

**LOAN AGREEMENT
(CITY AND COUNTY OF SAN FRANCISCO
GENERAL FUND)**

By and Between

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

and

THE SAN FRANCISCO HOUSING ACCELERATOR FUND,
a California nonprofit public benefit corporation,

for

THE SAN FRANCISCO HOUSING ACCELERATOR FUND
\$10,000,000

GENERAL FUND: \$ 8,200,000
HOUSING TRUST FUND: \$1,800,000

Dated as of April 17, 2017

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LOAN AGREEMENT
(City and County of San Francisco
General Fund and Housing Trust Fund)

THIS LOAN AGREEMENT ("Agreement") is entered into as of April 17, 2017, by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation (the "City"), represented by the Mayor, acting by and through the Mayor's Office of Housing and Community Development ("MOHCD"), and **THE SAN FRANCISCO HOUSING ACCELERATOR FUND**, a California nonprofit public benefit corporation organized under the Nonprofit Corporation Law of California ("Borrower" or "HAF").

RECITALS

A. On April 11, 2006, through Ordinance 71-06, the San Francisco Board of Supervisors appropriated funds from the City's General Fund to the Mayor's Office of Housing and Community Development for the acquisition, construction and rehabilitation of family housing, housing for seniors or persons with disabilities affordable to households earning up to one hundred twenty percent (120%) of the San Francisco Median Income (SFMI) adjusted for household size. The City is authorized by this ordinance to provide a portion of the funds under this Agreement (the "General Funds") to Borrower for the development of affordable housing.

In November 2012, the voters of the City approved Proposition C, which established a housing trust fund to provide funds to support creating, acquiring and rehabilitating affordable housing and promoting affordable home ownership programs (the "Housing Trust Fund"). Under San Francisco City Charter Section 16.110, the City is authorized to provide Housing Trust Fund funds under this Agreement to Borrower for the development of affordable housing.

B. On April 22, 2016, MOHCD issued a Request for Qualifications ("RFQ") for the selection of a qualified, existing non-profit loan fund to raise capital, reduce capital costs, leverage funds, and improve availability of financing for private-party affordable housing acquisitions and repairs in the City.

C. As set forth in its qualifications submitted to MOHCD in response to the RFQ, Borrower will provide financing for property acquisition, predevelopment, and light to moderate rehabilitation, to experienced, for- and not-for-profit real estate developers of affordable, supportive, and mixed income housing who will produce affordable, supportive, mixed income, or middle income housing.

D. The City has reviewed Borrower's application for funds and, in reliance on the accuracy of the statements in that application, has agreed to make a loan of funds to Borrower (the "Loan") in the amount of Ten Million and No/100 Dollars (\$10,000,000.00) (the "Funding Amount" or "Funds") under this Agreement to fund certain costs related to the Development Activities for specific projects as selected and approved by the HAF ("Assisted Projects").

E. Borrower has secured the following additional financing to carry out the Development Activities program:

1. a grant from Citibank providing funding in the amount of Five Hundred Thousand and No/100 Dollars (\$500,000.00);
2. a grant from The William and Flora Hewlett Foundation providing funding in the amount of Five Hundred Thousand and No/100 Dollars (\$500,000.00);
3. a grant from the Bank of America providing funding in the amount of Thirty Thousand and No/100 Dollars (\$30,000.00);
4. a grant from Silicon Valley Community Foundation providing funding in the amount of Twenty Thousand and No/100 Dollars (\$20,000.00);

F. Borrower expects to secure the following additional financing, either concurrently with closing on the Loan or within 90 days of the Agreement Date:

1. a program related investment from Dignity Health Foundation providing funding in the amount of Five Million and No/100 Dollars (\$5,000,000.00);
2. a program related investment from The San Francisco Foundation providing funding in the amount of nine hundred fifty thousand and No/100 Dollars (\$950,000.00);
3. Senior Secured Debt from Citi providing funding in the amount of Twenty Million and No/100 Dollars (\$20,000,000.00).

G. Borrower may from time to time secure additional financing from any bank, foundation, financial institution or other entity after the Agreement Date.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in this Agreement, the parties agree as follows:

ARTICLE 1 DEFINITIONS.

1.1 **Defined Terms.** As used in this Agreement, the following words and phrases have the following meanings:

"Accounts" means all depository accounts, including reserve and trust accounts, required or authorized under this Agreement or otherwise by the City in writing. All Accounts must be maintained in accordance with **Section 2.3.**

"Agreement" means this Loan Agreement.

"Agreement Date" means the date first written above.

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

"Assisted Project" has the meaning set forth in Recital D.

"Authorizing Resolutions" means a certified copy of resolutions adopted by Borrower's board of directors, satisfactory to the City and evidencing Borrower's authority to execute, deliver and perform the obligations under the City Documents to which Borrower is a party or by which it is bound.

"Borrower" means The San Francisco Housing Accelerator Fund, a California nonprofit public benefit corporation organized under the Nonprofit Corporation Law of California, and its authorized successors and assigns.

"CFR" means the Code of Federal Regulations.

"Charter Documents" means Borrower's articles of incorporation and bylaws. The Charter Documents must be delivered to the City in their original form and as amended from time to time and be accompanied by a certificate of good standing for Borrower issued by the California Secretary of State, issued no more than ninety (90) days before the Agreement Date.

"City" means the City and County of San Francisco, a municipal corporation, represented by the Mayor, acting by and through MOHCD. Whenever this Agreement provides for a submission to the City or an approval or action by the City, this Agreement refers to submission to or approval or action by MOHCD unless otherwise indicated.

"City Documents" means this Agreement, the Note, and any other documents executed or, delivered in connection with this Agreement.

"Creditors" means the Senior Term Lenders, the Mezzanine Lenders and the Subordinate Lenders.

"Compliance Term" has the meaning set forth in **Section 3.2**.

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

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

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

"Financial Model" means the model attached hereto as **Exhibit B**.

"Funding Amount" has the meaning set forth in **Recital D**.

"General Funds" has the meaning set forth in **Recital A**.

"HAF Conditions of Closure" has the meaning set forth in **Section 4.3**.

"Intercreditor Agreement" has the meaning set forth in **Section 3.8**.

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

"Governmental Agency" means: (a) any government or municipality or political subdivision of any government or municipality; (b) any assessment, improvement, community facility or other special taxing district; (c) any governmental or quasi-governmental agency, authority, board, bureau, commission, corporation, department, instrumentality or public body; or (d) any court, administrative tribunal, arbitrator, public utility or regulatory body.

"Financial Covenants" has the meaning set forth in **Section 9.2(f)**.

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

"Indemnify" means, whenever any provision of this Agreement requires a person or entity (the "Indemnitor") to Indemnify any other entity or person (the "Indemnitee"), that the Indemnitor will be obligated to defend, indemnify and protect and hold harmless the Indemnitee, its officers, employees, agent, constituent partners, and members of its boards and commissions harmless from and against any and all Losses arising directly or indirectly, in whole or in part, out of the act, omission, event, occurrence or condition with respect to which the Indemnitor is required to indemnify an Indemnitee, whether the act, omission, event, occurrence or condition is caused by the Indemnitor or its agents, employees or contractors, or by any third party or any natural cause, foreseen or unforeseen; *provided that* no Indemnitor will be obligated to indemnify any Indemnitee against any Loss arising or resulting from the gross negligence or intentional wrongful acts or omissions of the Indemnitee or its agents, employees or contractors. If a Loss is attributable partially to the grossly negligent or intentionally wrongful acts or omissions of the Indemnitee (or its agents, employees or contractors), the Indemnitor must Indemnify the Indemnitee for that part of the Loss not attributable to its own grossly negligent or intentionally wrongful acts or omissions or those of its agents, employees or contractors.

"Indemnitee" has the specific meaning set forth in **Section 23.1** and the general meaning set forth in the definition of "Indemnify."

"Indemnitor" has the meaning set forth in the definition of "Indemnify."

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

"Liquidity Covenant" means any covenant, requirement, or condition of funding from an Other Lender (see **Recitals E to G**) that requires Borrower to maintain a minimum percentage of its total assets as liquid.

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

"Loss" or "Losses" includes any loss, liability, damage, cost, expense or charge and reasonable attorneys' fees and costs, including those incurred in a proceeding in court or by mediation or arbitration, on appeal or in the enforcement of the City's rights or in defense of any action in a bankruptcy proceeding.

"Maturity Date" has the meaning set forth in **Section 3.1**.

"Median Income" means median income as published annually by MOHCD, derived from the Income Limits determined by HUD for the for the San Francisco area, adjusted solely for household size, but not high housing cost area, also referred to as "Unadjusted Median Income."

"Mezzanine Lenders" means Dignity Health Foundation and The San Francisco Foundation, as well as those Creditors that become a party to the Intercreditor Agreement as a Mezzanine Lender, in each case, together with their respective successors, transferees and assigns.

"Mezzanine Loan Agreements" means the term loan agreements between Borrower and each of the Mezzanine Lenders.

"Mezzanine Loans" means the loans made to Borrower by the Mezzanine Lenders pursuant to the Mezzanine Loan Agreements.

"MOHCD" means the Mayor's Office of Housing and Community Development or its successor.

"Note" means the promissory note executed by Borrower in favor of the City in the original principal amount of the Funding Amount.

"Opinion" means an opinion of Borrower's California legal counsel, satisfactory to the City and its legal counsel, that Borrower is a duly formed, validly existing California nonprofit public benefit corporation in good standing under the laws of the State of California, has the power and authority to enter into the City Documents and will be bound by their terms when executed and delivered, and that addresses any other matters the City reasonably requests.

"Other Lender" means any bank, foundation, financial institution or other entity providing a loan to Borrower per **Recital G**.

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

"Senior Lien" has the meaning set forth in **Section 24.1**.

“Senior Term Lenders” means those Creditors that become a party to the Intercreditor Agreement as a Senior Term Lender, in each case, together with their respective successors, transferees and assigns.

“Senior Term Loan Agreements” means the term loan agreements between Borrower and each of the Senior Term Lenders.

“Senior Term Loans” means the loans made to Borrower by the Senior Term Lenders pursuant to the Senior Term Loan Agreements.

“Sub-Borrower” means any entity receiving a Sub-Loan from Borrower.

“Sub-Loan” means any loan made by Borrower that is funded at least in part using proceeds from the Loan.

“Subordinate Lenders” means the City, as well as those Creditors that become a party to the Intercreditor Agreement as a Subordinate Lender, in each case, together with their respective successors, transferees and assigns.

“Subordinate Loan Agreements” means the term loan agreements between Borrower and each of the Subordinate Lenders.

“Subordinate Loans” means the loans made to Borrower by the Subordinate Lenders pursuant to the Subordinate Loan Agreements.

“Underwriting Standards” – has the meaning as set forth in **Section 4.3(d)** and are contained in **Exhibit D** of this Agreement.

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

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

(b) Headings are for convenience only and do not define or limit any terms. References to a specific City Document or other document or exhibit mean the document, together with all exhibits and schedules, as supplemented, modified, amended or extended from time to time in accordance with this Agreement. References to Articles, Sections and Exhibits refer to this Agreement unless otherwise stated.

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

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

1.3 Websites for Statutory References. The statutory and regulatory materials listed below may be accessed through the following identified websites.

(a) CFR provisions: www.access.gpo/nara/cfr

(b) OMB circulars: www.whitehouse.gov/OMB/circulars

(c) S.F. Administrative Code:
www.sfgov.org/site/government_index.asp#codes

1.4 Contracting Manual. Omitted.

ARTICLE 2 FUNDING.

2.1 Funding Amount. The City agrees to lend to Borrower a maximum principal amount equal to the Funding Amount. Proceeds from the Loan may be used in order to finance property acquisition, whether by Borrower directly, by Borrower through a joint venture, or through provision by Borrower of a Sub-Loan to a Sub-Borrower. All or any portion of the Funding Amount may also be allocated to satisfying any Liquidity Covenant. The Funding Amount will be disbursed according to the terms and subject to the conditions set forth in this Agreement.

2.2 Use of Funds. Borrower acknowledges that the City's agreement to make the Loan is based in part on Borrower's agreement to use the Funds solely for the purpose set forth in **Section 2.1** and agrees to use the Funds solely for those purposes.

2.3 Accounts; Interest. Each Account to be maintained by Borrower under this Agreement must be held in a bank or savings and loan institution acceptable to the City as a segregated account that is insured by the Federal Deposit Insurance Corporation or other comparable federal insurance program, or as described in **Exhibit H**. Borrower may sweep any interest or investment income earned on any Loan proceeds held in any Account for application by Borrower to payment of Borrower's general operating expenses.

2.4 Records. Borrower must maintain and provide to the City upon request records that accurately and fully show the date, amount, purpose and payee of all expenditures from each Account authorized under this Agreement or by the City in writing and keep all estimates, invoices, receipts and other documents related to disbursements from each Account.

2.5 Conditions to Additional Financing. The City may grant or deny any application by Borrower or Sub-Borrower for additional financing in its sole discretion.

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

3.1 Maturity Date. Borrower must repay all amounts owing under the City Documents on the date that is the twentieth (20th) anniversary of the date of the Agreement.

3.2 Compliance Term; Declaration of Restrictions. Borrower must comply with all provisions of the City Documents relating to the use of the Loan, for the period commencing on the Agreement Date and ending on the Maturity Date (the "Compliance Term"), even if the Loan is repaid or otherwise.

3.3 Interest. Except as provided in **Section 3.4**, no interest will be charged on the Loan.

3.4 Default Interest Rate. Upon the occurrence of an Event of Default under any City Document, the principal balance of the Loan will bear interest at the default interest rate set forth in the Note, with such default interest rate commencing as of the date an Event of Default occurs and continuing until such Event of Default is fully cured. In addition, the default interest rate will apply to any amounts to be reimbursed to the City under any City Document if not paid when due or as otherwise provided in any City Document.

3.5 Repayment of Principal and Interest. The outstanding principal balance of the Loan, together with all accrued and unpaid interest, if any, will be due and payable on the Maturity Date according to the terms set forth in full in the Note.

3.6 Changes in Funding Streams. The City's agreement to make the Loan on the terms set forth in this Agreement and the Note is based in part on Borrower's expectation that it will raise additional financing from philanthropic and financial institutions. Borrower covenants to give written notice to the City within thirty (30) days of any significant changes in the financing projections set forth in **Recital F**. Examples of significant changes include loss or adjustments (other than regular annual adjustments) in any of the funding sources set forth in **Recital F**. The City reserves the right to modify the terms of this Agreement based upon any new information so provided, in its reasonable discretion and consistent with the provisions of Section 9.2 of this Agreement, subject to the Borrower's consent, which consent shall not be unreasonably withheld.

