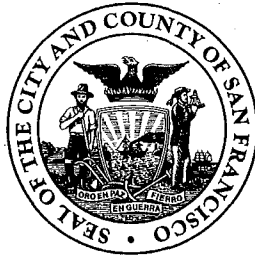


BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

BUDGET AND FINANCE COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Malia Cohen, Chair
Budget and Finance Committee

FROM: Linda Wong, Assistant Clerk

DATE: December 12, 2017

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, December 12, 2017

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting on Tuesday, December 12, 2017, at 2:00 p.m. This item was acted upon at the Committee Meeting on Thursday, December 7, 2017, at 10:00 a.m., by the votes indicated.

Item No. 51 File No. 171209

Resolution authorizing an Indemnification Agreement in favor of the parties financing the renovation of the Powerhouse building of the Geneva Car Barn and Powerhouse.

RECOMMENDED AS A COMMITTEE REPORT

Vote: Supervisor Malia Cohen - Aye
Supervisor Norman Yee - Aye
Supervisor Katy Tang - Aye

c: Board of Supervisors
Angela Calvillo, Clerk of the Board
Jon Givner, Deputy City Attorney
Alisa Somera, Legislative Deputy Director

File No. 171209

Committee Item No. 12

Board Item No. 51

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance
Board of Supervisors Meeting

Date: December 7, 2017
Date: December 12, 2017

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
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OTHER

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| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>QALICB Indemnification Agreement</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>USB Fed Tax Credit Equity Term Sheets 071217</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>USB New Mkt Tax Credit Term Sheets 071217</u> |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <u>RPC Reso. No. 1711-002 - November 16, 2017</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | <u> </u> |

Prepared by: Victor Young
Prepared by: John Carroll

Date: December 1, 2017
Date: December 8, 2017

1 [Indemnification Agreement - Renovation of the Powerhouse Building]

2
3 **Resolution authorizing an Indemnification Agreement in favor of the parties financing**
4 **the renovation of the Powerhouse building of the Geneva Car Barn and Powerhouse.**

5
6 WHEREAS, The City and County of San Francisco ("City") owns certain real property
7 located at 2301 San Jose Avenue on a portion of Assessor's Parcel Block No. 6972, Lot No.
8 036, commonly known as the Geneva Car Barn and Powerhouse ("GCB"); the GCB is under
9 the jurisdiction of the Recreation and Park Commission, managed by the Recreation and Park
10 Department ("RPD"), and adjacent to Cameron Beach Yard, which is a rail yard under the
11 jurisdiction of the San Francisco Municipal Transportation Agency ("SFMTA"); and

12 WHEREAS, The GCB is the last physical reminder of the City's first electric railway
13 system and has been vacant since approximately 1989; RPD, in partnership with the
14 community, has developed a vision to renovate the GCB's Powerhouse building (the
15 "Powerhouse") into a community arts center (the "Project"); and

16 WHEREAS, Because the Project will require significant investment, RPD desires to use
17 New Market Tax Credits ("NMTCs") and Historic Rehabilitation Tax Credits ("HRTC") to help
18 finance the Project; and

19 WHEREAS, The NMTC program (U.S. Internal Revenue Code, Section 45D et seq.)
20 was designed to attract investors into underserved communities and to provide private capital
21 investment into qualified projects that may not otherwise be completed by allowing investors
22 to receive federal tax credits for seven years following the date of their initial investment (the
23 "Tax Credit Period"); and

24 WHEREAS, The San Francisco Community Investment Fund ("SFCIF"), a California
25 nonprofit public benefit corporation, serves as a community development entity ("CDE") to

1 apply for NMTC allocations from the U.S. Treasury; SFCIF has received an allocation of
2 NMTC from the Community Development Financial Institution Fund of the U.S. Treasury and
3 has allocated \$13,000,000 in NMTCs to the Project; and

4 WHEREAS, The HRTC program (U.S. Internal Revenue Code, Section 47 et seq.) was
5 designed to encourage private sector investment in the rehabilitation and re-use of historic
6 buildings by allowing investors to receive a 20% tax credit for the certified rehabilitation of
7 certified historic structures; the National Park Service administers the HRTC program with the
8 Internal Revenue Service in partnership with State Historic Preservation Offices; and

9 WHEREAS, The Powerhouse is on the National Register of Historic Places and as
10 such is eligible for HRTCs; based on current projections, the Project is expected to generate
11 approximately \$2,464,353 in HRTCs; and

12 WHEREAS, NMTCs and HRTCs are used to offset amounts that would otherwise be
13 due and owing to the federal government, and do not affect or limit any taxes payable to the
14 State of California or to the City; and

15 WHEREAS, U.S. Bancorp Community Development Corporation ("USB"), a Minnesota
16 corporation, has expressed a desire to invest a total of up to \$6,454,900 in the Project, in
17 return for the NMTCs and HRTCs generated by the Project; and

18 WHEREAS, RPD has performed a search for additional funding partners for the Project
19 and has determined that it is essential to work with the Community Arts Stabilization Trust
20 ("CAST"); CAST is a nonprofit public benefit corporation with a mission of creating stable
21 physical spaces for arts and cultural organizations, has previously secured NMTC tax credit
22 financing, and has committed to providing \$1,000,000 to the Project and monitoring the
23 Project's compliance with NMTC requirements during the Tax Credit Period; and
24
25

1 WHEREAS, On June 15, 2017, the Recreation and Park Commission approved of RPD
2 entering into negotiations with CAST for Project financing and the lease and recreational use
3 of the Powerhouse; and

4 WHEREAS, To secure the NMTCs, CAST will create an affiliate entity known as CAST
5 Powerhouse LLC, which will be a qualified active low income community business ("QALICB")
6 that can receive NMTC funding; and

7 WHEREAS, The City desires to enter into one or more agreements (collectively, the
8 "Indemnification Agreement") with USB, SFCIF, and CAST to indemnify those parties against
9 certain risks and up-front costs that those parties will incur on the Project; the City would
10 indemnify all of those parties against unknown environmental conditions at the Premises and
11 against claims of construction delays, construction defects, and cost over-runs; all of those
12 parties against specified up-front costs (such as legal fees, accounting fees, tax credit
13 consulting fees, and other fees and expenses) in the event the tax credit financing does not
14 close through no fault of the indemnified party; and USB against any losses USB may
15 experience if the U.S. Treasury recaptures or disallows the NMTCs or HRTCs in the event the
16 QALICB fails to stay in good standing, file annual reports, use any investments it receives
17 solely for the Project, not make distributions except for authorized Project expenses, not
18 engage in willful misconduct, not timely complete the Project, or because of any other acts
19 that may cause the U.S. Treasury to recapture the NMTCs or HRTCs; in addition, the Internal
20 Revenue Service will generally provide notice and a 12-month cure period before it declares a
21 recapture event; and

22 WHEREAS, A copy of the draft Indemnification Agreement is on file with the Clerk of
23 the Board of Supervisors under File No. 171209 and the Recreation and Park Commission
24 authorized RPD to enter into the Indemnification Agreement on November 16, 2017; and
25

1 WHEREAS, It is a normal business practice to provide these indemnities, which are
2 consistent with NMTC and HRTC transactions generally; the Project could not proceed
3 without the proposed NMTCs and HRTCs, and the NMTC and HRTC transactions cannot
4 proceed without the Indemnification Agreement; now, therefore, be it

5 RESOLVED, That the Board of Supervisors authorizes the RPD General Manager to
6 enter into the Indemnification Agreement substantially in the form that is on file with the Clerk
7 of the Board of Supervisors, and to perform all acts required of the City thereunder; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors authorizes the RPD General
9 Manager to enter into any modifications and amendments to the Indemnification Agreement,
10 including to any of its exhibits, and authorizes the RPD General Manager to execute further
11 agreements related to the Project financing, that the RPD General Manager determines, in
12 consultation with the City Attorney and the Risk Manager, are in the best interests of the City
13 and do not materially increase the obligations or liabilities of the City, are necessary or
14 advisable to effectuate the purposes of the Project or this Resolution, and are in compliance
15 with all applicable laws, including the City's Charter; and, be it

16 FURTHER RESOLVED, That within thirty (30) days of the full execution of the
17 Indemnification Agreement, RPD shall provide such final document to the Clerk of the Board
18 of Supervisors for inclusion into the Board's file.

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21 n:\govern\as2017\1700606\01233787.docx
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25



CCB
Leg Rep
Leg Clerk

MALIA COHEN
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DATE: December 7, 2017

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Malia Cohen *MC*

RE: Budget and Finance Committee
COMMITTEE REPORT

RECEIVED
BOARD OF SUPERVISORS
2017 DEC -7 AM 10:30

Pursuant to Board Rule 4.20, as Chair of the Budget and Finance Committee, I have deemed the following matters are of an urgent nature and request they be considered by the full Board on Tuesday, December 12, 2017, as Committee Reports:

- **File No. 171077** - Real Property Lease Renewal - 1145 Market LP - 1145 Market Street - San Francisco Law Library - \$1,180,000 Initial Annual Base Rent]
- **File No. 171145** - Apply for Grant - Health Resources Services Administration - Ryan White Act HIV/AIDS Emergency Relief Grant Program - \$16,601,550
- **File No. 171144** - Apply for Grant - Centers for Disease Control - Integrated HIV Surveillance and Prevention Programs for Health Departments - \$7,257,408
- **File No. 170943** - Accept Gift - Alta Laguna, LLC - 55 Laguna Street; In-Kind Agreement
- **File No. 171205** - Accept and Expend Grant - California Department of Parks and Recreation - Geneva Car Barn and Powerhouse Improvements - \$3,500,000
- **File No. 171206** - Development Services Agreement - Community Arts Stabilization Trust - Renovation of the Powerhouse Building
- **File No. 171207** - Funding Agreement - Community Arts Stabilization Trust - Renovation of the Powerhouse Building
- **File No. 171208** - Real Property Lease - Community Arts Stabilization Trust - Geneva Car Barn and Powerhouse - 2301 San Jose Avenue - \$0 Initial Rent
- **File No. 171209** - Indemnification Agreement - Renovation of the Powerhouse Building
- **File No. 171200** - Grant of Easement - Pacific Gas and Electric Company - 68.25 Square Feet at Northern Edge of Parcel - 1101 Connecticut - At No Cost

- **File No. 171204** - Ground Lease - 1296 Shotwell Housing, L.P. - 1296 Shotwell Street - \$15,000 Annual Base Rent
- **File No. 171199** - Real Property Lease, Access License and Access Easement - State of California Department of Transportation - Property Near Cesar Chavez and Indiana Streets - Islais Creek Motor Coach Operation and Maintenance Facility - \$191,240 Initial Annual Rent
- **File No. 171255** - Corrective Actions in Connection with Proposed Federal Tax Reform - Multifamily Housing Revenue Bonds - Various Multifamily Rental Housing Projects
- **File No. 171258** - Apply for, Accept, and Expend Grant - 1950 Mission Housing Associates, L.P. - Assumption of Liability - Affordable Housing and Sustainable Communities Program - 1950 Mission Street Project
- **File No. 171259** - Apply for, Accept, and Expend Grant - 2060 Folsom Housing, L.P. - Assumption of Liability - Affordable Housing and Sustainable Communities Program - 2060 Folsom Street Project
- **File No. 171260** - Multifamily Housing Revenue Bond - 2675 Folsom Street and 970 Treat Avenue - Not to Exceed \$110,000,000
- **File No. 171250** - Appropriation - State and Federal Contingency Reserve - Backfill the Loss of Funding of Various Programs - \$9,559,117 - FY2017-2018

**Items 8, 9, 10, 11 and 12
Files 17-1205, 17-1206, 17-1207,
17-1208, 17-1209**

Department:
Recreation and Parks Department (RPD)

EXECUTIVE SUMMARY

Legislative Objectives

The five proposed resolutions related to the renovation and use of the Geneva Powerhouse and Car Barn would approve: (1) the Recreation and Park Department to accept and expend a \$3,500,000 State grant (File 17-1205); (2) a Development Services Agreement between the City and CAST Powerhouse, LLC, an affiliate of the Community Arts Stabilization Trust (File 17-1206); (3) a Funding Agreement between the City and the Community Arts Stabilization Trust (File 17-1207); (4) a 55-year lease between the City and CAST Powerhouse, LLC for the Powerhouse (File 17-1208); and (5) an Indemnification Agreement (File 17-1209).

Key Points

- The Geneva Car Barn and Powerhouse are two buildings located at Geneva and San Jose Avenues near Balboa Park BART Station. The Phase 1 Powerhouse Project consists of the design, restoration and improvement of the Powerhouse only. The City will fund and develop the Project with assistance from the non-profit Community Arts Stabilization Trust. The Community Arts Stabilization Trust created a taxable entity, the CAST Powerhouse LLC, to be the qualified low-income business, in order for the Project to qualify for the New Market and Historic Rehabilitation Tax Credits.
- The City and the Community Arts Stabilization Trust will enter into a Funding Agreement, in which the Community Arts Stabilization Trust will contribute \$1 million and the City will contribute \$6.8 million (and may contribute up to \$9.0 million) to the Project. The City will enter into a 55-year lease with CAST Powerhouse LLC for the Powerhouse in which the rent will be abated for 15 years in consideration of the Community Arts Stabilization Trust's \$1 million contribution. The City and CAST Powerhouse LLC will enter into a Development Services Agreement in which the City develops and manages the Project and is reimbursed for expenses.

Fiscal Impact

- The Project budget is \$13 million, of which \$8.1 million are City funds and \$4.8 million are tax credit financing and Community Arts Stabilization Trust contribution.

Policy Consideration

- As the writing of this report, the City does not have a finalized Indemnification Agreement (File 17-1209) with the Community Arts Stabilization Trust, the United States Bancorp Community Development Corporation, and the San Francisco Community Investment Fund.
- The current House bill on tax reform eliminates two Federal tax credits utilized in this project: the New Markets Tax Credit and the Historical Tax Credit. In order to utilize these Federal tax credits, the lease agreement must be approved by the end of the calendar year.

Recommendations

- Approve Files 17-1205, 17-1206, 17-1207 and 17-1208.
- Approval of File 17-1209 is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

City Charter Section 9.118(c) requires Board of Supervisors approval for any lease that has an initial term of ten years or more, including options to extend, or that had anticipated revenues of \$1 million or more.

City Administrative Code Section 10.170 requires Board of Supervisors to accept grants in the amount of \$100,000 or more.

