
3. Deep foundation – keeping the mat and tying the pile to the bottom of the mat
4. Structural Shoring
5. Grouting

**Compact Units**- 7 units per floor on floors 2-6 with a compact unit plan makes for a very efficient use of an odd and triangular floor plate. Units range from 267-406 square feet in total and include a bathroom and a cooking area.

**Mechanical System** - In unit heat pumps with no outdoor components makes for an efficient use of energy for heating and saves space.

The below chart goes over per floor space and the location of retail and amenity spaces on the ground floor and roof. The roof will provide outdoor amenity space for use by the tenants.

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**PRELIMINARY BUILDING AREA TABULATIONS** updated 7/5/23

| Level | Residential Net Rentable GSF* | Residential Amenity GSF** | Residential Core GSF*** | Residential Total GSF | Retail Total GSF | Bldg Core GSF^ | Non-Res. Total GSF | Grand Total GSF |
|---|---|---|---|---|---|---|---|---|
| R | | 540 | 484 | 1,024 | | 0 | 0 | **1,024** |
| 6 | 2,119 | 0 | 791 | 2,910 | | 0 | 0 | **2,910** |
| 5 | 2,119 | 0 | 791 | 2,910 | | 0 | 0 | **2,910** |
| 4 | 2,119 | 0 | 791 | 2,910 | | 0 | 0 | **2,910** |
| 3 | 2,414 | 0 | 791 | 3,205 | | 0 | 0 | **3,205** |
| 2 | 2,414 | 0 | 791 | 3,205 | | 0 | 0 | **3,205** |
| 1 | 0 | 1,481 | 501 | 1,982 | 660 | 248 | 908 | **2,890** |
| B | | 517 | 800 | 1,317 | | 1,294 | 1,294 | **2,611** |
| **Total** | 11,185 | 2,538 | 5,740 | **19,463** | 660 | 1,542 | **2,202** | **21,665** |

NOTES:

* Residential Net Rentable GSF calculation includes exterior, corridor and party walls, and half party walls where adjacent to...

** Residential Amenity GSF includes community room, entry lobby, offices, laundry

*** Residential Core GSF include corridors, stairs, elevators, res. level utility spaces

^ Building Core GSF includes large mechanical/utility spaces, etc

4.3. Proposed Rehab Scope. N/A

4.4. Construction Supervisor/Construction Representative's Evaluation

The proposed project makes sufficient use of the site located at the corner of Mission St and 29th St. The site previously housed a single occupancy hotel and 3300 Club and was severely damaged by fire. The project sponsor's plan is to transform the current 3-story blighted property into a 6-story SRO building with 35 units, one community space and one retail space. The redevelopment will preserve the existing 3-story façade and add three levels above the current structure.

The lot size is approximately 3,072 square feet, residential area is 17,085 square feet, retail area is 996 square feet. The total building size is approximately 18,081 square feet. The studio unit will be sized between 200 square feet and 350 square feet. Each unit will feature a private bathroom and kitchen.

The total construction cost estimate is $23,942,253, roughly $684,064/unit and 1,324/sqft. MOHCD Construction representative Robin Wang ran a cost analysis based on similar construction type buildings in predevelopment, under construction, and already completed from the MOHCD database. The average cost per unit is $730,622 and $614/sqft. The per unit cost is roughly 6% less than the comparable projects and 116% more on cost per square foot. The comparable projects' average number of units is 76 while this project only has 35 units. Since this project

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is so much smaller than other MOHCD projects, the MOHCD database does not provide a good cost comparison. The developer team has limited experience in developing similar projects, does not have a good economy of scale, and is required to maintain a 3-story historic façade while adding 3 additional floors. A significant amount of foundation work is anticipated. Based on MOHCD and the tax credit investor's recommendation given these complexities, the project is holding additional owner's contingency, currently 7.2%.

4.5. Commercial Space.

4.5.1. Space Description.

3300 Mission Partners will develop a 776 square feet commercial space as a separate condo parcel. At permanent loan conversion it will be transferred via a ground lease to an affiliated joint venture entity that will then lease the space to a lessee which has yet to be determined. The condo mapping process is 70% complete. The space is situated at the corner of the vibrant Mission Street and 29th Street, a prime location that is surrounded by a diverse range of retail stores, restaurants, and service providers. The area already attracts a steady stream of foot traffic from residents. The partnership hopes that the Project's high visibility and engagement will allow it to become a cornerstone in an active commercial hub.

4.5.2. Commercial Leasing Plan.

Phase 1 of the Partnership's outreach included discussing the Project's commercial/retail space opportunities. This outreach will help to inform the needs in the community and help spread the word about the space. The development team has produced a commercial leasing plan that takes into account market conditions, demand and historic uses of the space.

Phase 2 of the outreach process will focus on the leasing of the commercial space. The community engagement team will conduct a survey to get community feedback on the commercial space. When a building permit is secured (forthcoming in the third or fourth quarter of 2024) Bernal intends to engage the DN Group, a commercial broker familiar with the neighborhood. The space will be marketed to non-formula retail, community-oriented retail, and public benefit uses. The commercial broker will list the property and Bernal will commence outreach to community groups in tandem.

The sponsor has not determined whether they will pursue a community serving tenant at this time. Based on market conditions and community input the sponsor has said they are not likely to pursue a community serving tenant. Accordingly, current plans and budgets reflect building the space out to cold shell. If a public serving use, as defined in the MOHCD Commercial Space Underwriting Guidelines, is chosen, the Sponsor will seek funding to complete a warm shell build out. If a non-

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Public Benefit Use is secured, build out would be to cold shell with no additional increase to the commercial budget.

A commercial leasing plan is attached as Exhibit N.

4.5.3. Commercial Operating Pro Forma.

The Commercial Space is likely to lease at market rate at $44/sf/year which equals an estimated $34,144 per year under a triple net lease. The property has superior visibility and frontage on two streets. The comparable commercial properties range from 500 to 1,500 rentable square feet and are similarly located within the Mission/Potrero or Southern City submarkets. Additionally, the comparables have an average asking rent of $46.58/sf/year, making the Commercial Space well-positioned to command similar rates. A community serving space would yield lower rent. Year 1 assumes 50% vacancy and out years assume a 20% vacancy.

At permanent loan conversion when the commercial parcel is transferred to the commercial entity, the commercial portion of the MOHCD loan will be recorded against the commercial parcel. Per MOHCD policy, if the space is not a community serving use, 40% of net commercial cash flow will go to MOHCD to repay the commercial loan, which will be 55 year term at 3% interest with residual receipts. The remainder of cash flow will go to the sponsor. If the space is leased to a community serving tenant, the loan will be deferred.

If the project the is not able to lease up units at 80 AMI and must reduce rents, then commercial income will need to be re-routed to the residential project in order to maintain positive cash flow.

4.5.4. Tenant Improvement Build Out.

The hard cost budget includes $761,154 for commercial development costs based on a pro-rata square foot cost. This is currently structured as a cold shell cost based on the assumption that the parcel will have a non-community serving use. In the event that the project does instead pursue a community serving use, the project may seek MOHCD approval to use any remaining funds or contingency to increase to a warm shell scope, or seek third party funds. The General Contractor estimated that a warm shell build out would increase costs by $68,000.
Any tenant improvements beyond warm or cold shell will be funded by non-City sources.

4.6. Service Space.

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The Sponsor proposes a resident services program and meeting spaces for the residents on the ground floor. There will be a manager's office (78 sq. ft), mail and package room and a social services office (73 sq. ft) for Bernal Heights Neighborhood Center's (BHHC's parent organization) Service Connection team to serve the 35 households. A community room of 337 square feet will promote resident programming like health and wellness, educational and community building activities and other services as listed in Section 8.1. The community room should be able to accommodate about 24-25 people at a time per code.

4.7. Interim Use.

N/A - The building is uninhabitable.

4.8. Infrastructure. N/A

4.9. Communications Wiring and Internet Access.

The Project design team will be working with Department of Technology to provide free Internet to all residents in addition to the standard access to Comcast and AT&T. The Project will also be providing standard wiring and pathways for access to Satellite TV.

4.10. Public Art Component. The Sponsor will utilize the community to help select the most appropriate art for this space along with an Art Consultant. Nine initial proposals were received and evaluated in June 2024. Three final bids will be submitted in mid-September with the selection occurring in October 2024. The Project is currently planning on a public art budget of $101,000 based on the amount of MOHCD funds and hard costs in this requested commitment.

| | |
|---|---|
| MOHCD Committed | $16,591,242 |
| TDC | $39,329,242 |
| Hard Cost Total | $23,942,253 |
| **Public Art Requirement Calculation** | |
| 1% | 1% |
| Construction Cost | $23,942,253 |
| Percent funded by MOHCD (MOHCD Committed / TDC) | 42.19% |
| **Public Art Requirement** | **$101,002** |

4.11. Marketing, Occupancy, and Lease-Up

Due to the size of the Project, MOHCD's typical requirement to set aside 20-25% of units for homeless households was waived by loan committee at approval of the preliminary gap loan commitment.

The team aims to reach a broad range of prospective tenants by conducting targeted marketing to:

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- Church/faith-based organizations;
- City and County of San Francisco agencies and SF Unified School District workers who seek housing in San Francisco;
- Civic organizations that promote business, health and human services, community development, job training and placement, etc.
- Non-profit, community-based organizations and their networks of service providers/community partners;
- Social media and radio public service announcements.
- Federal agencies involved in human services including Job Corps and AmeriCorps.

The Sponsor will submit a marketing plan 9 months prior to TCO to be approved by MOHCD that will specifically focus on engaging the local community and the broader African American population across San Francisco, as well as Certificate of Preference Holders displaced to outside of San Francisco. Both TCDC and BHHC have significant experience and relationships in these communities and will leverage those connections to successfully solicit applications.

The following preferences will apply for the 34 lottery units.

| MOHCD Preference | Applicant Category |
|---|---|
| 1 | Certificate of Preference (COP) Holders |
| 2 | Displaced Tenants Housing Preference (DHTP) Certificate Holders<br>(20% of the 34 lottery units; 7 units total) |
| 3 | Neighborhood Preference<br>(40% of the 34 lottery units; 14 units total) |
| 4 | Live/Work in San Francisco |
| 5 | All Others |

The development includes 8 studios at 80% MOHCD AMI. The Sponsor may need to reduce rents on these in order to meet market conditions since studios above 60% AMI MOHCD are often challenging to lease. The Project can still operate with positive cash flow if rents are reduced to 60% AMI MOHCD but will need to draw on commercial operating income to do so into year 20. Commercial operating income cash flow split will be conditioned based on this to ensure long-term sustainability of the project.

### 4.11.1. Formerly Displaced Tenants

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The issue of right of return for previous tenants prior to the 2016 fire was reviewed by the City Attorney who determined MOHCD is not required to provide the originally displaced tenants with any specific return option to the building. MOHCD may still have the latitude to provide tenants displaced from the fire with access to Displaced Tenant Housing Preference to apply for this and other projects, but this would require a waiver of current processes, which MOHCD will continue to explore. MOHCD was able to find some contact information for the displaced tenants but not for all tenants. The only existing records are a rent roll with some outdated contact information from the previous owner that was provided as part of due diligence for the sale of the property.

## 5. DEVELOPMENT TEAM

| Development Team | | | |
|---|---|---|---|
| **Consultant Type** | **Name** | **SBE/LBE** | **Outstanding Procurement Issues** |
| Architect | BAR Architects & Interiors | Yes | No |
| Structural Engineer | Holmes | Yes | No |
| Historical consultant | Page and Turnbull (Existing Facade) | No | No |
| Dry Utilities | UDCE | Yes | No |
| Civil Engineer | Telamon | Yes | No |
| Geotechnical | Partner Engineering and Science, Inc. | No | No |
| Landscape Architect | AWA (Adrienne Wong) | Yes | No |
| General Contractor | Guzman Construction | Yes | No |
| Owner's Rep/Construction Manager | Plant Co. | Yes | No |
| Financial Consultant | Community Economics | No | No<br><br>No |
| Legal | Sheppard Mullin<br>Lubin Olson & Niewiadomski<br>Goldfarb + Lipman | No<br>Yes<br>No | No |
| Property Manager | Caritas Management Corporation | No | No |
| Services Provider | Bernal Heights Neighborhood Center | Yes | No |

### 5.1. Procurement Plan.

The Sponsor has worked with MOHCD and the City's Contract Management Division (CMD) to meet their goal of 25% SBE subcontractor participation. Current contracts amount to 17.09% SBE subcontractor participation with 13% of funds going to LBE's. This is prior to subcontractor award selection by the General Contractor, which should allow them to meet the remaining portion of the goal.

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5.2. Opportunities for BIPOC-Led Organizations.

While it can be a challenge to find San Francisco based BIPOC organizations that have specialized skills for development, the Project team is increasing the contracting with BIPOC-led organizations.

The development team is composed of 3 BIPOC developers. The development will also use a variety of BIPOC consultants:

- BAR Architects & Interiors has a BIPOC led team
- Holmes Structural Engineering has a BIPOC Principal Lead
- EDesign C- MEP Engineers is an LBE/WBE and has a BIPOC Principal lead
- Telemon - Civil Engineer is a WBE and has a BIPOC Principal Lead
- UDCE - Joining Consultant is an LBE/MBE and a BIPOC Principal Lead
- ATM is a BIPOC Team

The Sponsor has created a BIPOC-led or owned organization list for distributing contracting opportunities to nearby cities and across the state. The Sponsor included meaningful scoring in the RFQ and RFP procurement process for professional services (i.e., Owner's Rep, General Contractor, etc.) for organizations with racial and gender equity-centered initiatives in regard to advancement within the organization, hiring and subcontracting.

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

6.1. Prior MOHCD/OCII Funding:

$6,500,000 awarded for predevelopment ($2,349,000) and acquisition ($4,151,000). The loans were approved at Loan Committee on 8/25/2023 and closed on 1/26/2024.

In order to apply for TCAC the Project was approved by Loan Committee for preliminary gap funding of $15,814,553 made up of $4,151,000 in acquisition funds and $11,663,553 in gap funds.

6.2. Disbursement Status.

The Project has incurred costs dating back to 7/20/2022. Loan Committee approves payment of costs no earlier than 7/20/2022 so long as these costs are deemed acceptable and correspond to the predevelopment budget attached herein. All costs prior to predevelopment closing were paid by the

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Housing Accelerator Fund (HAF) predevelopment loan which was paid down at construction closing. The latest predevelopment closing draw was $663,722.06 on 6/7/2024 and only $387 remain to disburse. Remaining predevelopment costs will be covered by a loan from the tax credit syndicator, Enterprise, which is expected to have 7% interest and be unsecured. Use of this loan is subject to final approval from MOHCD based on the terms.

6.3. Fulfillment of Loan Conditions. From February 2024 Preliminary Gap Loan Committee

1. Sponsor and MOHCD to evaluate and adopt a land ownership strategy+ during the predevelopment period.

Status: Completed. MOHCD will take ownership of the land and ground lease it back to the partnership before construction closing. Sponsor will create a separate commercial parcel at permanent loan conversion.

2. Sponsor to incorporate higher construction contingency based on the assessment of the MOHCD Construction Representative and 5% year over year cost escalation to reduce the potential risk of cost overrun.

Status: Currently holding 7.2% hard cost contingency, which provides additional buffer beyond the normal 5% required.

3. Sponsor must provide MOHCD with detailed monthly updates via the MOHCD Monthly Project Update, including on:
    1. Community outreach completed,
    2. Outcomes achieved related to racial equity goals, and
    3. Commercial-use programming.

Status: In Process. Sponsor provides monthly reports.

4. Sponsor must provide operating and development budgets that meet MOHCD Underwriting Guidelines and MOHCD Commercial Space Underwriting Guidelines prior to preliminary and final gap loan evaluations.

Status: Complete.

5. Sponsor must provide MOHCD with a services plan and proposed staffing levels that meet MOHCD underwriting standards prior to gap loan approval. Any changes to the current proposed staffing will need to be presented to MOHCD at least 90 days prior to gap loan approval.

Status: Completed. Any changes to program will require additional approval.

6. Sponsor must work with MOHCD staff and Project's General Contractor to Value Engineer construction budget.

Status: Completed two rounds of VE with MOHCD Construction Representative.

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7. Sponsor will continue to work with MOHCD to review income targeting of units above 60% AMI and will adjust accordingly before the TCAC application based on the market study.

Status: Completed.

8. Sponsor must provide signed LOI/s from commercial tenant prior to MOHCD's gap loan closing.

Status: Sponsor has provided commercial leasing plan and marketing package from broker. Will pursue LOIs during construction phase.

9. Sponsor must provide MOHCD with information outlining cost containment, efficiencies and innovation strategies to reduce overall Project costs and maximize efficiency of MOHCD gap loans. This analysis will include evaluating whether the Project can support permanent debt once a full market study is completed before the TCAC application.

Status: Sponsor went through two rounds of value engineering and market study determined permanent debt was not feasible.

8. Sponsors will provide feasibility and analysis of commercial space within 90 days of Loan Committee approval.

Status: Complete, sponsor sent detailed plan. Attached as Exhibit N.

9. Sponsor must provide Commercial Space Plan to MOHCD no less than 90 days prior to Loan Committee date for preliminary gap loan prior and to the TCAC application, including outcomes achieved related to racial equity goals.

Status: Complete, sponsor sent detailed plan. Attached as Exhibit N.

10. Sponsor must: a) provide for MOHCD review of the Request for Proposals (RFP) for equity investors and lenders before it is finalized and distributed; b) provide for MOHCD review of all raw financial data from developer or financial consultant prior to selection; c) provide for MOHCD review and approval of all selected investors and lenders; and d) provide for MOHCD review and approval of all Letters of Intent from financial partners.

Status: Incomplete - sponsor still has not provided. Sponsor provided initial LOI and term sheet but not matrix.

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

Status: To be completed. Project has not reached this stage yet.

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12. Sponsor must provide quarterly updated response to any letters requesting corrective action.

Status: In Process. No corrective action letters at this time.

13. Sponsor will review operating budget further with MOHCD to ensure maintenance and property management staffing is adequate. MOHCD will approve final budget before gap loan evaluation and TCAC application.

Status: Completed. Reviewed and approved as part of this evaluation.

14. Sponsor must work with MOHCD Construction Management team to ensure all CMD/OLSE requirements are met for procurement of contractors. The procurement requirements also apply to any contractors used prior to receiving MOHCD funds who were not part of the NOFA application. MOHCD must receive RFP for owner's representative and architect no later than 10/1/23 and for General Contractor by 12/1/23.

Status: Completed. Development team continues to comply ongoing.

15. The development budget must be updated in consultation with the GC once selected and then must be reviewed and approved by the MOHCD CR before preliminary gap loan evaluation.

Status: Completed. Reviewed as part of this evaluation.

16. Should Project Based Vouchers or other subsidy become available, the Project team will apply for any Section 8 Project Based before the construction closing for the Project. Section 8 vouchers would allow the Project to support debt and additional property management staffing. In addition, the Sponsor will need to complete a NEPA.

Status: Not applicable. Have not been available thus far.

17. RFP for any required public art must be completed before final gap loan evaluation.

Status: Completed. RFP has been completed and sponsor is in process of choosing from proposals with help of public art consultant.

18. MOHCD requires development team to work with MOHCD Project manager and construction representative on RFP and selection of legal and financial/syndication consultant firms to ensure firms have relevant experience in San Francisco.

Status: Completed for legal and financial consulting.

19. Development team must submit asset management plan to MOHCD and have it approved by MOHCD Asset Management Director by final gap loan evaluation.

Status: Completed. Detailed asset management plan was sent by sponsor.

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20. MOHCD must also approve property management firm selection and procurement process. Property management firm must be selected during predevelopment phase to inform the design of the Project.

Status: Completed. MOHCD approved Caritas selection.

21. Development team must use a MOHCD approved third party leasing consultant to ensure timely lease up.

Status: Completed. MOHCD approved Caritas who has experience. MOHCD will work with sponsor to ensure Caritas adequately staff lease up.

22. As a loan condition the development team will work with CMD, OLSE and MOHCD to ensure all procurement policies are followed and deadlines for procurement of architect, owner's representative, property management and general contractor are met.

Status: In process – no issues thus far.

23. Sponsor must provide MOHCD with an analysis of whether additional ground floor residential units could be added if commercial space is removed and the associated budget impacts. Similar analysis to be performed on value and necessity of condo'ing any commercial space.

Status: Completed.

24. Sponsor and MOHCD will revisit reduction in ground lease payment if the project receives Project Based Section 8 vouchers or other rental subsidies.

Status: In process – not relevant at this time.

25. MOHCD must approve selection of the construction lender, equity investor and any mezzanine or additional predevelopment debt.

Status: In process – sponsor has received offer from Enterprise but not finalized.

26. Sponsor must apply for FHLB AHP and use source to reduce MOHCD gap loan.

Status: In process – not to this phase of project yet. Project not competitive until in construction.

## 6.4. Proposed Predevelopment Financing

### 6.4.1. Predevelopment Sources Evaluation Narrative

The Sponsor requested and was awarded $6,500,000 in acquisition and predevelopment funds from the 2023 MOHCD Site Acquisition NOFA. The development team acquired the property in June 2023 using a $3,850,000 loan from the San Francisco Housing Accelerator Fund (SF HAF). The MOHCD predevelopment and acquisition loan closed in January 2024 and took out that HAF loan, thus reducing carrying costs, and providing

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additional funds to fund predevelopment activities. MOHCD loan closing was on 1/25/2024.

## 6.5. Permanent Financing

This evaluation is for approval of the final loan amount. The loan will then go to the Board of Supervisors for approval prior to the November 2024 loan closing.

### 6.5.1. Permanent Sources Evaluation Narrative.

- 9% Tax Credit Equity ($22,738,000): Assuming $0.915 cents per credit, with Enterprise pending selection as investor. Project was awarded credits in 2024 Round 1 of the 9% tax credit program and was in the MOHCD 9% queue. The only direct investor to express interest was U.S. Bank but their high operating expense assumptions would have required a COSR and thus netted out any advantage to higher pricing. Further, as a smaller less experienced sponsor team, pricing was naturally lower than on other projects.

- MOHCD Gap Loan ($12,440,242):
  - $2,349,000 ($6,500,000 predevelopment/acquisition loan previously approved; less the $4,151,000 value of the land)
  - $7,991,242 in permanent gap (net of land value) that is being requested at this time. This will be structured as residual receipts with 3% interest and a term of 55 years.
  - $2,100,000 in AHP bridge loan that will be paid back to MOHCD if the project is awarded FHLB AHP. The project will apply in 2025 and again in 2026 if not successful in the first attempt.

- Construction Loan ($18,492,150): While not a permanent source, the construction loan terms are Daily SOFR+2% for 28 months. This is currently 7.3% all in. The lender also requires a 0.5% interest reserve cushion, so the project must budget assuming 7.8% interest rate. Citizens Bank has submitted a term sheet pending selection. The term sheet includes a 1% origination fee as well. Interest carry estimates are relatively low because MOHCD funds will cover first year of construction, then a large portion of tax credit equity ($15 million) will come in at completion to pay down the construction loan.
- FHLB's Affordable Housing Program (AHP) - The Project will self-score for AHP and apply for $2,100,000 in AHP funds if feasible in 2024 or 2025 round. If awarded, then funds will come

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through during construction and will be used to reduce the MOHCD gap.

Permanent debt is not feasible at this time because of declining cash flow in later years.

The Project is also requesting support in meeting their liquidity guarantees, which lenders and investors require to insure sponsors have cash on hand to address additional costs. The sponsors who would otherwise provide the liquidity for the guarantee, BHHC and TCDC, are small community based organizations and lack significant cash to use for reserves. The investor and construction lender require a certain amount of liquidity to guarantee completion of the project. MOHCD will accordingly provide a $1,000,000 fund to support the guarantees which will not otherwise be used for any project costs. This allows small developers to enter this space that is otherwise often dominated by large organizations. The total liquidity required is $1 million and a portion will still likely be covered by the sponsors depending on the lender and investor requirements. Depending on the advice of the City Attorney and requirements of the investor and lender they guarantee may be provided directly to the sponsor, not to the limited partner entity.

6.5.2 TCAC Application:
San Francisco receives a geographic allocation of 9% tax credits and the first tiebreaker for an award in this category is a letter of support from MOHCD. MOHCD awarded the Project the allocation through a competitive process in early 2023 and the Project applied in February 2024. The Project did not score full points and was initially disqualified due to errors in the workbook and the exhibits, which also reduced the total credit award by $150,000 over the 10-year period. However the Project was awarded tax credits in May 2024 after a successful appeal to the Committee.

6.5.3 HOME Funds Narrative: N/A

6.5.4 Commercial Space Sources and Uses Narrative:

The commercial uses are $761,154 in hard costs and $425,000 in commercial developer fee for a total of $1,186,154, which will be covered a separate commercial loan. The current commercial space budget assumes a cold shell only because final use of the space is still being evaluated based on market conditions. A warm shell is only expected to add $68,000 in costs and would only be pursued if funds are available and an eligible community serving tenant is identified to lease the space. As noted above,

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the Sponsor submitted Commercial Leasing Plan for approval before Final Gap request.

### 6.5.5 Permanent Uses Evaluation:

| Development Budget | | |
|---|---|---|
| **Underwriting Standard** | **Meets Standard? (Y/N)** | **Notes** |
| Hard Cost per unit is within standards | Y | $680,082/unit |
| Construction Hard Cost Contingency is at least 5% (new construction) or 15% (rehab) | Y | Hard Cost Contingency is 7.2% with a total of 7.4% contingency for plan check, to be removed at GMP later in August to reduce total loan amount prior to closing. |
| Architecture and Engineering Fees are within standards | Y | Total of $2,435,520 for architecture and engineering. Reasonable per MOHCD construction management team. |
| Construction Management Fees are within standards | Y | $427,528 in total exceeds MOHCD UWG but this was bid out and no lower cost options were available even after negotiating this price down and outreach by MOHCD staff |
| Developer Fee is within standards, see also disbursement chart below | Y | Project management fee: $1,100,000<br>At risk fee: $1,100,000<br>Deferred fee: $0<br>GP equity: $0<br>Commercial fee: $425,000<br>Total fee: $2,625,000 |
| Consultant and legal fees are reasonable | Y | Includes syndication, financial consultant, construction closing legal and community outreach. |
| Entitlement fees are accurately estimated | Y | |
| Construction Loan interest is appropriately sized | Y | Yes, given current rate environment. |
| Soft Cost Contingency is 5-10% per standards | Y | Soft Cost Contingency is 5.2% |
| Capitalized Operating Reserves are a minimum of 3 months | Y | Capitalized Operating Reserve is equal to 6 months due to requirement from investor. |

The contingencies are slightly higher than MOHCD underwriting allows for in typical new construction, but staff feel this is reasonable given the challenges with the façade.

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### 6.5.6 Developer Fee Evaluation:

The fee conforms to MOHCD policies. The Project is eligible for $2.2 million in residential developer fee and for additional $425,000 in commercial developer fee, which assumes the Sponsor will condo the commercial space. Any fee over $2,500,000 will need to be paid to a separate commercial entity that the project team would need to establish, the structure of which has not been finalized.

The milestones for the payment of the developer fee to the Sponsor are specified below:

| | | |
|---|---|---|
| Total Developer Fee: | $2,625,000 | |
| Project Management Fee Paid to Date: | $550,000 | |
| Amount of Remaining Project Management Fee: | $550,000 | |
| Amount of Fee at Risk (the "At Risk Fee"): | $1,100,000 | |
| Amount of Commercial Space Developer Fee (the “Commercial Fee”): | $425,000 | |
| Amount of Fee Deferred (the "Deferred Fee"): | $0 | |
| Amount of General Partner Equity Contribution (the “GP Equity”): | $0 | N/A 9% |
| Milestones for Disbursement of that portion of Developer Fee remaining and payable for Project Management | Amount Paid at Milestone | Percentage Project Management Fee |
| Construction close | $220,000 | 20% |
| Construction Completion | $220,000 | 20% |
| Project close-out | $110,000 | 10% |
| Milestones for Disbursement of that portion of Developer Fee defined as AtRisk Fee | | Percentage At Risk Fee |
| 100% lease up and draft cost certification | $220,000 | 20% |
| Permanent conversion | $550,000 | 50% |
| Project close-out | $330,000 | 30% |

| Milestones for Disbursement Payable for Commercial Developer Fee | Amount Paid at Milestone | Fee Percentage |
|---|---|---|
| At completion of condominium subdivision mapping | $106,250 | 25% |
| Executed LOI with commercial tenant | $106,250 | 25% |
| Executed lease with commercial tenant | $106,250 | 25% |
| Occupancy by commercial tenant provider | $106,250 | 25% |
| Total Commercial Developer Fee | $425,000 | 100% |

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

### 7.1. Annual Operating Budget.

The Project has no operating subsidies and is on par with similar properties for per unit costs. Operating a small building reduces some economies of scale compared to larger properties.

Given that the Project would otherwise be eligible for additional fee as a 4% BIPOC joint venture under CDLAC and for the commercial project, MOHCD staff is asking Loan Committee for a waiver to allow for 50% of residential cash flow to go to the Project team up to year 15, instead of 33%. This is allowed typically in MOHCD transactions as deferred developer fee but is not structured in that manner here due to limitations of the 9% LIHTC program and thus the project seeks a waiver to achieve equal outcomes for cash flow split to a normal 4% project. Similarly, in line with MOHCD's policy for emerging developers, the project seeks a waiver of payment of residual receipts for the first five years of operation, which is allowed under the underwriting guidelines.

Given these challenges Staff will require Sponsors to seek operating subsidy sources such as Project Based Vouchers (PBVs) from the SF Housing Authority in order to maximize operating income and cross subsidize the 30% AMI units.

Project must allocate net commercial cash flow as needed to the residential portion of the project if the residential net income cannot cover all above the line operating expenses.

The property management and maintenance staffing was based on per unit staffing at other BHHC properties and the sponsor plans to share staff across multiple nearby properties they manage.

### 7.2. Annual Operating Expenses Evaluation.

| Operating Proforma | | |
|---|---|---|
| **Underwriting Standard** | **Meets Standard? (Y/N)** | **Notes** |
| Debt Service Coverage Ratio is minimum 1.1:1 in Year 1 and stays above 1:1 through Year 17 | N/A | Project cannot support debt. |
| Vacancy rate meets TCAC Standards | Y | Vacancy rate is 5%, received a TCAC waiver since TCAC standard is 10% for SRO housing type. |

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| | | |
|---|---|---|
| Annual Income Growth is increased at 2.5% per year or 1% for LOSP tenant rents | Y | Income escalation factor is 2.5% |
| Annual Operating Expenses are increased at 3.5% per year | Y | Expenses escalation factor is 3.5% |
| Base year operating expenses per unit are reasonable per comparables | Y | Total Operating Expenses are $11,312 per unit, which is below the average of $18,036 for similarly sized projects assuming comps for 2024 based on 2021 AMRs. Most of the difference is from lower utilities due to studios and the newer construction/all-electric nature of this building. |
| Property Management Fee is at allowable HUD Maximum | Y | Total Property Management Fee is $33,048 or $79 PUPM, below the HUD maximum |
| Property Management staffing level is reasonable per comparables | Y | Proposed staffing:<br>0.3 FTE Property Manager (PM)<br>0.3 FTE Maintenance Tech<br>Contracted Janitorial |
| Asset Management and Partnership Management Fees meet standards | Y | Annual AM Fee is $0/yr.<br>Annual PM Fee is $50,249/yr. Above the line AM fee cannot be supported due to low long term cash flow. This total combines maximum allowable for above and below the line management fees to the sponsor, per the MOHCD Operating Fees Policy. |
| *For TCAC projects:*<br>Replacement Reserve Deposits meet or exceed TCAC minimum standards | Y | Replacement Reserves are $500 per unit per year |
| Limited Partnership Asset Management Fee meets standards | Y | $5,000 per year meets standard. |

See Operating Expenses Comparables Chart below:

| Comps Data Source and Assumptions - Summary | Reporting Year of AMR Data | 2021 | Enter Year Needed Comps: | 2024 | Enter Annual Escalation: | 3.50% | | | | | | AVERAGES |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | INCOME AND EXPENSES ESCALATED TO 2024 | | | | | | |
| Escalated Op Exp PUPA for year 2024 | $18,189 | $25,402 | $15,489 | $18,061 | $20,626 | $16,877 | $14,427 | $15,225 | $16,927 | $17,139 | $18,036 | |
| SUMMARY | Comp 1 | Comp 2 | Comp 3 | Comp 4 | Comp 5 | Comp 6 | Comp 7 | Comp 8 | Comp 9 | Comp 10 | | |
| Project Name (Paste Proj Keys) | Del Carlo Court | Maria Alicia Apartment | 518 Minna | Jo Street Family Apartments | Park Family Housing | Gabriella Apartments | 1101 Howard | 1028 Howard | Namiki Apartments | 421 Turk | | |
| # Units | 25 | 20 | 24 | 38 | 26 | 29 | 34 | 30 | 34 | 29 | | |
| Project Key | 231 | 292 | 305 | 320 | 1002 | 1016 | 1072 | 1076 | 1164 | 1219 | | |
| TOTAL OPERATING EXPENSES: (compare w/row 82 in MOHCD proforma) | $454,716 | $508,033 | $371,732 | $688,323 | $536,277 | $547,434 | $490,525 | $456,747 | $575,504 | $497,037 | AVERAGES | |
| Expense PUPA | $18,189 | $25,402 | $15,489 | $18,061 | $20,626 | $18,877 | $14,427 | $15,225 | $16,927 | $17,139 | $18,036 | |
| Total Income | $419,222 | $582,977 | $456,064 | $896,278 | $484,282 | $722,339 | $755,764 | $772,724 | $1,145,974 | $649,977 | | |
| TOTAL OP EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees) | $454,716 | $547,947 | $384,141 | $871,028 | $581,754 | $557,080 | $567,431 | $529,597 | $607,214 | $535,655 | | |
| NOI | -$35,494 | $35,030 | $71,924 | $25,250 | -$97,472 | $165,259 | $188,333 | $243,127 | $538,760 | $114,322 | | |
| Debt Service Payments | $0 | $62,935 | $56,072 | $53,364 | $39,598 | $164,130 | $48,645 | $40,317 | $6,992 | $148,205 | | |
| Surplus Cash | -$35,494 | $20,436 | $17,625 | $93,278 | -$46,115 | $1,128 | $139,688 | $202,810 | $531,769 | -$32,108 | | |

7.3. Capital Needs Assessment & Replacement Reserve Analysis. N/A

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7.4. Income Restrictions for All Sources.

The MOHCD AMI limits are based on the proposed affordability levels from the Site Acquisition NOFA. The TCAC AMI levels are set at equal levels to match the levels for MOHCD since the project is a 9% application and there is thus no incentive to align the rents exactly, since the 9% tiebreaker is not based on rent savings, like the 4% is. The 9% required the units be at an average of 40% TCAC AMI. Thus more rents are deeply targeted than would have been otherwise. The 30% AMI MOHCD units were required by the original NOFA the project was awarded under.

| UNIT SIZE | | | MAXIMUM INCOME LEVEL | | |
|---|---|---|---|---|---|
| LOTTERY | No. of Units | | MOHCD | TCAC | HCD |
| Studio | 11 | | 30% MOHCD AMI | 30% TCAC AMI | N/A |
| Studio | 15 | | 55% MOHCD AMI | 40% TCAC AMI | N/A |
| Studio | 5 | | 80% MOHCD AMI | 50% TCAC AMI | N/A |
| Studio | 3 | | 80% MOHCD AMI | 60% TCAC AMI | N/A |
| | | | | | |
| Studio | 1 | | Manager Unit/Market | | |
| **TOTAL** | **35** | | | | |
| **PROJECT AVERAGE** | | | **50%** | **40%** | **N/A** |
| **AVERAGE FOR LOTTERY UNITS ONLY** | | | **50%** | **40%** | **N/A** |

7.5. MOHCD Restrictions.

| Unit Size | No. of Units | Maximum Income Level |
|---|---|---|
| 0BR | 11 | 30% of Median Income |
| 0BR | 15 | 55% of Median Income |
| 0BR | 3 | 80% of Median Income |
| 0BR | 1 | Manager's Unit |

As stated above in Section 8.2, MOHCD anticipates the 80% AMI units being initially leased at 60% AMI rents given current market conditions. MOHCD is working with the developer to finalize feasible rents for the 80% AMI units based on the market study. MOHCD has confirmed that the project still cash flows if rents are lowered to 60% AMI MOHCD, which marketing staff has shared may be necessary. However, to cash flow at lower rents requires allocating some net commercial cash flow to the residential project.

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# 8. SUPPORT SERVICES

## 8.1. Services Plan.

Bernal Heights Neighborhood Center (BHNC) – the parent organization of the Bernal Heights Housing Corporation (BHHC) - will provide an array of culturally and linguistically appropriate community services that are designed to connect residents to resources. The onsite services provide a foundation for long-term independence and stability using an asset-building framework. BHNC's strategies include housing retention, access to life skills training, "warm transfers" to appropriate health, legal or financial services, and development of one's own agency or leadership – fostered through cultural humility principles, attention to trauma, and in a resident's own language.

The Project anticipates hiring 0.5 FTE service connector to provide onsite services, which conforms to MOHCD's underwriting guidelines of one FTE per 100 residents rounded to the nearest 0.5 FTE. This staff member can be shared with one of the other nearby BHNC properties.

The types of services that BHNC envisions providing include the following:

- *Health and Wellness Service Coordination*: wellbeing checks, transportation support to hospitals or other health services, linkages to preventative and behavioral health care providers, health and nutrition education, health fairs, food pantries, physical activity, etc.;
- *Housing Retention Services*: Housing stability support, eviction prevention, lease education, assistance with property management, housing inspections preparation, linkages to financial resources and/or education;
- *Education and Skills for Stability*: Parent support, budget planning and foundational financial literacy programs, workshops, referrals to BHNC employment services, and referrals to outside agencies and providers;
- *Community Participation*: Resident participation through community projects and events, volunteer opportunities, leadership programs, voter education and registration.

For internal processes, BHNC tracks, monitors and reports on their program delivery effectiveness, reviewing:

- Units of service to assess resident service and staff workloads
- Weekly one-on-one meeting with staff
- Bi-weekly case review and department meetings to discuss emerging concerns or troubleshooting
- Quarterly and annual strategizing to fulfill the vision of the program
- Monthly service provider meetings with all BHNC program staff that includes training, best practice development, discussion of challenges and celebrations of successes.

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8.2. Services Budget.

Services budget will be $31,000. Source will come from the property operating budget and will comply with MOHCD underwriting guidelines. This includes $22,467 in salary, $4,613 in fringe benefits, $2,727 in program expenses and $1,192 (4%) in indirect expense/overhead.

8.3. HSH Assessment of Service Plan and Budget. N/A

## 9. STAFF RECOMMENDATIONS

### 9.1. Proposed Loan/Grant Terms

| **Financial Description of Proposed Residential Gap Loan** | |
|---|---|
| Loan Amount: | $11,254,088 |
| Loan Term: | 55 years |
| Loan Maturity Date: | 2079 |
| Loan Repayment Type: | Residual Receipts, with 50/50 split of cash flow |
| Loan Interest Rate: | 3% |
| Date Loan Committee approves prior expenses can be paid: | Any expenses dating back to July 20, 2022 |

| **Financial Description of Proposed Commercial Loan** | |
|---|---|
| Loan Amount: | $1,186,154 |
| Loan Term: | 55 years |
| Loan Maturity Date: | 2079 |
| Loan Repayment Type: | Residual Receipts, with 40% of net cash flow to MOHCD and remainder to sponsor. If needed to cover operating expenses for residential, commercial cash flow must flow to residential first. |
| Loan Interest Rate: | 3% |
| Date Loan Committee approves prior expenses can be paid: | Any expenses dating back to July 20, 2022 |

| **Financial Description of Liquidity Guarantee** | |
|---|---|
| Guarantee Amount: | $1,000,000 |
| Guarantee Term: | 3 years |

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## 9.2. Recommended Loan Conditions

1. Sponsor must provide MOHCD with detailed monthly updates via the MOHCD Monthly Project Update, including on:
    1. Community outreach completed,
    2. Outcomes achieved related to racial equity goals, and
    3. Commercial-use programming.
2. Sponsor must provide operating and development budgets that meet MOHCD Underwriting Guidelines and MOHCD Commercial Space Underwriting Guidelines prior to preliminary and final gap loan evaluations.
3. Sponsor must work with MOHCD staff and Project's General Contractor to value engineer construction budget.
4. Sponsor will continue to work with MOHCD to review income targeting of units above 60% AMI and will adjust accordingly prior to closing.
5. Sponsor must provide signed LOI/s from commercial tenant prior to TCO.
6. Sponsors will provide Commercial Leasing Plan assessing feasibility and providing analysis of commercial space within 90 days of Loan Committee approval.
7. Sponsor must: a) provide for MOHCD review of the Request for Proposals (RFP) for equity investors and lenders before it is finalized and distributed; b) provide for MOHCD review of all raw financial data from developer or financial consultant prior to selection; c) provide for MOHCD review and approval of all selected investors and lenders; and, d) provide for MOHCD review and approval of all Letters of Intent from financial partners.
8. Sponsor must provide initial draft marketing plan within 12 months of anticipated TCO, outlining the affirmative steps they will take to market the Project to the City's preference program participants, including COP Holders, Displaced Tenants, and Neighborhood Residents, as well as how the marketing is consistent with the Mayor's Racial Equity statement and promotion of positive outcomes for African American San Franciscans.
9. Sponsor must provide quarterly updated response to any letters requesting corrective action.
10. Sponsor must work with MOHCD Construction Management team to ensure all CMD/OLSE requirements are met for procurement of contractors. The procurement requirements also apply to any contractors used prior to receiving MOHCD funds who were not part of the NOFA application. Should Project Based Vouchers or other subsidy become available, the Project team will apply for any Section 8 Project

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Based before the construction closing for the Project. Section 8 vouchers would allow the Project to support debt and additional property management staffing. Sponsor complete a NEPA in this scenario and comply with relevant labor standards of PBVs are awarded.

11. As a loan condition the development team will work with CMD, OLSE and MOHCD to ensure all procurement policies are followed and deadlines for procurement of architect, owner's representative, property management and general contractor are met.
12. Sponsor and MOHCD will revisit reduction in ground lease payment if the project receives Project Based Section 8 vouchers or other rental subsidies.
13. MOHCD must approve selection of the construction lender, equity investor and any mezzanine or additional predevelopment debt.
14. Sponsor must apply for FHLB AHP and use source to reduce MOHCD gap loan.
15. If the project the is not able to lease up units at 80 AMI and must reduce rents, then commercial income must be re-routed to the residential project in order to maintain positive cash flow.
16. A separate commercial entity must be established prior to construction loan closing.

## 10. LOAN COMMITTEE MODIFICATIONS

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## LOAN COMMITTEE RECOMMENDATION

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

[ x ] APPROVE. [ ] DISAPPROVE. [ ] TAKE NO ACTION.

DocuSigned by: Daniel Adams E09C20545F78457...

Date: 8/19/2024 | 9:06 AM PDT

Daniel Adams, Director
Mayor's Office of Housing and Community Development

[ x ] APPROVE. [ ] DISAPPROVE. [ ] TAKE NO ACTION.

DocuSigned by: Elizabeth Hewson 4FDD57FBFA564EF...

Date: 8/16/2024 | 4:31 PM PDT

Elizabeth Hewson for Salvador Menjivar, Director of Housing
Department of Homelessness and Supportive Housing

[ x ] APPROVE. [ ] DISAPPROVE. [ ] TAKE NO ACTION.

DocuSigned by: Elizabeth Colomello 2BF262B60E9C425...

Date: 8/19/2024 | 2:05 PM PDT

Elizabeth Colomello for Thor Kaslofsky, Executive Director
Office of Community Investment and Infrastructure

[ x ] APPROVE. [ ] DISAPPROVE. [ ] TAKE NO ACTION.

DocuSigned by: Vishal Trivedi 69D98405CF594FF...