3.7 Additional City Approvals. Borrower understands and agrees that City is entering into this Agreement in its proprietary capacity and not as a regulatory agency with certain police powers. Borrower understands and agrees that neither entry by City into this Agreement nor any approvals given by City under this Agreement shall be deemed to imply that Borrower will obtain any required approvals from City departments, boards or commissions which have jurisdiction over any property that has been acquired, in whole or in part, with proceeds from the Loan. By entering into this Agreement, City is in no way modifying or limiting the obligations of Borrower or any Sub-Borrower to develop any property in accordance with all local laws. Borrower understands that any development of any property shall require approvals, authorizations and permits from governmental agencies with jurisdiction over the property, which may include, without limitation, the San Francisco City Planning Commission and the San Francisco Board of Supervisors. Notwithstanding anything to the contrary in this Agreement, no party is in any way limiting its discretion or the discretion of any department, board or commission with jurisdiction over any property that has been acquired, in whole or in part, with proceeds from the Loan, including but not limited to a party hereto, from exercising any discretion available to such department, board or commission with respect thereto, including but not limited to the discretion to (i) make such modifications deemed necessary to mitigate significant environmental impacts, (ii) select other feasible alternatives to avoid such impacts, including the "No Project" alternative; (iii) balance the benefits against unavoidable significant impacts prior to taking final action if such significant impacts cannot otherwise be avoided, or (iv) determine not to proceed with the proposed project.

3.8 Security/Recourse. The Loan will be an unsecured obligation of the Borrower and will be subject to the terms, including but not limited to priority of repayment provisions, of that certain Intercreditor Agreement, dated as of April 27, 2017, by and among the Borrower, MOHCD, Dignity Health Foundation, certain other Mezzanine Lenders as specified therein, and Senior Term Lenders as specified therein, as such agreement may be amended from time to time (the "Intercreditor Agreement"). MOHCD shall enter into the Intercreditor Agreement in conjunction with its execution of this Agreement.

ARTICLE 4 CLOSING; DISBURSEMENTS.

4.1 Generally. Subject to the terms of this Agreement, the City will make a single Disbursement in an amount equal to the Funding Amount to or for the account of Borrower in accordance with this Agreement.

4.2 Closing. Unless otherwise agreed by the City and Borrower in writing, Borrower will establish an escrow account with an escrow agent chosen by Borrower, subject to the City's approval (the "Escrow Agent"). The parties will execute and deliver to the Escrow Agent written instructions consistent with the terms of this Agreement. In the event the escrow does not close on or before the expiration date of escrow instructions signed by the City, or any other mutually agreed date, the City may declare this Agreement to be null and void.

4.3 Conditions Precedent to Closing. The City will authorize the close of the Loan upon satisfaction of the conditions in this Section (the "HAF Conditions of Closing").

(a) Borrower must have delivered to the City fully executed (and for documents to be recorded, acknowledged) originals of the following documents, in form and substance satisfactory to the City: (i) the Note; (ii) this Agreement (in triplicate); (vi) the Authorizing Resolutions; and (ix) any other City Documents reasonably requested by the City.

(b) Borrower must have delivered to the City Borrower's Charter Documents.

(c) Borrower must have delivered to the City satisfactory evidence that Borrower has obtained commitments for any additional financing that may be required for the Assisted Project, in amounts and from lenders or investors satisfactory to the City in its sole discretion.

(d) Borrower must have delivered to the City satisfactory evidence of the following:

1) Loan Manual. The Loan Manual must be drafted and approved in a manner approved by the Director of MOHCD. The Loan Manual will set forth lending policies and procedures, including credit risk management procedures, portfolio limits and all other details governing the Borrower's lending and investment activities.

2) Underwriting Standards. The first set of Underwriting Standards, must be drafted, approved by the HAF Board of Directors and subsequently by MOHCD in a manner approved by the Director of MOHCD) and consistent with those terms provided in Exhibit D of this Agreement.

3) Credit Committee. Establishment of a Credit Committee as provided in Borrower's bylaws, one member of which must be the Director of MOHCD or his designee.

4) Form Real Estate Documents. Review of and approval of form real estate documents.

5) Standard Due Diligence. Including Certification of Good Standing, Vendor approval form and other standard administrative and diligence as required.

6) Operating Bank Account. General operating account with a selected institution.

4.4 Disbursement of Funds

Following satisfaction of the conditions in Section 4.3, the City will disburse Funds into the following account maintained by Borrower:

| | |
|---------------|-----------------|
| Name of Bank: | Bank of America |
| ABA No.: | 026009593 |

| | |
|---------------|--|
| Account No.: | 325084247069 |
| Reference: | City Loan |
| Account Name: | The San Francisco Housing Accelerator Fund |

ARTICLE 5 DEMOLITION, REHABILITATION OR CONSTRUCTION. Intentionally Omitted.

ARTICLE 6 MARKETING. Intentionally Omitted.

ARTICLE 7 AFFORDABILITY AND OTHER LEASING RESTRICTIONS. Intentionally Omitted.

ARTICLE 8 MAINTENANCE AND MANAGEMENT OF THE PROJECT. Intentionally Omitted.

ARTICLE 9 GOVERNMENTAL REQUIREMENTS.

9.1 Borrower Compliance. Borrower must comply, and where applicable, require its contractors to comply, with all applicable Laws governing the use of Funds for the permitted uses. Borrower acknowledges that its failure to comply with any of these requirements will constitute an Event of Default under this Agreement. Subject to **Section 23.1**, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

9.2 Other City Requirements.

a) If, by the third anniversary of the Agreement Date, Borrower has not loaned or invested the lesser of (i) an amount equal to one-third of the sum of the Funding Amount and the total of all amounts raised by Borrower from any Other Lender by the one-year anniversary of the Agreement Date or (ii) \$20 million, then MOHCD may require Borrower to take steps including, but not limited to, ceasing new lending and investment and requiring prepayment of any loan provided by any Other Lender, to facilitate prepayment of any portion of the Funding Amount that is neither disbursed to finance property acquisition, nor necessary to support Borrower's compliance with any Liquidity Covenant.

b) If, by the fifth anniversary of the Agreement Date, the cumulative total of Borrower's lending and investment activity is less than \$40 million, then MOHCD may require prepayment of the Loan, and may require Borrower to take steps including, but not limited to, ceasing new lending and investment and requiring prepayment of any loan provided by any Other Lender, to facilitate prepayment of the Loan.

c) Consistent with the requirements of **Section 19.2(c)** of this Agreement, MOHCD will have the right to cure any default by Borrower, or by any Sub-Borrower on any Sub-Loan, prior to acceleration by any other lender or investor ("MOHCD Cure Rights"). Borrower shall include language in its loan agreements with any Other Lender and in its form real estate documents for Sub-Loans to provide MOHCD with this right. MOHCD Cure Rights provided shall be

consistent with those MOHCD Cure Rights provided in Section 2(c) of the Form of Intercreditor Agreement attached as **Exhibit I** to this Agreement.

d) Any material changes to Borrower's Underwriting Standards and Form Loan Documents are subject to approval by MOHCD's Credit Committee, or such other MOHCD body as may be designated by the Director of MOHCD.

e) Consistent with the Financial Covenants in **Section 9.2(f)** below, the Funding Amount may be used or allocated towards satisfying a Liquidity Covenant.

(f) The Borrower must comply with the following Financial Covenants:

(1) **Leverage.** At all times, the sum of Subordinate Loan proceeds, Mezzanine Loan proceeds and Borrower's net assets on a GAAP basis ("Risk Capital") must equal no less than an amount equal to twenty percent (20%) of the sum of (a) Borrower's Risk Capital and (b) Senior Term Loan proceeds.

(2) **Liquidity.** As of any date of determination, the amount of Borrower's unrestricted cash and cash equivalents must be no less than ten percent (10%) of (i) Borrower's assets on a GAAP basis less (ii) amounts drawn under any of Borrower's debt that is nonrecourse to Borrower.

(3) **Pledge of Assets.** Borrower must have the ability to pledge/sell participations in Sub-Loans to other capital providers on a nonrecourse basis, either in the form of a direct project level placement or through a line of credit.

(4) **Operating Covenant.** On a GAAP basis excluding any loan loss reserve expenses, Borrower's revenues must exceed expenses as measured at the end of each fiscal year, beginning with Borrower's fiscal year ending June 30, 2019.

ARTICLE 10 BORROWER MONITORING, REPORTS, BOOKS AND RECORDS.

10.1 Generally.

(a) Borrower understands and agrees that it will be monitored by the City from time to time to assure compliance with all terms and conditions in this Agreement and all Laws. Borrower acknowledges that the City may also conduct periodic on-site inspections upon reasonable notice and during normal business hours of any Assisted Project for which Borrower is an investor or is providing financing. Borrower must cooperate with the monitoring by the City and ensure full access to any such projects and all information related to such Assisted Projects as reasonably required by the City.

(b) Borrower must keep and maintain books, records and other documents relating to the receipt and use of all Funds, including all documents relating to any disbursement of Funds through a Sub-Loan. All financial reports must be prepared and maintained in accordance with GAAP as in effect at the time of performance.

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

10.2 Quarterly Reporting. Within 60 days from the close of each quarter, Borrower will provide a Quarterly Report to all its investors and lenders, including the City, providing detail on Borrower's loan and investment portfolio and financial performance. Quarterly Reports must include complete copies of all monthly bank statements for each Account. Quarterly Reports must also describe progress toward developing any project financed or invested in by Borrower, including progress with respect to obtaining necessary approvals from other City departments, procuring architects, consultants and contractors, changes in scope, cost or schedule and significant milestones achieved in the past quarter and expected to be achieved in the coming quarter. Quarterly Reports must be submitted by email to the Director of Housing Development.

10.3 Annual Reporting. Within 120 days from the close of Borrower's fiscal year, Borrower will provide the following:

(a) an Annual Report to all investors and lenders providing detail on the Borrower's loan and investment portfolio, financial performance and progress with respect to achievement of its mission and purpose.

(c) Audited financial statements to all investors and lenders.

10.4 Response to Inquiries. Upon written request of the City, its agents, employees or attorneys, Borrower must respond promptly and specifically to questions relating to Borrower's income, expenditures, assets, liabilities, contracts, operations and condition, the status of any Assisted Project for which Borrower is an investor or is providing financing, and any other requested information with respect to Borrower, Borrower's investments, or any Assisted Project for which Borrower is an investor or is providing financing.

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

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

(b) all audited financial statements of Borrower the accuracy of which must be certified by an auditor satisfactory to the City; and

(c) any other records related to Borrower's corporate structure and compliance with this Agreement.

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

10.7 Records Retention. Borrower must retain all records required for the periods required under applicable Laws.

ARTICLE 11 PERMITTED DISBURSEMENTS.

(a) Disbursements of Loan proceeds from any Account may be made only in accordance with the provisions of this Agreement, as it may be revised from time to time with the City's approval. Borrower may disburse Loan proceeds to finance property acquisition, whether by Borrower directly, by Borrower through a joint venture, or through provision by Borrower of a Sub-Loan to a Sub-Borrower. As provided in Section 2.3, Borrower may sweep interest or investment income from any Loan proceeds on deposit with Borrower in any Account to its general operating account for application to payment of Borrower's general operating expenses. Upon the termination and dissolution of the Borrower, Loan proceeds may be disbursed for application to amounts owed under the terms of any then-outstanding Senior Liens (as defined in Section 24.1) in their respective order of priority. When a Senior Lien becomes due at its maturity date or earlier upon acceleration, Loan proceeds may be disbursed for application to amounts owed under the terms of the then-outstanding Senior Liens in their respective order of priority.

Withdrawals of Loan proceeds or any accrued interest or investment income on any Loan proceeds for other purposes may be made only with the City's express prior written approval.

(b) Borrower must keep accurate records indicating the amount of any interest or investment income earned on any Loan proceeds on deposit in any Account and the use of such income. Borrower must provide copies of the records to the City upon request.

ARTICLE 12 REQUIRED RESERVES.

Required reserves are to be maintained consistent with the Financial Covenants in Section 9.2 of this Agreement.

ARTICLE 13 DISTRIBUTIONS. Intentionally Omitted.

ARTICLE 14 SYNDICATION PROCEEDS. Intentionally Omitted.

ARTICLE 15 DEVELOPER FEES. Intentionally Omitted.

ARTICLE 16 TRANSFERS.

16.1 Permitted Transfers/Consent. Borrower may not cause or permit any voluntary transfer, assignment or encumbrance of any of its interests in any Assisted Project or of any ownership interests in Borrower, other than:

- a) for any Assisted Project, such transfers, assignments, or encumbrances as are required by Borrower's capital providers as a condition of their provision of capital to Borrower in furtherance of Borrower's financing activities with respect to such Assisted Project, and
- b) leases, subleases or occupancy agreements to residential or commercial occupants of any Assisted Project.

Any other transfer, assignment, encumbrance or lease without the City's prior written consent will be voidable and, at the City's election, constitute an Event of Default under this Agreement. The City's consent to any specific assignment, encumbrance, lease or other transfer will not constitute its consent to any subsequent transfer or a waiver of any of the City's rights under this Agreement.

ARTICLE 17 INSURANCE AND BONDS.

17.1 Borrower's Insurance. Subject to approval by the City's Risk Manager of the insurers and policy forms, Borrower must obtain and maintain, or cause to be obtained and maintained, insurance and bonds as set forth in **Exhibit L** from the date of the Agreement is until the expiration of the Compliance Term at no expense to the City.

ARTICLE 18 GOVERNMENTAL APPROVALS.

18.1 Compliance. Borrower covenants that it has obtained or will obtain in a timely manner and comply with all federal, state and local governmental approvals it is required by Law to obtain. Subject to **Section 23.1**, this Section does not prohibit Borrower from contesting any interpretation or application of Laws in good faith and by appropriate proceedings.

ARTICLE 19 DEFAULT.

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

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

(b) Intentionally Omitted; or

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

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

(e) Intentionally Omitted; or

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

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

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

(i) Without the City's prior written consent, Borrower transfers, or authorizes the transfer of, Loan proceeds in any Account required or authorized under this Agreement for any purpose not in accordance with the terms or provisions of this Agreement; or

(j) Intentionally Omitted; or

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

continues undismissed and unstayed for more than sixty (60) days); or any judgment, writ, warrant of attachment or execution or similar process is issued or levied against any site, improvements at any site, or any other property of Borrower and is not released, vacated or fully bonded within sixty (60) days after its issue or levy; or

(l) Any material adverse change occurs in the financial condition or operations of Borrower, that has a material adverse impact on Borrower's ability to achieve its mission or purpose; or

(m) Intentionally Omitted; or

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

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

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

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

(b) The City at its option may terminate all commitments to make Disbursements, or, without waiving the Event of Default, the City may determine to make further Disbursements upon terms and conditions satisfactory to the City in its sole discretion.

(c) The City may perform any of Borrower's obligations in any manner, in the City's reasonable discretion, including curing any defaults with respect to any funding obligations that remain uncured by Borrower and, prior to acceleration, by any other lender or investor for the funding obligation. Accordingly, Borrower will ensure, subject to City's review and approval, that any other lender or investor will provide for such City performance as related to any funding obligation to Borrower or Sub-Borrower in the form of loans or grants and such provisions, consistent with those MOHCD Cure Rights provided in Section 2(c) of the Form of Intercreditor Agreement attached as **Exhibit I** to this Agreement, shall be included in any related loan agreement, grant agreement, subordination agreement and/or intercreditor agreement.

(d) The City, either directly or through an agent or court-appointed receiver, may take possession of the Borrower and enter into contracts and take any other action the City deems appropriate.