BACKGROUND

The Geneva Car Barn and Powerhouse are two buildings located at Geneva and San Jose Avenues across from the Balboa Park BART Station, adjacent to a vehicle storage facility owned by the San Francisco Municipal Transportation Agency (SFMTA). In 1998, the Geneva Car Barn and Powerhouse were saved from demolition by the Friends of the Geneva Car Barn and Powerhouse (Friends), a nonprofit neighborhood organization. In 2004, the SFMTA transferred jurisdiction of the vacant Geneva Car Barn and Powerhouse to the Recreation and Park Department (Department) (File No. 04-0320) at no cost, with the intent that the Department would form a partnership with the Friends to renovate the Geneva Car Barn and Powerhouse. Between 2004 and 2015, the Department and the Friends spent \$3,983,000 on the Car Barn from various sources, for roof repairs, preliminary seismic stabilization, planning, design, program administration, historic preservation architect and environmental testing.

In October 2014, the Board of Supervisors approved a Lease Disposition and Development Agreement between the Recreation and Park Department and the Friends (File 14-0920) specifying the Friend's obligations to fundraise, rehabilitate and operate the Car Barn as a community center. However, the Friends were unable to meet the funding requirements and in October 2015, the Board of Supervisors terminated the Lease Disposition and Development Agreement with the Friends (File 15-0890).

When the Lease Disposition and Development Agreement terminated in October 2015, the Recreation and Park Department recommended a two-phase Geneva Car Barn and Powerhouse Project, managed by the Department.

- Phase 1: Design, restoration, and improvement of the Powerhouse building only, including installation of a modern utility system, restoration of historic features, seismic stabilization, hazardous material remediation, new circulation systems to accommodate ADA (Americans with Disabilities Act) access, streetscape improvements, improved entrances, a new roof, and a new floor plan with radiant heating; and
- Phase 2: Design, restoration, and improvement of the Car Barn building to be used as office space and completion of more extensive improvements to the Powerhouse building.

According to Ms. Nicole Avril, Recreation and Park Project Director, Phase 1 is a stand-alone project and does not depend on agreements or funding for the Phase 2 Car Barn renovation.

The Board of Supervisors appropriated \$2,500,000 from the General Fund Reserve in March 2016 to partially fund the Phase 1 renovation of the Powerhouse. The Board of Supervisors placed these funds on Budget and Finance Committee Reserve pending identification of remaining funding sources for the Phase 1 Powerhouse renovation. In July 2017, the Department identified the sources and uses for Phase 1, totaling \$11,863,804, and the Budget and Finance Committee approved the release of reserves.

DETAILS OF PROPOSED LEGISLATION

File 17-1205 is resolution authorizing the Recreation and Park Department to accept and expend a grant from the California Department of Parks and Recreation in the amount of \$3,500,000 for the Geneva Car Barn and Powerhouse.

File 17-1206 is a resolution authorizing a Development Services Agreement between the City and CAST Powerhouse, LLC,¹ an affiliate of the Community Arts Stabilization Trust, a nonprofit public benefit corporation, for the payment of the City's construction costs and related expenses for the renovation of the Powerhouse building of the Geneva Car Barn and Powerhouse

File 17-1207 is a resolution authorizing a Funding Agreement between the City and the Community Arts Stabilization Trust to finance the renovation of the Powerhouse building of the Geneva Car Barn and Powerhouse.

File 17-1208 is a resolution authorizing a 55-year lease between the City and CAST Powerhouse, LLC, an affiliate of the Community Arts Stabilization Trust, for the Powerhouse building of the Geneva Car Barn and Powerhouse and a portion of adjacent City property; affirming the Planning Department's determination under the California Environmental Quality Act; and finding the lease is in conformance with the General Plan and the eight priority policies of Planning Code Section 101.1.

File 17-1209 is a resolution authorizing an Indemnification Agreement in favor of the parties financing the renovation of the Powerhouse building of the Geneva Car Barn and Powerhouse.

Project Overview

According to the proposed legislation, the City will fund and develop the Phase 1 Powerhouse Project with assistance from Community Arts Stabilization Trust (CAST). The Community Arts Stabilization Trust is a non-profit corporation that secures space and works with community arts organizations to develop and strengthen their financial and organizational capacity to purchase permanent facilities and navigate complex real estate issues. The City has worked with the Community Arts Stabilization Trust in the past to secure New Market Tax Credits for the community and arts space at 80 Turk Street and the art gallery at 1007 Market Street.

After the termination of the lease with the Friends of the Geneva Car Barn and Powerhouse, the Recreation and Park Department informally sought a new partner to develop the buildings.

¹ According to Mr. Manu Pradhan, Deputy City Attorney, the name of the organization in the proposed resolutions may be subject to change.

In 2015, the Office of Economic Workforce Development proposed to the Park and Recreation Department the Community Arts Stabilization Trust as a partner for the development of the Geneva Powerhouse and Car Barn. According to Ms. Avril, the General Manager approved partnering with the Community Arts Stabilization Trust due to their agreement to contribute \$1,000,000 to the project, previous experience in developing tax credits, interest in becoming partners with the City and their mission in rehabilitating arts spaces. It was not a competitive process.

The Phase 1 Powerhouse Project budget is \$13 million, as shown in the Table below. Funding comes from several sources, including General Fund monies previously appropriated by the Board of Supervisors, the California Department of Parks and Recreation grant (File 17-1205), other City funds, a contribution from the Community Arts Stabilization Trust (File 17-1206), and federal New Market and Historic Rehabilitation Tax Credits.

The Community Arts Stabilization Trust created a taxable entity, the CAST Powerhouse LLC, to be the qualified low-income business, in order for the Phase 1 Powerhouse Project to qualify for the New Market and Historic Rehabilitation Tax Credits.^{2,3} The Phase 1 Powerhouse Project has been awarded an allocation of New Market Tax Credits by the San Francisco Community Investment Fund⁴. The Powerhouse is on the National Register of Historic Places and therefore the Phase 1 Powerhouse Project qualifies for Historic Rehabilitation Tax Credits.⁵

The City will enter into a:

- 55-year lease (File 17-1208) with the CAST Powerhouse LLC for the Powerhouse. Under the terms of the draft lease,⁶ the City will construct the Phase 1 Powerhouse Project improvements, subject to reimbursement from CAST Powerhouse LLC. CAST Powerhouse LLC will sublease the Powerhouse to the taxable entity, created by the Community Arts Stabilization Trust, who will serve as the master tenant. The master tenant will in turn sublease the Powerhouse to the non-profit corporation – Performing Arts Workshop, Inc. (PAW).
- Funding Agreement (File 17-1207) with the Community Arts Stabilization Trust in which the Community Arts Stabilization Trust will allocate \$1,000,000 to the Phase 1 Powerhouse Project and the City will allocate \$6,800,000 to the Phase 1 Powerhouse

² The New Market Tax Credit program provides a tax incentive to private investors to invest in low-income communities. Under the Internal Revenue Code, New Market Tax Credits are made available to qualified active low-income community businesses or QALICB.

³ In order to qualify for tax credits, the Community Arts and Stabilization Trust will form a (1) taxable entity that will serve as the managing member (of which the Community Arts and Stabilization Trust is the sole member) of the CAST Powerhouse LLC; and (2) a taxable entity that will serve as the master tenant for the sublease of the Powerhouse, which will be controlled by the managing member of the CAST Powerhouse LLC.

⁴ San Francisco Community Investment Fund is a Community Development Entity that serves as the intermediary vehicle for allocation of New Market Tax Credits.

⁵ The federal Historic Rehabilitation Tax Credit program provides a 20 percent tax credit to projects that rehabilitate certified historic structures. The federal New Market Tax Credit program provides tax credits to qualified low-income investment businesses. Historic Preservation and New Market Tax Credits require the formation of a for-profit subsidiary to qualify for the tax credits.

⁶ At the time of writing this, the Budget and Legislative Analysts' Office has only been offered a draft lease.

Project (see the Table below). According to Ms. Avril, the Recreation and Park Department is submitting revised legislation to the December 7, 2017 Budget and Finance Committee that provides for the City to allocate up to \$9,025,000 to the Phase 1 Powerhouse Project. According to Ms. Avril, the additional allocation would be used in the event that the project's construction costs exceed the current construction budget, including the construction contingency. Ms. Avril states that the Community Opportunity Fund has sufficient funds to meet this additional obligation if necessary.

- Development Services Agreement (File 17-1206) with the CAST Powerhouse LLC that provides for the City to (1) serve as the Phase 1 Powerhouse Project developer; and (2) be paid a developer fee and for all project costs.
- Indemnification Agreement (File 17-1209) with Community Arts Stabilization Trust, the United States Bancorp Community Development Corporation, and the San Francisco Community Investment Fund to provide certain indemnities in order to complete the Phase 1 Powerhouse Project.

Phase 2 Option

As mentioned previously, the Department divided the Geneva Car Barn and Powerhouse project into Phase 1 and Phase 2, allowing the City to approve a proposal for a set of construction documentation, bid and permit work and construction administration for the Phase 1 Powerhouse Project from the architect and engineering consultants. The budget for Phase 2 is estimated to be \$38,500,000, with construction to begin in 2020. The City has not yet identified the funds for Phase 2.

According to Ms. Avril, the City will enter into a separate Office Building Option Agreement with the Community Arts Stabilization Trust for rehabilitation of the Geneva Car Barn under Phase 2 of the project, in which the City would award the Community Arts Stabilization Trust a ten-year exclusive option to lease and develop the Car Barn building into an office space as well as space to deliver arts related classes and community services. The form of the ten-year lease has not yet been developed and is subject to future negotiation if the Community Arts Stabilization Trust exercises the option. According to Ms. Avril, the ten-year exclusive option is to incentive the Community Arts Stabilization Trust to invest \$1,000,000 in Phase 1 of the project, but also desired by the Department as key to the development of Phase 2. If the Community Arts Stabilization Trust chooses not to fund the development of Phase 2 by year ten of the Phase 1 Powerhouse Project, the Department will still be able to engage with another private partner to help develop the building.

Draft lease Provisions (File 17-1208)

As noted above, the proposed draft lease is between the City and CAST Powerhouse LLC, who will sublease the Powerhouse to a master tenant created by the Community Arts Stabilization Trust.

- The lease premises consist of the approximately 3,000 square foot Powerhouse located at 2301 San Jose Avenue.
- The lease term is for 55 years from approximately January 1, 2019 (the estimated date of completion of the Phase 1 Powerhouse Project) through December 31, 2074.

- The lease sets base rent at \$5,213 per month (equal to approximately \$21 per square foot per year), which increases annually by the Consumer Price Index but abates rent for the first 15 years of the lease in consideration of the Community Stabilization and Trust's \$1 million contribution to the project.⁷ Therefore, the City does not expect to receive rent under the proposed lease for the first 15 years. The City has the one-time right to increase the rent to fair market value after any dissolution of the tax credit financing structure.

Sublease between the Master Tenant and Performing Arts Workshop

In December 2016, the Department issued a request for proposals for arts related programming. By February 2017, the Department received three responses. A panel consisting of the Director of the San Francisco Arts Commission, Recreation and Park Department Director of Permits and Property Management, and one Friends of the Geneva Car Barn and Powerhouse Board Member based on the following metrics:

1. Compatibility with the desired programming at the Powerhouse
2. Meaningful public access
3. Program feasibility
4. Financial capacity

Performing Arts Workshop⁸ was selected as the highest rated non-profit and will enter into a ten-year sublease with the Powerhouse master tenant, commencing on the completion date of the Powerhouse. Performing Arts Workshop will pay rent to the master tenant, subject to approval by the Department. The amount of rent to be paid by Performing Arts Workshop is determined by a required return on equity for the Historic Rehabilitation Tax Credits to be paid to the tax credit investor, as well as possessory interest tax to the City.

Funding Agreement (File 17-1207)

The funding agreement between the City and the Community Arts Stabilization Trust provides for the City to enter into a 55-year lease for the Powerhouse and the taxable entity formed by the Community Arts Stabilization Trust, who serves as the master tenant. According to the funding agreement:

- The Community Arts Stabilization Trust will invest \$1,000,000 into the Phase 1 Powerhouse Project, the contribution of which will be recognized through abatement of rent, as noted above. The \$1,000,000 investment will be used exclusively for construction costs for Phase 1.
- The City will invest \$6,800,000 as shown in the Table below.

⁷ The rent abatement will end early if there is dissolution of the tax credit financing structure.

⁸ Public Arts Workshop has worked for 40 years in the City bringing sequential arts instruction to students ages 3-18. The Workshop has been a partner, collaborator and contractor with public agencies including Department of Children, Youth & their Families (DCYF) and the County of San Francisco's First 5 Preschool for All (PFA) program for low-income families. The Workshop participates in the City's internal and external audits yearly.

As noted above, the Recreation and Park Department is submitting revised legislation to the December 7, 2017 Budget and Finance Committee that provides for the City to allocate up to \$9,025,000 to the Phase 1 Powerhouse Project to be used in the event that the project's construction costs exceed the current construction budget, including the construction contingency. Ms. Avril states that available funds from the Community Opportunity Fund, previously appropriated by the Board of Supervisors, are sufficient funds to meet this additional obligation if necessary.

Development Services Agreement and Construction Project (File 17-1206)

The Development Services Agreement between the City and CAST Powerhouse LLC sets the terms for the City to develop and manage the Phase 1 Powerhouse Project. These services would include acting on behalf of the CAST Powerhouse LLC to (1) work with project funders and government agencies, (2) select project contractors and negotiate project contracts, (3) monitor and administer disbursement of project funds, and (4) oversee the project. In exchange, the City, as the developer, will be paid a developer fee and be reimbursed for all project costs, including the cost of the actual construction contract. According to Ms. Avril, the Department expects to begin construction on Phase 1 in February 2018 and complete the Powerhouse in ten months by December 2018. The Recreation and Park Commission authorized the Department to enter into the construction contract.

Indemnification Agreement (File 17-1209)

The proposed resolution approves the indemnification agreement between the City and the Community Arts Stabilization Trust, the United States Bancorp Community Development Corporation, and the San Francisco Community Investment Fund. As of the writing of this report, the Recreation and Park Department has not completed indemnification agreements in which the City will indemnify the Community Arts Stabilization Trust, the United States Bancorp Community Development Corporation, and the San Francisco Community Investment Fund against the following project risks:

1. Environmental/Construction: in the case of unknown environmental conditions at the premises and against claims of construction delays and cost over-runs.
2. Closing: in the event that the tax credit financing does not close and therefore the tax credits are not delivered. The City will reimburse only for up-front costs.
3. Recapture: in the event of the U.S. Treasury disallowing the Tax Credits due to the project falling out of compliance with Federal Law.

According to the resolution, "it is a normal business practice to provide these indemnities, which are consistent with New Market Tax Credit and Historic Rehabilitation Tax Credit transactions generally." According to Ms. Avril, these indemnities are in exchange for the indemnified parties' investment and participation in the project, and these transactions cannot proceed without the Indemnification Agreement.

As of the writing of this report, the City does not have a finalized Indemnification Agreement with the Community Arts Stabilization Trust, the United States Bancorp Community Development Corporation, and the San Francisco Community Investment Fund. Because the proposed resolution authorizes the Indemnification Agreement which has not yet been

finalized, the Budget and Legislative Analyst considers approval of the proposed resolution to be a policy matter for the Board of Supervisors. The Recreation and Park Department will negotiate the Indemnification Agreement in consultation with its tax credit consultant, the City Attorney's Office and the City Risk Manager.

