

**DEVELOPER FEE AGREEMENT**  
**(1204 Mason Street, 1525 Grant Avenue, 777 Broadway)**

**THIS DEVELOPER FEE AGREEMENT** ("Agreement") is dated for reference purposes only as of \_\_\_\_\_, 2022, by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation represented by the Mayor, acting by and through the Mayor's Office of Housing and Community Development (the "City"), and **CHINATOWN COMMUNITY DEVELOPMENT CENTER, INC.**, a California nonprofit corporation ("Developer").

**RECITALS**

A. CCDC Throughline LLC, a California Limited Liability Corporation ("Borrower"), has acquired or is about to acquire a fee interest in real property located at 1204 Mason Street, 1525 Grant Avenue, and 777 Broadway, San Francisco, California (collectively, the "Land"). Borrower intends to rehabilitate three buildings located on the Land, comprised of 88 units, affordable to low-income households, including three commercial spaces located at 1200, 1206, and 1208 Mason Street below apartments at 1204 Mason Street and a commercial space at 1525 and 1529 Grant Avenue below the 1527 Grant Avenue SRO units (the "Project").

B. Under an agreement with Borrower, Developer will perform services for the development of the Project, for which Developer will receive developer fees for the Project (the "Developer Fees") in the allowed amounts set forth below.

C. The City is providing financing for a portion of the rehabilitation costs of the Project, including financing to cover related soft costs (the "Loan "). The City's financing is or will be evidenced by, among other documents, a Loan Agreement dated as of the date of this Agreement (the "Loan Agreement"). Definitions and rules of interpretation set forth in the Loan Agreement apply to this Agreement.

D. As a condition to the City's financing for the Project, Developer has agreed with the City to restrict the use of Developer Fees in accordance with this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the City's agreement to provide financing for the Project, the parties agree as follows:

1. Amount and Payment Schedule.

(a) Developer shall be entitled to receive a maximum of Five Hundred Thousand Dollars (\$500,000.00) (the "Developer Fee") from the proceeds of the Loan Agreement, for the services it shall render for the development and completion of the Project, subject to the terms and conditions of this Agreement.

(b) Developer shall receive payment of the Developer Fee as specified below:

| <b>Residential Developer Fee Disbursement Schedule</b>          |                              |                         |
|---|------------------------------|-------------------------|
| <b>Payment Milestone</b>  | <b>% of Project Mgmt Fee</b> | <b>Amount</b>           |
| PM Fee: At closing of initial predevelopment financing          | 15%                          | \$75,000                |
| PM Fee: Permanent Loan Close                                    | 85%                          | \$425,000               |
| <b>Total Developer Fee from Proceeds of this Loan Agreement</b> |                              | <b><u>\$500,000</u></b> |

2. Eligible Uses of Developer Fee. Developer agrees to limit the use of Developer Fee to pay only for eligible activities according to the guidelines for program income under the Community Development Block Grant ("CDBG") Program administered by the United States Department of Housing and Urban Development ("HUD"), as set forth in OMB Circular A-122 (available at [www.whitehouse.gov/OMB/circulars](http://www.whitehouse.gov/OMB/circulars)) and any other applicable federal, state or local requirements. Examples of eligible activities include, to the extent authorized under applicable requirements:

(a) Developer's organizational capacity building and maintenance programs; working capital; housing development production and related programs; physical improvements to existing housing owned or sponsored by Developer; increasing housing operations and asset management activities; improving tenant improvements or commercial space in existing housing owned or sponsored by Developer; funding community facilities associated with existing housing owned or sponsored by Developer providing supplemental tenant rental assistance for existing housing owned or sponsored by Developer; or programs supporting the welfare of residents residing in existing housing owned or sponsored by Developer; and

(b) predevelopment, preconstruction and construction costs, including reasonable administrative expenses, of future affordable housing development sponsored by Developer in San Francisco.

3. Disallowed Developer Fees. Under the circumstances set forth below, all or a portion of the amount of the Developer Fees that have been paid to Developer must be paid to the City or, with the City's prior written consent, used for the Project.

(a) Developer must pay to the City the amount equal to the portion of the Developer Fee, if any, used in violation of this Agreement within three (3) years of the date of final disbursement.

(b) Reserved.

4. Reporting Requirement. Developer must provide the City with an annual report no later than 120 days after the end of Borrower's fiscal year providing specific detail as to the use

of any portion of the Restricted Fees that was paid during the reporting period. The use of Developer Fee must be included in Borrower's annual CDBG/OMB audit report.

5. Term. This Agreement will terminate five (5) years after the City has approved Developer's accounting of its use of Developer Fees.

6. Public Disclosure.

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

(b) By executing this Agreement, Developer agrees to comply with the provisions of Chapter 12L of the San Francisco Administrative Code. Developer agrees to open its meetings and records to the public in the manner set forth in Sections 12L.4 and 12L.5 of the San Francisco Administrative Code. Developer further agrees to make good faith efforts to promote community membership on its Board of Directors in the manner set forth in Section 12L.6 of the Administrative Code. Developer acknowledges that its failure to comply with any of the provisions of this Section will constitute an event of default under this Agreement.

7. Amendment. This Agreement may not be amended except by an instrument in writing signed by the parties.

8. Controlling Document. In the event of any inconsistency between this Agreement and the terms of any financing from the City with respect to the Project, this Agreement will control.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**"DEVELOPER"**

Chinatown Community Development Center, Inc., a California nonprofit public benefit corporation

By: \_\_\_\_\_  
Malcom Yeung  
Executive Director

**"CITY"**

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

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

APPROVED AS TO FORM:

David Chiu  
City Attorney

By: \_\_\_\_\_  
Heidi J. Gewertz  
Deputy City Attorney