

COMMUNITY DEVELOPMENT FINANCE ALLIANCE

November 15, 2018

Salt Lake County - Kearns Library
2001 South State Street #N4100
Salt Lake City, Utah 84114
Attention: Darrin Casper

RE: Reservation of New Markets Tax Credit allocating authority for the Salt Lake County – Kearns Library Project

Dear Mr. Casper,

I am pleased to inform you that Community Development Finance Alliance, a Utah nonprofit corporation (“*CDFA*”) shall, upon your executed acknowledgement of this letter and payment of the NMTC Reservation Fee set forth herein, reserve up to \$13,500,000 of our 2017 New Markets Tax Credit (“*NMTC*”) allocation authority (the “*NMTC Reservation*”) for the purpose of financing the development of Salt Lake County-Kearns Library Project located at 4275 West 5345 South Kearns, Utah 84118 (the “*Real Property*”). CDFA makes this NMTC Reservation subject to the terms and conditions described herein and the provisions of Section 45D of the Internal Revenue Code of 1986, as amended (the “*Code*”), and the 2017 round Allocation Agreement by and between CDFA (and its subsidiaries) and the U.S. Department of Treasury Community Development Financial Institutions Fund (the “*CDFI Fund*”).

Terms Capitalized and not otherwise defined herein or in exhibit(s) attached hereto shall have the meaning set forth in the Code and by the CDFI Fund. CDFA expects the reader and executor of this letter to be reasonably familiar with New Markets Tax Credits, the Code and the CDFI Fund as such pertain to utilizing NMTC.

1. PARTIES:

We understand that the following parties will be participating in the contemplated NMTC financing transaction:

- a. ***Project Investment Fund:*** Twain Investment Fund 68, LLC, a Missouri limited liability company, the non-member manager of which is Twain Financial Partners, LLC and the investor member of which is USB LIHTC-NMTC 2017, LLC, which will receive, in consideration of their investment(s), New Markets Tax Credits.
- b. ***Leverage Lender(s):*** Community Development Finance Alliance (CDFA)
 - i. Salt Lake County will acquire a maximum of 95% participation in the leverage loan from CDFA; and
 - ii. One or more Bank(s) will acquire a minimum of 5% participation in the leverage loan from CDFA.
- c. ***Sponsor:*** Salt Lake County
- d. ***Borrower/QALICB:*** an unrelated to-be-formed nonprofit corporation with a mission to support Salt Lake County, or a portion of business of Salt Lake County.
- e. ***QALICI Lender and Sub-CDE:*** Alliance Finance Fund 6, LLC, a Utah limited liability company, the managing member of which is CDFA and the investor member of which shall be the Project Investment Fund and which shall have as its sole purpose the financing of the Project.

2. PROJECT DESCRIPTION AND NMTC ELIGIBILITY:

CDFA is making this NMTC Reservation because Borrower has promised to create and sustain a “qualified low-income community business” as such is defined by the Code (the “*QALICB*”) through the development of the Salt Lake County – Kearns Library Project. The QLICI financing (as defined below) will be used solely for payment of financing and construction costs associated with the construction of an approximately 35,000 square foot library facility in Utah located at 4275 West 5345 South Kearns, Utah 84118 in Kearns, Utah (the “*Project*”) which is located in census tract #49035113600 – a tract which, according to the CDFI Fund: (i) has a median income of 63.94%, (ii) has an unemployment rate of 10.30%, and (iii) has a poverty rate of 26.10%. The Project is also located in an Economic Development Zone. The Project shall be owned and occupied by the Borrower.

3. FINANCIAL STRUCTURE:

The Project shall be financed with a “qualified low income community investment” as such is defined by the Code (the “*QLICI*”) in the form of secured debt provided by the Sub-CDE using proceeds of the “qualified equity investment” as such is defined by the Code (the “*QEI*”) made by the Project Investment Fund in exchange for a 99.99% interest in the Sub-CDE. The sources of funds for the QEI are anticipated to be as follows:

- a. Equity investment from Twain Investment Fund 68, LLC.
- b. Leverage Loan from Community Development Finance Alliance (CDFA). One or more banks will acquire at a minimum a 5% participation in the leverage loan.

SPONSOR IS AND SHALL REMAIN RESPONSIBLE TO SECURE ALL OF THE FUNDS NEEDED BY CDFA TO MAKE THE LEVERAGE LOAN.