FISCAL IMPACT

The Phase 1 Powerhouse renovation budget is \$13,003,379, as shown in the table below.

Table: Phase 1 Powerhouse Renovation Budget

Sources of Funds	
<u>City Contribution</u>	
California Department of Parks and Recreation Grant (File 17-1205)	\$3,500,000
<i>Previously Appropriated:</i>	
Previously released Budget and Finance Committee Reserve	2,500,000
2000 Neighborhood Park General Obligation Bonds	838,000
Community Opportunity Funds	600,000
Recreation and Park Department FY 2015-16 Capital Budget	210,612
Neighborhood Asset Activation	306,000
Recreation and Park Department FY 2017-18 Budget	200,000
Subtotal City Contribution	\$8,154,612
<u>Other Funds</u>	
Community Arts Stabilization Trust (CAST) (File 17-1207)	\$1,000,000
Net Historic Preservation Tax Credits*	1,826,767
Net New Market Tax Credits*	2,022,000
Subtotal Other	\$4,848,767
Total Sources	\$13,003,379
Uses of Funds	
Contractor construction cost	\$8,279,900
Contractor construction Contingency (10% of Construction)	827,990
Subtotal, Contractor Construction	9,107,890
Other Miscellaneous Construction	1,544,191
Planning, Permitting, Design, Engineering, Environmental	1,517,681
Other Consultant Fees	937,687
Total Uses	\$13,003,379

*The Historic Preservation Tax Credits and New Market Tax Credits are federally required to flow through an investment fund which in turn is invested in the SCIF, which then lends funds to the qualified active low income community business (which in this case is the CAST Powerhouse, LLC). Therefore some of the proceeds of the original amount of the credit will be used to pay for these transaction fees. Only net funds are shown.

The City's total project contribution is \$8,154,612, of which approximately \$1,300,000 has been spent to date on planning, design, permitting and other project related-expenses. The balance of approximately \$6,854,612 will meet the City's obligation under the funding agreement (File 17-1207)

The Department estimates the total cost of Phase 1 to be \$13,003,379, as shown in the Table above. According to Ms. Avril, the Department only received one bid for the construction for Phase 1 on the Powerhouse. The bid, from Roebuck and Company, is \$8,279,900, or \$1,530,000 higher than the Department's cost estimate. The Department was able to offset some of the additional costs through additional Historic Tax Credits (File 17-1205).

POLICY CONSIDERATION

The current House bill on tax reform eliminates two Federal tax credits utilized in this project: the New Markets Tax Credit and the Historical Tax Credit. In order to utilize these Federal tax credits, the lease agreement must be approved by the end of the calendar year.

RECOMMENDATIONS

1. Approve Files 17-1205, 17-1206, 17-1207 and 17-1208.
2. Approval of File 17-1209 is a policy matter for the Board of Supervisors because the proposed resolution authorizes the Indemnification Agreement which has not yet been finalized.

**UNCONDITIONAL GUARANTY OF NEW MARKETS TAX CREDITS, PUT PRICE
AND ENVIRONMENTAL INDEMNIFICATION**

by and among

_____,

and

_____,

and

_____,

and

**U.S. Bancorp Community Development Corporation,
a Minnesota corporation**

[_____] [], 2017

THIS UNCONDITIONAL GUARANTY OF NEW MARKETS TAX CREDITS, PUT PRICE AND ENVIRONMENTAL INDEMNIFICATION (this "*Guaranty*") is made as of [] [], 2017 (the "*Closing Date*"), by and among _____ ("*Borrower*"), _____, _____, and _____, each a "*Guarantor*", and collectively, "*Guarantors*"), in favor and for the benefit of U.S. Bancorp Community Development Corporation, a Minnesota corporation, and its successors and/or assigns ("*Investor*").

RECITALS

The following recitals are a material part of this Guaranty:

_____, (i) received an allocation of new markets tax credits (the "*New Markets Tax Credits*") under Section 45D of the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder (collectively, the "*Code*") and (ii) has made a suballocation of such allocation to _____ (the "*CDE*").

On the Closing Date, _____ (the "*Investment Fund*") will receive loans from _____ (the "*Leverage Lender*"), in the aggregate amount of \$ _____ (the "*Leverage Loan*") pursuant to the Leverage Loan Documents (as defined below).

On the Closing Date, Investor will make an equity investment in the Investment Fund in the amount of \$ _____ (the "*USBCDC Investment*").

On the Closing Date, the Investment Fund will use the proceeds of the USBCDC Investment, and the Leverage Loan to make (i) an equity investment in the CDE in the amount of \$ _____ (the "*Equity Investment*"), which Equity Investment is expected to constitute one (1) "qualified equity investment" ("*QEI*") under Section 45D of the Code and the rules and regulations promulgated thereunder (the "*NMTC Program*") and implemented by the Community Development Financial Institutions Fund of the United States Treasury Department (the "*CDFI Fund*"), with respect to which Investor may claim New Markets Tax Credits; and (ii) pay certain fees and establish and fund a fee reserve.

On or about the Closing Date, substantially all of the proceeds of the Equity Investment will be used by the CDE to make loans to Borrower in the aggregate amount of \$ [] (the "*QLICI Loans*"), each of which QLICI Loan is expected to constitute a "qualified low-income community investment" ("*QLICI*") being made to a "qualified active low-income community business" under the NMTC Program.

The documents evidencing or securing the QLICI Loans, including, without limitation, that certain Loan Agreement by and between the CDE and Borrower dated as of the Closing Date, are hereinafter collectively referred to as the "*CDE Loan Documents*".

Borrower will be the fee owner of certain real property located at _____ (the "*Property*"), which Property is in in Census Tract: _____, which Borrower has found to be characterized by economic distress and

inadequate access to capital. In order to have a catalytic effect on economic development within the Property area and other low-income communities, the Property will be developed and used as an office, retail and residential facility called the _____ (the "**Project**"). The proceeds of the QLICI Loans will be used to finance the construction and development of the Project.

As a condition of making the USBCDC Investment and to consenting to the CDEs' making of the QLICI Loans to Borrower, Investor has required Guarantors to provide the guaranty set forth herein and Investor has made the USBCDC Investment in reliance of such Guarantor's agreement to do so.

The New Markets Tax Credits claimable by Investor in connection with the USBCDC Investment and the subsequent Equity Investment by the Investment Fund in the CDEs have allowed Investor to indirectly make the Equity Investment in the CDEs on more favorable terms, which in turn has allowed the CDEs to provide the QLICI Loans to the Borrower on more favorable terms, and, as a result, each Guarantor stipulates it shall substantially benefit, directly or indirectly, from the making of the Equity Investment in the CDEs.

NOW, THEREFORE, for and in consideration of the foregoing, of the mutual promises of the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Guarantor hereby covenants and agrees as follows:

Section 1. Definitions.

(a) For purposes of this Guaranty, unless otherwise defined herein, capitalized terms shall have the meaning ascribed to such terms in the Transaction Documents (as defined below) as the context requires.

(b) For the purposes of this Guaranty, the following terms used herein shall have the following meanings:

"After Tax Basis" means, with respect to any payment to be received by Investor, the amount of such payment supplemented by a further payment or payments so that, after taking into account all income taxes imposed on Investor by any governmental authority with respect to such payments, the aggregate payments received by Investor achieves the stated after-tax internal rate of return reflected in the Financial Projections, based on the same assumptions and methods (including, but not limited to, tax rates, and timing of tax credit recognition) as reflected in the Financial Projections.

"Applicable Rate" means the applicable long-term rate as prescribed under Section 1274(d) of the Code in effect at the end of the preceding calendar month plus two percent (2%).

"Borrower" has the meaning set forth in the Preamble to this Guaranty.

"Borrower Operating Agreement" means that certain Operating Agreement for Borrower dated as of the date hereof.

“**Business Day**” shall mean any day other than a Saturday, Sunday or a legal holiday on which banks are authorized or required to be closed for the conduct of commercial banking business in St. Louis, Missouri.

“**CDE(s)**” has the meaning set forth in the Recitals to this Guaranty.

“**CDE Loan Documents**” has the meaning set forth in the Recitals to this Guaranty.

“**CDE Operating Agreements**” means (i) that certain Amended and Restated Operating Agreement of the CDE dated as of the date hereof, as amended, restated or otherwise modified from time to time.

“**CDFI Fund**” has the meaning set forth in the Recitals to this Guaranty.

“**Closing Date**” has the meaning set forth in the Preamble to this Guaranty.

“**Code**” has the meaning set forth in the Recitals to this Guaranty.

“**Disallowed New Markets Tax Credits**” shall mean, with respect to any QEI made by the Investment Fund in a CDE, the present value of any New Markets Tax Credits disallowed as a result of a NMTC Recapture Event during the period beginning on the date such QEI was made and ending on the seventh (7th) anniversary date thereof calculated using an annual discount rate of six percent (6%) calculated on a quarterly basis, but shall not include any Recaptured New Markets Tax Credits.

“**Environmental Hazard**” means any hazardous or toxic substance, waste or material, or any other substance, pollutant, or condition that poses a risk to human health or the environment, including, but not limited to: (i) any “*hazardous substance*” as that term is defined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601, *et seq.* as amended; (ii) petroleum in any form, lead-based paint, asbestos, urea formaldehyde insulation, methane gas, polychlorinated biphenyls, fluorescent lamps, radon, or lead in drinking water, except for ordinary and necessary quantities of office supplies, cleaning materials and pest control supplies stored in a safe and lawful manner and petroleum products contained in motor vehicles; (iii) any underground storage tanks; (iv) accumulations of debris, mining debris or spent batteries, except for ordinary garbage stored in receptacles for regular removal; or (v) any other condition that could result in liability for an owner or operator of the Project under any federal, state, or local law, rule, regulation or ordinance.

“**Equity Investment**” has the meaning set forth in the Recitals to this Guaranty.

“**Final Determination**” means the earliest to occur of (i) the date on which a decision, judgment, decree or other order has been issued by any court of competent jurisdiction, which decision, judgment, decree or other order has become final (*i.e.*, all allowable appeals requested by the parties to the action have been exhausted or the time for such appeals has expired); (ii) the date on which the time for instituting a claim for refund has expired, or if a claim was filed the time for instituting suit with respect thereto has expired with no such suit having been filed; or (iii) the date on which the IRS entered into a binding agreement with Investor, with respect to its

equity interest in a CDE through the Investment Fund, for federal income tax purposes, in which the IRS has reached a final administrative or judicial determination with respect to such issue and which, whether by law or agreement, is not subject to appeal; or (iv) the date on which the applicable statute of limitations for raising an issue regarding a federal (or, if applicable, a state or local) income tax matter with respect to the Investment Fund has expired with such issue not having been raised.

“Financial Projections” means those certain financial projections dated as of the date hereof and prepared by _____.

“Guarantor” and **“Guarantors”** each have the meaning set forth in the Preamble to this Guaranty.

“Guaranty” has the meaning set forth in the Preamble to this Guaranty.

“Guaranty Payment Date” has the meaning set forth in Section 3(b) of this Guaranty.

“Investment Fund” has the meaning set forth in the Recitals to this Guaranty.

“Investment Fund Operating Agreement” means that certain Operating Agreement for the Investment Fund dated as of the date hereof, as amended, restated or otherwise modified from time to time.

“Investor” has the meaning set forth in the Preamble to this Guaranty.

“IRR Amount” means such additional amount (if any) in addition to the Recaptured New Markets Tax Credits and Disallowed New Markets Tax Credits as shall be required to cause Investor to have received, on an After-Tax Basis, an “Annual After-Tax Internal Rate of Return” (as defined and calculated in the same manner as provided for in the Financial Projections) of []% (representing Investor’s projected return from its investment in the Investment Fund), taking into account (in lieu of Investor’s receipt of the New Markets Tax Credits) such expenses resulting from, and the effect of, the recapture of the New Markets Tax Credits and the receipt of the cash payments provided for herein, and utilizing the same assumptions and methodology as used in the Financial Projections (including, but not limited to, tax rates, and timing of New Markets Tax Credit recognition).

“IRS” means the Internal Revenue Service.

“Leverage Lenders” has the meaning set forth in the Recitals to this Guaranty.

“Leverage Loan” has the meaning set forth in the Recitals to this Guaranty.

“Leverage Loan Documents” means those certain loan documents evidencing, securing or otherwise executed in connection with the Leverage Loan of even date herewith, as amended, restated or otherwise modified from time to time, including, without limitation, (i) that certain Fund Loan Agreement by and between Leverage Lender and the Investment Fund, (ii) that

certain Promissory Note in the original principal amount of \$_____ to be delivered by the Investment Fund to Leverage lender, and (iii) that certain Pledge Agreement by and between the Investment Fund and Leverage lender.

“*New Markets Tax Credits*” has the meaning set forth in the Recitals to this Guaranty.

“*NMTC Guaranteed Amount*” means the sum of (i) the NMTC Recapture Amount and (ii) an amount sufficient, on an After Tax Basis, to pay any additional Federal tax liability, interest and penalties of Investor resulting from any NMTC Recapture Event in excess of the NMTC Recapture Amount.

“*NMTC Program*” has the meaning set forth in the Recitals to this Guaranty.

“*NMTC Recapture Amount*” means the sum of (i) the Recaptured New Markets Tax Credits, (ii) the Disallowed New Markets Tax Credits, and (iii) the IRR Amount.

“*NMTC Recapture Event*” means a recapture or disallowance of any New Markets Tax Credits attributable to any QEI in a CDE, the proceeds of which were or will be used to fund the QLICIs or related fees; but only to the extent such recapture or disallowance is the direct or indirect result of any of the following: (a) the Borrower not being or ceasing to be a QALICB; (b) the QLICI Loans not being or ceasing to be QLICIs; (c) the redemption by a CDE (within the meaning of Treas. Reg. Section 1.45D-1(e)(3)(iii)) of any portion of the Equity Investment caused directly or indirectly by Borrower’s violation of the CDE Loan Documents; (d) the failure of any tenant or subtenant of the Project to be classified as a Qualified Business; (e) the failure of a CDE to maintain substantially all of the Equity Investment invested in QLICIs attributable to a prepayment (whether voluntary or involuntary or as a result of acceleration, foreclosure or otherwise) of any of the QLICI Loans by the Borrower in violation of the CDE Loan Documents or as a result of the exercise of any rights or remedies of a CDE following a default by the Borrower under the CDE Loan Documents; (f) any Guarantor’s (or any of Guarantor’s affiliates’) gross negligence, fraud, willful misconduct, malfeasance, material violation of any law; (g) any other act or omission by or within the control of any Guarantor; (h) the breach by any Guarantor of any warranty or covenant as contained in any of the Transaction Documents; (i) any representation of any Guarantor as contained in any Transaction Document shall prove to be false or misleading in any respect; or (j) a determination by the CDFI Fund or the Internal Revenue Service that the use of QLICI proceeds: (A) constituted an inappropriate or abusive use of such proceeds or (B) is inconsistent with the purposes of Section 45D of the Code and the related Treas. Reg., as provided in Treas. Reg. Section 1.45D-1(g), respectively.

