

**THIRD AMENDMENT TO  
AGENCY ASSISTANCE AGREEMENT**

This Third Amendment to Agency Assistance Agreement (“Amendment”) is dated as of \_\_\_\_\_, 2021, and is by and between the SUCCESSOR AGENCY TO THE CONTRA COSTA COUNTY REDEVELOPMENT AGENCY (the “Successor Agency”), a separate legal entity, PHVP ILP, a Delaware limited partnership (“Partnership”), and PLEASANT HILL TRANSIT VILLAGE ASSOCIATES, LLC, a Delaware limited liability company (“Developer”).

**RECITALS**

A. The Pleasant Hill BART Station Leasing Authority, a joint powers agency (the “Authority”) and Developer are parties to a Disposition and Development Agreement dated December 19, 2005 (as subsequently amended by five amendments, the “DDA”) for the development of a portion of the BART Station Property. As originally drafted, the DDA obligated Developer to develop (i) the Apartment Project and the Liner Building Project, both of which consist of residential rental units, on a portion of the BART Station Property, and (ii) townhouses for sale to the public on another portion of the BART Station Property. The site on which the townhouses were to be built was originally referred to as the “For-Sale Property,” or ‘Lot 1.’ With the completion of the fourth amendment to the DDA in 2016, the site on which the townhouses were to be built became known as ‘Block C.’

B. The Successor Agency and Developer are parties to the Agency Assistance Agreement dated December 19, 2005, (as subsequently amended by two amendments, the “Agency Assistance Agreement”). The purpose of the Agency Assistance Agreement was to provide financial assistance to Developer to assure that a portion of the rental units developed as part of the Apartment Project and the Liner Building Project would remain affordable for at least fifty-five (55) years.

C. That portion of the Agency Assistance Agreement that relates to the Apartment Project and the Liner Building Project was assigned by Developer to the Partnership pursuant to an Assignment and Assumption of Agency Assistance Agreement between Developer and the Partnership dated as of July 31, 2008.

D. As discussed above, the DDA originally contemplated that a portion of the BART Station Property, specifically, the “For-Sale Property,” also known as “Lot 1” and “Block C,” would be used for the development of for-sale townhouses. Following the Great Recession of 2008 and the dissolution of the Contra Costa County Redevelopment Agency on February 1, 2012, Developer and the Authority agreed to abandon efforts to develop Block C with for-sale housing.

E. In 2016, pursuant to the fourth amendment to DDA, the Authority approved the development of Block C with 200 units of multifamily rental housing.

F. The parties desire to amend the Agency Assistance Agreement to change the words “For-Sale” to “Block C,” and make other conforming changes to reflect that Block C has

not been developed with for-sale housing. The parties also desire to clarify that the defined term “Agency” means the Successor Agency.

Therefore, the parties agree as follows:

### **AGREEMENT**

1. All of the above recitals are true and correct and are incorporated into this Amendment by reference.
2. All capitalized terms used but not defined in this Amendment have the meaning ascribed to them in the Agency Assistance Agreement.
3. All references to “Agency” in the Agency Assistance Agreement mean the Successor Agency to the Contra Costa County Redevelopment Agency, a separate legal entity.
4. Section 1.01 (t) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(t) “Block C Base Year Value” means the value of the Block C Property on the 2004 – 2005 Contra Costa County assessment roll, which value the parties agree is \$0.
5. Section 1.01 (u) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(u) “Block C First Fiscal Year” means the Fiscal Year in which all of the residential units to be developed on the Block C Property are completed, as evidenced by the County authorization for occupancy.
6. Section 1.01 (v) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(v) “Block C Property” means that portion of the Project Site identified as Lot 1 on the Vesting Tentative Map, which the Authority will lease to the Developer pursuant to the DDA.
7. Section 1.01 (w) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(w) “Block C Setaside” means the portion of the Block C Tax Increment that the Agency is required to deposit into its low and moderate income housing fund pursuant to Health and Safety Code Sections 33334.2 and 33334.3, but in no event more than twenty percent (20%) of the Block C Tax Increment.
8. Section 1.01 (x) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(x) “Block C Tax Increment” means the Tax Increment paid to the Agency pursuant to Health and Safety Code Section 33670 as a result of increases in the assessed value of the Block C Property over the Block C Base Year Value.

9. Section 1.01 (gg) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(gg) “Phase I Improvements” means the Apartment Project, the Liner Building Project and those improvements to be constructed on the Block C Property pursuant to the DDA.

10. Section 1.01 (ii) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(ii) “Phase I Property” means the Lease Property and the Block C Property. The Phase I Property is shown as Lots 1, 2, 3, 5, and 8 and the Street Lots on the Vesting Tentative Map.

11. Section 1.01 (jj) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(jj) “Phase I Setaside” means the aggregate of the Lease Setaside and the Block C Setaside.

12. Section 1.01 (oo) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(oo) “Phase II Property” means Lot 4, as shown on the Vesting Tentative Map, which is referred to as “Block D” in the fifth amendment to the DDA.

13. Section 1.01 (tt) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(tt) “Project Site” means the part of the BART Station Property that BART will lease to the Authority and the Authority will sublease to the Developer pursuant to this Agreement. The Project Site is shown as Lots 1, 2, 3, 4, 5, 8 and 9 on the Vesting Tentative Map.

14. Section 1.01 (xx) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(xx) “Stabilized Escalated Block C Tax Increment” means the Block C Tax Increment in the Fiscal Year in which all or substantially all of the residential units to be constructed on the Block C Property pursuant to the DDA have been constructed on the Block C Property pursuant to the DDA (other than tenant or other interior improvements in non-residential spaces) and have been included in the assessed value of Block C for property tax purposes increased by two percent (2%) per year to the last year in which the Agency will receive Tax Increment.