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

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

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

19.3 Force Majeure. The occurrence of any of the following events, if material, will excuse performance of any obligations of the City or Borrower rendered impossible to perform while the event continues: strikes; lockouts; labor disputes; acts of God; inability to obtain labor, materials or reasonable substitutes for either; governmental restrictions, regulations or controls; judicial orders; enemy or hostile governmental actions; civil commotion; fire or other casualty and other causes beyond the control of the party obligated to perform. The occurrence of a force majeure event will excuse Borrower's performance only in the event that Borrower has provided notice to the City within thirty (30) days after the occurrence or commencement of the event or events, and Borrower's performance will be excused for a period ending thirty (30) days after the termination of the event giving rise to the delay.

ARTICLE 20 REPRESENTATIONS AND WARRANTIES.

20.1 Borrower Representations and Warranties. As a further inducement for the City to enter into this Agreement, Borrower represents and warrants as follows:

(a) The execution, delivery and performance of the City Documents will not contravene or constitute a default under or result in a lien upon assets of Borrower under any applicable Law, any Charter Document of Borrower or any instrument binding upon or affecting Borrower, or any contract, agreement, judgment, order, decree or other instrument binding upon or affecting Borrower.

(b) When duly executed, the City Documents will constitute the legal, valid and binding obligations of Borrower. Borrower hereby waives any defense to the enforcement of the City Documents related to alleged invalidity of the City Documents.

(c) No action, suit or proceeding is pending or threatened that might affect Borrower adversely in any material respect.

(d) Borrower is not in default under any agreement to which it is a party, including any lease of real property.

(e) Borrower has not been suspended or debarred by the Department of Industrial Relations or any Governmental Agency, nor has Borrower been suspended, disciplined or prohibited from contracting with any Governmental Agency.

(f) Intentionally omitted.

(g) All statements and representations made by Borrower in connection with the Loan remain true and correct as of the date of this Agreement.

(h) The Borrower is duly organized and in good standing under applicable laws of the State of California and is qualified to do business in the City and County of San Francisco.

ARTICLE 21 NOTICES.

21.1 Written Notice. All notices required by this Agreement must be made in writing and may be communicated by personal delivery, by a nationally recognized courier that obtains receipts, facsimile (if followed within one (1) business day by first class mail, by United States certified mail, postage prepaid, return receipt requested. Delivery will be deemed complete as of the earlier of actual receipt (or refusal to accept proper delivery) or five (5) days after mailing, *provided that* any notice that is received after 5 p.m. on any day or on any weekend or holiday will be deemed to have been received on the next succeeding business day. Notices must be addressed as follows:

To the City: Mayor's Office of Housing and Community Development
1 South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
Attn: Director

To Borrower: The San Francisco Housing Accelerator Fund
101 Montgomery Street, Suite 1350
San Francisco, CA 94104
Attn: Executive Director

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

21.2 Required Notices. Borrower agrees to provide notice to the City in accordance with **Section 21.1** of the occurrence of any change or circumstance that will have a material adverse effect on Borrower's ability to achieve its mission or purpose or ability repay the Loan.

ARTICLE 22 HAZARDOUS SUBSTANCES. Intentionally Omitted.

ARTICLE 23 INDEMNITY.

23.1 Borrower's Obligations. Borrower must Indemnify the City and its respective officers, agents and employees (individually or collectively, an "Indemnatee") against any and all Losses arising out of: (a) any default by Borrower in the observance or performance of any of Borrower's obligations under the City Documents (including those covenants set forth in **Article 22** above); (b) any failure of any representation by Borrower to be correct in all respects when made; (c) injury or death to persons or damage to property or other loss occurring on or in connection with any Assisted Project for which Borrower is an investor or is providing financing, whether caused by the negligence or any other act or omission of Borrower or any other person or by negligent, faulty, inadequate or defective design, building, construction, rehabilitation or maintenance or any other condition or otherwise; (d) any claim of any surety in connection with any bond relating to the construction or rehabilitation of any improvements or offsite improvements; (e) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnatee that relates to or arises out of the City Documents, the Loan, any Assisted Project for which Borrower is an investor or is providing financing, or any transaction contemplated by, or the relationship between Borrower and the City or any action or inaction by the City under, the City Documents; (f) the occurrence, until the expiration of the Compliance Term, of any Environmental Activity or any failure of Borrower or any other person to comply with all applicable Environmental Laws relating to any Assisted Project for which Borrower is an investor or is providing financing; (g) the occurrence, after the Compliance Term, of any Environmental Activity resulting directly or indirectly from any Environmental Activity before the expiration of the Compliance Term; (h) any liability of any nature arising from Borrower's contest of or relating to the application of any Law, including any contest permitted under **Sections 9.1, 18.1 and 22.2**; or (i) any claim, demand or cause of action, or any investigation, inquiry, order, hearing, action or other proceeding by or before any Governmental Agency, whether meritorious or not, that directly or indirectly relates to, arises from or is based on the occurrence or allegation of any of the matters described in clauses (a) through (h) above, *provided that* no Indemnatee will be entitled to indemnification under this Section for matters caused solely by its own gross negligence or willful misconduct. In the event any action or proceeding is brought against an Indemnatee by reason of a claim arising out of any Loss for which Borrower has indemnified the Indemnitees, upon written notice, Borrower must answer and otherwise defend the action or proceeding using counsel approved in writing by the Indemnatee at Borrower's sole expense. Each Indemnatee will have the right, exercised in its sole discretion, but without being required to do so, to defend, adjust, settle or compromise any claim, obligation, debt, demand, suit or judgment against the Indemnatee in connection with the matters covered by this Agreement. The provisions of this Section will survive the repayment of the Loan and/or termination of this Agreement.

23.2 No Limitation. Borrower's obligations under **Section 23.1** are not limited by the insurance requirements under this Agreement.

ARTICLE 24 GENERAL PROVISIONS.

24.1 Subordination. The Loan shall be subordinated to other financing secured by Borrower (in each case, a "Senior Lien"). Following review and approval by MOHCD and approval as to form by the City Attorney's Office, the Director of MOHCD or his/her successor or designee will be authorized to execute any approved subordination agreement without the necessity of any further action or approval; and provided further, that any subordination agreement shall provide for MOHCD Cure Rights consistent with **Section 19.2** of this Agreement, including the provisions of **Section 19.2(c)**.

24.2 No Third Party Beneficiaries. Nothing contained in this Agreement, nor any act of the City, may be interpreted or construed as creating the relationship of third party beneficiary, limited or general partnership, joint venture, employer and employee, or principal and agent between the City and Borrower or Borrower's agents, employees or contractors.

24.3 No Claims by Third Parties. Nothing contained in this Agreement creates or justifies any claim against the City by any person or entity with respect to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to an Assisted Project. Borrower must include this requirement as a provision in any contracts.

24.4 Entire Agreement. This Agreement and its Exhibits incorporate the terms of all agreements made by the City and Borrower with regard to the subject matter of this Agreement. No alteration or variation of the terms of this Agreement will be valid unless made in writing and signed by the parties hereto. No oral understandings or agreements not incorporated herein will be binding on the City or Borrower.

24.5 City Obligations. The City's sole obligation under this Agreement is limited to providing the Funds as described in this Agreement, up to the Funding Amount. Under no circumstances, including breach of this Agreement, will the City be liable to Borrower for any special or consequential damages arising out of actions or failure to act by the City in connection with any of the City Documents.

24.6 Borrower Solely Responsible. Borrower is an independent contractor with the right to exercise full control of employment, direction, compensation and discharge of all persons assisting in the performance contemplated under this Agreement. Borrower is solely responsible for: (a) its own acts and those of its agents, employees and contractors and all matters relating to their performance, including compliance with Social Security, withholding and all other Laws governing these matters and requiring that contractors include in each contract that they will be solely responsible for similar matters relating to their employees; (b) any losses or damages incurred by Borrower, any of its contractors or subcontractors and the City and its officers, representatives, agents and employees on account of any act, error or omission of Borrower in the performance of this Agreement or any other City Document; and (c) all costs and expenses relating to Borrower's performance of obligations under the City Documents, the delivery to the City of documents, information or items under or in connection with any of the City Documents and taxes, fees, costs or other charges payable in connection

with the execution, delivery, filing and/or recording of any City Document or document required under any City Document.

24.7 No Inconsistent Agreements. Borrower warrants that it has not executed and will not execute any other agreement(s) with provisions materially contradictory or in opposition to the provisions of this Agreement.

24.8 Inconsistencies in City Documents. In the event of any conflict between the terms of this Agreement and any other City Document, the terms of this Agreement control unless otherwise stated; *provided, however*, that any provision in this Agreement in conflict with any Law will be interpreted subject to that Law.

24.9 Governing Law. This Agreement is governed by California law without regard to its choice of law rules.

24.10 Joint and Several Liability. Intentionally Omitted.

24.11 Successors. Except as otherwise limited herein, the provisions of this Agreement bind and inure to the benefit of the undersigned parties and their heirs, executors, administrators, legal representatives, successors and assigns. This provision does not relieve Borrower of its obligation under the City Documents to obtain the City's prior written consent to any assignment or other transfer of Borrower's interests in the Loan for any Assisted Project in which the Borrower is an investor or providing financing, or the ownership interests in Borrower.

24.12 Attorneys' Fees. If any legal action is commenced to enforce any of the terms of this Agreement or rights arising from any party's actions in connection with this Agreement, the prevailing party will have the right to recover its reasonable attorneys' fees (including allocated fees of the City Attorney's Office) and costs of suit from the other party, whether incurred in a judicial, arbitration, mediation or bankruptcy proceeding or on appeal. For the purposes of this Agreement, reasonable fees of attorneys in the City Attorney's office will be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter of law for which the City Attorney's services were rendered, who practice in the City of San Francisco in law firms with approximately the same number of attorneys as employed by the City Attorney's Office. An award of attorneys' fees and costs will bear interest at the default rate under the Note from the date of the award until paid.

24.13 Severability. The invalidity or unenforceability of any one or more provisions of this Agreement will in no way affect any other provision.

24.14 Time. Time is of the essence in this Agreement. Whenever the date on which an action must be performed falls on a Saturday, Sunday or federal holiday, the date for performance will be deemed to be the next succeeding business day.

24.15 Further Assurances. Borrower agrees to: (a) pursue in an effective and continuous manner; (b) use best efforts to achieve; and (c) take all actions reasonably required by the City from time to time to confirm or otherwise carry out the purpose of this Agreement.

24.16 Binding Covenants. Intentionally Omitted.

24.17 Consent. Except as expressly provided otherwise, whenever consent or approval of a party is required in any City Document, that party agrees not to withhold or delay its consent or approval unreasonably.

24.18 Counterparts. This Agreement may be executed in any number of counterparts, all of which will constitute but one agreement.

24.19 Borrower's Personnel. Borrower's obligations under this Agreement shall be implemented only by competent personnel under the direction and supervision of Borrower.

24.20 Borrower's Board of Directors. Borrower shall at all times be governed by a legally constituted board of directors. Such board of directors shall meet regularly and maintain appropriate membership, as established in the bylaws and other governing documents of Borrower, and shall adhere to applicable provisions of federal, state and local laws governing nonprofit corporations. Such board of directors shall exercise such oversight responsibility with regard to this Agreement as is necessary to ensure full and prompt performance by Borrower of its obligations under this Agreement.

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

EXHIBITS


- A Income Restrictions
- B Financial Model
- C Promissory Note
- D Underwriting Standards
- E Governmental Requirements
- F Lobbying/Debarment Certification Form
- G Form of Annual Monitoring Report
- H Investment Guidelines
- I Intercreditor Agreement
- J Reserved
- K Reserved
- L Insurance Requirements

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

THE CITY:

CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation

By: 
Edwin M. Lee
Mayor

By: 
Olson Lee
Director, Mayor's Office of Housing
and Community Development

BORROWER:

THE SAN FRANCISCO HOUSING
ACCELERATOR FUND, a California nonprofit
public benefit corporation

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: 
Heidi J. Gewertz
Deputy City Attorney

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Heidi J. Gewertz
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BORROWER:

THE SAN FRANCISCO HOUSING
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public benefit corporation

By:  _____
Name: Rebecca C. Foster
Title: Executive Director

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By: 

Name: Rebecca C. Foster

Title: Executive Director

EXHIBIT A
Income Restrictions

Up to 120% City AMI per **Recital A**.

Notwithstanding, initial occupants of occupied buildings must maintain their rights to occupancy regardless of income. Upon turnover, units must be made available to occupants at qualifying incomes.

EXHIBIT B
Financial Model

San Francisco

DRAFT Housing Accelerator Fund

Income Statement

| Date | | CY 2017 | CY 2018 | CY 2019 | CY 2020 | CY 2021 | CY 2022 | CY 2023 | CY 2024 | CY 2025 | CY 2026 | CY 2027 | Total |
|--|-----------|-------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|----------------------|
| Year | | - | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | |
| | | 12/31/2017 | 12/31/2018 | 12/31/2019 | 12/31/2020 | 12/31/2021 | 12/31/2022 | 12/31/2023 | 12/31/2024 | 12/31/2025 | 12/31/2026 | 12/31/2027 | |
| Applicable Year Fraction | | 0.58 | | | | | | | | | | | |
| Revenue | | | | | | | | | | | | | |
| Project Interest Revenue | | | | | | | | | | | | | |
| Land Acquisition | | \$ 205,275 | \$ 427,210 | \$ 519,150 | \$ 613,188 | \$ 809,766 | \$ 1,007,621 | \$ 1,116,661 | \$ 1,224,167 | \$ 1,231,412 | \$ 1,238,802 | \$ 1,246,339 | \$ 9,639,590 |
| Small Sites | | 241,500 | 691,075 | 1,079,384 | 1,519,491 | 1,809,312 | 1,895,783 | 1,952,195 | 1,963,588 | 1,975,209 | 1,987,063 | 1,999,153 | 17,113,753 |
| Large Preservation | | \$ - | \$ - | \$ 257,180 | \$ 524,709 | \$ 664,365 | \$ 804,480 | \$ 539,558 | \$ 542,707 | \$ 685,493 | \$ 827,943 | \$ 1,109,249 | \$ 5,955,683 |
| Total Project Interest Revenue | | \$ 446,775 | \$ 1,118,285 | \$ 1,855,714 | \$ 2,657,388 | \$ 3,283,443 | \$ 3,707,884 | \$ 3,608,414 | \$ 3,730,462 | \$ 3,892,113 | \$ 4,053,807 | \$ 4,354,741 | \$ 32,709,026 |
| Project Origination Fee Revenue | | | | | | | | | | | | | |
| Land Acquisition | 1.25% | \$ 106,250 | \$ - | \$ 93,750 | \$ - | \$ 187,500 | \$ - | \$ 187,500 | \$ - | \$ 187,500 | \$ - | \$ 187,500 | \$ 950,000 |
| Small Sites | 1.25% | 125,000 | 93,750 | 187,500 | 187,500 | 187,500 | 187,500 | 187,500 | 187,500 | 187,500 | 187,500 | 187,500 | 1,906,250 |
| Large Preservation | 1.25% | \$ - | \$ - | \$ 125,000 | \$ - | \$ 125,000 | \$ - | \$ - | \$ 125,000 | \$ - | \$ 187,500 | \$ - | \$ 562,500 |
| Total Project Origination Fee Revenue | | \$ 231,250 | \$ 93,750 | \$ 406,250 | \$ 187,500 | \$ 500,000 | \$ 187,500 | \$ 375,000 | \$ 312,500 | \$ 375,000 | \$ 375,000 | \$ 375,000 | \$ 3,418,750 |
| Legal Reimbursement | \$ 12,500 | \$ 35,625 | \$ 18,750 | \$ 55,208 | \$ 37,500 | \$ 64,583 | \$ 37,500 | \$ 56,250 | \$ 45,833 | \$ 56,250 | \$ 50,000 | \$ 56,250 | \$ 513,750 |
| Revenue from Reinvestment | | 45,186 | 193,386 | 247,434 | 257,309 | 241,921 | 293,132 | 359,052 | 371,387 | 387,932 | 398,892 | 408,763 | 3,204,394 |
| Total Revenue | | \$ 758,836 | \$ 1,424,171 | \$ 2,564,607 | \$ 3,139,696 | \$ 4,089,948 | \$ 4,226,017 | \$ 4,398,716 | \$ 4,460,182 | \$ 4,711,295 | \$ 4,877,699 | \$ 5,194,754 | \$ 39,845,921 |