“*Obligations*” means the obligations set forth in Sections 2 through 5 herein.

“*Project*” has the meaning set forth in the Recitals to this Guaranty.

“*Property*” has the meaning set forth in the Recitals to this Guaranty.

“Put and Call Agreement” means that certain Investment Fund Put and Call Agreement by and between the Put/Call Counterparty and Investor dated as of the date hereof, as amended, restated or otherwise modified from time to time.

“Put/Call Counterparty” means _____.

“QALICB” means a “qualified active low-income community business” as such term is defined in Section 45D of the Code and the Treasury Regulations and Guidance.

“QEF” has the meaning set forth in the Recitals to this Guaranty.

“QLICF” has the meaning set forth in the Recitals to this Guaranty.

“QLICI Loans” has the meaning set forth in the Recitals to this Guaranty.

“Qualified Business” means any trade or business except: (a) the rental of Residential Rental Property; (b) any trade or business consisting predominantly of the development or holding of intangibles for sale or license; (c) any trade or business consisting of the operation of any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises; or (d) any trade or business the principal activity of which is farming.

“Recaptured New Markets Tax Credits” means, with respect to any QEI made by the Investment Fund in a CDE, the sum of 100% of the New Markets Tax Credits that are recaptured pursuant to a NMTC Recapture Event.

“Residential Rental Property” means any building or structure if eighty percent (80%) or more of the gross rental income from such building or structure for the taxable year is rental income from “dwelling units.” For such purpose, a “dwelling unit” means a house or apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, or other establishment more than one half (1/2) of the units in which are used on a transient basis. If any portion of the building or structure is occupied by the taxpayer, the gross rental income for such building or structure includes the rental value of the portion so occupied.

“Transaction Documents” means the Investment Fund Operating Agreement, the Leverage Loan Documents, the Borrower Operating Agreement, the CDE Operating Agreement, the CDE Loan Documents, and all related documents executed and delivered in connection therewith.

“Treasury Regulations and Guidance” means and includes any proposed, temporary and/or final regulations now or hereafter promulgated under the Code and any guidance, rule, or procedure published by the CDFI Fund, including without limitation the Community Development Entity Certification Applications of the CDE, the New Markets Tax Credit Allocation Applications of the CDE and the Allocation Agreements of the CDE with the CDFI Fund.

“*USBCDC Investment*” has the meaning set forth in the Recitals to this Guaranty.

Section 2. Guaranty.

(a) Each Guarantor jointly, severally, irrevocably, unconditionally, and absolutely guarantees the due, prompt and complete payment and performance of the Obligations to Investor, including, without limitation, the payment of the NMTC Guaranteed Amount pursuant to Section 3 of this Guaranty.

(b) Any amounts not paid by the Guaranty Payment Date pursuant to this Guaranty shall bear interest at the Applicable Rate as of the Guaranty Payment Date until the date such amounts are paid in full. Such amounts shall be compounded on a monthly basis.

Section 3. New Markets Tax Credits.

(a) The Guarantors shall pay the NMTC Guaranteed Amount in accordance with Section 3(b) of this Guaranty plus interest determined in accordance with Section 2(b) of this Guaranty on any amounts unpaid in accordance with such section, until paid in full directly to Investor, but only if and to the extent that the applicable NMTC Recapture Amount is the direct or indirect result of a NMTC Recapture Event.

(b) The NMTC Guaranteed Amount shall be due and payable by Guarantors not later than the date which is ten (10) calendar days after the earliest to occur, if known, of the following dates (the “*Guaranty Payment Date*”):

(i) the date on which the Investment Fund and/or Investor provides written notice to Guarantors of the NMTC Recapture Amount calculated based upon issuance of a Schedule K-1 to the Investment Fund and/or Investor for any taxable year that reflects Recaptured New Markets Tax Credits or Disallowed New Markets Tax Credits;

(ii) the date on which a determination is made by Investor in good faith based upon advice from tax counsel or its accountants that a NMTC Recapture Event has occurred; or

(iii) the date on which the Investment Fund and/or Investor provides written notice to Guarantors of its receipt of written notice of a Final Determination that a NMTC Recapture Event has occurred and that Investor is being assessed additional tax liability (with any applicable interest or penalties) on account of such NMTC Recapture Event; *provided, however*, that in the event that, prior to the receipt of written notice of a Final Determination, Investor is (1) actually required to pay such additional tax liability on account of such NMTC Recapture Event or (2) not permitted to claim the New Markets Tax Credits on its tax return at the time of filing, then the NMTC Guaranteed Amount shall be due and payable within ten (10) calendar days of the date on which the Investment Fund and/or Investor provides written notice to Guarantors of the occurrence of such event; *provided, further, however*, that if there is subsequently a Final Determination that a NMTC Recapture Event has not occurred, then Investor shall,

within ten (10) calendar days after receipt of such Final Determination, pay to Guarantors any amounts previously paid to Investor pursuant to this subsection (b) except to the extent of any amount necessary to pay any reasonable costs and expenses (including reasonable attorney fees) relating to taking necessary steps to address the preliminary determination of a NMTC Recapture Event and the Final Determination, including but not limited to steps relating to amending any tax returns or other related actions.

(c) Notwithstanding anything herein to the contrary, the NMTC Recapture Amount shall be reduced by any amounts previously distributed to Investor by the Investment Fund in connection with the Obligations arising under this Section 3.

Section 4. Put Price. Guarantors shall pay the “USBCDC Put Price”, as defined in the Put and Call Agreement, and any amounts due under Section 11 of the Put and Call Agreement, upon five (5) Business Days’ prior written notice that the Put/Call Counterparty or its designee has failed to make such payments when due.

Section 5. Environmental Indemnification. Each Guarantor shall absolutely and unconditionally, jointly and severally, indemnify Investor against out-of-pocket losses, claims, damages, and expenses arising from (a) the presence, or release of any Environmental Hazard in, on, under, or from the Property, and/or (b) the presence, or release of any Environmental Hazard in, on, under, or from any real property adjacent to or in the vicinity of the Property to which an Environmental Hazard has spread from the Property. Such indemnity shall include, but not be limited to, any and all loss, damage, expense or similar type of economic detriment out of any one or more of the following: (a) injury or death to any person; (b) damage to or loss of use of the Property or any other property or ground water, waterway or body of water adjacent to the Property; (c) the cost of removal, clean-up or remedial action of any and all Environmental Hazard from the Property or surrounding area including any ground water, waterway or body of water and the preparation of any closure or other activity required by any governmental entity; (d) the cost required to take necessary precautions to protect against the release of any Environmental Hazard in, on or under the Property, the air, any ground water, waterway or body of water, any public domain or any surrounding areas to the Property; (e) the cost of any demolition and rebuilding or repair of improvements on the Property or in any surrounding areas to the Property; (f) any lawsuit brought or threatened, settlement reached, or governmental order relating to the presence, disposal, or release of any Environmental Hazard in, on, under, from or affecting the Property or in any surrounding areas to the Property; and (g) the imposition of any lien on or against the Property or in any surrounding areas to the Property arising from the presence or release of any Environmental Hazard in, on, under, from or affecting the Property.

Section 6. Powers and Authority. Each Guarantor hereby grants to Investor, in its absolute discretion and without notice to such Guarantor, the power and authority to deal with the Obligations in any lawful manner. Without limiting the generality of the foregoing, the liability of each Guarantor hereunder shall not be affected, impaired or reduced in any way by any action taken by Investor involving any of the following powers or authorities or pursuant to any other provision hereof, or by any delay, failure or refusal of Investor to exercise any right or remedy it may have against any person, firm or corporation, including other guarantors, if any, liable for all or any part of the Obligations:

(a) to renew, compromise, extend, accelerate or otherwise change the time or place of payment of or to otherwise change the terms of the Obligations;

(b) to (i) modify any of the terms of the Transaction Documents, or (ii) waive any of the terms thereof;

(c) to take and hold security for the payment of the Obligations and to impair, exhaust, exchange, enforce, waive or release any such security;

(d) to direct the order or manner of sale of any such security as Investor, in its discretion, may determine;

(e) to grant any indulgence, forbearance or waiver with respect to the Obligations or any of the other obligations guaranteed hereby;

(f) to release or waive rights against Borrower and any guarantor; and/or

(g) to agree to any valuation by Investor of any collateral securing payment of any of the Obligations in any proceedings under the United States Bankruptcy Code concerning Investor.

Section 7. Payment. Each Guarantor agrees that if any of the Obligations are not fully and timely paid or performed in accordance with the terms and conditions hereof, whether by acceleration or otherwise, such Guarantor shall immediately upon receipt of written demand therefor from Investor, pay all of the unpaid Obligations hereby guaranteed in like manner as if the Obligations constituted the direct and primary obligation of such Guarantor. Guarantors shall not have any right of subrogation as a result of any payment hereunder or any other payment made by any other guarantor on account of the Obligations, and each Guarantor hereby waives, releases and relinquishes any claim based on any right of subrogation, any claim for unjust enrichment or any other theory that would entitle such Guarantor to a claim against the Borrower based on any payment made hereunder or otherwise on account of the Obligations.

Section 8. Continuing and Irrevocable. This Guaranty and the Obligations shall be continuing and irrevocable until the Obligations have been satisfied in full. Notwithstanding the foregoing or anything else set forth herein, and in addition thereto, if at any time all or any part of any payment received by Investor from any Guarantor under or with respect to this Guaranty is or must be rescinded or returned for any reason whatsoever (including, but not limited to, any determination that the payment was a voidable preference or fraudulent transfer under insolvency, bankruptcy or reorganization laws), then each Guarantor's obligations hereunder shall, to the extent of the payment rescinded or returned, be deemed to have continued in existence, notwithstanding the previous receipt of payment by Investor, and each Guarantor's obligations hereunder shall continue to be effective or be reinstated as to such payment, all as though such previous payment to Investor had never been made. The provisions of the foregoing sentence shall survive termination of this Guaranty, and shall remain a valid and binding obligation of Guarantors until satisfied.

Section 9. Waiver of Notice. Each Guarantor hereby waives notice of acceptance of this Guaranty by Investor and this Guaranty shall immediately be binding upon each Guarantor.

Each Guarantor, by executing this Guaranty, shall be fully bound hereby regardless of whether or not any other guarantor subsequently executes this Guaranty.

Section 10. Waiver of Rights. Each Guarantor hereby waives and agrees not to assert or take advantage of:

(a) any right to require Investor to proceed against the Borrower or any other person or to proceed against or exhaust any security held by Investor at any time or to pursue any other remedy in Investor's power before proceeding against Guarantor;

(b) the defense of the statute of limitations in any action hereunder or in any action for the collection of any of the Obligations;

(c) any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or persons or the failure of Investor to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;

(d) demand, presentment for payment, notice of nonpayment, protest, notice of protest and all other notices of any kind, including, without limitation, notice of the existence, creation or incurring of any new or additional obligations or obligation or of any action or non-action on the part of Investor or any endorser or creditor of Investor or Guarantor or on the part of any other person whomsoever under this or any other instrument in connection with any of the Obligations or evidence of Obligations held by Investor or in connection therewith;

(e) any defense based upon an election of remedies by Investor, the right of Guarantor to proceed against Investor for reimbursement, any rights or benefits under the bankruptcy and insolvency laws of the State of Missouri or any other applicable state of the United States or under Sections 364 and 1111 of the Bankruptcy Code as same may be amended or replaced from time to time;

(f) any election by Investor to exercise any right or remedy it may have against the Borrower or any security held by Investor, including, without limitation, the right to foreclose upon any such security by judicial or non-judicial sale, without affecting or impairing in any way the liability of such Guarantor hereunder, except to the extent the Obligations have been paid, and such Guarantor waives any default arising out of the absence, impairment or loss of any right of reimbursement, contribution or subrogation or any other right or remedy of such Guarantor against Investor or any such security whether resulting from such election by Investor or otherwise; and

(g) any duty or obligation on the part of Investor to perfect, protect, not impair, retain or enforce any security for the payment of the Obligations or performance of any of the other obligations guaranteed hereby.

Section 11. Subordination. The right of any Guarantor to (i) withdraw, or to cause or permit any person controlled or owned in whole or in part by such Guarantor to withdraw, any capital invested by such Guarantor or such person in Borrower, any other Guarantor or any of their respective Affiliates and (ii) receive payments of any kind from any Guarantor or any of their

respective Affiliates, is hereby subordinated to the Obligations. In addition, after the occurrence of a default under this Guaranty, without the prior written consent of Investor, such subordinated obligations shall not be paid and such capital shall not be withdrawn in whole or in part nor shall any Guarantor accept or cause or permit any person controlled or owned in whole or in part by such Guarantor to accept any payment of or on account of any such subordinated obligations or as a withdrawal of capital. Any payment received by any Guarantor in violation of this Guaranty shall be received by the person to whom paid in trust for Investor, and such Guarantor shall cause the same to be paid to Investor immediately on account of the Obligations. No such payment shall reduce or affect in any manner the liability of any Guarantor under this Guaranty.

Section 12. Unconditional Guaranty of Payment and Performance; Joint and Several Liability. The liability of each Guarantor under this Guaranty shall be an absolute, direct, immediate and unconditional guaranty of payment and performance and not of collectability. Guarantors shall be jointly and severally liable with any other guarantor. The amount of each Guarantor's liability and all rights, powers and remedies of Investor hereunder shall be cumulative and not alternative, and such rights, powers and remedies shall be in addition to any and all rights, powers and remedies given to Investor under any applicable Transaction Document or any other document or agreement relating in any way to the terms and provisions thereof or otherwise provided by law. The liability of each Guarantor under this Guaranty is independent of the obligations of any other guarantor or of any other party which may initially be or otherwise become responsible for the payment and performance of the obligations guaranteed hereunder, and, in the event of any default hereunder, a separate action or actions may be brought and prosecuted by Investor against any one Guarantor, whether or not any of the other guarantors or any other party is joined therein or a separate action or actions are brought against any of the other guarantors or such other party. Investor may maintain successive actions for other defaults. Investor's rights hereunder shall not be exhausted by its exercise of any of its rights or remedies or by any such action or by any number of successive actions unless and until the obligations guaranteed hereunder have been paid and performed in full.

