

**CITY AND COUNTY OF SAN FRANCISCO
MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT
HOMEOWNERSHIP PROGRAMS**

LENDER PARTICIPATION AGREEMENT

THIS AGREEMENT is entered into as of _____ 20____, by and between the City and County of San Francisco, a municipal corporation ("City") and _____ ("Lender").

RECITALS

A. By Ordinance No. 445-97 (the "Ordinance"), the Board of Supervisors of the City and County of San Francisco ("Board") has established the "Affordable Housing and Homeownership Bond Program" in Chapter 81 of the City's Administrative Code (the "Program").

B. By Resolution No. 1074-97 (the "Resolution"), the Board approved regulations for the Program (the "Regulations").

C. One component of the Program is the "Downpayment Assistance Loan Program" ("DALP"), pursuant to which the City intends to make downpayment assistance loans ("DALP Loans") to first-time homebuyers eligible for such assistance under the Program ("Eligible Borrowers"). The City will fund such loans from the "Downpayment Assistance Loan Account" established pursuant to the Regulations.

D. The Mayor's Office of Housing and Community Development (MOHCD) has prepared a "Program Manual" which further describes the DALP program. The Ordinance, the Resolution, the Regulations and the Program Manual, each as may be amended from time to time, are collectively referred to as the "DALP Documents."

E. The Lender and trained Mortgage Loan Originators for the lender desires to participate in the Program by providing loans ("First Mortgage Loans") to Eligible Borrowers and by administering on the City's behalf DALP loans to such Eligible Borrowers.

Now, therefore, in consideration of the mutual promises in this Agreement, the City and the Lender agree as follows:

1. Program Documents. The City has provided the Lender with a copy of the DALP Documents. The City agrees to provide the Lender with any amendments to such documents, and the Lender agrees to comply with all such documents, as they may be amended from time to time, in performing its obligations under this Agreement.

2. Agent. The City hereby designates the Lender as one of the City's agents for receipt and processing of applications for DALP loans in accordance with this Agreement and the DALP Documents. The Lender acknowledges that the City may enter into Lender Participation Agreements with other financial institutions in connection with the DALP.

3. Lender Orientation/Training. As a condition to the Lender's participation in the DALP, the Lender will attend any orientation and/or training programs provided by the City in connection with the DALP.

4. Education of Potential Eligible Borrowers. The Lender will provide access to and ensure compliance with the requirements in the Program Manual for the education of DALP applicants. The Lender must include evidence that an applicant has completed such education with the application information the Lender submits to MOH under Section 10(a).

5. Eligibility Criteria. The Lender will screen prospective Eligible Borrowers for compliance with the DALP eligibility criteria as described in the DALP Documents.

6. Applications for DALP Loans.

(a) The City will provide the Lender with a DALP Loan application in a form approved by the City. The Lender will require that all prospective Eligible Borrowers complete the application form and provide any information necessary to substantiate the information provided on that form.

(b) The Lender will review and verify the information in each application and supporting documentation to determine whether an applicant qualifies as an Eligible Borrower.

7. Investigation/Underwriting for First Mortgage Loan.

(a) The Lender agrees that, with respect to a First Mortgage Loan, it shall perform only such investigations and verifications of potential Eligible Borrowers that it would normally perform for a loan where a borrower was not receiving a DALP Loan.

(b) The Lender's fees for the First Mortgage Loan may not exceed fees customarily charged for mortgage loans which are not made in connection with the DALP Program.

8. DALP Loan Fees. The Lender shall charge each applicant for a DALP application fee as published in MOHCD website (non-refundable). The DALP Loan application fees shall be paid to the City, as provided in Section 10. In no event shall the Lender receive any compensation from any applicant, Eligible Borrower, or the City (other than the First Mortgage Loan Fees described in Section 8(b)) in connection with its obligations under this Agreement.

9. City Commitment for DALP Loans.

(a) Following the Lender's determination that an applicant may qualify as an Eligible Borrower, the Lender shall deliver to the City the DALP application form, supporting documents, and application fee, together with a copy of the proposed loan documents for the First Mortgage Loan, and request that the City issue a commitment for a DALP Loan.

(b) Upon the City's review and approval of the DALP documents and the First Mortgage Loan Documents, the City may, in its sole discretion, issue a commitment for a DALP Loan.