4. CLOSING OF TRANSACTION(S):

The QEI closing shall result in the QEI being deposited into an account held by the Sub-CDE (the “*QEI Closing*”). The QLICI closing shall result in a QLICI being deposited into an account held by the QALICB / Borrower (the “*QLICI Closing*”). If the QEI Closing has not occurred on or before May 31st, 2019, CDFA shall be under no obligation to consider further participation in the transaction pursuant to this reservation agreement and in connection with the financing of the Project. Borrower may, between 15 and 30 days of the expiration of this NMTC Reservation, request one three-month extension of the NMTC Reservation, such extension to be provided at the sole discretion of CDFA’s Executive Committee and conditioned upon payment of a nonrefundable Extension Fee not to exceed \$25,000.

5. FEES AND COST REIMBURSEMENT:

CDFA will require payment of certain fees from Borrower as inducements to enter into the proposed NMTC transaction, which shall consist of the following:

- a. Deposit: Sponsor, concurrent with the execution of the acknowledgement of this NMTC Reservation, shall pay CDFA a deposit of \$25,000, which shall be nonrefundable (the “*Deposit*”). All costs and expenses associated with the contemplated transaction, regardless of whether the transaction is approved or closes, including, without limitation, all legal costs as well as costs of any third-party accounting fees associated with the transaction (i.e., costs of preparation of any and all financial models and legal opinions required of CDFA to cause the QEI), shall be joint and several obligations of Borrower and Sponsor and any other guarantors required by CDFA. If the transaction closes, the Deposit shall be credited to the Borrower concurrent with the QLICI Closing. If, for any reason, the QLICI Closing does not occur within the period established herein, the Deposit shall be used to cover CDFA’s transaction expenses to the extent possible; any expenses not reimbursed by the Deposit shall

be joint and several obligations of Borrower and Sponsor. In the event that the amounts of the Deposit exceed CDFA's legal fees and other expenses, any such excess shall be retained by CDFA.

- b. **Placement Fee:** CDFA shall receive a placement fee of two and a half percent (2.5%) of the QEI (up to approximately \$337,500 assuming a \$13,500,000 QEI) payable from the proceeds of the QEI to CDFA concurrent with the QEI Closing.
- c. **Asset Management Fee:** Sponsor shall pay CDFA annually a fee equal to one half of one percent (.50%) of the QEI (up to approximately \$67,500 assuming a \$13,500,000 QEI per year) prorated for any partial calendar years, as compensation for CDFA's annual reporting and monitoring of the Sub CDE (the "***Asset Management. Fee***") payable in full and in advance on the first day of each calendar year during the NMTC compliance period as set forth by the Code (the "***Compliance Period***") and, for the initial calendar year, concurrent with the QLICI Closing. The entire Asset Management Fee for each year during the Compliance Period shall be capitalized concurrent with the QLICI Closing, to be held by Borrower in a restricted account.
- d. **Fund Management Fee:** Borrower shall pay, throughout the term of the compliance period, its allocable portion of the \$5,400 annual fee payable to the Investment Fund the "***Fund Management Fee***"). The Management Fee is allocated among projects funded within Fund QEIs. Borrower's approximate total compliance period payment is \$5,400, which will be capitalized on the Closing Date to be held by Twain Investment Fund 68, LLC in a restricted account for disbursement during the Compliance Period.
- e. **Construction Draw Fee:** Borrower shall pay a fee of \$1,000 for processing each draw request.
- f. **Leverage Loan Servicing Fee:** Sponsor shall pay the Leverage Lender a \$500 leverage loan servicing fee payable to Leverage Lender on each payment date.
- g. **Expenses:** Borrower shall pay, throughout the term of the Compliance Period, all charges incurred by:
 - i. The Sub CDE with respect to periodic tax payment and reporting (including, without limitation, business and occupation tax or other gross receipt taxes imposed by state and local jurisdictions) and financial audits and reports. The annual tax and auditing expenses for each year during the Compliance Period are anticipated to be \$8,500. The annual Sub-CDE tax and auditing expenses are allocated equally among the projects funded by the Sub-CDE. Borrower's approximate total compliance period payment of Sub-CDE tax and auditing expenses is \$19,000 and shall be capitalized on the Closing Date to be held by Borrower in a restricted account for disbursement during the Compliance Period.
 - ii. CDFA with respect to any actual out of pocket additional fees (e.g. fees incurred by CDFA and its affiliates) or actual out-of-pocket extraordinary third party expenses in connection with the transaction contemplated herein to ensure compliance with applicable laws and regulations during the Compliance Period including, without limitation, extraordinary unforeseen events such as preparing for and responding to any CDFI and IRS compliance audits and not otherwise paid by Investment Fund.