Section 13. Amendments. The parties to any of the Transaction Documents may, in their sole discretion, at any time enter into agreements to amend, modify or change such agreements in the manner provided for in such documents or as the parties thereto shall otherwise agree; or may at any time waive or release any provision or provisions thereof and, with reference thereto, may make and enter into all such agreements as they may deem proper or desirable, without any notice or further assent from any Guarantor and without in any manner impairing or affecting this Guaranty or any of the rights of Investor or the Obligations.

Section 14. Fees and Costs. Guarantors hereby agree to pay to Investor, upon demand, all reasonable attorneys' fees and all costs and other expenses which Investor expends or incurs in collecting or compromising the Obligations or in enforcing this Guaranty against Guarantors whether or not suit is filed, including, without limitation, all reasonable costs, attorneys' fees and expenses incurred by Investor in connection with any tax audit, insolvency, bankruptcy, reorganization, arrangement or other similar proceedings involving Guarantors which in any way affect the exercise by Investor of its rights and remedies hereunder. Any and all such costs, attorneys' fees and expenses not so paid shall bear interest at an annual interest rate equal to the lesser of (i) the Applicable Rate or (ii) the highest rate permitted by applicable law, from the date incurred by Investor until paid by Guarantors.

Section 15. Severability. Should any one or more provisions of this Guaranty be determined to be illegal or unenforceable, all other provisions nevertheless shall be effective.

Section 16. Waiver. No provision of this Guaranty or right of Investor hereunder can be waived nor can any Guarantor be released from such Guarantor's obligations hereunder except by a writing duly executed by Investor. This Guaranty may not be modified, amended, revised, revoked, terminated, changed or varied in any way whatsoever except by the express terms of a writing duly executed by Investor and Guarantors.

Section 17. Interpretation. When the context and construction so require, all words used in the singular herein shall be deemed to have been used in the plural, and the masculine shall include the feminine and neuter and vice versa. The word "person" as used herein shall include any individual, company, firm, association, limited liability company, partnership, corporation, trust or other legal entity of any kind whatsoever.

Section 18. Assignment. If any or all of the right to claim New Markets Tax Credits with respect to the USBCDC Investment and Equity Investment is assigned by Investor, this Guaranty shall automatically be assigned therewith in whole or in part, as applicable, without the need of any express assignment or consent, and, when so assigned, each Guarantor shall be bound as set forth herein to the assignee(s) without in any manner affecting any Guarantor's liability hereunder with respect to any rights hereunder retained by Investor. No Guarantor shall assign all or any portion of this Guaranty or any of the obligations hereunder without the prior written consent of Investor, which may be given in its sole discretion. This Guaranty shall be binding upon each Guarantor and its heirs, executors, administrators, legal representatives, successors and permitted assigns and shall inure to the benefit of Investor and its successors and assigns.

Section 19. [Reserved].

Section 20. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of Missouri without regard to principles of conflicts of law, except to the extent that any of such laws may now or hereafter be preempted by Federal law, in which case, such Federal law shall so govern and be controlling. Each Guarantor acknowledges that, inasmuch as Investor's principal offices are located in Missouri, the State of Missouri bears a reasonable relationship to this Guaranty and the underlying transaction. In any action brought under or arising out of this Guaranty, each Guarantor hereby consents to the jurisdiction of any competent court within the State of Missouri and consents to service of process by any means authorized by the laws of such state. Except as provided in any other written agreement now or at any time hereafter in force between Investor and such Guarantor, this Guaranty shall constitute the entire agreement of such Guarantor with Investor with respect to the subject matter hereof, and no representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Investor or such Guarantor unless expressed herein.

Section 21. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by depositing same with Federal Express for next Business Day delivery or by depositing same in the United

States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

- (a) If to Investor: U.S. Bancorp Community Development Corporation
1307 Washington Avenue, Suite 300
St. Louis, Missouri 63103
Attention: Director of Asset Management – NMTC
Project #: _____
Facsimile: 314.335.2602

With a copy to:

Nixon Peabody LLP
799 9th Street NW, Suite 500
Washington, DC 20001
Attention: Greg Doran
Facsimile: 202.585.8080

- (b) If to Guarantors:

With a copy to:

All notices, demands and requests shall be effective upon such personal delivery or upon being deposited with Federal Express or in the United States mail as required above. However, with respect to notices, demands or requests so deposited with Federal Express or in the United States mail, the time period in which a response to any such notice, demand or request must be given shall commence to run from the next Business Day following any such deposit with Federal Express or, in the case of a deposit in the United States mail as provided above, the date on the return receipt of the notice, demand or request reflecting the date of delivery or rejection of the same by the addressee thereof. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, demand or request sent. Each party hereto shall have the right from time to time to change its address and the right to specify as its address any other address within the United States of America by giving to the other party hereto at least thirty (30) calendar days' written notice thereof in accordance with the provisions hereof.

Section 22. Bankruptcy. Each Guarantor hereby agrees that this Guaranty and the Obligations shall remain in full force and effect at all times hereinafter until paid and/or performed in full notwithstanding any action or undertakings by, or against Investor or any Guarantor in any proceeding in the United States Bankruptcy Court, including, without limitation, any proceeding relating to valuation of collateral, election or imposition of secured or unsecured claim status upon claims by Investor pursuant to any chapter of the Bankruptcy Code

or the Rules of Bankruptcy Procedure as same may be applicable from time to time. Each Guarantor acknowledges that its obligations hereunder may survive the repayment of the QLICI Loans, and that it may not be possible to determine the existence of liability hereunder until after such time as the IRS is prohibited from assessing additional tax liability against Investor for any year in which it claimed any of the New Markets Tax Credits.

Section 23. Counterparts. This Guaranty may be executed in any number of counterparts, each of which shall be effective only upon delivery and thereafter shall be deemed an original, and all of which shall be taken to be one and the same instrument, with the same effect as if all parties hereto had signed the same signature page. Any signature page of this Guaranty may be detached from any counterpart of this Guaranty without impairing the legal effect of any signatures thereon and may be attached to another counterpart of this Guaranty identical in form hereto but having attached to it one or more additional signature pages. Execution by any Guarantor shall bind such Guarantor regardless of whether any one or more other guarantors executes this Guaranty. Signature by facsimile or other reproduction sent by electronic mail shall be considered an original signature.

Section 24. Representations, Warranties and Covenants.

(a) Each Guarantor represents, warrants and covenants to and for the benefit of Investor as follows:

(i) the execution, delivery and performance by it of this Guaranty does not and will not contravene or conflict with any law, order, rule, regulation, writ, injunction or decree now in effect of any government, governmental instrumentality or court or tribunal having jurisdiction over it, or any contractual restriction binding on or affecting it, or any of its organizational documents;

(ii) there are no existing or reasonably anticipated facts or circumstances of any kind or nature whatsoever of which it is aware that could in any way impair or prevent it from performing its obligations under this Guaranty;

(iii) any and all financial information with respect to it that it has given to Investor in connection with the transactions contemplated by this Guaranty fairly and accurately present its financial condition and results of operations as of the respective dates thereof and for the respective dates indicated therein, and, subsequent to such respective dates, there has been no adverse change in the financial condition or results of its operations;

(iv) with the assistance of counsel of its choice, it has read and reviewed this Guaranty and such other documents as it and its counsel deemed necessary or desirable to read in connection herewith;

(v) each representation made by it in any of the Transaction Documents to which such Guarantor is a party is true and correct in all material respects and Investor may rely thereon; and

(vi) upon written request of Investor, such Guarantor shall provide Investor with (i) annual financial statements, including audited financial statements if such Guarantor has such audited financial statements prepared for such annual period ended (provided that such audited financial statements, if any, will be provided to Investor no later than 180 days after the end of each fiscal year of such Guarantor and such unaudited financial statements will be provided to Investor no later than 120 days after the end of each fiscal year of such Guarantor), certified as true, correct and complete; and (ii) such other financial information or reports reasonably requested by Investor or that such Guarantor is otherwise obligated to provide; provided further, however, that if at any time a guarantor obligated hereunder is an individual, then such financial statements need not be audited but rather may be signed and sworn by such individual guarantor.

(b) Each Guarantor further covenants and agrees to immediately notify Investor of any change in such Guarantor's financial condition that adversely and materially affects its ability to perform the Obligations hereunder.

Section 25. Miscellaneous. Each Guarantor acknowledges that Investor is a member of Investment Fund, which is a member of the CDE. Notwithstanding such affiliation, each Guarantor agrees as follows: (a) no partnership or joint venture relationship exists between Investor and such Guarantor; (b) Investor owes no fiduciary or other duty to such Guarantor, except for any obligations of Investor set forth in this Guaranty, and (c) the exercise by Investor of any of its rights or remedies under the Transaction Documents shall not serve to reduce or discharge the liability of such Guarantor hereunder, except to the extent of any recovery actually realized by Investor in cash with respect to the Obligations; provided, however that Investor shall have no obligation to exercise any of its rights or remedies under any Transaction Document. Each Guarantor severally waives and releases any claim it may now or hereafter have against Investor based on any theory or cause of action that conflicts with the agreements of the parties set forth in this Section. Each Guarantor has not and will not, without the prior written consent of Investor, sell, lease, assign, encumber, hypothecate, transfer, or otherwise dispose of all or substantially all of such Guarantor's assets, or any interest therein. Upon demand, each Guarantor will provide annual financial information, including financial statements certified as true, correct and complete, and such other information as may reasonably be requested by Investor.

[Remainder of Page Intentionally Left Blank]

[Signatures contained on following pages]

**COUNTERPART SIGNATURE PAGE
UNCONDITIONAL GUARANTY OF NEW MARKETS TAX CREDITS, PUT PRICE
AND ENVIRONMENTAL INDEMNIFICATION**

IN WITNESS WHEREOF, Borrower has caused this Unconditional Guaranty of New Markets Tax Credits, Put Price and Environmental Indemnification to be duly executed as of the date first above written.

BORROWER:

_____,
a _____

By: _____
Name: _____
Title: _____

**COUNTERPART SIGNATURE PAGE
UNCONDITIONAL GUARANTY OF NEW MARKETS TAX CREDITS, PUT PRICE
AND ENVIRONMENTAL INDEMNIFICATION**

IN WITNESS WHEREOF, _____ has caused this Unconditional Guaranty of New Markets Tax Credits, Put Price and Environmental Indemnification to be duly executed as of the date first above written.

[GUARANTOR]:

_____, a

By:

Name: _____

Title: _____

**COUNTERPART SIGNATURE PAGE
UNCONDITIONAL GUARANTY OF NEW MARKETS TAX CREDITS, PUT PRICE
AND ENVIRONMENTAL INDEMNIFICATION**

IN WITNESS WHEREOF, _____ has caused this Unconditional Guaranty of New Markets Tax Credits, Put Price and Environmental Indemnification to be duly executed as of the date first above written.

[GUARANTOR]:

_____,
a _____

By: _____
Name: _____
Title: _____

**COUNTERPART SIGNATURE PAGE
UNCONDITIONAL GUARANTY OF NEW MARKETS TAX CREDITS, PUT PRICE
AND ENVIRONMENTAL INDEMNIFICATION**

IN WITNESS WHEREOF, Investor has caused this Unconditional Guaranty of New Markets Tax Credits, Put Price and Environmental Indemnification to be duly executed as of the date first above written.

INVESTOR:

**U.S. BANCORP COMMUNITY DEVELOPMENT
CORPORATION**, a Minnesota corporation

By: _____
 [Name]
Its: [Title]



Community Development Corporation
633 West Fifth Street, 29th Floor
Los Angeles, CA 90071
213.615.6689
maria.bustriaglickman@usbank.com

usbank.com/cdc

July 12, 2017

Mark Buell
President
San Francisco Recreation & Parks Department
McLaren Lodge – Golden Gate Park
501 Stanyan Street
San Francisco, CA 94117

Re: Geneva Car Barn & Powerhouse
Federal Historic Tax Credit Equity Investment

Dear Commissioner Buell:

Based on financial and other information provided on the proposed rehabilitation of the Geneva Car Barn & Powerhouse (the “Project”) located at 2301 San Jose Avenue, San Francisco, CA (the “Property”), U.S. Bancorp Community Development Corporation (“USBCDC”) is delighted to consider making an equity investment to facilitate completion of the Project. It is expected that such equity investment will result in Federal Historic Rehabilitation Tax Credits (“FHTCs”) being available to USBCDC. The terms of such investment are outlined below.

Except for the obligations set forth in the section titled Transaction Costs and Confidentiality, the following term sheet does not constitute or create, and shall not be deemed to constitute or create, any legally binding or enforceable obligation on the part of either party and is for discussion purposes only and should not be construed as a commitment to provide loans or equity to the Project. This proposed investment by USBCDC will require underwriting and approval by U. S. Bank Credit Administration, and we have not performed the necessary due diligence to allow us to seek such approval. Should we agree to move forward with the investment, formal bank approval through USBCDC’s internal credit process will be pursued. During the underwriting and documentation process, the terms and conditions of this proposal may change in material respects from what is proposed in this letter.

PROPERTY INFORMATION AND ASSUMPTIONS:

The Project consists of the acquisition and rehabilitation of the Geneva Car Barn & Powerhouse (the “Building”) and related improvements. This proposal additionally assumes the following:

1. The Building qualifies for the 20% FHTC and will be substantially rehabilitated in accordance with the standards set by the Secretary of the Interior in order to qualify eligible expenditures for Federal Historic Rehabilitation Tax Credits. Approval of Parts 1 and 2 for the Historic Preservation Certification Application must be received prior to USBCDC funding.
2. Total Development Costs of approximately \$ 11.90 million for Phase I.
3. Estimated Qualified Rehabilitation Expenditures (“QREs”) of approximately \$11.01 million.
4. No portion of the Project QREs have been Placed-in-Service (“PIS”).
5. Closing of a transaction admitting USBCDC to the Master Tenant (as defined below) must occur prior to the QREs being PIS.

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6. The FHTCs may be claimed when the Project QREs PIS before October 31, 2018.
7. Satisfactory review of all title, survey, environmental, and insurance matters.
8. Satisfactory review of construction plans and specifications by USBCDC construction consultant and/or HTC consultant prior to closing and funding of all draws. Cost for the construction consultant and the HTC consultant to be covered by the Project.
9. Satisfactory underwriting of San Francisco Recreation & Parks Department as guarantor ("Guarantor").
10. Satisfactory review by USBCDC counsel of structure and all other aspects of this transaction.
11. All obligations of Guarantor outlined in this term sheet will be memorialized in an agreement prior to closing of the investment.

