

FIRST AMENDMENT TO AMENDED AND RESTATED LOAN AGREEMENT
(CDBG PROGRAM, AFFORDABLE HOUSING BOND PROGRAM, 2016 G.O. Bond (PASS-
Series-2020C))
(1000-1024 Market Street)

THIS FIRST AMENDMENT TO THE AMENDED AND RESTATED LOAN AGREEMENT ("First Amendment") is entered into as of _____, 2023, 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 **SAN CRISTINA, L.P.**, a California limited partnership ("Borrower").

RECITALS

A. The City provided a consolidated loan to Borrower of Two Million Seven Hundred Sixty Four Thousand Thirty Six and No/100 Dollars (\$2,764,036.00) in CDBG Funds and Affordable Housing Bond Program Funds and Eight Million Twenty Four Thousand and No/100 Dollars (\$8,024,000.00) in 2016 G.O. Bond Funds (PASS-Series 2020C), for a total loan of Funds (the "Original Loan") in the amount of Ten Million Seven Hundred Eighty Eight Thousand Thirty Six and No/100 Dollars (\$10,788,036.00) to finance the moderate rehabilitation of a multifamily apartment building (the "Site") totaling 58 multifamily residential units affordable to low-income households and two commercial spaces, which includes construction, design, and engineering costs (the "Project"). The Loan is evidenced by the following documents: (1) an Amended and Restated Loan Agreement (CDBG, Affordable Housing Bond, 2016 G.O. Bond (PASS-Series-2020C)) dated August 10, 2022; (1) a Promissory Note made by Borrower in an amount of the CDBG and Affordable Housing Bond Loan to the order of the City dated August 10, 2022; (3) Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing recorded August 31, 2022, as Instrument No. 2022-083490; and (1) a Declaration of Restrictions recorded on August 31, 2022, as Instrument No. 2022-083489. All initially capitalized terms used by not defined in this First Amendment have the meaning given to those terms in the Agreement.

B. The Borrower has requested an additional loan of Funds from the City in the principal amount not to exceed One Million Nine Hundred Ninety Three Thousand Six Hundred Ninety Four and No/100 Dollars (\$1,993,694) ("Additional Loan Amount") because of increased costs to the Project due to unforeseen deterioration of the historic cornice of the building, increased insurance costs and higher interest rates. In addition, the Borrower has requested to modify the PASS Loan to reallocate PASS Funds among the Market-Rate Note, the BMR Note, and the Deferred Note, allow for earlier disbursement of the PASS Loan, and adjust the amortization schedule and maturity dates.

C. The Citywide Affordable Housing Loan Committee has reviewed Borrower's application for an Additional Loan and, in reliance on the accuracy of the statements in that application, has recommended to the Mayor that the City make an additional loan of CDBG Funds (the "Additional Loan") to Borrower in the amount of the Additional Loan Amount, for a new total loan of CDBG Funds and Affordable Housing Bonds in the amount of Four Million Seven Hundred Fifty Seven Thousand Seven Hundred Thirty and No/100 Dollars (\$4,757,730.00), and new aggregate loan of Funds in the amount of Twelve Million Seven Hundred Eighty One Seven Hundred Thirty and No/00 Dollars (\$12,781,730.00) (the "Funding Amount") under this Agreement.

C. The Borrower and the City now desire to amend the Agreement in accordance with this First Amendment to increase the Original Loan by the Additional Loan Amount and modify the terms of the PASS Loan.

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth in the City Documents, the City and the Borrower agree as follows:

1. Amendments to Agreement. The Agreement is hereby amended as follows:

(a) Cover Page, list of City loan sources of funding and amounts, is hereby amended as follows (additions in double underline; deletions in ~~strikethrough~~):

CDBG: ~~\$2,566,506~~ \$4,560,200
Affordable Housing Bond Program: \$197,530
~~\$2,764,036~~ \$4,757,730

PASS Market Rate Loan: \$4,886,616
PASS Below Market Rate Loan: \$2,696,064
PASS Deferred Loan: \$441,320
2016 G.O. Bond (PASS-Series 2020C): \$8,024,000

