

**SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY
TAXI MEDALLION SALES PILOT PROGRAM
LENDER AGREEMENT**

This Lender Agreement ("Agreement") is entered into by and between the San Francisco Municipal Transportation Agency ("SFMTA") and [REDACTED] ("Lender"), with a principal business office located at [REDACTED], in connection with the San Francisco Taxi Medallion Sales Pilot Program.

WHEREAS, Lender seeks designation from the SFMTA as a "Qualified Lender" and approval to finance the purchase of Medallions under the Taxi Medallion Sales Pilot Program ("Pilot Program");

WHEREAS, San Francisco Transportation Code Section 1109(e)(12)(C) requires that Qualified Lenders under the Pilot Program execute this Agreement;

NOW, THEREFORE, in exchange for the mutual promises set forth below and the receipt of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS

Capitalized terms used in this Agreement have the meanings ascribed to them as set forth in San Francisco Transportation Code Section 1102, unless otherwise set forth herein.

2. SAN FRANCISCO TRANSPORTATION CODE

Lender acknowledges and agrees that it is bound by the provisions of San Francisco Transportation Code Section 1109(e), by all other provisions of the San Francisco Municipal Code, and by any additional requirements adopted by the Director of Transportation that are or may become applicable to Lender, except to the extent prohibited or pre-empted by state or federal law.

3. LENDER WARRANTIES AND REPRESENTATIONS

- a. Lender warrants and represents that it is a financial institution chartered by a state government or the federal government and has obtained and will maintain any and all licenses and will meet any and all other qualifications necessary to make loans to Medallion Purchasers in connection with the Pilot Program.
- b. Lender warrants and represents that all services provided, products sold and/or licensed, and forms utilized by Lender pursuant to this

Agreement and/or the Pilot Program are in compliance with all applicable state and federal law and will remain so throughout the entire term of this Agreement.

4. MEDALLION SALE PRICE

- a. The parties acknowledge that the SFMTA may increase or decrease the Medallion Sale Price at any time in accordance with the SFMTA's procedures for setting the Medallion Sale Price. However, SFMTA agrees that it shall not set the Medallion Sale Price for the sale of a Medallion below the highest Medallion Sale Price paid by a Medallion Holder to whom any Qualified Lender made a loan that is still outstanding to finance the purchase of a Medallion.
- b. Lender acknowledges that SFMTA will require loan amount and pay-off data necessary for SFMTA to comply with Section 4(a). Accordingly, Lender agrees to provide SFMTA with loan amount data and to inform SFMTA when a Pilot Program loan is no longer outstanding as soon as reasonably possible upon SFMTA's written request.
- c. Lender agrees that before commencement of a loan, Lender will to obtain the express, written consent of each loan applicant in conformity with applicable law specifically authorizing Lender to share any information about the loan with SFMTA as may be necessary for SFMTA to comply with its obligations under Section 4(a) and for Lender to comply with applicable privacy laws and its obligations under Section 4(b).

5. FORECLOSURE UPON MEDALLIONS

- a. SFMTA acknowledges that, in connection with Lender's involvement in the Pilot Program, Lender may finance the purchase of Medallions by Medallion Holders and may take a security interest in the Medallions such that the Medallions may serve as collateral in the event of the Medallion Holder's default under the terms of the financing or loan agreement with Lender. SFMTA hereby acknowledges that Lender may, consistent with applicable state or federal law:
 - (1) Take a security interest in any Medallion that the Medallion Holder purchased using funds provided by Lender;

- (2) In the event of default by the Medallion Holder under the financing or loan agreement, foreclose upon any Medallion (the "Foreclosed Medallion") for which it has a security interest; and
 - (3) After foreclosure, possess the Foreclosed Medallion as an owner of the Medallion with full right, title, and interest thereto, except that Lender shall not be permitted to operate the Medallion.
- b. SFMTA shall waive any required payments or transfer or similar tax that may be due from Lender in connection with the transfer of ownership to Lender as a result of Lender's repossession of the Medallion.
- c. SFMTA and Lender shall use diligent and good faith efforts to re-sell each foreclosed Medallion as soon as reasonably possible, which efforts shall include, but need not be limited to, ensuring that Foreclosed Medallions are re-sold prior to authorizing the issuance of or selling new Medallions. In the event that there is more than one Foreclosed Medallion waiting to be re-sold that was foreclosed upon by the same Lender or by different Lenders, SFMTA shall use diligent and good faith efforts to first sell the oldest Foreclosed Medallion, as determined by date of repossession, then the second-oldest Foreclosed Medallion, and so on, until all of the Foreclosed Medallions are re-sold before issuing or selling any new Medallions.
- d. Upon sale of the Foreclosed Medallion, and in the event that the Medallion Holder purchased the Foreclosed Medallion with financing from Lender, Lender shall retain sufficient proceeds of such sale to satisfy Medallion Holder's debt to Lender as determined by reference to the unpaid balance under the loan agreement between Medallion Holder and Lender.
- d. SFMTA agrees to take any action that may be necessary to effectuate the intent of this Section.
- e. This Section shall survive the termination of this Agreement.