6. REAL ESTATE REQUIREMENTS:

- a. Phase I Environmental Report and if needed Phase II Environmental Report confirming no existing contamination in violation of environmental laws based on standards for commercial or residential properties as applicable
- b. Asbestos Inspection and Assessment
- c. Geotechnical Investigation
- d. Reliance letters granting reliance of the above-mentioned reports to:
 1. Community Development Finance Alliance
 2. Alliance Finance Fund 6, LLC
 3. Twain Investment Fund 68, LLC
 4. USB LIHTC-NMTC 2017, LLC
 5. Individual Bank Assignees, as it is the intent of CDFA to sell participation interests in the loan to federally regulated institutions that will be based upon the requested report
- e. Appraisal or Market Rent Analysis ordered by CDFA
- f. Title Policy ordered by CDFA

7. CONSTRUCTION REQUIREMENTS::

- a. Executed Construction Contract must be a fixed price or guaranteed maximum price contract
- b. Required permits in place
- c. Completion Guaranty
- d. Payment and Performance Bond will be required for Projects containing construction purposes with an aggregate amount of \$5,000,000 or more
- e. 3rd Party Construction Inspection and Draw Review Reports ordered by CDFA

8. REIMBURSEMENT OF PROJECT EXPENSES:

Any reimbursement of expenses by the QALICB to an affiliate must conform to the 2017 CDFI Fund Notice of Allocation Availability (NOAA) for NMTC Allocation and related CDFI Fund Compliance Monitoring and Evaluation FAQ. This guidance requires that expenses reimbursed with QLICI proceeds meet certain requirements. QLICIs may be used to reimburse project costs paid to third parties that either: 1) were incurred within 24 months prior to QLICI closing or 2) are less than 5% of total QLICI proceeds. Supporting documentation for these costs must be provided to CDFA for review in the form of a summary Excel spreadsheet listing all costs by vendor and date paid, with backup electronic scans of all invoices and cancelled checks evidencing payment provided in an organized format.

9. CONFIDENTIALITY:

This reservation letter and the contents hereof and all communications related to this NMTC Reservation is and shall remain confidential and Sponsor shall not disclose to any person, except to those individuals who are your affiliates, officers, employees or agents who: (a) have a need to know for the purpose of conducting legitimate work pertaining directly to the closing of the contemplated transaction; (b) are informed by you of the confidential nature of such information, and; (c) agree to act in accordance with the terms of this NMTC Reservation. Sponsor and the principals thereof shall

be jointly and severally responsible for any breach of the terms of confidentiality of this NMTC Reservation and any damages, tangible or intangible, suffered by CDFA and expenses incurred as a result of such breach. This section of this shall survive the termination or expiration of this NMTC Reservation.

10. GENERAL:

- a. **Only understanding:** This NMTC Reservation supersedes any and all discussions and understandings, written or oral, expressed or implied, between or among the parties hereto and any other person as to the subject matter hereof.
- b. **Amendments and modifications:** This NMTC Reservation may not be amended, and no provision hereof shall be waived or modified, except by an instrument in writing signed by all of the parties hereto.
- c. **Assignability:** This NMTC Reservation is not assignable by any party hereto without the express written consent of CDFA, such consent may be unreasonably denied. This NMTC Reservation is solely for the benefit of the parties hereto and shall not confer any benefits upon, or create any rights in favor of, any person other than the parties hereto.
- d. **Governing Law:** This NMTC Reservation shall be governed by and construed in accordance with the laws of the State of Utah.
- e. **Indemnification:** Sponsor shall indemnify and hold harmless CDFA for any action related to this NMTC Reservation and the transaction hereby contemplated.
- f. **Reservation only - not a commitment:** This NMTC Reservation does not constitute a commitment by CDFA or any other entity to lend or invest but rather only (i) reserves a limited amount of NMTC allocation for a limited time and upon the terms outlined herein, (ii) establishes a general understanding of the Project and (iii) sets forth an anticipated financial structure to be used to finance the Project in a manner that confers an economic benefit of the NMTC to the Project so as to result in an economic development benefit to a low income community.

If the terms herein are acceptable to you, please sign below and return the original fully executed document along with the NMTC Reservation Fee to CDFA at 230 South 500 West, Suite 245 Salt Lake City, Utah 84101. If this NMTC Reservation and the related NMTC Reservation Fee are not received by 5:00 PM Mountain Standard Time January 14, 2019 this NMTC Reservation shall immediately terminate and be of no further force and effect.

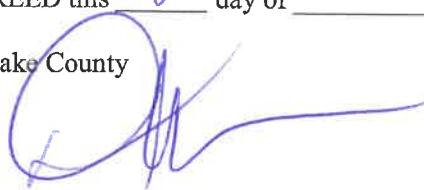
Sincerely,

COMMUNITY DEVELOPMENT FINANCE ALLIANCE

By: Amy Rowland
Its: President

ACCEPTED and AGREED this 2 day of January, 2019.

By: Salt Lake County

A handwritten signature in blue ink, appearing to read "Salt Lake County".

By: Darrin Casper
Its: Chief Financial Officer