Date: 8/16/2024 | 4:43 PM PDT

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

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

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# Attachment A: Project Milestones and Schedule

| No. | Performance Milestone | Estimated or Actual Date | Notes |
|---|---|---|---|
| A. | Prop I Noticing (if applicable) | 8/25/2023 | Posted on 7/26/2023 |
| 1 | Acquisition/Predev Financing Commitment | October 2022 | |
| 2. | Site Acquisition | 6/6/23 | |
| 3. | Development Team Selection | | |
| a. | Architect | January 2023 | |
| b. | General Contractor | Q4 2023 | |
| c. | Owner's Representative | Aug./Sept. 2023 | |
| d. | Property Manager | January 31, 2024 | |
| e. | Service Provider | January 31, 2024 | |
| 4. | Design | | |
| a. | Submittal of Schematic Design & Cost Estimate | Q4 2023 | |
| b. | Submittal of Design Development & Cost Estimate | Q1 2024 | |
| c. | Submittal of 50% CD Set & Cost Estimate | Submitted June 2024 | |
| d. | Submittal of Pre-Bid Set & Cost Estimate (75%-80% CDs) | 90% CD set –June 3, 2024 | |
| 5. | Commercial Space | | |
| a. | Commercial Space Plan Submission | July 2024 | |
| b. | LOI/s Executed | TBD | |
| 6. | Environ Review/Land-Use Entitlements | | |
| a. | AB 2011 Application Submission | 10/18/23 | |
| b. | CEQA Environ Review Submission | October 2023 | |
| c. | NEPA Environ Review Submission | N/A | |
| d. | CUP/PUD/Variances Submission | N/A | |
| 7. | PUC/PG&E | February 2024 | Approval Pending |
| a. | Temp Power Application Submission | Subject to GC + Mobilization plan | |
| b. | Perm Power Application Submission | Subject to GC + Mobilization plan | |
| 8. | Permits | | |
| a. | Building / Site Permit Application Submitted | 10/18/2023 | Site Development Permit received May 2024 |
| b. | Addendum #1 Submitted | July 2024 | |
| c. | Addendum #2 Submitted | July 2024 | |
| 9. | Request for Bids Issued | 2nd/3rd Qtr. 2024 | |
| 10. | Service Plan Submission | | |
| a. | Preliminary | April 2024 | |
| b. | Final | Q1 2025 | |
| 11. | Additional City Financing | | |
| a. | Preliminary Gap Financing Application | January 2024 | |
| b. | Gap Financing Application | August 2024 | |

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| | | | |
|---|---|---|---|
| 12. | Other Financing | | Team negotiation LOI with Enterprise for Equity |
| a. | HCD Application | N/A | |
| b. | Construction Financing RFP | Citizens Bank for Construction Debt. Closing to occur in Q4 2024 | |
| c. | AHP Application | Q1 2026 and/or 2027 | |
| d. | CDLAC Application | N/A | |
| e. | TCAC Application | February 2024 | |
| f. | Other Financing Application | N/A | |
| g. | LOSP Funding Request | N/A | |
| 13. | Closing | | |
| a. | Construction Loan Closing | October 2024 | |
| b. | Conversion of Construction Loan to Permanent Financing | Q1 2027 | |
| 14. | Construction | | |
| a. | Notice to Proceed | November 2024 | |
| b. | Temporary Certificate of Occupancy/Cert of Substantial Completion | May/June 2026 | |
| 15. | Marketing/Rent-up | | |
| a. | Marketing Plan Submission | May/June 2025 | |
| b. | Commence Marketing | December 2025 | |
| c. | 95% Occupancy | October 2026 | |
| 16. | Cost Certification/8609 | 2nd/ 3rdQtr. 2027 | |
| 17. | Close Out MOH/OCII Loan(s) | Q1 2027 | |

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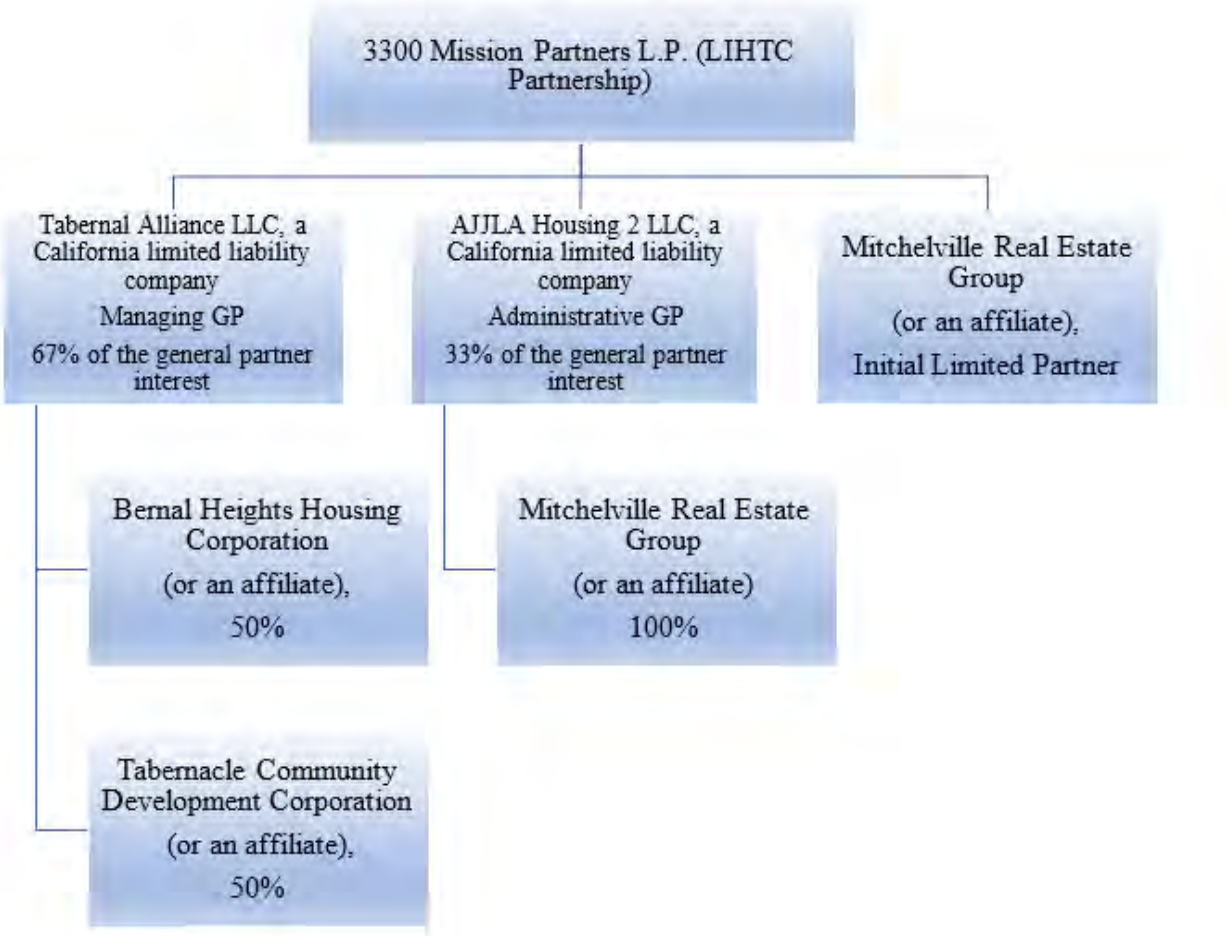
# Attachment B: Borrower Org Chart



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## Attachment C: Development Staff Resumes

Development oversight will be shared by all parties, with Andre White of MREG providing day-to-day management in consultation with BHHC and TCDC.

**Bernal Heights Housing Corporation (BHHC)**

- *Gina Dacus, Executive Director* leads both BHNC and BHHC. She leads all housing development, including strategy, direction and guidance around partnerships, service management, community engagement and relationship-building with decision making bodies. As a BIPOC leader, she is passionate about addressing racial equity.
- *Miriam Noboa, Project Manager* supervises current projects and new developments, and oversees major repairs for properties in BHHC's portfolio. She brings to the team two decades of experience in the areas of construction, finance, real estate and social work.
- *Adeline ("Addy") Siew*, Controller, provides oversight to asset management requirements. As CPA to BHHC in 2022 and with over 12 years of accounting experience, Addy's oversight ensures coordination between asset management and finance operations.
- *Connie Xie, Housing Development Coordinator*, was involved with BHHC initiatives through the Bernal Gateway Apartments resyndication. Connie works closely with the asset management consultant to develop strategies for implementation of BHHC's housing vision.
- *Ayanna Weathersby, Asset and Relocation Manager*, oversees daily operations of BHHC properties, including monitoring the activities of service providers and property management companies. She also oversees the pre- and post-relocation of tenants during construction and rehab and site and funding reporting requirements.

**Mitchelville Real Estate Group (MREG)**

- *Andre White, Project Manager* formed MREG in 2019 and has worked on over $1 Billion of public, private, and nonprofit real estate transactions involving the acquisition and development of affordable, workforce, mixed-income and market-rate housing. He has a background in real estate development, investment management, and fixed income trading.
- *Robin Shack, Project Administrator,* will provide executive administrative support to Mr. White on the 3300 Mission project, collecting vendor bids and other development processes.
- *Rachel Cheon, Asst. Project Manager,* will provide project management support on all aspects of project. Ms. Cheong has a background in real estate transactional law.

**Tabernacle Community Development Corp (TCDC)**

- *Dr. James McCray, Executive Director* has provided decades of executive leadership in the development of apartment buildings, senior centers, and churches. Dr. McCray served as Chairman of the SF Parking and Traffic Commission, President of the Board of the SFMTA, and presently as VP of

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the Human Services Commission of SFHSA. Dr. McCray has worked on five affordable housing development teams including Ergina Village in SF.

- *Todd Clayter, Project Manager* for real estate development, specializing in pre-development project management, construction management, and LBE participation/contract compliance and reporting. Mr. Clayter has 25 years of development experience, including lead roles in well known projects in San Francisco including the Ferry Building, Oracle Ballpark.
- *Gerald Green, Project Manager* leads TCDC's government and community relations, strategic planning and entitlements. From 1996-2004 he served as Director of the SF Planning Department and managed the adoption of the Mission Bay Redevelopment Plan, and the Hunters Point Shipyard Redevelopment Plan. He has made design recommendations and led many private developments through the Planning/Regulatory/CEQA processes.

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# Attachment D: Asset Management Evaluation of Project Sponsor

Bernal Neighborhood Center (BHNC)'s - Asset Management Department will provide asset management staff for the asset management duties. BHNC's asset management staff/ consultants and accounting staff will continue to perform compliance and accounting duties for the 3300 Mission Street project during operations.

Total number of Projects and Average Number of Units Per Project Currently in Developer's Asset Management Portfolio

BHHC's portfolio represents a breadth of complex funding arrangements that is significant for its modest size. Properties in the portfolio reflect a variety of HUD and low-income housing tax credit programs including - HOPWA, LOSP, Section 8, PRAC, etc.

BHNC's Asset management department currently oversees 197 units of 584 residential units that BHHC owns. Two of the buildings have tax credit units, two properties are HOPWA sites, two PRAC, a senior building, a building for adults with disabilities, and small sites. The properties range in size from two to 135 units and are located throughout Bernal Heights, the Excelsior, Sunnyside, the Mission, the Portola, SOMA, Western Addition, and the Outer Richmond. The residents who live in these properties are low-income seniors or families, adults with physical and/or developmental disabilities, individuals living with HIV/AIDS, and formerly homeless. Overwhelmingly they are also people of color, limited English-speakers and immigrants.

Developer's Current Asset Management Staffing Including Job Titles, Full Time Employees, an Organizational Chart and the Status of Each Position (filled/vacant)

| Staff, Role | Vacant/Filled | FTE/PTE |
|---|---|---|
| Gina Dacus, Executive Director | Filled | FTE, 27% allocation to AM |
| Ayanna Weathersby, Asset Manager | Filled | FTE, 90% allocation to AM |
| Kayne Doumani, AM Consultant | Filled | PTE, on project basis |
| Juana Mejia, AM consultant | Filled | PTE, on project basis for 2 properties |
| Adeline Siew, Accounting Manager | Filled | FTE, 33% allocation to AM |
| John Beem, Finance Consultant | Filled | FTE, 50% allocation to AM |
| Miriam Noboa, Project Manager | Filled | FTE, 100% allocation to AM |
| Connie Xie, Housing Coordinator | Filled | FTE, 20% allocation to AM |

Description of Scope and Range of Duties of Developer's Asset Mgmt. Team

Asset Management Consultants for BHNC/BHHC assist with complex projects, overseeing portfolio sustainability, and a reconceptualization of the staffing pattern. Finance and Asset Management functions were combined during the pandemic due to hiring challenges, as asset management personnel are difficult to obtain. Key development staff - controller, housing project manager, and housing development coordinator, and an asset/relocation manager are in training to grow their staff capacity.

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All of the asset management staffing mentioned above provides a range of duties - reviews financials, reporting and communication to all financial partners, aids the approval of all budgets for the properties and operating reserves, submits grants and loan applications to secure or continue operating funding for the property.

BHNC/BHHC adheres to financial policies and procedures covering all areas of finance - treasury, investment, property/plant/equipment, receivables, revenue management, expenditure management, related party transactions and record retention.

Description of Developer's Coordination Between Asset Management and Other Functional Teams, Including Property Management, Accounting, Compliance, Facilities Management, etc.

Asset management oversees all aspects of operation and in daily communication with property management. There is constant coordination between asset management and other departments as listed above. Asset and Property Management work together to coordinate and resolve emergencies at properties and tenant related issues. Further, they collaborate with the accounting team on financial oversight of the properties and create the annual audits & budgets. Asset Management works closely with the Compliance department on compliance issues that directly affect ownership and the partnership.

Asset Management Staffing Budget
The asset management staffing budget for this property is $56,000.

# of Projects Expected to be in Developer's Asset Management in 5 Years and, if applicable, Plans to Augment Staffing to Manage Growing Portfolio

BHNC/BHHC anticipates that the portfolio will grow from 197 units under asset management to approximately 401 units in the next 5 years.

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# 3300 Mission
# Asset Management Plan Summary

Bernal Heights Neighborhood Center's (BHNC) in-house asset management team will provide its services to 3300 Mission. The team draws from several departments and works together to oversee contracted property management of our 270 residential units and supportive service providers, manage the design and implementation of preventative maintenance plans and ongoing capital planning, and monitor the financial position of our properties to ensure long-term stability of operations.

## Portfolio

Bernal Heights Housing Corporation (BHHC) is BHNC's affiliate organization that develops, preserves, and rehabilitates affordable homes through San Francisco. BHHC has a relatively small, but diverse portfolio. The portfolio includes small, supportive housing sites as well as larger, tax-credit-financed properties. The City of San Francisco has funded every property, in combination with a multitude of other funding sources. BHNC serves as the asset manager for the following affordable housing properties:

| Name of Project | Address | Residential Units | Commercial Units | Year in Service |
|---|---|---|---|---|
| St Peter's Place | 420 29th Ave,<br>San Francisco, CA | 20 | 0 | 2011 |
| Mission St- Excelsior Community Center | 4466-4468 Mission St,<br>San Francisco, CA | 1 | 1 | 2008 |
| Crocker Amazon Senior Apartments (CASA) | 5199 Mission St,<br>San Francisco, CA | 37 | 0 | 2005 |
| Eddy St - Positive Match | 1652 Eddy St,<br>San Francisco, CA | 7 | 1 | 2002 |
| Bernal Gateway Apartments | 3101 Mission Street and 141 Precita Ave,<br>San Francisco, CA | 55 | 2 | 2000 |
| Monterey House | 403-407 Monterey Blvd. & 457 Detroit St,<br>San Francisco, CA | 4 | 0 | 1998 |
| Fannie Lou Hamer House (Cortland) | 1221-1223 Cortland Ave,<br>San Francisco, CA | 2 | 0 | 1997 |

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| | | | | |
|---|---|---|---|---|
| 26th St - Magdalena Mora House | 2973-2977 26th St, San Francisco, CA | 2 | 0 | 1997 |
| Hazel Betsey House | 3554 17th St, San Francisco, CA | 9 | 0 | 1997 |
| Market Heights Apartments | 211-291 Putnam St & 1000 Tompkins Ave, San Francisco, CA | 46 | 0 | 1996 |
| Woolsey St | 195 Woolsey St & 615-617 Girard St, San Francisco, CA | 10 | 0 | 1995 |
| Moultrie House | 374, 374A, 376, & 376 Moultrie St, San Francisco, CA | 4 | 0 | 1993 |
| 1100 Ocean<br><br>*Mercy Housing as the Asset Manager | 1100 Ocean Ave, San Francisco, CA | 71 | 4 | 2005 |
| Coleridge Park Homes<br><br>*BRIDGE as the asset manager | 190 Coleridge St, San Francisco, CA | 49 | 0 | 1989 |
| Holly Courts<br><br>*BRIDGE as the asset manager | 100 Appleton Ave, San Francisco, CA | 117 | 0 | 2016 |
| Alemany Apartments<br><br>*BRIDGE as the asset manager | 938 Ellsworth St, San Francisco, CA | 150 | 0 | 2016 |
| 3300 Mission St | 3300 Mission Street San Francisco, CA | 35 | 1 | TBD - 2026 |

Total Asset Managed Sites by Bernal

| **Total Projects** | **Total Residential Units** | **Total Commercial Units** |
|---|---|---|
| 12 | 197 | 4 |

* Does not include 190 Coleridge, Holly Courts, 3300 Mission, and 1100 Mission

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## Organization and Asset Management Staffing

BHNC has a history of interdepartmental collaboration, adapting staff responsibilities to perform asset management in changing circumstances. The functions are shared between the property management, finance, and housing development departments.

The organization has successfully and competently managed all of its properties since they were placed in service, over 35 years. It contracts with Caritas Management Corporation for property management services. Alemany Apartments (RAD), Holly Courts (RAD), and Coleridge Senior Homes are properties managed by BRIDGE Housing; 1100 Ocean Apartments is managed by Mercy Housing. Caritas' property manager and property supervisor ensure compliance with applicable state, federal, and municipal regulations for each property.

For each of the property management entities, there is a property management supervisor that provides oversight and compliance, while the property management director oversees the property supervisor, and the onsite property managers.

Due to the demands of the City of San Francisco annual grant renewals and the reporting requirements of the properties' many stakeholders, as well as the work involved to coordinate the services of 3rd party property management and service providers, the current BHNC plan for staffing asset management function are listed below:

- Executive Director - 33%
- Housing Project Manager - 100%
- Accounting Supervisor - 80%
- Controller - 20%
- Senior Accountant - 33%
- Asset Manager - 70%
- Housing Development Project Manager - 20% (will shift to the Jr. PM when hired)
- Community Organizer - 25%
- Director of Housing 40% (to be hired)

This staff allocation includes asset management involvement in the 3300 Mission project.

## Staffing Structure Related to Asset Management

BHNC's current asset management staffing and structure:

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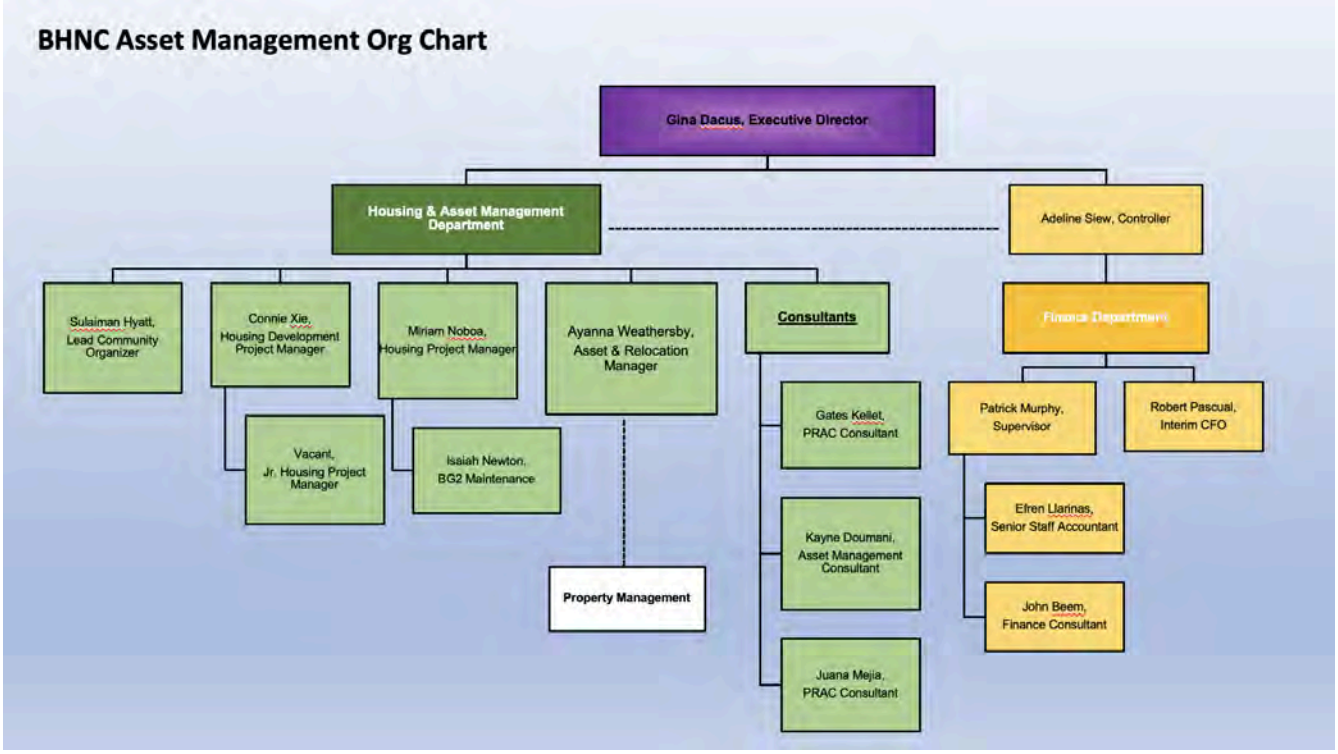


**Asset Management Oversight, Planning, Monitoring and Forecasting**

BHNC went through a transition in the Finance and Asset Management Department in the past two years. Asset Management had been in the Finance Department but it now, as a collaboration of many departments, sits under the Executive Director. As a result of ongoing assessments and input from asset management consultants, we are incorporating strategies and process changes to the work, realigning our structure with monitoring and engaging our property management company. We utilize these consultants for long term and portfolio planning,to provide guidance and direction with complex projects, and to train our staff.

*Oversight and Planning*

The core asset management functions at BHNC are the Reporting function, which includes funding renewal applications for annual grants that support property operations and services, and coordination with property management and resident services providers. Currently, the Executive Director ("ED") meets with the Controller every week to address and coordinate matters of the organization, including asset management. The Controller works collaboratively to manage and advise the asset management team regarding the overall financial health of the properties as well as long-range planning and risk mitigation.

*Monitoring*

Bi-weekly asset management meetings are held on Thursdays to discuss and resolve operational issues. Caritas' property management team will occasionally be invited to join the

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meeting. During these meetings, the ED, Controller, and Asset Manager address minor and major rehabilitation, regulatory requirements, and other portfolio needs. Caritas reports directly to the BHNC Asset Manager every week regarding operations, finances, and resident matters. Caritas provides monthly financial reporting for all property operations, including the use of replacement reserves for capital needs and maintenance. BHNC's asset management team works with Caritas to evaluate long-term capital needs, including those reported in Capital Needs Assessments, and BHNC procures financing to meet such needs. The BHNC Asset Manager meets with the property managers for all Caritas managed properties to address emerging trends, vacancies, property performance, evictions and tenant needs.

On a daily/weekly basis, the BHNC asset management (AM) team updates the property performance standards and expectations to a program called Asana that assigns tasks and enables tracking of each property. The BHNC AM team receives the monthly financials for all the properties, eight scattered sites (under BHHC) and four large properties (under different single asset corporations) and reviews the statements to track budget variances.

In addition, BHNC hired a community organizer who is also allocated to asset management work. The community organizer will oversee the base-building, issue-based organizing, advocacy and leadership development in support of BHNC's mission. The community organizer will establish and reinforce connections by collaborating with resident service providers, property management, and the asset management team to identify the needs of the residents and communities we serve. They will organize community meetings and events and track the progress of the activities and outcomes to use for long term monitoring of the sustainability of the overall BHNC portfolio.

*Forecasting*

BHNC's asset management team along with the finance department, projects expected revenue and expected distributions/shortfalls, clarifies/updates property performance standards and expectations related to occupancy, rent collection, turn around time and waitlist tracking, monitors watch list matters for each property, monitors expected waterfall and any key changes or payments, monitors/ calendars approaching cliffs and other key dates that impact each property, and oversees the onsite services' operations. The BHNC Asset Management team also submits the Notice of Funding Opportunity ("NOFO") (applications), monitors grant progression, conducts monthly operations meetings, collects data, and submits data reports to ensure proper spend downs.

**Asset Management Long-Term Financing**

Under the supervision of the Executive Director, the Controller and the Asset Management team, the team meets regularly to address major rehabilitation planning, site compliance, and ongoing project needs. The Bernal team works with property management to monitor the daily operations of the housing sites. The Controller and the Asset Manager are primarily responsible for all existing and new financing including any tax credit, FHA, HUD, or other forms of financing to ensure the long-term physical health of the properties.

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1. Annual budgeting process
    a. BHNC employees review individual and consolidated property budgets for each entity under direct supervision of the organization along with the Caritas Property Management Team to enable efficient and effective spending for maintenance of properties.

2. Coordination with Property Management and Resident Services Providers
    a. All of BHNC's housing developments are managed by Caritas Management Corporation, while BHNC also coordinates the provision of resident services at several sites to manage tenants and property needs.
    b. The asset manager holds regular meetings with property management and resident providers not limited to weekly and monthly zoom and in-person meetings.

3. Managing Property Rehabs
    a. BHNC has obtained funding for several rehab projects to support the sustainability of the housing sites. The Capital Needs Assessment report is done every 5 years for every property and the team reviews the repairs needed. This report is used as a guide for applying for funding pending on the needs and for budgeting and planning purposes.
    b. BHNC staff has regular reviews of planning for re-syndication, rent and subsidy increases to increase sustainability overall.

**Asset Management Accounting, Auditing and Admin**

Part of the Asset Management workload includes accounting, auditing and administrative reporting. These sections have been divided into three categories of assessment work with highlights of the tasks within each category:

1. Accounting
    a. Caritas provides monthly financial information on the eight BHHC-owned sites to the BHNC asset management team. Caritas exports data from their Quickbooks system into Excel, and Bernal imports it into BHHC's Quickbooks system. BHNC finance team does the bookkeeping for the BHHC transactions - deposits, credits, and bank reconciliations.
    b. The Controller manages the billing of asset management and partnership management fees earned by BHHC from each property.
    c. The finance team and asset manager tracks rental income from the property due to BHHC, rental payments from BHNC for 4468 Mission property.
    d. The finance team receives property insurance bills and allocates it out to the properties to pay their share along with the annual audit expenses. The team

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also ensures the coordination of all housing corporation audits to see that they occur in a timely manner.

2. Auditing
    a. The Finance Department is required to prepare statements of financial position for timely audits of all properties and entities under the BHHC organization and submit along with Annual Monitoring Reports annually for city oversight and review.

3. Reporting - The asset management team along with the finance department staff prepares and coordinates the preparation of numerous reports and submissions through the year, including:
    a. Annual Monitoring Reports (AMRs) to the Mayor's Office of Housing. AMRs are required for all the properties.
    b. Welfare Tax Exemptions. In conjunction with the Caritas property management team, BHNC submits annual welfare exemptions to the California State Board of Equalization.
    c. Lender reports & Investor compliance and reporting - e.g. HCD and HUD, Enterprise, Bellwether, etc. Property Management provides financial information, rent and occupancy information. The project sponsor is required to include narrative and quantitative data to support program expenses. Reports are submitted on a monthly, quarterly and annual basis depending on the lender/ investor.

**5-Year Projection**

BHHC will continue to pursue affordable housing production opportunities as part of our strategic plan. In the process, BHHC will also focus on replacing or building a new model of property management that matches the current and future needs of our portfolio. BHNC will focus on developing current asset management staff and leveraging the expertise of consultants to address recapitalization of our portfolio, to assess and create efficiencies, and to investigate any possible subsidy increases or other initiatives that will maximize the financial sustainability of the portfolio.

BHHC's current pipeline of portfolio projects is as follows:

- Current Rehab Plans (within the next three years)
    - Conversion of 5199 Mission St (Crocker Amazon Senior Apartments) from PRAC to RAD will be implemented in 2025 when renovations funded from reserves are completed on the project and HUD subsidy rents are increased for future refurbishment projects at the property. Conversion from a PRAC to RAD contract will stabilize rent increases for tenants. At the same time, the plan is to rehab (potentially through tax credits) including windows and roof replacement.

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- Resyndication of Coleridge Senior Homes (49 units) will include structural and mechanical improvements, replacement of flooring, improvements to lighting, in-unit rehab. and common area amenities.
- Bernal Bundle small sites rehab will occur November 2024-2025 - Three small to medium sized apartment buildings have been combined into a single entity and was awarded $6.5 million funding through the MOHCD NOFA process and PASS funding for structural and operational improvement items ranging from seismic retrofit, replacements of deteriorated windows to plumbing, heating, windows, flooring and electrical.
- Green Resilient & Retrofit Program - St. Peter's: If this funding is granted, it will go towards electrical fixture upgrades in the building, door upgrades and exterior painting; to improve the building's climate resilience.

- Asset management strategies outside of rehab:
  - The portfolio in general has some turnover from the COVID-19 pandemic and BHNC is still working with MOHCD, SFHA, HSH and nonprofit partners to fill the vacancies.
  - 4466-4468 Mission has a mortgage with Wells Fargo. It is a fixed interest rate at 7.63% so BHNC staff is working with MOHCD, HSA and other funders/lenders to creatively finance this property and reduce this operating cost.
  - BHNC will provide asset management services for the current developments and all future projects which includes 3300 Mission upon completion of construction, Coleridge Park Homes (49 affordable senior units) post resyndication, 3333 Mission (70 affordable senior units) and all future projects in the pipeline.

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**Attachment E: Threshold Eligibility Requirements and Ranking Criteria**

# NOTICE OF FUNDING AVAILABILITY

**Site Acquisition and Predevelopment Financing for**
**NEW AFFORDABLE RENTAL HOUSING**

## Issue Date: January 27, 2023

**Application Due Date: April 7, 2023**

# A. MINIMUM CAPACITY AND EXPERIENCE REQUIREMENTS

1. Minimum Development Team Characteristics

The proposed applicant team must include the following.

- A nonprofit developer (or developers) with experience developing permanent affordable housing for low-income households or a for-profit developer working in partnership with a nonprofit developer, of which one of the joint venture partners must have experience developing affordable housing (the “Developer”); the development team must have demonstrated experience conducting effective community outreach and engagement.
- A property owner entity with experience owning housing for low-income communities.
- A property management entity with experience managing housing for formerly homeless families with Housing First principles.
- A community-based, service-providing entity with experience providing culturally competent, and trauma-informed, services appropriate for formerly homeless households in a supportive housing context.

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# 2. MINIMUM DEVELOPMENT TEAM EXPERIENCE

Minimum experience must be demonstrated by identifying specific **Qualifying Projects** in which team members have participated, as further described below. The proposed Development Team must submit **Form 5 - Qualifying Project Form**, to document how the Qualifying Project characteristics meet each of the experience categories below (developer, owner, property manager, service provider.)

To demonstrate the minimum required development team experience, each team should submit one project for each experience category. When appropriate, teams may submit the same project as evidence of experience across multiple experience categories, or may use different projects to demonstrate experience across categories. In all cases, no more than four (4) total Qualifying Projects should be submitted. Qualifying Projects will not be scored; they are used to determine if the proposed Development Team meets the minimum development team experience required to develop the Site.

For Developer and Owner, a **Qualifying Project** must have all of the following characteristics.

- The project must be new construction (not a requirement for Minimum Service Provision Experience) in a construction type appropriate for the proposed site development (not a requirement for Minimum Property Manager and Service Provision Experience).
- The project must include units for households experiencing homelessness.
- The project must be financed in part with Low-Income Housing Tax Credits.

# 3. MINIMUM DEVELOPER AND OWNER CAPACITY REQUIREMENTS

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*Minimum Developer Experience*: The proposed Developer must have completed within the past ten years at least **one** Qualifying Project. The definition of "completed" is having received Temporary Certificate of Occupancy by the date of the issuance of the NOFA. For joint-venture Development partners, the experience of either entity may suffice for the joint-venture partnership. A Memorandum of Understanding between joint-venture Development partners must be submitted with the application.

Furthermore, a Respondent can qualify for development experience by contracting with a development consultant for comprehensive project management services. Project management services should include financial packaging, selection of other consultants, selection of construction contractor and property management agent, oversight of architectural design, construction management, and consultation on major aspects of the development process. The contract for development services must be submitted with the NOFA response and must be acceptable to MOHCD.

*Minimum Ownership Experience*: The proposed site owner must have owned at least **one** Qualifying Project for at least five (5) years prior to the submittal deadline of this NOFA. For purposes of this requirement, the managing general partner of the tax credit partnership intended to take ownership of the completed Project and to provide asset management for the Project is the proposed "Owner".

In addition, each proposed Owner must provide evidence of experience with owning housing financed with Low Income Housing Tax credits. This experience does not have to be on the same project that satisfies the 5-year ownership requirement. If the Selected Developer entity is not the same entity as the proposed Owner, MOHCD reserves the right to require that certain members of the Selected Developer remain active in the ownership for whatever length of time MOHCD deems necessary to ensure operating and financial stability.

*Minimum Property Manager Experience*: The proposed property manager for the Project must have managed at least two Qualifying Projects, each for at least 36 months. In addition, the Property Manager must provide evidence of experience managing housing financed with Low Income Housing Tax credits and operating projects with a Housing First approach. The Property Manager must demonstrate effective strategies for working with service providers to collaborate on housing stability of residents.

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*Minimum Service Provision Requirements*: The proposed service provider(s) must have at least 36 months' experience providing supportive services within a Qualifying Project, including case management and comprehensive services for homeless households in a residential setting. The proposed service provider(s) must demonstrate effective strategies for collaborating with property management on housing stability for residents. The proposed service provider(s) must have the infrastructure to supervise and train onsite staff and their supervisors.

*Other Consultants*: For any applicant team, the experience of key staff members or "other consultants" may be substituted for the experience of the organization as a whole as long as the staff member's or consultant's experience in other firms was substantive and involved responsibilities similar to what they are anticipated to perform as a member of the Respondent's team.

Note Regarding Experience*:* For any applicant team member, the experience of key staff members may be substituted for the experience of the organization as a whole as long as the staff members' experience in other firms was substantive and involved responsibilities similar to those that they are anticipated to perform during the proposed development of the Site. Any substitution should be clearly identified in Attachment E, Qualifying Project Form.

The proposed Developer and Owner must demonstrate the financial and staffing capacity to successfully complete the project and manage the asset in the long-term, as further described below.

- *Financial Capacity*: The proposed Developer (or Guarantor where another entity is providing required guarantees) must demonstrate its ability to obtain competitive financing, as evidenced by submitting the latest (2) years of either signed federal income tax returns (including schedules or attachments, if any); or audited financial statements (with management letters, if any). The proposed Developer must also submit **Attachment F – Financing Terms for Developer's Qualifying Project** documenting the equity pricing and debt terms for the Qualifying Project submitted under Minimum Developer Experience.

- *Staffing Capacity*: The proposed Developer must document its capacity to successfully plan, design, and develop the Project, throughout the period of development, either through staff with appropriate experience and capacity, contracted services, or

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collaboration with other organizations. To document this, the proposed Developer must submit a written narrative **no more than one page** (in Times New Roman font, 12 font size, and 1-inch margins) to document the experience and capacity of key staff, their workloads, and the organizational structure for supporting staff. The proposed Developer must also submit **Attachment G – Projected Staffing Workload Form** to document the work assignments (existing or contemplated) associated with each staff person expected to work on the Project for Developer.

· *Asset Management Capacity***:** The proposed Owner must document its capacity to successfully manage real estate assets in compliance with City regulatory agreements and restrictions. To document this, the proposed Owner must submit a recent Real Estate Owned (REO) schedule, stating the number of projects and average number of units/project currently in Owner's asset management portfolio, proposed Owner's current asset management staffing (noting job titles), FTEs, and status of each position (filled/vacant), and proposed Owner's organizational chart.

# B. MINIMUM PROPOSAL REQUIREMENTS

Eligible Proposals:

1. Must demonstrate *site control by applicant* as evidenced by appropriate documentation (Deed of Trust, Purchase Agreement, Option to Purchase Agreement.) The proposed purchase price must be reasonable in comparison to other sites in the neighborhood, and in comparison to other affordable housing sites in the City, and must be supported by an appraisal as part of the application package.

2. Must include a description of proposed interim uses for the Site during the extended predevelopment period through 2026. This should include a description of current structures and uses; what if any structures or amenities will be preserved; and the timeline, budget, and scope of planned interim uses. The budget should include a description of how security and other holding costs have been calculated.

3. Must include a description of site context: parcel history; current zoning; parcel configuration, including the need for potential parcel mergers; potential historic resources on the site or adjacent to it; and

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prior uses at the site that may have left environmental impacts. Applicant must include a map of neighboring amenities.

4. Must demonstrate ability for the project to make use of streamlined entitlements through SB 35 or another streamlining initiative.

5. Must include the opportunity for the City to eventually own the land as ground lessor under a long-term ground lease structure or some other land dedication/ subdivision mechanism that will insure long-term affordable housing as the primary use of the land.

6. Must demonstrate overall financial feasibility through inclusion of a Financing Plan. The financing plan must include a detailed Sources and Uses Budget that includes the following and uses the most current version of the MOHCD Underwriting Guidelines, available on the MOHCD website (https://sfmohcd.org/housing-development-forms-documents.) The project must be financially feasible, including realistic development and operating budget projections that conform to industry standards, including TCAC minimum standards. Each proposed financing source must be realistic, compatible with MOHCD and all other committed or proposed funding sources, and appropriate for the proposed housing. Applicant must demonstrate that there is a reasonable likelihood that all identified development sources will be secured in a timely manner.

a. Primary capital funding sources can include 4% low income housing tax credit equity with tax exempt bonds, City subsidy, and Federal Home Loan Bank Affordable Housing Program funds, and that may include any other funding sources developers deem applicable, such as State of California Department of Housing and Community Development (HCD) (for example, MHP and IIG) or CalHFA funds. Do not assume use of No Place Like Home funds. Do not assume access to Section 8 (Housing Choice Vouchers, Project Based Section 8, or Continuum of Care, for example.)

b. Rents set at affordability levels appropriate for the target population.

*i.* For the LOSP units serving formerly homeless households, applicants should include a projected rent subsidy amount necessary to ensure affordability and to meet the building's operations and maintenance needs, including adequate reserve deposits, asset management and partnership

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management fees, mandatory hard debt payments to HCD, if any, and a minimum of 5 years of deferred developer fee, as applicable. For purposes of this projection, developers should assume that the actual tenant-paid portion of rental income is **$250** per unit per month for formerly homeless households. *Future projections may differ given the proposed tenant population and subsidy program available.*

While a commitment of capital funding does not guarantee an award of local operating subsidies, the City will work with the selected developer to leverage the most appropriate subsidies to serve the target population.
An application submitted under this NOFA is also considered an application for local operating subsidies should those subsidies be made available and are necessary.

ii. For the non LOSP units serving low income households, sponsors may propose rents up to the maximum tax credit eligible rent under the HUD Unadjusted Metro Fair Market Rent Area that contains San Francisco, as published annually by MOHCD ("MOHCD AMI"). For the LOSP units, sponsors should assume an ongoing rental subsidy sufficient to cover difference between $250/month tenant payment and 60% MOHCD AMI rent levels.

iii. For units serving seniors age 62+ intending to use the SOS Program subsidy, assume that 40% of the senior units will have an SOS contract. Rents to be set at 15% AMI and 25% AMI, with contract growing at 4% annually.

7. Must demonstrate – through provision of specific examples of inputs used for estimating – that the project's total development budget, as well as its specific line items, are comparable to recent and similar projects, to industry standards and are compliant with funding source regulations, MOHCD policy and most recent underwriting guidelines. Cost per unit, per square foot (land area and building space), per bed or bedroom will be examined relative to total development cost, City subsidy, and construction cost.

8. Must propose the maximum use of available, non-local funds to achieve the highest reasonable financial leveraging of capital resources for the predevelopment, construction and permanent phase. The amount of City funds requested per unit and the actual or proposed level of funds to be leveraged from other sources will be examined.

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9. Must demonstrate competitiveness for State bond and tax credit funds administered by the California Debt Limit Allocation Committee.

10. Proposals that include any displacement/relocation of residential and/or commercial tenants must include a full relocation plan and budget. Displacement or relocation that is required as a condition of site control is highly discouraged, though in some cases may be justified.

11. Must budget for a supportive services and housing stabilization component that is appropriate for the needs of the anticipated tenant population, including households who have experienced homelessness, and within either HSH's or MOHCD's funding guidelines for the services contract.

12. Must include a community engagement plan that demonstrates the capacity to generate necessary neighborhood support for the proposed development. Include any evidence of support expressed to date for the project, as well as plans for community engagement going forward. This also needs to cover the entire development period, including interim use and construction work.

13. Must include an operating budget that includes all expenses necessary to properly operate and maintain the building. This budget should include a service coordinator/connector staff position(s), at 1:100, to assist the non-homeless households. A separate budget should be attached for services that will support the households who were formerly homeless, for which the City will provide funding.

14. Must provide a construction cost estimate that reflects current construction costs and show escalation assumptions as a separate line item.

15. Must include a Services Plan and Budget that complies with MOHCD underwriting requirements. The awarded development team will apply for services funding separately at the appropriate time. However, HSH, MOHCD, and OCII, where applicable, collaborate closely on funding decisions in order to maximize the use of City resources. Capital funding decisions under this NOFA will include review and approval by representatives of these agencies. Successful applicants under this NOFA will receive priority for funding from HSH and MOHCD for services and operating subsidies.

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· Operating budgets should include up no (and no more than) 1:100 staffing for the non-homeless residents.

· For the units occupied by formerly homeless residents: assume that services for homeless families will be funded separately by HSH through direct contracts with the Projects' social services providers.

· For the purposes of this NOFA only, respondents should budget $1,000 per unit per month in services funding for the formerly homeless units. This amount may change during underwriting and services negotiations. Assume 1:20 case management staffing ratios for these units.

· Services funding will be conditioned on continuous compliance with the terms of the Respondent's Local Operating Subsidies Program ("LOSP") agreements with MOHCD as well as the support services agreement held by HSH.

16. Must provide concept-level drawings and/or diagrams that indicate the Project approximate height, bulk, site layout, unit count, and commercial/common space use, which can be printed on 8.5" x 11" paper, no more than two (2) pages. The purpose of these diagrams will be to confirm the anticipated unit yield at the site, and its conformance to existing zoning restrictions including any available density bonuses. Note: This information does not constitute a formal design submission. There is no reimbursement for costs related to this requirement.

# C. SELECTION CRITERIA AND SCORING

Responsive submittals include all the required information listed above, and a background and a vision statement articulating the application of best practices for the successful development of affordable housing and the achievement of desired outcomes and goals.

