

SECOND AMENDED AND RESTATED SECURED PROMISSORY NOTE

(AHF Inclusionary Fund, AHF Inclusionary Market and Octavia Fund, 2019 GO Bond,
ERAF Housing Fund, Housing Trust Fund)

Principal Amount: \$30,525,994.00

San Francisco, CA

Date: May 9, 2024 _____

FOR VALUE RECEIVED, the undersigned, **OCTAVIA RSU ASSOCIATES, L.P.**, a California limited partnership ("Maker"), hereby promises to pay to the order of the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, or holder (as the case may be, "Holder"), the principal sum of Thirty Million Five Hundred Twenty Five Thousand Nine Hundred Ninety Four and No/100 Dollars (\$30,525,994.00) (the "City Funds Funding Amount"), or so much of the City Funds Funding Amount as may be disbursed from time to time pursuant to the Agreement described in **Section 1** below, together with interest thereon, as provided in this Note.

I. Agreement.

1.1 Pursuant to an Amended and Restated Loan Agreement dated April 1, 2022 by and between Holder and Maker ("Original Agreement"), Holder previously loaned Twenty Six Million Seven Hundred Forty Six Thousand Four Hundred Sixty Seven and No/100 Dollars (\$26,746,467.00) (the "Original Loan") to Borrower to finance development of the property located on 78 Haight Street (the "Site"), on which the Borrower is constructing is constructing a sixty three (63)-unit multifamily rental housing development (the "Improvements") affordable to low-income households, including thirty-two (32) units for TAY, of which fifteen (15) units will be targeted to residents who qualify under the Homeless Household under No Place Like Home (NPLH) Criteria which will be known as 78 Haight (the "Project"). The Original Loan is evidenced, by that certain Amended and Restated Secured Promissory Note dated April 1, 2022 made by Borrower in an amount equal to Twenty One Million Nine Hundred Sixty Six Thousand Two Hundred Twenty Eight and No/100 Dollars (\$21,966,228.00) to the order of the City (the "Original City Funds Note") and that certain Secured Promissory Note dated April 1, 2022 made by Borrower in an amount equal to Four Million Seven Hundred Eighty Thousand Two Hundred Thirty Nine and No/100 Dollars (\$4,780,239.00) to the order of the City (the "NPLH Note") to fund the Improvements. The Original Agreement, the Original City Funds Note and the NPLH Note are secured by that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated April 7, 2022 and recorded in the Official Records on April 8, 2022 as DOC-2022036073 (the "Deed of Trust").

1.2 Holder is making an additional loan of Eight Million Five Hundred Fifty Nine Thousand Seven Hundred Sixty Six and No/100 Dollars (\$8,559,766.00) (the "Additional Loan", and together with the Original Loan, the "Loan") to Maker for increased costs caused by a delay in construction due to unforeseen conditions of the adjacent property, an increase in hard costs to stabilize the adjacent property for the safety and stability of the Project, escalation in Project costs, and an increase in construction loan interest and other soft costs, such that the Original Loan together with the Additional Loan are increased to a total loan amount equal to Thirty Five Million Three Hundred Six Thousand Two Hundred Thirty Three and No/100 Dollars (\$35,306,233.00) (the "Total Funding Amount"). This Second Amended and Restated Secured Promissory Note (this "Note") is given under the terms of the Original Agreement, as amended by that certain First Amendment to the Amended and Restated Loan Agreement dated on or about the date hereof (collectively, the "Agreement"), which Agreement is incorporated herein by reference. Maker's obligations under this Note and the Agreement are secured by the Deed Of Trust. Definitions and rules of interpretation set forth in the Agreement apply to this Note.

This Note amends, restates and replaces the Original City Funds Note in its entirety, and upon execution of this Note by Maker, the Original City Funds Note will be canceled and returned to Maker. In the event of any inconsistency between the Agreement and this Note, this Note will control.

2. Interest. Interest will accrue on the principal balance outstanding under this Note from time to time at the rate of three percent (3%) per annum, simple interest, from the date of disbursement of funds by Holder through the date of full payment of all amounts owing under the City Documents. Interest will be calculated on the basis of actual days elapsed and a 360-day year, which will result in higher interest charges than if a 365-day year were used.

3. Default Interest Rate. Upon the occurrence of an Event of Default under any City Document, interest will be deemed to have accrued on the outstanding principal balance of the Loan at a compounded annual rate equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, commencing on the date the City Funds Funding Amount is disbursed through the earlier of: (x) the date on which the Event of Default is cured; or (y) the date on which all amounts due under the City Documents are paid to Holder. Maker acknowledges and agrees that the default interest that must be paid in the event of an Event of Default pursuant to this Section represents a reasonable sum considering all the circumstances existing on the date of this Note and represents a fair and reasonable estimate of the costs that will be sustained by Holder if Maker defaults. Maker further agrees that proof of actual damages would be costly and inconvenient and that default interest will be paid without prejudice to Holder's right to collect any other amounts to be paid or to exercise any of its other rights or remedies under any City Document.