6. PURCHASED MEDALLION NO LONGER TRANSFERABLE

- a. SFMTA acknowledges that, in the event that the SFMTA decides that some or all Medallion Purchasers may no longer sell their Purchased Medallions in accordance with Section 1109(e)(1)(B) of

the San Francisco Transportation Code, SFMTA shall, at the request of the Medallion Holder and upon ten days' advance notice to a Qualified Lender who has a security interest in the Medallion, purchase, at the Medallion Sale Price paid by the Medallion Holder, a Purchased Medallion that is no longer transferable or assignable. At the request of a Qualified Lender who has complied with the requirements of Section 1109(e)(13) of this Article, the SFMTA shall deduct from the payment made to any Medallion Holder under San Francisco Transportation Code Section 1109(e)(1)(D) an amount sufficient to satisfy any outstanding balance on a loan made by the Qualified Lender and secured by an interest in the Medallion, and shall immediately remit that amount to the Qualified Lender.

- b. Upon receipt of the payment described in paragraph 6(a), above, the Qualified Lender shall comply with Transportation Code Section 1109(e)(13)(c) and release its security interest in the Medallion.
- c. This Section shall survive the termination of this Agreement.

7. LOAN APPLICANTS

Notwithstanding anything herein to the contrary, the parties agree that the execution of this Agreement does not obligate Lender to make any loan under the Program if, in Lender's sole determination, any loan applicant does not qualify under Lender's lending policies.

8. TERM

This Agreement shall be in effect from the Effective Date until this Agreement is terminated as set forth herein.

9. TERMINATION

- a. This Agreement shall automatically terminate immediately upon the termination of the Pilot Program.
- b. The Lender may terminate this Agreement at any time, with or without cause, upon written notice. SFMTA may terminate this Agreement as set forth in San Francisco Municipal Code Section 1109(e)(12)(B).
- c. Notwithstanding anything contained in this section, the termination of this Agreement will not affect Lender's existing obligations under

this Agreement with respect to any loan granted under the Pilot Program.

10. RELATIONSHIP

This Agreement does not create, and shall not be construed to create, any joint venture or partnership between the parties. No officer, employee, agent, servant, or independent contractor of either party shall at any time be deemed to be an employee, servant, agent, or contractor of the other party for any purpose whatsoever.

11. NOTICES

All notices, requests, demands, and other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given, made, and received only when personally delivered or delivered by Federal Express or other nationally recognized courier service, or two (2) days after having been deposited in the United States mail, certified mail, postage prepaid, return receipt requested (except when such notice is a termination notice, in which event any two (2) of the delivery methods described above must be used), addressed as set forth below:

If to SFMTA:

San Francisco Municipal Transportation Agency
One South Van Ness, 7th Floor
San Francisco CA 94103
Attention: Taxi Services

If to Lender:

[Redacted] [Lender Name]

[Address]

Attention:

[Redacted]
[Redacted] [Title]

Any party may change the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this section for the giving of notice.

12. WAIVER

The failure of either party to seek a redress for violation, or to insist upon the strict performance, of any covenant, agreement, provision, or condition

hereof shall not constitute the waiver of the terms or of the terms of any other covenant, agreement, provision, or condition, and each party shall have all remedies provided herein with respect to any subsequent act which would have originally constituted the violation hereunder.

13. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements, or conditions, express or implied, oral or written, except as herein contained. The express terms hereof control and supersede any course of performance or usage of the trade inconsistent with any of the terms hereof. This Agreement may not be modified or amended other than by an agreement in writing signed by an authorized representative of each party hereto.

14. ASSIGNMENT

Neither party may assign this Agreement or subcontract any right or interest hereunder.

15. HEADINGS

The headings herein are for convenience only; they form no part of this Agreement and shall not be given any substantive or interpretive effect whatsoever.

16. RIGHTS AND REMEDIES CUMULATIVE

Unless expressly stated otherwise in this Agreement, all rights and remedies provided for in this Agreement will be cumulative and in addition to, and not in lieu of, any other remedies available at law, in equity, or otherwise. If a party has a choice of possible actions, it may take any or all of those actions.

17. ATTORNEYS' FEES

The prevailing party in any dispute between the parties arising out of the interpretation, application, or enforcement of any provision of this Agreement shall be entitled to recover all of its reasonable attorneys' fees and costs whether suit be filed or not, including, without limitation, costs and attorneys' fees related to or arising out of any arbitration proceeding, trial, or appellate proceedings.

18. GOVERNING LAW AND JURISDICTION

This Agreement is entered into and will be performed in California and all questions relating to its validity, interpretation, performance, and enforcement (including, without limitation, provisions concerning limitations of action) shall be governed by and construed in accordance with the regulations of the San Francisco Municipal Transportation Agency, including but not limited to the provisions of Article 1100 of the San Francisco Transportation Code, and the internal laws of the State of California. Lender agrees to submit to the personal jurisdiction of the courts of the State of California.

19. TIMELINESS

Time is of the essence in this Agreement.

20. PARTIAL INVALIDITY

If any part of this Agreement is determined to be invalid or unenforceable by a court, then such part or parts shall be severed from this Agreement without affecting the validity of the remaining provisions.

Signature Page Follows

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____ 20____ (the "Effective Date").

SFMTA

Recommended by:

Christiane Hayashi
Deputy Director, Taxi Services

By: _____
Nathaniel P. Ford, Sr.
Executive Director/CEO
San Francisco Municipal Transportation Agency
One South Van Ness Avenue, 7th Floor
San Francisco, CA 94103

Approved as to Form:

Dennis J. Herrera
City Attorney

By: _____
Mariam Morley
Deputy City Attorney

LENDER

By: _____

Title: _____