All applications that meet the Minimum Experience and Capacity Requirements listed in Section IV.B and IV.C will be scored and ranked according to the extent to which their Experience and Vision meets the following selection criteria:

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| | Category | Points |
|---|---|---|
| **A.** | **EXPERIENCE:** | **40** |
| i. | **Developer (12 pts)**<br>► Experience with the following:<br>o Completing projects on time and on budget<br>o Obtaining competitive financing terms<br>o Developing proposed type of construction<br>o Developing housing for low-income households, including those experiencing homelessness, as applicable<br>► Building community support through outreach<br>► Current staff capacity and experience to take on this project type | |
| ii. | **Owner (4 pts)**<br>► Track record successfully owning housing financed with Low-Income Housing Tax Credits<br>► Experience owning affordable housing for low-income households, including those experiencing homelessness, if applicable<br>► Effectiveness of current asset management structure and staffing, given portfolio size<br>► Capacity for assuming asset management of an expanded portfolio once the development is complete | |

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| | | |
|---|---|---|
| iii. | **Property Manager (8 pts)**<br><br>► Experience managing property for low-income households, including those experiencing homelessness, if applicable<br><br>► Experience achieving high rates of housing retention<br><br>► Implements low barrier tenant selection policies consistent with Housing First principles and the HSH Documentation Policy<br><br>► Contributes to long-term sustainability of the development<br><br>► Achieves cost efficiencies in operations | |
| iv. | **Service Providers (8 pts)**<br><br>► Experience providing access and delivering services to low-income households, including those experiencing homelessness, if applicable<br>► Experience linking residents to the City's safety net of services<br><br>► Works with property management to achieve high rates of housing retention<br><br>► Supports positive outcomes for residents around health and economic mobility<br><br>► If applicable, provides explanation for service contracts terminated prematurely within the last 5 years<br><br>► Capacity to attract and retain adequate staffing to take on this project | |

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|---|---|---|
| v. | **Racial Equity (8 pts)**<br><br>► Experience providing housing to COP holders and neighborhood preference holders<br><br>► Uses innovative approaches to engagement with COP and neighborhood preference holders<br><br>► Demonstrates commitment to racially diverse project development teams<br><br>► Demonstrates experience with serving historically<br><br>excluded communities of color<br><br>► Describes experience providing access and implementing effective service delivery strategies to historically excluded communities of color | |

| | | |
|---|---|---|
| **B.** | **VISION:** | **60** |

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| | | |
|---|---|---|
| i. | **Site and Project Concept (15 pts)**<br><br>► Proposes site whose location, size, configuration, and zoning support the development of affordable and permanent supportive housing, including ability to maximize unit yield in a cost-effective construction type and make use of entitlement expediting such as SB 35.<br>► Describes vision for a development program at this site, while best achieving the project goals, and includes:<br>o A residential program and other envisioned uses;<br>o Indicates how the proposed uses and amenities will enhance the lives of the proposed target population and the surrounding neighborhood.<br>► Indicates populations served by the programs and spaces (families, families experiencing homelessness, young adults, children etc.).<br>► Describes the interim use strategy, including contingencies for construction start delays of up to three (3) years | |

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| | | |
|---|---|---|
| ii. | **Community Engagement Strategy (10 pts)**<br>► Describes community engagement strategy and includes:<br>o The team's philosophy on community engagement<br>o Process for establishing and/or building positive relationships with surrounding neighbors and the larger community<br>o Efforts designed to engage all interested community members—particularly BIPOC members of the target populations—and including monolingual non-English speaking community members;<br>o How the Development Team intends to comply with the City's Language Access Ordinance<br>► Describes the Team's approach to achieving entitlements for the project expeditiously and the approach to maintaining and building community relationships after entitlements have been achieved and the development is in operations.<br>► Indicates how particular community engagement strategy will address the historical exclusion of communities of color from quality housing, including but not limited to marketing to attract target populations. | |

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| | | |
|---|---|---|
| iii. | **Services Delivery Strategy (10 pts)**<br><br>► Describes the Development Team's services delivery strategy and includes:<br><br>o The overall service philosophy;<br><br>o Model for providing services to formerly homeless residents (including case management ratio and provision of amenities such as front desk clerks, if applicable);<br>o The services goals of the proposed vision.<br>► A brief description of the desired outcome of the services to be provided and innovative approaches to services provision, including the strategy of engaging residents and encouraging access to services.<br>► Describes how services for residents will be coordinated with the existing network of services in<br><br>the neighborhood and community.<br><br>► Describes strategies used to help BIPOC tenants overcome barriers to accessing supportive services and income that mitigate the effects of poverty and<br><br>lead to improved self-sufficiency. | |

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| | | |
|---|---|---|
| iv. | **Finance & Cost Containment Approach (15 pts)**<br><br>► Describes the Development Team's financing approach to the project.<br>► Describes how project is strategically positioned to successfully compete for State funding resources, including funding from the CA Debt Limit Allocation Committee and Department of Housing and Community Development<br><br>► Includes the Team's process for structuring the project and controlling development costs.<br><br>► Includes innovative strategies intended to minimize MOHCD's projected capital gap financing.<br><br>► Describes any innovative (i.e., non-standard, routine<br><br>or commonly used) direct or indirect cost-cutting strategies relevant to overall development, construction or operating expenses.<br><br>► Includes proforma financials.<br><br>► Includes project design concept to fact check the financials | |

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| | | |
|---|---|---|
| v. | **Racial Equity Strategy (10 pts)**<br>► Explains how vision aligns with the primary goals of this NOFA set forth in the Introduction and Project Expectations.<br><br>► Proposes a substantive partnership that increases opportunity/capacity for growth of Emerging Developers (smaller organizations). | |
| | **TOTAL POSSIBLE POINTS** | **100** |

Projects must receive at least 70 points to proceed through the selection process.

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## Attachment F: Site Map with amenities

[See attached]

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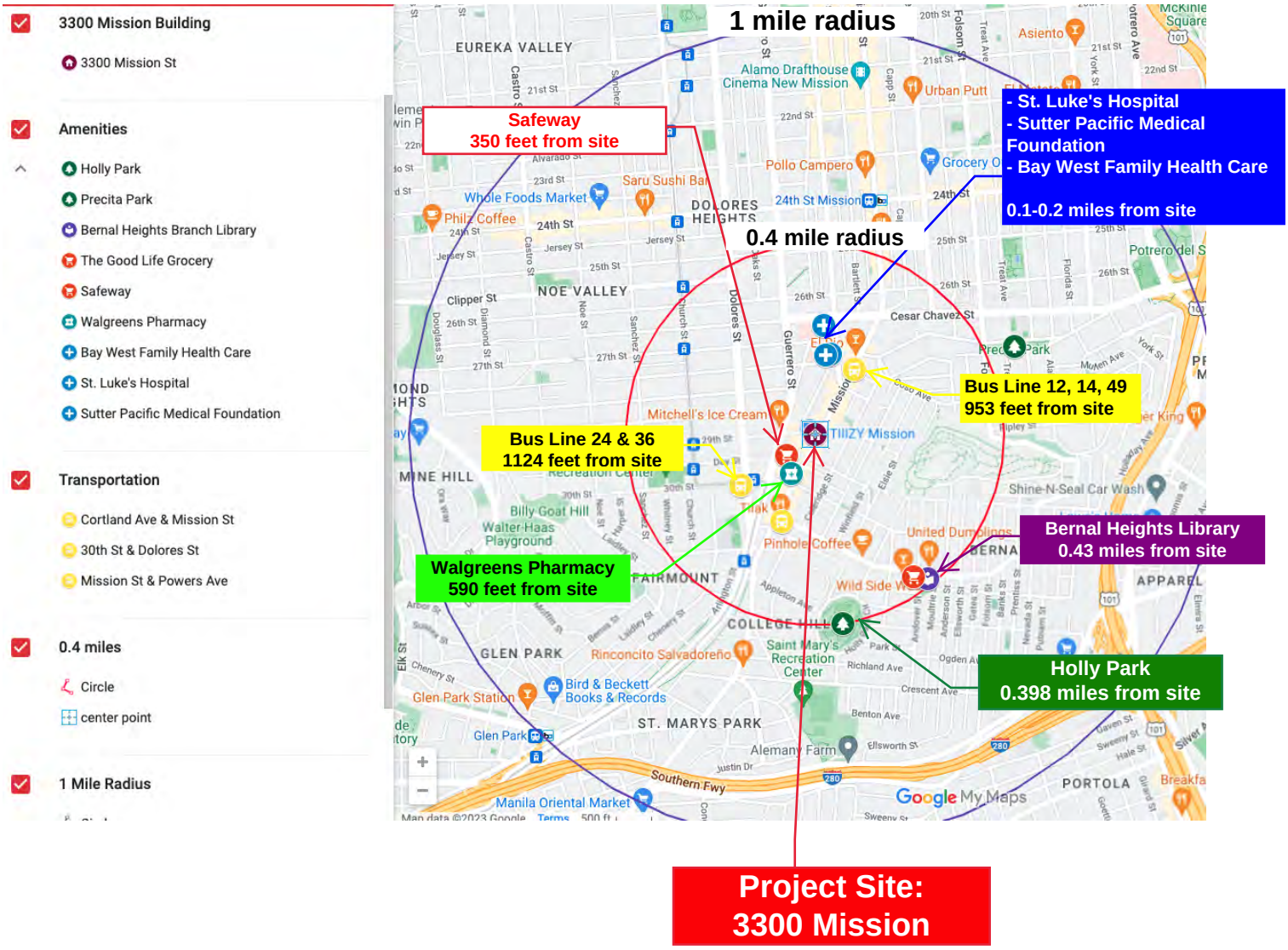
# 3300 Mission Site Amenities



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# Attachment G: Elevations and Floor Plans

[See attached]

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# 3300 MISSION STREET
# SAN FRANCISCO, CA

## PROJECT DATA

| | |
|---|---|
| PROJECT ADDRESS: | 3300 MISSION ST, SAN FRANCISCO CA |
| ASSESSOR'S MAP PARCEL NUMBER: | BLOCK NO 6635, LOT 001 |
| ZONING: | MISSION BERNAL NEIGHBORHOOD COMMERCIAL DISTRICT |
| GROSS LOT AREA: | |
| # OF DWELLING UNITS | 35 |
| # PARKING SPACES: | 0 |
| EXISTING SITE USE: | VACANT BLDG, NOT HABITABLE |
| HISTORIC STATUS: | NONE |

## PROJECT TEAM

OWNER/ BUILDER
BERNAL HEIGHTS NEIGHBORHOOD CORPORATION,
TABERNACLE CDC, & MITCHELVILLE REAL ESTATE GROUP
TEL: 843.338.3811
CONTACT: ANDRE WHITE
EMAIL: ANDREWHITE@MITCHELVILLE.COM

ARCHITECT
BAR ARCHITECTS & INTERIORS
77 GEARY STREET, SUITE 200
SAN FRANCISCO, CA 94108
TEL: 415.293.5700
CONTACT: PRAMOD SANOOR
EMAIL: PSANOOR@BARARCH.COM

## PROJECT DESCRIPTION

THE PROJECT IS A 6-STORY BUILDING, WITH 35 HOUSING UNITS AT THE UPPER LEVELS, AND GROUND-FLOOR COMMERCIAL SPACE, COMMON SPACES FOR TENANTS, AND SERVICE SPACES AT THE GROUND LEVEL. UNITS WILL BE 100% AFFORDABLE AND WILL USE PUBLIC FUNDING.

THE PROJECT PROPOSES TO KEEP THE EXISTING BUILDING FACADES FACING MISSION & 29TH STREET, AND ADD ADDITIONAL HEIGHT ABOVE IN A RESPECTFUL MANNER.

CORNER COMMERCIAL SPACE IS PLANNED ALONG THE BUSY MISSION STREET CORRIDOR. IN 2016 A NEIGHBORHING FIRE OCCURED WHICH CAUSED THIS BUILDING TO BECOME UNINHABITABLE.

## SB-35 STATE DENSITY BONUS SUMMARY

STATE DENSITY BONUS LAW ANALYSIS

THIS IS A 100% AFFORDABLE HOUSING DEVELOPMENT PROJECT, AND IS LOCATED WITH ONE-HALF MILE OF A MAJOR TRANSIT STOP.ΩAS SUCH, RATHER THAN UTILIZING A PERCENTAGE-BASED DENSITY BONUS, THE PROJECT WILL UTILIZE THE HEIGHT INCREASE OF THREE ADDITIONAL STORIES OR 33 FEET PURSUANT TO GOVERNMENT CODE SECTION 65915(D)(2)(D). ADDITIONALLY, ALTHOUGH THE PROJECT WILL BE ENTITLED TO FOUR INCENTIVES/CONCESSIONS, THE PROJECT WILL UTILIZE ONE INCENTIVES/CONCESSIONS.ΩFINALLY, THE PROJECT WILL REQUEST 3 WAIVERS ON THE GROUND THAT APPLYING THE IDENTIFIED DEVELOPMENT STANDARDS TO THE PROJECT WOULD PHYSICALLY PROHIBIT CONSTRUCTION OF THE PROJECT AT THE PERMITTED DENSITY AND WITH THE REQUESTED INCENTIVES/CONCESSIONS.

REQUESTED INCENTIVES/CONCESSIONS

| | DEVELOPMENT STANDARD | REQUIREMENT | PROPOSED |
|---|---|---|---|
| 1 | PLANNING CODE § 134: REAR YARD SIZE | REQUIRED AT THE LOWEST STORY CONTAINING A DWELLING UNIT, AND AT EACH SUCCEEDING LEVEL OF THE BUILDING: 25% OF LOT DEPTH, BUT IN NO CASE LESS THAN 15 FEET. | NONE |
| 2 | *UNUSED AT THIS TIME.* | | |
| 3 | *UNUSED AT THIS TIME.* | | |

REQUESTED WAIVERS

| | DEVELOPMENT STANDARD | REQUIREMENT | PROPOSED |
|---|---|---|---|
| 1 | PLANNING CODE § 252: HEIGHT LIMIT | 40' | 73' |
| 2 | PLANNING CODE § 135: USABLE OPEN SPACE | 80 SQUARE FEET PER UNIT IF PRIVATE, OR 100 SQUARE FEET PER UNIT IF COMMON. | 735 SF COMMON |
| 3 | PLANNING CODE § 208: HOUSING DENSITY | 1 UNIT PER 600 SF LOT AREA, OR THE DENSITY OF THE NEAREST R DISTRICT, WHICHEVER IS GREATER | 35 UNITS |

## UNIT MIX

| LEVEL | ADAPTABLE STUDIO | MOBILITY STUDIO | UNIT TOTAL |
|---|---|---|---|
| 6 | 7 | | **7** |
| 5 | 6 | 1 | **7** |
| 4 | 6 | 1 | **7** |
| 3 | 5 | 2 | **7** |
| 2 | 5 | 2 | **7** |
| 1 | 0 | | **0** |
| **TOTAL** | **29** | **6** | **35** |
| % | 83% | 17% | 83% |
| RESIDENTIAL GSF** | | | 11,384 |
| AVERAGE UNIT SIZE (GSF)* | | | 325 |

* Unit GSF includes exterior, corridor and half of the party walls

** As calculated in the Preliminary Building Area Tabulation

## PRELIMINARY BUILDING AREA TABULATIONS

updated 4/25/23

| Level | Residential Net Rentable GSF* | Residential Amenity GSF** | Residential Core GSF*** | Residential Total GSF | Retail Total GSF | Bldg Core GSF^ | Non-Res. Total GSF | Grand Total GSF | Outdoor Total GSF^^ |
|---|---|---|---|---|---|---|---|---|---|
| R | | 0 | 429 | 429 | | 0 | 0 | **429** | 735 |
| 6 | 2,150 | 0 | 738 | 2,888 | | 0 | 0 | **2,888** | 0 |
| 5 | 2,150 | 0 | 738 | 2,888 | | 0 | 0 | **2,888** | |
| 4 | 2,150 | 0 | 738 | 2,888 | | 0 | 0 | **2,888** | 0 |
| 3 | 2,467 | 0 | 742 | 3,209 | | 0 | 0 | **3,209** | |
| 2 | 2,467 | 0 | 742 | 3,209 | | 0 | 0 | **3,209** | 0 |
| 1 | 0 | 1,058 | 488 | 1,546 | 995 | 457 | 1,452 | **2,998** | 0 |
| B | | | 559 | 559 | | 2,478 | 2,478 | **3,037** | |
| **Total** | 11,384 | 1,058 | 5,174 | **17,616** | 995 | 2,935 | **3,930** | **21,546** | 735 |

NOTES:

* Residential Net Rentable GSF calculation includes exterior, corridor and party walls, and half party walls where adjacent to non-residential unit

** Residential Amenity GSF includes community room, entry lobby, offices, laundry

*** Residential Core GSF include corridors, stairs, elevators, res. level utility spaces

^ Building Core GSF includes large mechanical/utility spaces, etc

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# PLANNING CODE ANALYSIS

| ELEMENT | PLANNING CODE SECTION | REQUIREMENT | REQD | PROVIDED | INCENTIVE/ WAIVER, NOTES |
|---|---|---|---|---|---|
| DWELLING UNIT DEFINITION | SEC 102 | A RESIDENTIAL USE DEFINED AS A ROOM OR SUITE OF TWO OR MORE ROOMS THAT IS DESIGNED FOR, OR IS OCCUPIED BY, ONE FAMILY DOING ITS OWN COOKING THEREIN AND HAVING ONLY ONE KITCHEN. A HOUSEKEEPING ROOM AS DEFINED IN THE HOUSING CODE SHALL BE A DWELLING UNIT FOR PURPOSES OF THIS CODE. | NO | N/A | |
| HEIGHT AND BULK LIMITS | SEC 102, 105, 106, 250-252, 260, 261.1, 270, 271. SEE ALSO HEIGHT AND BULK DISTRICT MAPS | 40' | | 73' | YES |
| 5 FOOT HEIGHT BONUS FOR ACTIVE GROUND FLOOR USES | SEC 263.20 | N/A | N/A | N/A | |
| REAR YARD | SEC 130, 134, 134(A)(E), 136 | REQUIRED AT THE LOWEST STORY CONTAINING A DWELLING UNIT, AND AT EACH SUCCEEDING LEVEL OF THE BUILDING: 25% OF LOT DEPTH, BUT IN NO CASE LESS THAN 15 FEET. | YES | NO | YES |
| FRONT SETBACK AND SIDE YARD | SEC 131, 132, 133 | NOT REQUIRED. | NOT REQD | N/A | |
| STREETSCAPE AND PEDESTRIAN IMPROVEMENTS | SEC 138.1 | REQUIRED | YES | YES, TBD | |
| STREET FRONTAGE REQUIREMENTS | SEC 145.1 | REQUIRED; CONTROLS APPLY TO … ACTIVE USES, GROUND FLOOR CEILING HEIGHT, STREET-FACING GROUND-LEVEL SPACES, TRANSPARENCY AND FENESTRATION, AND GATES, RAILINGS, AND GRILLWORK. APPLY TO FIRST 25' OF DEPTH OF BUILDING; MAX OF 40' OR 25% OF FRONTAGE FOR LOBBY ACCEPTABLE WITHIN THIS ZONING DISTRICT, NO MIN CLG AT COMMERCIAL AREAS; MIN FOR GROUND LEV RES IS 10' | YES | YES | |
| GROUND FLOOR COMMERCIAL | SEC 145.4 | REQUIRED ON SOME STREETS, SEE SEC 145.4 FOR SPECIFIC DISTRICTS. | NOT REQD | N/A | |
| USABLE OPEN SPACE | SEC 135, 136 | 80 SQUARE FEET PER UNIT IF PRIVATE, OR 100 SQUARE FEET PER UNIT IF COMMON | YES | NO | YES |
| OFF-STREET PARKING REQUIREMENTS | §SEC 145.1 | NO CAR PARKING REQUIRED. | NO | N/A | |
| **RESIDENTIAL USES** | SEC 102 | PERMITTED | P | YES | |
| SINGLE ROOM OCCUPANCY | SEC 102 | PERMITTED | P | YES | |
| DWELLING UNIT DENSITY | 102, 207 | 1 UNIT PER 600 SF LOT AREA, OR THE DENSITY OF THE NEAREST R DISTRICT, WHICHEVER IS GREATER | | | YES |
| DWELLING UNIT MIX | SEC 207.7 | NO LESS THAN 25% OF DWELLING UNITS SHALL CONTAIN AT LEAST 2 BEDROOMS, AND NO LESS THAN 10% OF DWELLING UNITS SHALL CONTAIN AT LEAST THREE BEDROOMS | N/A | N/A | NOT APPLICABLE AS BUILDING IS AN SRO BUILDING WHICH IS PERMITTED |
| | TABLE 740 | APPLIES TO MISSION BERNAL NCD | | | |
| **NON-RESIDENTIAL STANDARDS AND USES** | | | | | |
| FLOOR AREA RATIO | SEC 102, 123, 124 | 3.6 TO 1 | | | |
| USE SIZE | SEC 102, 121.2 | P UP TO 5,999 SQUARE FEET; C 6,000 SQUARE FEET AND ABOVE | | | |
| OFF-STREET PARKING REQUIREMENTS | SEC 145.1 | NO CAR PARKING REQUIRED. MAXIMUM PERMITTED PER SEC 151. BIKE PARKING REQUIRED PER SECTION 155.2. CAR SHARE SPACES REQUIRED WHEN A PROJECT HAS 25 OR MORE PARKING SPACES PER SEC 166. | NO | NO | |
| OFF-STREET FREIGHT LOADING | SEC 150, 152, 153 - 155, 161, 204.5 | NONE REQUIRED IF GROSS FLOOR AREA IS LESS THAN 10,000 SQUARE FEET. EXCEPTIONS PERMITTED PER §SEC 155 AND 161. | NO | NO | |
| BAR | SEC 102, 202.2(A) | P(3) | P) 1 | TENTATIVE | |
| RESTAURANT | SEC 102, 202.2(A) | P(2) | P(2) | TENTATIVE | |
| RESTAURANT, LIMITED | SEC 102, 202.2(A) | P(2) | P(2) | TENTATIVE | |

# BUILDING CODE ANALYSIS

| ELEMENT | CODE SECTION | REQUIREMENT | REQD | PROVIDED | INCENTIVE/ WAIVER, NOTES |
|---|---|---|---|---|---|
| DWELLING UNIT DEFINITION | CBC CH 2 | A SINGLE UNIT THAT PROVIDES ROOMS OR SPACES FOR ONE OR MORE PERSONS, INCLUDES PERMANENT PROVISIONS FOR SLEEPING AND CAN INCLUDE PROVISIONS FOR LIVING, EATING AND EITHER SANITATION OR KITCHEN FACILITIES BUT NOT BOTH. SUCH ROOMS AND SPACES THAT ARE ALSO PART OF A DWELLING UNIT ARE NOT SLEEPING UNITS. | NO | NO | LISTED FOR REFERENCE |
| EFFICIENCY DWELLING UNIT DEFINITION | CBC CH 2 | A DWELLING UNIT CONSTRUCTED IN ACCORDANCE WITH HEALTH AND SAFETY CODE SECTION 17958.1 OR THE CALIFORNIA BUILDING CODE SECTION 1208.4. | | | |
| STUDIO DWELLING UNIT | N/A | NOT A DEFINED TERM | | | |
| MINIMUM ROOM WIDTH | CBC 1208.1 | HABITABLE SPACES, OTHER THAN A KITCHEN, SHALL BE NOT LESS THAN 7 FEET IN ANY PLAN DIMENSION. | YES | YES | PROJECT IS INCLUDING AREAS LESS THAN 7' WHERE OVERALL PLAN DIMENSION OF SPACE IS 7' MIN |
| ROOM AREA | CBC 1208.3 | EVERY DWELLING UNIT SHALL HAVE NOT LESS THAN ONE ROOM THAT SHALL HAVE NOT LESS THAN 120 SQUARE FEET OF NET FLOOR AREA. OTHER HABITABLE ROOMS SHALL HAVE A NET FLOOR AREA OF NOT LESS THAN 70 SQUARE FEET. | YES | YES | |
| EFFICIENCY DWELLING UNITS | CBC 1208.4 W/ SAN FRANCISCO AMENDMENTS | TOTAL AREA OF THE UNIT SHALL BE NO LESS THAN 220 SQUARE FEET; AREA SHALL BE MEASURED FROM THE INSIDE PERIMETER OF THE EXTERIOR WALLS … AND SHALL INCLUDE CLOSETS, BATHROOMS, KITCHEN, LIVING, AND SLEEPING AREAS. | | | |
| MINIMUM UNIT AREA | SF HOUSING CODE SECTION 503(B) | EVERY ROOM WHICH IS USED FOR BOTH COOKING AND LIVING OR BOTH LIVING AND SLEEPING PURPOSES SHALL HAVE NOT LESS THAN 144 SQUARE FEET OF SUPERFICIAL FLOOR AREA. | NO | NO | |

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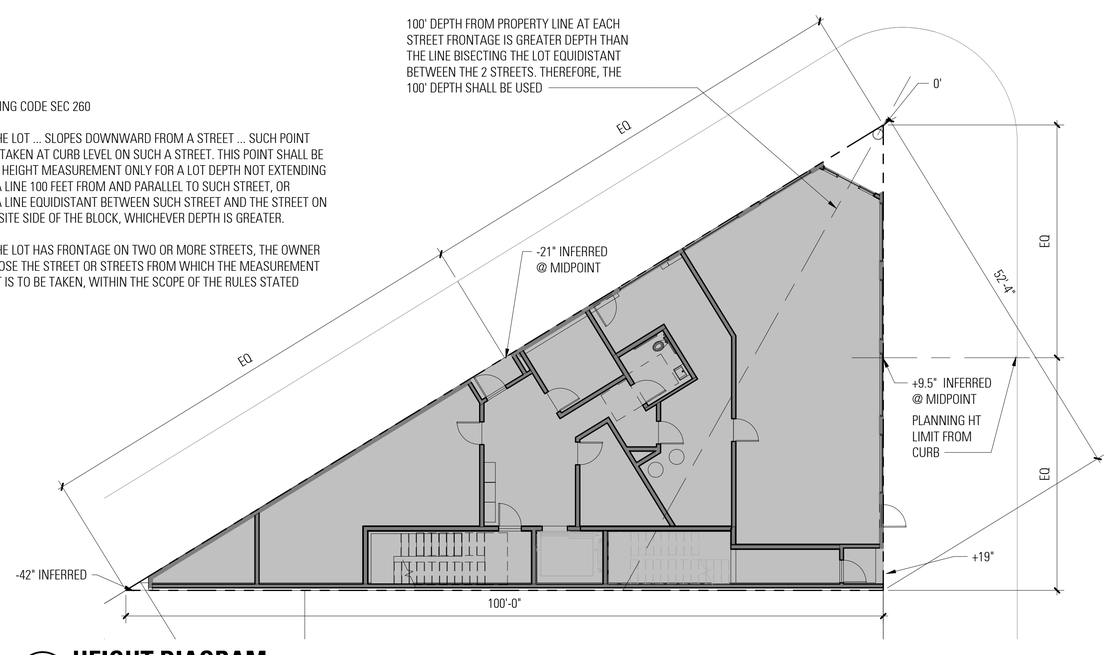
4 G3 **MISSION ST HEIGHT DIAGRAM**

1" = 10'-0"

SF PLANNING CODE SEC 260

WHERE THE LOT ... SLOPES DOWNWARD FROM A STREET ... SUCH POINT SHALL BE TAKEN AT CURB LEVEL ON SUCH A STREET. THIS POINT SHALL BE USED FOR HEIGHT MEASUREMENT ONLY FOR A LOT DEPTH NOT EXTENDING BEYOND A LINE 100 FEET FROM AND PARALLEL TO SUCH STREET, OR BEYOND A LINE EQUIDISTANT BETWEEN SUCH STREET AND THE STREET ON THE OPPOSITE SIDE OF THE BLOCK, WHICHEVER DEPTH IS GREATER.

WHERE THE LOT HAS FRONTAGE ON TWO OR MORE STREETS, THE OWNER MAY CHOOSE THE STREET OR STREETS FROM WHICH THE MEASUREMENT OF HEIGHT IS TO BE TAKEN, WITHIN THE SCOPE OF THE RULES STATED ABOVE.




3 G3 **HEIGHT DIAGRAM**

1" = 10'-0"

GROSS FLOOR AREAS

AREAS TAKEN TO CL OF PARTY WALL, EXT OF CORRIDOR WALLS, AND EXT FACE OF EXT WALLS

PER TCAC REQS FOR SRO, 200 SF REQD (NO EXACT METHODOLOGY FOR COUNTING AREA PROVIDED BY TCAC)

4 G3

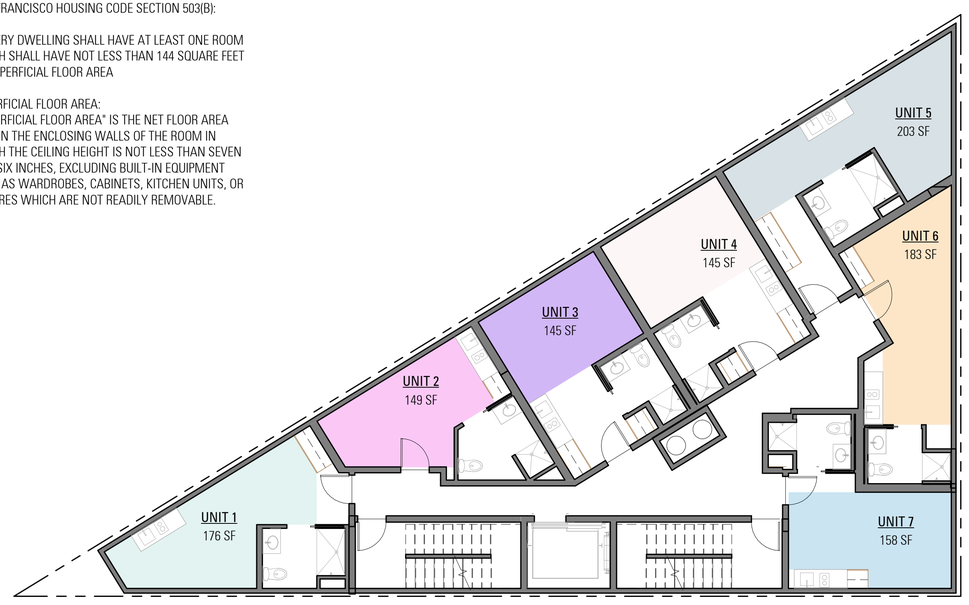
2 G3 **GROSS AREAS - UPPER LEVEL SHOWN TYP (LOWER LEVELS LARGER)**

1/8" = 1'-0"

SAN FRANCISCO HOUSING CODE SECTION 503(B):

... EVERY DWELLING SHALL HAVE AT LEAST ONE ROOM WHICH SHALL HAVE NOT LESS THAN 144 SQUARE FEET OF SUPERFICIAL FLOOR AREA

SUPERFICIAL FLOOR AREA:
"SUPERFICIAL FLOOR AREA" IS THE NET FLOOR AREA WITHIN THE ENCLOSING WALLS OF THE ROOM IN WHICH THE CEILING HEIGHT IS NOT LESS THAN SEVEN FEET SIX INCHES, EXCLUDING BUILT-IN EQUIPMENT SUCH AS WARDROBES, CABINETS, KITCHEN UNITS, OR FIXTURES WHICH ARE NOT READILY REMOVABLE.




4 G3

1 G3 **MINIMUM ROOM AREAS CBC**

1/8" = 1'-0"

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## AREAS - TYPICAL UPPER LEVELS ROOMS

| 4/25/23 | 2023001 | BAR architects | As indicated | G3 |
|---|---|---|---|---|

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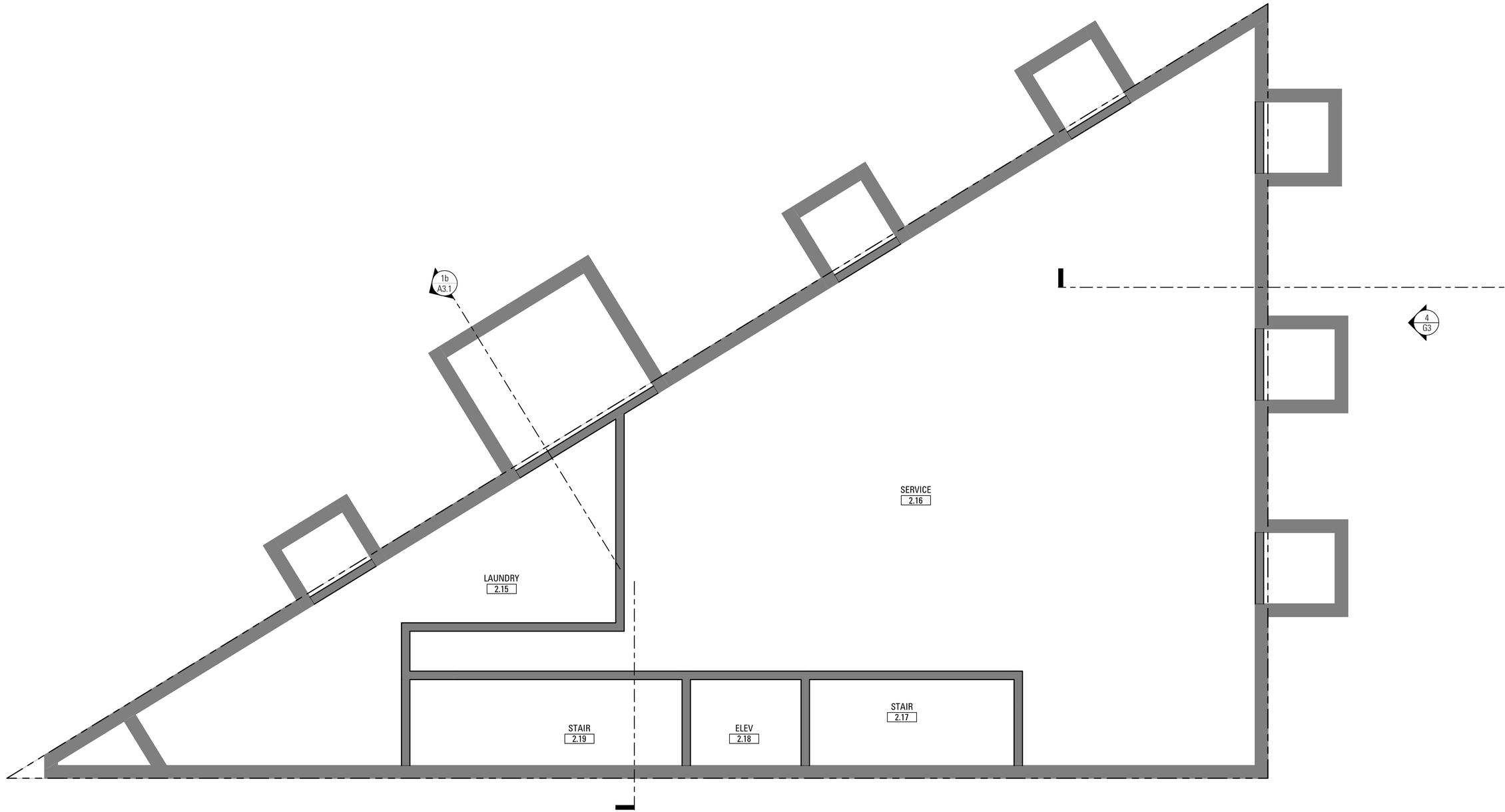


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**3300 Mission Street**
SAN FRANCISCO, CA

FLOOR PLAN - BASEMENT

| 4/25/23 | 2023001 | BAR architects | 1/4" = 1'-0" | A2.0 |
|---|---|---|---|---|

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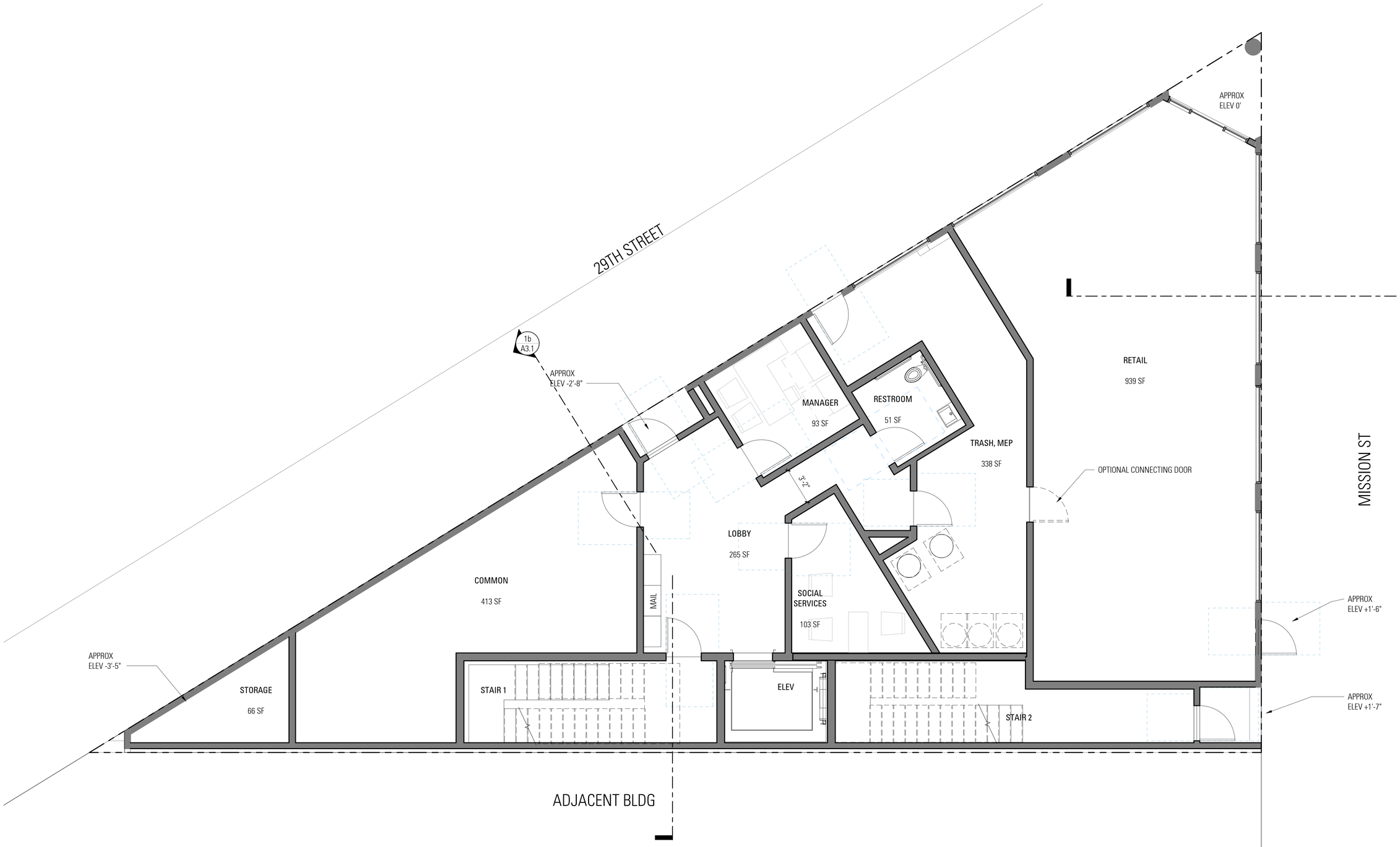


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# 3300 Mission Street
SAN FRANCISCO, CA

## FLOOR PLAN - LEVEL 1

| 4/25/23 | 2023001 | BAR architects | 1/4" = 1'-0" | A2.1 |
|---|---|---|---|---|

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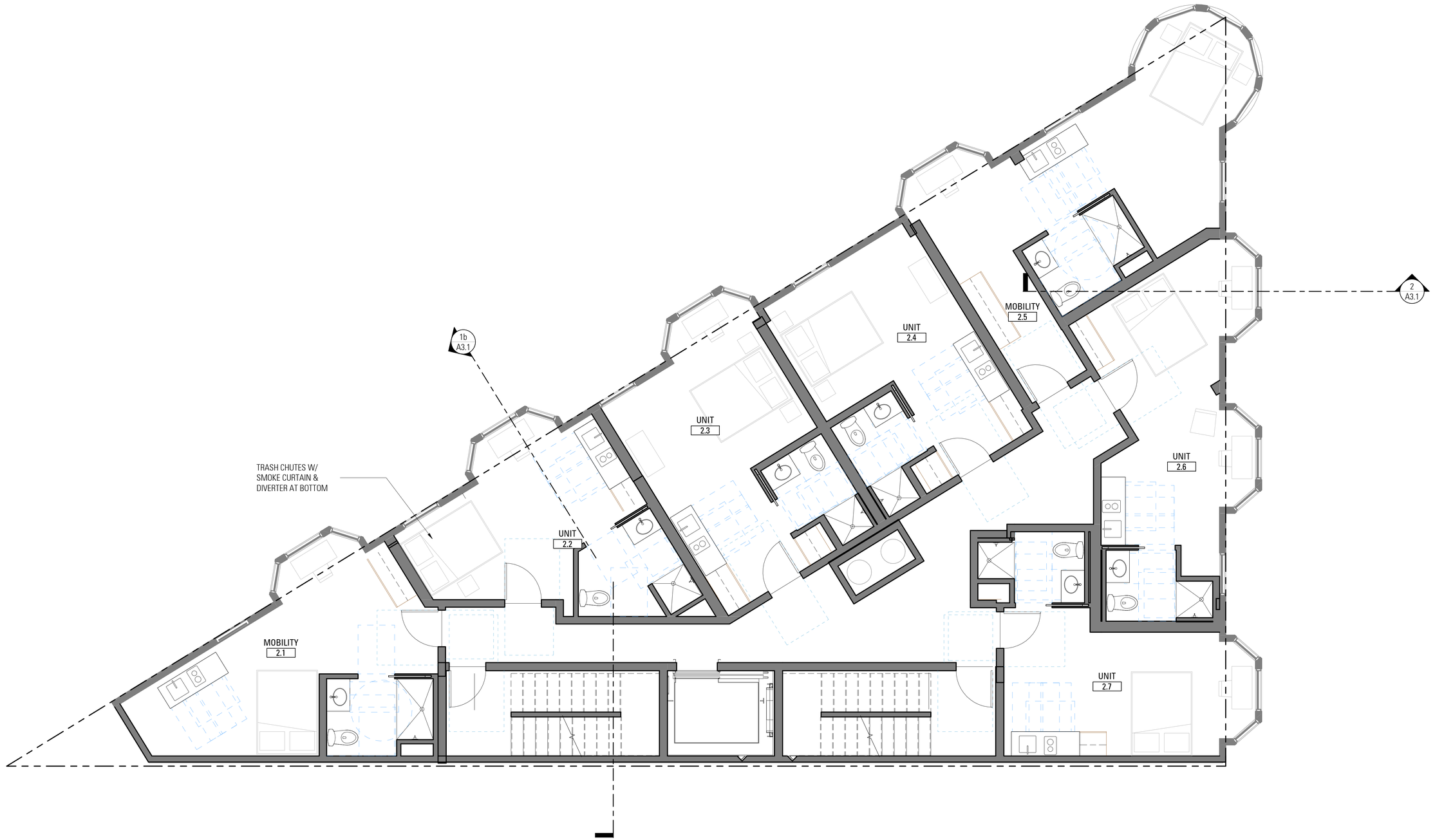


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# 3300 Mission Street
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## FLOOR PLAN - LEVEL 2

| 4/25/23 | 2023001 | BAR architects | 1/4" = 1'-0" | A2.2 |
|---|---|---|---|---|

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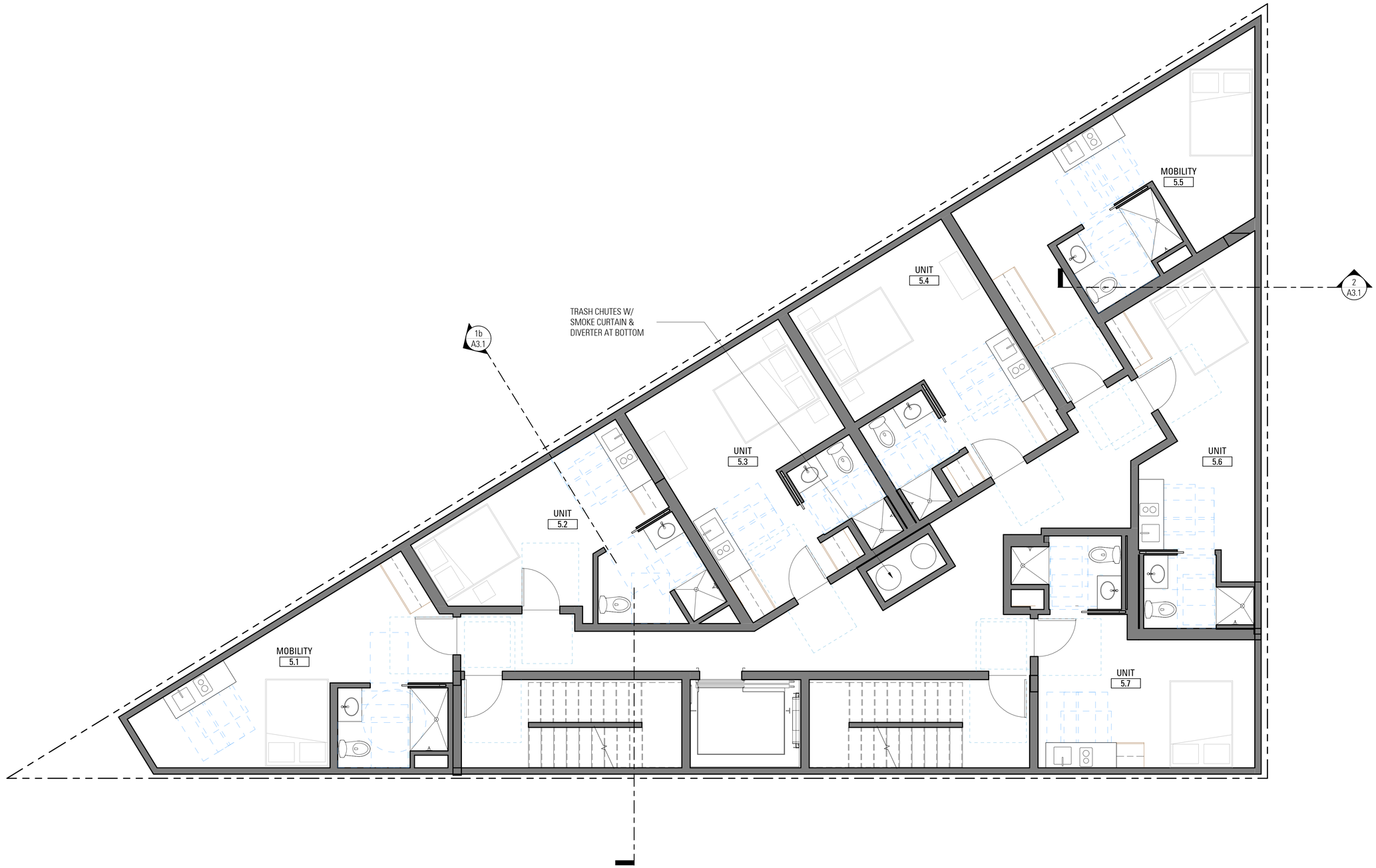