4. Repayment of City Funds Funding Amount.

4.1 Subject to Section 13.4 of the Agreement, Maker must make annual payments of principal and interest (each, a "Payment") in an amount equal to the Residual Receipts, if any, attributable to the prior calendar year, beginning on the first June 30th after the end of the calendar year of the Completion Date, and continuing each June 30th thereafter up to and including the Maturity Date, as defined below (each, a "Payment Date"). All Payments will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan. The unpaid principal balance of the Loan, together with all accrued and unpaid interest and unpaid costs and fees incurred, will be due and payable on the date that is the later of (a) the Fifty-Seventh (57th) anniversary of the date the Deed of Trust was recorded in the Recorder's Office of San Francisco County or (b) the Fifty-Fifth (55th) anniversary of the Conversion Date (the "Maturity Date"). Any Payment Date, including any Excess Proceeds Payment Date and the Maturity Date, that falls on a weekend or holiday will be deemed to fall on the next succeeding business day.

4.2 Subject to Section 3.7 and Section 13.4 of the Agreement, Maker must make payments of principal and interest (each, an "Excess Proceeds Payment") in an amount equal to the Excess Proceeds, if any, on the date that is thirty (30) days after the later of the date on which Maker receives its Form 8609 from the California Tax Credit Allocation Committee or the date on which Maker receives Excess Proceeds from its limited partner or other financing sources (the "Excess Proceeds Payment Date"). All Excess Proceeds Payments will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan.

4.3 If Maker is awarded AHP funding for the Project, Maker will make a payment of principal and interest (an "AHP Payment") in an amount equal to the AHP Bridge Loan on the date Maker closes the loan for AHP funding and the AHP funds are disbursed to

Maker ("AHP Payment Date"); provided, however, that if Maker is not awarded AHP funding for the Project or receives AHP funding sufficient for only partial repayment of the AHP Bridge Loan, the unpaid principal balance of the AHP Bridge Loan will be due and payable on the Maturity Date. Notwithstanding the foregoing, if Maker is awarded AHP funding, and if the Total Funding Amount combined with decreases to permanent loan sources and tax credit equity are insufficient to pay off the outstanding construction loan, the Maker with Holder's prior written approval may use the awarded AHP funding to repay the outstanding construction loan or pay other construction costs, and the unpaid principal balance of the AHP Bridge Loan and unpaid costs and fees incurred shall be due and payable on the Maturity Date. The AHP Payment will be applied to the following in the following order: (a) costs and fees incurred and unpaid; (b) accrued and unpaid interest; and (c) reduction of the principal balance of the Loan.

5. Security. Maker's obligations under this Note are secured by the Deed of Trust, as amended by that certain First Amendment to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing dated on or about the date hereof.

6. Terms of Payment.

6.1 All Payments must be made in currency of the United States of America then lawful for payment of public and private debts.

6.2 All Payments must be made payable to Holder and mailed or delivered in person to Holder's office at One South Van Ness Avenue, 5th Floor, San Francisco, CA 94103, or to any other place Holder from time to time designates.

6.3 In no event will Maker be obligated under the terms of this Note to pay interest exceeding the lawful rate. Accordingly, if the payment of any sum by Maker pursuant to the terms of this Note would result in the payment of interest exceeding the amount that Holder may charge legally under applicable state and/or federal law, the amount by which the payment exceeds the amount payable at the lawful interest rate will be deducted automatically from the principal balance owing under this Note.

6.4 Maker waives the right to designate how Payments will be applied pursuant to California Civil Code Sections 1479 and 2822. Holder will have the right in its sole discretion to determine the order and method of application of Payments to obligations under this Note.

6.5 Except as otherwise set forth herein or in the Agreement, no prepayment of this Note shall be permitted without Holder's prior written consent.

7. Default.

7.1 Any of the following will constitute an Event of Default under this Note:

(a) Maker fails to make any Payment required under this Note within ten (10) days of the date it is due; or

(b) the occurrence of any other Event of Default under the Agreement or other instrument securing the obligations of Maker under this Note or under any other agreement between Maker and Holder with respect to the Project.