(b) Recital G is hereby amended as follows (additions in double underline; deletions in ~~strikethrough~~):

G. Original Borrower intends to assign to Borrower, and Borrower intends to assume, all of Original Borrower's rights and duties with respect to the Original City Loans (the "Assignment and Assumption"). The consent of the City is required for the Assignment and Assumption. The City has reviewed Borrower's request for the Assignment and Assumption and, in reliance on the accuracy of the information provided by Borrower, has consented to this request. In connection with such Assignment and Assumption, the City and Borrower have agreed to consolidate the principal associated with the Original City Loans into a single modified loan to the Borrower (~~the "Consolidated Loan"~~) in an amount equal to Two Million Seven Hundred Sixty Four Thousand Thirty Six and No/100 Dollars (\$2,764,036), plus an additional loan of CDBG Funds ("Additional CDBG Loan") in the principal amount not to exceed One Million Nine Hundred Ninety Three Thousand Six Hundred Ninety Four and No/100 Dollars (\$1,993,694.00) ("Additional CDBG Loan Amount"), for an aggregate consolidated loan of CDBG Funds and Affordable Housing Bond Funds ("Consolidated Loan") in the principal amount not to exceed Four Million Seven Hundred Fifty Seven Thousand Seven Hundred Thirty and No/100 Dollars (\$4,757,730.00) (the "Consolidated Loan Amount") to be governed by the terms of this Agreement. As of the date of this Agreement, the outstanding interest is \$60,907.

(c) Section 1.1 of the Agreement is hereby amended to add the following definition:

"Additional CDBG Loan" has the meaning set forth in **Recital G**.

(d) Section 3.1(b) (Maturity Date – PASS Loans) is amended as follows (additions in double underline; deletions in ~~strikethrough~~):

b) PASS Loans. For the PASS Loans, (i) Borrower must repay all amounts owing under the Market Rate Note on the date that is the earlier of the fortieth (40th) anniversary of the Conversion Date, or the forty-fourth (44th) anniversary of the date that is the first day of the first full month following the date the PASS Deed of Trust is recorded in the Official Records (the “Market Rate Loan Maturity Date”); (ii) Borrower must repay all amounts owing under the BMR Note on the date that is the earlier of the fortieth (40th) anniversary of the Conversion Date, or the forty-fourth (44th) anniversary of the date that is the first day of the first full month following the date the PASS Deed of Trust is recorded in the Official Records (the “BMR Loan Maturity Date”); and (iii) Borrower must repay all amounts owing under the Deferred Note on the date that is the earlier of the fortieth (40th) anniversary of the Conversion Date, or the forty-fourth (44th) anniversary of the date that is the first day of the first full month following the date the PASS Deed of Trust is recorded in the Official Records (the “Deferred Loan Maturity Date” and together with the Market Rate Loan Maturity Date and the BMR Loan Maturity Date, the “PASS Loan Maturity Date”).

(e) Section 4.4 (Disbursement of Funds) is amended as follows (additions in double underline; deletions in ~~striketrough~~):

4.4 Disbursement of Funds. Following satisfaction of the conditions in Section 4.3, the City will authorize the Escrow Agent to disburse Funds as provided in the City's escrow instructions. The City's obligation to approve any expenditure of (i) the Market Rate Loan ~~PASS Funds~~ after Loan closing is subject to Borrower's satisfaction of the following conditions precedent (a) through (n), and (ii) the BMR Loan and the Deferred Loan after Loan closing is subject to Borrower's satisfaction of the following conditions precedent (a) through (e), and (m):

(a) Borrower must have delivered to the City an Expenditure Request in form and substance satisfactory to the City, together with: (i) copies of invoices, contracts or other documents covering all amounts requested; (ii) a line item breakdown of costs to be covered by the Expenditure Request; and (iii) copies of checks issued to pay expenses covered in the previous Expenditure Request. The City may grant or withhold its approval of any line item contained in the Expenditure Request that, if funded, would cause it to exceed the budgeted line item as previously approved by the City. Additionally, the City must approve all requested reallocations of Funds for line items previously approved by the City.