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**3300 Mission Street**
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FLOOR PLAN - LEVEL 5

| 4/25/23 | 2023001 | BAR architects | 1/4" = 1'-0" | A2.5 |
|---|---|---|---|---|

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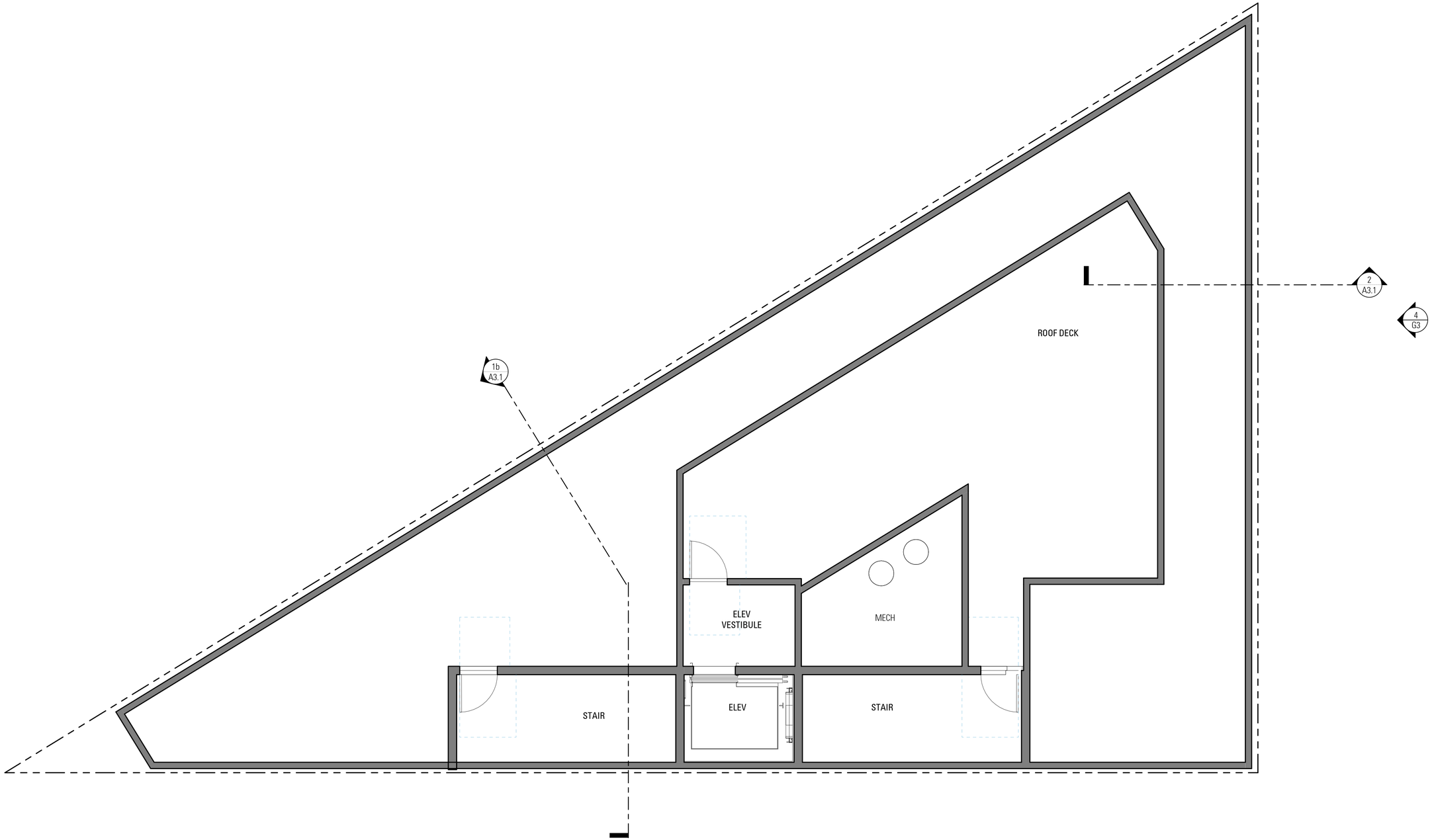


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# 3300 Mission Street
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ROOF PLAN

| 4/25/23 | 2023001 | BAR architects | 1/4" = 1'-0" | A2.7 |
|---|---|---|---|---|

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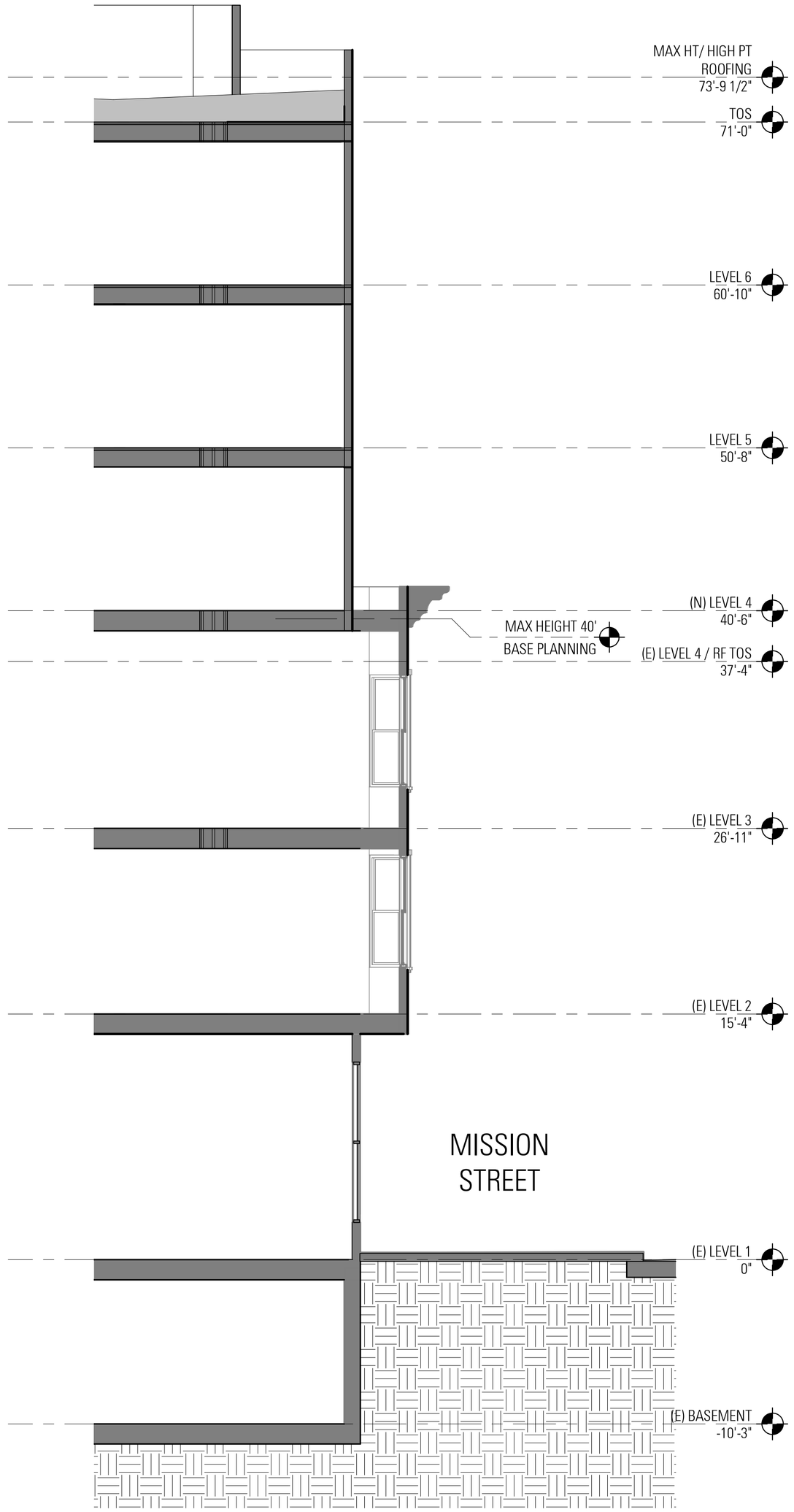
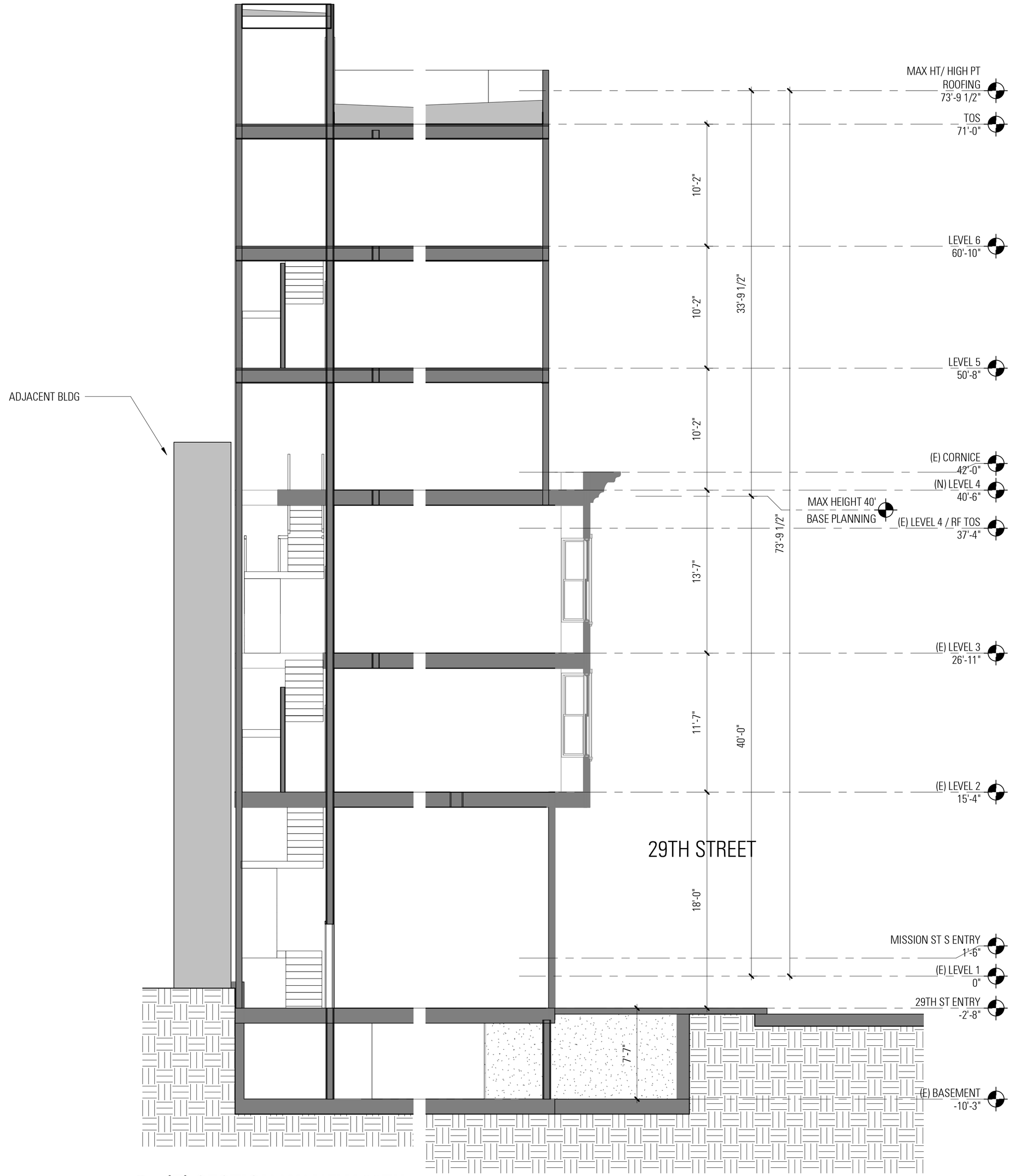



2 A3.1 **SECTION @ MISSION ST**
3/16" = 1'-0"




1a A3.1 **(E) SECTION W/ NEW 29TH**
3/16" = 1'-0"

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**3300 Mission Street**
SAN FRANCISCO, CA

SECTIONS

| 4/25/23 | 2023001 | BAR architects | 3/16" = 1'-0" | A3.1 |
|---|---|---|---|---|

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

See below

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# Affordable Multifamily Housing New Construction Cost Comparison - San Francisco

*Updated* *8/8/2024*

| | | Acquisition costs by Unit/Bed/SF | | | Construction by Unit/Bed/SF | | | Soft Costs By Unit/Bed/SF | | | Total Development Cost (Not including Land) | | | Subsidy | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Acq/unit | Acq/BR | Acq/lot sq.ft | Const/unit | Const/BR | Const/ sq.ft[6] | Soft/unit | Soft/BR | Soft/ sq.ft[6] | TDC/unit | TDC/BR | TDC/ sq.ft[6] | Subsidy / unit | Leveraging [7] |
| Delta of Subject and Comparable Projects | | $ 118,375 | $ 118,463 | 1350.673521 | $ (46,558) | $ 238,894 | $ 710 | $ 20,391 | $ 106,180 | $ 280 | $ 173,289 | $ 544,609 | $ 1,376 | $ (155,021) | 189.5% |
| Delta Percentage | | 52643% | 86463% | 239711% | -6% | 54% | 116% | 9% | 79% | 152% | 18% | 94% | 172% | -70% | 247% |
| SUBJECT PROJECT | 3300 Mission St, SF | $ 118,600 | $ 118,600 | $ 1,351 | $ 684,064 | $ 684,064 | $ 1,324 | $ 239,970 | $ 239,970 | $ 465 | $ 1,123,693 | $ 1,123,693 | $ 2,175 | $ 67,114 | 94.0% |
| *Comparable Projects* | *Average:* | *$ 225* | *$ 137* | *$ 0.56* | *$ 730,622* | *$ 445,170* | *$ 614* | *$ 219,578* | *$ 133,790* | *$ 185* | *$ 950,404* | *$ 579,083* | *$ 799* | *$ 222,135* | 76.6% |

*Costs lower than comparable average (within 10%)*

*Costs higher than comparable average (within 10%)*

| | | | | | | Building Square Footage | | | Total Project Costs | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Lot sq.ft | Completion/ start date | # of Units | # of BR[1] | Res.[2] | Non-Res. Sq. ft. | Total sg. ft. | Acq. Cost[3] | Constr. Cost[4] | Soft Cost | Total Dev. Cost w/acq costs | Local Subsidy | Notes on Financing (e.g., TCAC) | Building Type (e.g., Type III over Type I) | Stories | Comments (stage of design/pricing; date of LC; unusual conditions such as childcare center) |
| *ALL PROJECTS* | *Average:* | *31,279* | | *121* | *193* | *119,041* | *13,534* | *131,303* | *$ 171,653* | *$ 81,997,856* | *$ 21,732,728* | *$ 103,902,206* | *$ 31,005,428* | | | | |
| *Comparable Projects Completed (filtered)* | *Average:* | *18,881* | | *65* | *89* | *59,078* | *9,099* | *68,177* | *$24,050* | *$42,780,737* | *$10,674,648* | *$53,479,434* | *$11,572,074* | | | | |
| *Comparable Projects Under Construction (filtered)* | *Average:* | *29,773* | | *85* | *147* | *92,551* | *18,837* | *111,388* | *10,001* | *63,588,362* | *19,506,945* | *83,100,307* | *22,212,813* | | | | |
| *Comparable Projects In Predevelopment (filtered)* | *Average:* | *42,835* | | *79* | *140* | *77,478* | *15,746* | *93,224* | *$17,500* | *$61,126,086* | *$20,156,756* | *$81,300,342* | *$17,139,667* | | | | |
| *Total Comparable Projects* | *Average:* | *30,496* | | *76* | *125* | *76,369* | *14,561* | *90,929* | *$17,183* | *$55,831,728* | *$16,779,449* | *$72,626,694* | *$16,974,851* | | | | |
| SUBJECT PROJECT | 3300 Mission St, SF | 3,072 | | 35 | 35 | 17,085 | 996 | 18,081 | $ 4,151,000 | $ 23,942,253 | $ 8,398,939 | $ 39,329,242 | $ 2,348,990 | tax credit pricing 0.915 | Ty IIIA over Ty IA p | 6 | Neighbor appeal hearing 8/28/2024 |
| Delta of Subject and Comp Project Averages | | -27,424 | | -41 | -90 | -59,284 | -13,565 | -72,848 | $4,133,817 | ($31,889,475) | ($8,380,510) | ($33,297,452) | ($14,625,861) | | | | |
| Delta Percentage | | -90% | | -54% | -72% | -78% | -93% | -80% | 24057% | -57% | -50% | -46% | -86% | | | | |

| *PROJECTS COMPLETED* | | | | | | Building Square Footage | | | Total Project Costs | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Project Name | Address | Lot sq.ft | Compl. Date | # of Units | # of BR[1] | Res.[2] | Non-Res. | Total | Acq. Cost3 | Constr. Cost4 | Soft Cost | Total Dev. Cost w/acquisition costs | Local Subsidy5 | Notes on Financing | Building Type | Stories | Comments (stage of design/pricing; date of LC; unusual conditions such as |
| 95 Laguna Senior | 95 Laguna | 14,300 | May-19 | 79 | 82 | 59,785 | 7,316 | 67,101 | $ - | $ 38,725,339 | $ 11,343,750 | $ 50,069,089 | $ 16,222,000 | 9% LIHTC | Type III over 2 Type IA | 7 | Incl Community Services space |
| Hunters View Phase II - Block 10 | 146 West Point Road | 52,333 | Jun-18 | 72 | 144 | 90,274 | 13,328 | 103,602 | $ - | $ 54,492,048 | $ 8,732,464 | $ 63,224,512 | $ 17,393,406 | 9% LIHTC | Type IIIA over Type I | 5 | Childcare |
| Booker T Washington | 800 Presidio | 8,000 | Feb-18 | 50 | 52 | 40,340 | 20,700 | 61,040 | $ - | $ 39,698,829 | $ 6,019,350 | $ 45,718,179 | $ 9,026,304 | HCD MHP Loan | Type V over Type I | 5 | $8.4MM |
| Potrero Block X (Vertical) | 25th and Connecticut | 30,000 | Sep-19 | 72 | 139 | 86,569 | 28,952 | 115,521 | $ 20,700 | $ 71,591,990 | $ 12,766,230 | $ 84,378,920 | $ 17,693,093 | | Type IIIA & V over Type I | 4-6 | No infrast. Cost |
| Sunnydale Parcel Q | 1477-1497 Sunnydale Ave | 21,757 | Jun-20 | 55 | 102 | 75,101 | - | 75,101 | $ - | $ 41,541,704 | $ 10,072,197 | $ 51,613,901 | $ 9,652,147 | 9% LIHTC | Type IV | 5 | Grade podium parking |
| 735 Davis Senior Housing | 735 Davis | 10,165 | May-21 | 53 | 54 | 46,143 | 1,257 | 47,400 | $ - | $ 36,114,385 | $ 11,846,397 | $ 47,960,782 | $ 18,525,949 | | Type IIIA & V over Type I | 5-6 | Senior |
| Casa de la Mision | 3001 24th Street | 6,715 | Sep-21 | 45 | 45 | 26,439 | 1,239 | 27,678 | $ - | $ 19,444,062 | $ 7,895,519 | $ 27,339,581 | $ 1,313,694 | 9% LIHTC & private donation | Type V over Type I | 5 | |
| 53 Colton (Plumbers Union DA) | 53 Colton | 7,780 | Jul-22 | 96 | 96 | 47,969 | - | 47,969 | $ 171,697 | $ 40,637,541 | $ 16,721,274 | $ 57,530,512 | $ 2,750,000 | 4%, HCD MHP, AHP, $10M G | Type IIIA over Type I | 6 | Constrained site, efficiency studios |

| *PROJECTS UNDER CONSTRUCTION* | | | | | | Building Square Footage | | | Total Project Costs | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Project Name | Address | Lot sq.ft | Compl. Date | # of Units | # of BR[1] | Res.[2] | Non-Res. | Total | Acq. Cost3 | Constr. Cost4 | Soft Cost | Total Dev. Cost w/acq costs | Local Subsidy5 | Notes on Financing | Building Type | Stories | Comments (stage of design/pricing; date of LC; unusual conditions such as |
| Sunnydale Block 3B | 1501 Sunnydale Avenue | 39,160 | Feb-25 | 90 | 178 | 122,160 | 38,488 | 160,648 | $ 20,001 | $ 71,571,738 | $ 19,372,089 | $ 90,943,827 | $ 8,466,742 | 4% Credits; HCD IIG & AHSC | Type VA over IA | 6 | 3/4/2022 escal/bid and plan check |
| Sunnydale Block 3A | 1501 Sunnydale Avenue | 34,400 | Jan-25 | 80 | 164 | 94,595 | 19,013 | 113,608 | $ 20,001 | $ 72,470,936 | $ 22,824,983 | $ 95,315,920 | $ 26,044,938 | 4% Credits; HCD IIG & AHSC | Type VA over IA | 5 | (70% CD w/VE 4/14/2022, 8% |
| 4200 Geary | 4200 Geary | 16,738 | Dec-24 | 98 | 98 | 76,834 | 1,908 | 78,742 | $ - | $ 54,590,088 | $ 19,104,917 | $ 73,695,005 | $ 19,526,131 | 4% Credits; HCD MHP. AHP, | Type III over Type I | 7 | Comm! Sp, Urban Ag (95% CD/Add 1&2; est 3/2022&LC |
| HPSY Block 56 | 11 Innes Court | 28,792 | Apr-25 | 73 | 147 | 76,614 | 15,939 | 92,553 | $ - | $ 55,720,684 | $ 16,725,791 | $ 72,446,475 | $ 34,813,441 | 4% LIHTC, AHP | Type V over Type I | 5 | |

| *PROJECTS IN PREDEVELOPMENT* | | | | | | Building Square Footage | | | Total Project Costs | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Project Name | Address | Lot sq.ft | Start Date (anticipated) | # of Units | # of BR[1] | Res.[2] | Non-Res. | Total | Acq. Cost3 | Constr. Cost4 | Soft Cost | Total Dev. Cost w/acq costs | Local Subsidy | Notes on Financing | Building Type | Stories | Comments (stage of design/pricing; date of LC; unusual conditions such as |
| Sunnydale Block 7 | Sunrise Wy and Santos St | 73,161 | Jun-25 | 89 | 205 | 104,500 | 31,857 | 136,357 | $ - | $ 79,433,777 | $ 24,690,898 | $ 104,124,675 | $ 34,549,978 | 4% Credits; HCD IIG & AHSC | Type VA over IA | 5 | Parking at .74 ratio; unsure what stage of design |
| Sunnydale Block 9 | TBD | 52,272 | Jun-25 | 95 | 225 | 116,465 | 27,425 | 143,890 | $ 20,000 | $ 82,190,900 | $ 26,428,661 | $ 108,639,561 | $ 18,660,015 | 4% Credits; HCD IIG & AHSC | Type VA over IA | 5 | Parking at .74 ratio; 100% SD |
| Potrero Bus Yard Senior 1868 Bryant | 1868 Bryant | | Dec-25 | 96 | 96 | 69,484 | 1,500 | 70,984 | $ 50,000 | $ 63,298,848 | $ 20,564,029 | $ 83,912,877 | $ 8,848,684 | | Type III over Type I | 4-5 | 5.6.2022 est with 18% esc for Jan 50% SD 2023 |
| 3300 Mission | 3300 Mission | 3,072 | Mar-25 | 35 | 35 | 19,463 | 2,202 | 21,665 | $ - | $ 19,580,819 | $ 8,943,435 | $ 28,524,254 | $ 6,499,990 | | Type IIIA over a Type IA p | 6 | historic façade. Concept Aug 2023; not a GC estimate |

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



# Attachment I: Predevelopment Budget

[See attached]

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



**Application Date:** 3/15/2024 **# Units:** 35
**Project Name:** 3300 Mission **# *Bedrooms:*** 35
**Project Address:** 3300-3308 Mission Street **# Beds:**
**Project Sponsor:** BHHC, TCDC, MREG

| | | | | | | | Total Sources | Comments |
|---|---|---|---|---|---|---|---|---|
| **SOURCES** | **2,349,000** | **4,151,000** | **-** | **-** | **-** | **-** | **6,500,000** | |
| **Name of Sources:** | MOHCD Prede | MOHCD Acquisition | | | | | | |
| **USES** | | | | | | | | |
| **ACQUISITION** | | | | | | | | |
| Acquisition cost or value | | 3,850,000 | | | | | 3,850,000 | |
| Legal / Closing costs / Broker's Fee | | 211,000 | | | | | 211,000 | |
| Holding Costs | | 90,000 | | | | | 90,000 | |
| Transfer Tax | | | | | | | 0 | |
| **TOTAL ACQUISITION** | **0** | **4,151,000** | **0** | **0** | **0** | **0** | **4,151,000** | |
| **CONSTRUCTION (HARD COSTS)** | | | | | | | | |
| Unit Construction/Rehab | | | | | | | 0 | Include FF&E |
| Commercial Shell Construction | | | | | | | 0 | |
| Demolition | | | | | | | 0 | |
| Environmental Remediation | | | | | | | 0 | |
| Onsight Improvements/Landscaping | | | | | | | 0 | |
| Offsite Improvements | | | | | | | 0 | |
| Infrastructure Improvements | | | | | | | 0 | HOPE SF/OCII costs for streets etc. |
| Parking | | | | | | | 0 | |
| GC Bond Premium/GC Insurance/GC Taxes | | | | | | | 0 | |
| GC Overhead & Profit | | | | | | | 0 | |
| CG General Conditions | | | | | | | 0 | |
| *Sub-total Construction Costs* | *0* | *0* | *0* | *0* | *0* | *0* | *0* | |
| Design Contingency (remove at DD) | | | | | | | 0 | $45MM+ |
| Bid Contingency (remove at bid) | | | | | | | 0 | $45MM+ |
| Plan Check Contingency (remove/reduce during Plan Review) | | | | | | | 0 | $45MM+ |
| Hard Cost Construction Contingency | | | | | | | 0 | 5% new construction / 15% rehab |
| *Sub-total Construction Contingencies* | *0* | *0* | *0* | *0* | *0* | *0* | *0* | |
| **TOTAL CONSTRUCTION COSTS** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | |
| **SOFT COSTS** | | | | | | | | |
| **Architecture & Design** | | | | | | | | |
| Architect design fees | 750,000 | | | | | | 750,000 | See MOHCD A&E Fee Guidelines: http://sfmohcd.org/documents-reports-and-forms |
| Design Subconsultants to the Architect (incl. Fees) | | | | | | | 0 | |
| Architect Construction Admin | | | | | | | 0 | |
| Reimbursables | | | | | | | 0 | |
| Additional Services | | | | | | | 0 | |
| *Sub-total Architect Contract* | *750,000* | *0* | *0* | *0* | *0* | *0* | *750,000* | |
| Other Third Party design consultants (not included under Architect contract) | 150,000 | | | | | | 150,000 | Consultants not covered under architect contract; name consultant type and contract amount |
| **Total Architecture & Design** | **900,000** | **0** | **0** | **0** | **0** | **0** | **900,000** | |
| **Engineering & Environmental Studies** | | | | | | | | |
| Survey | 40,000 | | | | | | 40,000 | |
| Geotechnical studies | 27,000 | | | | | | 27,000 | |
| Phase I & II Reports | 27,000 | | | | | | 27,000 | |
| CEQA / Environmental Review consultants | 100,000 | | | | | | 100,000 | |
| NEPA / 106 Review | | | | | | | 0 | |
| CNA/PNA (rehab only) | | | | | | | 0 | |
| Other environmental consultants | | | | | | | 0 | Name consultants & contract amounts |
| **Total Engineering & Environmental Studies** | **194,000** | **0** | **0** | **0** | **0** | **0** | **194,000** | |
| **Financing Costs** | | | | | | | | |
| **Construction Financing Costs** | | | | | | | | |
| Construction Loan Origination Fee | 25,000 | | | | | | 25,000 | |
| Construction Loan Interest | | | | | | | 0 | |
| Title & Recording | 25,000 | | | | | | 25,000 | |
| CDLAC & CDIAC fees | | | | | | | 0 | |
| Bond Issuer Fees | | | | | | | 0 | |
| Other Bond Cost of Issuance | | | | | | | 0 | |
| Other Lender Costs (HAF) | 93,000 | | | | | | 93,000 | HAF Closing Fee + Expenses |
| *Sub-total Const. Financing Costs* | *143,000* | *0* | *0* | *0* | *0* | *0* | *143,000* | |
| **Permanent Financing Costs** | | | | | | | | |
| Permanent Loan Origination Fee | | | | | | | 0 | |
| Credit Enhance. & Appl. Fee | | | | | | | 0 | |
| Title & Recording | | | | | | | 0 | |
| *Sub-total Perm. Financing Costs* | *0* | *0* | *0* | *0* | *0* | *0* | *0* | |
| **Total Financing Costs** | **143,000** | **0** | **0** | **0** | **0** | **0** | **143,000** | |
| **Legal Costs** | | | | | | | | |
| Borrower Legal fees | 20,000 | | | | | | 20,000 | |
| Land Use / CEQA Attorney fees | 30,000 | | | | | | 30,000 | |
| Tax Credit Counsel | | | | | | | 0 | |
| Bond Counsel | | | | | | | 0 | |
| Construction Lender Counsel | | | | | | | 0 | |
| Permanent Lender Counsel | | | | | | | 0 | |
| Other Legal (specify) | | | | | | | 0 | |
| **Total Legal Costs** | **50,000** | **0** | **0** | **0** | **0** | **0** | **50,000** | |
| **Other Development Costs** | | | | | | | | |
| Appraisal | 10,000 | | | | | | 10,000 | |
| Market Study | 10,000 | | | | | | 10,000 | |
| * Insurance | 12,000 | | | | | | 12,000 | |
| * Property Taxes | 20,000 | | | | | | 20,000 | |
| Accounting / Audit | 5,000 | | | | | | 5,000 | |
| * Organizational Costs | | | | | | | 0 | Design Printing/Copying |
| Entitlement / Permit Fees | 90,000 | | | | | | 90,000 | |
| * Marketing / Rent-up | | | | | | | 0 | |
| * Furnishings | | | | | | | 0 | $2,000/unit; See MOHCD U/W Guidelines: http://sfmohcd.org/documents-reports-and-forms |
| PGE / Utility Fees | 15,000 | | | | | | 15,000 | |
| TCAC App / Alloc / Monitor Fees | 100,000 | | | | | | 100,000 | |
| * Financial Consultant fees | 50,000 | | | | | | 50,000 | |
| Construction Management fees / Owner's Rep | 39,600 | | | | | | 39,600 | |
| Security during Construction | | | | | | | 0 | |
| * Relocation | | | | | | | 0 | |
| Community Outreach | 74,000 | | | | | | 74,000 | |
| Syndication Consultant | | | | | | | 0 | |
| Inspectors | | | | | | | 0 | |
| **Total Other Development Costs** | **425,600** | **0** | **0** | **0** | **0** | **0** | **425,600** | |
| **Soft Cost Contingency** | | | | | | | | |
| Contingency (Arch, Eng, Fin, Legal & Other Dev) | 86,400 | | | | | | 86,400 | Should be either 10% or 5% of total soft costs. |
| **TOTAL SOFT COSTS** | **1,799,000** | **0** | **0** | **0** | **0** | **0** | **1,799,000** | |
| **RESERVES** | | | | | | | | |
| * Operating Reserves | | | | | | | 0 | |
| Replacement Reserves | | | | | | | 0 | |
| * Tenant Improvements Reserves | | | | | | | 0 | |
| Other (specify) | | | | | | | 0 | |
| Other (specify) | | | | | | | 0 | |
| Other (specify) | | | | | | | 0 | |
| **TOTAL RESERVES** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | |
| **DEVELOPER COSTS** | | | | | | | | |
| Developer Fee - Cash-out Paid at Milestones | 550,000 | | | | | | 550,000 | |
| Developer Fee - Cash-out At Risk | | | | | | | 0 | |
| Commercial Developer Fee | | | | | | | | |
| Developer Fee - GP Equity (also show as source) | | | | | | | | |
| Developer Fee - Deferred (also show as source) | | | | | | | 0 | |
| Development Consultant Fees | | | | | | | 0 | Need MOHCD approval for this cost, N/A for most projects |
| Other (specify) | | | | | | | 0 | |
| **TOTAL DEVELOPER COSTS** | **550,000** | **0** | **0** | **0** | **0** | **0** | **550,000** | |
| **TOTAL DEVELOPMENT COST** | **2,349,000** | **4,151,000** | **0** | **0** | **0** | **0** | **6,500,000** | |
| Development Cost/Unit by Source | 67,114 | 118,600 | 0 | 0 | 0 | 0 | 185,714 | |
| Development Cost/Unit as % of TDC by Source | 36.1% | 63.9% | 0.0% | 0.0% | 0.0% | 0.0% | 100.0% | |
| Acquisition Cost/Unit by Source | 0 | 110,000 | 0 | 0 | 0 | 0 | 110,000 | |
| Construction Cost (inc Const Contingency)/Unit By Source | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Construction Cost (inc Const Contingency)/SF | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | |

Construction line item costs as a % of hard costs

Total Soft Cost Contingency as % of Total Soft Costs **5.0%**

1,712,600
85630
-770

**Possible non-eligible GO Bond/COP Amount:* *82,000*
City Subsidy/Unit 67,114

Tax Credit Equity Pricing: 0.92
Construction Bond Amount: 18,492,150
Construction Loan Term (in months): 30 months
Construction Loan Interest Rate (as %): 8.00%

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



# Attachment J: Development Budget

[See attached]

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900

MOHCD Proforma - Permanent Financing Sources Uses of Funds

| | | | |
|---|---|---|---|
| **Application Date:** | 3/15/2024 | **# Units:** | **35** |
| **Project Name:** | 3300 Mission | **# *Bedrooms:*** | **35** |
| **Project Address:** | 3300-3308 Mission Street | **# Beds:** | |
| **Project Sponsor:** | BHHC, TCDC, MREG | | |

| | | | | | | **Total Sources** | **Comments** | |
|---|---|---|---|---|---|---|---|---|
| **SOURCES** | **2,349,000** | **4,151,000** | **-** | **10,091,242** | **24,400,800** | **40,992,042** | Total MOHCD non acq | |
| | MOHCD | MOHCD | | MOHCD | Tax Credit | | | |
| **Name of Sources:** | Predev | Acquisition | | Perm Gap | Equity | | | 12,440,242 |
| **USES** | | | | | | | | |
| **ACQUISITION** | | | | | | | | |
| Acquisition cost or value | 0 | 3,850,000 | | | | 3,850,000 | | 1,194,037 |
| Legal / Closing costs / Broker's Fee | 0 | 211,000 | | | | 211,000 | | |
| Holding Costs | 0 | 90,000 | | | | 90,000 | | |
| Transfer Tax | | | | | | 0 | | |
| **TOTAL ACQUISITION** | **0** | **4,151,000** | **0** | **0** | **0** | **4,151,000** | | |
| **CONSTRUCTION (HARD COSTS)** | | | | | | | | |
| * Unit Construction/Rehab | | | | 2,552,931 | 14,753,193 | 17,306,124 | Include FF&E | |
| * Commercial Shell Construction | | | | 761,154 | | 761,154 | | 1,704,123 |
| * Demolition | | | | | | 0 | | 11,254,088 |
| Environmental Remediation | | | | | | 0 | 1,186,154 | |
| * Onsight Improvements/Landscaping | | | | | | 0 | | |
| * Offsite Improvements | | | | | | 0 | | |
| * Infrastructure Improvements | | | | | | 0 | HOPE SF/OCII costs for streets etc. | |
| Parking | | | | | | 0 | | |
| GC Bond Premium/GC Insurance/GC Taxes | | | | | 427,131 | 427,131 | | |
| GC Overhead & Profit | | | | | 663,180 | 663,180 | 680082.0857 | |
| CG General Conditions | | | | | 1,618,776 | 1,618,776 | | |
| *Sub-total Construction Costs* | *0* | *0* | *0* | *3,314,085* | *17,462,280* | *20,776,365* | | |
| Design Contingency (remove at DD) | | | | | | 0 | $45MM+ | |
| Bid Contingency (remove at bid) | | | | | | 0 | $45MM+ | |
| Plan Check Contingency (remove/reduce during Plan Review) | | | | 979,839 | 550,000 | 1,529,839 | $45MM+ | |
| Hard Cost Construction Contingency | | | | 187,830 | 1,308,839 | 1,496,669 | 5% new construction / 15% rehab | |
| *Sub-total Construction Contingencies* | *0* | *0* | *0* | *1,167,669* | *1,858,839* | *3,026,508* | | |
| **TOTAL CONSTRUCTION COSTS** | **0** | **0** | **0** | **4,481,754** | **19,321,119** | **23,802,873** | | |

| Construction line item costs as a % of hard costs | |
|---|---|
| | 1.7% |
| | 0.0% |
| | 0.0% |
| | 2.1% |
| | 3.2% |
| | 7.8% |
| | 0.0% |
| | 0.0% |
| | 7.4% |
| | 7.2% |

**SOFT COSTS**

**Architecture & Design**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Architect design fees | 750,000 | | | 952,438 | 483,082 | 2,185,520 | See MOHCD A&E Fee Guidelines: http://sfmohcd.org/documents-reports-and-forms | |
| Design Subconsultants to the Architect (incl. Fees) | | | | | | 0 | | |
| Architect Construction Admin | | | | | | 0 | | |
| Reimbursables | | | | | | 0 | | |
| Additional Services | | | | | | 0 | | |
| *Sub-total Architect Contract* | *750,000* | *0* | *0* | *952,438* | *483,082* | *2,185,520* | | |
| Other Third Party design consultants (not included under Architect contract) | 150,000 | | | 100,000 | | 250,000 | Consultants not covered under architect contract; name consultant type and contract amount | |
| **Total Architecture & Design** | **900,000** | **0** | **0** | **1,052,438** | **483,082** | **2,435,520** | | $ (2,562) |

**Engineering & Environmental Studies**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Survey | 40,000 | | | | 10,000 | 50,000 | | |
| Geotechnical studies | 27,000 | | | 1,000 | 7,000 | 35,000 | | |
| Phase I & II Reports | 27,000 | | | 1,000 | 7,000 | 35,000 | | |
| CEQA / Environmental Review consultants | 100,000 | | | | | 100,000 | | |
| NEPA / 106 Review | | | | | | 0 | | |
| CNA/PNA (rehab only) | | | | | | 0 | | |
| Other environmental consultants | | | | | | 0 | Name consultants & contract amounts | |
| **Total Engineering & Environmental Studies** | **194,000** | **0** | **0** | **2,000** | **24,000** | **220,000** | | 50,000 |

**Financing Costs**

**Construction Financing Costs**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Construction Loan Origination Fee | 25,000 | | | | 1,822,722 | 1,847,722 | | |
| Construction Loan Interest | | | | 551,620 | 635,027 | 1,186,647 | | |
| Title & Recording | 25,000 | | | | 50,000 | 75,000 | | |
| CDLAC & CDIAC fees | | | | | | 0 | | |
| Bond Issuer Fees | | | | | | 0 | | |
| Other Bond Cost of Issuance | | | | | | 0 | | |
| Other Lender Costs (HAF) | 93,000 | | | | 500 | 93,500 | | |
| *Sub-total Const. Financing Costs* | *143,000* | *0* | *0* | *551,620* | *2,508,249* | *3,202,869* | | 478,369 |

**Permanent Financing Costs**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Permanent Loan Origination Fee | | | | | 0 | 0 | | |
| Credit Enhance. & Appl. Fee | | | | | *0* | 0 | | |
| Title & Recording | | | | | | 0 | | |
| *Sub-total Perm. Financing Costs* | *0* | *0* | *0* | *0* | *0* | *0* | | |
| **Total Financing Costs** | **143,000** | **0** | **0** | **551,620** | **2,508,249** | **3,202,869** | | |

**Legal Costs**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Borrower Legal fees | 20,000 | | | 330,000 | | 350,000 | | |
| Land Use / CEQA Attorney fees | 30,000 | | | 20,000 | | 50,000 | | |
| Tax Credit Counsel | | | | | | 0 | | |
| Bond Counsel | | | | | | 0 | | |
| Construction Lender Counsel | | | | 10,000 | 100,000 | 110,000 | | |
| Permanent Lender Counsel | | | | | | 0 | | |
| * Condo | | | | 80,000 | | 80,000 | $80K for condo (civil, city fees, legal) | |
| **Total Legal Costs** | **50,000** | **0** | **0** | **440,000** | **100,000** | **590,000** | | |

**Other Development Costs**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Appraisal | 10,000 | | | | | 10,000 | | |
| Market Study | 10,000 | | | | | 10,000 | | |
| * Insurance | 12,000 | | | 238,000 | | 250,000 | | 139,732 |
| * Property Taxes | 20,000 | | | 30,000 | | 50,000 | | |
| Accounting / Audit | 5,000 | | | 45,000 | | 50,000 | | |
| * Organizational Costs | | | | | | 0 | | |
| Entitlement / Permit Fees | 90,000 | | | 810,000 | | 900,000 | | |
| * Marketing / Rent-up | | | | 250,000 | | 250,000 | | |
| * Furnishings | | | | 200,000 | | 200,000 | $2,000/unit; See MOHCD U/W Guidelines on: http://sfmohcd.org/documents-reports-and-forms | |
| PGE / Utility Fees | 15,000 | | | 485,000 | | 500,000 | | |
| TCAC App / Alloc / Monitor Fees | 100,000 | | | 10,852 | 14,350 | 125,202 | | |
| * Financial Consultant fees | 50,000 | | | 25,000 | | 75,000 | | |
| Construction Management fees / Owner's Rep | 39,600 | | | 387,928 | | 427,528 | | |
| Security during Construction | | | | | | 0 | | |
| * Relocation | | | | | | 0 | | |
| Community Outreach & Public Art | 74,000 | | | 101,000 | | 175,000 | Public Art is $101k, Community outreach $74k | |
| Syndication Consultant | | | | 55,000 | | 55,000 | | |
| Inspectors | | | | 175,000 | | 175,000 | | |
| **Total Other Development Costs** | **425,600** | **0** | **0** | **2,812,780** | **14,350** | **3,252,730** | | |

**Soft Cost Contingency**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Contingency (Arch, Eng, Fin, Legal & Other Dev) | 86,400 | | | 413,600 | | 500,000 | Should be either 10% or 5% of total soft costs. | |
| **TOTAL SOFT COSTS** | **1,799,000** | **0** | **0** | **5,272,438** | **3,129,681** | **10,201,119** | | |

| Total Soft Cost Contingency as % of Total Soft Costs | |
|---|---|
| | 5.2% |

**RESERVES**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| * Operating Reserves | | | | 212,050 | | 212,050 | 6 months | |
| Replacement Reserves | | | | | | 0 | 197952 | |
| * Tenant Improvements Reserves | | | | | | 0 | | |
| * Other (specify) | | | | | | 0 | 848200 | |
| * Other (specify) | | | | | | 0 | | |
| * Other (specify) | | | | | | 0 | | |
| **TOTAL RESERVES** | **0** | **0** | **0** | **212,050** | **0** | **212,050** | | |