TAX CREDIT TERMS/TRANSACTION STRUCTURE

USBCDC requires that any proposed transaction structure meet the safe harbor provisions under IRS Revenue Procedure 2014-12. USBCDC envisions providing equity capital related to the FHTCs for the Project based on the following assumptions:

The Property will be owned by a to-be-formed single purpose entity (the "Property Owner"), a taxable entity controlled by an affiliate of the San Francisco Recreation & Parks Department (the "Sponsor"). The equity capital will be invested in a Master Tenant entity ("Master Tenant"). USBCDC will initially own 99% of the Master Tenant and an affiliate of the Sponsor acceptable to USBCDC (the "Managing Member") will initially own 1% of the Master Tenant. A master lease will be put in place between the Property Owner, as lessor, and the Master Tenant, as lessee. The FHTCs generated by the rehabilitation of the Property will be passed through by the Property Owner to the Master Tenant, pursuant to an election to be made under Section 50(d) of the Internal Revenue Code of 1986, as amended (the "Code"). As USBCDC will own 99% of the Master Tenant, USBCDC will receive 99% of the FHTCs.

To the extent FHTC equity cannot be utilized at the Master Tenant Level, the Master Tenant may contribute capital to the Property Owner in the form of equity, debt or prepaid rent, depending on the circumstances of the transaction, all of which will be subject to USBCDC and counsel review and approval. In the event of a transfer of HTC equity in the form of equity in the Property Owner, (i) all fees, reserves and other arrangements at the Property Owner level will be subject to third party support acceptable to USBCDC and (ii) the ownership interest of the Master Tenant in the Property Owner shall be in proportion with its cash contributions to the Property Owner relative to the other partners (cash, sweat equity, etc.). In the event of a transfer of HTC equity in the form of debt to the Property Owner, the cash flow projections of the Property Owner must support payment of debt service on the loan at AFR. In the event of a transfer of HTC equity in the form of prepaid rent to the Property Owner, such rent shall be taken into account and subject to third party support acceptable to USBCDC and the 467 loan balance shall not be permitted to go negative during the term of the Master Lease.

The Managing Member shall be responsible for the day-to-day operations of the completed Project. The Managing Member or its affiliate will also act as managing member of the Property Owner and be responsible for the overall development of the Property.

FEDERAL HISTORIC TAX CREDIT EQUITY CAPITAL (AND ADJUSTMENTS):

USBCDC envisions providing equity capital related to the FHTCs for the Project based on the following assumptions:

USBCDC will receive 99% of all FHTCs generated by the QREs. Should USBCDC receive less than the estimated FHTC credit amount set forth below, the FHTC Equity will be adjusted accordingly as set forth in more detail below. USBCDC will provide additional equity capital for all additional FHTCs up to 10% more than the amount projected at closing and has the option (in its sole discretion) to provide additional

equity capital for all available FHTCs. In the event that USBCDC is eligible for more or fewer FHTCs, the FHTC equity would be adjusted based on the equity per credit as detailed below:

<u>Credit Type</u>	<u>QRE Amount</u>	<u>Credit Amt.*</u>	<u>FHTC Equity</u>	<u>Equity per Credit</u>
FHTC	\$11,010,096	\$2,179,999	\$1,852,999	\$0.85

*Estimate. Final cost certification to certify final amount of credits. Assumes 99% allocated to USBCDC.

Timing of Pay-in:

USBCDC proposes to fund the FHTC equity capital in installments according to the following schedule:

CONDITIONS	AMOUNT
<p>First Installment (anticipated at Closing):</p> <ol style="list-style-type: none"> Closing of all necessary financing to complete the rehabilitation; Receipt of approved Part 1 and the initial Part 2 with approved conditions from the National Park Service; Receipt and approval of all required construction documents, including, but not limited to plans and specifications, final GMP construction contract, and form of performance bond. USBCDC will engage a third party consultant to assist with such review, the cost of which will be paid by the Project Owner; and Building not yet PIS. <p>Note: Anticipated to be made at closing but may be deferred until a date closer to PIS based on USBCDC's construction risk analysis</p>	<p>Estimated QREs x 20% x 30% x 99% x \$0.85</p>
<p>Second Installment (anticipated upon PIS and delivery of cost cert):</p> <ol style="list-style-type: none"> Delivery of 2018 FHTCs; Lien-Free Construction Completion; All Certificates of Occupancy; Final Cost Certification and, if required, a cost segregation analysis; Evidence of submittal of Part 3 Approval and payment of the fee(s) associated therewith Architect certificate of compliance with Part 2; Receipt of prior year's tax returns and K-1, if applicable; Covenant Compliance under Transaction Documents; No defaults under Transaction Documents; and Satisfaction of the requirements of the first installment. 	<p>Totals QREs in final Cost Certification x 20% x 90% x 99% x \$0.85 (as may be adjusted)</p> <p>Less</p> <p>First Installment amount</p>
<p>Third Installment (anticipated upon delivery of Part 3 approval):</p> <ol style="list-style-type: none"> Receipt of Part 3 from National Park Service; Receipt of prior year's tax returns and K-1, if applicable; Covenant Compliance under Transaction Documents; No defaults under Transaction Documents; and Satisfaction of the requirements of the second installment. 	<p>Totals QREs in final Cost Certification x 20% x 100% x 99% x \$0.85 (as may be adjusted)</p> <p>Less</p> <p>First Installment and Second Installment amounts</p>



†Prior to the PIS date (date/timeframe to be determined by USBCDC), 75% of the FHTC equity capital will be fixed in amount. The remaining 25% of FHTC capital will be subject to adjustment as set forth herein. Contribution of any FHTC equity amounts (other than the amount contributed at closing/prior to PIS) remains subject to applicable conditions precedent regardless of whether such amount is fixed or subject to adjustment.

In addition to the tax credits, USBCDC will require certain annual economic benefits as set forth below in the sections entitled “Economic Benefits” and “Cash Flow Priority”.

PIS DATE:

The project is expected to be PIS, as defined by the FHTC tax regulations, before October 31, 2018.

ADJUSTER:

If lien-free completion is delayed after October 31, 2018, the equity per FHTC shall be reduced by \$0.02. The equity per FHTC will be additionally reduced \$0.05 per quarter (or partial quarter) if completion is delayed past December 31, 2018. If more FHTCs are generated than initially contemplated, USBCDC will pay the equity per FHTC indicated above for such additional credits up to 110% of the referenced FHTC equity amount. Prior to a to be determined percentage of completion or number of days prior to PIS, USBCDC will have the right to require a preliminary cost certification for the Project which includes a reasonable estimate of expected QREs for the remaining work. After satisfactory review of such items by USBCDC and prior to PIS, 75% of the FHTC equity will be fixed in amount. If, as a result of such cost certification, the QREs to be recognized are less than the estimated QREs, then USBCDC will have the right to adjust its FHTC equity capital accordingly. After PIS, such reduction together with a reduction for delayed completion shall be limited to 25% of the aggregate FHTC equity capital.

USNDA:

The Property Owner will have (a) any ground lessor agree to sign a standstill agreement that will prohibit the ground lessor from terminating the ground lease during the 5-year compliance period even if the Property Owner is in default thereunder and (b) all lenders agree to sign an unconditional Subordination, Non-Disturbance and Attornment (“USNDA”) agreement that will allow the Master Lease(s) to remain in place in the event of a foreclosure even if the Master Tenant is in default thereunder. The Standstill Agreement and the USNDA will also restrict the sale of the property to tax-exempt entities and other non-qualifying entities during the 5-year compliance period.

FINANCIAL PROJECTIONS; AUDIT & TAX PREPARATION COSTS; COST CERTIFICATIONS & COST SEGREGATION REPORTS:

The Property Owner shall engage a nationally recognized accounting firm acceptable to USBCDC to prepare the financial projections and all cost certifications and cost segregation reports. The engagement shall include a requirement that the accountants (a) review the executed construction contract and classify the QRE vs. NQRE costs utilizing the schedule of values or most recent G702/703 and (b) provide an excel version of the sources and uses by month during the construction period.

With respect to construction costs and QREs, the financial projections shall include the following:

1. A break out of hard and soft costs into sub-categories (construction, FF&E, interest, accounting fees, projections, legal, etc.). See Exhibit A for sample of such break out.
2. If requested by USBCDC or its counsel, footnotes regarding assumptions/methodology for how the QRE and QLIP percentages/dollar amounts are derived for each line item.
3. If applicable, a break out of total costs and QREs by Project phase/PIS date including footnotes indicating what portions of the Project are included in each column and how such determination was made. See Exhibit B for a sample of such break out.

The Property Owner and Master Tenant, at their own cost, shall also deliver to USBCDC: 1) an audit from a nationally recognized accounting firm acceptable to USBCDC each year within 90 days and drafts within 75 days after the end of each calendar year; 2) unaudited financial statements within 30 days after the end of each quarter; and 3) a tax return including form K-1 within 90 days and drafts within 75 days after the end of the calendar year. All costs certifications (draft and final) and cost segregation reports shall be prepared by a nationally recognized accounting firm acceptable to USBCDC and shall be at the sole cost and expense of the Property Owner.

TRANSFERS & DISCLOSURES:

USBCDC reserves the right to transfer its interest in the Master Tenant, the Put Option Agreement and in any Tax Indemnities and Guarantees to an affiliate without consent of the Property Owner or its affiliates. USBCDC also reserve the right to make certain disclosures with regard to the Project including project photographs/media.

OTHER FINANCING:

All project financing shall be satisfactory to USBCDC. All construction (if any), and all permanent debt for the Project shall be on commercially reasonable terms. USBCDC shall be provided notice of the terms of project financing and such terms shall be materially consistent with the final financial projections as accepted by USBCDC and its tax counsel at closing of the investment.

BUDGET ADJUSTMENTS:

Final budget (sources and uses) and proforma operating numbers are subject to USBCDC's review and approval. These terms are subject to final underwriting and investment committee approval.

DISBURSING AND BANK ACCOUNTS:

USBCDC shall have consent rights with respect to all construction draws (including those related to FF&E and other start up costs). If USBCDC deems it necessary, funds shall be monitored and disbursed by a USBCDC-approved disbursement agent, which may be selected by the Lender. A disbursement advisor and inspecting architect may be engaged by USBCDC to monitor construction and disbursing at cost to the Property Owner. Depending on the structure, the Property Owner and Master Tenant accounts may be maintained at a bank or financial institutions other than U.S. Bank National Association.

ECONOMIC BENEFITS:

Depreciation, Profits and Losses: profits and losses (including depreciation) at the Master Tenant level shall be allocated to the members of the Master Tenant pursuant to their ownership interests in the Master Tenant.

Cash Flow: Distributions of net cash flow from the Master Tenant to USBCDC (after taking into account priority items set forth below) over the entire life of its investment in the Master Tenant should be commensurate with its overall percentage interest in the Master Tenant (such provisions will be subject to tax counsel review and approval). In addition to the ability to claim FHTCs, USBCDC will require no less than 2% annual non-compounded return on the amount of FHTC equity capital contributed to the Master Tenant ("Priority Return") and payable from cash flow, if available. If Priority Return is not paid in any year, such amount shall accrue and be payable from available cash flow until paid in full. Expected cash flow to USBCDC from the Master Tenant over the entire life of its investment in the Master Tenant should equate to no less than 3% cash on cash return (which return shall take into account the time value of money) and shall not be limited to the priority return.

Tax Equivalency Payments: USBCDC shall receive tax equivalency payments equal to 38% of all 50(d) income and taxable income in connection with its membership interest in the Master Tenant. To the



extent USBCDC elects to exercise its Put Option (defined below), it shall not be entitled to any tax equivalency payments for 50(d) income incurred subsequent to its exercise of the Put Option.

See section entitled “Cash Flow Priority” for additional detail regarding distributions of cash flow and relative priority.

CASH FLOW PRIORITY (MASTER TENANT):

Cash flow at the Master Tenant level will be distributed in the following order:

1. Operating expenses
2. Lease payment (from Master Tenant to the Property Owner).
3. Priority Return and accrued Priority Return to USBCDC.
4. Tax equivalency payments and accrued tax equivalency payments to USBCDC, if applicable.
5. Entity reserve requirements, if applicable.
6. Balance distributed to members in accordance with their respective membership interests.

Any rents or fees payable by the Master Tenant (including those payable to the Managing Member or its affiliate) or reserves required to be established by the Master Tenant will be subject to tax counsel approval and third party support acceptable to USBCDC.

CASH FLOW PRIORITY (PROPERTY OWNER) (ONLY APPLICABLE IF MASTER TENANT HAS INTEREST IN PROPERTY OWNER):

Cash flow at the Property Owner level will be distributed in the following order:

1. Approved operating expenses, debt service, management fees, and required reserves.
2. Deferred Developer Fees, if any (subject to USBCDC requirements and tax counsel approval);
3. Priority Return to Master Tenant, if applicable.
4. Balance distributed according to ownership interests.

Any fees payable by the Property Owner (including those payable to the Managing Member or its affiliate) or reserves required to be established by the Property Owner will be subject to tax counsel approval and third party support acceptable to USBCDC.

FHTC FLIP; MASTER TENANT EXIT:

Commencing on the later of (a) the 5-year anniversary of the PIS date of the Project (the “**5-year PIS Date**”) and (b) USBCDC having received cash distributions in an amount equal to all unpaid priority return distributions and tax equivalency payments accrued through the 5-year PIS Date (unless otherwise waived by the Investor), USBCDC’s partnership interest in the Master Tenant will “flip” to a percentage to be determined by the parties prior to closing (subject to tax counsel approval), but in no event to be less than 5%. In addition, USBCDC shall have the right to put its interest in the Master Tenant (the “Put Option”) beginning the first day following the date that is the later of the termination of the compliance period and the flip date for a period of six months after it receives notice from the Sponsor for an amount (the “Put Option Price”) equal to the lesser of (1) 5% of FHTC equity contributed by USBCDC plus any other amounts payable to USBCDC under the MT or ML operating agreements; and (2) fair market value of USBCDC’s partnership interest as determined by USBCDC and the Sponsor at the time of exercise of the Put Option, plus any transfer taxes, other closing costs attributable to the exercise of the Put Option, and any other amounts due and owing to USBCDC (including any unpaid Priority Return or Tax Equivalency Payments).