(c) Limitation of Liability. Notwithstanding any other provision of this Agreement, in no event shall the City be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including but not limited to lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

10. Documentation of DALP Loans. The Lender acknowledges that each approved DALP Loan shall be evidenced by a Promissory Note, Deed of Trust, and any other documents reasonably required by the City, in form and substance prepared by the City, to ensure compliance with the DALP Documents. The Deed of Trust and any other security for a DALP Loan shall be subordinate to the documents securing the Borrower's obligations under the First Mortgage Loan.

11. Funding of DALP Loans. The City shall deposit the principal amount of an approved DALP Loan into escrow for the Borrower's purchase of the single-family residence, together with the City's escrow instructions for the disbursement of the Loan and the receipt of a lender's policy of title insurance. The City's ability to fund DALP Loans is subject to the budget and fiscal provisions of the City's Charter and certification by the City's controller of the availability of monies to fund a particular DALP Loan.

12. Lender's Performance:

(a) The City shall periodically review Lender's performance under this Agreement, including but not limited to the number of loans originated, loan performance, types of loans made available to Eligible Borrowers including for the City's Below Market Rate (BMR) Units and marketing of DALP and other services to Eligible Borrowers, including homebuyer education provided to applicants. In the event the City determines that the Lender has not satisfactorily performed its obligations under this Agreement, the City shall provide written notice of that fact to the Lender. If, in the City's reasonable judgment, the Lender has not remedied this situation within sixty (60) days of the City's notice, the City may automatically terminate this Agreement by written notice to the Lender.

(b) The lender agreement is applicable to all MOHCD first-time homebuyer programs. The participating Lender will adhere to the Mayor's Office of Housing and Community Developments loan processing time lines and perform business in a professional manner at all times, and adhere to all the standards of NMLS, the DRE and all administrative agencies and bodies representing the mortgage loan originations for home buyers.

(c) The lender understands that submission of incomplete loan application package or submission of inaccurate information declared in lender forms will delay the processing, review, underwriting, approval and funding of MOHCD loans. MOHCD performs lender training as part of its requirement to ensure MLOs will adhere to MOHCD loan policies, standards of lender form packaging, application process and time lines. Non-compliance of MOHCD's loan policies and MLOs who submit incomplete or inaccurate information on three occasions shall be removed from the lender list. As a courtesy, a written notice shall be provided by MOHCD with first and second warnings of any non-compliant submissions prior to the MLO removal from the lender list.

13. Term.

(a) This Agreement shall continue until terminated by either the City or the Lender. Either party may terminate this Agreement for any reason upon sixty (60) days prior written notice to the other party. In addition, the City may immediately terminate this Agreement upon written notice from the City upon the Lender's failure to comply with any provision of this Agreement. In the event of any termination, the Lender may no longer participate in or make First Mortgage Loans in connection with the City's DALP Program.

(b) Any termination of this Agreement shall not affect (i) the City's obligation to fund a DALP Loan for which the City has issued a commitment, or (ii) any outstanding DALP Loan.

14. Amendments. This Agreement may be amended only by a written amendment executed by the City and the Lender.

15. Nondiscrimination. In the performance of this Agreement, the Lender covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status

(AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with, Lender or against any person seeking services from Lender in accordance with this Agreement.

16. Americans with Disabilities Act. The Lender 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 Lender shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. The Lender 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 Lender, its employees, agents or assigns will constitute a material breach of this Agreement.

17. The Lender agrees to pay an initial participating fee as published in the MOHCD website. For each subsequent year the Lender agrees to pay a renewal fee as published in the MOHCD website, and attend a lender training session annually all fees paid by the Lender shall be non-refundable.

18. Notices. Any notice or other communication shall be effective only if in writing and given by delivering the notice in person, by sending it first class mail or certified mail with a return receipt requested or overnight courier, return receipt requested, with postage prepaid, addressed as follows:

To the City: Mayor's Office of Housing and Community Development
One South Van Ness Avenue, 5th Floor
San Francisco, California 94103
Attn: Homeownership Programs

To the Lender: _____

Attn: _____

Any notice or other communication shall be deemed given two (2) days after the date when mailed if sent by first class, certified or overnight courier, or upon the date personal delivery is made.