(b) No Event of Default, or event that with notice or the passage of time or both could constitute an Event of Default, may have occurred that remains uncured as of the date of the Expenditure Request.

(c) With respect to any Expenditure Request that covers rehabilitation or construction costs, Borrower must have certified to the City that the Project complies with the labor standards set forth in **Exhibit E**, if applicable.

(d) With respect to any Expenditure Request that covers travel expenses, Borrower's travel expenses must be reasonable and must comply with the following:

(i) Lodging, meals and incidental expenses shall not exceed the then-current per diem rates set forth by the United States General Services Administration for the County of San Francisco found at: <https://www.gsa.gov/portal/category/104711>.

(ii) Air transportation expenses must use fares for coach-class accommodations, provided that purchases for air travel must occur no less than one week before the travel day.

(iii) If ground transportation is required, the City urges the use of public transit or courtesy shuttles if provided by a lodging. If courtesy transportation is not provided by a lodging, ground transportation expenses for travel to or from regional airports must not exceed Fifty Dollars (\$50) each way. Other ground transportation expenses must not exceed then-current San Francisco taxi rates found at: <https://www.sfmta.com/getting-around/taxi/taxi-rates>. Ground transportation must not include any expenses for luxury transportation services, such as a limousine, or any expenses related to travel to or from Project site meetings by Borrower's employees.

(iv) Miscellaneous travel expenses must not exceed Fifty Dollars (\$50) without prior written approval of the City.

(v) Any Expenditure Request for travel expenses must include supporting documentation, including, without limitation, original itemized receipts showing rates and cost, air travel itinerary, proof of payment, and any written justification requested by the City. For the purpose of this Section, the terms "lodging," "meals" and "incidental expenses" shall have the same meanings defined in 41 CFR Part 300-3; the term "coach-class" shall have the same meaning defined in 41 CFR Part 301-10.121(a); and the term "miscellaneous" means copying services, printing services, communication services, or other services reasonably related to travel for the Project and approved by the City.

(e) ~~Intentionally omitted.~~ The Loan will be In Balance.

(f) The Project has achieved substantial completion pursuant to the Plans and Specifications, as evidenced by a certificate of occupancy or equivalent certification provided by the City's Department of Building Inspection.

(g) A certificate, satisfactory to MOHCD, from either the Borrower's architect or engineer, stating that (i) the Project has been rehabilitated substantially in accordance with the Plans and Specifications and is free from defects in materials and workmanship, and (ii) the rehabilitation of the Project and the intended operation of the Project are in substantial compliance with the applicable zoning, environmental, preservation and all other applicable laws, ordinances, rules, regulations, restrictions and governmental requirements.

(h) Merchants Bank shall have delivered to MOHCD an estoppel certificate that states that no Event of Default of which it has given written notice remains uncured (or has not otherwise been waived by Merchants Bank) under their construction loan mortgage.

(i) The Borrower shall provide MOHCD with a certificate, substantially in the form attached hereto as **Exhibit R** and satisfactory to MOHCD stating that the Project meets the requirements of the PASS Program Regulations underwriting guidelines including, but not limited to, the following:

(i) Loan-to-value ratio ("LTV") that does not exceed the lesser of (a) 90% of appraised value or (b) 80% of total development costs based upon a numerator equal to the principal balance of the PASS Loan and a denominator equal to the "as complete-restricted" value set forth in that certain appraisal for the Project prepared by James G. Palmer Appraisals Inc. dated June 6, 2022

(ii) Debt service coverage ratio ("DSC") of at least 1.15x, or such lower ratio as otherwise determined by MOHCD (but in no event lower than 1.10x), based upon a 30 day operating statement for the Project prepared on an accrual basis

(iii) Budgets must assume no more than 2.0% annual growth in operating income and no less than 3.0% annual growth in operating expenses.

(iv) Residential Vacancy Loss assumption of 5%

(v) Tenant Assistance Vacancy Loss assumption of 5%

(j) All escrows, reserves and accounts for the Project required as of such date to be funded shall be fully funded in their required amounts, as evidenced by bank statements.