**DEVELOPER COSTS**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Developer Fee - Cash-out Paid at Milestones | 550,000 | | | | 550,000 | 1,100,000 | | |
| Developer Fee - Cash-out At Risk | | | | | 1,100,000 | 1,100,000 | | |
| Commercial Developer Fee | | | | 125,000 | 300,000 | 425,000 | 0 | |
| Developer Fee - GP Equity (also show as source) | | | | | | 0 | 0 | |
| Developer Fee - Deferred (also show as source) | | | | | | 0 | | |
| Development Consultant Fees | | | | | | 0 | Need MOHCD approval for this cost, N/A for most projects | |
| Public Art | | | | | | 0 | | |
| **TOTAL DEVELOPER COSTS** | **550,000** | **0** | **0** | **125,000** | **1,950,000** | **2,625,000** | | |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **TOTAL DEVELOPMENT COST** | **2,349,000** | **4,151,000** | **0** | **10,091,242** | **24,400,800** | **40,992,042** | |
| Development Cost/Unit by Source | 67,114 | 118,600 | 0 | 288,321 | 697,166 | 1,171,201 | |
| Development Cost/Unit as % of TDC by Source | 5.7% | 10.1% | 0.0% | 24.6% | 59.5% | 100.0% | |
| Acquisition Cost/Unit by Source | 0 | 110,000 | 0 | 0 | 0 | 110,000 | |
| Construction Cost (inc Const Contingency)/Unit By Source | 0 | 0 | 0 | 128,050 | 552,032 | 680,082 | |
| Construction Cost (inc Const Contingency)/SF | 0.00 | 0.00 | 0.00 | 247.87 | 1,068.59 | 1,316.46 | |

| | |
|---|---|
| **Possible non-eligible GO Bond/COP Amount:* | *82,000* |
| City Subsidy/Unit | 67,114 |
| Tax Credit Equity Pricing: | 0.915 |
| Construction Bond Amount: | 18,492,150 |
| Construction Loan Term (in months): | 28 months |
| Construction Loan Interest Rate (as %): | 7.30% |

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



# Attachment K: 1st Year Operating Budget

[See attached]

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



| | | | |
|---|---|---|---|
| **Application Date:** | **3/15/2024** | **Project Name:** | **3300 Mission** |
| **Total # Units:** | **35** | **Project Address:** | **3300-3308 Mission Street** |
| **First Year of Operations** (provide data assuming that Year 1 is a full year, i.e. 12 months of operations)**:** | **2026** | **Project Sponsor:** | **BHHC, TCDC, MREG** |

| **INCOME** | **Total** | **Comments** |
|---|---|---|
| Residential - Tenant Rents | 486,120 | Links from 'New Proj - Rent & Unit Mix' Worksheet |
| Residential - Tenant Assistance Payments (Non-LOSP) | 0 | 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 | 3,780 | 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** | **489,900** | |
| Vacancy Loss - Residential - Tenant Rents | (24,495) | Vacancy loss is 5% of Tenant Rents. |
| Vacancy Loss - Residential - Tenant Assistance Payments | 0 | #DIV/0! |
| Vacancy Loss - Commercial | 0 | from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 0% |
| **EFFECTIVE GROSS INCOME** | **465,405** | ***PUPA: 13,297*** |
| **OPERATING EXPENSES** | | |
| **Management** | | |
| Management Fee | 33,048 | 1st Year to be set according to HUD schedule. |
| Asset Management Fee | 0 | Up to $25,130 2024 based on MOHCD above the line AMF schedule |
| **Sub-total Management Expenses** | **33,048** | ***PUPA: 944*** |
| **Salaries/Benefits** | | |
| Office Salaries | | |
| Manager's Salary | 15,288 | |
| Health Insurance and Other Benefits | 11,600 | |
| Other Salaries/Benefits | | |
| Administrative Rent-Free Unit | 26,580 | |
| **Sub-total Salaries/Benefits** | **53,468** | ***PUPA: 1,528*** |
| **Administration** | | |
| Advertising and Marketing | | |
| Office Expenses | 19,900 | $13.2K Telephone & Answering Svc |
| Office Rent | 2,720 | |
| Legal Expense - Property | 8,500 | |
| Audit Expense | 9,500 | |
| Bookkeeping/Accounting Services | 4,896 | |
| Bad Debts | | |
| Miscellaneous | 3,500 | |
| **Sub-total Administration Expenses** | **49,016** | ***PUPA: 1,400*** |
| **Utilities** | | |
| Electricity | 38,798 | |
| Water | 17,150 | |
| Gas | | |
| Sewer | 22,750 | |
| **Sub-total Utilities** | **78,698** | ***PUPA: 2,249*** |
| **Taxes and Licenses** | | |
| Real Estate Taxes | 1,300 | |
| Payroll Taxes | 2,776 | |
| Miscellaneous Taxes, Licenses and Permits | 2,500 | |
| **Sub-total Taxes and Licenses** | **6,576** | ***PUPA: 188*** |
| **Insurance** | | |
| Property and Liability Insurance | 28,000 | |
| Fidelity Bond Insurance | | |
| Worker's Compensation | 4,884 | |
| Director's & Officers' Liability Insurance | | |
| **Sub-total Insurance** | **32,884** | ***PUPA: 940*** |
| **Maintenance & Repair** | | |
| Payroll | 17,333 | |
| Supplies | 28,930 | |
| Contracts | 20,020 | |
| Garbage and Trash Removal | 15,400 | |
| Security Payroll/Contract | 2,200 | |
| HVAC Repairs and Maintenance | | |
| Vehicle and Maintenance Equipment Operation and Repairs | 7,330 | |
| Miscellaneous Operating and Maintenance Expenses | 2,500 | |
| **Sub-total Maintenance & Repair Expenses** | **93,713** | ***PUPA: 2,678*** |
| **Supportive Services** | 31,000 | |
| **Commercial Expenses** | 0 | from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 0% |
| **TOTAL OPERATING EXPENSES** | ***378,403*** | ***PUPA: 10,812*** |
| **Reserves/Ground Lease Base Rent/Bond Fees** | | |
| Ground Lease Base Rent | 1 | Ground lease with MOHCD — Provide additional comments here, if needed. |
| Bond Monitoring Fee | | |
| Replacement Reserve Deposit | 17,500 | |
| Operating Reserve Deposit | | |
| Other Required Reserve 1 Deposit | | |
| Other Required Reserve 2 Deposit | | |
| Required Reserve Deposit/s, Commercial | 0 | from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 0% |
| **Sub-total Reserves/Ground Lease Base Rent/Bond Fees** | **17,501** | ***PUPA: 500*** |
| **TOTAL OPERATING EXPENSES** (w/ Reserves/GL Base Rent/ Bond Fees) | **395,904** | ***PUPA: 11,312*** |
| **NET OPERATING INCOME** (INCOME minus OP EXPENSES) | **69,501** | ***PUPA: 1,986*** |

| | |
|---|---|
| Min DSCR: | 1.15 |
| Mortgage Rate: | 7.25% |
| Term (Years): | 30 |
| Supportable 1st Mortgage Pmt: | 60,436 |
| Supportable 1st Mortgage Amt: | $738,272 |
| Proposed 1st Mortgage Amt: | $2,349,000 |

| **DEBT SERVICE/MUST PAY PAYMENTS** ("hard debt"/amortized loans) | | | |
|---|---|---|---|
| Hard Debt - First Lender | 0 | | Provide additional comments here, if needed. |
| Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Len | 0 | | 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** | **0** | ***PUPA: 0*** | |
| **CASH FLOW** (NOI minus DEBT SERVICE) | **69,501** | | |
| **USES OF CASH FLOW BELOW** (This row also shows DSCR.) | | | |
| **USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL** | | | |
| "Below-the-line" Asset Mgt fee (uncommon in new projects, see policy) | | | |
| Partnership Management Fee (see policy for limits) | 50,249 | 2nd | |
| Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits) | 5,000 | 1st | |
| 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% | Provide additional comments here, if needed. |
| **TOTAL PAYMENTS PRECEDING MOHCD** | **55,249** | ***PUPA: 1,579*** | |
| **RESIDUAL RECEIPTS** (CASH FLOW minus PAYMENTS PRECEDING MOHCD) | **14,252** | | |

***Residual Receipts Calculation***

| | | | |
|---|---|---|---|
| *Does Project have a MOHCD Residual Receipt Obligation?* | **Yes** | Project has MOHCD ground lease? | **Yes** |
| *Will Project Defer Developer Fee?* | **Yes** | | |
| Max **Deferred Developer Fee/Borrower** % of Residual Receipts in Yr 1: | 50% | Max Deferred Developer Fee Amt (Use for data entry above. Do not link.): | **7,126** |
| *% of Residual Receipts available for distribution to* **soft debt lenders** in | 50% | | |

| **Soft Debt Lenders with Residual Receipts Obligations** | *(Select lender name/program from drop down)* | **Total Principal Amt** | **Distrib. of Soft Debt Loans** |
|---|---|---|---|
| MOHCD/OCII - Soft Debt Loans | All MOHCD/OCII Loans payable from res. rects | $14,242,242 | 77.43% |
| MOHCD/OCII - Ground Lease Value or Land Acq Cost | Acquisition Cost | $4,150,967 | 22.57% |
| HCD (soft debt loan) - Lender 3 | | | 0.00% |
| Other Soft Debt Lender - Lender 4 | | | 0.00% |
| Other Soft Debt Lender - Lender 5 | | | 0.00% |

| **MOHCD RESIDUAL RECEIPTS DEBT SERVICE** | | |
|---|---|---|
| MOHCD Residual Receipts Amount Due | 14,252 | 50% of residual receipts, multiplied by 100% -- MOHCD's pro rata share of all soft debt |
| Proposed MOHCD Residual Receipts Amount to Loan Repayment | 14,252 | 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** | **0** | |
| **NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE** | | |
| HCD Residual Receipts Amount Due | 0 | |
| Lender 4 Residual Receipts Due | 0 | |
| Lender 5 Residual Receipts Due | 0 | |
| **Total Non-MOHCD Residual Receipts Debt Service** | **0** | |
| **REMAINDER (Should be zero unless there are distributions below)** | **0** | |
| Owner Distributions/Incentive Management Fee | 0 | |
| Other Distributions/Uses | 0 | |
| **Final Balance (should be zero)** | **0** | |

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## Attachment L: 20-year Operating Proforma

[See attached]

Docusign Envelope ID: 9263073B-4564-4C15-9178-ED72D4BD3900



***3300 Mission***

**Total # Units:** ***35***

| | | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 | Year 11 | Year 12 | Year 13 | Year 14 | Year 15 | Year 16 | Year 17 | Year 18 | Year 19 | Year 20 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | 2034 | 2035 | 2036 | 2037 | 2038 | 2039 | 2040 | 2041 | 2042 | 2043 | 2044 | 2045 |
| **INCOME** | **% annual increase** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** |
| Residential - Tenant Rents | 2.5% | 486,120 | 498,273 | 510,730 | 523,498 | 536,586 | 550,000 | 563,750 | 577,844 | 592,290 | 607,097 | 622,275 | 637,832 | 653,777 | 670,122 | 686,875 | 704,047 | 721,648 | 739,689 | 758,181 | 777,136 |
| Residential - Tenant Assistance Payments (Non-LOSP | n/a | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Commercial Space | 2.5% | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Other Income | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **Gross Potential Income** | | **489,900** | **502,148** | **514,701** | **527,569** | **540,758** | **554,277** | **568,134** | **582,337** | **596,896** | **611,818** | **627,114** | **642,791** | **658,861** | **675,333** | **692,216** | **709,521** | **727,260** | **745,441** | **764,077** | **783,179** |
| Vacancy Loss - Residential - Tenant Rents | n/a | (24,495) | (24,914) | (25,536) | (26,175) | (26,829) | (27,500) | (28,188) | (28,892) | (29,615) | (30,355) | (31,114) | (31,892) | (32,689) | (33,506) | (34,344) | (35,202) | (36,082) | (36,984) | (37,909) | (38,857) |
| Vacancy Loss - Residential - Tenant Assistance Payments | n/a | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Vacancy Loss - Commercial | n/a | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **EFFECTIVE GROSS INCOME** | | **465,405** | **477,234** | **489,165** | **501,394** | **513,929** | **526,777** | **539,946** | **553,445** | **567,281** | **581,463** | **596,000** | **610,900** | **626,172** | **641,827** | **657,872** | **674,319** | **691,177** | **708,457** | **726,168** | **744,322** |
| **OPERATING EXPENSES** | | | | | | | | | | | | | | | | | | | | | |
| Management | 3.5% | 33,048 | 34,205 | 35,402 | 36,641 | 37,923 | 39,251 | 40,624 | 42,046 | 43,518 | 45,041 | 46,617 | 48,249 | 49,938 | 51,686 | 53,495 | 55,367 | 57,305 | 59,310 | 61,386 | 63,535 |
| Salaries/Benefits | 3.5% | 53,468 | 55,339 | 57,276 | 59,281 | 61,356 | 63,503 | 65,726 | 68,026 | 70,407 | 72,871 | 75,422 | 78,062 | 80,794 | 83,622 | 86,548 | 89,578 | 92,713 | 95,958 | 99,316 | 102,792 |
| Administration | 3.5% | 49,016 | 50,732 | 52,507 | 54,345 | 56,247 | 58,216 | 60,253 | 62,362 | 64,545 | 66,804 | 69,142 | 71,562 | 74,067 | 76,659 | 79,342 | 82,119 | 84,993 | 87,968 | 91,047 | 94,233 |
| Utilities | 3.5% | 78,698 | 81,452 | 84,303 | 87,254 | 90,308 | 93,469 | 96,740 | 100,126 | 103,630 | 107,257 | 111,011 | 114,897 | 118,918 | 123,080 | 127,388 | 131,847 | 136,461 | 141,237 | 146,181 | 151,297 |
| Taxes and Licenses | 3.5% | 6,576 | 6,806 | 7,044 | 7,291 | 7,546 | 7,810 | 8,084 | 8,367 | 8,659 | 8,962 | 9,276 | 9,601 | 9,937 | 10,285 | 10,645 | 11,017 | 11,403 | 11,802 | 12,215 | 12,642 |
| Insurance | 3.5% | 32,884 | 34,035 | 35,226 | 36,459 | 37,735 | 39,056 | 40,423 | 41,838 | 43,302 | 44,818 | 46,386 | 48,010 | 49,690 | 51,429 | 53,229 | 55,092 | 57,020 | 59,016 | 61,082 | 63,220 |
| Maintenance & Repair | 3.5% | 93,713 | 96,993 | 100,388 | 103,901 | 107,538 | 111,302 | 115,197 | 119,229 | 123,402 | 127,721 | 132,191 | 136,818 | 141,607 | 146,563 | 151,693 | 157,002 | 162,497 | 168,184 | 174,071 | 180,163 |
| Supportive Services | 3.5% | 31,000 | 32,085 | 33,208 | 34,370 | 35,573 | 36,818 | 38,107 | 39,441 | 40,821 | 42,250 | 43,729 | 45,259 | 46,843 | 48,483 | 50,180 | 51,936 | 53,754 | 55,635 | 57,582 | 59,598 |
| Commercial Expenses | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **TOTAL OPERATING EXPENSES** | | **378,403** | **391,647** | **405,355** | **419,542** | **434,226** | **449,424** | **465,154** | **481,434** | **498,284** | **515,724** | **533,775** | **552,457** | **571,793** | **591,806** | **612,519** | **633,957** | **656,146** | **679,111** | **702,879** | **727,480** |
| **PUPA (w/o Reserves/GL Base Rent/Bond Fees)** | | ***10,812*** | | | | | | | | | | | | | | | | | | | |
| **Reserves/Ground Lease Base Rent/Bond Fees** | | | | | | | | | | | | | | | | | | | | | |
| Ground Lease Base Rent | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Bond Monitoring Fee | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Replacement Reserve Deposit | | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 |
| Operating Reserve Deposit | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other Required Reserve 1 Deposit | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Other Required Reserve 2 Deposit | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Required Reserve Deposit/s, Commercial | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| **Sub-total Reserves/Ground Lease Base Rent/Bond Fees** | | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** | **17,501** |
| **TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)** | | **395,904** | **409,148** | **422,856** | **437,043** | **451,727** | **466,925** | **482,655** | **498,935** | **515,785** | **533,225** | **551,276** | **569,958** | **589,294** | **609,307** | **630,020** | **651,458** | **673,647** | **696,612** | **720,380** | **744,981** |
| **PUPA (w/ Reserves/GL Base Rent/Bond Fees)** | | ***11,312*** | | | | | | | | | | | | | | | | | | | |
| **NET OPERATING INCOME (INCOME minus OP EXPENSES)** | | **69,501** | **68,086** | **66,309** | **64,351** | **62,202** | **59,852** | **57,292** | **54,510** | **51,496** | **48,238** | **44,724** | **40,942** | **36,878** | **32,520** | **27,852** | **22,861** | **17,531** | **11,845** | **5,787** | **(659)** |
| **DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)** | | | | | | | | | | | | | | | | | | | | | |
| Hard Debt - First Lender | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Lender) | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Hard Debt - Third Lender (Other HCD Program, or other 3rd Lender) | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Hard Debt - Fourth Lender | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Commercial Hard Debt Service | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **TOTAL HARD DEBT SERVICE** | | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** |
| **CASH FLOW (NOI minus DEBT SERVICE)** | | **69,501** | **68,086** | **66,309** | **64,351** | **62,202** | **59,852** | **57,292** | **54,510** | **51,496** | **48,238** | **44,724** | **40,942** | **36,878** | **32,520** | **27,852** | **22,861** | **17,531** | **11,845** | **5,787** | **(659)** |
| **USES OF CASH FLOW BELOW (This row also shows DSCR.)** | **DSCR:** | | | | | | | | | | | | | | | | | | | | |
| **USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL** | | | | | | | | | | | | | | | | | | | | | |
| Deferred Developer Fee (Enter amt <= Max Fee from row 131) | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| "Below-the-line" Asset Mgt fee (uncommon in new projects, see policy | 3.5% | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Partnership Management Fee (see policy for limits | 3.5% | 50,249 | 52,008 | 53,828 | 55,712 | 57,662 | 59,680 | 61,769 | 63,931 | 66,169 | 68,485 | 70,882 | 73,362 | 75,930 | 78,588 | 81,338 | - | - | - | - | - |
| Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits | | 5,000 | 5,175 | 5,356 | 5,544 | 5,738 | 5,938 | 6,146 | 6,361 | 6,584 | 6,814 | 7,053 | 7,300 | 7,555 | 7,820 | 8,093 | - | - | - | - | - |
| Other Payments | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Non-amortizing Loan Pmnt - Lender 1 | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Non-amortizing Loan Pmnt - Lender 2 | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| ***TOTAL PAYMENTS PRECEDING MOHCD*** | | **55,249** | **57,183** | **59,184** | **61,256** | **63,400** | **65,619** | **67,915** | **70,292** | **72,753** | **75,299** | **77,935** | **80,662** | **83,485** | **86,407** | **89,432** | **-** | **-** | **-** | **-** | **-** |
| **RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)** | | **14,252** | **10,903** | **7,125** | **3,095** | **(1,198)** | **(5,767)** | **(10,624)** | **(15,783)** | **(21,257)** | **(27,061)** | **(33,210)** | **(39,720)** | **(46,607)** | **(53,887)** | **(61,579)** | **22,861** | **17,531** | **11,845** | **5,787** | **(659)** |
| Does Project have a MOHCD Residual Receipt Obligation? | **Yes** | | | | | | | | | | | | | | | | | | | | |
| Will Project Defer Developer Fee? | **Yes** | | | | | | | | | | | | | | | | | | | | |
| 1st Residual Receipts Split - Lender/Deferred Developer Fee | **50% / 50%** | | | | | | | | | | | | | | | | | | | | |
| | Dist. Soft Debt Loans | | | | | | | | | | | | | | | | | | | | |
| **MOHCD RESIDUAL RECEIPTS DEBT SERVICE** | | | | | | | | | | | | | | | | | | | | | |
| MOHCD Residual Receipts Amount Due | 100.00% | 14,252 | 10,903 | 7,125 | 3,095 | - | - | - | - | - | - | - | - | - | - | - | 15,241 | 11,687 | 7,897 | 3,858 | - |
| Proposed MOHCD Residual Receipts Amount to Residual Ground Lease | | (0) | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Proposed MOHCD Residual Receipts Amount to Replacement Reserve | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE** | | **0** | **0** | **0** | **0** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **7,620** | **5,844** | **3,948** | **1,929** | **-** |
| **NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE** | | | | | | | | | | | | | | | | | | | | | |
| HCD Residual Receipts Amount Due | 0.00% | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Lender 4 Residual Receipts Due | 0.00% | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Lender 5 Residual Receipts Due | 0.00% | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **Total Non-MOHCD Residual Receipts Debt Service** | | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** |
| **REMAINDER (Should be zero unless there are distributions below** | | **0** | **0** | **0** | **0** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **7,620** | **5,844** | **3,948** | **1,929** | **-** |
| Owner Distributions/Incentive Management Fee | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 7,620 | 5,844 | 3,948 | 1,929 | - |
| Other Distributions/Uses | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **Final Balance (should be zero)** | | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** |
| **RR Running Balance** | | **17,500** | **35,000** | **52,500** | **70,000** | **87,500** | **105,000** | **122,500** | **140,000** | **157,500** | **175,000** | **192,500** | **210,000** | **227,500** | **245,000** | **262,500** | **280,000** | **297,500** | **315,000** | **332,500** | **350,000** |
| **OR Running Balance** | | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** |
| **Other Required Reserve 1 Running Balance** | | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** |
| **Other Required Reserve 2 Running Balance** | | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** |
| **DEFERRED DEVELOPER FEE - RUNNING BALANCE** | | | | | | | | | | | | | | | | | | | | | |
| Developer Fee Starting Balance | | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 | 20,000 |
| Deferred Developer Fee Earned in Year | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **Developer Fee Remaining Balance** | | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** | **20,000** |

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# Attachment M: Joint Venture Agreement

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**BHHC, TCDC, MREG: Framework for MOU/JV**

**Legend: X = lead org role, x = collaborative/support role**

**For non-lead items, other party is expected to support, review and participate in approval**

12/13/2023

| TASK | LEAD | | |
|---|---|---|---|
| | BHHC | TCDC | MREG |
| **Acquisition - Purchase + Sale Agreement** | | | |
| Negotiate acquisition/PSA | | | X |
| Negotiate potential acquisition of liquor licensce | | | X |
| Perform site due diligence per HAF requirements, incl environmental reviews and investigation | | X | |
| Appraisal | | | X |
| Initial deal underwriting | | | X |
| Obtain insurance | X | | |
| Closing on Property and Acquisition | X | | |
| Closing on Pre-Development Loan | X | | |
| | | | |
| **Ownership Entity** | | | |
| MGP Entity | X | X | |
| AGP Entity | | | X |
| Establish Limited Partnership Entity (GP and LP investor as partners) | X | X | X |
| Establish Developer Entity | X | X | X |
| | | | |
| **Fiscal Management** | | | |
| Create initial development budget and operating pro forma | | | X |
| Manage funds, disbursements, and draws prior to formation of General Partner entity | X | x | |
| Manage funds, disbursements, and draws after assignment of funds to General Partner entity | X | x | |
| Maintain fiscal records and books for Project; direct project completion audit | X | x | |
| Prepare submission package for 8609 and work with to secure close out package | X | x | |
| Submit documentation to support conversion of first mortgage to permanent status | X | x | |
| | | | |
| **Project Planning** | | | |
| Create and monitor a detailed project schedule for all phases of development | x | | X |
| Develop pre-development budget | x | | X |
| Develop and update comprehensive project concept to share with development team members, lenders, funders, etc. | x | | X |
| | | | |
| **Communications** | | | |
| Prepare external communication (e.g., media, signage) | X | X | X |
| Decide on Project name, owner corporation name | X | X | X |
| Ensure open Project team communications | X | X | X |
| | | | |
| **Project Team** | | | |
| Select all consultants, not limited to but including Legal Counsel, Architect, General Contractor, Financial Consultant, and Construction Management Consultant. | X | X | X |
| Ensure compliance with all City of San Francisco hiring policies and requirements | | X | |
| Oversee process to select, execute MOU, and contract with Architect | | | X |
| Oversee process to select, execute MOU and contract with GC | | X | |
| Oversee process to select, execute MOU and contract with Legal Counsel | | | X |
| Oversee process to select, execute MOU and contract with Financial Consultant | | | X |
| Oversee process to select, execute MOU and contract with Construction Management Consultant | | X | |
| | | | |
| **Community Outreach** | | | |
| Develop and implement strategies for resident outreach, including two-way information sharing | X | x | |
| Develop and implement community outreach strategy to engage surrounding neighbors | X | x | |
| Coordinate ongoing community relations through construction | X | x | |
| Develop relationships with community to guide retail development, if any | X | x | |
| | | | |

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**BHHC, TCDC, MREG: Framework for MOU/JV**

**Legend: X = lead org role, x = collaborative/support role**

**For non-lead items, other party is expected to support, review and participate in approval**

12/13/2023

| TASK | LEAD | | |
|---|---|---|---|
| | BHHC | TCDC | MREG |
| **Project Design/Preconstruction** | | | |
| Oversee Schematic Design phase - to develop design program, scope of work and construction budget. | x | | X |
| Oversee Design Development phase | x | | X |
| Oversee Construction Documents phase | x | X | |
| Oversee GC contribution to value engineering | x | X | |
| Communicate to ensure property management input to design | x | X | |
| | | | |
| **Entitlements** | | | |
| Obtain all necessary entitlements for Project approval | x | X | x |
| Coordinate all necessary environmental or other due diligence work to obtain above approvals | x | X | x |
| | | | |
| **Financing** | | | |
| Develop overall financing plan | x | x | X |
| Prepare development budget with Use of funds (Sources and Uses of Funds) including assumptions/calculations | x | x | X |
| Work with management company to develop preliminary operating budgets for finance underwriting | | X | |
| Prepare and submit funding applications prior to formation of General Partner entity for Green Charrette Grant (Enterprise), City predevelopment and gap financing (MOHCD), and others; execute financing agreements | X | X | X |
| Prepare and submit funding applications after formation of General Partner entity for TCAC (4%), CDLAC (tax-exempt bond), commercial mortgage, AHP; execute financing agreements | X | X | X |
| Continuous review of budget and cash flow assumptions, and updating based on new information, new ideas, and new scenarios | x | x | X |
| Close construction and permanent financing (including MHP), see above | X | X | X |
| Oversee solicitation process to select Project lenders and investor limited partners; negotiate financing terms with lenders and investors | X | X | X |
| | | | |
| **Right-of-Return** | | | |
| Determine need for permanent relocation back to property | X | | |
| Engage consultant, if necessary, to manage relocations | X | | |
| Develop Relocation Plan, if necessary | X | | |
| Work with Property Management company | X | | |
| | | | |
| **Construction Management** | | | |
| Oversee building permit submittal | | X | |
| Hire and oversee owner's rep/construction manager who will inspect and approve contractor's work and ensure compliance with contract | | X | |
| Report to partnership on construction progress | | X | |
| Approve and process GC progress payment applications | X | X | X |
| Review and approve change orders, including any changes to the scope of work, costs, and/or construction schedule. | X | X | X |
| Coordinate with utility providers | | X | |
| Ensure compliance with all City of San Francisco and other subcontracting, wage, and hiring policies and requirements | | X | |
| Participate in construction meetings | X | X | X |
| | | | |
| **Commercial (if applicable)** | | | |
| Identify commercial program | X | X | x |
| Develop Leasing Plan | X | X | x |
| Coordinate with neighborhood for commercial provision | X | | |
| Secure funding | X | X | X |
| | | | |

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**BHHC, TCDC, MREG: Framework for MOU/JV**

**Legend: X = lead org role, x = collaborative/support role**

**For non-lead items, other party is expected to support, review and participate in approval**

**12/13/2023**

| TASK | LEAD | | |
|---|---|---|---|
| | BHHC | TCDC | MREG |
| **Resident Engagement and Services** | | | |
| Create and execute plan for resident engagement in conversion process | X | x | |
| Determine opportunities for and implement program for resident employment, if necessary | X | x | |
| Identify services program | X | x | |
| Select, Contract with third-party service providers | X | x | |
| Coordinate with DPH, OEWD, DCYF, and other city agencies for service provision, if necessary | X | x | |
| Secure annual allocation of services funding, if necessary | X | x | |
| | | | |
| **Property Management - 3rd Party** | | | |
| Oversee marketing and lease-up activities | | X | |
| Prepare Property Management plan, including staffing structure and projected cost | | X | |
| Provide ongoing Property Management, including reporting and compliance related to tenancy | | X | |
| Ensure compliance with all property management requirements from any funding source | | X | |
| | | | |
| **Asset Management, Compliance** | | | |
| Provide ongoing asset management to ensure fiscal health of the project | X | | |
| Provide ongoing accounting, record-keeping, and audits | X | | |
| Prepare and submit all financial reports required of government lenders and funders. | X | | |
| Provide ongoing monitoring, compliance and reporting of resident services, community activity, resident participation in available programming | X | | |

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# Attachment N: Commercial Leasing Plan

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# 3300 Mission – Commercial Development Plan

## Description

3300 Mission is an acquisition and rehabilitation project located at 3300 Mission Street (the "Project") lead by 3300 Mission Partners LP, a partnership amongst Bernal Heights Housing Corporation ("Bernal"), Tabernacle Community Development ("Tabernacle"), and Mitchelville Real Estate Group ("Mitchelville"). Before the entire building was nearly destroyed by fire in 2016, the ground floor of 3300 was formerly inhabited by a taqueria and a dive bar.

After rehabilitation, there will be a commercial space of approximately 776 square feet (the "Commercial Space"). 3300 Mission Partners LP will lease the Commercial Space to a lessee which has yet to be determined. With the assistance of its commercial broker, 3300 Mission Partners LP intends to place a tenant in the space that is a good fit for the community. Additionally, throughout the pre-development and construction phase, 3300 Mission Partners LP will be engaging in community outreach to gather input on the space allocation of the Commercial Space in the face of declining retail and commercial activity in the immediate neighborhood of the Project.

The 3300 Mission Project is strategically located within a bustling active commercial corridor, offering it much opportunity for business growth and community engagement. The Project is situated at the corner of the vibrant Mission Street and 29th Street, a prime location that is surrounded by a diverse range of retail stores, restaurants, and service providers. The Project already attracts a steady stream of foot traffic from residents. 3300 Mission Partners LP hopes that the Project's high visibility and engagement will allow it to become a cornerstone in an active commercial hub.

## Leasing/ Marketing Strategy

Concluding Phase 1 of the community outreach process where Bernal educated the neighboring residents of the development of the Project generally, Bernal will initiate Phase 2 of its outreach to specifically discuss the leasing of the commercial space. The community engagement team will conduct a survey for the commercial space to get community feedback on what the needs and wants are for the commercial space. The team will host a series of meetings leading up to construction of the commercial space which will include outreach via postcard mailing. Local businesses can submit letters of support and interests for what they hope to see in the commercial space.

When a building permit is secured (forthcoming in the third or fourth quarter of 2024) Bernal intends to engage the DN Group, a commercial broker familiar with the neighborhood. The DN Group has over 15 years of experience with commercial leases and is actively transacting in the Bernal Heights neighborhood. The space will be marketed to non-formula retail eligible neighborhood, community-oriented retail, and public

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benefit uses. The commercial broker will list the property and Bernal will commence outreach to community groups in tandem.

Current plans are to build the space out to cold shell, as defined in the MOHCD Commercial Space Underwriting Guidelines. If a Public Benefit Use is secured, build out would be to warm shell.

Based on current comparables, attached here, the Commercial Space is likely to lease at $44/sf/year which equals an estimated $34,144 per year. The property has superior visibility and frontage on two streets. The comparables range from 500 to 1,500 rentable square feet and are similarly located within the Mission/Potrero or Southern City submarkets. Additionally, the comparables have an average asking rent of $46.58/sf/year, making the Commercial Space well-positioned to command similar rates.

The leasing strategy for the Commercial Space will leverage the Project''s prime location and visibility to attract diverse tenants. First, signage will be installed on-site to increase visibility. Next, a targeted marketing campaign will be implemented through a combination of digital, direct mail, and social media marketing. Email campaigns will be sent to targeted audiences from the broker's database of over 6,000 contacts. The Commercial Space will be featured on widely-used platforms for commercial real estate such as Loopnet, CoStar, MLA, Crexi, and Craisglist. The Commercial Space will also be promoted via digital advertisements and posts to generate leads, increase website traffic, and to target prospective buyers. Lastly, physical publications, via magazines and postcards, will be sent to property owners, managers and real estate agents in the Bay Area to generate further interest.

Based on the attached TCAC Application's Sources and Uses Budget and Guzman's Hard Cost estimate based on 100% DDs, the current commercial cost is estimated to be $1,355,953 which breaks down as follows:

- $684,852 Hard costs;
- $546,101 Soft costs; and
- $125,000 Developer Fee.

Please note the hard costs will be adjusted when GMP pricing is received in early August 2024.

Because the project includes only one small commercial space, we request that MOHCD waive the requirement for a formal market study.

## General Contractor

Guzman Construction was selected via RFP in December 2023. Guzman will provide GMP pricing based on 90 CDs and/or fully permitted CDs in early August 2024.

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## Commercial Buildout

The cost to build the commercial space is estimated to be $1,355,953.The final GMP cost to build out the commercial space will be provided by Guzman in August 2024. The plan for the commercial buildout is during construction while securing a tenant simultaneously.

## Funding Sources

The project anticipates using MOHCD funds to cover the costs to construct the commercial shell. Depending on the eventual tenant, MOHCD funds may cover the cost for the warm shel which Guzman estimates will be $68,000.

## Schedule (need update)

| | Project Timeline | Commercial Leasing Schedule |
|---|---|---|
| 1/24 | Entitlement Approval | Commercial Plan |
| 3/24 to 10/24 | Building Permits Issued | Engage Commercial Broker and Commence Marketing & Community Outreach Phase 2 |
| 11/24 | Construction Loan Close | |
| 12/24 to 5/26 | Construction Period | Lease Agreement (3-6 months anticipated for negotiation). Tenant Improvements |
| May/ June 2026 | Draft LOI | Target LOI by construction completion |
| TBD | | Grand opening |

Additional considerations

- Modify the curbs – check with BAR

- Transportation: The San Francisco Municipal Transportation Agency (SFMTA)'s network of muni buses and light rail metro trains ensure public accessibility to the Project with the 14, 14R (rapid), and 49 Muni bus lines frequently running through Mission Street and 30th Street. The bus stop ID 15572 is conveniently located at just 0.1 miles away from the Project site. As such, this Project is poised to contribute to the economic vitality of the corridor, providing new commercial spaces that will enhance the overall appeal and functionality of the area.

Attachments:

- Commercial broker's rental analysis
- Ground floor plans & renderings (BAR)
- TCAC E-Application

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- Community survey & input (Luis & Sulaiman)

**LOAN AGREEMENT**
**(CITY AND COUNTY OF SAN FRANCISCO**
**2023 CERTIFICATES OF PARTICIPATION, HOUSING TRUST FUND)**

By and Between

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

and

**3300 MISSION PARTNERS L.P.**,
a California limited partnership

for

**3300 Mission**
**3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA**

$6,500,000
2023 Certificates of Participation: $5,345,037
Housing Trust Fund: $1,154,963

Dated as of December 21, 2023

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**LOAN AGREEMENT**
(City and County of San Francisco
2023 Certificates of Participation, Housing Trust Fund)
(*3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, CA*)

**THIS LOAN AGREEMENT** ("Agreement") is entered into as of December 21, 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 **3300 MISSION PARTNERS 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.

B. On June 2, 2023, the City enacted Ordinance 102-23, which provided for the issuance of up to $146,800,000 in Certificates of Participation to finance and refinance certain capital improvement, affordable housing and community facilities development projects within the City and County of San Francisco, including site acquisition, demolition and site preparation, design work, construction, repairs, renovations, improvements and the equipment of such facilities, including through the retirement of certain commercial paper notes of the City issued for such purposes (the "2023 Certificates of Participation"). To the extent permitted by law, the City intends to reimburse with proceeds of the 2023 Certificates of Participation amounts disbursed under this Agreement to Borrower for the development and construction of affordable housing. The proceeds from the Housing Trust Fund and the 2023 Certificates of Participation provided under this Agreement will be collectively referred to herein as the "Funds."

C. MOHCD issued a Notice Of Funding Availability For Site Acquisition And Predevelopment Financing For New Affordable Rental Housing ("NOFA") on January 27, 2023, to solicit qualified affordable housing developers for site acquisition and predevelopment for new construction projects serving low-income households, including homeless households. In response to the NOFA, MOHCD selected Borrower to develop and construct the Project (as defined below).

D. Borrower owns a fee interest in the real property located at 3300 Mission Street, 3306 Mission Street, and 3308 Mission Street, San Francisco, California (the "Site"). Borrower desires to use the Funds for predevelopment activities to develop and construct a 35-unit multifamily rental housing development, subject to the San Francisco Planning Department's and MOHCD's feasibility determination, affordable to low-income households, including the

commercial shell of a commercial space (the "Commercial Space") which will be known collectively as 3300 Mission (the "Project").

E. 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 Four Million One Hundred Fifty One Thousand Dollars ($4,151,000.00) related to the acquisition of the Site ("Acquisition Amount), and Two Million Three Hundred Forty Nine Thousand Dollars ($2,349,000.00) for certain costs related to the predevelopment activities for the Project ("Predevelopment Amount"), for a total principal amount of Six Million Five Hundred Thousand and No/100 Dollars ($6,500,000.00) (the "Funding Amount") under this Agreement to fund certain costs related to the Project. The Funding Amount is comprised of (i) 2023 Certificates of Participation in the principal amount of Five Million Three Hundred Forty Five Thousand and Thirty Seven Dollars ($5,345,037) and (ii) Housing Trust Fund in the principal amount of One Million One Hundred Fifty Four Thousand Nine Hundred Sixty Three Dollars ($1,154,963).

## 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 Loan Agreement.

"Agreement Date" means the date first written above.

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

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

"Approved Plans" has the meaning set for in **Section 5.2**.

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

"Acquisition Amount" has the meaning set forth in **Recital E**.

"Acquisition Maturity Date" has the meaning set forth in Section 3.1(a).

"Acquisition Note" means the promissory note executed by Borrower in favor of the City in the original principal amount of the Acquisition Amount.

"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 3300 Mission Partners L.P., a California limited partnership whose general partners are Tabernal Alliance LLC, a California limited liability company, its managing general partner, and AJJLA Housing 2 LLC, a California limited liability company, its administrative general partner (collectively, the "General Partners") 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 Notes, the Deed of Trust, the Declaration of Restrictions, Developer Fee Agreement, 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 commercial 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.

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

"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, 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**.

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

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

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

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

"Developer" means, collectively, the Bernal Heights Housing Corporation, Tabernacle Community Development Corporation, and Mitchelville Real Estate Group, 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 financing, including bonds, into permanent financing; (d) the expense of a cost audit; and (e) allowed Developer Fees.

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

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

"Distributions" has the meaning set forth in **Section 13.1**.

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

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

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

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

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

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

"Expenditure Request" means a written request by Borrower for a Disbursement from the Funding Amount, which 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 E**.

"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 Partners" means Tabernal Alliance LLC, a California limited liability company, its managing general partner, and AJJLA Housing 2 LLC, a California limited liability company, its administrative general partner (collectively, the "General Partners") and their authorized successors and assigns.

"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.

"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 rehabilitation, construction, operation or maintenance of developments similar to the Project will not be deemed "Hazardous Substances" for the purposes of this Agreement if used in compliance with applicable Environmental Laws.

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

"HSH" means the San Francisco Department of Homelessness and Supportive Housing, or other successor agency.

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

"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 development and construction of the Project, as determined by the City in its sole discretion.

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

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

"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 E**.

"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, adjusted solely for household size, and derived in part from the

income limits and area median income determined by HUD for the San Francisco area, but not adjusted for a 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**.

"Notes" means, collectively, the Acquisition Note and the Predevelopment Note.

"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 development and construction of the Project, as determined by the City in its sole discretion.

"Outside Construction Commencement Date" has the meaning set forth in **Section 3.1(b)**.

"Partnership Fees" means annual partnership management fees and limited partner fees in amounts approved by the City in the Annual Operating Budget.

"Payment Date" means the first May 1st following the Completion Date and each succeeding May 1st until the Maturity Date.

"Predevelopment Amount" has the meaning set forth in **Recital E**.

"Predevelopment Maturity Date" has the meaning set forth in Section 3.1(b).

"Predevelopment Note" means the promissory note executed by Borrower in favor of the City in the original principal amount of the Predevelopment Amount.

"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 Marketing, 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 C**. If indicated by the context, "Project" means the Site and the improvements developed on the Site.

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

"Project Income" means all income and receipts in any form received by Borrower from the operation of the Project, including, 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 Site. Project Income does not include interest accruing on any portion of the Funding Amount or tenant's refundable security deposits, or Commercial Income.

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

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

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

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

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

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

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

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

"Retention" has the meaning set forth in **Section 4.7**.

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

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

"SFHA" means the San Francisco Housing Authority.

"Site" means the real property described in **Recital C** of this Agreement.

"Supportive Services" means hiring 0.5 FTE service connector to provide onsite services, which conforms to MOHCD's underwriting guidelines of one FTE per 100 residents rounded to the nearest 0.5 FTE. The types of services that BHNC envisions providing include the following: Health and Wellness Service Coordination: wellbeing checks, transportation support to hospitals or other health services, linkages to preventative and behavioral health care providers, health and nutrition education, health fairs, food pantries, physical activity, etc.; Housing Retention Services: Housing stability support, eviction prevention, lease education, assistance with property management, housing inspections preparation, linkages to financial resources and/or education; Education and Skills for Stability: Parent support, budget planning and foundational financial literacy programs, workshops, referrals to BHNC employment services, and referrals to outside agencies and providers; Community Participation: Resident participation through

community projects and events, volunteer opportunities, leadership programs, voter education and registration; Mental Health Support: Referrals and onsite support for tenants experiencing challenges that impact their wellbeing and create a fundamental risk to remaining housed. See also **Section 3.9**.

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

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

"TCAC" means the California Tax Credit Allocation Committee.

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

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

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

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

"Unit" means a residential rental unit within the Project.

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

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

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

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

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

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

ARTICLE 2 FUNDING.

2.1 Funding Amount. The City agrees to lend to Borrower a maximum principal amount equal to the Funding Amount in order to finance predevelopment activities as shown in **Exhibit B-1** including acquisition costs associated with the existing improvements on the Land and any and all due diligence costs to design, develop, construct, and build the Project. The Funding Amount will be disbursed according to the terms and subject to the conditions set forth in this Agreement.

2.2 Use of Funds. Borrower acknowledges that the City's agreement to make the Loan is based in part on Borrower's agreement to use the Funds solely for the purpose set forth in **Section 2.1** and agrees to use the Funds solely for that purpose in accordance with the approved Table of Sources and Uses. Notwithstanding anything to the contrary contained herein, City will not approve expenditure of Funds for expenses incurred by Borrower prior to the July 20, 2022. Notwithstanding the foregoing, City will not approve any expenditure of 2023 Certificates of Participation Funds for expenses incurred by Borrower earlier than sixty (60) days prior to the City’s declaration of its official intent to reimburse such expenses with proceeds of the 2023 Certificates of Participation.