15. Section 1.01 (bbb) of the Agency Assistance Agreement is deleted in its entirety and replaced with the following:

(bbb) “Stabilized Phase I Tax Increment” means for a Fiscal Year, the sum of the Stabilized Lease Tax Increment and the Stabilized Escalated Block C Tax Increment for that Fiscal Year.

16. Section 3.02, Annual Payments of For-Sale Setaside, is hereby deleted in its entirety and replaced with the following:

Section 3.02. Annual Payments of Block C Setaside.

Subject to Section 5.02 below, beginning with the Block C First Fiscal Year and continuing so long as the Agency receives Tax Increment, the Agency shall pay the Developer for each Fiscal Year an amount equal to the Block C Setaside.

17. Section 5.02, Limitation on Obligation, is hereby deleted in its entirety and replaced with the following:

Section 5.02 Limitation on Obligation.

The annual payments owing to the Developer pursuant to Section 2.01 shall be payable only from the External Setaside. The annual payments owing to Developer pursuant to Section 3.01 shall be payable only from the Lease Setaside. The annual payments owing to Developer pursuant to Section 3.02 shall be payable only from the Block C Setaside. The annual payments to the Sinking Fund pursuant to Section 3.03 shall be payable only from the Phase I Setaside to the extent it exceeds the sum of the Stabilized Lease Setaside and the Block C Setaside and from the Phase II Setaside. The annual payments owing to the Developer pursuant to Section 4.01 shall be payable only from the Net Phase I Tax Increment. The annual payments owing to Developer from the Sinking Fund pursuant to Section 3.06 shall be payable only from the funds on deposit in the Sinking Fund. The loan payments to Developer pursuant to Section 2.02 shall be payable only from the External Setaside accumulated prior to the date of loan disbursement. Except as set forth in this Section 5.02, no other revenue or assets of the Agency shall be available for payment of the amounts owing under Sections 2.01, 2.02, 3.01, 3.02, 3.03, 3.06, or 4.01.

18. Subsection 5.03 (d) and Subsection 5.03 (e) are hereby deleted in their entirety and replaced with the following:

(d) the Block C Setaside to payment of the obligations of the Agency under Section 3.02;

(e) the Phase I Setaside to payment of the obligations of the Agency under Section 3.03, to the extent the Phase I Setaside exceeds the Stabilized Lease Setaside and the Block C Setaside;

19. Section 6.04, Notices, is hereby deleted in its entirety and replaced with the following:

Section 6.04 Notices.

If at any time after the execution of this Agreement it becomes necessary or convenient for one of the parties to this Agreement to serve any notice, demand or communication upon the other party, such notice, demand or communication shall be in writing and shall be served personally with delivery receipt, or dispatched by the certified United States mail, return receipt requested, postage prepaid, or by a reputable overnight service with a receipt showing the date of delivery and:

If intended for Successor Agency:

Successor Agency to the Contra Costa County Redevelopment Agency  
c/o Contra Costa County  
Department of Conservation and Development  
30 Muir Road  
Martinez, CA 94553  
Attention: Deputy Director

If intended for Developer:

Pleasant Hill Transit Village Associates LLC  
c/o AvalonBay Communities, Inc.  
400 Race Street, Suite 200  
San Jose, CA 95126  
Attn: \_\_\_\_\_

If intended for Partnership:

PHVP 1 LP  
c/o AvalonBay Communities, Inc.  
455 Market Street, Suite 1650  
San Francisco, CA 94105  
Attn: \_\_\_\_\_  
Tel: \_\_\_\_\_

With a copy to:

AvalonBay Communities, Inc.  
Ballston Tower  
671 N. Glebe Road, Suite 800  
Arlington, VA 22203  
Attn: Legal Department  
Tel: (703) 329-6000

Notices will be deemed received on the following business day if given by hand delivery or delivery service with a delivery receipt, and on the date shown on the delivery receipt as the date of delivery, or the date delivery was refused, or the date the item was returned as undeliverable, if sent through the United States mail.

Any notice, demand or other communication under this Agreement may be given on behalf of a party by the attorney for such party.

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected party may from time to time designate by notice as provided in this Section.

Whenever the approval, consent or other action of a party will be deemed to be given or taken within a period of time, pursuant to a provision of this Agreement, the item submitted or request for action shall be made in writing to such party and shall be accompanied by a written notice stating that it is being submitted or requested pursuant to a provision of this Agreement, which provision must be identified in the notice, and stating that such item will be deemed approved or the specified action will be deemed taken within an identified period of time, if a specified period of time is set forth in this Agreement, unless objection is made or other action taken within the time stated in such notice.

20. Except as modified by this Amendment, all terms and conditions of the Agency Assistance Agreement remain unchanged. For avoidance of doubt, nothing in this Amendment may be construed to increase the financial obligation of the Successor Agency under the Agency Assistance Agreement.

*[Signatures on following page]*

IN WITNESS WHEREOF, the parties are signing this Amendment as of the date first written above.

**SUCCESSOR AGENCY:**

SUCCESSOR AGENCY TO THE  
CONTRA COSTA COUNTY REDEVELOPMENT AGENCY  
a public body

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**DEVELOPER:**

PLEASANT HILL TRANSIT VILLAGE  
ASSOCIATES, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[Signatures continue on following page]**

**PARNTERSHIP:**

PHVP I, LP,  
a Delaware limited partnership

By: PHVP I GP, LLC,  
a Delaware limited liability company,  
its general partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_