San Francisco

DRAFT Housing Accelerator Fund Income Statement

| Date | | CY 2017 | CY 2018 | CY 2019 | CY 2020 | CY 2021 | CY 2022 | CY 2023 | CY 2024 | CY 2025 | CY 2026 | CY 2027 | Total |
|--|------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|---------------|
| Year | | 12/31/2017 | 12/31/2018 | 12/31/2019 | 12/31/2020 | 12/31/2021 | 12/31/2022 | 12/31/2023 | 12/31/2024 | 12/31/2025 | 12/31/2026 | 12/31/2027 | |
| Expenses | | | | | | | | | | | | | |
| Fixed Operations | | | | | | | | | | | | | |
| 2.0% | | | | | | | | | | | | | |
| Overhead | | | | | | | | | | | | | |
| Managing Director | \$ 156,963 | \$ 91,562 | \$ 156,963 | \$ 160,102 | \$ 163,304 | \$ 166,570 | \$ 169,902 | \$ 173,300 | \$ 176,766 | \$ 180,301 | \$ 183,907 | \$ 187,585 | \$ 1,810,263 |
| Vice President (Loans & Investments) | 100,000 | - | - | - | - | - | - | - | - | - | - | - | - |
| Associate (Underwriting) | 90,000 | - | - | 45,000 | 90,000 | 91,800 | 93,636 | 95,509 | 97,419 | 99,367 | 101,355 | 103,382 | 817,467 |
| Loan Administrator | 75,000 | 18,750 | 75,000 | 76,500 | 78,030 | 79,591 | 81,182 | 82,806 | 84,462 | 86,151 | 87,874 | 89,632 | 839,979 |
| Administrative Assistant | 50,000 | - | - | - | - | - | - | - | - | - | - | - | - |
| (reserved) | - | - | - | - | - | - | - | - | - | - | - | - | - |
| (reserved) | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Total staff salaries | \$ 471,963 | \$ 110,312 | \$ 231,963 | \$ 281,602 | \$ 331,334 | \$ 337,961 | \$ 344,720 | \$ 351,615 | \$ 358,647 | \$ 365,820 | \$ 373,136 | \$ 380,599 | \$ 3,467,709 |
| Fringe Benefits @ 30.00% | \$ 141,589 | \$ 19,305 | \$ 69,589 | \$ 84,481 | \$ 99,400 | \$ 101,388 | \$ 103,416 | \$ 105,484 | \$ 107,594 | \$ 109,746 | \$ 111,941 | \$ 114,180 | \$ 1,026,524 |
| Total Overhead | \$ 613,552 | \$ 129,616 | \$ 301,552 | \$ 366,083 | \$ 430,735 | \$ 439,349 | \$ 448,136 | \$ 457,099 | \$ 466,241 | \$ 475,566 | \$ 485,077 | \$ 494,779 | \$ 4,494,233 |
| Third Party | | | | | | | | | | | | | |
| Financial Advisor: Corporate & Capital | \$ 110,000 | \$ 64,167 | \$ 112,200 | \$ 114,444 | \$ 116,733 | \$ 119,068 | \$ 121,449 | \$ 123,878 | \$ 126,355 | \$ 128,883 | \$ 131,460 | \$ 134,089 | \$ 1,292,725 |
| Fiscal Operations | 48,000 | 28,000 | 48,960 | 49,939 | 50,938 | 51,957 | 52,996 | 54,056 | 55,137 | 56,240 | 57,364 | 58,512 | 564,098 |
| Legal: Corporate & Capital | 20,000 | 11,667 | 20,400 | 20,808 | 21,224 | 21,649 | 22,082 | 22,523 | 22,974 | 23,433 | 23,902 | 24,380 | 235,041 |
| Auditor | 20,000 | 20,000 | 20,400 | 20,808 | 21,224 | 21,649 | 22,082 | 22,523 | 22,974 | 23,433 | 23,902 | 24,380 | 243,374 |
| (reserved) | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Total Third Party | \$ 198,000 | \$ 123,833 | \$ 201,960 | \$ 205,999 | \$ 210,119 | \$ 214,322 | \$ 218,608 | \$ 222,980 | \$ 227,440 | \$ 231,989 | \$ 236,628 | \$ 241,361 | \$ 2,335,239 |
| Other | | | | | | | | | | | | | |
| Facilities/Office Space | \$ 9,000 | \$ 5,250 | \$ 9,180 | \$ 9,364 | \$ 9,551 | \$ 9,742 | \$ 9,937 | \$ 10,135 | \$ 10,338 | \$ 10,545 | \$ 10,756 | \$ 10,971 | \$ 105,768 |
| Administrative Expenses | 10,000 | 5,833 | 10,200 | 10,404 | 10,612 | 10,824 | 11,041 | 11,262 | 11,487 | 11,717 | 11,951 | 12,190 | 117,520 |
| Insurance | 15,000 | 15,000 | 15,300 | 15,606 | 15,918 | 16,236 | 16,561 | 16,892 | 17,230 | 17,575 | 17,926 | 18,285 | 182,531 |
| Miscellaneous | 15,000 | 8,750 | 15,300 | 15,606 | 15,918 | 16,236 | 16,561 | 16,892 | 17,230 | 17,575 | 17,926 | 18,285 | 176,281 |
| Infrastructure Technology | 10,000 | 5,833 | 10,200 | 10,404 | 10,612 | 10,824 | 11,041 | 11,262 | 11,487 | 11,717 | 11,951 | 12,190 | 117,520 |
| Other: (specify) | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Total Other | \$ 59,000 | \$ 40,667 | \$ 60,180 | \$ 61,384 | \$ 62,611 | \$ 63,863 | \$ 65,141 | \$ 66,444 | \$ 67,772 | \$ 69,128 | \$ 70,510 | \$ 71,921 | \$ 699,621 |
| Total Fixed Operations | | \$ 294,116 | \$ 563,692 | \$ 633,466 | \$ 703,465 | \$ 717,534 | \$ 731,885 | \$ 746,523 | \$ 761,453 | \$ 776,682 | \$ 792,216 | \$ 808,060 | \$ 7,529,093 |
| Variable Operations | | | | | | | | | | | | | |
| Third Party | | | | | | | | | | | | | |
| Financial Advisor: Loans | \$ 12,500 | \$ 10,625 | \$ 18,750 | \$ 55,208 | \$ 37,500 | \$ 64,583 | \$ 37,500 | \$ 56,250 | \$ 45,833 | \$ 56,250 | \$ 50,000 | \$ 56,250 | \$ 488,750 |
| Fiscal Operations: Servicing | 0.10% | - | 26,000 | 46,156 | 55,134 | 68,051 | 69,529 | 63,223 | 73,223 | 68,298 | 78,223 | 78,223 | 626,058 |
| Construction Manager: SSP | 4,000 | 8,000 | 6,000 | 12,000 | 12,000 | 12,000 | 12,000 | 12,000 | 12,000 | 12,000 | 12,000 | 12,000 | 122,000 |
| Legal: Loans & Investments | \$ 12,500 | \$ 35,625 | \$ 18,750 | \$ 55,208 | \$ 37,500 | \$ 64,583 | \$ 37,500 | \$ 56,250 | \$ 45,833 | \$ 56,250 | \$ 50,000 | \$ 56,250 | \$ 513,750 |
| Total Variable Operations | | \$ 54,250 | \$ 69,500 | \$ 168,573 | \$ 142,134 | \$ 209,218 | \$ 156,529 | \$ 187,723 | \$ 176,889 | \$ 192,798 | \$ 190,223 | \$ 202,723 | \$ 1,750,558 |
| Financial Expenses | | | | | | | | | | | | | |
| Total Mezzanine | | \$ 40,250 | \$ 89,905 | \$ 134,896 | \$ 159,500 | \$ 159,500 | \$ 206,573 | \$ 259,500 | \$ 259,500 | \$ 259,500 | \$ 259,500 | \$ 259,500 | \$ 2,088,123 |
| Total Senior Debt | | 142,188 | 243,750 | 287,109 | 312,630 | 348,177 | 412,500 | 425,000 | 437,500 | 437,500 | 437,500 | 437,500 | 3,921,354 |
| Total Financial Expenses | | \$ 182,438 | \$ 333,655 | \$ 422,005 | \$ 472,130 | \$ 507,677 | \$ 619,073 | \$ 684,500 | \$ 697,000 | \$ 697,000 | \$ 697,000 | \$ 697,000 | \$ 6,009,478 |
| Senior Secured Revolving Line of Credit | | | | | | | | | | | | | |
| Revolving Line of Credit Interest | | 251,892 | 635,741 | 1,093,773 | 1,593,100 | 1,976,531 | 2,243,897 | 2,154,761 | 2,228,024 | 2,343,009 | 2,458,239 | 2,673,037 | \$ 19,652,005 |
| Unused Line of Credit Fee | 0.1250% | 21,678 | 36,941 | 11,314 | 15,673 | 27,225 | 13,941 | 20,045 | 16,886 | 11,544 | 18,781 | 20,833 | 214,860 |
| Total Revolving Line of Credit | | 273,570 | 672,682 | 1,105,087 | 1,608,773 | 2,003,756 | 2,257,839 | 2,174,806 | 2,244,910 | 2,354,553 | 2,477,020 | 2,693,870 | \$ 19,866,865 |
| Net Change In Loan Loss Provision | 2.0% | \$ 370,000 | \$ 150,000 | \$ 403,125 | \$ 179,550 | \$ 258,350 | \$ 29,550 | \$ (126,125) | \$ 200,000 | \$ (98,500) | \$ 198,500 | \$ - | \$ 1,564,450 |
| Total Expenses | | \$ 1,174,374 | \$ 1,789,528 | \$ 2,732,256 | \$ 3,106,052 | \$ 3,696,535 | \$ 3,794,876 | \$ 3,667,427 | \$ 4,080,252 | \$ 3,922,533 | \$ 4,354,958 | \$ 4,401,653 | \$ 36,720,443 |
| Net Income | | (415,538) | (365,358) | (167,649) | 33,645 | 393,412 | 431,141 | 731,290 | 379,930 | 788,762 | 522,741 | 793,101 | \$ 3,125,477 |
| Ratios/Analytics | | | | | | | | | | | | | |
| Net Interest Income | | 12,445 | 784,630 | 1,433,709 | 2,185,258 | 2,775,766 | 3,088,811 | 2,923,914 | 3,033,462 | 3,195,113 | 3,356,807 | 3,657,741 | |
| Operating Spread | | | | | | | | | | | | | |
| Net Income (less Loan Loss Provision) | | (45,538) | (215,358) | 235,476 | 213,195 | 651,762 | 460,691 | 605,165 | 579,930 | 690,262 | 721,241 | 793,101 | |