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. Borrower will satisfy the following conditions before applying to the City for additional financing:

1. Borrower will incorporate higher construction contingency based on the assessment of the MOHCD Construction Representative and 5% year over year cost escalation to reduce the potential risk of cost overrun;
2. Borrower will provide City with detailed monthly updates via the MOHCD Monthly Project Update, including on:
    1. Community outreach completed,
    2. Outcomes achieved related to racial equity goals, and
    3. Commercial-use programming;
3. Borrower will provide operating and development budgets that meet MOHCD Underwriting Guidelines and MOHCD Commercial Space Underwriting Guidelines prior to preliminary and final gap loan evaluations;
4. Borrower will provide City with a services plan and proposed staffing levels that meet MOHCD underwriting standards prior to gap loan approval. Any changes to the current proposed staffing will need to be presented to MOHCD at least 90 days prior to gap loan approval;
5. Borrower will work with MOHCD staff and Project's General Contractor to Value Engineer construction budget;
6. Borrower will continue to work with City to review income targeting of units above 60% AMI and will adjust accordingly before the TCAC application based on the market study;
7. Borrower will provide signed LOI/s from commercial tenant prior to the gap loan closing;
8. Borrower will provide City with information outlining cost containment, efficiencies and innovation strategies to reduce overall Project costs and maximize efficiency of City gap loans. This analysis will include evaluating whether the Project can support permanent debt once a full market study is completed before the TCAC application;
8. Borrower will provide feasibility and analysis of commercial space within 90 days of Loan Committee approval;
9. Borrower will provide the Commercial Space Plan to City no less than 90 days prior to Loan Committee date for preliminary gap loan prior and to the TCAC application, including outcomes achieved related to racial equity goals;

10. Borrower will: a) provide for MOHCD review of the Request for Proposals (RFP) for equity investors and lenders before it is finalized and distributed; b) provide for MOHCD review of all raw financial data from developer or financial consultant prior to selection; c) provide for MOHCD review and approval of all selected investors and lenders; and d) provide for MOHCD review and approval of all Letters of Intent from financial partners;

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

12. Borrower will provide quarterly updated response to any letters requesting corrective action;

13. Borrower will review operating budget further with MOHCD to ensure maintenance and property management staffing is adequate. MOHCD will approve final budget before gap loan evaluation and TCAC application;

14. Borrower will work with MOHCD Construction Management team to ensure all CMD/OLSE requirements are met for procurement of contractors. The procurement requirements also apply to any contractors used prior to receiving City funds who were not part of the NOFA application. MOHCD must receive RFP for the General Contractor by 12/1/23;

15. Borrower will update the development budget in consultation with the GC once selected and then must be reviewed and approved by the MOHCD CR before preliminary gap loan evaluation;

16. Should Project Based Vouchers or other subsidy become available, the Borrower will apply for any Section 8 Project Based Vouchers before the construction closing for the Project. In addition, the Borrower will complete a NEPA;

17. Borrower will complete the RFP for any required public art before final gap loan evaluation;

18. Borrower will work with MOHCD project manager and construction representative on RFP and selection of legal and financial/syndication consultant firms to ensure firms have relevant experience in San Francisco;

19. Borrower will submit an asset management plan to MOHCD and have it approved by MOHCD Asset Management Director by final gap loan evaluation; and

20. Borrower will submit to City for MOHCD approval the property management firm selection and procurement process during predevelopment phase to inform the design of the Project.

21. Borrower will select a MOHCD-approved third party leasing consultant to ensure timely lease up.

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

3.1 Maturity Dates.

(a) Acquisition Amount. Borrower will repay all amounts owing under the Acquisition Note on the date that is the earlier of (i) Borrower's closing of construction financing for the Project, or (ii) the Outside Construction Commencement Date (the "Acquisition Maturity Date").

(b) Predevelopment Amount. Borrower will repay all amounts owing under the City Documents on the date that is the later of (i) the Fifty Seventh (57th) anniversary of the date the Deed of Trust is recorded in the Recorder's Office of San Francisco County or (ii) the Fifty Fifth (55th) anniversary of the Conversion Date (the "Predevelopment Maturity Date"); provided, however, subject to Section 3.8, that if Maker fails to commence construction of the Project on or before [March 1, 2026] (the "Outside Construction Commencement Date"), the Maturity Date will be the Outside Construction Commencement Date. The City may agree to extend the Outside Construction Commencement Date in its sole and absolute discretion.

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 at a rate of three percent (3%) per annum for the predevelopment Note and zero percent (0%) per annum for the acquisition Note, as provided in the Notes; provided, however, that prior to the Outside Construction Commencement Date, the Director of MOHCD will have the right, in his or her reasonable discretion, to reduce the interest rate to as low as zero percent (0%) upon receipt of adequate documentation supporting the need for such reduction in order to make the Project financially feasible.

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

3.5 Repayment of Principal and Interest. Except as set forth in **Section 3.7** and Section 3.8 below, the outstanding principal balance of the Predevelopment Amount, together with all accrued and unpaid interest, if any, will be due and payable on the Predevelopment Maturity Date according to the terms set forth in full in the Predevelopment Note. Except as set

forth in **Section 3.7** and **Section 3.8** below, the outstanding principal balance of the Acquisition Amount, together with all accrued and unpaid interest, if any, will be due and payable on the Acquisition Maturity Date according to the terms set forth in full in the Acquisition Note. Except as set forth in the Notes, no prepayment of the Loan will be permitted without the prior written consent of the City in its sole and absolute discretion.

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

3.8 Land Banking Provisions.

(a) Borrower acknowledges that the City's willingness to provide financing is contingent upon Borrower's identification of sources of funding acceptable to the City sufficient to construct and complete the Project. In the event the City determines in its sole discretion by the Outside Construction Commencement Date that the Project is unlikely to be developed within a reasonable time period for any reason, including Borrower's inability to obtain necessary financing for the Project, upon thirty (30) days' prior written notice to Borrower, the City may require Borrower to transfer the fee title to the Site to either: (i) another nonprofit corporation, limited partnership or limited liability company designated by the City with the intention that the transferee develop the Site as affordable housing under a new loan agreement acceptable to the City; or (ii) to the City for an amount equal to the outstanding principal balance of the Loan, plus accrued and unpaid interest, and City will cancel and return the Notes to the Borrower.

(b) In the event Borrower realizes income from the use of the Site before the initiation of the construction or sale, the income will be used solely for costs associated with maintenance of the Site, with any excess placed in an interest-bearing account to be applied towards Project costs or to be turned over to the City with the proceeds of sale. Borrower will obtain the City's prior written approval to use the Site for any purpose other than the Project at any time during the Compliance Term.

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

3.10 Additional City Approvals. Borrower understands and agrees that City is entering into this Agreement in its proprietary capacity and not as a regulatory agency with certain police powers. Borrower understands and agrees that neither entry by City into this Agreement nor any approvals given by City under this Agreement 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. In the event Borrower does not satisfy all of the conditions to closing within a reasonable time, as determined by the City in its sole discretion, 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 Predevelopment Note; (ii) the Acquisition Note; (iii) this Agreement (in duplicate); (iv) the Deed of Trust; (v) the Declaration of Restrictions; (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 the Borrower's Charter Documents to the City. 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 a preliminary report on title for the Site dated no earlier than thirty (30) days before the Agreement Date.

(e) 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.

(f) 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.

(g) 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 $[_____] of the Funds as provided in the City's escrow instructions.

4.5 Disbursements. The City's obligation to approve any expenditure of any remaining 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.

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

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

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

(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 March 1, 2026; (b) complete demolition, rehabilitation or construction by a date no later than March 1, 2028, in accordance with the plans and specifications approved by the City, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection, and an architect's or engineer's certificate of completion (the "Completion Date"); and (c) achieve occupancy of Ninety-Five percent (95%) of the Units by a date no later than March 1, 2029.

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

ARTICLE 6 MARKETING.

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

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

(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.

(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.

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

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

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

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

6.5 Waiting List. Borrower's Marketing and Tenant Selection Plan will contain, at a minimum, policies and criteria that provide for the selection of tenants from a written waiting list that complies with the Marketing and Tenant Selection Plan (the "Waiting List"). The Marketing

and Tenant Selection Plan may allow an applicant to refuse an available Unit for good cause without losing standing on the Waiting List but will limit the number of refusals without cause as approved by the City. Borrower will at all times maintain the Waiting List. Upon the vacancy of any Unit, Borrower will first attempt to select the new Tenant for such Unit from the Waiting List, and will only market the Unit to the general public after determining that no applicants from the Waiting List qualify for such Unit. The Waiting List will be kept on file at the Project at all times.

## ARTICLE 7 AFFORDABILITY AND OTHER LEASING RESTRICTIONS.

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

7.2 Borrower's Covenant.

(a) Borrower covenants to rent all Units (except one Unit reserved for the manager of the Project) at all times to households certified as Qualified Tenants at initial occupancy, as set forth in **Exhibit A**.

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

7.3 Rent Restrictions.

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

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

(c) With the City's prior written approval, Rent increases for Units exceeding the amounts permitted under **Section 7.3(b)** may be permitted once annually in order to recover increases in approved Project Expenses, provided that: (i) in no event may single or aggregate

increases exceed ten percent (10%) per year unless such an increase is contemplated in a City-approved temporary relocation plan or is necessary due to the expiration of Section 8 or other rental subsidies; and (ii) Rents for each Unit may in no event exceed the maximum Rent permitted under **Section 7.3(a)**. City approval for such Rent increases that are necessary to meet all approved Project Expenses will not be unreasonably withheld.

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

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

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

7.4 Certification.

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

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

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

7.5 Form of Lease. The form of lease for Tenants will provide for termination of the lease and consent to immediate eviction for failure to: (i) qualify as a Qualified Tenant if the Tenant has made any material misrepresentation in the initial income certification, or (ii) submit to Borrower an annual recertification of income. The initial term of the lease will be for a period of not less than one (1) year. Borrower will not terminate the tenancy or refuse to renew any lease of a Unit except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Laws or other good cause. Any termination or refusal to renew the lease for a Unit will be preceded by not less than thirty (30) days' written notice to the Tenant specifying the grounds for the action.

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

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

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

ARTICLE 8 MAINTENANCE AND MANAGEMENT OF THE PROJECT.

8.1 Borrower's Responsibilities.

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

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

8.2 Contracting With Management Agent.

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

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

ARTICLE 9 GOVERNMENTAL APPROVALS AND REQUIREMENTS .

9.1 Approvals. Borrower covenants that it has obtained or will obtain in a timely manner and comply with all federal, state and local governmental approvals required by Law to be obtained for the Project. Subject to **Section 17.2**, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

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

ARTICLE 10 PROJECT MONITORING, REPORTS, BOOKS AND RECORDS.

10.1 Generally.

(a) Borrower understands and agrees that it will be monitored by the City from time to time to assure compliance with all terms and conditions in this Agreement and all Laws. Borrower acknowledges that the City may also conduct periodic on-site inspections of the Project. Borrower will cooperate with the monitoring by the City and ensure full access to the Project and all information related to the Project as reasonably required by the City.

(b) Borrower will keep and maintain books, records and other documents relating to the receipt and use of all Funds, including all documents evidencing any Project Income and Project Expenses. Borrower will maintain records of all income, expenditures, assets, liabilities, contracts, operations, tenant eligibility and condition of the Project. All financial reports will be prepared and maintained in accordance with GAAP as in effect at the time of performance.

(c) Borrower will provide written notice of the replacement of its executive director, director of housing development, director of property management and/or any equivalent position within thirty (30) days after the effective date of such replacement.

10.2 Monthly Reporting. Borrower will submit monthly reports (the "MOHCD Monthly Project Update") describing progress toward developing the Project with respect to obtaining necessary approvals from other City departments, procuring architects, consultants and contractors, changes in scope, cost or schedule and significant milestones achieved in the past month and expected to be achieved in the coming month. The MOHCD Monthly Project Update will be submitted by email in substantially the form requested by MOHCD until such time as the Project Completion Report is submitted to the City pursuant to **Section 10.5** below.

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

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

10.5 Project Completion Report. Within the specific time periods set forth below after the completion of rehabilitation or construction, the lease-up and/or permanent financing of the Project, as applicable, Borrower will provide to the City the reports listed below certified by Borrower to be complete and accurate. Subsequent to the required submission of the reports listed below, Borrower will provide to the City information or documents reasonably requested by the City to assist in the City's review and analysis of the submitted reports:

(a) within ninety (90) days after the Completion Date, a draft cost certification (or other similar project audit performed by an independent certified public accountant) identifying the sources and uses of all Project funds including the Funds;

(b) within one hundred-eighty (180) days after the Completion Date, a report on compliance with the applicable requirements under **Section 5.1** of this Agreement, including the type of work and the dollar value of such work; and

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

10.6 Response to Inquiries. At the request of the City, its agents, employees or attorneys, Borrower will respond promptly and specifically to questions relating to the income, expenditures, assets, liabilities, contracts, operations and condition of the Project, the status of any mortgage encumbering the Project and any other requested information with respect to Borrower or the Project.

10.7 Delivery of Records. At the request of the City, made through its agents, employees, officers or attorneys, Borrower will provide the City with copies of each of the following documents, certified in writing by Borrower to be complete and accurate:

(a) all tax returns filed with the United States Internal Revenue Service, the California Franchise Tax Board and/or the California State Board of Equalization on behalf of Borrower and any general partner or manager of Borrower;

(b) all certified financial statements of Borrower and, if applicable, its general partner or manager, the accuracy of which will be certified by an auditor satisfactory to the City; and

(c) any other records related to Borrower's ownership structure and the use and occupancy of the Site.

10.8 Access to the Project and Other Project Books and Records. In addition to Borrower's obligations under **Sections 2.4, 10.1, 10.2, 10.3, 10.4, 10.5**, **10.6** and **10.7** and any other obligations to provide reports or maintain records in any City Document, Borrower agrees that duly authorized representatives of the City will have: (a) access to the Project throughout the Compliance Term to monitor the progress of work on the Project and compliance by Borrower with the terms of this Agreement; and (b) access to and the right to inspect, copy, audit and examine all books, records and other documents Borrower is required to keep at all reasonable times, following reasonable notice, for the retention period required under **Section 10.9.**

10.9 Records Retention. Borrower will retain all records required for the periods required under applicable Laws.

ARTICLE 11 USE OF INCOME FROM OPERATIONS.

11.1 Project Operating Account.

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

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

ARTICLE 12 REQUIRED RESERVES.

12.1 Replacement Reserve Account.

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

(b) Monthly deposits will equal the lesser of: (i) 1/12th of 0.6% of Replacement Cost; or (ii) 1/12th of the following amount: $17,500.

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.

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

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

12.2 Operating Reserve Account.

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

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

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

12.3 Reserved.

ARTICLE 13 DISTRIBUTIONS.

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

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

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

(a) when a written notice of default has been issued by any entity with an equitable or beneficial interest in the Project and the default is not cured within the applicable cure periods; or

(b) when the City determines that Borrower or Borrower's management agent has failed to comply with this Agreement; or

(c) if required debt service on all loans secured by the Project and all operating expenses have not been paid current; or

(d) if the Replacement Reserve Account, Operating Reserve Account or any other reserve account required for the Project is not fully funded under this Agreement; or

(e) if the Loan is to be repaid from Residual Receipts, Borrower failed to make a payment when due on a Payment Date and the sum remains unpaid; or

(f) during the pendency of an uncured Event of Default (including Borrower's failure to provide its own funds at any time from and after the closing date of Borrower's financing for construction or rehabilitation of the Project that 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 from the Loan to the Developer in an amount not to exceed Five Hundred Fifty Thousand and No/100 Dollars ($550,000.00) for acquisition and predevelopment activities associated with 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. Borrower agrees to limit the Developer's use of Developer Fee to pay only for eligible activities including, but not limited to, the following:

(a) Developer's organizational capacity building and maintenance programs; working capital; housing development production and related programs; physical improvements to existing housing owned or sponsored by Developer; increasing housing operations and asset management activities; improving tenant improvements or commercial space in existing housing owned or sponsored by Developer; funding community facilities associated with existing housing owned or sponsored by Developer providing supplemental tenant rental assistance for

existing housing owned or sponsored by Developer; or programs supporting the welfare of residents residing in existing housing owned or sponsored by Developer; and

(b) Predevelopment, preconstruction and construction costs, including reasonable administrative expenses, of future affordable housing development sponsored by Developer in San Francisco.

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

ARTICLE 16 TRANSFERS.

16.1 Permitted Transfers/Consent. Borrower will not cause or permit any voluntary transfer, assignment or encumbrance of its interest in the Site or Project or of any ownership interests in Borrower, or lease or permit a sublease on all or any part of the Project, other than: (a) leases, subleases or occupancy agreements to occupants of Units and/or Commercial Space in the Project; or (b) security interests for the benefit of lenders securing loans for the Project as approved by the City on terms and in amounts as approved by City in its reasonable discretion (c) transfers from Borrower to a limited partnership or limited liability company formed for the tax credit syndication of the Project, where Borrower or an affiliated nonprofit public benefit corporation is the managing general partner of that entity or is the manager of a limited liability company that is the sole general partner or manager of that entity; (d) transfers of the general partnership or manager's interest in Borrower to a nonprofit public benefit corporation or other entity affiliated with a partner of Borrower approved in advance by the City; (e) transfers of any limited partnership or membership interest in Borrower to an investor pursuant to the tax credit syndication of the Project; (f) the grant or exercise of an option agreement between Borrower and Borrower's general partner or manager or any of its affiliates in connection with the tax credit syndication of the Project where such agreement has been previously approved in writing by the City; or (g) to remove or replace the General Partners 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 Agreement Date 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) injury or death to persons or damage to property or other loss occurring on or in connection with the Site or the Project, whether caused by the negligence or any other act or omission of Borrower or any other person or by negligent, faulty, inadequate or defective design, building, construction, rehabilitation or maintenance or any other condition or otherwise; (d) any claim of any surety in connection with any bond relating to the construction or rehabilitation of any improvements or offsite improvements; (e) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee that relates to or arises out of the City Documents, the Loan, the Site or the Project or any transaction contemplated by, or the relationship between Borrower and the City or any action or inaction by the City under, the City Documents; (f) the occurrence, until the expiration of the Compliance Term, of any Environmental Activity or any failure of Borrower or any other person to comply with all applicable Environmental Laws relating to the Project or the Site; (g) the occurrence, after the Compliance Term, of any Environmental Activity resulting directly or indirectly from any Environmental Activity occurring before the expiration of the Compliance Term; (h) any liability of any nature arising from Borrower's contest of or relating to the application of any Law, including any contest permitted under **Sections 9.1, 9.2** and **18.2**; or (i) any claim, demand or cause of action, or any investigation, inquiry, order, hearing, action or other proceeding by or before any Governmental Agency, whether meritorious or not, that directly or indirectly relates to, arises from or is based on the occurrence or allegation of any of the matters described in clauses (a) through (h) above, *provided that* no Indemnitee will be entitled to indemnification under this Section for matters caused solely by its own gross negligence or willful misconduct.

17.3 Duty to Defend. Borrower acknowledges and agrees that its obligation to defend the Indemnitees under **Section 17.2**: (a) is an immediate obligation, independent of its other obligations hereunder; (b) applies to any Loss which actually or potentially falls within the scope of **Section 17.2**, regardless of whether the allegations asserted in connection with such Loss are or may be groundless, false or fraudulent; and (c) arises at the time the Loss is tendered to Borrower by the Indemnitee and continues at all times thereafter. In the event any action or proceeding is brought against an Indemnitee by reason of a claim arising out of any Loss for which Borrower has indemnified the Indemnitees, upon written notice, Borrower will answer and otherwise defend the action or proceeding using counsel approved in writing by the Indemnitee at Borrower's sole expense. Each Indemnitee will have the right, exercised in its sole discretion, but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt, demand, suit or judgment against the Indemnitee in connection with the matters covered by this Agreement. The Indemnitee will give Borrower prompt notice of any Loss and Borrower has the right to defend, settle and compromise any such Loss; provided, however, that the Indemnitee has the right to retain its own counsel at the expense of Borrower if representation of such Indemnitee by the counsel retained by Borrower would be inappropriate due to conflicts of interest between such Indemnitee and Borrower. An Indemnitee's failure to notify Borrower promptly of any Loss does not relieve Borrower of any liability to such Indemnity under **Section 17.2**, unless such failure materially impairs Borrower's ability to defend such Loss. Borrower will seek the Indemnified Party's prior written consent to settle or

compromise any Loss if Borrower contends that such Indemnitee shares in liability with respect thereto.

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

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

ARTICLE 18 HAZARDOUS SUBSTANCES.

18.1 Borrower's Representations. Borrower represents and warrants to the City that, to the best of Borrower's actual knowledge, without independent investigation or inquiry as of the Agreement Date, the following statements are true and correct except as disclosed in the Phase 1 Environmental Site Assessment Report from Partner Engineering and Science dated March 21, 2023 (Project No. 23-40001-.1); Geotechnical Report from Partner Engineering and Science dated August 24, 2023 (Project No. 23-400010.3); Omega Termite Inspection Report dated 2/13/2023 (Report No. 105601); Pre-Renovation Asbestos & Lead-Based Paint Survey Report from Partner Engineering and Science dated March 24, 2023 (Project No. 23-400010.2) 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; 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.

18.3 Survival. Borrower and City agree that this Article 18 is intended as City’s written request for information (and Borrower’s response) concerning the environmental

condition of the Site as security as required by California Code of Civil Procedure § 726.5; and each provision in this Article (together with any indemnity applicable to a breach of any such provision) with respect to the environmental condition of the Site as security is intended by City and Borrower to be an "environmental provision" for purposes of California Code of Civil Procedure § 736, and as such it is expressly understood that Borrower's duty to indemnify City hereunder will survive: (a) any judicial or non-judicial foreclosure under the Deed of Trust, or transfer of the Property in lieu thereof, (b) the release and reconveyance or cancellation of the Deed of Trust; and (c) the satisfaction of all of Borrower's obligation under the City Documents.

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) From and after commencement of construction of the Project, 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) From and after the closing date of Borrower's financing for construction or rehabilitation of the Project, 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) From and after commencement of construction of the Project, but 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 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 this Agreement or 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 Notes.

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

(g) 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<br>Mayor's Office of Housing and Community Development<br>1 South Van Ness Avenue, 5th Floor<br>San Francisco, CA 94103<br>Attn: Director |
| To Borrower: | 3300 Mission Partners, L.P.<br>515 Cortland Avenue<br>San Francisco, CA 94110<br>Attn: Director |

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) from and after the closing date of Borrower's financing for construction or rehabilitation of the Project, 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. Except as permitted under San Francisco Administrative Code Chapter 120, 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 Intentionally omitted
N Intentionally omitted
O MOHCD Commercial Underwriting Guidelines
P MOHCD Residual Receipts Policy

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement at San Francisco, California as of the date first written above.

**THE CITY:**

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: _____
London N. Breed
Mayor

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

APPROVED AS TO FORM:

DAVID CHIU,
City Attorney

By: _____
DocuSigned by:
7C608639D022490
Deputy City Attorney

**BORROWER:**

**3300 MISSION PARTNERS L.P.,**
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Real Estate Group CA LLC, a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

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APPROVED AS TO FORM:

DAVID CHIU,
City Attorney

By: _____
Deputy City Attorney

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Its: Manager

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Andre White
Its: Managing Member

Shackoya Orum
Notary Public, State of South Carolina
My Commission Expires December 13, 2031

Shackoya Orum
Notary

SHACKOYA ORUM NOTARY PUBLIC SOUTH CAROLINA

**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 |
|---|---|---|
| 0BR | 11 | 30% of Median Income |
| 0BR | 10 | 60% of Median Income |
| 0BR | 13 | 80% of Median Income |
| 0BR | 1 | Manager Unit |

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

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

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

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

**EXHIBIT B-1**

Table of Sources and Uses of Funds

**Application Date:** 3/15/2024 **# Units:** 35
**Project Name:** 3300 Mission **# *Bedrooms:*** 35
**Project Address:** 3300-3308 Mission Street **# Beds:**
**Project Sponsor:** BHHC, TCDC, MREG

| | | | | | | | Total Sources | Comments |
|---|---|---|---|---|---|---|---|---|
| **SOURCES** | **6,500,000** | **-** | **-** | **-** | **-** | **-** | **6,500,000** | |
| **Name of Sources:** | MOHCD/OCII | | | | | | | |
| **USES** | | | | | | | | |
| **ACQUISITION** | | | | | | | | |
| Acquisition cost or value | 3,850,000 | | | | | | 3,850,000 | |
| Legal / Closing costs / Broker's Fee | 211,000 | | | | | | 211,000 | |
| Holding Costs | 90,000 | | | | | | 90,000 | 2,349,000 |
| Transfer Tax | | | | | | | 0 | *67,114* |
| **TOTAL ACQUISITION** | **4,151,000** | **0** | **0** | **0** | **0** | **0** | **4,151,000** | |
| **CONSTRUCTION (HARD COSTS)** | | | | | | | | |
| Unit Construction/Rehab | | | | | | | 0 | Include FF&E |
| Commercial Shell Construction | | | | | | | 0 | |
| Demolition | | | | | | | 0 | |
| Environmental Remediation | | | | | | | 0 | |
| Onsight Improvements/Landscaping | | | | | | | 0 | |
| Offsite Improvements | | | | | | | 0 | |
| Infrastructure Improvements | | | | | | | 0 | HOPE SF/OCII costs for streets etc. |
| Parking | | | | | | | 0 | |
| GC Bond Premium/GC Insurance/GC Taxes | | | | | | | 0 | |
| GC Overhead & Profit | | | | | | | 0 | |
| CG General Conditions | | | | | | | 0 | |
| *Sub-total Construction Costs* | *0* | *0* | *0* | *0* | *0* | *0* | *0* | |
| Design Contingency (remove at DD) | | | | | | | 0 | $45MM+ |
| Bid Contingency (remove at bid) | | | | | | | 0 | $45MM+ |
| Plan Check Contingency (remove/reduce during Plan Review) | | | | | | | 0 | $45MM+ |
| Hard Cost Construction Contingency | | | | | | | 0 | 5% new construction / 15% rehab |
| *Sub-total Construction Contingencies* | *0* | *0* | *0* | *0* | *0* | *0* | *0* | |
| **TOTAL CONSTRUCTION COSTS** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | |

Construction line item costs as a % of hard costs

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **SOFT COSTS** | | | | | | | | |
| **Architecture & Design** | | | | | | | | |
| Architect design fees | 750,000 | | | | | | 750,000 | See MOHCD A&E Fee Guidelines: http://sfmohcd.org/documents-reports-and-forms |
| Design Subconsultants to the Architect (incl. Fees) | | | | | | | 0 | |
| Architect Construction Admin | | | | | | | 0 | |
| Reimbursables | | | | | | | 0 | |
| Additional Services | | | | | | | 0 | |
| *Sub-total Architect Contract* | *750,000* | *0* | *0* | *0* | *0* | *0* | *750,000* | |
| Other Third Party design consultants (not included under Architect contract) | 150,000 | | | | | | 150,000 | Consultants not covered under architect contract; name consultant type and contract amount |
| **Total Architecture & Design** | **900,000** | **0** | **0** | **0** | **0** | **0** | **900,000** | |
| **Engineering & Environmental Studies** | | | | | | | | |
| Survey | 40,000 | | | | | | 40,000 | |
| Geotechnical studies | 27,000 | | | | | | 27,000 | |
| Phase I & II Reports | 27,000 | | | | | | 27,000 | |
| CEQA / Environmental Review consultants | 100,000 | | | | | | 100,000 | |
| NEPA / 106 Review | | | | | | | 0 | |
| CNA/PNA (rehab only) | | | | | | | 0 | |
| Other environmental consultants | | | | | | | 0 | Name consultants & contract amounts |
| **Total Engineering & Environmental Studies** | **194,000** | **0** | **0** | **0** | **0** | **0** | **194,000** | |
| **Financing Costs** | | | | | | | | |
| **Construction Financing Costs** | | | | | | | | |
| Construction Loan Origination Fee | 25,000 | | | | | | 25,000 | |
| Construction Loan Interest | | | | | | | 0 | |
| Title & Recording | 25,000 | | | | | | 25,000 | |
| CDLAC & CDIAC fees | | | | | | | 0 | |
| Bond Issuer Fees | | | | | | | 0 | |
| Other Bond Cost of Issuance | | | | | | | 0 | |
| Other Lender Costs (HAF) | 93,000 | | | | | | 93,000 | HAF Closing Fee + Expenses |
| *Sub-total Const. Financing Costs* | *143,000* | *0* | *0* | *0* | *0* | *0* | *143,000* | |
| **Permanent Financing Costs** | | | | | | | | |
| Permanent Loan Origination Fee | | | | | | | 0 | |
| Credit Enhance. & Appl. Fee | | | | | | | 0 | |
| Title & Recording | | | | | | | 0 | |
| *Sub-total Perm. Financing Costs* | *0* | *0* | *0* | *0* | *0* | *0* | *0* | |
| **Total Financing Costs** | **143,000** | **0** | **0** | **0** | **0** | **0** | **143,000** | |
| **Legal Costs** | | | | | | | | |
| Borrower Legal fees | 20,000 | | | | | | 20,000 | |
| Land Use / CEQA Attorney fees | 30,000 | | | | | | 30,000 | |
| Tax Credit Counsel | | | | | | | 0 | |
| Bond Counsel | | | | | | | 0 | |
| Construction Lender Counsel | | | | | | | 0 | |
| Permanent Lender Counsel | | | | | | | 0 | |
| Other Legal (specify) | | | | | | | 0 | |
| **Total Legal Costs** | **50,000** | **0** | **0** | **0** | **0** | **0** | **50,000** | |
| **Other Development Costs** | | | | | | | | |
| Appraisal | 10,000 | | | | | | 10,000 | |
| Market Study | 10,000 | | | | | | 10,000 | |
| * Insurance | 12,000 | | | | | | 12,000 | |
| * Property Taxes | 20,000 | | | | | | 20,000 | |
| Accounting / Audit | 5,000 | | | | | | 5,000 | |
| * Organizational Costs | | | | | | | 0 | Design Printing/Copying |
| Entitlement / Permit Fees | 90,000 | | | | | | 90,000 | |
| * Marketing / Rent-up | | | | | | | 0 | |
| * Furnishings | | | | | | | 0 | $2,000/unit; See MOHCD U/W Guidelines: http://sfmohcd.org/documents-reports-and-forms |
| PGE / Utility Fees | 15,000 | | | | | | 15,000 | |
| TCAC App / Alloc / Monitor Fees | 100,000 | | | | | | 100,000 | |
| * Financial Consultant fees | 50,000 | | | | | | 50,000 | |
| Construction Management fees / Owner's Rep | 39,600 | | | | | | 39,600 | |
| Security during Construction | | | | | | | 0 | |
| * Relocation | | | | | | | 0 | |
| Community Outreach | 73,470 | | | | | | 73,470 | |
| Syndication Consultant | | | | | | | 0 | 84,277 |
| Inspectors | | | | | | | 0 | 171207 |
| **Total Other Development Costs** | **425,070** | **0** | **0** | **0** | **0** | **0** | **425,070** | |
| **Soft Cost Contingency** | | | | | | | | |
| Contingency (Arch, Eng, Fin, Legal & Other Dev) | 86,930 | | | | | | 86,930 | Should be either 10% or 5% of total soft costs. |
| **TOTAL SOFT COSTS** | **1,799,000** | **0** | **0** | **0** | **0** | **0** | **1,799,000** | |

Total Soft Cost Contingency as % of Total Soft Costs **5.1%**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **RESERVES** | | | | | | | | |
| * Operating Reserves | | | | | | | 0 | |
| Replacement Reserves | | | | | | | 0 | |
| * Tenant Improvements Reserves | | | | | | | 0 | |
| Other (specify) | | | | | | | 0 | |
| Other (specify) | | | | | | | 0 | |
| Other (specify) | | | | | | | 0 | |
| **TOTAL RESERVES** | **0** | **0** | **0** | **0** | **0** | **0** | **0** | |
| **DEVELOPER COSTS** | | | | | | | | |
| Developer Fee - Cash-out Paid at Milestones | 550,000 | | | | | | 550,000 | |
| Developer Fee - Cash-out At Risk | | | | | | | 0 | |
| Commercial Developer Fee | | | | | | | | |
| Developer Fee - GP Equity (also show as source) | | | | | | | | |
| Developer Fee - Deferred (also show as source) | | | | | | | 0 | |
| Development Consultant Fees | | | | | | | 0 | Need MOHCD approval for this cost, N/A for most projects |
| Other (specify) | | | | | | | 0 | |
| **TOTAL DEVELOPER COSTS** | **550,000** | **0** | **0** | **0** | **0** | **0** | **550,000** | |
| **TOTAL DEVELOPMENT COST** | **6,500,000** | **0** | **0** | **0** | **0** | **0** | **6,500,000** | |
| Development Cost/Unit by Source | 185,714 | 0 | 0 | 0 | 0 | 0 | 185,714 | |
| Development Cost/Unit as % of TDC by Source | 100.0% | 0.0% | 0.0% | 0.0% | 0.0% | 0.0% | 100.0% | |
| Acquisition Cost/Unit by Source | 110,000 | 0 | 0 | 0 | 0 | 0 | 110,000 | |
| Construction Cost (inc Const Contingency)/Unit By Source | 0 | 0 | 0 | 0 | 0 | 0 | 0 | |
| Construction Cost (inc Const Contingency)/SF | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | |

**Possible non-eligible GO Bond/COP Amount:* *82,000*
City Subsidy/Unit 185,714

Tax Credit Equity Pricing: 0.97
Construction Bond Amount: 19,979,702
Construction Loan Term (in months): 30 months
Construction Loan Interest Rate (as %): 7.25%

**Application Date:** 3/15/2024 **# Units:** 35
**Project Name:** 3300 Mission **# *Bedrooms:*** 35
**Project Address:** 3300-3308 Mission Street **# Beds:**
**Project Sponsor:** BHHC, TCDC, MREG

| | | | | | | | Total Sources | Comments |
|---|---|---|---|---|---|---|---|---|
| **SOURCES** | **6,500,000** | **-** | **-** | **-** | **5,610,505** | **22,926,700** | **35,037,205** | |
| **Name of Sources:** | MOHCD/OCII | - | | | MOHCD Perm Gap | Tax Credit Equity | | |
| **USES** | | | | | | | | |
| **ACQUISITION** | | | | | | | | |
| Acquisition cost or value | 3,850,000 | | | | | | 3,850,000 | |
| Legal / Closing costs / Broker's Fee | 211,000 | | | | | | 211,000 | |
| Holding Costs | 90,000 | | | | 35,000 | | 125,000 | 5.905511811 |
| Transfer Tax | | | | | | | 0 | |
| **TOTAL ACQUISITION** | **4,151,000** | **0** | **0** | **0** | **35,000** | **0** | **4,186,000** | |
| **CONSTRUCTION (HARD COSTS)** | | | | | | | | |
| * Unit Construction/Rehab | | | | | | 13,500,791 | 13,475,878 | Include FF&E |
| * Commercial Shell Construction | | | | | | 761,154 | 761,154 | |
| * Demolition | | | | | | | 0 | |
| Environmental Remediation | | | | | | | 0 | |
| * Onsight Improvements/Landscaping | | | | | | | 0 | |
| * Offsite Improvements | | | | | | | 0 | |
| * Infrastructure Improvements | | | | | | | 0 | HOPE SF/OCII costs for streets etc. |
| Parking | | | | | | | 0 | |
| GC Bond Premium/GC Insurance/GC Taxes | | | | | | 161,825 | 161,825 | **1.0%** |
| GC Overhead & Profit | | | | | | 970,950 | 970,950 | 0.184742092 **5.9%** |
| CG General Conditions | | | | | | 1,132,775 | 1,132,775 | 472214.1429 **6.9%** |
| *Sub-total Construction Costs* | *0* | *0* | *0* | *0* | *0* | *16,527,495* | *16,527,495* | |
| Design Contingency (remove at DD) | | | | | | 809,125 | 809,125 | $45MM+ **4.9%** |
| Bid Contingency (remove at bid) | | | | | | 809,125 | 809,125 | $45MM+ **4.9%** |
| Plan Check Contingency (remove/reduce during Plan Review) | | | | | | 614,935 | 614,935 | $45MM+ **3.7%** |
| Hard Cost Construction Contingency | | | | | | 820,139 | 820,139 | 5% new construction / 15% rehab **5.0%** |
| *Sub-total Construction Contingencies* | *0* | *0* | *0* | *0* | *0* | *3,053,324* | *3,053,324* | |
| **TOTAL CONSTRUCTION COSTS** | **0** | **0** | **0** | **0** | **0** | **19,580,819** | **19,580,819** | |

Construction line item costs as a % of hard costs

**SOFT COSTS**

**Architecture & Design**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Architect design fees | 750,000 | | | | 496,000 | 712,082 | 1,958,082 | See MOHCD A&E Fee Guidelines: http://sfmohcd.org/documents-reports-and-forms |
| Design Subconsultants to the Architect (incl. Fees) | | | | | | | 0 | |
| Architect Construction Admin | | | | | | | 0 | |
| Reimbursables | | | | | | | 0 | |
| Additional Services | | | | | | | 0 | |
| *Sub-total Architect Contract* | *750,000* | *0* | *0* | *0* | *496,000* | *712,082* | *1,958,082* | |
| Other Third Party design consultants (not included under Architect contract) | 150,000 | | | | 330,000 | | 480,000 | Consultants not covered under architect contract; name consultant type and contract amount |
| **Total Architecture & Design** | **900,000** | **0** | **0** | **0** | **826,000** | **712,082** | **2,438,082** | |
| **Engineering & Environmental Studies** | | | | | | | | |
| Survey | 40,000 | | | | | 10,000 | 50,000 | |
| Geotechnical studies | 27,000 | | | | 1,000 | 7,000 | 35,000 | |
| Phase I & II Reports | 27,000 | | | | 1,000 | 7,000 | 35,000 | |
| CEQA / Environmental Review consultants | 100,000 | | | | 50,000 | | 150,000 | - |
| NEPA / 106 Review | | | | | | | 0 | |
| CNA/PNA (rehab only) | | | | | | | 0 | |
| Other environmental consultants | | | | | | | 0 | Name consultants & contract amounts |
| **Total Engineering & Environmental Studies** | **194,000** | **0** | **0** | **0** | **52,000** | **24,000** | **270,000** | |
| **Financing Costs** | | | | | | | | |
| **Construction Financing Costs** | | | | | | | | |
| Construction Loan Origination Fee | 25,000 | | | | 25,000 | 226,000 | 276,000 | |
| Construction Loan Interest | | | | | 1,731,412 | 568,949 | 2,300,361 | |
| Title & Recording | 25,000 | | | | | 50,000 | 75,000 | |
| CDLAC & CDIAC fees | | | | | | | 0 | |
| Bond Issuer Fees | | | | | | | 0 | |
| Other Bond Cost of Issuance | | | | | | | 0 | |
| Other Lender Costs (HAF) | 93,000 | | | | | 500 | 93,500 | |
| *Sub-total Const. Financing Costs* | *143,000* | *0* | *0* | *0* | *1,756,412* | *845,449* | *2,744,861* | |
| **Permanent Financing Costs** | | | | | | | | |
| Permanent Loan Origination Fee | | | | | | 0 | 0 | |
| Credit Enhance. & Appl. Fee | | | | | | *0* | 0 | |
| Title & Recording | | | | | | | 0 | |
| *Sub-total Perm. Financing Costs* | *0* | *0* | *0* | *0* | *0* | *0* | *0* | |
| **Total Financing Costs** | **143,000** | **0** | **0** | **0** | **1,756,412** | **845,449** | **2,744,861** | |
| **Legal Costs** | | | | | | | | |
| Borrower Legal fees | 20,000 | | | | 119,000 | | 139,000 | |
| Land Use / CEQA Attorney fees | 30,000 | | | | 20,000 | | 50,000 | |
| Tax Credit Counsel | | | | | | | 0 | |
| Bond Counsel | | | | | | | 0 | |
| Construction Lender Counsel | | | | | | 100,000 | 100,000 | |
| Permanent Lender Counsel | | | | | | 0 | 0 | |
| * Other Legal (specify) | | | | | | | 0 | |
| **Total Legal Costs** | **50,000** | **0** | **0** | **0** | **139,000** | **100,000** | **289,000** | |
| **Other Development Costs** | | | | | | | | |
| Appraisal | 10,000 | | | | | | 10,000 | |
| Market Study | 10,000 | | | | | | 10,000 | |
| * Insurance | 12,000 | | | | 85,904 | | 97,904 | |
| * Property Taxes | 20,000 | | | | 30,000 | | 50,000 | 346,014.43 |
| Accounting / Audit | 5,000 | | | | 45,000 | | 50,000 | |
| * Organizational Costs | | | | | | | 0 | |
| Entitlement / Permit Fees | 90,000 | | | | 810,000 | | 900,000 | |
| * Marketing / Rent-up | | | | | 250,000 | | 250,000 | |
| * Furnishings | | | | | 70,000 | | 70,000 | $2,000/unit; See MOHCD U/W Guidelines on: http://sfmohcd.org/documents-reports-and-forms |
| PGE / Utility Fees | 15,000 | | | | 160,000 | | 175,000 | |
| TCAC App / Alloc / Monitor Fees | 100,000 | | | | | 14,350 | 114,350 | |
| * Financial Consultant fees | 50,000 | | | | 25,000 | | 75,000 | |
| Construction Management fees / Owner's Rep | 39,600 | | | | 115,200 | | 154,800 | |
| Security during Construction | | | | | 75,000 | | 75,000 | |
| * Relocation | | | | | | | 0 | |
| Community Outreach | 73,470 | | | | | | 73,470 | |
| Public Art | | | | | 67,544 | | 67,544 | |
| Special Inspection & Syndication Consultant | | | | | 230,000 | | 230,000 | 55k syndication |
| **Total Other Development Costs** | **425,070** | **0** | **0** | **0** | **1,963,648** | **14,350** | **2,403,068** | |
| **Soft Cost Contingency** | | | | | | | | |
| Contingency (Arch, Eng, Fin, Legal & Other Dev) | 86,930 | | | | 733,400 | | 820,330 | Should be either 10% or 5% of total soft costs. |
| **TOTAL SOFT COSTS** | **1,799,000** | **0** | **0** | **0** | **5,470,460** | **1,695,881** | **8,965,341** | |

Total Soft Cost Contingency as % of Total Soft Costs **10.1%**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **RESERVES** | | | | | | | | |
| * Operating Reserves | | | | | 105,045 | | 105,045 | |
| Replacement Reserves | | | | | | | 0 | |
| * Tenant Improvements Reserves | | | | | | | 0 | |
| * Other (specify) | | | | | | | 0 | |
| * Other (specify) | | | | | | | 0 | |
| * Other (specify) | | | | | | | 0 | |
| **TOTAL RESERVES** | **0** | **0** | **0** | **0** | **105,045** | **0** | **105,045** | |
| **DEVELOPER COSTS** | | | | | | | | |
| Developer Fee - Cash-out Paid at Milestones | 550,000 | | | | | 550,000 | 1,100,000 | |
| Developer Fee - Cash-out At Risk | | | | | | 1,100,000 | 1,100,000 | |
| Commercial Developer Fee | | | | | | | 0 | |
| 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 |
| Other (specify) | | | | | | | 0 | |
| **TOTAL DEVELOPER COSTS** | **550,000** | **0** | **0** | **0** | **0** | **1,650,000** | **2,200,000** | |
| **TOTAL DEVELOPMENT COST** | **6,500,000** | **0** | **0** | **0** | **5,610,505** | **22,926,700** | **35,037,205** | |
| Development Cost/Unit by Source | 185,714 | 0 | 0 | 0 | 160,300 | 655,049 | 1,001,063 | |
| Development Cost/Unit as % of TDC by Source | 18.6% | 0.0% | 0.0% | 0.0% | 16.0% | 65.4% | 100.0% | |
| Acquisition Cost/Unit by Source | 110,000 | 0 | 0 | 0 | 0 | 0 | 110,000 | |
| Construction Cost (inc Const Contingency)/Unit By Source | 0 | 0 | 0 | 0 | 0 | 559,452 | 559,452 | |
| Construction Cost (inc Const Contingency)/SF | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 1,082.95 | 1,082.95 | 883491.5714 |

**Possible non-eligible GO Bond/COP Amount:* *82,000*
City Subsidy/Unit 185,714

Tax Credit Equity Pricing: 0.970
Construction Bond Amount: 19,979,702
Construction Loan Term (in months): 30 months
Construction Loan Interest Rate (as %): 7.25%

