



February 27, 2024

VIA EMAIL

Bernardo E. Navarro
President
Benworth Capital Partners LLC
bnavarro@benworthcapital.com

Re: Paycheck Protection Program Liquidity Facility

Dear Mr. Navarro,

As you know, the Federal Reserve Bank of San Francisco (the “Reserve Bank”) has made advances (“Advances”) to Benworth Capital Partners LLC (“Benworth” or the “Borrower”) under the Paycheck Protection Program Liquidity Facility (the “PPPLF”) pursuant to the Paycheck Protection Program Liquidity Facility Letter of Agreement dated May 4, 2020, January 14, 2021 and January 30, 2023 (each, a “Letter of Agreement” and collectively, the “Letters of Agreement”) and also the Federal Reserve Banks’ Operating Circular No. 10 (“Operating Circular” and, together with the Letters of Agreement, the “PPPLF Agreement”). Except as provided in this letter, terms defined in the PPPLF Agreement have the same meaning when used in this letter.

We write with respect to various defaults that have occurred under the PPPLF Agreement. The Reserve Bank reserves all of its rights and remedies with respect to all such defaults, and generally under the PPPLF Agreement.

Various facts and circumstances have occurred that have caused the Reserve Bank to conclude that Events of Default, as defined in the PPPLF Agreement, have occurred. Among other things, Benworth informed the Reserve Bank that the U.S. Small Business Administration (the “SBA”) has denied guaranty purchase applications for over 3,600 PPP Loans pledged as PPPLF Collateral which could result in these PPP Loans not being fully guaranteed by the SBA. Moreover, Benworth has provided various facts to the Reserve Bank regarding the concerning state of Benworth’s financial condition. On December 27, 2023, Benworth informed the Reserve Bank that it is in arbitration proceedings with Oto Analytics (d/b/a “Womply”), and that the arbitrator issued an interim award that would require Benworth to pay Womply over \$86 million. Benworth acknowledged to the Reserve Bank that it may not have access to sufficient funds to pay Womply the amount of the interim award or any larger amount that may be finally awarded, which assertion is supported by Benworth’s financial statements provided to the Reserve Bank.

While the PPPLF Agreement does not require formal notice of defaults under the PPPLF Agreement, we wish to memorialize and provide notice of certain of the Events of Default that have occurred, without waiver of any other defaults that have occurred or may occur in the future. Accordingly, we hereby declare and provide notice to Benworth that Events of Default have occurred, as defined in the Operating Circular, including, without limitation, under sections (ii), (iii) and (vii) of the definition of an Event of Default. See Operating Circular at 2-3. The failure to include reference to other defaults or Events of Default in this letter does not constitute a waiver

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of any such other defaults or Events of Default, or of any rights or remedies that may be available under the PPPLF Agreement or applicable law.

In addition to the foregoing, the Letters of Agreement state that “all Advances made to the Borrower pursuant to the PPPLF shall become a recourse obligation if, in the sole discretion of the Reserve Bank, the Borrower (i) has breached any representations, warranties, or covenants made under the PPPLF Agreement or (ii) has engaged in any fraud or misrepresentation in connection with any Advance or request to obtain an Advance under the PPPLF.” See each Letter of Agreement at 4. Accordingly, under the terms of the PPPLF Agreement, the Reserve Bank hereby notifies the Borrower that the Borrower’s Obligations under the PPPLF Agreement have become full recourse obligations of the Borrower.

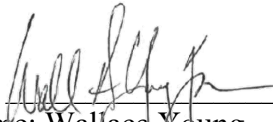
While the Reserve Bank hopes to continue to work cooperatively with Benworth as it has to date, the Reserve Bank has not and does not intend to waive any rights or remedies of the Reserve Bank under the PPPLF Agreement or applicable law; nor does it waive or acquiesce in any Event of Default, whether or not referred to in this letter. Without limiting the generality of the foregoing, the Reserve Bank reserves all of its rights and remedies with respect to Events of Default under the PPPLF Agreement, including, without limitation, the right to take possession of the PPPLF Collateral, collect all proceeds received by Benworth in respect of the PPP Loans and apply them in accordance with the PPPLF Agreement, and the right to assert claims directly against Benworth without first seeking recourse against the PPPLF Collateral.

The Reserve Bank hopes to continue to work cooperatively with Benworth with respect to these matters in furtherance of the prompt and orderly repayment of the Advances and the protection of the PPPLF Collateral.

Please contact Avery Belka (Avery.Belka@sf.frb.org) and Braden Parker (Braden.Parker@sf.frb.org) if you have any questions.

Sincerely,

FEDERAL RESERVE BANK OF SAN FRANCISCO

By: 

Name: Wallace Young

Title: Vice President, Credit Risk Management

cc:

Michael Hantman (Michael.Hantman@hklaw.com) - Holland & Knight LLP