GUARANTEES AND PROJECT RESERVES:

Guarantor, Property Owner, Master Tenant and San Francisco Recreation & Parks Department shall provide the following joint and several guarantees:



- **General Obligation.** Guarantor shall guaranty the representations, warranties, covenants, agreements, duties and obligations of the Property Owner and its Managers/Managing Members and the Master Tenant Manager/Managing Members and their Affiliates pursuant to the various project documents, including without limitation, the Master Lease and the Master Tenant Operating Agreement. Subject to any limitations in Rev. Proc. 2014-12, such guaranty shall cover all damages, liabilities, costs, expenses and other losses (on a tax affected basis) arising or which could arise out of a default. USBCDC shall have the sole and exclusive right to extend any date that triggers the obligation to pay such damages. The obligations covered include, without limitation, (i) failure to complete the Project and PIS by October 31, 2018; (ii) failure to obtain Part 3 approval within nine (9) months of substantial completion, or such later date as may be consented to by USBCDC, (iii) failure to achieve lien-free completion of 100% of the improvements within twelve (12) months of substantial completion of the Project or such other date as may be agreed to by USBCDC; (iv) failure to obtain and maintain casualty insurance; (v) occurrence of an event of bankruptcy with respect to any Sponsor affiliate prior to lien-free completion; (vi) failure to achieve stabilized operations within eighteen (18) months of substantial completion; (vii) failure to properly and accurately certify QREs; and (viii) such other provisions to be identified in the transaction. The parties agree to negotiate in good faith which obligations the Guarantor will guarantee with respect to the Manager/Managing Member of the Property Owner and the Master Tenant consistent with the limitations in Revenue Procedure 2014-12.
- **Operating deficits** -- Guarantor will guaranty the payment of 100% of any operating deficits incurred until 5 years from the PIS date and twelve (12) months of operating expenses shall be reserved at the Master Tenant.
- **Amounts needed to close permanent loan, if any.**
- **Completion of construction** -- Unlimited guaranty of lien-free construction completion and receipt of Certificate of Occupancy to the extent of USBCDC's losses, costs, expenses and other liabilities (on a tax effected basis) resulting from the failure of construction completion.
- **Put Option Price** -- Guarantor will guaranty the payment of the Put Option Price.
- **Environmental** -- Guarantor shall indemnify and hold harmless USBCDC, and all USBCDC entities participating in this transaction, for Environmental conditions, claims, etc. relating to the Project.

To the extent any aspect of the transaction structure is deemed by USBCDC and/or its counsel to fail to meet the safe harbor provisions under IRS Revenue Procedure 2014-12, as required hereunder, to the extent that USBCDC elects to pursue closing, an additional indemnity for HTC recapture/disallowance/loss up to 80% of the total HTC equity may be required. If necessary, alternative forms of security and guaranty-equivalency will be considered in whole or part along with traditional guarantees to provide USBCDC with the requisite security needed to undertake the contemplated investment.

FUNDING SOURCES:

USBCDC understands that the Project requires other funding sources, including New Markets Tax Credit ("NMTC") allocation and equity. USBCDC has also provided a NMTC equity term sheet. These terms are subject to the commitment and availability of the funding sources necessary to account for all costs associated with the completion of the project. Executed loan documents for permanent financing with a term exceeding the 5-year FHTC compliance period must be in place and all equity must be contributed to the Property Owner at or prior to closing of the proposed transaction.

QUALIFICATION FOR FEDERAL REHABILITATION TAX CREDITS:

USBCDC (and/or its construction consultant) will review all FHTC-related documents including necessary approvals of development plan prior to closing.



RENTS, FEES AND OTHER ARRANGEMENTS:

Any rents (including prepaid rent, if applicable) or fees payable by the Property Owner and/or the Master Tenant (including developer fees and any other fees payable to or other arrangements with the manager/managing member of such entity or any affiliate of such entity) or reserves required to be established by the Master Tenant and/or the Property Owner will be subject to tax counsel approval and, with respect to rents, fees and other arrangement payable to the Sponsor or any affiliate thereof, third party support acceptable to USBCDC.

All such rents, fee and other arrangements must be reasonable as compared to non-tax credit transactions and must represent fees for services actually performed by the party receiving the payment. Developer fees shall be paid in full during the year the Project is PIS. Deferred developer fees may be permitted in limited circumstances and will be subject to USBCDC requirements and tax counsel approval. USBCDC expects that an approved third party will review proposed fees for reasonableness.

AFFILIATE SUBLEASES:

All leases with the Master Tenant will be with true third party tenants. Any lease with an affiliate of the Sponsor, any Guarantor or the Property Owner will be subject to USBCDC's approval.

GENERAL CONTRACTOR:

A General Contractor/Construction Manager will perform/oversee any and all remaining construction work, and any such pertinent contracts must be acceptable to USBCDC and its construction consultant. Any final commitment or contract will be subject to USBCDC's approval. The General Contractor will not be affiliated with the Property Owner within the meaning of Section 707(b) of the Internal Revenue Code.

CONSTRUCTION INSPECTION:

USBCDC will engage a construction consultant which will provide a review prior to closing, prior to fixing 75% of the aggregate FHTC equity capital and prior to funding any FHTC equity capital. The Project will be responsible for the cost of such consultant.

CLOSING CONDITIONS:

USBCDC shall perform such due diligence and legal review of the transactions contemplated herein, including but not limited to the following:

1. All real estate documentation (plans, specs, contracts, title, etc.);
2. All organizational documents for all entities involved in these transactions;
3. All third party, arms-length support for all lease rates, operating reserves and any fees paid to any developer or affiliates;
4. Financial statements on all entities involved in these transactions;
5. Final financial projections, "source and use" statements, etc. from a USBCDC approved accounting firm;
6. All terms and conditions of all agreements, documents and similar items affecting the financing of the Project;
7. Satisfactory review of Property Owner, Guarantor and any other relevant project entity's organizational documents, including charter, bylaws, and operating agreement;
8. Satisfactory review of financial projections and opinion of counsel on true lease, ownership of the Project, allocations, true debt, the status of the Property Owner for federal and state tax purposes as a partnership, opinions to the effect that USBCDC should be entitled to the safe harbor regarding the allocation of the FHTCs as provided in Revenue Procedure 2014-12 and should receive 99% of the FHTCs, as well as customary borrower's counsel opinions, enforceability opinion, state law opinions, and other customary opinions;

9. Satisfactory review of NPS Part 1 and Part 2 and all related and relevant correspondence between Sponsor, the State Historic Preservation Office (“SHPO”) and NPS;
10. Satisfactory review of Construction Plans, Specifications and Cost Review;
11. Satisfactory review of entire Project budget, including required Sponsor equity, adequate contingency, and sufficient interest and Operating Deficit (“OD”) reserves, if required;
12. Satisfactory review of all third party reports including environmental and appraisal;
13. Satisfactory review of all loan and equity documentation, customary legal opinions and other due diligence required by USBCDC, including, without limitation, a term sheet regarding an NMTC investment and related NMTC transaction documentation, if applicable; and
14. All matters deemed necessary by USBCDC, as applicable, including but not limited to issuance of satisfactory tax opinions.

USBCDC shall receive the following representations and warranties from the parties to the transactions contemplated herein which shall be consistent with those customary in similar financing arrangements including, but not limited to:

1. Organizational/powers/authorization to enter the applicable transaction;
2. Valid interest in assets;
3. Governmental approval/no conflicts;
4. No “material adverse change” clause;
5. No pending/threatened litigation;
6. Compliance with laws, regulations and agreements;
7. ERISA compliance; and
8. Full disclosure.

USBCDC is a wholly-owned subsidiary of U.S. Bank National Association, a national banking association regulated by the Office of the Comptroller of the Currency. As such, USBCDC is subject to several federal laws that are designed to combat financial crimes, including money laundering, significant fraud, cyber threats, terrorist financing, and transactions with certain persons, companies, or foreign governments designated by U.S. authorities. Therefore, the due diligence and legal review conducted by USBCDC, as well as the representations and warranties that it requests, may be subject to USBCDC’s ability to demonstrate its compliance with these laws, and to identify any litigation, criminal action or other administrative proceedings against any party to the transaction.

By signing this term sheet, parties also acknowledge that, if we successfully negotiate the proposed transaction and reach a closing, then all documents may be signed electronically, using a method that is acceptable to USBCDC (including .pdf signatures and third-party electronic signature providers, such as DocuSign).

TIMING OF CLOSING:

This Term Sheet must be executed and a deposit received by end of day July 31, 2017 or it shall be null and void. Prior to engaging in weekly conference calls, USBCDC will require a set of initial projections from an approved accounting firm, the completion of the underwriting checklist (available upon request) and proof of commitment of all funding sources. This term sheet assumes a closing no earlier than January 31, 2018. However, if the closing does not occur by March 31, 2018 (the “Termination Deadline”), USBCDC shall have no further obligation to close this transaction. All transaction costs incurred by such date shall be immediately due and payable by the Guarantor and/or Sponsor. USBCDC may apply any deposit amounts to such costs and send an invoice for additional costs to be paid by the Project Sponsor. USBCDC, in its sole election, may extend the deadline for closing or payment of transaction costs. Any such extension is not valid unless provided in writing (mail, fax or email).

TRANSACTION COSTS:

The undersigned agrees to pay all customary third-party transaction expenses associated with USBCDC's proposed investment in the Master Tenant even if the investment in, or loan(s) to, the Project does not close. Expenses shall include, but are not necessarily limited to, USBCDC's legal fees and third party accounting fees. Additionally, upon execution of this letter, **\$25,000** shall be deposited by the undersigned into the controlled account at USBCDC set forth below. If USBCDC's transaction expenses near \$25,000 then USBCDC may request an additional deposit from the Project, which **must then be paid within 3 business days** or USBCDC may ask its attorney to suspend work until received. USBCDC shall have the right to apply the deposited funds to its third party transaction expenses, at any time after the Termination Deadline.

Bank: U.S. Bank National Association
Account Name: U.S. Bancorp Community Development Corporation
1307 Washington Avenue, Suite 300
St. Louis, MO 63103
ABA: 091000022
Account #: 173103169541
Reference: Geneva Car Barn & Powerhouse

Please contact me at maria.bustriaglickman@usbank.com or 213.615.6689 when the deposit has been sent. Such amount is non-refundable and will be credited to the project at closing of the investment. NOTE: This deposit **will not** be in addition to the \$25,000 requested in the NMTC term sheet, also dated as of today.

CONFIDENTIALITY:

The terms and conditions of this Term Sheet shall be confidential and shall not be disclosed to any third party without the consent of USBCDC and the potential Sponsor ("Parties"), except that the Parties may disclose the terms and conditions described in this Term Sheet, including its existence, to their respective officers, directors, employees, attorneys and other advisers, provided that such persons agree to the confidentiality restrictions contained herein.

Thank you for giving USBCDC an opportunity to participate in the financing of this exciting developer initiative.

Sincerely,



Maria Bustria-Glickman
Vice President – Business Development
New Markets & Historic Tax Credit Investments



Accepted this _____ day of _____, 2017

Name: _____

Title: _____





Community Development Corporation
 633 West Fifth Street, 29th Floor
 Los Angeles, CA 90071
 213.615.6689
 maria.bustriaglickman@usbank.com

usbank.com/cdc

July 12, 2017

Mark Buell
 President
 San Francisco Recreation & Parks Department
 McLaren Lodge – Golden Gate Park
 501 Stanyan Street
 San Francisco, CA 94117

Re: Geneva Car Barn & Powerhouse
New Markets Tax Credit Investment

Dear Commissioner Buell:

Based on financial and other information provided by you and your consultant on the proposed Geneva Car Barn & Powerhouse project located at 2301 San Jose Avenue in San Francisco, CA (“Project” or the “QALICB” (“Qualified Active Low-Income Community Business”)), U.S. Bancorp Community Development Corporation (“USBCDC”) is delighted to consider making a New Markets Tax Credit (“NMTC”) equity investment in the Project to facilitate its completion. The terms of such investments are outlined below. It is expected that a subsidiary(ies) of San Francisco Community Investment Fund (“SFCIF” or “CDE”) will act as a Community Development Entity(ies) (“Sub-CDE(s)”) and investee(s) of USBCDC.

Except for the obligations set forth in the section titled Transaction Costs and Confidentiality, the following term sheet does not constitute or create, and shall not be deemed to constitute or create, any legally binding or enforceable obligation on the part of any party and is for discussion purposes only and should not be construed as a commitment to provide loans to, or equity in, the Project. This proposal has not been approved internally, and we have not performed the necessary due diligence to allow us to seek approval. Should these terms be acceptable to you, formal bank approval through USBCDC’s internal credit process will be pursued. During the underwriting and documentation process, the terms and conditions of this proposal may change in material respects.

NEW MARKETS TAX CREDIT FINANCING:

USBCDC proposes to fund NMTC equity capital in the form of a Qualified Equity Investment(s) (“QEI(s)”) to a qualified Sub-CDE(s). Such investment is based on the following assumptions:

Tax Credits: USBCDC will receive 100% of all NMTCs generated by the QEIs. In the event that more or fewer credits are awarded, the NMTC Equity would be adjusted based on the price per credit as detailed below:

<u>CDE(s)</u>	<u>QEI Amount</u>	<u>Credit Amount¹</u>	<u>Price per Credit</u>	<u>Gross Equity²</u>
SFCIF	\$13,000,000	\$5,070,000	\$0.86	\$4,360,200

¹The credit amount is calculated based on a formula of QEI * 39%.

²Calculation is prior to fees and expense reimbursements.

EQUITY PAY-IN:

The NMTC equity would be paid in pro-rata with the funding of the leverage sources which are expected to be funded 100% at closing. The pricing above assumes all USBCDC equity and Leverage Loan proceeds are fully funded through the NMTC structure into a QALICB owned account in the first quarter of 2018.

DEAL STRUCTURE:

This proposal anticipates utilizing a “leveraged structure” for purposes of generating the NMTCs. USBCDC will be the 100% owner of the investment fund. The Fund will purchase a 99.99% interest in the Sub-CDE(s) and will be allocated the NMTCs in addition to a return on its investment. The Sub-CDE(s) will make qualified low income community investments (“QLICIs”) in some combination of debt and equity, subject to related party rules that apply, which shall be used for approved development activities.

It is expected that the QALICB will meet the NMTC requirements and qualify under the Targeted Populations provision.

LEVERAGE LOAN:

The Leverage Lender and the QALICB must be separate and distinct entities for tax purposes. The Leverage Lender will agree to: (a) forbear from exercising any remedies against the investment fund (including but not limited to foreclosure of the pledged collateral) during the NMTC compliance period; and (b) allow the redeployment of all funds returned to the Sub-CDE(s) as new QLICIs to an alternative QALICB to avoid recapture and associated penalties in the event of a foreclosure on the original QLICIs by the Sub-CDE(s). Should any funds be returned to the Sub-CDE(s), USBCDC and the CDE(s) shall have the right to redeploy those funds without consent from the Leverage Lender in order to avoid and prevent a recapture of NMTCs.

CDE FEES:

The CDE(s) will determine and inform the QALICB of its fee structure, including required QALICB reimbursements for annual CDE audit and tax preparation cost. Upfront fees are paid out of investment fund capital, out of the QEI or by the QALICB at closing. Annual fees are generally paid out of cash flow to the CDE and built into the interest rate on the NMTC loans.

ALLOCATION:

USBCDC is the most active investor in the industry and is actively seeking NMTC allocation from third party NMTC allocatees, which may select the Project for financing based on its level of community impact, municipal participation, location, and need. USBCDC has strong relationships with many national and regional allocatees and has a track record of successfully bringing allocation to its projects.

INVESTMENT FUND MANAGEMENT AND FEE:

Twain Financial Partners will be the non-member manager of the Investment Fund, performing such duties for the Investment Fund at an annual fee of \$5,000 for eight years. One year’s worth of the Investment Fund Management Fee will be reserved from capital sources at closing and held in an account at the Investment Fund. As part of this proposal, USBCDC will additionally contribute funds to cover this cost, for total project savings of \$40,000.