San Francisco

DRAFT Housing Accelerator Fund

Balance Sheet

| Date | | CY 2017 | CY 2018 | CY 2019 | CY 2020 | CY 2021 | CY 2022 | CY 2023 | CY 2024 | CY 2025 | CY 2026 | CY 2027 |
|--|------|---------------|---------------|---------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|
| Year | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
| | | 12/31/2017 | 12/31/2018 | 12/31/2019 | 12/31/2020 | 12/31/2021 | 12/31/2022 | 12/31/2023 | 12/31/2024 | 12/31/2025 | 12/31/2026 | 12/31/2027 |
| Assets | | | | | | | | | | | | |
| Liquid Assets | | \$ 17,856,295 | \$ 19,172,517 | \$ 21,645,657 | \$ 16,314,696 | \$ 15,623,635 | \$ 20,459,908 | \$ 21,199,092 | \$ 19,802,706 | \$ 20,919,100 | \$ 19,653,683 | \$ 20,052,047 |
| Loan Loss Reserve (net of losses) | 2.0% | \$ 370,000 | \$ 520,000 | \$ 850,099 | \$ 1,073,070 | \$ 1,078,130 | \$ 1,262,286 | \$ 859,845 | \$ 1,267,082 | \$ 915,950 | \$ 1,343,397 | \$ 1,564,450 |
| Loans | | | | | | | | | | | | |
| Land Acquisition | | \$ 8,500,000 | \$ 8,500,000 | \$ 11,686,250 | \$ 11,686,250 | \$ 18,693,750 | \$ 18,693,750 | \$ 22,387,500 | \$ 22,387,500 | \$ 22,387,500 | \$ 22,387,500 | \$ 22,387,500 |
| Small Sites | | \$ 10,000,000 | \$ 17,500,000 | \$ 24,470,000 | \$ 33,447,500 | \$ 34,432,500 | \$ 35,910,000 | \$ 35,910,000 | \$ 35,910,000 | \$ 35,910,000 | \$ 35,910,000 | \$ 35,910,000 |
| Large Preservation | | - | - | 10,000,000 | 10,000,000 | 14,925,000 | 14,925,000 | 4,925,000 | 14,925,000 | 10,000,000 | 19,925,000 | 19,925,000 |
| Total Loans | | \$ 18,500,000 | \$ 26,000,000 | \$ 46,156,250 | \$ 55,133,750 | \$ 68,051,250 | \$ 69,528,750 | \$ 63,222,500 | \$ 73,222,500 | \$ 68,297,500 | \$ 78,222,500 | \$ 78,222,500 |
| (Provision for Loan Losses) | 2.0% | \$ (370,000) | \$ (520,000) | \$ (923,125) | \$ (1,102,675) | \$ (1,361,025) | \$ (1,390,575) | \$ (1,264,450) | \$ (1,464,450) | \$ (1,365,950) | \$ (1,564,450) | \$ (1,564,450) |
| Total Net Loan Portfolio | | \$ 18,130,000 | \$ 25,480,000 | \$ 45,233,125 | \$ 54,031,075 | \$ 66,690,225 | \$ 68,138,175 | \$ 61,958,050 | \$ 71,758,050 | \$ 66,931,550 | \$ 76,658,050 | \$ 76,658,050 |
| Total Assets | | \$ 36,356,295 | \$ 45,172,517 | \$ 67,728,881 | \$ 71,418,841 | \$ 83,391,990 | \$ 89,860,368 | \$ 84,016,987 | \$ 92,827,838 | \$ 88,766,600 | \$ 97,655,130 | \$ 98,274,547 |
| Liabilities | | | | | | | | | | | | |
| Subordinate Capital | | | | | | | | | | | | |
| City of San Francisco Contribution | | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 |
| Total Subordinate Capital | | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 |
| Program Related Investments | | | | | | | | | | | | |
| Dignity Health | | \$ 5,000,000 | \$ 5,000,000 | \$ 5,000,000 | \$ 5,000,000 | \$ 5,000,000 | \$ 5,000,000 | \$ 5,000,000 | \$ 5,000,000 | \$ 5,000,000 | \$ 5,000,000 | \$ 5,000,000 |
| San Francisco Foundation | | 950,000 | 950,000 | 950,000 | 950,000 | 950,000 | 950,000 | 950,000 | 950,000 | 950,000 | 950,000 | 950,000 |
| (reserved) | | - | 4,050,000 | 9,050,000 | 9,050,000 | 9,050,000 | 9,050,000 | 9,050,000 | 9,050,000 | 9,050,000 | 9,050,000 | 9,050,000 |
| (reserved) | | - | - | - | - | - | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 |
| Total Program Related Investments | | \$ 5,950,000 | \$ 10,000,000 | \$ 15,000,000 | \$ 15,000,000 | \$ 15,000,000 | \$ 20,000,000 | \$ 20,000,000 | \$ 20,000,000 | \$ 20,000,000 | \$ 20,000,000 | \$ 20,000,000 |
| Senior Debt | | | | | | | | | | | | |
| [Lender #1] | | \$ 7,500,000 | \$ 7,500,000 | \$ 7,500,000 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| [Lender #2] | | - | - | 2,500,000 | 2,500,000 | - | - | - | - | - | - | - |
| [Lender #3] | | - | - | - | - | - | - | - | - | - | - | - |
| [Lender #4] | | - | - | - | 5,000,000 | 5,000,000 | 5,000,000 | - | - | - | - | - |
| [Lender #5] | | - | - | - | - | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 |
| [Lender #6] | | - | - | - | - | - | - | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 | 5,000,000 |
| Total Senior Debt | | \$ 7,500,000 | \$ 7,500,000 | \$ 10,000,000 | \$ 7,500,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 | \$ 10,000,000 |
| Senior Secured: Revolving Line of Credit | | \$ 12,657,895 | \$ 17,789,474 | \$ 33,159,539 | \$ 39,302,039 | \$ 48,917,961 | \$ 49,928,882 | \$ 44,035,132 | \$ 52,456,184 | \$ 48,308,816 | \$ 56,666,711 | \$ 56,666,711 |
| Total Liabilities | | \$ 36,107,895 | \$ 45,289,474 | \$ 68,159,539 | \$ 71,802,039 | \$ 83,917,961 | \$ 89,928,882 | \$ 84,035,132 | \$ 92,456,184 | \$ 88,308,816 | \$ 96,666,711 | \$ 96,666,711 |
| Net Assets | | | | | | | | | | | | |
| Hewlett Foundation | | 500,000 | - | - | - | - | - | - | - | - | - | - |
| Excess Startup Budget | | 163,938 | - | - | - | - | - | - | - | - | - | - |
| CDFI Fund TA/FA | | - | - | - | - | - | - | - | - | - | - | - |
| Loan Losses | | - | - | [73,026] | (29,605) | (282,895) | (128,289) | (404,605) | (197,368) | (450,000) | (221,053) | (394,737) |
| Retained Earnings | | (415,538) | (365,358) | (167,649) | 33,645 | 393,412 | 431,141 | 731,290 | 379,930 | 788,762 | 522,741 | 793,101 |
| Total | | \$ 248,400 | \$ (116,937) | \$ (357,632) | \$ (353,593) | \$ (243,075) | \$ 59,776 | \$ 386,460 | \$ 569,022 | \$ 907,784 | \$ 1,209,472 | \$ 1,607,836 |
| Liabilities and Net Assets | | \$ 36,356,295 | \$ 45,172,517 | \$ 67,801,907 | \$ 71,448,446 | \$ 83,674,885 | \$ 89,988,658 | \$ 84,421,592 | \$ 93,025,206 | \$ 89,216,600 | \$ 97,876,183 | \$ 98,274,547 |
| Liquidity Ratio (Liquid / Total Assets) | | 49.1% | 42.4% | 32.0% | 22.8% | 18.7% | 22.8% | 25.2% | 21.3% | 23.6% | 20.1% | 20.4% |
| Net Asset / Total Assets | | 0.7% | -0.3% | -0.5% | -0.5% | -0.3% | 0.1% | 0.5% | 0.6% | 1.0% | 1.2% | 1.6% |
| Net Asset (including Risk Capital) / Total Assets | | 44.6% | 44.0% | 36.4% | 34.5% | 29.7% | 33.5% | 36.2% | 32.9% | 34.8% | 32.0% | 32.2% |
| Net Asset (including Risk Capital) / Senior Debt Ratio | | 68.4% | 72.6% | 71.1% | 76.7% | 71.2% | 75.0% | 75.2% | 75.4% | 75.6% | 75.7% | 76.0% |

EXHIBIT C
Form of Promissory Note

PROMISSORY NOTE
(General Fund)

Principal Amount: \$ 10,000,000

San Francisco, CA

Date: _____

FOR VALUE RECEIVED, the undersigned, THE SAN FRANCISCO HOUSING ACCELERATOR FUND, a California Nonprofit public benefit corporation ("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 Ten Million and No/100 Dollars (\$10,000,000.00) (the "Funding Amount"), or so much of the Funding Amount as may be disbursed from time to time pursuant to the Agreement described in **Section 1** below, together with interest thereon, as provided in this Note.

1. Agreement. This Promissory Note ("Note") is given under the terms of a Loan Agreement by and between Maker and Holder (the "Agreement") dated as of the date set forth above, which Agreement is incorporated herein by reference. Definitions and rules of interpretation set forth in the Agreement apply to this Note. In the event of any inconsistency between the Agreement and this Note, this Note will control.

2. Interest. Except as provided in **Section 3**, no interest will accrue on the Funding Amount.

3. Default Interest Rate. Upon the occurrence of an Event of Default under any City Document, interest will be deemed to have accrued on the outstanding principal balance of the Loan at a compounded annual rate equal to the lesser of: (a) ten percent (10%); or (b) the maximum lawful rate of interest, commencing on the date the 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 Funding Amount.

Subject to Section 3.1 of the Agreement, Maker must repay all amounts owing under the City Documents on the date that is the twentieth (20th) anniversary of the date of the Agreement (the "Maturity Date"). Any Payment Date, including the Maturity Date that falls on a weekend or holiday will be deemed to fall on the next succeeding business day.

5. Terms of Payment.

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

5.2 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.

5.3 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.

5.4 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.

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

6. Default.

6.1 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.

6.2 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. Waivers.

7.1 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.

7.2 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.

7.3 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.

8. Miscellaneous Provisions.

8.1 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.

8.2 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.

8.3 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.

8.4 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.

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

"MAKER"

The San Francisco Housing Accelerator Fund,
a California nonprofit public benefit corporation

By: _____

Name: _____

Title: _____

EXHIBIT D
Underwriting Standards

The first set of Underwriting Standards, expected to be for (a) vacant land and (b) small and medium sized buildings, and other programs and products as authorized by the HAF Board of Directors, must be drafted, approved by the HAF Board of Directors and subsequently by MOHCD (Credit Committee or other MOHCD body as designated in a manner approved by the Director of MOHCD). The Underwriting Standards shall include, but not be limited to, the following basic expected product terms:

(1) Property Acquisition.

(a) Loan to Value. Not-for-profit borrowers are eligible for up to [120]% LTV. For-profit borrowers are eligible for up to [95]% LTV.

(b) Loan Term. Up to [5] years plus [x] months extension.

(c) Takeout Financing. The HAF is repaid through construction loan proceeds. Prior to commitment, the Fund requires evidence of support by the City, typically in the form of a soft commitment letter referencing the subject development and the anticipated subsidy request.

(d) Collateral. The HAF will take a first position lien in all properties acquired with Loan proceeds.

(2) Small and Medium Sized Buildings.

(a) Loan to Value. Not-for-profit borrowers are eligible for up to [120]% LTV plus [100]% of total rehabilitation cost. For-profit borrowers are eligible for up to [95]% LTV plus up to [95]% of total rehabilitation cost.

(b) Loan Term. Up to [3-4] years plus [x] months extension.

(c) Takeout Financing. The HAF is repaid through subsidy loan proceeds from the City plus permanent financing. Prior to commitment, the HAF requires evidence of support by the City, typically in the form of a soft commitment letter referencing the subject development and the anticipated subsidy request.

(d) Collateral. The HAF will take a first position lien in all properties acquired with Project Loan proceeds.

EXHIBIT E
Governmental Requirements

1. Nondiscrimination; Penalties.

(a) *Nondiscrimination.* In the performance of this [Site Lease/Sublease/Trust Agreement/Delivery and Paying Agent Agreement/Dealer Agreement] (the "Agreement"), the [Trustee/Delivery and Paying Agent/Dealer] (the "Contractor") agrees not to discriminate against any employee, City employee working with the Contractor, applicant for employment with the Contractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

(b) *Subcontracts.* The Contractor shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from the City) and shall require all subcontractors to comply with such provisions. The Contractor's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

(c) *Nondiscrimination in Benefits.* The Contractor, as of the date of this Agreement, does not and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by the City, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

(d) *Condition to Contract.* As a condition to this Agreement, the Contractor shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(e) *Incorporation of Administrative Code Provisions by Reference.* The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though

fully set forth herein. The Contractor shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, the Contractor understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against the Contractor and/or deducted from any payments due the Contractor.

2. *MacBride Principles—Northern Ireland.* Pursuant to San Francisco Administrative Code §12F.5, the City urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this Agreement on behalf of the Contractor acknowledges and agrees that he or she has read and understood this section.

3. *Tropical Hardwood and Virgin Redwood.* Pursuant to §804(b) of the San Francisco Environment Code, the City urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

4. *Drug-Free Workplace Policy.* The Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. The Contractor agrees that any violation of this prohibition by the Contractor, its employees, agents or assigns will be deemed a material breach of this Agreement.

5. *Compliance with Americans with Disabilities Act.* The Contractor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. The Contractor shall provide the services specified in this Trust Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. The Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of the Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

6. *Sunshine Ordinance.* In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations and all other records of communications between the City and persons or firms seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

7. *Limitations on Contributions.* Through execution of this Agreement, the Contractor acknowledges that it is familiar with Section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. The Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. The Contractor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of the Contractor's board of directors; the Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in the Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by the Contractor. Additionally, the Contractor acknowledges that the Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in said Section 1.126. The Contractor further agrees to provide to the City the names of each person, entity or committee described above.

8. *Requiring Minimum Compensation for Covered Employees.* The Contractor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of the Contractor's obligations under the MCO is set forth in this Section. The Contractor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12P. Consistent with the requirements of the MCO, the Contractor agrees to all of the following:

(a) The MCO requires the Contractor to pay the Contractor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and the Contractor is obligated to keep informed of the then-current requirements. Any subcontract entered into by the Contractor shall require the subcontractor to comply with the requirements of the MCO and shall contain contractual obligations substantially the same as those set forth in this Section. It is the Contractor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, the City may pursue any of the remedies set forth in this Section against the Contractor. Nothing in this Section shall be deemed to grant the Contractor the right to subcontract.

(b) The Contractor shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

(c) The Contractor shall maintain employee and payroll records as required by the MCO. If the Contractor fails to do so, it shall be presumed that the Contractor paid no more than the minimum wage required under State law.

(d) The City, upon reasonable notice to the Contractor, is authorized to inspect the Contractor's job sites during normal business hours.

(e) The Contractor's commitment to provide the minimum compensation required by the MCO is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Contractor fail to comply with these requirements. The Contractor agree that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for the Contractor's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.

(f) The Contractor understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including at its option the liquidated damages provided for therein), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, the Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, the Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(g) The Contractor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

(h) If the Contractor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with the City for the fiscal year is less than \$25,000, but the Contractor later enters into an agreement or agreements that cause the Contractor to exceed that amount in a fiscal year, the Contractor shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Contractor and the City to exceed \$25,000 in the fiscal year.

9. *Requiring Health Benefits for Covered Employees.* The Contractor agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the web at www.sfgov.org/olse. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

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

(b) Notwithstanding the above, if the Contractor is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) The Contractor's failure to comply with the HCAO shall constitute a material breach of this Agreement. The City shall notify the Contractor if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, the Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, the Contractor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(d) Any Subcontract entered into by the Contractor shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. The Contractor shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. The Contractor shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against the Contractor based on the Subcontractor's failure to comply, provided that the City has first provided the Contractor with notice and an opportunity to obtain a cure of the violation.

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

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

(g) The Contractor shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on the Agreement.

(h) The Contractor shall keep itself informed of the current requirements of the HCAO.

(i) The Contractor shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

(j) The Contractor shall provide the City with access to records pertaining to compliance with HCAO after receiving a written request from the City to do so and being provided at least ten business days to respond.

(k) The Contractor shall allow the City to inspect the Contractor's job sites and have access to the Contractor's employees in order to monitor and determine compliance with HCAO.

(l) The City may conduct random audits of the Contractor to ascertain its compliance with HCAO. The Contractor agrees to cooperate with the City when it conducts such audits.

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

10. *Prohibition on Political Activity with City Funds.* In accordance with San Francisco Administrative Code Chapter 12.G, the Contractor may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "*Political Activity*") in the performance of the services provided under this Agreement. The Contractor agrees to comply with San Francisco Administrative Code Chapter 12.G and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event the Contractor violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) terminate this Agreement, and (ii) prohibit the Contractor from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider the Contractor's use of profit as a violation of this section.

11. *Protection of Private Information.* The Contractor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. The Contractor agrees that any failure of the Contractor to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Agreement, bring a false claim action against the Contractor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Contractor.

12. *Graffiti Removal.* Graffiti is detrimental to the health, safety and welfare of the community in that it promotes a perception in the community that the laws protecting public and private property can be disregarded with impunity. This perception fosters a sense of disrespect of the law that results in an increase in crime; degrades the community and leads to urban blight; is detrimental to property values, business opportunities and the enjoyment of life; is inconsistent with the City's property maintenance goals and aesthetic standards; and results in additional graffiti and in other properties becoming the target of graffiti unless it is quickly removed from public and private property. Graffiti results in visual pollution and is a public nuisance. Graffiti must be abated as quickly as possible to avoid detrimental impacts on the City and its residents, and to prevent the further spread of graffiti.

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

13. *Airport Intellectual Property.* Pursuant to Resolution No. 01-0118, adopted by the City on April 18, 2001, the City affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with or at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any intellectual property confusingly similar to the Airport intellectual property, without the Airport Director's prior consent.