(k) Borrower must have delivered to the City sufficient evidence that all additional permanent sources of financing have been secured, including but not limited to:

(i) a permanent loan from the HCD Housing Accelerator Fund in the approximate principal amount of Twenty Four Million Two Hundred Forty Two Thousand and No/100 Dollars (\$24,242,000); and

(ii) a permanent loan from the HCD Supportive Housing Multifamily Housing Program in the approximate principal amount of Eight Million One

Hundred Forty Three Thousand Nine Hundred Fifty Three and No/100 Dollars (\$8,143,953).

(l) Borrower delivered the PASS Deed of Trust to the City, duly executed and acknowledged by Borrower. The PASS Deed of Trust must have been recorded as a valid lien in the Official Records, subject only to the Permitted Exceptions. A title company shall have committed to issue the Title Policy to City, and Borrower shall have delivered all documents reasonably required by such title company to issue the Title Policy, including, but not limited to, subordination agreements with HCD and Borrower. Borrower shall pay all amounts charged by the title company for the issuance of the Title Policy; provided that such amounts may be included in the Expenditure Request.

(m) Borrower delivered to City the Market Rate Note, the BMR Note, and the Deferred Note, as applicable, each duly executed and acknowledged by Borrower.

(n) The Borrower has delivered to the City a current certificate of insurance acceptable to the City evidencing satisfaction of the insurance requirements under **Exhibit L**.

(f) EXHIBIT B-1 – Table of Sources and Uses of Funds, is deleted in its entirety and replaced with the new Exhibit B-1, attached hereto as **Attachment 1**.

2. Amended Promissory Notes. Concurrently with the execution of this First Amendment, Borrower will execute a Second Amended and Restated Promissory Note (Consolidated Loan), a revised Deferred Note, and a revised BMR Note, each in favor of the City and in the forms attached to this First Amendment as **Attachment 2**.

3. First Amendment to Deed of Trust. Concurrently herewith, Borrower will execute a First Amendment to Deed of Trust in the form attached to this First Amendment as **Attachment 3**.

4. Representations and Warranties.

(a) All of the representations and warranties made by Borrower to the City in the Agreement and other City Documents continue to be true and complete as of the date of this First Amendment.

(b) No event has occurred and is continuing that constitutes an event of default or potential event of default under the Agreement, Note, or any other City Documents.

5. Miscellaneous.

(a) References. No reference to this First Amendment is necessary in any instrument or document at any time referring to the Agreement. Any reference to such documents will be deemed a reference to the Agreement as amended by this First Amendment.

(b) No Other Amendments. Except as amended by this First Amendment, the Agreement will remain unmodified and in full force and effect.

(c) Counterparts. This First Amendment may be executed in two or more counterparts, each of which will be deemed an original, but all of which when taken together will constitute one and the same instrument.

(d) Successors and Assigns. The terms, covenants, and conditions contained in this First Amendment will bind and inure to the benefit of Borrower and the City and, except as otherwise provided herein, their personal representatives and successors and assigns.

(e) Further Instruments. The parties hereto agree to execute such further instruments and to take such further actions as may be reasonably required to carry out the intent of this First Amendment.

Signatures Appear on Following Page

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: _____

London N. Breed
Mayor

By: _____

Eric D. Shaw
Director, Mayor's Office of Housing
and Community Development

BORROWER:

SAN CRISTINA, L.P.,
a California limited partnership

By: CHP San Cristina LLC,
a California limited liability company,
its general partner

By: Community Housing Partnership,
a California nonprofit public
benefit corporation (d/b/a, HomeRise), its
sole member/manager

By:

Name: Janea Jackson
Its: Chief Executive Officer

APPROVED AS TO FORM:

DAVID CHIU
City Attorney

By: _____

Keith Nagayama
Deputy City Attorney

Attachment 1

Exhibit B-1: Sources & Uses of Funds

See Attached.

Exhibit A

Attachment 2

Second Amended and Restated Secured Promissory Note (Consolidated Loan)

Secured Promissory Note (BMR Loan)

Secured Promissory Note (Deferred Loan)

See Attached.

Attachment 3

First Amendment to Deed of Trust

See Attached.