**EXHIBIT B-2**

Annual Operating Budget

| | | | |
|---|---|---|---|
| **Application Date:** | **3/15/2024** | **Project Name:** | **3300 Mission** |
| **Total # Units:** | **35** | **Project Address:** | **3300-3308 Mission Street** |
| **First Year of Operations** (provide data assuming that Year 1 is a full year, i.e. 12 months of operations)**:** | **2026** | **Project Sponsor:** | **BHHC, TCDC, MREG** |

| **INCOME** | **Total** | **Comments** |
|---|---|---|
| Residential - Tenant Rents | 517,380 | Links from 'New Proj - Rent & Unit Mix' Worksheet |
| Residential - Tenant Assistance Payments (Non-LOSP) | 0 | Links from 'New Proj - Rent & Unit Mix' Worksheet |
| Commercial Space | 0 | from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100% |
| 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 | 3,780 | 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: 100% |
| Withdrawal from Capitalized Reserve (deposit to operating account) | | |
| **Gross Potential Income** | **521,160** | |
| Vacancy Loss - Residential - Tenant Rents | (26,058) | Vacancy loss is 5% of Tenant Rents. |
| Vacancy Loss - Residential - Tenant Assistance Payments | 0 | #DIV/0! |
| Vacancy Loss - Commercial | 0 | from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100% |
| **EFFECTIVE GROSS INCOME** | **495,102** | ***PUPA: 14,146*** |

| **OPERATING EXPENSES** | | |
|---|---|---|
| **Management** | | |
| Management Fee | 33,048 | 1st Year to be set according to HUD schedule. |
| Asset Management Fee | 24,280 | |
| **Sub-total Management Expenses** | **57,328** | ***PUPA: 1,638*** |
| **Salaries/Benefits** | | |
| Office Salaries | | |
| Manager's Salary | 15,288 | |
| Health Insurance and Other Benefits | 11,600 | |
| Other Salaries/Benefits | | |
| Administrative Rent-Free Unit | 26,580 | |
| **Sub-total Salaries/Benefits** | **53,468** | ***PUPA: 1,528*** |
| **Administration** | | |
| Advertising and Marketing | | |
| Office Expenses | 19,900 | $13.2K Telephone & Answering Svc |
| Office Rent | 2,720 | |
| Legal Expense - Property | 8,500 | |
| Audit Expense | 9,500 | |
| Bookkeeping/Accounting Services | 4,896 | |
| Bad Debts | | |
| Miscellaneous | 3,500 | |
| **Sub-total Administration Expenses** | **49,016** | ***PUPA: 1,400*** |
| **Utilities** | | |
| Electricity | 38,798 | |
| Water | 17,150 | |
| Gas | | |
| Sewer | 22,750 | |
| **Sub-total Utilities** | **78,698** | ***PUPA: 2,249*** |
| **Taxes and Licenses** | | |
| | | |
| Real Estate Taxes | 1,300 | |
| Payroll Taxes | 2,776 | |
| Miscellaneous Taxes, Licenses and Permits | 2,500 | |
| **Sub-total Taxes and Licenses** | **6,576** | ***PUPA: 188*** |
| **Insurance** | | |
| Property and Liability Insurance | 28,000 | |
| Fidelity Bond Insurance | | |
| Worker's Compensation | 4,884 | |
| Director's & Officers' Liability Insurance | | |
| **Sub-total Insurance** | **32,884** | ***PUPA: 940*** |
| **Maintenance & Repair** | | |
| Payroll | 17,333 | |
| Supplies | 28,930 | |
| Contracts | 20,020 | |
| Garbage and Trash Removal | 15,400 | |
| Security Payroll/Contract | 2,200 | |
| HVAC Repairs and Maintenance | | |
| Vehicle and Maintenance Equipment Operation and Repairs | 7,330 | |
| Miscellaneous Operating and Maintenance Expenses | 2,500 | |
| **Sub-total Maintenance & Repair Expenses** | **93,713** | ***PUPA: 2,678*** |
| | | |
| **Supportive Services** | 31,000 | |
| **Commercial Expenses** | 0 | from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100% |
| | | |
| **TOTAL OPERATING EXPENSES** | ***402,683*** | ***PUPA: 11,505*** |

| **Reserves/Ground Lease Base Rent/Bond Fees** | | | |
|---|---|---|---|
| Ground Lease Base Rent | 0 | | Provide additional comments here, if needed. |
| Bond Monitoring Fee | | | |
| Replacement Reserve Deposit | 17,500 | | |
| Operating Reserve Deposit | | | |
| Other Required Reserve 1 Deposit | | | |
| Other Required Reserve 2 Deposit | | | |
| Required Reserve Deposit/s, Commercial | 0 | from 'Commercial Op. Budget' Worksheet; Commercial to Residential allocation: 100% | |
| **Sub-total Reserves/Ground Lease Base Rent/Bond Fees** | **17,500** | ***PUPA: 500*** | Min DSCR: 1.15 |
| | | | Mortgage Rate: 7.25% |
| **TOTAL OPERATING EXPENSES** (w/ Reserves/GL Base Rent/ Bond Fees) | **420,183** | ***PUPA: 12,005*** | Term (Years): 40 |
| | | | Supportable 1st Mortgage Pmt: 65,147 |
| **NET OPERATING INCOME** (INCOME minus OP EXPENSES) | **74,919** | ***PUPA: 2,141*** | Supportable 1st Mortgage Amt: $848,704 |
| | | | Proposed 1st Mortgage Amt: $0 |

| **DEBT SERVICE/MUST PAY PAYMENTS** ("hard debt"/amortized loans) | | | |
|---|---|---|---|
| Hard Debt - First Lender | 0 | | Provide additional comments here, if needed. |
| Hard Debt - Second Lender (HCD Program 0.42% pymt, or other 2nd Len | 0 | | 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: 100% | |
| **TOTAL HARD DEBT SERVICE** | **0** | ***PUPA: 0*** | |
| **CASH FLOW** (NOI minus DEBT SERVICE) | **74,919** | | |

| **USES OF CASH FLOW BELOW** (This row also shows DSCR.) **USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL** | | | |
|---|---|---|---|
| "Below-the-line" Asset Mgt fee (uncommon in new projects, see policy) | | | |
| Partnership Management Fee (see policy for limits) | 15,000 | 2nd | |
| Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits) | 5,000 | 1st | |
| 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% | Provide additional comments here, if needed. |
| **TOTAL PAYMENTS PRECEDING MOHCD** | **20,000** | ***PUPA: 571*** | |
| **RESIDUAL RECEIPTS** (CASH FLOW minus PAYMENTS PRECEDING MOHCD) | **54,919** | | |

***Residual Receipts Calculation***

| | | | |
|---|---|---|---|
| *Does Project have a MOHCD Residual Receipt Obligation?* | **Yes** | Project has MOHCD ground lease? | **No** |
| *Will Project Defer Developer Fee?* | **No** | | |
| Max **Deferred Developer Fee/Borrower** % of Residual Receipts in Yr 1: | 33% | | |
| % *of Residual Receipts available for distribution to* **soft debt lenders** in | 67% | | |

| **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 | $12,110,505 | 100.00% |
| MOHCD/OCII - Ground Lease Value or Land Acq Cost | Ground Lease Value | | 0.00% |
| HCD (soft debt loan) - Lender 3 | | | 0.00% |
| Other Soft Debt Lender - Lender 4 | | | 0.00% |
| Other Soft Debt Lender - Lender 5 | | | 0.00% |

| **MOHCD RESIDUAL RECEIPTS DEBT SERVICE** | | |
|---|---|---|
| MOHCD Residual Receipts Amount Due | 36,613 | 67% of residual receipts, multiplied by 100% -- MOHCD's pro rata share of all soft debt |
| Proposed MOHCD Residual Receipts Amount to Loan Repayment | 24,071 | 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** | **18,306** | ***Total Resid Receipts due not allocated, please revise F142*** |

| **NON-MOHCD RESIDUAL RECEIPTS DEBT SERVICE** | | |
|---|---|---|
| HCD Residual Receipts Amount Due | 0 | |
| Lender 4 Residual Receipts Due | 0 | |
| Lender 5 Residual Receipts Due | 0 | |
| **Total Non-MOHCD Residual Receipts Debt Service** | **0** | |
| **REMAINDER (Should be zero unless there are distributions below)** | **18,306** | |
| Owner Distributions/Incentive Management Fee | 18,306 | 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

[*THIS PROFORMA MUST INCLUDE THE SAME LINE ITEMS AS THE ANNUAL OPERATING BUDGET SHOWN IN EXHIBIT B-2.*]

***3300 MISSION***

**Total # Units:** *35*

| | | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Year 6 | Year 7 | Year 8 | Year 9 | Year 10 | Year 11 | Year 12 | Year 13 | Year 14 | Year 15 | Year 16 | Year 17 | Year 18 | Year 19 | Year 20 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | 2034 | 2035 | 2036 | 2037 | 2038 | 2039 | 2040 | 2041 | 2042 | 2043 | 2044 | 2045 |
| **INCOME** | **% annual increase** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** | **Total** |
| Residential - Tenant Rents | 2.5% | 517,380 | 530,315 | 543,572 | 557,162 | 571,091 | 585,368 | 600,002 | 615,002 | 630,377 | 646,137 | 662,290 | 678,847 | 695,819 | 713,214 | 731,044 | 749,321 | 768,054 | 787,255 | 806,936 | 827,110 |
| Residential - Tenant Assistance Payments (Non-LOSP) | n/a | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Commercial Space | 2.5% | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Other Income | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **Gross Potential Income** | | **521,160** | **534,189** | **547,544** | **561,232** | **575,263** | **589,645** | **604,386** | **619,496** | **634,983** | **650,858** | **667,129** | **683,807** | **700,902** | **718,425** | **736,386** | **754,795** | **773,665** | **793,007** | **812,832** | **833,153** |
| Vacancy Loss - Residential - Tenant Rents | n/a | (26,058) | (26,516) | (27,179) | (27,858) | (28,555) | (29,268) | (30,000) | (30,750) | (31,519) | (32,307) | (33,115) | (33,942) | (34,791) | (35,661) | (36,552) | (37,466) | (38,403) | (39,363) | (40,347) | (41,355) |
| Vacancy Loss - Residential - Tenant Assistance Payments | n/a | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Vacancy Loss - Commercial | n/a | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **EFFECTIVE GROSS INCOME** | | **495,102** | **507,673** | **520,365** | **533,374** | **546,709** | **560,376** | **574,386** | **588,746** | **603,464** | **618,551** | **634,015** | **649,865** | **666,112** | **682,764** | **699,833** | **717,329** | **735,262** | **753,644** | **772,485** | **791,797** |
| **OPERATING EXPENSES** | | | | | | | | | | | | | | | | | | | | | |
| Management | 3.5% | 57,328 | 59,334 | 61,411 | 63,561 | 65,785 | 68,088 | 70,471 | 72,937 | 75,490 | 78,132 | 80,867 | 83,697 | 86,627 | 89,658 | 92,797 | 96,044 | 99,406 | 102,885 | 106,486 | 110,213 |
| Salaries/Benefits | 3.5% | 53,468 | 55,339 | 57,276 | 59,281 | 61,356 | 63,503 | 65,726 | 68,026 | 70,407 | 72,871 | 75,422 | 78,062 | 80,794 | 83,622 | 86,548 | 89,578 | 92,713 | 95,958 | 99,316 | 102,792 |
| Administration | 3.5% | 49,016 | 50,732 | 52,507 | 54,345 | 56,247 | 58,216 | 60,253 | 62,362 | 64,545 | 66,804 | 69,142 | 71,562 | 74,067 | 76,659 | 79,342 | 82,119 | 84,993 | 87,968 | 91,047 | 94,233 |
| Utilities | 3.5% | 78,698 | 81,452 | 84,303 | 87,254 | 90,308 | 93,469 | 96,740 | 100,126 | 103,630 | 107,257 | 111,011 | 114,897 | 118,918 | 123,080 | 127,388 | 131,847 | 136,461 | 141,237 | 146,181 | 151,297 |
| Taxes and Licenses | 3.5% | 6,576 | 6,806 | 7,044 | 7,291 | 7,546 | 7,810 | 8,084 | 8,367 | 8,659 | 8,962 | 9,276 | 9,601 | 9,937 | 10,285 | 10,645 | 11,017 | 11,403 | 11,802 | 12,215 | 12,642 |
| Insurance | 3.5% | 32,884 | 34,035 | 35,226 | 36,459 | 37,735 | 39,056 | 40,423 | 41,838 | 43,302 | 44,818 | 46,386 | 48,010 | 49,690 | 51,429 | 53,229 | 55,092 | 57,020 | 59,016 | 61,082 | 63,220 |
| Maintenance & Repair | 3.5% | 93,713 | 96,993 | 100,388 | 103,901 | 107,538 | 111,302 | 115,197 | 119,229 | 123,402 | 127,721 | 132,191 | 136,818 | 141,607 | 146,563 | 151,693 | 157,002 | 162,497 | 168,184 | 174,071 | 180,163 |
| Supportive Services | 3.5% | 31,000 | 32,085 | 33,208 | 34,370 | 35,573 | 36,818 | 38,107 | 39,441 | 40,821 | 42,250 | 43,729 | 45,259 | 46,843 | 48,483 | 50,180 | 51,936 | 53,754 | 55,635 | 57,582 | 59,598 |
| Commercial Expenses | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **TOTAL OPERATING EXPENSES** | | **402,683** | **416,777** | **431,364** | **446,462** | **462,088** | **478,261** | **495,000** | **512,325** | **530,257** | **548,816** | **568,024** | **587,905** | **608,482** | **629,779** | **651,821** | **674,634** | **698,247** | **722,685** | **747,979** | **774,159** |
| **PUPA (w/o Reserves/GL Base Rent/Bond Fees)** | | ***11,505*** | | | | | | | | | | | | | | | | | | | |
| **Reserves/Ground Lease Base Rent/Bond Fees** | | | | | | | | | | | | | | | | | | | | | |
| Ground Lease Base Rent | | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Replacement Reserve Deposit | | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 | 17,500 |
| **Sub-total Reserves/Ground Lease Base Rent/Bond Fees** | | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** | **17,500** |
| **TOTAL OPERATING EXPENSES (w/ Reserves/GL Base Rent/ Bond Fees)** | | **420,183** | **434,277** | **448,864** | **463,962** | **479,588** | **495,761** | **512,500** | **529,825** | **547,757** | **566,316** | **585,524** | **605,405** | **625,982** | **647,279** | **669,321** | **692,134** | **715,747** | **740,185** | **765,479** | **791,659** |
| **PUPA (w/ Reserves/GL Base Rent/Bond Fees)** | | ***12,005*** | | | | | | | | | | | | | | | | | | | |
| **NET OPERATING INCOME (INCOME minus OP EXPENSES)** | | **74,919** | **73,397** | **71,501** | **69,413** | **67,121** | **64,615** | **61,886** | **58,920** | **55,708** | **52,235** | **48,490** | **44,460** | **40,130** | **35,486** | **30,513** | **25,195** | **19,516** | **13,459** | **7,006** | **139** |
| **DEBT SERVICE/MUST PAY PAYMENTS ("hard debt"/amortized loans)** | | | | | | | | | | | | | | | | | | | | | |
| Hard Debt - First Lender | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **TOTAL HARD DEBT SERVICE** | | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** |
| **CASH FLOW (NOI minus DEBT SERVICE)** | | **74,919** | **73,397** | **71,501** | **69,413** | **67,121** | **64,615** | **61,886** | **58,920** | **55,708** | **52,235** | **48,490** | **44,460** | **40,130** | **35,486** | **30,513** | **25,195** | **19,516** | **13,459** | **7,006** | **139** |
| **USES OF CASH FLOW BELOW (This row also shows DSCR.)** | **DSCR:** | | | | | | | | | | | | | | | | | | | | |
| **USES THAT PRECEDE MOHCD DEBT SERVICE IN WATERFALL** | | | | | | | | | | | | | | | | | | | | | |
| "Below-the-line" Asset Mgt fee (uncommon in new projects, see policy) | 3.5% | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Partnership Management Fee (see policy for limits) | 3.5% | 15,000 | 15,525 | 16,068 | 16,631 | 17,213 | 17,815 | 18,439 | 19,084 | 19,752 | 20,443 | 21,159 | 21,900 | 22,666 | 23,459 | 24,280 | 25,130 | 26,010 | 26,920 | 27,862 | 28,838 |
| Investor Service Fee (aka "LP Asset Mgt Fee") (see policy for limits) | | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 | - | - | - | - | - |
| ***TOTAL PAYMENTS PRECEDING MOHCD*** | | **20,000** | **20,525** | **21,068** | **21,631** | **22,213** | **22,815** | **23,439** | **24,084** | **24,752** | **25,443** | **26,159** | **26,900** | **27,666** | **28,459** | **29,280** | **25,130** | **26,010** | **26,920** | **27,862** | **28,838** |
| **RESIDUAL RECEIPTS (CASH FLOW minus PAYMENTS PRECEDING MOHCD)** | | **54,919** | **52,872** | **50,433** | **47,782** | **44,908** | **41,800** | **38,447** | **34,836** | **30,955** | **26,792** | **22,331** | **17,560** | **12,464** | **7,026** | **1,232** | **65** | **(6,494)** | **(13,461)** | **(20,857)** | **(28,699)** |
| Does Project have a MOHCD Residual Receipt Obligation? | **Yes** | | | | | | | | | | | | | | | | | | | | |
| Will Project Defer Developer Fee? | **No** | | | | | | | | | | | | | | | | | | | | |
| Residual Receipts split for all years. - Lender/Owner | **i7% / 33%** | | | | | | | | | | | | | | | | | | | | |
| | Dist. Soft | | | | | | | | | | | | | | | | | | | | |
| **MOHCD RESIDUAL RECEIPTS DEBT SERVICE** | Debt Loans | | | | | | | | | | | | | | | | | | | | |
| MOHCD Residual Receipts Amount Due | 100.00% | 36,613 | 35,248 | 33,622 | 31,855 | 29,939 | 27,867 | 25,631 | 23,224 | 20,637 | 17,861 | 14,888 | 11,707 | 8,309 | 4,684 | 821 | 43 | - | - | - | - |
| Proposed MOHCD Residual Receipts Amount to Residual Ground Lease | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Proposed MOHCD Residual Receipts Amount to Replacement Reserve | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **REMAINING BALANCE AFTER MOHCD RESIDUAL RECEIPTS DEBT SERVICE** | | **18,306** | **17,624** | **16,811** | **15,927** | **14,969** | **13,933** | **12,816** | **11,612** | **10,318** | **8,931** | **7,444** | **5,853** | **4,155** | **2,342** | **411** | **22** | **-** | **-** | **-** | **-** |
| **REMAINDER (Should be zero unless there are distributions below)** | | **18,306** | **17,624** | **16,811** | **15,927** | **14,969** | **13,933** | **12,816** | **11,612** | **10,318** | **8,931** | **7,444** | **5,853** | **4,155** | **2,342** | **411** | **22** | **-** | **-** | **-** | **-** |
| Owner Distributions/Incentive Management Fee | | 18,306 | 17,624 | 16,811 | 15,927 | 14,969 | 13,933 | 12,816 | 11,612 | 10,318 | 8,931 | 7,444 | 5,853 | 4,155 | 2,342 | 411 | 22 | - | - | - | - |
| Other Distributions/Uses | | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| **Final Balance (should be zero)** | | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** |
| **RR Running Balance** | | **17,500** | **35,000** | **52,500** | **70,000** | **87,500** | **105,000** | **122,500** | **140,000** | **157,500** | **175,000** | **192,500** | **210,000** | **227,500** | **245,000** | **262,500** | **280,000** | **297,500** | **315,000** | **332,500** | **350,000** |
| **OR Running Balance** | | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** | **-** |

**EXHIBIT C**

Tenant Income Certification Form

[To be attached.]

# TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ Recertification ☐ Other _____

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

## PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ TCAC# CA-_____ BIN #:_____

Address: _____ 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) | F/T Student (Y or N) | Last 4 digits of Social Security # |
|---|---|---|---|---|---|---|---|
| 1 | | | | HEAD | | | |
| 2 | | | | | | | |
| 3 | | | | | | | |
| 4 | | | | | | | |
| 5 | | | | | | | |
| 6 | | | | | | | |
| 7 | | | | | | | |

## 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 If over $5000 $_____ X Passbook Rate 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%: $

Unit Meets Deeper Targeting Income Restriction at: ☐ Other _____%

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

Current Federal LIHTC Income Limit per Family Size: $

Household Income as of Move-in: $

Household Size at Move-in:

## PART VI. RENT

Tenant Paid Monthly Rent: $

Monthly Utility Allowance: $

Other Monthly Non-optional charges: $

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

Maximum Federal LIHTC Rent Limit for this unit: $

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

Unit Meets Deeper Targeting Rent Restriction at: ☐ Other: _____%

Federal Rent Assistance: $_____ *Source: _____

Non-Federal Rent Assistance: $_____ (*0-8)

**Total Monthly Rent Assistance:** $_____

*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

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

## 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

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

| a. Tax Credit ☐ | b. HOME ☐ | c. Tax Exempt ☐ | d. AHDP ☐ | e. _____ ☐ *(Name of Program)* |
|---|---|---|---|---|
| See Part V above. | *Income Status*<br>☐ ≤ 50% AMGI<br>☐ ≤ 60% AMGI<br>☐ ≤ 80% AMGI<br>☐ OI** | *Income Status*<br>☐ 50% AMGI<br>☐ 60% AMGI<br>☐ 80% AMGI<br>☐ OI** | *Income Status*<br>☐ 50% AMGI<br>☐ 80% AMGI<br>☐ OI** | *Income Status*<br>☐ _____<br>☐ OI** |

**Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

## 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" or "Negro" 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 including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
**5** – Native Hawaiian/Other Pacific Islander – A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
**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://www.fairhousing.com/index.cfm?method=page.display&pageID=465 .
- "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 transvestite.

**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. |
| 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 Adoption or Foster |
| A | Adult Co-Tenant | O | Other Family Member | | |
| 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 | Enter "Yes" if the household member is a full-time student or "NO" if the household member is not a full-time student. |
| 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 LIHTC Income Limit per Family Size | Enter the Current Move-in Income Limit for the household size – specifically, the max income limit for the federal 50% or 60% set aside. |
| 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, 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 | 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 Deeper Targeting Income Restriction | 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 non-optional 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% or 60% set aside. |
| Unit Meets Federal Rent Restriction at | Indicate the appropriate rent restriction that the unit meets according to what is required by the federal set-aside(s) for the project. |
| Unit Meets 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

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

| | |
|---|---|
| Tax Credit | See Part V above. |
| HOME | If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicting the household's designation. |
| Tax Exempt | If the property participates in the Tax Exempt Bond program; mark the appropriate box indicating the household's designation. |

| | |
|---|---|
| AHDP | If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, select the appropriate box to indicate if the household is a VLI, LI or OI (at recertification) household. |
| Other | If the property participates in any other affordable housing program, complete the information as appropriate. |

**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 quantity; 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 attorney’s 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 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. By executing this Agreement, Borrower agrees to open its meetings and

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

(c) In accordance with the Citizen's Right to Know Act of 1998 (S. F. Admin. Code Chapter 79), no officer, department, board or commission of the City may approve a City Project, as defined in Chapter 79, unless a sign has been posted on the applicable property at least fifteen (15) days before approval. A City Project is a project that involves new construction, a change in use or a significant expansion of an existing use where the City funding for the project is $50,000 or more. If the Loan will be used for a City Project, this Agreement will not become effective until fifteen (15) days following the posting of the requisite sign, or, in the alternative, thirty (30) days following the delivery of written notices to residents and owners within 300 feet of the Site, and the City will have the right to nullify or revoke this Agreement without cost or liability of any sort whatsoever at any time before that date. If Borrower believes that this Agreement relates to a City Project and that the requisite sign has not been posted, Borrower 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 12.M.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. Pursuant to San Francisco Administrative Code Chapter 99, the San Francisco Public Utilities Commission ("PUC") will examine the feasibility of supplying electricity to all new City developments, particularly those that would potentially yield the highest benefit to the City, including projects occupying any portion of public land and projects funded in whole or in part by local, State, or Federal funds. If, after considering the cost of providing service to the Project, the PUC deems the Project to be beneficial to the City, Borrower will work with the PUC to prepare an assessment of the feasibility of the City providing electric service to the Project. Such assessment will include, but not be limited to, the following: (1) electric load projection and schedule; (2) evaluation of existing electric infrastructure and new infrastructure that will be needed; (3) the potential for on-site generation and load reduction through energy efficiency and demand response; (4) business structure cost analysis; and (5) financial and cost recovery period analysis. The assessment will determine whether the addition of the Project will benefit the City and its existing customers, considering the additional costs to serve the Project. Subject to required approvals and the foregoing assessment, the PUC will supply electricity to Project, to the extent consistent with its responsibility for the exclusive management, jurisdiction, and control of energy supplies and utilities of the City as provided in Section 8B.121 of the San Francisco Charter.

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.

**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.

[signature follows]

**3300 MISSION PARTNERS L.P.,**
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation,
a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Real Estate Group CA LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

**3300 MISSION PARTNERS L.P.,**
a California limited partnership

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Its: Chief Executive Officer

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a California limited liability company
Its: Administrative General Partner

By: Mitchelville Real Estate Group CA LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

Shackoya Orum
Notary Public, State of South Carolina
My Commission Expires December 13, 2031

Shackoya Orum
Notary

SHACKOYA ORUM NOTARY PUBLIC SOUTH CAROLINA

**EXHIBIT G**

Form of Annual Monitoring Report

[To be attached]

**Annual Monitoring Report - Instructions - Reporting Year 2023 - 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 10/31/2023*

## 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.

## 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 D113.

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 D113.

## 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 satisified 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**

Program Income Overview

**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**

MOHCD Insurance Requirements Policy

**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**

| Annual Monitoring Report - Property & Residents - Reporting Year 2023 - 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 | **0** | **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.) ***If you answer "yes", skip questions 26 through 38 below, and continue with question 39. Also, you must complete worksheet "1B.TransitionalProg."*** | | | |
| | **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* | | **#4** **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. 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 there. | | | |
| *36* | | **Waiting List -** How many applicants are currently on the waiting list? Please also submit a copy of the waiting list, see AMR submission instructions. | | | |
| *37* | | When was the waiting list last updated? (m/yyyy) | | | |
| *38* | | **#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 there. | | | |

| | | | |
|---|---|---|---|
| 39 | | | What is the date of the last Capital Needs Assessment? (m/d/yyyy) |
| 40 | | | What is the projected date of the next Capital Needs Assessment? (m/d/yyyy) |
| 41 | | #3 | Are there any **Immediate or Short-Term Capital Repairs or Replacements** needed at the property in the next six months to two years? **(Yes/No)** If yes, please describe the work that is needed under Question #3 on the Narrative worksheet. Click on **#3** at left to jump there. |
| 42 | | | If you answered yes to item #42 above, how much is the estimated cost of the **Immediate and Short-Term Capital Repairs or Replacements** that you reported? If no such work is needed, enter $0. Your response will help MOHCD to plan for and prioritize capital funding in the City's budget for existing affordable housing projects. |
| 43 | | #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 there. |
| 44 | | #2 | How many **Health, Building or Housing Code Violations** were open from *prior* years? |
| 45 | | | How many **Health, Building or Housing Code Violations** were cleared in the reporting year? |

| | | | |
|---|---|---|---|
| | **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" | | |
| 46 | | Go To WS6 | After School Program/s (y/n) |
| 47 | | Go To WS6 | Licensed Day Care Service *(participant fees are allowable for day care ONLY)* (y/n) |
| 48 | | Go To WS6 | Youth Program/s (y/n) |
| 49 | | Go To WS6 | Educational Classes (e.g. basic skills, computer training, ESL) (y/n) |
| 50 | | Go To WS6 | Health and Wellness Services/Programs (y/n) |
| 51 | | Go To WS6 | Employment Services (y/n) |
| 52 | | Go To WS6 | Case Management, Information and Referrals (y/n) |
| 53 | | Go To WS6 | Benefits Assistance and Advocacy; Money Management; Financial Literacy and Counseling (y/n) |
| 54 | | Go To WS6 | Support Groups, Social Events, Organized Tenant Activities (y/n) |
| 55 | | Go To WS6 | Other Service #1 - Specify in column G, or leave blank. |
| 56 | | Go To WS6 | Other Service #2 - Specify in column G, or leave blank. |

## POPULATION SERVED

**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?

***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.***

| | | Target Population | | Actual Population | |
|---|---|---|---|---|---|
| 57 | | 0 | Families | 0 | Families |
| 58 | | 0 | Persons with HIV/AIDS | 0 | Persons with HIV/AIDS |
| 59 | | 0 | Housing for Homeless | 0 | Housing for Homeless |
| 60 | | 0 | Mentally or Physically Disabled | 0 | Mentally or Physically Disabled |
| 61 | | 0 | Senior Housing | 0 | Senior Housing |
| 62 | | 0 | Substance Abuse | 0 | Substance Abuse |
| 63 | | 0 | Domestic Violence Survivor | 0 | Domestic Violence Survivor |
| 64 | | 0 | Veterans | 0 | Veterans |
| 65 | | 0 | Formerly Incarcerated | 0 | Formerly Incarcerated |
| 66 | | 0 | Transition-Aged Youth ("TAY") | 0 | Transition-Aged Youth ("TAY") |

**Remember, SAVE YOUR WORK!**

**Annual Monitoring Report - Transitional Programs - Reporting Year 2023 - 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 | |
| 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*** | |
| 29 | | Psychiatric hospital | INSTITUTIONAL |
| 30 | | Inpatient alcohol or other drug treatment facility | |
| 31 | | Jail/Prison | |
| 32 | | Medical Facility | |
| 33 | ***0*** | ***Institutional Subtotal*** | |
| 34 | | Emergency Shelter | OTHER |
| 35 | | Places not meant for human habitation (e.g. street) | |
| 36 | | Unknown | |
| 37 | | Other | |
| 38 | ***0*** | ***Other Subtotal*** | |
| 39 | **0** | **TOTAL # HH's that left the program** | |

| | B | D | F | H | J |
|---|---|---|---|---|---|
| 15 | **Annual Monitoring Report - Fiscal Activity - Reporting Year 2023 - 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 - if amount is entered in F38, identify source(s) here --> | | | | |
| 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** | | | |
| 50 | **Description of Expense Accounts** | **Number** | **Residential** | **Non-Residential** | **Total** |
| 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 | | | |
| 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) | 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** |

| | B | D | F | H | J |
|---|---|---|---|---|---|
| 15 | **Annual Monitoring Report - Fiscal Activity - Reporting Year 2023 - Mayor's Office of Housing & Community Development** | | | | |
| 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) | | | | |
| 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:**<br>**- you must provide a detailed explanation to question #8 on the Narrative worksheet**<br>**- 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) | | | | |
| 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 Recipts Payments:** | | | | **$0.00** |
| 167 | | | | | |
| 168 | ***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.*** | | | | |
| 169 | **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** |

| | B | D | F | H | J |
|---|---|---|---|---|---|
| 15 | **Annual Monitoring Report - Fiscal Activity - Reporting Year 2023 - Mayor's Office of Housing & Community Development** | | | | |
| 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.<br><br>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. | | | | |
| 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 requred in each corresponding cateogry 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 acount 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 Imorovements 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 eligiblie 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 | | | | | |

| | B | D | F | H | J |
|---|---|---|---|---|---|
| 15 | **Annual Monitoring Report - Fiscal Activity - Reporting Year 2023 - Mayor's Office of Housing & Community Development** | | | | |
| 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.** | | | | |
| 234 | **For more information, use the following link or copy this web address for manual navigation:** | | | | |
| 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, 2023-2024 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, 2022 (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 2023 reporting period as depicted above.*** | | | | |

# Annual Monitoring Report - Narrative - Reporting Year 2023 - Mayor's Office of Housing & Community Development

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.

## 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:

| Violation or Citation # | Date Issued | Issued By | Description | Cleared? (y/n) |
|---|---|---|---|---|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

*(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.

### 4. Vacant Unit Rent-Up Time

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. A description of the work done to analyze the cause/s of the high turnaround time, and what the identified causes are; and
b. A description of the work done to identify means of reducing the turnaround time, 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.

## 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. A description of the work done to analyze the cause/s of the shortfall, and what the identified causes are; and

b. A description of the work done to identify remedies for the shortfall, 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.

d. 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 2023 - 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 2023 - 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:*

**Current Services Funding**

| Service Type | Service Provider Name | Street Address where Service is Provided | Name of Funder of this Service | Grant Amount | Grant Start Date | Grant End Date |
|---|---|---|---|---|---|---|
| | | | | | | |
| | | | | | | |
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| | | | | | | |
| | | | | | | |

Project Street Address:

**Schedule of Operating Revenues**
**For the Year Ended January 0, 1900**

| | | Total |
|---|---|---|
| | **Rental Income** | |
| 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**

| | | Total |
|---|---|---|
| | **Management** | |
| 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**

| | | Total |
|---|---|---|
| | **Maintenance and Repairs** | |
| 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: | $0 |
| 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:** | **$0** |

**Net Entity Expenses**

*Enter Name/Description of Expense (e.g. Partnership Management Fee) below and amount to*

| | | |
|---|---|---|
| 7190 | | |
| 7190 | | |
| 7190 | | |
| 7190 | | |
| 7190 | | |
| 7190 | | |
| 7190 | | |
| 7190 | | |
| 7190 | | |
| 7190 | | |
| | **Total Net Entity Expenses:** | **$0** |
| 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 2023 - 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*
**Reporting End Date:** *1/0/00*

**Project Address:**

**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 38 | incomplete |
| Questions 39 thru 45 | incomplete |
| Questions 46 thru 56 | 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 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 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.

[1]*See 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 record[2] 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

[To be attached]

# 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. |

| | | | |
|---|---|---|---|
| | | | -Hard Cost is defined as "Total Construction Costs" summed in the MOHCD Application in cell K37, Tab 4b-PermS&U.<br><br>-Sponsor cash out permissible only per MOHCD Cash Out Acquisition/Rehabilitation, Resyndication, and Refinancing Policy. |
| Recapitalization, acquisition, or transfer with less than $75,000 Per unit hard cost capital improvements | No Fee | No Fee | -Hard Cost is defined as "Total Construction Costs" summed in the MOHCD Application in cell K37, Tab 4b-PermS&U.<br><br>-Sponsor cash out permissible only per MOHCD Cash Out Acquisition/Rehabilitation, Resyndication, and Refinancing Policy. |

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. <u>At-Risk Fee Adjustment</u>**

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 re-structuring approval from MOHCD by the effective date of the Policy.

# EXHIBIT K

Hold Harmless Policy

[To be attached]

**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.

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[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) given presence of lead paint, pollution liability and/or asbestos pollution liability covering the work being performed with a limit no less than Two Million Dollars ($2,000,000) per claim or occurrence and Two Million Dollars ($2,000,000) annual aggregate

per policy. This coverage will be endorsed to include Non-Owned Disposal Site coverage. This policy may be provided by the Borrower's contractor, provided that the policy will be "claims made" coverage and Borrower will require Borrower's contractor to maintain these minimum limits for no less than three (3) years beyond completion of the construction or remodeling.

2. Property Insurance. Borrower will maintain, or cause its contractors and property managers, as appropriate for each, to maintain, insurance and bonds as follows:

(a) Prior to construction:

(i) Property insurance, RESERVED (due to non-insurability of existing façade structure)

(b) During the course of construction:

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

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

(c) Upon completion of construction:

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

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

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

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

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

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

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

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

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

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

4. General Requirements.

(a) Required Endorsements. Borrower's insurance policies will include the following endorsements:

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

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

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

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

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

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

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

(d) Claims Based Policies. All claims based on acts, omissions, injury or damage occurring or arising in whole or in part during the policy period must be covered. If any required insurance is provided under a claims-made form, Borrower will maintain coverage as follows:

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

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

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

(e) Additional Requirements.

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

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

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

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

**Exhibit M**

Intentionally Omitted

**EXHIBIT N**

Intentionally Omitted

**EXHIBIT O**

Commercial Underwriting Guidelines

[To be attached]

# City and County of San Francisco
# Mayor's Office of Housing and Community Development
# Commercial Space Underwriting Guidelines

## Effective March 3, 2023

The following Mayor's Office of Housing and Community Development Commercial Space Underwriting Guidelines (these "Guidelines") are intended to assist applicants ("Sponsors") for capital financing to prepare financing requests to the City and County of San Francisco (the "City"), represented by the Mayor, acting by and through the Mayor's Office of Housing and Community Development ("MOHCD"). These Guidelines, along with MOHCD's Underwriting Guidelines, will also be used by MOHCD staff to evaluate funding requests and present them to the Citywide Affordable Housing Loan Committee ("Loan Committee") for consideration. The intent of these Guidelines is to support consistency of final loan terms across projects, and to ensure long-term affordability and physical and financial sustainability throughout a project's loan term.

MOHCD's Commercial Loans are designed to be paired with residential/affordable housing new construction loans. The Loan Committee maintains the right to set final terms and conditions for a commitment of funds based on the actual circumstances of each project. MOHCD may review and approve any requests for a waiver to these Guidelines in its sole and absolute discretion. These Guidelines will be updated from time to time.

Note: the income and rent limits referenced in these Guidelines are determined and published annually by MOHCD for all multifamily rental housing developments under MOHCD's purview, including Small Sites, PASS and other rehabilitation-funded projects. All income and rent limits are expressed in MOHCD Area Median Income (AMI).

To the extent that commercial space is required in an affordable housing project, the following guidance is applicable.

## A. Intent

1. To support culturally vibrant and inclusive neighborhoods by prioritizing Public Benefit Uses, Community Serving Uses, and other benefits that support the affordable housing residents and surrounding community.
2. To maximize benefit to residents of the affordable housing, followed by creation of benefit for the surrounding community. For example, where the housing is designed for families, seek to provide childcare.
3. Provide City resources to support the following areas:
    a. Economic Development

b. Community and Social Development
c. Sustainable Job Creation and Retention and Wealth Creation
d. Investment Diversification and Partnerships Development
e. Environmentally Sustainable Outcomes.

4. To align with the City's Consolidated Plan and the policy priorities outlined in the applicable procurement (RFQ, RFP, NOFA) related to anti-displacement measures for residents and businesses. This may include facilitating community and/or nonprofit ownership.
5. To leverage commercial funding sources from other City departments, foundations, and financial institutions to support Public Benefit Uses and Community Serving Uses in an effort to remove barriers to successful business development in MOHCD-supported residential buildings.
6. To maintain the financial viability of the affordable housing and vitality of the surrounding neighborhood by avoiding vacancies.

## B. Project Eligibility/Applicability

These Guidelines apply to new construction projects only. 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 Section A and the same financing principles related to the use of MOHCD funds.

## C. General Loan/Grant Terms

Please see the MOHCD Development Underwriting Guidelines for guidance on the interest rate, term, and other conditions generally associated with MOHCD financing for new construction. Section E provides further details according to the proposed use, funding type and deal structure.

## D. 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. **Cold Shell:** Commercial Space improvements as defined in detail in Attachment A.
3. **Commercial Entity**: A legal entity, separate from the Housing Owner, that 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, defined below.
4. **Commercial Project Costs:** The total of all hard (construction) and soft costs associated with the development of the Commercial Space.

5. **Commercial Space:** An entire undifferentiated (ie. not divided into different spaces) 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 may intend different uses (for example, a space is finished to Warm Shell for Public Benefit Use, while another area is finished to Cold Shell and Commercial Use is intended). A Commercial Space may be demised (ie. physically divided into separately leased spaces) into more than one Individual Tenant Space as appropriate.
6. **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).
7. **Commercial Use**: A land use, typically retail or other sales and services use, with the sole or chief emphasis on financial gain and that is not a Public Benefit Use or Community Serving 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.
8. **Community Serving Use:** A land use, typically retail or other sales and services use, that provides a direct benefit to the community, as determined by MOHCD in its sole discretion. Such use to be documented through a Community Commercial Services Agreement and reported on annually through the MOHCD Annual Monitoring Report. Dimensions of benefit to include:

    a. Economic Development
    b. Community and Social Development
    c. Sustainable Job Creation and Retention and Wealth Creation
    d. Investment Diversification and Partnerships Development
    e. Environmentally Sustainable Outcomes

    Examples include:

    i. Early childhood education center,
    ii. Nonprofit office/services provision,
    iii. Food market with affordable and healthy produce and other goods,
    iv. Community banking,
    v. Restaurant offers low-cost meals,
    vi. Business hires low-income workers,
    vii. Business owned by underrepresented community, or
    viii. Other neighborhood serving uses that have a demonstrated benefit to the residents of the Project.

9. **Housing Owner**: The owner, often a Limited Partnership entity, of the residential improvements at the Project.
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 (ie. physical boundary of space being leased) 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. These expenses may include utilities, insurance, equipment maintenance, security, fees (asset management, audit, taxes), debt service, and operating and replacement reserves, all subject to the approval of MOHCD.. **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, 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, office space for non-profit organizations, 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 (ie. not divided into different units/spaces) residential area for future demising (ie. physically dividing into separately leased spaces) 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 Improvements:** The Commercial Space improvements paid for by the Individual Commercial Tenant.
17. **Warm Shell:** Commercial Space improvements as defined in detail in Attachment A.

## E. Key Terms for Public Benefit and Community Serving Commercial Uses

In alignment with MOHCD's goals in Section A, MOHCD offers the following capital financing and below market terms for Commercial Space developed for Public Benefit or Community Serving Commercial Uses:

1. Eligible use of MOHCD funds. MOHCD funds may be used for the following Commercial Project Costs:

a. Hard Costs:
- Commercial Warm Shell (see definition in Attachment A)
- 5% hard cost contingency on *warm shell costs* and cold shell costs
- May include a "Warm Shell Allowance" of up to $1 million, for warm shell costs (see Attachment A) that are to be determined. Warm Shell Allowance funds must be spent within 2 years of main building permit TCO, and any unspent funds placed in a controlled bank account.

b. Soft Costs:
- Architecture, construction management and consulting fees for coordination of Tenant Improvements with shell design and construction
- Pro rata share of Project soft costs that should be split between residential and commercial, as calculated by Project financial consultant
- Market study and broker fees
- Permit fees
- No furnishings, fixtures or equipment (FF&E)

c. Capitalized Commercial Reserve:
- $10,000 plus $5/sf capitalized Commercial Reserve for lease up/operations period vacancy (eligible uses, for example, include utilities, real estate taxes, insurance), and/or replacement reserve needs (post-initial occupancy).

d. Commercial Tenant Planning Funds:
- Up to $50,000 (or 50% of Individual Commercial Tenant(s) annual operating revenue from the last completed fiscal year, whichever is less) per Commercial Tenant to Individual Commercial Tenant(s) to support their design and permitting process and fundraising strategy once MOHCD-approved Letter/s of Intent (LOI) has been executed. Professional fees are allowed and may include Construction Manager/Property Manager and Permit Coordinator.

e. Commercial Space Developer Fee:
- Allowed in addition to Residential Developer Fee, so long as the sum of the Commercial Developer Fees and Residential Developer Fee do not exceed the developer fee limits allowed by TCAC or other funding agencies.

- Up to $350,000 per Project, including Project Management and At-Risk fees.
- $75,000 per Project in additional fee will be allowed for completing the condominium or air rights subdivision, subject to MOHCD approval of the subdivision and legal structure
- Milestones for disbursement are as follows:
    - $75,000 – At subdivision completion, if applicable
    - $175,000 – For Project Management, earned pro rata at milestones such as approval of the Commercial Space Plan, signing of Letter of Intent with Tenant and execution of Individual Commercial Tenant/s lease/s
    - $175,000 – At-Risk earned at milestones that may include signing of tenant leases (up to half) and completion of Tenant Improvements and Tenant Occupancy (split pro-rata)
- Commercial Developer's Responsibilities: Please see Attachment B for description of responsibilities related to commercial space development.

2. Due diligence.

a. Commercial Space Plan, Commercial Proforma, Tenant Improvement Build-out Summary:
    i. Commercial Plan: Developer must prepare and submit to MOHCD for approval prior to receipt of first installment of Project Management developer fee.
    ii. Commercial Proforma: Developer must prepare both a capital Sources and Uses Budget as well as a commercial operating budget.
    iii. Tenant Improvement Buildout Summary: Developer must provide an Excel matrix that includes all data points that will inform the LOI.

b. Market Study: A market study must be provided by a third party (e.g. a broker, appraiser, or market analyst). This should inform the setting of these terms:
    i. Rent, Rent Growth, Annual Rent Adjustments
    ii. Rent Concessions and/or Tenant Improvement Allowances
    iii. Vacancy Rate
    iv. Expenses and Expense Growth Rate
    v. Commercial Property Management Fees, Leasing Agent Fees
    vi. Reserves.