14. *Submitting False Claims; Monetary Penalties.* Pursuant to San Francisco Administrative Code §21.35, any Contractor, subcontractor or consultant who submits a false claim shall be liable to the City for three times the amount of damages which the City sustains because of the false claim. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the web at <http://www.municode.com/Library/clientCodePage.aspx?clientID=4201>. An underwriter, bank, subcontractor or consultant who submits a false claim shall also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. An underwriter, subcontractor or consultant will be deemed to have submitted a false claim to the City if the underwriter, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

15. *Conflict of Interest.* Through its execution of this Agreement, the Contractor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

16. *Assignment.* The Contractor is prohibited from assigning, delegating or transferring this Agreement or any part of it unless such assignment, delegation or transfer is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any contract made in violation of this provision shall confer no rights on any party and shall be null and void.

17. *Food Service Waste Reduction Requirements.* The Contractor agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement. By entering into this Agreement, the Contractor agrees that if either breaches this provision, the City will suffer actual damages that will be impractical or extremely difficult to determine; further, the Contractor agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is reasonable estimate of the damage that the City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed

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

18. *Proprietary or Confidential Information of City.* The Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, the Contractor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. The Contractor agrees that all information disclosed by City to the Contractor shall be held in confidence and used only in the performance of this Agreement. The Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

19. *Earned Income Credit (EIC) Forms.* Administrative Code Section 12O requires that employers provide their employees with IRS Form W-5 (The Earned Income Credit Advance Payment Certificate) and the IRS EIC Schedule, as set forth below. Employers can locate these forms at the IRS Office, on the Internet, or anywhere that Federal Tax Forms can be found. The Contractor shall provide EIC Forms to each Eligible Employee at each of the following times: (i) within thirty days following the date on which this Trust Agreement becomes effective (unless the Contractor has already provided such EIC Forms at least once during the calendar year in which such effective date falls); (ii) promptly after any Eligible Employee is hired by the Contractor; and (iii) annually between January 1 and January 31 of each calendar year during the term of this Agreement. Failure to comply with any requirement contained in subparagraph (a) of this Section shall constitute a material breach by the Contractor of the terms of this Agreement. If, within thirty days after the Contractor receives written notice of such a breach, the Contractor fails to cure such breach or, if such breach cannot reasonably be cured within such period of thirty days, the Contractor fails to commence efforts to cure within such period or thereafter fails to diligently pursue such cure to completion, the City may pursue any rights or remedies available under this Trust Agreement or under applicable law. Any Subcontract entered into by the Contractor shall require the subcontractor to comply, as to the subcontractor's Eligible Employees, with each of the terms of this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Section 12O of the San Francisco Administrative Code.

EXHIBIT F
Lobbying/Debarment Certification Form

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

This lobbying certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed under Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.

3. Neither the undersigned nor its principals is listed by the General Services Administration as debarred, suspended, ineligible or voluntarily excluded from receiving the Funds on the Agreement Date. The undersigned will review the list to ensure that any contractor or subcontractor who bids for a contract in excess of \$100,000 is not debarred, suspended, ineligible or voluntarily excluded from participating in federal programs and activities and will obtain the certification of each contractor or subcontractor whose bid is accepted that such contractor or subcontractor is not debarred, suspended, ineligible or voluntarily excluded from participating in federal programs and activities.

THE SAN FRANCISCO HOUSING ACCELERATOR FUND:

BY: _____

NAME: _____

TITLE: _____

DATE: _____

EXHIBIT G
Form of Annual Monitoring Report

SAN FRANCISCO HOUSING ACCELERATOR FUND QUARTERLY REPORT

FOR THE PERIOD XXXX – XXXX

[cover picture here]

[x] PROJECT LOAN – CLOSED [x]



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SAN FRANCISCO
housing accelerator fund

[Date of report]

To the Stakeholders of the San Francisco Housing Accelerator Fund:

In compliance with San Francisco Housing Accelerator Fund's Reporting Requirements, the Fund Manager is providing this [x] Quarter Report for the period from [x] through [x].

LENDING ACTIVITY

PORTFOLIO ACTIVITY

OPERATING RESULTS

COVENANT COMPLIANCE



[Q# 20__] FINANCIAL SNAPSHOT

[condensed balance sheet and accompanying donut chart]

[statement of operations / P&L / accompanying chart]



SAN FRANCISCO
housing accelerator fund

QUARTERLY FINANCIALS – SUMMARY & FUND PERFORMANCE UPDATES

Q# OPERATING RESULTS

YEAR-TO-DATE OPERATING RESULTS

STATEMENT OF FINANCIAL POSITION



FINANCIAL OPERATING COVENANTS

The following presentation of financial covenants.

| <u>Covenant</u> | <u>Compliance</u> |
|-----------------|-------------------|
| A. | |
| B. | |
| C. | |
| D. | |
| E. | |
| F. | |

STATEMENT OF COMPLIANCE WITH THE FINANCIAL OPERATING COVENANTS

STATEMENT OF DISCLOSURE

[The Fund Manager did not have any conflicts of interest as of xxxx].



SIGNIFICANT CHANGES TO LOAN PORTFOLIO DURING THIS PERIOD

New Origination —

- **Project Type:**
- **Address/Location:**
- **Originating Lender:**
- **Sponsor(s):**
- **Project Loan Amount:**
- **Description:**
- **Closing Date:**
- **Risk Rating:**



PORTFOLIO DASHBOARDS – ACTIVE LOANS

[charts]

\$\$ IN ACTIVE LOANS
UNITS



PORTFOLIO DASHBOARDS – LOANS SINCE INCEPTION

[charts]

\$\$ IN LOANS SINCE INCEPTION
UNITS SINCE INCEPTION



CAPITALIZATION AND DEBT MATURITY SCHEDULE

[charts]

| <u>Capital</u> | <u>Amount (\$)</u> | <u>Rate</u> | <u>Term (yrs)</u> |
|---|--------------------|-------------|-------------------|
| Equity | | | |
| Unsecured Debt | | | |
| Subordinate | | | |
| Mezzanine (PRI) | | | |
| Senior Term | | | |
| Secured Debt | | | |
| Senior Secured Outstanding | | | |
| Senior Secured Capacity | | | |
| Total Capitalization | | | |
| *Note: weighted-average cost of capital and term are calculated only on outstandings. | | | |



CHARITABILITY MONITORING

Charitability Test
Description

Current Portfolio
Compliance

| <u>Borrower Type</u> | <u>For-Profit</u> | <u>MWBE</u> | <u>Non-Profit</u> | <u>Total</u> |
|----------------------|-------------------|-------------|-------------------|--------------|
| Commitment Amount \$ | | | | |
| Loan to Value | | | | |
| Senior Secured \$ | | | | |
| % of Commitment | | | | |
| Fund \$ | | | | |
| % of Commitment | | | | |



IRIS SOCIAL IMPACT METRICS

IRIS (short for Impact Reporting and Investment Standards) is the catalog of generally-accepted performance metrics that impact investors use to measure the social, environmental and financial performance of investments. More information and metrics are available at <http://iris.thegiin.org/metrics>. Reported metrics below reflect investments made during the current reporting period.

| <u>ID</u> | <u>Metric Name</u> | <u>Description</u> | <u>Value/Amount</u> |
|-----------|--------------------|--------------------|---------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |



ATTACHMENTS

The following attachments have been included with this Quarterly Report:

1. Executive Director Certificate
2. Delinquency Report
3. Project Loan Portfolio Detail
4. Quarterly Financials Detail

EXHIBIT H
Investment Guidelines

Approved Investment Instruments are the following:

- A. Direct obligations of or obligations guaranteed by the United States;
- B. Bonds, debentures, notes, participation certificates or other similar obligations issued by any one or combination of any of the following:
 - a. Government National Mortgage Association, Federal Land Banks, Federal Home Loan Banks, Federal Intermediate Credit Banks, Federal Farm Credit System Banks Consolidated Obligations, Banks for Cooperatives, Tennessee Valley Authority, Washington Metropolitan Area Transportation Authority, United States Postal Service, Farmer's Home Administration and Export-Import Bank of the United States;
 - b.
- C. Bonds, debentures, notes, participation certificates or other similar obligations issued by any federal agency and backed by the full-faith and credit of the United States;
- D. Any other obligations of the United States or any federal agencies which may be purchased by savings banks in the State of California;
- E. Deposits in interest-bearing time or demand deposits, certificates of deposit or other similar banking arrangements (i) secured by any of the obligation described in A through D above, or (ii) fully insured by the Federal Savings and Loan Insurance Corporation (iii) made with banking institutions, or their parents which either (a) have unsecured debt rated in one of the three highest rating categories of a nationally recognized rating service or (b) are deemed by a nationally recognized rating service to be an institution rated in one of the three highest rating categories of such rating service;
- F. Obligations of the City and County of San Francisco or the State of California;
- G. Obligations, the principal and interest of which are guaranteed by the City and County of San Francisco or the State of California;
- H. Commercial paper with a minimum rating of A-1 or P-1; and
- I. Capital stock in the Federal Home Loan Bank of San Francisco.

EXHIBIT I
Form of Intercreditor Agreement

INTERCREDITOR AGREEMENT

THIS INTERCREDITOR AGREEMENT, dated as of April 27, 2017 (“**Agreement**”) is entered into by and among (i) Dignity Health (“**Dignity**”) and The San Francisco Foundation (“**TSFF**”) (together with their successors, transferees and assigns that execute a Counterpart.), (ii) the City of San Francisco acting by and through its Mayor’s Office of Housing and Community Development (the “**City**”), (iii) the San Francisco Housing Accelerator Fund, a California nonprofit public benefit corporation (the “**Fund**”), and those Creditors who sign a Counterpart signature page subsequent to the date of this Agreement.

RECITALS

A. The Fund shall provide Project Loans to Project Borrowers in accordance with the Fund’s program to support affordable housing, community development and economic development for the City of San Francisco’s low, moderate and middle income households, individuals and communities, by lending to, investing in, and directly acquiring real estate assets (the “**Program**”).

B. The Fund expects in the future to secure one or more unsecured senior term loans pursuant to the terms of an unsecured senior term loan agreement, as the same may be amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof (the “**Senior Term Loan Agreement**”).

C. Pursuant to the Loan Agreement, dated as of April 27, 2017, as the same may be amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof, by and between the Fund and Dignity (the “**Dignity Loan Agreement**”), and to the Loan Agreement, dated as of April 27, 2017, as the same may be amended, supplemented, or otherwise modified from time to time in accordance with the terms hereof, by and between the Fund and TSFF (the “**TSFF Loan Agreement**”), Dignity and TSFF have extended certain unsecured loans to the Fund pursuant to the terms and conditions thereof.

D. Pursuant to the Loan Agreement, dated as of April 17, 2017 (as the same may be amended, supplemented, or otherwise modified from time to time) by and between the Fund and the City, the City has extended an unsecured loan to the Fund pursuant to the terms and conditions thereof (the “**City Loan Agreement**”).

E. It is the parties’ shared intent that the Fund and the Creditors will have claims to the Fund Liquidation Proceeds in the order of Creditor Priority set forth herein.

NOW, THEREFORE, in consideration of the promises and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. DEFINITIONS; RECITALS.

The following terms shall have the meanings assigned to them below in this Section 1 or in the provisions of this Agreement referred to below:

“Additional Secured Indebtedness” means non-recourse indebtedness of the Borrower secured by Project Loans that are not collateral under the terms of the Revolving Credit Agreement.

“Board” means the Board of Directors of the Fund.

“Counterpart” means a counterpart entered into by a Creditor that becomes a party to this Agreement after the date hereof, in substantially the form of Exhibit A.

“Creditor Loan Agreements” means any Senior Term Loan Agreements, the Mezzanine Loan Agreements, and the Subordinate Loan Agreements.

“Creditor Loans” means any Senior Term Loans, the Mezzanine Loans, and the Subordinate Loans.

“Creditor Priority” has the meaning set forth in Section 5 herein.

“Creditor Loan Default” means an Event of Default as that term is defined under each of the Creditor Loan Agreements, as applicable, after expiration of any applicable notice and cure period.

“Creditors” means the Senior Term Lenders, the Mezzanine Lenders and the Subordinate Lenders.

“Fund Liquidation Proceeds” means all proceeds received from a dissolution of the Fund in accordance with the terms of this Agreement.

“Loan Documents” means each of the Project Loan Documents, any Senior Term Loan Agreements, Mezzanine Loan Agreements and Subordinate Loan Agreements.

“Mezzanine Lenders” means Dignity and TSFF, together with their successors, transferees and assigns that execute a Counterpart, as well as those Creditors who execute a Counterpart as a Mezzanine Lender.

“Mezzanine Loan Agreements” means the term loan agreements between the Fund and each of the Mezzanine Lenders.

“Mezzanine Loans” means the loans made to the Fund by the Mezzanine Lenders pursuant to the Mezzanine Loan Agreements.

“Mezzanine Loan Obligations” means any and all obligations of the Fund in respect of notes, advances, borrowings, loans, debts, interest, fees, make-whole premiums, costs, expenses (including, without limitation, legal fees and expenses of counsel and allocated costs of internal counsel), indemnities and liabilities of whatsoever nature, now or hereafter made, incurred or created, whether absolute or contingent, liquidated or unliquidated, whether due or not due, and however arising under or in connection with the Mezzanine Loans.

“Model Project Loan Documents” means the forms of loan agreement, promissory note, guaranty agreement, mortgage, deed of trust, security instruments and other documents approved or to be approved by the Board and used from time to time to document Project Loans.

“Person” means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, or a government or agency or political subdivision thereof.

“Project Borrower” means an entity to which the Project Loan is made.

“Project Loans” means the loans made by the Fund in furtherance of the Program.

“Project Loan Default” means an Event of Default, as that term is defined pursuant to any Project Loan Document, after the expiration of any applicable notice and cure periods.

“Project Loan Documents” means the Promissory Note, Mortgage (if applicable), Deed of Trust (if applicable), and other documents evidencing or securing a Project Loan which are based on the Model Project Loan Documents.

“Project Loan Interest Payment Proceeds” means all regularly scheduled payments of interest on a Project Loan.

“Project Loan Liquidation Proceeds” means all proceeds received from a foreclosure of the property owned by a Project Loan Borrower in the event of a Project Loan Default.

“Project Loan Payment Proceeds” means all regularly scheduled principal and interest payments on a Project Loan.

“Revolving Credit Agreement” means that certain senior secured revolving credit agreement dated as of the date hereof among the Fund, Citibank, N.A., a national banking association, as administrative agent, and the lenders party thereto.

“Senior Secured Lenders” means the lenders under the Senior Secured Lender Obligations.

“Senior Secured Lender Obligations” means any and all obligations of the Fund in respect of notes, advances, borrowings, loans, debts, interest, fees, make-whole premiums, reasonable and documented out-of-pocket expenses (including, without limitation, reasonable legal fees, charges and disbursements of counsel and allocated costs of internal counsel), indemnities and liabilities, now or hereafter made, incurred or created, whether absolute or contingent, liquidated or unliquidated, whether due or not due, and however arising under or in connection with the Revolving Credit Agreement and all Additional Secured Indebtedness.

“Senior Term Lenders” mean those Creditors that execute a Counterpart as a Senior Term Lender.

“Senior Term Lender Obligations” means any and all obligations of the Fund in respect of notes, advances, borrowings, loans, debts, interest, fees, make-whole premiums, costs, expenses

(including, without limitation, legal fees and expenses of counsel and allocated costs of internal counsel), indemnities and liabilities of whatsoever nature, now or hereafter made, incurred or created, whether absolute or contingent, liquidated or unliquidated, whether due or not due, and however arising under or in connection with any Senior Term Loans.

“Senior Term Loan Agreements” means any term loan agreements between the Fund and each of the Senior Term Lenders.

“Senior Term Loans” means any loans made to the Fund by any Senior Term Lenders pursuant to the Senior Term Loan Agreements.

“Subject Obligations” means, as the case may be, any Senior Term Lender Obligations, the Subordinate Lender Obligations and the Mezzanine Loan Obligations.

“Subordinate Lender Obligations” means any and all obligations of the Fund in respect of notes, advances, borrowings, loans, debts, interest, fees, make-whole premiums, costs, expenses (including, without limitation, legal fees and expenses of counsel and allocated costs of internal counsel), indemnities and liabilities of whatsoever nature, now or hereafter made, incurred or created, whether absolute or contingent, liquidated or unliquidated, whether due or not due, and however arising under or in connection with the Subordinate Loan Agreements.

“Subordinate Lenders” means the City, as well as those Creditors who execute a Counterpart as a Subordinate Lender.

“Subordinate Loan Agreements” means the term loan agreements between the Fund and each of the Subordinate Lenders.

“Subordinate Loans” means the loans made to the Fund by the Subordinate Lenders pursuant to the Subordinate Loan Agreements.

Each party hereto represents and warrants to the others that the Recitals to this Agreement, insofar as they relate to it, are true and correct, and all of such Recitals are specifically incorporated into this Agreement as material components hereof.

2. MANAGEMENT OF PROJECT LOANS; CITY’S RIGHT TO CURE; CREDITOR RIGHT TO PURCHASE.

(a) Each Creditor acknowledges that Senior Secured Lenders have a senior secured interest in the Project Loans held by the Fund. Accordingly, each Creditor acknowledges that Senior Secured Lenders have a senior right and claim to the applicable Project Loan Payment Proceeds and Project Loan Liquidation Proceeds, and each of the Senior Term Lenders, Mezzanine Lenders and Subordinate Lenders hereby fully and absolutely subordinate any right such party may have with respect to the Project Loan Payment Proceeds and Project Loan Liquidation Proceeds in the Project Loans, in which the Senior Secured Lenders have a security interest, to the rights of the Senior Secured Lenders. Notwithstanding anything contained in this Agreement to the contrary, any rights of the Creditors or any obligations of the Fund contained in this Agreement or in any Subject Obligations shall be subject to the rights of the Senior Secured Lenders and the obligations of the Fund under the Senior Secured Credit Obligations, including the Fund’s right,

following a Project Loan Default, to foreclose on the Fund's security interest in the applicable Project Loan and to thereafter manage such Project Loan.

(b) Following a Project Loan Default, each Creditor agrees that the Fund shall have the right, in accordance with Section 2(c) below, to (i) take any and all action it deems appropriate with respect to such Project Loan (including, without limitation, negotiating a workout or restructuring of such Project Loan with the applicable Project Borrower), and (ii) exercise any and all rights and remedies in accordance with the applicable Project Loan Documents as if it were the lender of such Project Loan, including, without limitation, foreclosure on the underlying Project Loan deed of trust.

(c) The Fund agrees that, simultaneously with the sending of any notice of default under any Project Loan to the applicable Project Borrower, the Fund shall send to each Creditor a copy of the notice of default, as well as any assignment of any Creditor or Fund indebtedness and written notice of any proposed foreclosure proceedings; provided, however, that the failure by the Fund to send a copy of any notice described in this Section 2(c) to each Creditor shall not affect the validity of such notice, extend the period of time in which a Project Borrower has to cure such default, prohibit the Fund from exercising any of its rights and remedies under the Project Loan Documents, affect any obligation owe by the Project Borrower to the Fund, or affect the Creditor Priority as set forth herein. Each Creditor agrees, but only as a separate and independent covenant of each Creditor and not as a condition to the continued effectiveness of the any of the Subject Obligations, as follows:

(i) City shall have the right, but not the obligation, to cure any Project Loan Default within sixty (60) days after notice of such default is provided to the Project Borrower, or such longer cure period provided to Project Borrower pursuant to any Project Loan Documents for the applicable default (the "City Cure Period"); provided that:

(A) the City shall provide written notice of its intent to cure to each other Creditor and the Senior Secured Lenders and to the Fund within fifteen (15) business days after the Fund provides notice of such default to the Project Borrower; and

(B) the City shall provide, within fifteen (15) business days after the Fund provides notice of such default to the Project Borrower, a reasonable plan for paying all carry costs, including, without limitation, all interest, protective advances, and other costs incurred or owed to the Creditors or the Senior Secured Lenders during the cure period. Prior to any cure by the City, the City shall notify the Fund in writing of all consideration given by the Project Borrower in exchange for curing such default; and

(C) the Fund shall have the right, with respect to its security instrument, to deliver to the trustee of any security instrument and cause to be recorded a Notice of Default and Election to Sell during the City Cure Period and/or obtain a court-appointed receiver. If the City cures the default within the City Cure Period, the Fund will rescind such Notice of Default and Election to Sell and reinstate the Project Borrower's rights under the Project Loan

Documents; provided, that the City or Project Borrower has reimbursed all costs of filing the Notice of Default and Election to Sell including, without limitation, trustee fees and filing fees, or costs of obtaining a receiver including, without limitation, attorneys' fees and court costs. The Fund agrees that following the timely cure by the City of any default or breach under the terms of any of the Project Loan Documents within the City Cure Period, the Fund will not accelerate the indebtedness or any other obligations of the applicable Project Borrower under the Project Loan Documents by reason of the default or breach which has been cured by the City; provided, however, nothing herein shall be construed to waive or limit any of the Fund's rights or remedies with respect to any uncured default or breach under the terms of any of the Project Loan Documents or any other subsequent default or breach by the Project Borrower thereunder.

(ii) The provisions of the foregoing paragraph are intended to supplement, and not to limit, waive, modify or replace, those provisions of law pertaining to notice and cure rights of subordinate lenders, including, without limitation, those set forth in California Civil Code §§ 2924b and 2924c.

(iii) The City shall not be subrogated to the rights of the Fund under any Project Loan Document by reason of City having cured any Project Loan Default. However, the Fund acknowledges that, to the extent so provided in the City's Loan Documents, amounts advanced or expended by City to cure a Project Loan Default may be added to and become a part of the Fund's indebtedness pursuant to the City Loan Agreement but only to the extent that the Fund is able to recover such amounts from the Project Borrower.

(iv) At any time after a Project Loan Default becomes a default under the City's Loan Documents, the City shall be permitted to pursue its remedies for default under the City Loan Documents, subject to the restrictions and limitations of this Agreement. If at any time the Fund or the Project Borrower cures any Project Loan Default to the satisfaction of the Creditors or the Fund, any default under the City's Loan Documents arising solely from such Project Loan Default shall be deemed cured and the City shall have no further rights and remedies against the Fund with respect to such Project Loan Default.

(v) Following a Project Loan Default (but not during any period while the City is implementing a plan to cure such default pursuant to Section (c)(i) above), upon ten (10) days prior written notice to the Fund, which notice must be received at least fifteen (15) days prior to any scheduled foreclosure or other sale, any other Creditor shall have the right to purchase, in whole, but not in part, the defaulted Project Loan for a price equal to the outstanding principal balance thereof, together with all accrued interest and other amounts due thereon (including, without limitation, any late charges, default interest, exit fees, advances and post-petition interest), any protective advances made under the Project Loan including all costs and expenses (including legal fees and expenses) actually incurred by the Fund in enforcing the terms of the Project Loan Documents (the "**Loan Purchase Price**"). Concurrently with payment to the Fund of the Loan Purchase Price, the Fund shall deliver or cause to be delivered to the purchasing Creditor all Project Loan Documents held

by or on behalf of the Fund or the Senior Secured Lenders and will execute in favor of such purchasing Creditor or its designee assignment documentation, in form and substance reasonably acceptable to such purchasing Creditor, at the sole cost and expense of such purchasing Creditor, to assign the Project Loan and its rights under the Project Loan Documents (without recourse, representations or warranties). The right of Creditors to purchase a defaulted Project Loan shall automatically terminate (i) upon a transfer of the underlying property by foreclosure sale, sale by power of sale or delivery of a deed in lieu of foreclosure or (ii) if Fund rescinds for any reason its acceleration of such Project Loan.

3. MANAGEMENT OF DEFAULTS BY THE FUND; CITY'S RIGHT TO CURE

(a) Each Creditor agrees that simultaneously with the sending of any notice to the Fund of a Creditor Loan Default, such noticing Creditor ("**Noticing Creditor**") shall send to each other Creditor a copy of said notice, as well as any assignment of any Creditor or Fund indebtedness; provided, however, failure to send such notice shall not affect the validity of such notice or any obligation of the Fund to any Noticing Creditor and shall not affect the Creditor Priority as set forth in Section 5 below. The Fund covenants and agrees to forward to the City, within three (3) business days of the Fund's receipt thereof, a copy of any notice of a Creditor Loan Default the Fund receives from a Noticing Creditor. Each Creditor agrees, but only as a separate and independent covenant of each Creditor and not as a condition to the continued effectiveness of any of the Subject Obligations, as follows:

(i) During the forty-five (45) days after such notice, or such longer cure period provided to the Fund pursuant to any Creditor Loan Agreement for the applicable default, no Creditor will exercise any of its available remedies in connection with the Creditor Loan Default pursuant to such Creditor's Loan Documents (the "**Cure Period**");

(ii) During the Cure Period, the City shall have the right, but not the obligation, to cure any Creditor Loan Default; provided, that the City shall provide notice of its intent to cure such default to each other Creditor and to the Fund within fifteen (15) business days after notice of the default is received by the Fund; provided, further, that the City shall provide, within such fifteen (15) business day period, a reasonable plan for paying all carry costs, including without limitation, all interest and other costs incurred or owed to the Noticing Creditor during the Cure Period, and preserve, if possible, the interests of the City;

(iii) The Noticing Creditor shall have the right to exercise any of its rights under the Noticing Creditor's Loan Documents and/or obtain a court-appointed receiver after expiration of the Cure Period. If the City cures a default under a Creditor Loan within the Cure Period provided herein, the Noticing Creditor will rescind any notice of default and the Fund's rights under the Noticing Creditor's Loan Documents shall be reinstated; provided, that the City or the Fund reimbursed all documented and out-of-pocket costs of filing any notices of default including, without limitation, trustee fees and filing fees, or reasonable and documented expenses associated with obtaining a receiver including, without limitation, reasonable attorneys' fees and court costs. Each Noticing Creditor agrees that following the timely cure by the City of any default or breach under the terms of any of the Noticing Creditor Loan Documents, the Noticing Creditor will not accelerate

the indebtedness or any other obligations of the Fund under the Noticing Creditor's Loan Documents by reason of the default or breach which has been cured by the City; provided, that nothing herein shall be construed to waive or limit any of the Noticing Creditor's rights or remedies as to any uncured default or breach under the terms of any of the Noticing Creditor's Loan Documents or any other subsequent default or breach by the Fund thereunder;

(iv) The City shall not be subrogated to the rights of any Noticing Creditor under any Senior Term Loan Agreements or Mezzanine Loan Agreements, as applicable, by reason of the City having cured any Creditor Loan Default. However, each Noticing Creditor acknowledges that, to the extent so provided in the City's Subordinated Loan Agreement, amounts advanced or expended by City to cure a Creditor Loan Default may be added to and become a part of the Fund's outstanding obligations under the City's Subordinated Loan Agreement; and

(v) At any time after a Creditor Loan Default under any Senior Term Loan Agreements or Mezzanine Loan Agreements, as applicable, becomes a default under the City's Subordinated Loan Agreement, the City shall be permitted to pursue its rights and remedies thereunder, subject to the restrictions and limitations of this Agreement. If at any time the Fund cures any Creditor Loan Default under any Senior Term Loan Agreements or Mezzanine Loan Agreements, as applicable, to the satisfaction of the Noticing Creditor, any default under the City's Subordinated Loan Agreement arising solely from such Creditor Loan Default shall be deemed cured and the City shall have no further rights or remedies against the Fund with respect to such default.

4. APPLICATION OF PROJECT LOAN INTEREST PAYMENTS.

(a) Each Creditor agrees with each other Creditor that, after any required payments to the Fund and applicable Senior Secured Lenders for their monthly loan fees, the Creditors shall share in Project Loan Interest Payment Proceeds in the following order of priority:

(i) First, to pay interest owed to the Senior Term Lenders, if any, pro rata in proportion to the interest amounts currently due to each Senior Term Lender;

(ii) Second, to pay interest owed to the Mezzanine Lenders, pro rata in proportion to the interest amounts currently due to each Mezzanine Lender; and

(iii) Third, to pay interest owed to the Subordinate Lenders, pro rata in proportion to the interest amounts currently due to each Subordinate Lender.

5. APPLICATION OF FUND ASSETS ON DISSOLUTION.

(a) Each Creditor agrees with each other Creditor that, (I) upon the termination and dissolution of the Fund, the Creditors shall share in Fund Liquidation Proceeds, and (II) when a Senior Term Loan, Mezzanine Loan or Subordinate Loan becomes due at its maturity date or earlier upon acceleration, the Creditors shall share in Fund assets in the following order of priority ("Creditor Priority"):

(i) Senior Term Lenders, if any, shall have a senior right and claim to the Fund assets and Fund Liquidation Proceeds over the Mezzanine Lenders and the Subordinate Lenders, and each of the Mezzanine Lenders and the Subordinate Lenders hereby fully and absolutely subordinate any right such party may have with respect to such Fund assets or Fund Liquidation Proceeds to the rights of Senior Term Lenders thereto. Each Senior Term Lender, if any, shall have a right and claim to the Fund assets and Fund Liquidation Proceeds as follows:

(A) to pay expenses, if any, pro rata based upon the expenses payable to each Senior Term Lender in accordance with its respective Term Loan Agreement;

(B) to pay accrued and unpaid interest (including default interest and penalties, pro rata based upon such interest and penalties owed to each Senior Term Lender; and

(C) to pay principal, in each case, pro rata based upon the outstanding principal amount owed to each Senior Term Lender.

(ii) Mezzanine Lenders, subject to the provisions of Section 5(a)(i) above, shall have a senior right and claim to the Fund assets and Fund Liquidation Proceeds over the Subordinate Lenders, and the Subordinate Lenders hereby fully and absolutely subordinate any right such party may have with respect to such Fund assets and Fund Liquidation Proceeds to the rights of Mezzanine Lenders thereto. Each Mezzanine Lender shall have a right and claim to the Fund assets and Fund Liquidation Proceeds that ranks *pari passu* with those of each other Mezzanine Lender.

(iii) Subordinate Lenders, subject to the provisions of Section 5(a)(i) and 5(a)(ii) above, shall have a senior right and claim to the Fund assets and Fund Liquidation Proceeds over the Fund, and the Fund hereby fully and absolutely subordinates any right it may have with respect to such Fund assets and Fund Liquidation Proceeds to the rights of Subordinate Lenders thereto. Each Subordinate Lender shall have a right and claim to the Fund assets and Fund Liquidation Proceeds that ranks *pari passu* with those of each other Subordinate Lender.

(iv) The Fund hereby fully and absolutely subordinates any right it has with respect to such Fund assets and Fund Liquidation Proceeds to the rights of the Creditors.

(b) [Reserved]

6. AGREEMENT AMONG THE CREDITORS.

(a) **Independent Actions by Creditors.** Subject to Section 2(a) above, nothing contained in this Agreement shall prohibit any Creditor from accelerating the maturity of, or demanding payment from the Fund on, any Subject Obligation or from instituting legal action against the Fund to obtain a judgment or other legal process in respect of such Subject Obligation, but any funds (whether as reimbursement for expenses of collection or payments of interest or principal) received from or on behalf of the Fund in connection with any legal action shall, if

received by the Mezzanine Lenders or the Subordinate Lenders, be held in trust for the benefit of and delivered promptly to the Senior Term Lenders, if any, to be allocated in accordance with the terms of this Agreement.

(b) **Relation of Creditors.** This Agreement is entered into solely for the purposes set forth herein, and no Creditor assumes any responsibility to any other party hereto to advise such other party of information known to such other party regarding the financial condition of the Fund or of any other circumstances bearing upon the risk of nonpayment of any Subject Obligation.

(c) **Acknowledgment of the Loan Documents.** Each party expressly acknowledges the existence and validity of each Loan Document, agrees not to contest or challenge the validity of any Loan Document and agrees that the judicial or other determination of the invalidity of any Loan Document shall not affect the provisions of this Agreement.

7. MISCELLANEOUS.

(a) **Entire Agreement.** This Agreement represents the entire Agreement among the Creditors and, except as otherwise provided, this Agreement may not be altered, amended, modified or terminated except in a writing pursuant to Section 7(e) below.

(b) **Notices.** Notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed or sent by facsimile to the parties hereto at the respective addresses or facsimile numbers, as applicable, set forth below such parties' names on the signature pages hereto or, in the case of a party not initially a party hereto or any transferee or assignee of any of the Subject Obligations, to the address specified in the Counterparty required to be executed by such Creditor. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt if delivered by hand or overnight courier service or sent by facsimile or email, or on the date three (3) business days after dispatch by certified or registered mail if mailed, in each case delivered, sent or mailed (properly addressed) to such party as provided in this Section 7(b) or, in each case, in accordance with the latest unrevoked direction from such party given in accordance with this Section 7(b).

(c) **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of each of the Creditors and their respective successors and assigns, whether so expressed or not, and, in particular, shall inure to the benefit of and be enforceable against any future holder or holders of any Subject Obligations, and the term "Creditor" shall include any such subsequent holder of Subject Obligations, wherever the context permits.

(d) **Joinder of Additional Parties.** Each additional party that makes a Senior Term Loan, Mezzanine Loan or a Subordinate Loan after the date hereof shall, without the consent of any Creditor, become a Creditor under this Agreement upon the execution and delivery of a Counterparty by such additional Creditor to the Creditors, with such Counterparty denoting whether an additional party is a Senior Term Lender, Mezzanine Lender or Subordinate Lender. Each other party to this Agreement expressly agrees that its rights and obligations arising hereunder shall continue after giving effect to the addition of any such additional Creditor as a party to this Agreement.

(e) **Consents, Amendment, Waivers.** All amendments, waivers or consents of any provision of this Agreement shall be effective only if the same shall be in writing and signed by all parties hereto.

(f) **Governing Law; Venue.** This Agreement and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed and enforced in accordance with, the laws of the State of California (without giving effect to California's principles of conflicts of law). Each party hereto irrevocably submits to the non-exclusive jurisdiction of any California State or Federal court sitting in the City and County of San Francisco over any suit, action or proceeding arising out of or relating to this Agreement. Further, each party hereto agrees that any suit, action or proceeding arising out of or relating to this Agreement will be commenced and maintained in the State or Federal courts located in the City and County of San Francisco, California.

(g) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one Agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart.

(h) **Removal of Parties.** The satisfaction in full of the Fund's obligations to a Creditor under a Loan Document shall remove such Creditor as a party to this Agreement with respect to such Loan Document.

(i) **Sale of Interest.** No Creditor may sell, transfer or otherwise dispose of any interest in the Subject Obligations unless such purchaser or transferee shall agree, in writing, to be bound by the terms of this Agreement.

(j) **Severability.** In case any one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

(k) **Certain Expenses.** To the extent Creditors cannot get the Fund, under the terms of the applicable loan documents, to pay directly each Creditor's out-of-pocket expenses in connection with the preparation, execution and delivery of this Agreement and the transactions contemplated hereby and all expenses of any Creditor relating to any proposed amendment, waivers or consents, whether or not consummated, pursuant to the provisions hereof, then each Creditor shall be responsible to pay any and all such expenses itself.

(l) **Effectiveness.** Notwithstanding anything contained herein to the contrary, this Agreement shall not be effective until it shall have been executed and delivered by all parties hereto.

(m) **Headings.** The headings of the sections and subsections of this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

(n) **Effect of Bankruptcy or Insolvency.** This Agreement shall continue in effect notwithstanding the bankruptcy or insolvency of any party hereto or the Fund.

IN WITNESS WHEREOF, the parties hereto have executed, or have caused this Agreement to be executed by their respective authorized officers, as of the day and year first above written.

**THE SAN FRANCISCO HOUSING
ACCELERATOR FUND**

By: _____
Name: Rebecca Foster
Title: Executive Director

101 Montgomery Street, Suite 350
San Francisco, CA 94104
Attn: Rebecca Foster
Phone: (650) 799-9644
Email: rebecca@sfhaf.org

IN WITNESS WHEREOF, the parties hereto have executed, or have caused this Agreement to be executed by their respective authorized officers, as of the day and year first above written.

DIGNITY HEALTH

By: _____
Name: _____
Title: _____

185 Berry Street, Suite 300
San Francisco, CA 94107
Attn: Pablo Bravo
Phone: (415) 438-5528
Email: Pablo.Bravo@dignityhealth.org

IN WITNESS WHEREOF, the parties hereto have executed, or have caused this Agreement to be executed by their respective authorized officers, as of the day and year first above written.

**CITY OF SAN FRANCISCO, MAYOR'S
OFFICE OF HOUSING AND
COMMUNITY DEVELOPMENT**

By: _____

Name: _____

Title: _____

1 South Van Ness Avenue , 5th Floor
San Francisco, CA 94103
Attn: Director

IN WITNESS WHEREOF, the parties hereto have executed, or have caused this Agreement to be executed by their respective authorized officers, as of the day and year first above written.

THE SAN FRANCISCO FOUNDATION

By: _____
Name: _____
Title: _____

One Embarcadero Center, Suite 1400
Attn: Sarah Abbe Taylor
Phone: (415) 733-8503
Fax: (415) 733-2784
Email: staylor@sff.org

Exhibit A

Counterpart to Intercreditor Agreement

IN WITNESS WHEREOF, the undersigned has caused this Counterpart ("Counterpart") to the Intercreditor Agreement, dated as of [_____], 2017 (the "Intercreditor Agreement"), to be duly executed and delivered by its duly authorized officer. Upon execution and delivery of this Counterpart, the undersigned shall be a Creditor under the Intercreditor Agreement and shall be as fully a party to the Intercreditor Agreement as if such Creditor were an original signatory to the Intercreditor Agreement, with Creditor Priority based on the undersigned status as either a Senior Term Lender, Mezzanine Lender, or Subordinate Lender, as indicated below.

[Name of Creditor]

By _____
Name _____
Title _____

Creditor Priority:

Senior Term Lender

Mezzanine Lender

Subordinate Lender

Confirmed by the San Francisco Housing
Accelerator Fund:

By _____
Name _____
Title _____

EXHIBIT J

Omitted.

EXHIBIT K

Omitted.

EXHIBIT L
Insurance Requirements

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

I. **Borrower.**

(a) to the extent Borrower has "employees" as defined in the California Labor Code, Workers' Compensation insurance meeting statutory requirements with employer's liability limits not less than One Million Dollars (\$1,000,000) each accident, injury or illness;

(b) Commercial General Liability insurance, with limits no less than One Million Dollars (\$1,000,000) combined single limit per occurrence and Two Million Dollars (\$2,000,000) annual aggregate limit for bodily injury and property damage, including coverage for contractual liability; personal injury; fire damage legal liability; advertisers' liability; owners' and contractors' protective liability; products and completed operations; broad form property damage; and explosion, collapse and underground (XCU) coverage during any period in which Borrower is conducting any activity on, alteration or improvement to the Site with risk of explosions, collapse, or underground hazards;

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

(d) Professional Liability insurance of not less than One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) annual aggregate limit covering all negligent acts, errors and omissions. If the professional liability insurance provided is "Claims made" coverage, Borrower shall assure that these minimum limits are maintained for no less than three (3) years beyond completion of this agreement.; and

(e) a crime policy or fidelity bond covering Borrower's officers and employees against dishonesty with respect to the Funds of no less than Seventy Five Thousand Dollars (\$75,000) each loss, with any deductible not to exceed Twenty Five Thousand Dollars (\$25,000) each loss, including the City as additional obligee or loss payee;

2. Borrower's Sub-Borrowers and Sub-Borrower's Contractors and Property Managers.

a. **Property Insurance.**

Borrower must maintain, or cause its Sub-Borrowers, contractors and property managers, as appropriate for each, to maintain, insurance and bonds as follows for Assisted Projects:

(a) Prior to construction:

(i) Property insurance, excluding earthquake and flood, in the amount no less than One Hundred Percent (100%) of the replacement value of all pre-existing improvements prior to commencement of construction and City property in the care, custody and control of the Borrower or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such perils, resulting damage and any applicable law, ordinance or regulation; start up, testing and machinery breakdown including electrical arcing; and with a deductible not to exceed Twenty Five Thousand Dollars (\$25,000) each loss, including the Borrower as loss payees. This provision shall not apply to buildings which are scheduled to be demolished and not incorporated into the completed project.

(b) During the course of construction:

(i) Property and/or Builder's risk insurance, special form coverage, excluding earthquake and flood, for one hundred percent (100%) of the replacement value of all completed improvements and City property in the care, custody and control of the Borrower or its contractor, including coverage in transit and storage off-site; the cost of debris removal and demolition as may be made reasonably necessary by such covered perils, resulting damage and any applicable law, ordinance or regulation; start up, testing and machinery breakdown including electrical arcing, copy of the applicable endorsement to the Builder's Risk policy, if the Builder's Risk policy is issued on a declared-project basis; and with a deductible not to exceed Twenty Five Thousand Dollars (\$25,000) each loss, naming the Borrower as loss payee. The policy shall provide for no deduction for depreciation.

(ii) Performance and payment bonds of general contractors, each in the amount of One Hundred Percent (100%) of contract amounts, naming the Borrower as obligee or other completion security approved by the City in advance in its sole discretion.

(c) Upon completion of construction:

(i) Property insurance, excluding earthquake and flood, in the amount no less than One Hundred Percent (100%) of the replacement value of all completed improvements and City property in the care, custody and control of the Borrower or its contractor. For rehabilitation/construction projects that are unoccupied by residential or commercial tenants, Tenant must obtain Property Insurance by the date that the project receives a Certificate of Substantial Completion.

(ii) Boiler and machinery insurance, comprehensive form, covering damage to, loss or destruction of machinery and equipment located on the Site that is used by Borrower for heating, ventilating, air-conditioning, power generation and similar purposes, in an amount not less than one hundred percent (100%) of the actual replacement value of such machinery and equipment with a deductible not to exceed Twenty Five Thousand Dollars (\$25,000) each loss, including the Borrower as loss payee.

The following notice is provided in accordance with the provisions of California Civil Code Section 2955.5: Under California law, no lender shall require a borrower, as a condition of receiving or maintaining a loan secured by real property, to provide hazard insurance coverage against risks to the improvements on that real property in an amount exceeding the replacement value of the improvements on the property.

3. Commercial Space.

Borrower must require that all nonresidential tenants provide liability insurance policies that include Borrower as additional insured, as its respective interests may appear. Throughout the term of any lease of Commercial Space in the Assisted Projects, Borrower must require commercial tenants to maintain insurance as follows:

(a) to the extent the tenant has "employees" as defined in the California Labor Code, Workers' Compensation insurance meeting statutory requirements with employer's liability limits not less than One Million Dollars (\$1,000,000) each accident;

(b) Commercial General Liability insurance, with limits not less than One Million Dollars (\$1,000,000) each occurrence, combined single limit for bodily injury and property damage, including coverage for contractual liability; personal injury; advertisers' liability owners' and contractors' protective; broadform property damage; explosion, collapse and underground (XCU); products and completed operations coverage;

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

(d) with respect to any tenant who has (or is required by Law to have) a liquor license and who is selling or distributing alcoholic beverages and/or food products on the leased premises, to maintain liquor and/or food products liability coverage with limits not less than One Million Dollars (\$1,000,000), as appropriate;

(e) special form coverage insurance, including vandalism and malicious mischief, in the amount of 100% of the full replacement cost thereof, covering all furnishings, fixtures, equipment, leasehold improvements, alterations and property of every kind of the tenant and of persons claiming through the tenant, including coverage for loss of income due to an insured peril for twelve (12) months; and

(f) full coverage plate glass insurance covering any plate glass on the commercial space.

4. General Requirements.

(a) General and automobile liability policies of Borrower must include the City, including its Boards, commissions, officers, agents and employees, as an additional insured by endorsement acceptable to the City.

(b) Borrower shall provide thirty (30) days advance written notice to the City of cancellation, intended non-renewal, or reduction in coverages, except for non-payment for which no less than ten (10) days' notice shall be provided to City. Notices shall be sent to the City address set forth in Section 21.1 entitled "Written Notice."

(c) With respect to any property insurance, Borrower hereby waives all rights of subrogation against the City to the extent of any loss covered by Borrower's insurance, except to the extent subrogation would affect the scope or validity of insurance.

(d) Approval of Borrower's insurance by the City will not relieve or decrease the liability of Borrower under this Agreement.

(e) Any and all insurance policies of Borrower called for herein must contain a clause providing that the City and its officers, agents and employees will not be liable for any required premium.

(f) The City reserves the right to require an increase in insurance coverage in the event the City determines that conditions show cause for an increase, unless Borrower demonstrates to the City's satisfaction that the increased coverage is commercially unreasonable and unavailable to Borrower.

(g) All liability policies must provide that the insurance is primary to any other insurance available to the additional insureds with respect to claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought and that an act of omission of one of the named insureds that would void or otherwise reduce coverage will not void or reduce coverage as to any other insured, but the inclusion of more than one insured will not operate to increase the insurer's limit of liability.

(h) Any policy in a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs are included in the general annual aggregate limit must be in amounts that are double the occurrence or claims limits specified above.

(i) All claims based on acts, omissions, injury or damage occurring or arising in whole or in part during the policy period must be covered. If any required insurance is provided under a claims-made policy, coverage must be maintained continuously for a period ending no less than three (3) years after recordation of a notice of completion.

(j) Borrower must provide the City with copies of endorsements for each required insurance policy and make each policy available for inspection and copying promptly upon request.