

**FIRST AMENDMENT TO
LOAN AGREEMENT**

This First Amendment to Loan Agreement (“First Amendment”) is made as of _____, 2019, by and between the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation, represented by the Mayor, acting through the Mayor’s Office of Housing and Community Development (the “City”), and **THE SAN FRANCISCO HOUSING ACCELERATOR FUND**, a California nonprofit public benefit corporation (“Borrower” or “HAF”).

RECITALS

A. The City previously loaned Ten Million and No/100 Dollars (\$10,000,000.00) in General Fund and Housing Trust Fund Funds (the “Original Loan”) to the Borrower on April 17, 2017 to fund certain costs related to the Development Activities for specific Projects as selected and approved by the Borrower (“Assisted Projects”). The Original Loan is currently partially outstanding and is evidenced by the following documents each dated as of April 17, 2017: (1) a Loan Agreement (the “Original Agreement”), and (2) an unsecured Promissory Note made by Borrower in the amount of the Original Loan to the order of the City, (the “Original Note”). Capitalized terms not defined herein shall have the meaning given to such terms in the Original Agreement.

B. In order to continue providing financing for the 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 (the “Development Activities”), the Borrower has requested an additional loan of Ten Million and No/100 Dollars (\$10,000,000.00) (the “Additional Loan”). The City has agreed to increase the Original Loan by the Additional Loan (collectively, the “Loan”), subject to the terms and conditions of the Original Agreement as amended by this First Amendment (the “Agreement”). In connection with the Additional Loan, the Original Note is being replaced in its entirety by a new unsecured Promissory Note of even date herewith (the “Note”). The Original Note shall be cancelled and returned to the Borrower.

C. On June 21 , 2019, through Ordinance 11219, the San Francisco Board of Supervisors established the Affordable Housing Production and Preservation Fund (the “ERAF Affordable Housing Production and Preservation Fund”) to receive appropriated excess Education Revenue Augmentation Fund revenues received by the City, for the purpose of funding land acquisition and production of new 100% affordable housing projects and acquisition and preservation of existing housing to make that housing permanently affordable. The Additional Loan will be comprised of funds from the ERAF Affordable Housing Production and Preservation Fund.

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.

(a) Recital D. Recital D is deleted in its entirety and replaced with the following:

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 Twenty Million Dollars and No/100 (\$20,000,000.00) (the "Funding Amount") under this Agreement to fund certain costs related to Development Activities for specific projects as selected and approved by the HAF ("Assisted Projects").

- (b) Article 4.4. Disbursement of Funds. Article 4.4. is deleted in its entirety and replaced with the following:

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

Name of Bank:	US Bank
ABA No.:	091000022
Account No.:	104793255431
Reference:	266998000 SAN FRANCISCO HOUSING ESCROW/ Kristie thao-pha
Account Name:	The San Francisco Housing Accelerator Fund

2. Representations and Warranties. Borrower represents and warrants the following:

(a) All of the representations and warranties made by Borrower to the City in the Original 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.

(c) The execution, delivery and performance of this First Amendment 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. Borrower has the power and authority to execute, deliver and perform its obligations under this First Amendment.

3. Miscellaneous.

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

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

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

(d) Successors and Assigns. The terms, covenants and conditions contained in this First Amendment shall 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.

(f) No Third Party Beneficiaries. Nothing contained in this First Amendment, 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.

4. Conditions Precedent to Closing. This First Amendment shall only become effective upon satisfaction of the following: 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) this First Amendment (in duplicate); (ii) the Note, and (iii) any other documents reasonably requested by the City.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment 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: _____
Daniel Adams
Acting Director, Mayor's Office of
Housing and Community Development

APPROVED AS TO FORM:

DENNIS J. HERRERA
City Attorney

By: _____
Heidi J. Gewertz
Deputy City Attorney

BORROWER:

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

By: _____
Rebecca Foster
Chief Executive Officer