    The Marketing Study should include:

    i. Analysis of neighborhood commercial rents including at least three (3) comparable transactions
    ii. Summary of market tenant improvement allowances

iii. Summary of immediate submarket/vacancy
iv. Summary of businesses in the particular neighborhood / voids and concentration
v. Opinion on whether a certain business (type or name to be provided by client) will succeed in a particular area

c. Commercial Costs in Basis: Evidence that Developer has analyzed whether commercial space is eligible to be included in eligible basis for use of LIHTC (e.g. whether located in a Qualified Census Tract and use is compliant)

3. Permitted legal structures.
   a. Direct Lease: Housing Owner leases directly to Individual Commercial Tenant(s).
   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).
   c. Subdivision: 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 must be an Affiliated Entity or Individual Commercial Tenant (the latter per the terms below in Section D.7.). Subdivision is permissible only under certain circumstances – for example:
      - When there is more than 5,000 square feet of commercial space and multiple tenants
      - When doing so leverages additional/non-City sources to the project, to facilitate tenant ownership, or to increase competitiveness for non-City financing.

4. Use Restrictions. MOHCD will restrict the use, in the ground lease, of all Commercial Spaces for which the Borrower applies for financing under Section E. Any change in use requires MOHCD approval. MOHCD will also prohibit certain specific uses, such as bars and retail liquor sales, in the ground lease.

5. Letters of Intent (LOI) and Master Lease Terms. All LOIs and leases, including the Commercial Master Lease and Individual Commercial Tenant subleases and Direct Leases, are subject to review and approval by MOHCD, in accordance with these Guidelines.
   a. LOIs: LOIs should conform to the requirements below in subsection c.
   b. Commercial Master Lease: For projects constructed on a single parcel (see below for subdivided parcels), Commercial Master Lease rent will be structured so that 40% of Net Commercial Cash Flow, if any, will be paid by Commercial Entity to Housing Owner, and 60% of Net Commercial Cash Flow is paid to the Commercial Entity

(ie. the Commercial Space Master Tenant). The Commercial Entity/Commercial Space Tenant must be an Affiliated Entity. (If 40% of Net Commercial Cash Flow is significant, MOHCD may establish an additional rent, based on 40% of Net Commercial Cash Flow projections, in the MOHCD residential ground lease.)

c. Direct Leases and Individual Commercial Tenant Subleases: Commercial rents and/or Common Area Maintenance (CAM) charges should be sized so as to cover the direct, shared, and allocated costs attributable to commercial use, including utilities payable by the property for the Commercial Space, commercial management fees, commercial reserves, and property taxes and insurance attributable to the Commercial Space. Rent adjustments, beyond typical annual escalations to cover expenses, at renewal periods are prohibited. Lease deposits are prohibited (although tenants may be required to pay for damages), assuming Individual Commercial Tenant/s are responsible for funding Tenant Improvements. The term of the lease between an Individual Commercial Tenant(s) and the Housing Owner or Commercial Space Master Tenant cannot exceed the term of the MOHCD financing on the Project (ie. typically, 55 years).

6. MOHCD Commercial Ground Lease and Loan Terms. When the Commercial Space has been subdivided from the Residential Space, MOHCD will convert the Commercial Space development costs funded by MOHCD into a MOHCD Commercial Loan which is executed at permanent conversion. Additionally, MOHCD will enter into a MOHCD Commercial Ground Lease with the Commercial Entity.

a. Commercial Loan Terms: 55-year term. 0% interest rate. Repayment through residual receipts from commercial space only.

b. Commercial Ground Lease Terms: 75-99-year term. Base rent equal to $1/year. Residual rent will be 40% of Net Commercial Cash Flow to the City. For other key terms, please see the Underwriting Guidelines applicable to residential use. See the Ground Lease Policy.

7. Transfer of Commercial Space Ownership. Any transfer or sale of the Housing Owner's or Commercial Owner's interest in the Commercial Space parcel is subject to MOHCD approval. Under Section E, the ownership of the Commercial Space parcel may only be transferred to an Individual Commercial Tenant if a) the MOHCD Commercial Loan balance has been fully paid, or b) the MOHCD Commercial Loan has been assigned to the Individual Commercial Tenant. If the MOHCD Commercial Loan is assigned to the Individual Commercial Tenant that is a nonprofit, 501(c)(3) exempt organization, MOHCD may forgive 10% of the Loan each year to such Individual Commercial Tenant that is actively in business and contributing to Intent 1 in Section A. As discussed in Section E.4., MOHCD will continue to restrict the use of the Commercial Space through its Commercial Ground Lease.

## F. Terms for Commercial Uses

MOHCD offers the following capital financing terms for Commercial Space developed for Commercial Uses not included in Section E:

1. Eligible use of MOHCD funds. MOHCD funds may be used for the following Commercial Project Costs:

a. Hard Costs:
- Commercial Cold Shell (see definition in Attachment A)
- 5% hard cost contingency on cold shell costs

b. Soft Costs:
- Construction management and consulting fees for coordination of Tenant Improvements with shell construction
- Pro rata share of Project soft costs that should be split between residential and commercial, as calculated by Project financial consultant
- No furniture, fixtures or equipment (FF&E)

c. Reserves:
- Capitalized commercial reserve for lease up, tenant improvements, and/or replacement reserve needs consistent with the Market Study (see Section E.2.a. below)

e. Commercial Space Developer Fee:
- Allowed in addition to Residential Developer Fee, so long as the sum of the Commercial Developer Fees and Residential Developer Fee do not exceed the developer fee limits allowed by TCAC or other non-City funding sources.
- $200,000 per Project
- $75,000 in additional fee will be allowed for completing the condominium or air rights subdivision, subject to MOHCD approval of the subdivision and legal structure
- Milestones for disbursement are as follows:
  - $75,000 – At subdivision completion, if applicable
  - $100,000 – For Project Management, earned pro rata at milestones such as approval of the Commercial Space Plan, signing of Letter of Intent with Tenant and execution of Individual Commercial Tenant/s lease/s
  - $100,000 – At-Risk earned at milestones that may include signing of tenant leases (up to half) and completion of Tenant Improvements and Tenant Occupancy (split pro-rata)

2. Due diligence. Same as for Public Benefit.

3. Permitted legal structures. Same as for Public Benefit.

4. Use Restrictions. Same as for Public Benefit.

5. Letters of Intent (LOI) and Lease Terms. All LOIs and leases, including the Commercial Master Lease and Individual Commercial Tenant subleases and Direct Leases, are subject to review and approval by MOHCD, in accordance with these Guidelines.

a. LOIs: LOIs should conform to the requirements below in subsection c.

b. Commercial Master Lease: Commercial Master Lease rent will be structured so that 40% of Net Commercial Cash Flow, will be paid by Commercial Entity to Housing Owner, and 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. (If 40% of Net Commercial Cash Flow is significant, MOHCD may establish an additional rent, based on Net Commercial Cash Flow projections, in the MOHCD residential ground lease.)

c. Direct Leases and Individual Commercial Tenant Subleases: Commercial rents and/or Common Area Maintenance (CAM) charges should be based on the proposed use and market conditions consistent with the Market Study. Commercial rents charged must be sufficient to cover all direct, shared, and allocated costs attributable to commercial use. Commercial operating expenses shall include all utilities payable by the property for the Commercial Space, commercial property management fees, commercial reserves, and property taxes and insurance attributable to the Commercial Space. The term of the lease between an Individual Commercial Tenant(s) and the Housing Owner or Commercial Space Master Tenant should be consistent with the Market Study.

6. MOHCD Commercial Ground Lease and Loan Terms. When the Commercial Space has been subdivided from the Residential Space, MOHCD will convert the Commercial Space development costs funded by MOHCD into a MOHCD Commercial Loan which is executed at permanent conversion. Additionally, MOHCD will enter into a MOHCD Commercial Ground Lease with the Commercial Entity.

a. Commercial Loan Terms: 55-year term. 3% interest rate. Residual receipts, with 40% Net Commercial Cash Flow due to MOHCD.

b. Commercial Ground Lease Terms: 99-year term. Base rent equal to $1/year. Residual rent based on residual receipts, with 40% Net Commercial Cash Flow due to MOHCD once MOHCD Commercial Loan balance has been fully paid.

7. Transfer of Commercial Space Ownership. Any transfer or sale of the Housing Owner's or Commercial Owner's interest in the Commercial Space parcel is subject to MOHCD approval. Under Section E, the ownership of the Commercial Space parcel may only be transferred to an Individual Commercial Tenant if the MOHCD Commercial Loan balance has been fully paid. As discussed in Section E.3., MOHCD will continue to restrict the use of the Commercial Space through its Commercial Ground Lease.

## G. Applicability of Accessibility, Procurement, Prevailing Wage, and Workforce Requirements

For the scope of the Commercial Space that is being funded by MOHCD and/or is being built out under the Project's construction contract, all City accessibility, procurement, prevailing wage, and workforce requirements related to the Project will apply.

Tenant Improvements that are being built out under a construction contract separate from the Project's and are not funded by MOHCD, and executed on City or other government land, regardless of the source of financing, are subject to all applicable City

accessibility, procurement, prevailing wage and workforce requirements to which the housing Project was subject (with limited exceptions associated with funding sources and thresholds pertaining to construction contract value).

The Mayor's Office on Disability and the Department of Building Inspections are responsible for accessibility requirements. The Contract Monitoring Division is responsible for procurement, the Office of Economic and Workforce Development is responsible for workforce requirements, and the Office of Labor Standards Enforcement oversees the provision of prevailing wages.

If the Individual Commercial Tenant's Tenant Improvements are funded with money from other City agencies (ie. Office of Economic and Workforce Development grants awarded through Community Vision), all requirements pertaining to that funding source will apply.

If the Individual Commercial Tenant's Tenant Improvements are not funded by any public dollars, and not executed on government-owned land or leased land, please consult with MOHCD on the applicability of City accessibility, workforce and prevailing wage requirements.

## H. Real Estate Resources for Nonprofit and Small Business Entities

Loans, grants, and technical assistance for nonprofits and small businesses:

a. San Francisco Arts Commission – Arts Commission
b. Office of Economic and Workforce Development – Nonprofit sector business development
c. Office of Economic and Workforce Development – Find a grant
d. Office of Economic and Workforce Development – Office of Small Business - https://sf.gov/departments/office-economic-and-workforce-development/office-small-business
e. San Francisco Small Business Development Center (Small Business Administration) - https://www.sfsbdc.org/
f. Community Vision - https://communityvisionca.org/real-estate-solutions/

## I. WAIVER REQUESTS

All waiver requests are subject to the approval of MOHCD staff and the Citywide Affordable Housing Loan Committee, each at its own discretion. Any requests from the Sponsor to waive any part of these Underwriting Guidelines must be submitted in writing to the MOHCD project manager.

| **ATTACHMENT A** | | |
|---|---|---|
| **Scope/Trade** | **Cold Shell** | **Warm Shell (Cold Shell plus the following)** |
| **Walls/Doors** | Exterior/perimeter walls and doors, including, where required, automatic door actuator(s) at entrance(s). Exterior/perimeter walls must be finished with gyp and fire taping to Code.<br><br>No partition walls or corresponding doors within demised spaces. | Partition walls and doors demising Individual Tenant Space(s). Partition walls, doors and locks for restrooms and kitchenette based on Individual Commercial Tenants and Code requirements. No other partition walls or doors. |
| **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 and base to minimum specification of Individual Commercial Tenant or exposed slab with clearance to install flooring to level landing at door. Provide wall, floor, and ceiling finish in restrooms. Kitchenette finishes not included. |
| **Specialties** | Code required signage. Exterior commercial signage program developed and approved by Planning and MOHCD. Exterior infrastructure (conduit to anticipated location, cabling, and bracket embeds). | Restroom accessories (soap dispenser, diaper changing station, hand dryer or towel dispenser, garbage receptable, toilet partitions). Exterior signage (not including marquee or specialty) corresponding to Commercial Signage Program provided in Cold Shell graphics, shop drawings, fabrication, and installation. Kitchenette specialties (cabinets, countertops, lighting, appliances, and plumbing) not included. Drop ceilings. |
| **Structural** | Anchors for drop-ceiling. Anchors must be cast-in slab minimum 4' on center in each direction or per Code-required minimum details by licensed structural engineer. Coring or block-out for assumed HVAC rough-in. Steel embed brackets for exterior signage connection. | Code required ramps and railings to assumed final finish floor and level landing at entrance(s). |

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| **Elevator / Lift** | No | As required. |
| **Mechanical** | Stub out for heat-pump, space on roof for equipment, and waterproofed pad (or sidewall where possible). Condensate line installation if roof mounted system anticipated. Fire rated shaft for later ducting of restaurant hood(s); supply air / louver on exterior wall. | Exhaust venting of restroom(s) and kitchenette(s). Ductwork to connect location of mechanical equipment to exterior. Condensate line installation if roof mounted system anticipated. 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.<br><br>Does not include water heating (except for code required restrooms) and all other mechanical equipment. |
| **Plumbing** | Stub-out for domestic water supply and water meter in meter room. Storm sewer 4". Stub out all plumbing (supply and waste) to minimum Code-required restroom location(s), including floor drains.<br><br>SFPUC water meters based on fixtures shown in base building permit drawings. Includes sub panel with breakers.<br><br>No finish. | SFPUC water meters based on establishment of Individual Commercial Tenant/s. Distribution piping for domestic water (hot and cold), waste and vents to plumbing fixture locations within Individual Tenant Space(s). Floor drains and code-required restroom plumbing fixtures (lavatory(ies), water closet(s), urinal(s)). Does not include finish plumbing of stand-alone fixtures and water heating or garbage disposal (except for restroom fixtures). |
| **Electrical** | Provide main service. Dedicated meter in electrical room with service to Commercial Space, including sub-breaker panel. Stub out and conduit on ceiling for mechanical. Perimeter walls to have Code-required wall receptacles. Light fixtures in space connected to Commercial Splace meter to meet Certificate of Completion requirements only. Emergency lighting back-up power, connect to Lift or | Installation of sub panel at Individual Tenant Space/s. Interior partition wall outlets as required by Code. Bathroom and kitchenette lighting GFCI outlets per Code. Provide outlets for kitchenette appliances, do not include garbage disposal. |

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| | | Elevator (where applicable). Fire alarm distribution from panel, zoned and programmed. Exterior lighting for safety and continuity of design.<br><br>Provide conduits (as needed for commercial HVAC units) from Commercial Space to roof. | |
| **Telephone/Data** | | Two (2) 2" conduits from MPOE to space for telecom/data/security. Perimeter walls to have data receptacle rings and conduits to space above ceiling adjacent to-required electrical wall receptacles. Temporary security camera connected to residential system until Commercial Space is occupied. | Conduit to IDF for data / fiber and telephone / security, as needed. 4’ by 4’ ¾” plywood backer board for telcom/data/security systems for each demised space. Interior partition walls to have data receptacle rings and conduits to space above ceiling adjacent to-required electrical wall receptacles |
| **Fire Protection/ Alarm** | | Building Fire Alarm shall be sized, zoned, programmed and tested 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. Sprinkler heads should be “arm-over” configuration to allow for coordination with future ceiling and lighting layout. Sprinkler system should have sufficient capacity and connection points to allow for additional heads required by future room layouts. Fire extinguishers and cabinets installed. Specialty restaurant fire suppression systems not included. | Zoning of Fire Alarm to Individual Tenant Space/s and re-configuration / programming and testing of main building fire panel. Specialty restaurant fire suppression systems not included. Code required bathroom and kitchenette fire alarm items as required. Sprinkler systems should have additional heads as required to conform to the layout of the demising partition(s), restroom(s) and kitchenette(s). |

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| **Site Work** | No | Where required by regulation or Code, consideration of site work within the Warm shell (e.g., fencing and gates, lighting, curb cuts, curb painting, parking). |

# Attachment B

Commercial Developer's Responsibilities include:

1. Establishing the vision for any non-residential spaces that aligns with Section A as well as the applicable procurement (RFQ, RFP, NOFA) through which the developer was selected
2. Developing and iterating commercial objectives and strategies
3. Creating a Commercial Plan including working with brokers and partners to understand the projected market
4. Working with design team to determine designs for commercial units
5. Developing and iterating Commercial Proforma
6. Developing and iterating a Tenant Improvement Summary (final to be submitted upon completion)
7. Working with in-house asset management team and operations team to develop common area maintenance charges and specific property expenses including insurance, real estate taxes, and reserves.
8. Developing commercial marketing materials and distributing materials to various platforms
9. Consistent community engagement and stakeholder conversations and presentations
10. Working with legal teams to create and finalize documents including commercial tenant leases, master leases, CC&Rs, REAs, and Commercial Ground Leases
11. Cultivating relationships with potential commercial tenants
12. Showing commercial spaces to potential tenants
13. Reviewing commercial tenant applications
14. Creating Letters Of Intent (LOIs) and Leases (often requires multiple LOIs for each unit because tenants frequently back out)
15. Collecting required documents for construction
16. Overseeing tenant improvement buildout
17. Collecting required final documents after successful inspections
18. Regular (at least annual) reporting to MOHCD on satisfaction of goals outlined in Community Commercial Services Agreements and/or the loan agreement.

**EXHIBIT P**

Residual Receipts Policy

[To be attached]

# 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)

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| **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, 2/3$^{rds}$ of residual receipts is payable to the City. Larger Tax Credit projects may be eligible to use an alternative ½ - ½ 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 |

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| | 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 2/3rds of Residual Receipts. Larger Tax Credit projects may be eligible to use an alternative ½ - ½ 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 2/5ths of the amount available to be repaid, and the other lender would receive 3/5ths 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.

**SECURED PROMISSORY NOTE**

(Acquisition Amount)
(2023 Certificate of Participation, Housing Trust Fund)

Principal Amount: $4,151,000 San Francisco, CA

Date: December 21, 2023

FOR VALUE RECEIVED, the undersigned, **3300 Mission Partners L.P.**, a California limited partnership ("Maker"), hereby promises to pay to the order of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, or holder (as the case may be, "Holder"), the principal sum of [Four Million One Hundred Fifty One Thousand and No/100 Dollars ($4,151,000.00)] (the "Acquisition Amount"), or so much of the Acquisition Amount as may be disbursed from time to time pursuant to the Agreement described in **Section 1** below, as provided in this Note.

1. Agreement. This Secured Promissory Note ("Note") is given under the terms of a 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 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, and a pledge of Work Product contained in the Agreement. Definitions and rules of interpretation set forth in the Agreement apply to this Note. In the event of any inconsistency between the Agreement and this Note, this Note will control.

2. Interest. Except as provided in **Section 3**, no interest will accrue on the Acquisition Amount.

3. 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.

4. Repayment of Acquisition Amount. 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 earlier of (a) Maker's closing of construction financing for the Projector (b) Outside Construction Commencement Date (the "Maturity Date"). If the Maturity Date falls on a weekend or holiday, it will be deemed to fall on the next succeeding business day. This Note will be deemed repaid upon Maker's transfer of the Site to the City on or before the closing of construction financing for the Project, or a transfer of the Site under Section 3.8 of the Agreement.

5. Security. Maker's obligations under this Note are secured by the Deed of Trust and the pledge of Work Product.

6. Terms of Payment.

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

6.2 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.

6.3 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.

6.4 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.

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

7. Default.

7.1 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.

7.2 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.

7.3 Non-Recourse. 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.

8. Waivers.

8.1 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.

8.2 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.

8.3 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.

9. Miscellaneous Provisions.

9.1 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.

9.2 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.

9.3 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.

9.4 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.

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

**"MAKER"**
**3300 MISSION PARTNERS L.P.,**
a California limited partnership

By: Tabernal Alliance LLC,
a California limited liability company
Its: Managing General Partner

By: Bernal Heights Housing Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
Gina Dacus
Its: Executive Director

By: Tabernacle Community Development Corporation, a California nonprofit public benefit corporation
Its Co-Managing Member

By: _____
James McCray Jr.
Its: Chief Executive Officer

By: AJJLA Housing 2 LLC,
a California limited liability company
Its: Administrative General Partner

By: Mitchelville Real Estate Group CA LLC,
a California limited liability company
Its: Manager

By: _____
Andre White
Its: Managing Member

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By: _____
Andre White
Its: Managing Member

Shackoya Orum
Notary Public, State of South Carolina
My Commission Expires December 13, 2031

Shackoya Orum
Notary

SHACKOYA ORUM
NOTARY
PUBLIC
SOUTH CAROLINA

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

# NOTICE OF PROJECT ELIGIBLE FOR AB2011 APPROVAL

| | |
|---|---|
| *Date:* | December 20, 2023 |
| *BPA No.:* | 202310259516 |
| *Planning Record No.* | 2023-006512PRJ |
| *Project Address:* | **3300 Mission Street** |
| *Zoning:* | Mission Bernal NCD (Neighborhood Commercial District)<br>Mission Alcoholic Beverage Restricted Use District<br>Mission Street Formula Retail Restaurant Subdistrict<br>Fringe Financial Services Restricted Use District<br>40-X Height and Bulk District |
| *Block/Lot:* | 6635 / 001 |
| *Project Sponsor:* | Andre White<br>3300 Mission Partners, L.P.<br>515 Cortland Avenue<br>San Francisco, CA 94110 |
| *Staff Contact:* | Charles Enchill – 628-652-7551<br>Charles.Enchill@sfgov.org |

## Project Description

The project would redevelop an existing three-story building that contained ground floor commercial space and twenty-four (24) Single Room Occupancy (SRO) and hotel units, which has been vacant due to a fire since approximately 2016. The proposed project would construct a six-story building approximately 21,700 square feet, containing thirty-five (35) studio units 100% affordable to Low- and Very Low-Income Households, a residential community space, and approximately 776 square feet of ground floor commercial space. The new structure will retain the existing façades along Mission and 29th Streets.

## AB2011 Eligibility Checklist

The Planning Department has determined that the project, as proposed, is eligible for approval under Assembly Bill 2011 (California Government Code Section 65912.100-65912.140) in conjunction with the State Density Bonus Law (California Government Code Section 65915).

☒ **Zoned for Permitted Use:** The project is located in a zone where office, retail, or parking are a principally permitted use.

☒ **Industrial Uses:** The project is not located on a site, nor adjoined to any site where more than one third of the square footage on the site is dedicated to industrial use.

☒ **Location:** The development is not on a property that contains prime farmland or wetlands, or that is classified as a high fire hazard severity zone, a delineated earthquake fault zone, a flood plain, a floodway, a community conservation plan area, a habitat for protected species, that is under a conservation easement, or on a property that is classified as a hazardous waste site as defined under CA Gov't Code §§ 65912.111(e) (65913.4(a)(6)(E)), unless the project sponsor has secured a letter from the State Department of Public Health, State Water Resources Control Board, or the Department of Toxic Substance Control stating that the site is suitable for residential uses.

☒ **Affordability:** The development project meets the affordability criteria listed under Government Code Section 65912.112.

☒ **Multifamily Project:** The development shall be a multifamily housing development, proposing at least five dwelling units.

☒ **Phase I Environmental Assessment:** The project has completed a Phase I Environmental Assessment.

☒ No recognized environmental conditions have been found on the development site.

☒ **Distance from Freeways:** None of the housing on the proposed site is located within 500 feet of a freeway.

☒ **Consistent with Objective Standards:** The project must meet all objective standards of the Planning Code at the time of AB2011 application submittal.

## Review Timeline

AB2011 includes timelines for streamlined ministerial review. Planning staff must determine if a project is eligible for streamlining within 60 days of application submittal. The AB2011 Application and accompanying site permit for the project at 3300 Mission Street was submitted on October 25, 2023. This Notice serves to confirm that the project is eligible for streamlining under AB 2011.

Pursuant to Government Code Section 65912.100-65912.140, the Planning Department must complete any necessary design review within 90 days of application submittal, not including time spent waiting for applicant response to Planning Department requirements. Provided the application is complete, the Planning Department must complete design review by January 23, 2024. The project sponsor will receive a Notice of Final AB2011 Approval upon completion of design review. Please note that the Planning Director may decide to schedule a design review hearing at the Planning Commission and/or Historic Preservation Commission.

San Francisco Planning

49 South Van Ness Avenue, Suite 1400
San Francisco, CA 94103
628.652.7600
www.sfplanning.org

# NOTICE OF FINAL APPROVAL OF AN AB 2011 PROJECT

| | |
|---|---|
| *Date:* | 2/12/2024 |
| *Planning Record No.* | 2023-006512PRJ |
| *Project Address:* | 3300 MISSION STREET |
| *Zoning:* | NCD – Mission Bernal Neighborhood Commercial District<br>Mission Alcoholic Beverage Special Use District<br>Mission Street Formula Retail Restaurant Subdistrict<br>Fringe Financial Services Restricted Use District<br>40-X Height and Bulk District |
| *Block/Lot:* | 6635 / 001 |
| *Project Sponsor:* | Andre White<br>515 Cortland Avenue<br>San Francisco, CA 94110 |
| *Staff Contact:* | Charles Enchill – (628) 652-7551<br>Charles.Enchill@sfgov.org |

## Project Description

The project would redevelop an existing three-story building that contained ground floor commercial space and twenty-four (24) Single Room Occupancy (SRO) and hotel units, which has been vacant due to a fire since approximately 2016. The proposed project would construct a six-story building approximately 21,600 square feet, containing thirty-five (35) studio units 100% affordable to Low- and Very Low-Income Households, a residential community space, and approximately 776 square feet of ground floor commercial space. The new structure will retain the existing façades along Mission and 29th Streets.

## Project Approval

This project is approved pursuant to Government Code section 65912.110, commonly known as AB 2011. AB 2011 requires the ministerial approval of eligible 100% affordable and mixed-income housing developments located on sites where office, retail or parking are principally permitted. For additional details on AB 2011, please see Government Code section 65912.110, or Director's Bulletin 5.

The Department has determined that the project is eligible for AB 2011 and has concluded its design review of the project, including that it complies with the objective standards of the Planning Code. The Department therefore approves the project in accordance with the provisions of Government Code section 65915 (AB 2011), as recorded in Planning Record No. 2023-006512PRJ. The project shall comply with the standard conditions of approval for an AB 2011 project, attached as Exhibit A. The property owner shall record Exhibit A in a Notice of

Special Restrictions prior to the issuance of a site or building permit for the project. The plans for the approved project are attached to this approval as Exhibit B.

## Project Timeline

On October 25, 2023, Andre White submitted an AB2011 Application for the project at 3300 MISSION STREET.
On November 20,2023, department staff determined that the AB 2011 Application was complete,
On November 20,2023, department staff determined that the proposed project was eligible for AB 2011.
On January 19, 2024, department staff issued Plan Check Letter No. 1 to the Project Sponsor.
On January 24, 2024, the Project Sponsor responded to Plan Check Letter No. 1.

## Compliance with the State Density Bonus Law

The Project Sponsor seeks to proceed pursuant to Planning Code Section 206.6, Individually Requested State Density Bonus Law, Government Code Section 65915 et seq (the "State Law"). Under subsection 65915(b)(1)(G) of the State Law, a housing development that provides 100 percent of the total units for lower income households, except that up to 20 percent of the total units in the development may be for moderate-income households and exclusive of a manager's unit(s), is entitled to four concessions and incentives that result in identifiable and actual cost reductions to provide for affordable housing costs. Such project, when located within one-half mile of a major transit stop, shall be relieved of maximum density controls and shall also receive a height increase of up to three additional stories, or 33 feet, and unlimited waivers from development standards that might otherwise preclude the construction of the project are permitted under this subsection of the State Law.

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| PRJ Accepted Date | 11/20/2023 |
| Project Tenure | Rental |
| Location | Mission Bernal NCD |
| Project Size | Large – 25+ total units |
| On-Site Rate | N/A – Exempt for 100% affordable |
| Fee Rate | N/A – Exempt for 100% affordable |
| Total On-Site Affordable Units | 35 |
| AMI Levels | 30-80% AMI |
| Affordable Unit Mix | 35 Studio |
| Total Residential Floor Area | 20,963 sf |
| Base Residential Floor Area or Base Units | N/A – 100% affordable project may seek form-based density. |
| % Density Bonus | N/A – Three (3) additional stories in height (or 33 feet) pursuant to CA Gov Code §65915(b)(1)(G)) and 65915(d)(2)(D). |

## Planning Code Findings

### Planning Code Section 206.6

The Department finds that the project is consistent with the findings set forth in 206.6 as further described below.

#### Waivers

The Planning Department shall waive 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 project has requested waivers from the development standards for rear yard (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit mix (Planning Code Section 207.7), and height (Planning Code Section 260).

A. The waiver is not required to permit the construction of the project meeting the density permitted or with the Concessions and Incentives permitted under Planning Code Section 206.6.

*Rear Yard. The requested waiver from rear yard setback allows the project to add an additional twenty five (25) dwelling units at the North side and interior of the property, where the triangular shape of the lot would result in a discontiguous rear yard inconsistent with the neighborhood pattern of mid-block open space.*

*Open Space. The requested waiver from usable open space further allows the project to add dwelling units at the project site. The project provides 540 square feet of common usable open space, approximately fifteen percent of the square footage required, at the roof deck. Due to the limited parcel area of 3072 square feet, providing additional common usable open space at the ground floor would conservatively preclude construction of 1-2 units per floor (or total of 5-10 units).*

*Dwelling Unit Mix. The requested waiver from dwelling unit mix allows the project to provide thirty-five (35) units that are 100% affordable, defined as 30-80% Area Median Income (AMI). Compliance with the dwelling unit mix requirements would preclude the same amount of units to be constructed (35 studios) in order to meet required amount of two- and three-bedroom units.*

*Height. The requested waiver from height allows the project to add at least fourteen (14) cumulative dwelling units at the fifth and sixth floors. Construction consistent with Planning Code Section 260 would result in these additional density bonus units lost.*

B. The waiver would have a specific, adverse impact 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 waivers from the development standards for rear yard (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit mix (Planning Code Section 207.7), and height (Planning Code Section 260) would not result in a specific, adverse impact to public health and safety, or on any real property that is listed in the California Register of Historical Resources.*

C. The waiver would be contrary to state or federal law.

*The requested waivers from the development standards for rear yard (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit mix (Planning Code Section 207.7), and height (Planning Code Section 260) would not be contrary to state or federal law.*

## General Plan Findings

### HOUSING ELEMENT

POLICY 8

EXPAND PERMANENTLY SUPPORTIVE HOUSING AND SERVICES FOR INDIVIDUALS AND FAMILIES EXPERIENCING HOMELESSNESS AS A PRIMARY PART OF A COMPREHENSIVE STRATEGY TO ELIMINATE HOMELESSNESS.

POLICY 15

EXPAND PERMANENTLY AFFORDABLE HOUSING INVESTMENTS IN PRIORITY EQUITY GEOGRAPHIES TO BETTER SERVE AMERICAN INDIAN, BLACK, AND OTHER PEOPLE OF COLOR WITHIN INCOME RANGES UNDERSERVED, INCLUDING EXTREMELY-, VERY LOW-, AND MODERATE-INCOME HOUSEHOLDS.

Objective 4.A
Substantially expand the amount of permanently affordable housing for extremely low- to moderate-income households.

POLICY 26

STREAMLINE AND SIMPLIFY PERMIT PROCESSES TO PROVIDE MORE EQUITABLE ACCESS TO THE APPLICATION PROCESS, IMPROVE CERTAINTY OF OUTCOMES, AND ENSURE MEETING STATE- AND LOCAL-REQUIRED TIMELINES, ESPECIALLY FOR 100% AFFORDABLE HOUSING AND SHELTER PROJECTS.

POLICY 32

PROMOTE AND FACILITATE AGING IN PLACE FOR SENIORS AND MULTI-GENERATIONAL LIVING THAT SUPPORTS EXTENDED FAMILIES AND COMMUNAL HOUSEHOLDS.

Objective 4.C
Diversify housing types for all cultures, family structures, and abilities.

*The project will construct a mixed-use building consisting of 35 studio dwelling units and ground floor retail and the project sponsor will deed-restrict all 35 rooms at the site at affordability levels 30-80% Area Median Income (AMI).*

**Planning Code Section 101.1(b)** establishes eight priority-planning policies and requires review of permits for consistency with said policies. On balance, the project complies with said policies in that:

A. That existing neighborhood-serving retail uses be preserved and enhanced and future opportunities for resident employment in and ownership of such businesses be enhanced.

*The project site does not possess any neighborhood-serving retail uses since 2016 fire damage. The Project provides 35 new dwelling units, at affordability levels 30-80% AMI, which will enhance the proposed ground-floor retail use and nearby retail uses by providing new residents, who may patron and/or own these businesses.*

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

*The project site does not possess any existing housing. The Project provides 35 new dwelling units, at affordability levels 30-80% AMI, thus resulting in an overall increase in the neighborhood housing stock. In addition, the Project would add proposed ground-floor retail use, which adds to the public realm and by faciliataing a commercial space along the neighborhood commercial corridor. The Project is expressive in it's design and would also protect and preserve the cultural and economic diversity of the neighborhood.*

C. That the City's supply of affordable housing be preserved and enhanced,

*The Project does not currently include any existing affordable housing. The Project will provide 100% affordable units, defined as 30-80% AMI.. Therefore, the Project will increase the stock of affordable housing units in the City.*

D. That commuter traffic not impede MUNI transit service or overburden our streets or neighborhood parking.

*The Project Site is served by nearby public transportation options. The Project is located along a Muni bus line (14, 14R, and 49-Mission) and is within walking distance of the Muni Line J light rail at 30th and Dolores Streets. In addition, the Project is within one block of 30th Street and Mission Street bus route (lines 24 and 36). Future residents would be afforded proximity to a bus lines and light rail line.*

E. That a diverse economic base be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced.

*The Project does not include commercial office development. The commercial portion of the Project is limited to approximately 800 square feet at the ground floor, thus assisting in diversifying the neighborhood.*

F. That the City achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake.

*The Project will be designed and constructed to conform to the structural and seismic safety requirements of the Building Code. As such, this Project will improve the property's ability to withstand an earthquake.*

G. That landmarks and historic buildings be preserved.

*Currently, the Project Site does not contain any City Landmarks or listed California Register Historic Buildings. The historic building identified through Department survey will be substantially rehabilitated from its fire damaged state while accommodating a three-story vertical addition.*

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

*The project's height at six stories is not subject to environmental review nor the review of shadows on our parks and open spaces under Planning Code Section 295 as the 100% affordable unit project qualifies for formed based density bonus up to three additional floors or 33 feet, pursuant to CA Gov Code §65915(b)(1)(G)) and 65915(d)(2)(D). In combination with State Density Bonus Law, the project is consistent with this finding.*

Attachments:
Exhibit A – Conditions of Approval
Exhibit B – Approved Plans

# Exhibit A – Conditions of Approval for 100% Affordable AB 2011 Projects

## Authorization

This authorization is to allow redevelopment of an existing 3-story building into a six-story mixed-use building with 35 studio units 100% affordable to Low- and Very Low-Income households, located at 3300 Mission Street, Block 6635, Lot 001, within the Mission Bernal Neighborhood Commercial District and a 40-X Height and Bulk District; in general conformance with plans, dated January 24, 2024. This authorization and the conditions contained herein run with the property and not with a particular Project Sponsor, business, or operator.

## Recordation of Conditions of Approval

Prior to the issuance of the building permit or commencement of use for the Project the Zoning Administrator shall approve and order the recordation of a Notice in the Official Records of the Recorder of the City and County of San Francisco for the subject property. This Notice shall state that the project is subject to the conditions of approval contained herein and reviewed and approved by Planning Departmentstaff under Planning Case No. 2023-006512PRJ.

## Severability

The Project shall comply with all applicable City codes and requirements. If any clause, sentence, section or any part of these conditions of approval is for any reason held to be invalid, such invalidity shall not affect or impair other remaining clauses, sentences, or sections of these conditions. This decision conveys no right to construct, or to receive a building permit. “Project Sponsor” shall include any subsequent responsible party.

## Changes and Modifications

Changes and modifications will be evaluated consistent with Government Code Section 65913.4(h).

# Performance

1. Expiration. Pursuant to California Government Code Sections 65912.114(j) and 65913.4(g), the authorization and right vested by virtue of this action does not expire, as the Project includes public investment in affordability, and more than 50 percent of units are restricted by a land use restriction or covenant as affordable to households earning below 80 percent of the area median income for no less than fifty-five years if rented and forty-five years if owned.

# Provisions

2. Prevailing Wages. If the Project is not in its entirety a public work, as defined in Government Code Section 65912.130(b), all construction workers employed in the execution of the development must be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, and

the standards set forth in Government Code Section 65913.4(8) shall be met during the construction of the project.

3. Workforce Participating in an Apprenticeship. The Project includes more than 50 units. Therefore, the development of the Project shall meet all of the labor standards set forth in Government Code Section 65913.4(a)(8)(E).

4. Skilled and Trained Workforce. The Project exceeds 85 feet in height above grade. Therefore, the Project shall with the standards set forth in Government Code Section 65913.4(a)(8)(F). A Project is exempt from this requirement if 100% of the units, excluding manager's units, are affordable to lower income households as defined in Section 50079.5 of the Health and Safety Code.

5. Anti-Discriminatory Housing. The Project shall adhere to the requirements of the Anti-Discriminatory Housing policy, pursuant to Administrative Code Section 1.61.

6. First Source Hiring. The Project shall adhere to the requirements of the First Source Hiring Construction and End-Use Employment Program approved by the First Source Hiring Administrator, pursuant to Section 83.4(m) of the Administrative Code. The Project Sponsor shall comply with the requirements of this Program regarding construction work and on-going employment required for the Project.

   For information about compliance, contact the First Source Hiring Manager at 415-581-2335, www.onestopSF.org.

7. Affordable Housing. The Project was approved in accordance with the provisions of California Government Code Section 659110-114. One hundred percent of the units within the project, excluding managers' units, shall be dedicated to lower income households at an affordable cost, as defined by Section 50052.5 of the Health and Safety Code, or an affordable rent set in an amount consistent with the rent limits established by the California Tax Credit Allocation Committee. The units shall be subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units.

8. Regulatory Agreement. The Project was approved ministerially in accordance with the provisions of California Government Code Section 65913.16, since one hundred percent of the units in the project are restricted to lower income households for no less than fifty-five years if rented and forty-five years if owned. In addition, the Project was approved in accordance with the provisions of California Government Code Section 65915 ("State Density Bonus Law"). The Project is eligible for decontrolled density, three stories above the zoned height limit, up to four incentives and concessions, and unlimited waivers from development standards. The Department has granted waivers for rear yard (Planning Code Section 134), usable open space (Planning Code Section 135), dwelling unit mix (Planning Code Section 207.7), and height (Planning Code Section 260). Prior to the issuance of the first construction document for the Project, the property owner must enter into a regulatory agreement with the City pursuant to the provisions of Planning Code Section 206.6(f).

9. Inclusionary Affordable Housing Program. As currently proposed, the Project is exempt from the Inclusionary Affordable Housing Program under Section 415.3(f) because it is a 100% affordable housing project in which rents are controlled or regulated by a government unit, agency or authority, excepting those unsubsidized and/or unassisted units which are insured by the United States Department of Housing and Urban Development.

   In the event of foreclosure or for any other reason the Project no longer qualifies as a 100% affordable housing project meeting the requirements under Section 415.3(f), the Project shall comply with the inclusionary housing requirements set forth in Section 415 of the Code, or any successor provision, and the requirements of the then-applicable Inclusionary Affordable Housing Program Monitoring and Procedures Manual, as amended from time to time, published by MOHCD. To comply with Section 415 of the Planning Code, the owner shall execute a new notice of special restrictions or any amendment to this NSR, as well as any related regulatory agreement, in form and substance approved in writing by the Planning Department and MOHCD. This condition of approval shall constitute the written determination and notice of the inclusionary housing requirement pursuant to the procedures set forth in Code Section 415.

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Incomplete - Pending Signature

**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 #:

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 |
|---|---|
| Legislative Clerks Division | 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 |
|---|---|
| William Wilcox | 5408788505 |
| **FULL DEPARTMENT NAME** | **DEPARTMENT CONTACT EMAIL** |
| MYR Mayors Office of Housing & Community | william.wilcox@sfgov.org |

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Incomplete - Pending Signature

| 5. CONTRACTOR | |
|---|---|
| **NAME OF CONTRACTOR**<br>3300 Mission L.P. | **TELEPHONE NUMBER**<br>415-206-2140 Ext: x169 |
| **STREET ADDRESS (including City, State and Zip Code)**<br>515 Cortland Ave, San Francisco CA 94110 | **EMAIL**<br>gdacus@bhnc.org |

| 6. CONTRACT | | |
|---|---|---|
| **DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)** | **ORIGINAL BID/RFP NUMBER** | **FILE NUMBER (*If applicable*)** |
| | | |
| **DESCRIPTION OF AMOUNT OF CONTRACT**<br>$12,440,242 | | |
| **NATURE OF THE CONTRACT *(Please describe)***<br>These are funds to develop and construct a 35 unit affordable housing development at 3300 Mission Street. 3300 Mission L.P. is a joint venture of the Bernal Heights Housing Corporation, Tabernacle Community Development Corporation and Mitchelville Real Estate Group. | | |

| 7. COMMENTS |
|---|
| |

| 8. CONTRACT APPROVAL | |
|---|---|
| This contract was approved by: | |
| ☐ | **THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM** |
| ☒ | **A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES**<br>Board of Supervisors |
| ☐ | **THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS** |

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| 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 | Dacus | Gina | Board of Directors |
| 2 | McCray | James | Board of Directors |
| 3 | White | Andre | Board of Directors |
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| **#** | **LAST NAME/ENTITY/SUBCONTRACTOR** | **FIRST NAME** | **TYPE** |
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| **#** | **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.<br><br>**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**<br><br>BOS Clerk of the Board | **DATE SIGNED** |

| | |
|---|---|
| **From:** | Trejo, Sara (MYR) |
| **To:** | BOS Legislation, (BOS) |
| **Cc:** | Paulino, Tom (MYR); Adams, Dan (MYR); Penick, Andrico; Nickolopoulos, Sheila (MYR); Oliver, Johnny (MYR); Wilcox, William (MYR) |
| **Subject:** | Mayor -- Resolution -- 3300 Mission Street |
| **Date:** | Tuesday, September 10, 2024 2:39:10 PM |
| **Attachments:** | 3300M LEG Resolution v3a BoS 24-9_9.docx<br>3300M LEG Resolution v3a Final Draft 24-9_9.pdf<br>Supporting Docs.zip |

Hello Clerks,

Attached is a Resolution 1) approving and authorizing the Director of Property, on behalf of the San Francisco Mayor's Office of Housing and Community Development ("MOHCD"), to acquire real property located at 3300, 3306, and 3308 Mission Street ("Property") from 3300 Mission Partners L.P. ("Borrower") for $[4,151,000] under an Agreement for Purchase and Sale ("Purchase Agreement"); 2) placing the Property under the jurisdiction of MOHCD for use in constructing affordable housing; 3) approving and authorizing the Director of Property and the Director of MOHCD to enter into a Ground Lease to lease the Property back to the Borrower for a term of 75 years and one 24-year option to extend and an annual base rent of $1 ("Ground Lease") in order to construct a 100% affordable, 35-unit multifamily rental housing development affordable to low-income households, including one manager unit, and ground floor commercial space (the "Project"); 4) approving and authorizing an Amended and Restated Loan Agreement in an amount not to exceed $12,440,242 for a minimum loan term of 57 years ("Loan Agreement") to finance the development and construction of the Project; 5) approving and authorizing a limited payment guaranty in an amount not to exceed $1,000,000 from MOHCD for the benefit of Wincopin Circle LLLP ("Limited Payment Guaranty"); 6) adopting findings declaring that the Property is "exempt surplus land" pursuant to the California Surplus Lands Act; 7) determining that the less than market rent payable under the Ground Lease will serve a public purpose by providing affordable housing for low-income households in need, in accordance with Section 23.30 of the Administrative Code; 8) adopting findings that the Project and proposed transactions are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; and 9) authorizing the Director of Property and/or the Director of MOHCD to make certain modifications to the Purchase Agreement, Ground Lease, Loan Agreement, and Limited Payment Guaranty, as defined herein, and take certain actions in furtherance of this Resolution, as defined herein.

Best regards,

**Sara Trejo**
Legislative Aide
Office of the Mayor
City and County of San Francisco