7.2 Upon the occurrence of any Event of Default, without notice to or demand upon Maker, which are expressly waived by Maker (except for notices or demands otherwise required by applicable laws to the extent not effectively waived by Maker and any notices or demands specified in the City Documents), Holder may exercise all rights and remedies available under this Note, the Agreement or otherwise available to Holder at law or in equity. Maker acknowledges and agrees that Holder's remedies include the right to accelerate the Maturity Date

by declaring the outstanding principal balance of the Loan, together with all accrued and unpaid interest and unpaid fees and costs incurred, due and payable immediately, in which case, the Maturity Date will be superseded and replaced by the date established by Holder.

7.3 Subject to this Section, Holder will not seek or obtain judgment against Maker or its Permitted Limited Partner for the payment of any amounts due under this Note following a judicial or nonjudicial foreclosure of the Deed of Trust, and Holder's sole recourse against Maker for any default under this Note will be limited to the collateral for the Loan, provided, however, that this Section will be deemed void and of no effect if Maker challenges Holder's right to foreclose following an Event of Default in any legal proceeding on the grounds that the City Documents are not valid and enforceable under California law. This provision does not limit in any way Holder's right to recover sums arising under any obligation of Maker to indemnify Holder of sums incurred by Holder as a result of Maker's fraud, willful misrepresentation, misapplication of funds (including Loan Funds and Rents (as defined in the Deed of Trust)), waste or negligent or intentional damage to the collateral for the Loan.

8. Waivers.

8.1 Maker expressly agrees that the term of this Note or the date of any payment due hereunder may be extended from time to time with Holder's consent, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Maker.

8.2 No extension of time for any Payment made by agreement by Holder with any person now or hereafter liable for the payment of this Note will operate to release, discharge, modify, change or affect the original liability of Maker under this Note, either in whole or in part.

8.3 The obligations of Maker under this Note are absolute, and Maker waives any and all rights to offset, deduct or withhold any Payments or charges due under this Note for any reason whatsoever.

9. Miscellaneous Provisions.

9.1 All notices to Holder or Maker must be given in the manner and at the addresses set forth in the Agreement, or to the addresses Holder and/or Maker hereafter designate in accordance with the Agreement.

9.2 In the event of any legal proceedings arising from the enforcement of or a default under this Note or in any bankruptcy proceeding of Maker, the non-prevailing party promises to pay all reasonable costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the proceeding, as provided in the Agreement.

9.3 This Note may be amended only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

9.4 This Note is governed by and must be construed in accordance with the laws of the State of California, without regard to the choice of law rules of the State.

9.5 Time is of the essence in the performance of any obligations hereunder.

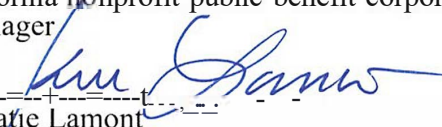
[SIGNATURES ON THE NEXT PAGE]

"MAKER"

OCTAVIA RSU ASSOCIATES, L.P.,
a California limited partnership

By: Octavia RSU GP LLC,
a California limited liability company,
its general partner

By: Tenderloin Neighborhood Development Corporation,
a California nonprofit public benefit corporation,
its manager

By: 

Katie Lamont
Interim Co-Chief Executive Officer

From: [Romero, Anne \(MYR\)](#)
To: [Board of Supervisors \(BOS\)](#)
Subject: BoS File 240092 | Final Documents for Clerk's File | 78 Haight
Date: Tuesday, December 9, 2025 2:20:48 PM
Attachments: [78H MOHCD Loan Agreement First Amendment Final - fully executed.pdf](#)
[78H MOHCD 2nd Amended and Restated Note - fully executed.pdf](#)
[\(2\) First Amendment to Declaration of Restrictions - 2024043413.pdf](#)
[\(3\) First Amendment to Leasehold Deed of Trust - 2024043414.pdf](#)

Dear Clerk,

Attached please find the final executed First Amendment to Loan Agreement with accompanying documents to complete the files for BOS File 240092.

- First Amendment to Loan Agreement
- Second Amended and Restated Note
- First Amendment to Declaration of Restrictions
- First Amendment to Leasehold Deed of Trust

Thanks,
Anne

1. [Leg Ver1](#), 2. [DRAFT First Amendment](#), 3. [Original Agrmnt 040122](#), 4. [PLN GPR Letter 020122](#), 5. [CAHLC Memo 010524](#), 6. [Form 126](#), 7. [BLA Rpt 021424](#), 8. [Cmte Pkt 021424](#), 9. [MOHCD Presentation 021424](#), 10. [MOHCD Memo 022124](#), 11. [Board Pkt 022724](#), 12. [Form 126 Final](#), 13. [Leg Final](#)

Related files: [220092](#)

Anne Romero

Senior Project Manager
Mayor's Office of Housing and Community Development
1 South Van Ness Ave., Floor 5
San Francisco CA 94103
628-652-5834

anne.romero@sfgov.org
www.sfmohcd.org