AUDIT & TAX PREPARATION COSTS:

If required by USBCDC and/or the CDE(s), the QALICB, at its own cost, shall also deliver: (a) an audit from a nationally or regionally recognized accounting firm to USBCDC and/or the CDE(s) each year within 75 days in draft form and 90 days in final form after the end of each calendar year; (b) unaudited financial statements within 30 days after the end of each quarter; (c) a tax return including form K-1 within 60 days after the end of the calendar year; (d) semi-annual certifications regarding QALICB status; and (e) any such other reports as USBCDC may request from time to time.

REIMBURSEMENT OF EXPENSES AND SHORT TERM BRIDGE EQUITY:

Any reimbursement of expenses by the QALICB to an affiliate must conform to the 2015 CDFI Fund Notice of Allocation Availability (NOAA) for NMTC Allocation and related CDFI Fund Compliance Monitoring and Evaluation FAQ. This guidance requires that expenses reimbursed with QLICI proceeds meet certain requirements. QLICIs may be used to reimburse project costs paid to third parties that either: 1) were incurred within 24 months prior to QLICI closing or 2) are less than 5% of total QLICI proceeds. Supporting documentation for these costs must be provided to USBCDC for review in the form of a summary Excel spreadsheet listing all costs by vendor and date paid, with backup electronic scans of all invoices and cancelled checks evidencing payment provided in an organized format.

USBCDC may provide short term bridge equity to facilitate the Leverage Loan or a portion of the Leverage Loan. The fee charged for the short term bridge equity is 50 basis points on the amount of bridge equity provided. As part of this proposal, USBCDC will waive this fee.

TRANSFERS & DISCLOSURES:

USBCDC reserves the right to transfer its interest in the investment fund, the Put Call Option Agreement and in any tax indemnities and guarantees to an affiliate fund without consent of the QALICB, CDE(s), or Leverage Lender(s). USBCDC also reserves the right to make certain disclosures to potential affiliate fund investors including project information, photographs/media.

OTHER FINANCING:

All construction (if any), and all permanent debt for the property shall be on commercially reasonable terms. USBCDC shall be provided notice of the terms of permanent debt and such terms shall be materially consistent with the final financial projections as accepted by USBCDC and its tax counsel at closing of the investment. These terms are subject to the commitment and availability of the funding sources and NMTC allocation necessary to account for all costs associated with the Project.

UNDERWRITING AND OPERATIONS/CONSTRUCTION BUDGET ADJUSTMENTS:

Final budget (sources and uses) and proforma operating numbers are subject to USBCDC's review and approval. These terms are subject to final underwriting and investment committee approval. Should such terms be acceptable to you, formal bank approval through USBCDC's internal credit process will be pursued.

DISBURSING AND BANK ACCOUNTS:

Unless all QLICI funds are fully spent by QALICB at NMTC Closing, funds shall be monitored and disbursed by a USBCDC-approved disbursement agent, which may be selected by the Leverage Lender. A disbursement advisor and inspecting architect may be engaged by USBCDC to monitor construction and disbursing at cost to the QALICB. USBCDC shall require the investment fund initial contribution and operating bank accounts and the Sub-CDE initial contribution accounts to be maintained at U.S. Bank, NA. Depending on the structure, other entity accounts may be maintained at other bank or financial institutions.

USBCDC NMTC EXIT:

For a period of six months after the conclusion of the NMTC Compliance Period, USBCDC shall have the right to exercise an option to Put its interest in the investment fund to an affiliate of the Project at a "Put Price" equal to \$1,000. If USBCDC does not exercise its Put Option within the specified period, the QALICB affiliate will have the right to Call USBCDC's interest in the investment fund at a price equal to fair market value. For purposes of the tax opinion furnished to USBCDC by its counsel in connection with the Project, industry standard is to have the financial projections reflect the net present value of the investment fund to be at least 10% of USBCDC's capital contribution to such Fund (which minimum may vary based on transaction structure). Depending on the facts and circumstances of a particular project, USBCDC's counsel may be willing to provide a "should level" opinion to USBCDC based on a lower percentage. In such an instance, USBCDC will agree to the projections reflecting such lower percentage.

GUARANTEES:

San Francisco Recreation & Parks Department and the QALICB (“Guarantor” or “Guarantors”) shall guaranty to USBCDC the following:

- **Recapture due to (a) failure to qualify for or loss of QALICB status, (b) failure to qualify for or loss of QLICI status, (c) QLICI prepayment (whether voluntary or as a result of foreclosure or similar proceeding, and including any recapture resulting from a subsequent redemption by the Sub-CDE of any portion of the QEI, or resulting from the Sub-CDE’s failure to maintain substantially all of the QEI invested in QLICIs following such prepayment), (d) the failure of any tenant on the property to constitute a tenant qualified business, (e) the use of QLICI proceeds constituted an inappropriate or abusive use of such proceeds or that such use is inconsistent with the purposes of Section 45D of the Code and the related Treas. Reg., as provided in Treas. Reg. Section 1.45D-1(g), respectively, (f) any gross negligence, fraud, willful misconduct, malfeasance, material violation of law by the QALICB or any affiliate, or (g) other actions within the control of the QALICB or Guarantor** – In the event of disallowance, or a recapture pursuant to section 45D(g) of the Code, of the NMTCs, the Guarantor shall reimburse USBCDC on a tax effected basis for 1) any disallowed or recaptured NMTCs plus any related interest, penalties or additional taxes due, and 2) the net benefit of any other economic or tax benefit that would have been received by USBCDC if such disallowance or event of recapture had not occurred. If QLICI proceeds are used directly or indirectly to make leverage loans, QALICB counsel will need to provide specific opinions regarding the structure.
- **If QLICI proceeds are utilized to directly or indirectly make a leverage loan (i.e., short term bridge equity)** and are used in a manner other than to reimburse for actual costs incurred by the Sponsor to date, then the QALICB indemnity is expanded to cover any disallowance or recapture other than those that are the result of the invalidity of the allocations or Sub-allocations or the C DE(s) failing to qualify or maintain its status as a CDE(s). Additionally, USBCDC will require that QALICB counsel provide specific opinions related to this structure.
- **Environmental** - Guarantor shall indemnify and hold harmless USBCDC and the Sub-CDE(s), and all USBCDC and Sub-CDE entities participating in this transaction, for Environmental conditions, claims, etc. relating to the Project.

CLOSING CONDITIONS:

USBCDC shall perform such due diligence and legal review of the transactions contemplated herein, including but not limited to the following:

1. All real estate documentation (plans, specs, contracts, title, etc.);
2. All organizational documents for all entities involved in these transactions;
3. Financial statements on all entities involved in these transactions;
4. Final financial projections, “source and use” statements, etc. from a USBCDC approved accounting firm;
5. All terms and conditions of all agreements, documents and similar items affecting the financing of the Project;
6. All matters deemed necessary by USBCDC, as applicable; and
7. Executed agreements acceptable to USBCDC providing for loan servicing for the Sub-CDE(s), NMTC compliance and monitoring for Sub-CDE(s).
8. By signing this term sheet, parties also acknowledge that, if we successfully negotiate the proposed transaction and reach a closing, then all documents may be signed electronically, using a method that is acceptable to USBCDC (including .pdf signatures and third-party electronic signature providers, such as DocuSign).

USBCDC shall receive the following representations and warranties from the parties to the transactions contemplated herein which shall be consistent with those customary in similar financing arrangements including, but not limited to:

1. Organizational/powers/authorization to enter the applicable transaction;
2. Valid interest in assets;
3. Governmental approval/no conflicts;
4. No “material adverse change” clause;
5. No pending/threatened litigation;

6. Compliance with laws, regulations and agreements;
7. ERISA compliance; and
8. Full disclosure.

USBCDC is a wholly-owned subsidiary of U.S. Bank National Association, a national banking association regulated by the Office of the Comptroller of the Currency. As such, USBCDC is subject to several federal laws that are designed to combat financial crimes, including money laundering, significant fraud, cyber threats, terrorist financing, and transactions with certain persons, companies, or foreign governments designated by U.S. authorities. Therefore, the due diligence and legal review conducted by USBCDC, as well as the representations and warranties that it requests, may be subject to USBCDC's ability to demonstrate its compliance with these laws, and to identify any litigation, criminal action or other administrative proceedings against any party to the transaction.

TIMING OF CLOSING:

This Term Sheet must be executed and a deposit received by July 31, 2017, or it shall be null and void. Prior to engaging in weekly conference calls, USBCDC will require a set of initial projections from an approved accounting firm and the completion of the underwriting checklist (available upon request). The transaction is expected to close no earlier than January 31, 2018. Assuming USBCDC elects to continue towards a closing, but the project fails to close by March 31, 2018 (the "Termination Deadline"), USBCDC may choose to no longer proceed toward a closing. All transaction costs incurred by such date shall be immediately due and payable by the Guarantor and/or Project Sponsor. USBCDC may apply any deposit amounts to such costs and send an invoice for additional costs to be paid by the Project sponsor. USBCDC, in its sole election, may extend the deadline for closing or payment of transaction costs. Any such extension is not valid unless provided in writing (mail, fax or email).

TRANSACTION COSTS:

The undersigned agrees to pay all customary third-party transaction expenses associated with USBCDC's proposed investment in the investment fund even if the investment in, or loan(s) to, the Project does not close. Expenses shall include, but are not necessarily limited to, USBCDC's legal fees and third party accounting fees. Additionally, upon execution of this letter, **\$25,000** shall be deposited by the undersigned into the controlled account at USBCDC set forth below. If USBCDC's transaction expenses near \$25,000, then USBCDC may request an additional deposit from the Project, which **must then be paid within 3 business days** or USBCDC may ask its attorney to suspend work until received. USBCDC shall have the right to apply the deposited funds to its third party transaction expenses, at any time after the Termination Deadline. The requirement of the undersigned to pay USBCDC for transaction expenses incurred by USBCDC in excess of the aggregate deposit shall not apply to any actions or inactions by USBCDC that prevent the investment to occur and shall not apply in the event of a good faith failure to reach agreement on terms not addressed herein (other than with respect to tax issues or other industry-standard terms). The following are wiring instructions for the deposit:

Bank: U.S. Bank
Account Name: U.S. Bancorp Community Development Corporation
1307 Washington Avenue, Suite 300
St. Louis, MO 63103
ABA: 091000022
Account #: 173103169541
Reference: **Geneva Car Barn & Powerhouse**

Please contact me at maria.bustriaglickman@usbank.com or 213.615.6689 when the deposit has been sent. Such amount is non-refundable and will be credited to the project at closing of the investment.

CONFIDENTIALITY:

The terms and conditions of this Term Sheet shall be confidential and shall not be disclosed to any third party without the consent of USBCDC and the potential Sponsor ("Parties"), except that the Parties may disclose the terms and conditions described in this Term Sheet, including its existence, to their respective officers, directors,



employees, attorneys and other advisers, provided that such persons agree to the confidentiality restrictions contained herein.

Thank you for giving USBCDC an opportunity to present these terms for the tax credit financing for the Project. We look forward to discussing the above terms with you at your convenience.

Sincerely,



Maria Bustria-Glickman
Vice President – Business Development
New Markets & Historic Tax Credit Investments

Accepted this ____ day of _____, 2017

By: _____

By: _____

Name:

Its:



RECREATION AND PARK COMMISSION
City and County of San Francisco
Resolution No. 1711-002


GENEVA CAR BARN – LEASE AND FINANCING

RESOLVED, That this Commission does recommend that the Board of Supervisors 1) appropriate funds for the renovation of the Powerhouse building of the Geneva Car Barn and Powerhouse (the "Project"); 2) authorize the Department to enter into a Funding Agreement with the Community Arts Stabilization Trust ("CAST") to help finance the Project; 3) authorize the Department to enter into a Development Services Agreement to allow payment of construction costs and related expenses out of the Project financing; 4) authorize the Department to enter into indemnification agreements with CAST and the other financing partners in connection with the Project financing; 5) authorize the Department to enter into a 55-year lease for the public purpose of renting the Powerhouse to a Qualified Active Low Income Business ("QALICB"), and to award CAST a 7-year option to lease and develop the Office Building next to the Powerhouse; and 6) authorize the General Manager, in consultation with the City Attorney, to enter into agreements substantially in the form as presented to the Commission and to modify and amend these forms and to enter into further agreements if needed to further the Project so long as there is no material change to the Department's rights or obligations.

Adopted by the following vote:

Ayes	6
Noes	0
Absent	1

I hereby certify that the foregoing resolution
was adopted at the Recreation and Park
Commission meeting held on November 16, 2017.


Margaret A. McArthur, Commission Liaison

Member, Board of Supervisors
District 11



City and County of San Francisco

AHSHA SAFAÍ

November 14, 2017

Angela Calvillo, Clerk of the Board
City and County of San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Dear Ms. Calvillo:

Attached please find an original and two copies of a proposed resolution submitted for the Board of Supervisors approval, which will authorize Resolution authorizing an Indemnification Agreement in favor of the parties financing the renovation of the Powerhouse building of the Geneva Car Barn and Powerhouse.

The following is a list of accompanying documents (three sets):

- Proposed Resolution

Special Timeline Requirement: The legislation is scheduled for introduction to The City and County of San Francisco Board of Supervisors on November 14, 2017 with final adoption by the Board of Supervisors during the December 12, 2017 meeting to meet qualifying deadlines.

The following person may be contacted regarding this matter:

Manu Pradhan, Deputy City Attorney
Office of the City Attorney
1 Dr. Carlton B. Goodlett Place, City Hall, Room 234
San Francisco, CA 94102-4682
tel: (415) 554-4658, fax: (415) 554-4699
email: manu.pradhan@sfgov.org

Respectfully Submitted,


Ahsha Safai
District 11 Supervisor

Print Form

Introduction Form

By a Member of the Board of Supervisors or Mayor

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2017 NOV 14 PM 3:57

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion or Charter Amendment).
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning : "Supervisor [] inquiries"
- 5. City Attorney Request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attached written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use the Imperative Form.

Sponsor(s):

District 11 Supervisor Ahsha Safai

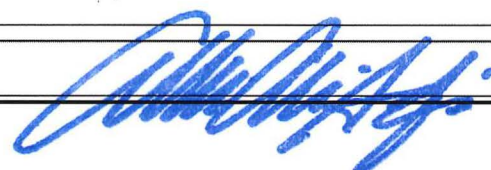
Subject:

Geneva Car Barn and Powerhouse - Indemnification Agreement

The text is listed:

Resolution authorizing an Indemnification Agreement in favor of the parties financing the renovation of the Powerhouse building of the Geneva Car Barn and Powerhouse.

Signature of Sponsoring Supervisor: []



For Clerk's Use Only