THIS AGREEMENT is entered into as of the date first written above.

Lender's Name _____

Lender's Address: _____

Signature of Lender's Representative

Printed Name

Title

Email Address

Telephone # _____

Fax#: _____

**CITY AND COUNTY OF SAN FRANCISCO
MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT
MORTGAGE CREDIT CERTIFICATE PROGRAM**

LENDER PARTICIPATION AGREEMENT

THIS AGREEMENT made and entered into as of the _____ day of _____, 20____ by and between the City and County of San Francisco (hereinafter referred to as the "City"), and _____, (hereinafter referred to as the "Lender").

WITNESSETH:

WHEREAS, the Tax Reform Act of 1984 established the Mortgage Credit Certificate (hereinafter referred to as "MCC") Program as a means of assisting qualified individuals with the acquisition of new and existing single-family housing; and

WHEREAS, pursuant to Chapter 1399, Statutes of 1985 Section 50197, et seq. of the Health and Safety Code, the City is authorized to issue MCCs and administer MCC Programs; and

WHEREAS, the Lender wishes to participate in the MCC Program administered by the City in connection with mortgage loans it will make available for the acquisition of new and existing single-family housing.

NOW, THEREFORE, in consideration of the promises set forth herein, the parties agree as follows:

1. The City hereby designates the Lender as its agent for receipt and processing of applications for MCCs under the City Mortgage Credit Certificate Program.
2. The Lender will make information regarding the MCC Program available to potential applicants. The Lender will process and review the application for any potential applicant in order to determine eligibility for the Program.
3. The Lender will obtain from the applicant all documents and information required for the application for and receipt of an MCC as directed by the City.
4. The Lender will perform all investigation and verification that it would normally perform for underwriting a mortgage not provided in connection with an MCC.
5. The Lender will conduct such reasonable investigation as is necessary to certify that the applicant has satisfied all requirements of the MCC Program, including those imposed by temporary and permanent regulations issued pursuant to the Internal Revenue Code and City eligibility requirements.
6. The Lender covenants that it is familiar with the provisions of the Internal Revenue Code applicable to the MCC Program and all temporary and permanent regulations issued pursuant thereto and with the guidelines established by the City as set forth in the MCC Program Manual. The Lender hereby agrees to comply with all provisions of applicable federal and state law, and program regulations and guidelines. The Lender agrees to attend and participate in all training and orientation sessions for the MCC Program as required by the City.

7. The Lender hereby agrees to take the financial benefit to the Applicant into account in underwriting the Loan associated with the MCC, FHA, VA, FNMA, and FHLMC here all provided underwriting guidelines for this propose.
8. The Lender will charge a potential applicant applying for an MCC only those reasonable fees as would be charged to a potential applicant applying for mortgages not provided in connection with an MCC.
9. The Lender must charge each applicant an application fee as published in the MOHCD website. for processing each initial MCC application; each Reissue MCC application (RMCC) in the form of cashier check or money order, payable to City and County of San Francisco.
10. The Lender hereby agrees that it will immediately report to the City all information which it may receive during the life of the mortgage loan which indicates that a misrepresentation may have been made in applying for a MCC, or that may affect the applicant's continued eligibility for a MCC.
11. The Lender will provide each applicant the Recapture Notice and Computation Worksheet, MCC-8, explain its contents and require each applicant to acknowledge its receipt by signing the Certificate of Initial Receipt of Recapture Notice, MCC-8.
12. This Agreement shall remain in full force and effect until terminated. The Lender may terminate this agreement, without cause, upon sixty (60) days written notice to the City. Further, the City may immediately terminate this Agreement and prohibit the Lender from participation in the MCC Program upon the Lender's failure to comply with the terms and conditions of this Agreement upon written notice by the City. No amendment to this Agreement shall be effective unless in writing and signed by both parties hereto.
13. The Lender agrees to pay an initial participating fee as published in the MOHCD website. For each subsequent year the Lender agrees to pay a renewal fee as published in the MOHCD website, and attend a lender training session annually. All fees paid by the Lender shall be non-refundable.

THIS AGREEMENT is entered into as of the day and year written above.

Lender's Name _____

Lender's Address: _____

Signature of Lender's Representative

Printed Name

Title

Email Address

Telephone #

Fax#: