



City of Sacramento City Council

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915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

Meeting Date: 11/8/2012

Report Type: Consent

Title: Agreements: Township 9 Garage Loan

Report ID: 2012-00869

Location: District 3

Recommendation: Pass a Motion: 1) authorizing the City Manager or the City Manager's designee to execute the Construction Loan Agreement for the Township 9 Parking Garage Project; 2) authorizing the City Manager or City Manager's designee to execute such additional documents and to take additional actions necessary to implement the loan agreement for the project.

Contact: Rachel Hazlewood, Senior Project Manager, (916) 808-8645, Economic Development Department

Presenter: None

Department: Economic Development Dept

Division: Downtown Development

Dept ID:

Attachments:

- 1-Description/Analysis
- 2-Exhibit A Garage Construction Loan Agreement

City Attorney Review

Approved as to Form
Sheryl Patterson
10/30/2012 12:59:15 PM

City Treasurer Review

Reviewed for Impact on Cash and Debt
Russell Fehr
10/10/2012 1:14:37 PM

Approvals/Acknowledgements

Department Director or Designee: Jim Rinehart - 10/30/2012 9:34:20 AM



Description/Analysis

Issue: This staff report recommends approval of the Construction Loan Agreement and related documents and actions necessary to implement the Township 9 Parking Garage Project. On May 1, 2012, the City Council approved a Loan Commitment for \$6.2 million from the Proposition 1C Grant awarded to the City on behalf of the Township 9 project to construct a parking garage serving the affordable housing project. The developer is now ready to close the loans and proceed with construction of the garage project. This action approves the Construction Loan Agreement (Exhibit A), which includes as exhibits the promissory note and the deed of trust securing the loan, and authorizes execution of other documents to implement the loan such as the escrow agreement and the subordination agreement with the senior lender. Related actions to approve bonds and loans to provide additional funding for the affordable housing project are also being sought by Sacramento Housing and Redevelopment Agency (SHRA) at the November 8, 2012 meeting in a separate item.

The Proposition 1C Grants require the development of an affordable housing project and the Master Developer has selected T9 Affordable Housing Partners, LP as their housing developer (Housing Developer). A portion of the Proposition 1C Grant funds, \$6.2 million, has been allocated to construct a parking garage to serve this housing project.

Policy Considerations: The recommendation is consistent with the City Council direction and actions regarding the Loan Commitment approved on May 1, 2012, Proposition 1C grants received for the Township 9 project on March 18, 2008 (Resolution No. 2008-164) and on March 10, 2009 (Resolution No. 2009-147). The recommendation is also consistent with the City's Smart Growth Principles, the River District Specific Plan, the 2002 Infill Strategy and the transit-supportive housing policies in the 2030 General Plan.

Economic Impacts: The parking garage for the affordable housing project is expected to create 70.68 total jobs (39.68 direct and 31 jobs through indirect and induced activities) and create \$9.9 million in total economic output (\$6.1 million of direct output and another \$3.8 million of output through indirect and induced activities).

The indicated economic impacts are estimates calculated using a calculation tool developed by the Center for Strategic Economic Research (CSER). CSER utilized the IMPLAN input-output model (2009 coefficients) to quantify the economic impacts of a hypothetical \$1 million of spending in various construction categories within the City of Sacramento in an average one-year period. Actual impacts could differ significantly from the estimates and neither the City of Sacramento nor CSER shall be held responsible for consequences resulting from such differences.

Environmental Considerations: The environmental impacts of construction of the affordable housing and garage projects were included in the Township 9 Project Environmental Impact Report (EIR), which was certified on August 28, 2007 (Resolution No. 2007-641). There have been no project changes or new information of substantial importance which

would require reevaluation of the EIR for compliance with CEQA to support the proposed actions.

Sustainability: The improvements to be funded with the Proposition 1C Grants were previously reviewed for consistency with the goals, policies and targets of the City's Sustainability Master Plan and the 2030 General Plan. The improvements comply with many of the goals, in particular Goal Number Six - Urban Design, Land Use, Green Building and Transportation specifically by reducing dependence on the private automobile by providing efficient and accessible public transit and transit-supportive land uses, and reducing long commutes by providing a wide array of transportation and housing choices near jobs for a balanced, healthy city.

Commission/Committee Action: N/A

Rationale for Recommendation: The Township 9 project is a major infill and transit-oriented development project, with 179 units of housing to be built for low and very low income households per the requirements of the Proposition 1C Grants. The Proposition 1C Grants fund a portion of the infrastructure needed for the housing development, the light rail station on Richards Boulevard, Riverfront Park, the North 7th Street Parkway and the parking garage for the affordable housing project. The Township 9 project is expected to promote increased transit ridership in Sacramento, with the new light rail station located at Township 9 that opened this past summer of 2012.

Financial Considerations: The Loan Agreement and related documents allocates \$6.2 million in Proposition 1C grant funds for construction of the parking garage serving the affordable housing project. The loan term is 55 years with no interest or payments owed during the term, but repayment is due at the loan maturity date. No other financial impacts are anticipated from these actions.

Emerging Small Business Development (ESBD): The construction of the parking garage to be owned by the private entity is not subject to the City's ESBD requirements..



CONSTRUCTION LOAN AGREEMENT TOWNSHIP 9 QIP PARKING GARAGE PROJECT

ARTICLE I TERMS AND DEFINITIONS:

LENDER AND BORROWER HAVE ENTERED THIS LOAN AGREEMENT AS OF THE EFFECTIVE DATE. This Loan Agreement, in addition to attachments and Exhibits listed below includes Article II Loan Provisions, which is attached to and incorporated in this Loan Agreement by this reference. The capitalized terms in this Loan Agreement shall have the meanings assigned in Article I Terms and Definitions and as defined in Article II Loan Provisions. (Terms being defined are indicated by quotation marks. If an item in this Article 1 table is marked “None, Not Applicable, N/A or equivalent or is left blank, that defined term is not applicable to this Loan or the referenced item is not required or is not included in this Loan as the context may indicate.) The Lender is making the Loan pursuant to the terms and conditions of this Loan Agreement.

NOW, THEREFORE, in consideration of their mutual promises, the parties agree as follows:

A. “Loan Information” The general loan provisions of the Loan		
“LENDER”	The following public agency that is making the Loan, and whose legal status and address are:	
Name	City of Sacramento	
Legal Status	a municipal corporation	
Principal Address	915 “I” Street, City of Sacramento, Sacramento County, California 95814	
“BORROWER”	The Borrower is the borrower of the Loan funds whose name, legal status and address are:	
Name	T9 Affordable Housing Partners, LP	
Legal Status	A California limited partnership	
Principal Address	1388 Sutter Street, 11 th Floor, San Francisco, CA 94109	
“EFFECTIVE DATE”	November 1, 2012	which is the date that this Loan Agreement shall be effective.
“LOAN”	The Loan is the loan made by this Loan Agreement.	
“LOAN COMMITMENT”	The Loan Commitment is Lender’s loan commitment, made by letter dated as of	May 1, 2012
“LOAN PROGRAM”	The Loan Program is Lender’s Loan Program, commonly known as	Proposition 1C
“LOAN AMOUNT”	The principal amount of the Loan is Six Million Two Hundred Thousand Dollars (\$6,200,000)	
“INTEREST RATE”	The interest rate on the loan is 0%	
“PAYMENT START DATE”	No payments shall be due until the Maturity Date	
“TERM”	The Loan term is Fifty Five (55) Years	
“MATURITY DATE”	The Maturity Date is November 1, 2067	
“PAYMENT SCHEDULE”	Not applicable	
“BORROWER EQUITY”	The value of the land that Borrower is investing in the Project.	
“SPECIAL TERMS”	<p>A. Compliance with the Conditional Loan Commitment Letter dated May 1, 2012 between Borrower and Lender, which is incorporated herein by this reference as if set forth in full.</p> <p>B. Compliance with the following agreements between Lender and the State Department of Housing and Community Development (HCD) to the extent applicable to Borrower, copies of which Lender has provided to Borrower and which are incorporated herein by this reference as if set forth in full and which are collectively referred to as the “HCD Agreements.” The HCD Agreements provide the Lender with the funding to make the Loan for the Project, and require Borrower, through the recorded Regulatory Agreement against the Property, to construct and operate the Qualifying Infill Project, also referred to as the Affordable Housing Development, which is a multi-family housing development of 180 units to be built around the Garage on lots 11A and 11C, of which 179 units are to be affordable to extremely low, very low, and low income households for 55 years. The HCD Agreements are as follows:</p>	

“SPECIAL TERMS”
CONTINUED

1. Standard Agreement (Agreement No. 07-IIG-4234) for the Infill Infrastructure Grant Program dated October 20, 2009 between Lender and the State Department of Housing and Community Development (HCD);
 2. Infrastructure Grant Program Disbursement Agreement dated March 8, 2010 between the Lender and HCD for Standard Agreement (Agreement No. 07-IIG-4234);
 3. First Amendment to Standard Agreement (Agreement No. 07-IIG-4234) dated April 13, 2012 between Lender and HCD;
 4. Declaration of Restrictive Covenants for the Development of Market Rate Housing and Affordable Housing recorded against the Property on May 14, 2010 at Book 100514 Page 746, but only with regard to the Affordable Housing Development on the Affordable Housing Parcel as defined therein (the “Original Regulatory Agreement”);
 5. Standard Agreement (Agreement No. 09-IIG-6021) for the Infill Infrastructure Grant Program dated March 30, 2011 between Lender and HCD;
 6. Infrastructure Grant Program Disbursement Agreement dated March 30, 2011 between the Lender and HCD for Standard Agreement (Agreement No. 09-IIG-6021); and
 7. First Amendment to Declaration of Restrictive Covenants for the Development of Market Rate Housing and Affordable Housing recorded against the Property on October 3, 2011 at Book 111003 Page 820, but only with regard to the Affordable Housing Development on the Affordable Housing Parcel as defined therein (together with the Original Regulatory Agreement, the “Regulatory Agreement”).
- C. Compliance with the terms of the Amended and Restated Assignment and Assumption Agreement Proposition 1C Infill Infrastructure Program Grants for the Township 9 Project (City Agreement No. 2010-0210-2) dated May 1, 2012 (the “Assignment Agreement”) between Lender and Capitol Station 65 LLC, a California limited liability company, (the “Township 9 Master Developer”), as it applies to Borrower as a successor in interest in the Property and which provides Lender with the right to enforce the Regulatory Agreement. Lender has provided to Borrower a copy of the Assignment Agreement and this agreement is incorporated herein by this reference as if set forth in full.
- D. In the event of any conflict or discrepancy between the terms in this Loan Agreement and the Conditional Loan Commitment Letter or the Assignment Agreement, the provision of this Loan Agreement shall control. In the event of any conflict or discrepancy between the terms in this Loan Agreement and the HCD Agreements, the provision of the HCD Agreement shall control.
- E. Borrower shall not be held liable by Lender for defaults of the Township 9 Master Developer under the HCD Agreements or the Assignment Agreement as referenced above. Notwithstanding anything to the contrary contained in this Loan Agreement, the HCD Agreements, the Assignment Agreement or any of the Loan Documents, Borrower shall not be required to repay any disbursed Loan funds as a result of any alleged or actual default by the Township 9 Master Developer under any agreement, including, but not limited to, the HCD Agreements or the Assignment Agreement.
- F. All Borrower invoices for Loan payments under this Loan must be submitted by no later than October 1, 2014 to meet HCD’s requirements under the Standard Agreement, as amended, that all invoices for payments under the Proposition 1C grant must be submitted to HCD by no later than December 1, 2014.
- G. Lender acknowledges and consents to Borrower’s admission of a tax credit investor limited partner, in Borrower’s discretion, as “Tax Credit Limited Partner” of Borrower. Said limited partner may transfer its interests to any other third party, so long as such change does not affect the identity, powers or duties of the Borrower’s general partners or the ability of the limited partners to change the general partner or its powers. Lender shall give copies of notices required to be delivered to Borrower to Tax Credit Limited Partner at the

<p>“SPECIAL TERMS” CONTINUED</p>	<p>following address: RBC Tax Credit Equity, LLC, 60 Superior Avenue, Suite 2300, Cleveland, Ohio 44114, Attention: President and General Counsel, with a copy to: Bocarsly, Emden, Cowan, Esmail & Arndt LLP, 633 West Fifth Street, 70th Floor, Los Angeles, California 90071, Attention: Kyle Arndt Esq.; provided, however that Borrower acknowledges that such notice is an accommodation and the failure of the Lender to properly deliver any such notice shall not give rise to any claims or defenses of Borrower or any third party.</p> <p>H. After completion of construction of the Project, if Borrower has provided Lender with a true and correct copy of Borrower’s limited partnership agreement and if such limited partnership agreement has been approved by Lender, Lender shall accept a replacement of the general partner made in accordance with the terms of such limited partnership agreement, notwithstanding any other limitation under the Loan Documents.</p> <p>I. Borrower’s limited partner may cure a default of the Loan, provided that such cure rights shall be the same as Borrower’s cure rights. Borrower’s limited partner’s cure period shall begin when Lender provides such limited partner with a copy of the notice of Borrower’s default.</p>	
<p>“PROJECT”</p>	<p>The Project is the Project to be developed on the Property with the Loan funds, and described as:</p>	<p>Design, engineering and construction of an above-ground structured parking garage with 180 spaces (the “Garage”) to serve the Qualifying Infill Project.</p>
<p>B. “Collateral” The Collateral securing repayment of the Loan, which Collateral consists of the following</p>		
<p>“PROPERTY”</p>	<p>The Property is the following described real property, which is security for the Loan and the site of the Project:</p>	
<p>Address</p>	<p>North 7th Street between D and E Streets</p>	
<p>Assessor’s Parcel Number</p>	<p></p>	
<p>“Legal Description”</p>	<p>The Property is situated in the State of California, County of Sacramento, and is more particularly described in Exhibit 1: Legal Description attached and incorporated by reference.</p>	
<p>Borrower’s Title Interest</p>	<p>Borrower has fee interest in the Property or, if the Additional Escrow Instructions so indicate, Borrower will acquire fee interest in the Property at Close of Escrow.</p>	
<p>C. “ESCROW INFORMATION”:</p>		
<p>“Title Company” and “Escrow Agent”</p>	<p>Placer Title Company</p>	<p>Which is the title company that will issue the Title Policy and that will act as Escrow Agent for the Escrow</p>
<p>“Escrow”</p>	<p>The escrow with Escrow Agent</p>	
<p>“Closing Date”</p>	<p>November 14, 2012</p>	<p>Which is the date for close of the Escrow, as it may be extended</p>
<p>D. “LIST OF EXHIBITS” (The following are attached and incorporated in this Loan Agreement):</p>		
<p>EXHIBIT</p>	<p>DEFINED TERM</p>	
<p><u>Exhibit 1: Legal Description</u></p>	<p>“Legal Description”</p>	
<p><u>Exhibit 2: Note Form</u></p>	<p>“Note”</p>	
<p><u>Exhibit 3: Trust Deed Form</u></p>	<p>“Trust Deed”</p>	
<p><u>Exhibit 4: Escrow Instructions</u></p>	<p>“Escrow Instructions</p>	
<p><u>Exhibit 5: Project Budget</u></p>	<p>“Budget”</p>	
<p>E. “APPROVAL DOCUMENTS” Borrower shall submit the following documents for Lender approval</p>		
<p>Construction Agreement(s) for the Project</p>		
<p>Borrower’s organizational documents, such as partnership agreements or corporate articles and by-laws</p>		
<p>Evidence of financing as described in Article II of this Loan Agreement</p>		
<p>Plans and Specifications as defined in Article II of this Loan Agreement</p>		
<p>F. “ASSIGNED DOCUMENTS” Borrower shall assign the following documents to Lender</p>		
<p>Construction Contract</p>		

G. "CONSTRUCTION INFORMATION":			
"Completion Date"		Which is the date on or before which the Completion of the Project must occur.	
"General Contractor"		Which is the general contractor for construction of the Project.	
"Retention"	The following percentage of each disbursement made for construction work, in aggregate not to exceed the following percentage of the Loan Amount, which shall be retained by Lender for disbursement with the final disbursement of the Loan:	Percentage of disbursement:	Ten Percent (10%)
		Percentage of Loan:	Ten Percent (10%)

THE PARTIES HAVE EXECUTED THIS LOAN AGREEMENT in Sacramento, California as of the date first written above.

BORROWER:

T9 AFFORDABLE HOUSING PARTNERS, LP
a California limited partnership

By: PacH SAC-MIDTOWN HOLDINGS, LLC,
a California limited liability company,
its managing general partner

By: Pacific Housing, Inc., a California nonprofit
public benefit corporation,
its sole member and manager

By: _____
Mark A. Wiese
President

By: T9 Affordable Housing GP, LLC, a California
limited liability company,
its administrative general partner

By: JSCo T9, LLC, a California limited liability
company, its member

By: John Stewart Company, its manager

By: _____
Jack D. Gardner
President

By: UrbanCore-Integral T9, LLC, a California
limited liability company, its member

By: UrbanCore Development, LLC, a California
liability company, its member

LENDER:

CITY OF SACRAMENTO

By: _____
Jim Rinehart,
Economic Development Manager
For: John F. Shirey, City Manager

Approved as to form:

By: _____
Senior Deputy City Attorney

Attest:

By: _____
Assistant City Clerk

By: _____
Michael E. Johnson
President

ARTICLE II LOAN PROVISIONS

LENDER AND BORROWER HAVE ENTERED THIS LOAN AGREEMENT AS OF THE EFFECTIVE DATE. The capitalized terms in this Loan Agreement shall have the meanings assigned in Article I General Terms and as defined in Section 1 of this Article II Loan Provisions. (Terms being defined are indicated by quotation marks.) The Lender is making the Loan pursuant to the Loan Commitment and the terms and conditions of this Loan Agreement.

NOW, THEREFORE, in consideration of their mutual promises, the parties agree as follows:

1. DEFINITIONS. Terms not defined in Article I and II of this Loan Agreement shall have the definitions assigned in the Trust Deed. If a definition in Article I refers to an Exhibit which is a document form, the attached document is a true and correct copy of the document referenced. As used in this Loan Agreement, the following terms shall have the following meanings:

1.1. "Budget" is the budget approved by Lender for the development of the Project.

1.2. "Business Day" means regularly scheduled business day of the City of Sacramento.

1.3. "Change" means any extra work or installation of materials not included in the Plans and Specifications or any change in or deviation from the Plans and Specifications.

1.4. "Close of Escrow" means the fulfillment of the Escrow terms and conclusion of the Escrow, including, without limitation, the execution of unexecuted documents, the recordation of documents specified for recording, the issuance of title insurance policies, the payment of fees and the delivery of funds and documents as directed in the escrow instructions for the Escrow. The Close of Escrow shall occur on the Closing Date.

1.5. "Completion of the Project" means that, in Lender's sole judgment the Project has been constructed, completed, equipped, and furnished in a good and proper manner in accordance with the Plans and Specifications, the Scope of Development and the Budget as approved by Lender; all notices of completion with respect to the Project have been filed and all statutory lien periods have expired; all costs of constructing the Project have been paid, including, without limitation, interest on the Note which may be due prior to the Completion Date; all necessary certificates of occupancy have been issued; and all of the conditions to final disbursement of the Loan have been satisfied.

1.6. "Construction Lender" is the lender(s) for the Construction Loan for the Qualifying Infill Project.

1.7. "Construction Loan" means the financing obtained by Borrower which pays all construction and other costs of the Project not otherwise paid by the proceeds of this Loan or Borrower contributions. The Construction Loan is to be secured by a senior lien against the Property and repaid from proceeds of the Permanent Loan.

1.8. "Default Rate" is the maximum legal interest rate.

1.9. "Escrow" is the escrow with Title Company for the closing of the Loan.

1.10. "Escrow Instructions" means the Escrow Instructions for the Escrow signed by each of the parties to this Loan Agreement.

1.11. "Event of Default" is breach of or default in a party's obligations under this Loan Agreement, the Trust Deed, the Note and any other instrument which is incorporated in this Loan Agreement or which otherwise secures the repayment of the Loan.

1.12. "Financial Statements" means the financial statements of Borrower (and any other persons on whose financial capacity the Lender has relied in making this Loan) as may be required by Lender from time to time, including operating statements, balance sheets, and any other financial reports and information that Lender may require.

1.13. "General Contractor" means the general contractor named by Borrower in his application or supporting documents as the general contractor to do the Project, or any other general contractor so designated by Borrower and approved in writing in advance by Lender.

1.14. "Governmental Authority" means the United States of America, the State of California, the County of Sacramento, the City of Sacramento or any other political subdivision, agency, department, commission, board, bureau, or instrumentality of any of them.

1.15. "Governmental Requirement" means any law, ordinance, order, rule, regulation, plan, ruling, determination or requirement of a Governmental Authority.

1.16. "Impositions" means all real estate and personal property taxes and other taxes and assessments, water and sewer rates and charges, and all other charges of a Governmental Authority and any interest or costs or penalties with respect to them, ground rent and charges for any easement or agreement maintained for the benefit of the Property, of every nature and any kind that at any time may be assessed, levied, imposed, or become a lien on the Property or income received from the Property, or any use or occupancy of the Property; and any charges, expenses, payments, or assessments of any nature that are or may become a lien on the Property or the income received from it.

1.17. "Inspector" is the person or persons designated by Lender for the inspection of Borrower's books and records and the physical progress of the Project as provided in this Loan Agreement.

1.18. "Loan" is the loan from Lender to Borrower made pursuant to this Loan Agreement.

1.19. "Loan Agreement" means this Construction Loan Agreement including Article I and II, all Exhibits attached to this Loan Agreement (which are incorporated in this Loan Agreement by this reference) and the Loan Documents which are not otherwise included in this definition.

1.20. "Loan Documents" means the Note, this Loan Agreement, the Security Documents, and all other documents (including guaranties) evidencing, securing, or relating to the Loan.

1.21. "Loan Maturity Date" means the date on which the entire unpaid balance of the Loan, including principal and interest, is due and payable.

1.22. "Loan Proceeds" means funds disbursed by Lender on account of the Loan and pursuant to this Loan Agreement.

1.23. "Permanent Lender" is the lender for the Permanent Loan for the Qualifying Infill Project.

1.24. "Permanent Loan" means the permanent financing obtained by Borrower which repays after completion of the Project all construction and other loans secured for construction of the Qualifying Infill Project and which is secured by a senior lien against the Property.

1.25. "Plans and Specifications" means the final set of architectural, structural, mechanical, electrical, grading, sewer, water, street, and utility plans and specifications for the Project, including all supplements, amendments, and modifications.

1.26. "Predevelopment Costs" means the costs incurred by Borrower and/or the Township 9 Master Developer to prepare the Plans and Specifications for the Project as set forth in the Budget, to the extent that Borrower or an affiliate of Borrower incurred such costs or is required to reimburse the Township 9 Master Developer for such costs.

1.27. "Potential Default" means an event that would constitute an Event of Default but for any requirement of notice to be given or period of grace or time to elapse.

1.28. "Project" means the development of the Property in accordance with the Plans and Specifications including, without limitation, all existing buildings, improvements, and appurtenances on the Property, all work of demolition and rehabilitation to be conducted on the Property, and all improvements, additions, and replacements constructed or placed at any time on the Property.

1.29. "Security Documents" means the Trust Deed, together with all other documents entered into between Borrower and Lender or by Borrower in favor of, or for the benefit of, Lender that recite that they are to secure the Loan.

1.30. "Title Policy" means the title insurance policies to be issued in connection with this Loan, as further defined in the Escrow Instructions.

2. BORROWER'S REPRESENTATIONS AND WARRANTIES. As a material inducement to Lender to enter into this Loan Agreement and to make the Loan to Borrower, Borrower unconditionally, and each signatory who signs on its behalf, to the extent of their actual knowledge, represents and warrants to Lender, as of the Close of Escrow, as follows:

2.1. **LEGAL ORGANIZATION.** Borrower is duly formed and validly exists in the form stated in Article I, is qualified to do business in California, and has full power to consummate the transactions contemplated.

2.2. **BORROWER'S POWERS.** Borrower has full authority to execute this Loan Agreement, the Note, the Trust Deed, and all of the other Loan Documents, to undertake and consummate the contemplated transactions, and to pay, perform, and observe all of the conditions, covenants, agreements, and obligations.

2.3. **BINDING OBLIGATION.** This Loan Agreement, the Note, the Trust Deed, and each of the other Loan Documents constitutes a legal and binding obligation of, and is valid and enforceable against, each party other than Lender, in accordance with the terms of each.

2.4. **LITIGATION.** There are no actions, suits, or proceedings pending or, to the best knowledge of Borrower, threatened against or affecting Borrower, the Property, or any part of it, or involving the validity or enforceability of the Trust Deed, the priority of the lien, or the validity or enforceability of any of the other Loan Documents, at law or in equity, or before or by any Governmental Authority. Borrower is not in default with respect to any order, writ, injunction, decree, or demand of any court or other Governmental Authority.

2.5. **NO VIOLATION.** The consummation of the transactions covered by this Loan Agreement and the payment and performance of all of the obligations in the Loan Documents, will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, contract, loan or credit agreement, corporate charter, bylaws, partnership agreement, trust agreement, or other instrument to which the Borrower or any of its general partners is a party or by which it or they or the Property may be bound or affected.

2.6. **NO DEFAULT.** There is no Event of Default or Potential Default on the part of Borrower.

2.7. **TITLE TO PROPERTY.** Borrower will be the sole legal and beneficial owner of the Property, which is free of all claims, liens, and encumbrances other than those shown in the Title Policy.

2.8. **NO UNAPPROVED LOANS.** Borrower has not received financing for either the acquisition of the Property, the construction of the Project or the permanent financing of the Project except as has been specifically disclosed to and approved by Lender in writing.

2.9. **USE OF PROCEEDS.** All Loan Proceeds will be disbursed as provided in this Loan Agreement and used only for payment of the Predevelopment Costs and the costs of construction of the Project in accordance with the Plans and Specifications.

2.10. **TAXES PAID.** Borrower has filed all required Federal, State, County, and City tax returns and has paid all taxes due and owing. Borrower knows of no basis for additional assessments with respect to any taxes, other than the lien of taxes not yet due.

2.11. **PLANS AND SPECIFICATIONS.** The Plans and Specifications are satisfactory to Borrower and the General Contractor and have been approved by the Lender and all other construction lenders. There are no structural defects in the Project as shown in the Plans and Specifications that are known to or reasonably should have been known to Borrower or its agents and employees, and to the best of Borrower's knowledge, no violation of any Governmental Requirement exists.

2.12. **ACCURACY.** All applications, financial statements, reports, documents, instruments, information, and forms of evidence delivered to Lender concerning the Loan or required by this Loan Agreement or any of the other Loan Documents are accurate, correct, and sufficiently complete to give Lender true and accurate knowledge of their subject matter, and do not contain any untrue statement of a material fact or omit any material fact necessary to make them not misleading.

3. LOAN. Lender agrees to lend to Borrower, and Borrower agrees to borrow from Lender, an amount not to exceed the Loan Amount, to finance the development of the Project subject to the terms, conditions, representations, warranties, and covenants in this Loan Agreement.

3.1. **PRINCIPAL AMOUNT.** The principal amount of the Loan shall be the actual disbursements of the Lender on account of the Project, not to exceed the amounts stated in the Budget (as the Budget may be adjusted by written approval of Lender). In any event, the principal amount of the Loan shall not exceed the Loan Amount.

3.2. **USE OF LOAN FUNDS.** Loan funds shall be used solely for actual Predevelopment Costs and the actual costs of Project construction. Predevelopment Costs may be subject to the same 10% withholding as Retention unless such withholding is not required by HCD.

3.3. **LOAN TERMS.** The Loan is made pursuant to the Loan Program and is subject to the laws, rules and regulations of the Loan Program, including HCD agreements listed in Article I under Special Terms. Lender agrees to disburse the Loan Proceeds in the manner and subject to the limitations stated in this Loan Agreement, which payments shall be made either by HCD directly to Borrower as a "designated payee" or by Lender after receipt of such funds from HCD. Repayment of the Loan shall be made in lawful tender of the United States at the Maturity Date.

3.4. **HCD FUNDING.** Borrower acknowledges that progress payments for this Loan will be made by HCD after Lender submits a draw request on behalf of Borrower to HCD, and that such Loan payments may not be made any sooner than 120 days after Borrower submits to Lender a draw request evidencing the work that has been completed and Borrower has made payment to the General Contractor for the Project in the same amount as the draw request. Under the HCD agreements listed in Article I under Special Terms, HCD may withhold funds in the event HCD determines there is a default by Borrower or by Capitol Station 65 LLC (the Master Township 9 Developer). Lender commits to make a good faith effort to promptly review and approve each draw request submitted by Borrower which includes all HCD required documents, but in no event shall Lender be liable to Borrower for any delays in receipt of progress payments under this Loan due to the act or inaction of HCD or Capitol Station 65 LLC, or if HCD cancels the HCD agreements for the Township 9 project for any reason. Borrower acknowledges and agrees that Lender is just a conduit entity to make the loan under the Loan Program and no funds of Lender have been pledged to make this Loan. In no event shall Lender's General Fund, any of Lender's general or special funds, or any of the funds in the hands of the Lender or its accounts now and in the future be obligated as or claimed as a source of funding for reimbursement to Borrower of its cost for the Project or for any liability of Lender under this Loan Agreement. Nothing in this Loan Agreement shall be construed to obligate such funds held by Lender. [Discuss: at a minimum will need a comfort letter from HCD regarding amendment of project milestones in Grant Agreements; effect of Master Developer default on funding of parking garage loan.]

3.5. NOTE AND SECURITY DOCUMENTS. The Loan is to be evidenced by the Note executed by Borrower in favor of Lender and delivered to Lender upon Close of Escrow. Repayment of the Note is to be secured by the Trust Deed covering the Property and the Project. Borrower shall execute the Trust Deed in favor of the Title Company as Trustor in trust for the benefit of Lender and deliver it to Escrow for recordation.

4. PERFORMANCE CONDITIONS. The following are conditions precedent to performance under this Loan Agreement:

4.1. CONDITION OF TITLE. Lender shall cause Escrow Agent to issue to Borrower (with a copy to Lender) the Preliminary Report, together with copies of all documents relating to title exceptions referred to in the Preliminary Report. At Close of Escrow, Lender's Trust Deed shall be a valid lien against the Property securing the Loan and subject to no exceptions to title (of record or off record) other than the exceptions listed in the "Conditions of Title" in the Escrow Instructions.

4.2. CONDITIONS TO LENDER'S PERFORMANCE. Lender's obligation to perform under this Loan Agreement is subject to all of the following conditions: (a) Borrower has performed all of its obligations then to be performed pursuant to this Loan Agreement; (b) Borrower has met the applicable Special Provisions, if any; (c) the closing conditions as defined in the Escrow Instructions have been fulfilled as of Close of Escrow; (d) Borrower's representations and warranties in this Loan Agreement are true and correct as of the Close of Escrow; (e) the Agreement continues to be in full force and effect, no default on the part of Borrower has occurred under the Loan Agreement, and no event has occurred that, with the giving of notice or the passage of time, will constitute a default by Borrower under the Loan Agreement; and (e) Lender has approved the Approval Documents.

4.3. CONDITIONS TO BORROWER'S PERFORMANCE. Borrower's obligation to perform under this Loan Agreement is subject to satisfaction of all of the following conditions: (a) Lender has performed all of its obligations then to be performed pursuant to this Loan Agreement; (b) the closing conditions as defined in the Escrow Instructions have been fulfilled as of Close of Escrow; (c) Borrower has met the applicable Special Provisions, if any; (d) Lender's representations and warranties in this Loan Agreement are correct as of the date of this Loan Agreement and as of the Close of Escrow; and (e) the Loan Agreement continues to be in full force and effect, no default on the part of Lender has occurred under the Loan Agreement, and no event has occurred that, with the giving of notice or the passage of time, will constitute a default by Lender under the Loan Agreement.

4.4. ESCROW. The parties shall open the Escrow promptly after the Effective Date. Escrow shall close as provided in the Escrow Instructions on or before the Closing Date.

4.5. COMMISSIONS. Lender is not responsible, by this Loan Agreement or otherwise, to pay commissions in relation to this transaction.

5. ADDITIONAL SECURITY INSTRUMENTS. Upon request by Lender, Borrower shall execute and deliver to Lender a security instrument in favor of Lender naming as secured property all contracts related to the Project and all other property of any kind owned by Borrower and used primarily in connection with the Property. Lender may, at any time and from time to time may reasonably require additions of new contracts and other property. Borrower irrevocably assigns to Lender, effective upon Lender's written demand, as security for the due performance of this Loan Agreement all of its right, title, and interest in the Assigned Documents.

6. CONSTRUCTION. As a condition of the Loan, after escrow has closed Borrower will diligently proceed with construction of the Project and shall complete such work on or before the Completion Date.

6.1. CHANGES. In order to assure sufficient funding for the Project, Borrower shall not authorize any Change without the prior written consent of Lender. If in the judgment of Lender, a Change, together with all other Changes contemplated or previously approved by Lender, will cause an increase in the cost of the Project in excess of the contingency reserve identified in the Budget, then Borrower will, as a condition precedent to Lender's consent, provide Lender with proof that the contingency reserve has been increased as necessary to pay for all such Changes. Borrower will submit any such Change to Lender for approval on a form acceptable to Lender, together with approvals by the Project Architect, if any, and the General Contractor. Borrower shall maintain funds available in the contingency reserve that are in substantially the same percentage of the original contingency reserve as the percentage of the Project then remaining to be completed.

6.2. CONTRACTORS AND CONTRACTS. Upon Lender's request, Borrower will furnish to Lender correct lists of all contractors, subcontractors and material suppliers employed in connection with the Project, specifying their addresses, their respective portion of the Project and their respective Project cost. Lender may contact directly each contractor, subcontractor, and material supplier to verify the facts disclosed by the list or for any other purpose related to the Loan. All contracts let by Borrower or its contractors relating to the Project will require them to disclose to Lender information sufficient to make such verification.

6.3. INSPECTION. Lender may, at any time and without notice to Borrower, enter on the Property and inspect the Project; and, during regular business hours, examine the books, records, accounting data, plans, shop drawings, specifications, and other documents of Borrower pertaining to the Project and to make extracts or copies. Borrower shall make all such documents available to Lender promptly on demand. Borrower agrees to cooperate fully (and to cause the General Contractor to cooperate fully) with the Lender and its Inspector and to permit all appropriate access to the Property and to all relevant books and records. Borrower shall bear the cost of reasonable inspections.

6.4. PROTECTION AGAINST LIEN CLAIMS. Borrower shall promptly and fully discharge all claims for labor done and materials and services furnished in connection with the Project, promptly file a valid Notice of Completion on completion of the Project, promptly file a Notice of Cessation in the event of a cessation of labor on the Project for a continuous Period of (30) days or more, and take all other reasonable steps to protect against the assertion of lien claims against the Property or any part of it.

6.4.1. Lender, at any time, may require Borrower to obtain a lien waiver with respect to each payment to the General Contractor and each payment by the General Contractor or Borrower to each of the various subcontractors and material suppliers, Lender, at any time, may require Borrower to make any payments for the Project by joint check made payable to the General Contractor and subcontractor for whose account the payment is to be made, as joint payees.

6.4.2. In any event, Borrower is not required to pay any claims for labor, materials, or services that Borrower disputes, reasonably and in good faith, and that Borrower, at its own expense, is currently and diligently contesting, provided that Borrower will, in that case and in each other case where a claim of lien has been filed, within ten (10) days after the filing of any claim of lien record in the office of the Recorder of the County where the Property is located a surety bond sufficient to release the claim of lien or deliver to Lender any other assurance as may be acceptable to Lender.

6.5. PAYMENT AND PERFORMANCE BONDS. As a condition precedent to beginning construction of the Project, the Borrower shall provide the Lender performance bond and a labor and material payment bonds obtained by Borrower or its general contractor in favor of the Borrower and Lender as named dual obligees, in form and amount as approved by the Lender and securing, respectively, completion of the work and payment of all labor and material suppliers and subcontractors for the work as stated in the construction contract for the Project. The bonds shall be written with a surety listed as acceptable to the federal government on its most recent list of sureties. Borrower shall assure compliance with all requirements of the surety. Borrower shall permit no changes in the work to be performed by the general contractor and shall make no advance payments to the general contractor without prior written notice to the surety and the Lender, if such change or payment could release the surety of its obligations under the bonds.

6.6. SECURITY INSTRUMENTS. Upon request by Lender, Borrower shall execute and deliver to Lender a security instrument in favor of Lender naming as secured property all contracts related to the Project and all other property of any kind owned by Borrower and used primarily in connection with the Property. Lender may require such instrument at any time, and from time to time may require additions of new contracts and other property. Borrower irrevocably assigns to Lender, effective upon Lender's written demand, as security for the due performance of this Loan Agreement all of its right, title, and interest in the Assigned Documents.

6.7. NO PRIOR LIENS. Borrower shall not allow the Project construction to begin or materials to be delivered to the Project until after Close of Escrow.

6.8. PROJECT SIGN. If Borrower places a sign on the Property during construction stating the names of the Project participants, it shall also name the "State Department of Housing and Community Development" as a

participant in the Project. HCD's name on the sign shall be in letters not less than size of letters used to name any of the other Project participants.

6.9. PREVAILING WAGES. The parties acknowledge that the Project (as defined in Article I Section A relating specifically to the Garage) will be subject to the payment of prevailing wages. Borrower has had the opportunity to meet with Borrower's legal counsel and to request a ruling on the matter before the appropriate governmental body. Borrower shall indemnify, hold harmless and defend the Lender from all additional wages, benefits, fees, penalties, fines, legal fees, court costs, arbitration costs, and other costs arising from Borrower's determinations and actions related to prevailing wage obligations for the Project construction work.

7. LOAN DISBURSEMENT PROCEDURES.

7.1. CONDITIONS PRECEDENT TO EACH LOAN DISBURSEMENT. The obligation of Lender to make any disbursements under this Loan Agreement shall be subject to the following conditions precedent:

7.1.1. No Event of Default or Potential Default of Borrower has occurred and is continuing.

7.1.2. If requested by Lender, Borrower has furnished to Lender, as a Project cost, an endorsement to the Title Policy showing no intervening liens or encumbrances on the Property and insuring the full disbursement, together with a satisfactory report under the California Uniform Commercial Code showing no liens or interests other than those of Lender.

7.1.3. Lender is satisfied that all completed work has been done using sound, new materials and fixtures, in a good and proper manner, and all materials, fixtures, and furnishings installed on or acquired for the Property will be owned by Borrower free of any liens, encumbrance, or other interests of any kind other than Lender's lien or security interest.

7.1.4. The representations and warranties in the Loan Documents are correct as of the date of the requested disbursement.

7.1.5. Borrower has paid Lender all commitment, loan, and other fees then due, and Borrower has submitted to, and Lender has approved in writing, all documents, records, statements, certificates, reports, and other materials and information then required to be submitted to Lender for approval under this Loan Agreement.

7.1.6. Borrower has delivered to Lender all funds, documents, instruments, policies, evidence of satisfaction of conditions, and other materials then due or otherwise requested by Lender under the Loan Documents.

7.1.7. Lender and HCD have approved the draw request.

7.2. CONDITIONS PRECEDENT TO FIRST DISBURSEMENT. Borrower's request for the first Loan disbursement is a representation and warranty by Borrower that there has been no material adverse change in Borrower's financial capacity or in any representation made to Lender in Borrower's application for the Loan or Borrower's supporting documentation. Lender, with HCD funds, shall make the first loan disbursement under this Loan Agreement when the following conditions precedent and the conditions precedent stated in Section 7.1 have been met:

7.2.1. There is no legal action threatened or pending against Borrower or affecting the Property.

7.2.2. All conditions to Close of Escrow have been satisfied in accordance with the Loan Agreement

7.2.3. Borrower has obtained and Lender has approved a loan approval from a financial institution (or other lender approved by Lender in its sole discretion) to make the Construction Loan and the Permanent Loan for the development of the Qualified Infill Project, which provides (a) that it is subject only to those conditions which are usual and customary in the industry and which can be satisfied by the proposed closing date of the Permanent Loan; and (b) that it is in full force with no default by any party.

7.2.4. Lender has provided proof of all insurance required by the Loan Documents.

7.2.5. The Construction Lender's commitment to make the Construction Loan for the development of the Qualified Infill Project is in full force, has not been modified and no event has occurred that with notice or the passage of time or both could result in the termination of it. Nothing in the Permanent Loan commitment for the development of the Qualified Infill Project or submissions and approvals made under it, conflicts with this Loan agreement. Borrower has done all things necessary to keep unimpaired its rights under the Loan Commitment

7.2.6. Borrower has filed all tax returns required to be filed and paid all taxes due, which, if unfiled or unpaid, might adversely affect Lender's security under the Security Documents.

7.2.7. Borrower has obtained approval from the Sacramento Housing and Redevelopment Agency (SHRA) and the Housing Authority of the City of Sacramento, as the successor housing agency to the prior Redevelopment Agency of the City of Sacramento (HA), for the making of the Construction Loan and the Permanent Loan for the development of the Qualified Infill Project.

7.3. CONDITIONS PRECEDENT TO FINAL DISBURSEMENT. Lender shall make the final loan disbursement under this Loan Agreement when the following conditions precedent and the conditions precedent stated in Section 7.1 have been met:

7.3.1. As applicable, the Project Architect and the Inspector will have certified to Lender, on AIA Form G704 and in a manner satisfactory to Lender:

7.3.1.1. That the Project has been duly completed in a good and proper manner using sound, new materials;

7.3.1.2. That the Project complies with the Plans and Specifications, the requirements of all Governmental Authorities and any other party having enforceable rights regarding the construction of the Project; and

7.3.1.3. That the Project is structurally sound.

7.3.2. Borrower has filed all tax returns required to be filed and paid all taxes due, which, if unfiled or unpaid, might adversely affect Lender's security under the Security Documents.

7.3.3. Title policy endorsements in form and amount satisfactory to Lender (including an endorsement insuring lien-free completion of the Project) have been furnished to Lender.

7.3.4. Borrower has furnished evidence, in form and substance satisfactory to Lender, that:

7.3.4.1. The General Contractor and subcontractors and material suppliers and their subcontractors and material suppliers have been paid in full.

7.3.4.2. Borrower has obtained final certificates of occupancy for all of the Project;

7.3.4.3. All other permits and approvals necessary for the construction, equipping, management, operation, use, or ownership of the Project have been obtained, subject only to those conditions approved by Lender, and

7.3.4.4. The completed Project complies with all applicable zoning regulations, subdivision map acts, building code provisions, and similar governmental laws and regulations, and has all utilities and adequate ingress and egress from public streets, that evidence to be in the form of a certificate executed by Borrower in favor of Lender.

7.3.5. That Borrower has provided to Lender an inventory showing make, model, value, cost, and location of all furniture, fixtures, and equipment and other personal property used in the management, maintenance, and operation of the Project, if any, that are included in the collateral for the Loan.

7.3.6. Borrower has filed a notice of completion of the Project necessary to establish the commencement of the shortest statutory period for filing of mechanics' and materialmen's liens.

7.3.7. Lender has received written approval from the surety on any bond required by Lender.

7.3.8. Borrower has submitted to Lender a final cost certification prepared by a CPA.

7.4. **MAKING DISBURSEMENT.** Lender shall pay each disbursement request within thirty (30) days after receipt of the Loan funds from HCD if HCD does not make payment directly to Borrower. Lender shall disburse the actual cost of the work represented in the disbursement request by Borrower, reduced by the cost of work included in the request and not satisfactorily completed and by the amount of the Retention to be withheld if such funds have not been withheld by HCD.

7.5. **DISBURSEMENT OF LESS THAN FULL REQUEST.** If Lender either does not approve a draw request or makes a disbursement which is less than the full amount of the disbursement requested, Lender shall inform Borrower of the items disallowed for disbursement and the reason for disallowing them. If Lender holds the Loan funds paid by HCD, Lender shall disburse the Loan in the following order of priority, except as expressly provided and unless paid by Borrower from other funds: (a) first, at Lender's option, to make any other payments that Lender may in its sole discretion deem necessary or advisable to protect Lender's security under the Loan Documents; and (b) second, to make the disbursement of funds then due in response to Borrower's current request for disbursement.

7.6. **NO WAIVER BY DISBURSEMENT.** The making of any Loan disbursement shall not be deemed to constitute an approval or acceptance by Lender of the work completed or a waiver of the condition with respect to a subsequent disbursement.

7.7. **APPROVAL OF OTHER LENDER DISBURSEMENTS.** Borrower shall concurrently submit to the Lender complete disbursement requests, including without limitation all attachments and supporting evidence, made to any other lender, investor of other funding source for the Project. Lender shall have five (5) business days from receipt of such disbursement request to approve or deny such request, in whole or in part. Lender's approval of such disbursements shall be a condition precedent to such other lender's disbursement of funds pursuant to such disbursement request.

7.7.1. Borrower warrants and covenants to the Lender that the foregoing Lender review and approval process shall be acknowledged and accepted in all other loans and funding agreements for the Project.

7.7.2. Lender may deny all or any part of such disbursement request if Borrower fails to provide line-item specification of each of the items for which the disbursement is sought and if such line-item specification fails to match like items in the Budget for the Project.

7.7.3. The disbursement of funds made pursuant to such other disbursement request which has not been reviewed and approved by Lender is a material breach of this Loan.

Notwithstanding any agreement to the contrary, this Section 7.7 regarding such other disbursements shall not be subordinated to any other interest unless such instrument of subordination specifically refers to the subordination of this Section 7.7 and is duly executed by Lender.

7.8. **COMPLIANCE.** To the best of Borrower's knowledge, the construction, use, and occupancy of the Property and Project if built according to the Plans and Specifications will comply in full with all Governmental Requirements. No right to construct or use the Project is to any extent dependent on any real property other than the Property. All approvals, licenses, permits, certifications, filings, and other actions normally accepted as proof of compliance with all Governmental Requirements by prudent lending institutions that make investments secured by real property in the general area of the Property, to the extent available as of the date of this Loan Agreement, have been given or taken, or Borrower is entitled to have them given or taken as the ministerial act of the applicable Governmental Authority

8. DEFAULT

8.1. **EVENTS OF DEFAULT.** At the option of Lender, each of the following events will constitute a default (each an "Event of Default"):

8.1.1. The occurrence of an Event of Default under the Trust Deed, after the expiration of all applicable periods for notice and cure.

8.1.2. Borrower's failure to comply with any Governmental Requirements, after the expiration of all applicable periods for notice and cure.

8.1.3. Borrower's failure to keep in full force any permit, license, consent, or approval with respect to the construction, occupancy, or use of the Project, after the expiration of all applicable periods for notice and cure.

8.1.4. Any material deviation from the Plans and Specifications in the construction of the Project, or the appearance or use of defective workmanship or materials in the construction of the Project, if Borrower fails to remedy them or to diligently proceed to remedy them to Lender's satisfaction within ten (10) days after Lender's written demand to do so.

8.1.5. Borrower's failure to complete the construction of the Project by the Completion Date.

8.1.6. The filing of any lien against the Property or Project or the service on Lender of any bonded stop notice related to the Loan, if the claim of lien or bonded stop notice continues for thirty (30) days without discharge, satisfaction, or the making of provision for payment (including bonding) to the satisfaction of Lender as provided for in Section 6.4.

8.1.7. The attachment, levy, execution, or other judicial seizure of any portion of the Property or Project, or any substantial portion of the other assets of Borrower, that is not released, expunged, bonded, discharged, or dismissed within thirty (30) days after the attachment, levy, execution, or seizure.

9. REMEDIES

9.1. **OPTION TO ACT.** On the occurrence of any Event of Default, in addition to its other rights in this Loan Agreement or in any of the other Loan Documents, at law, or in equity, Lender may, without prior demand, exercise any one or more of the following rights and remedies:

9.1.1. Terminate its obligation to make disbursements.

9.1.2. Declare the Note and all other sums owing to Lender with respect to the other Loan Documents immediately due.

9.1.3. Make any disbursements after the happening of any one or more of the Events of Default, without waiving its right to demand payment of the Note and all other sums owing to Lender with respect to the other Loan Documents or any other rights or remedies and without liability to make any other or further disbursements, regardless of Lender's previous exercise of any rights and remedies.

9.1.4. Proceed as authorized at law or in equity with respect to the Event of Default, and in connection with that, remain entitled to exercise all other rights and remedies described in this Loan Agreement or the Trust Deed.

9.1.5. Make any unauthorized payment from Loan proceeds or other funds of Lender.

9.1.6. Recover its funds expended in exercising or enforcing any of its rights or remedies under any of the Loan Documents, together with interest at the Default Rate from the date the funds were spent until repaid which amounts will be deemed secured by the Trust Deed.

9.2. **RIGHTS CUMULATIVE, NO WAIVER.** All of Lender's rights and remedies provided in this Loan Agreement or in any of the other Loan Documents are cumulative and may be exercised by Lender at any time. Lender's exercise of any right or remedy will not constitute a cure of any Event of Default unless all sums then due to Lender under the Loan Documents are repaid and Borrower has cured all other Events of Default. No waiver will be implied from Lender's failure to take, or delay in taking, any action concerning any Event of Default or from any previous waiver of any similar or unrelated Event of Default. Any waiver under any of the Loan Documents must be in writing and will be limited to its specific terms.

9.3. **DISCLAIMER.** Whether Lender elects to employ any of the remedies available to it in connection with an Event of Default, Lender will not be liable for the construction of or failure to construct, complete, or protect the Project; the payment of any expense incurred in connection with the exercise of any remedy available to Lender or the construction or completion of the Project; or the performance or nonperformance of any other obligation of Borrower.

9.4. **GRANT OF POWER.** Borrower irrevocably appoints Lender as its attorney-in-fact, with full power and authority, including the power of substitution, exercisable on the occurrence of an Event of Default, to act for Borrower in its name, place, and stead as provided in this Loan Agreement to take possession of the Property and Project, remove all employees, contractors, and agents of Borrower, to complete or attempt to complete the work of construction, and to market, sell, or lease the Property and Project; to make any additions, changes, and corrections in the Plans as may be necessary or desirable, in Lender's sole discretion, or as it deems proper to complete the Project; to employ any contractors, subcontractors, suppliers, architects, inspectors, consultants, property managers, and other agents that Lender, in its sole discretion, deems proper for the completion of the Project, for the protection or clearance of title to the Property, or for the protection of Lender's interests, to employ security guards to protect the Property and Project from injury or damage; to pay, settle, or compromise all bills and claims then existing or later arising against Borrower that Lender, in its sole discretion, deems proper for the completion of the Project, for the protection or clearance of title to the Property, or for the protection of Lender's interests; to prosecute and defend all actions and proceedings in connection with the Property or Project; and to execute, acknowledge, and deliver all other instruments and documents in the name of Borrower that are necessary or desirable, to exercise Borrower's rights under all contracts concerning the Property or Project, and to do all other acts with respect to the Property or Project that Borrower might do on its own behalf, in each case as Lender in its reasonable discretion deems proper.

10. LIABILITY INSURANCE. With regard to this Loan Agreement, the Borrower shall obtain and maintain, and require the contractor and subcontractors for the Project to obtain and maintain such insurance as will protect them, respectively, from the following claims which may result from the operations of the Borrower, any contractor, subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation benefit acts; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of his employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees; (d) claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Borrower, or (2) by any other person; claims for damages, other than to the construction itself, because of injury to or destruction of tangible property, including resulting loss of use; (e) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle; and (f) claims for contractual liability arising from the Borrower's obligations under this Loan Agreement.

10.1. **LIABILITY INSURANCE POLICY LIMITS.** Borrower shall assure that the insurance required by this Section shall be written with a deductible of not more than \$50,000.

10.2. **WORKER'S COMPENSATION.** Worker's compensation coverage shall be written for the statutory limits as required by the California Labor Code (commencing with Section 3700, as it may, from time to time, be amended).

10.3. **COMPREHENSIVE GENERAL LIABILITY.** Commercial general liability coverage shall include premises -operations, independent contractor's protective, products and completed operation (for four years), broad form property damage, and contractual liability coverage (or such other substantially similar coverage as may approved by Lender's legal counsel). Such insurance shall have limits of liability which are not less than \$1,000,000, each occurrence, for bodily injury coverage; \$1,000,000 aggregate, for products and completed operations coverage; \$1,000,000 each occurrence for property damage coverage, single limit and aggregate; and which is the same as the foregoing coverages.

10.4. **COMPREHENSIVE AUTOMOBILE LIABILITY.** Comprehensive automobile liability coverage for any vehicle used for, or in connection with, the Project (owned, non-owned, hired, leased) having not less than the statutory limits of liability.

10.5. **FIRE, HAZARD AND EXTENDED COVERAGE INSURANCE.** For the duration of Loan Agreement, Borrower shall obtain and maintain fire and hazard insurance to the full insurable value of the Property as improved by the

Project with endorsements of extended coverage, vandalism, and malicious mischief, and with such other endorsements and in such amounts as the Lender may reasonably require to protect the Project. In the event of damage to the Project and subject to the requirements of Lender, Borrower shall use the proceeds of such insurance to reconstruct the Project and the public improvements.

10.6. INSURANCE PROVISIONS. Each policy of insurance required under this Loan Agreement shall be obtained from a provider licensed to do business in California and having a current Best's Insurance Guide rating, or such other equivalent rating, as may reasonably be approved by Lender's legal counsel. Each policy shall bear an endorsement precluding cancellation or termination of the policy or reduction in coverage unless the Lender has been given written notice of such intended action at least thirty (30) days prior to its effective date.

10.7. FAILURE TO MAINTAIN. If Borrower fails to obtain or maintain, or cause to be obtained and maintained, any insurance required by this Loan Agreement, the Lender shall have the right to purchase the insurance on Borrower's behalf, and Borrower shall promptly reimburse the full cost of such insurance to the Lender. If Borrower fails to reimburse the Lender for insurance, the amount of unpaid reimbursement shall bear interest, at the maximum rate permissible under the law, until paid.

11. MISCELLANEOUS

11.1. NONRECOURSE. Notwithstanding any provision of this Loan Agreement or any document evidencing or securing this Loan, Borrower, and Borrower's principals, agent, officer, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

11.2. NATURE OF REPRESENTATIONS AND WARRANTIES. Borrower certifies to Lender that all representations and warranties made in this Loan Agreement and all other Loan Documents are true and correct in all material respects and do not contain any untrue statement of a material fact or omit any material fact necessary to make the representations and warranties not misleading. All representations and warranties will remain true and correct in all material respects and will survive so long as any of Borrower's obligations have not been satisfied or the Loan or any part of it remains outstanding, and for any applicable statute of limitations period. Each request by Borrower for a disbursement will constitute an affirmation that all representations and warranties remain true and correct as of the date of that request. Each representation and warranty made in this Loan Agreement, in any other Loan Documents, and in any other document delivered to Lender by Borrower, will be deemed to have been relied on by Lender, regardless of any investigation, inspection, or inquiry made by Lender or any related disbursement made by Lender. The representations and warranties that are made to the best knowledge of Borrower have been made after diligent inquiry calculated to ascertain the truth and accuracy of the subject matter of each representation and warranty.

11.3. FINANCIAL STATEMENTS. Borrower shall provide Financial Statements when requested by Lender, but in any event not more often than quarterly during construction of the Project or annually, thereafter. Borrower shall assure that Financial Statements are prepared in accordance with generally accepted accounting principles. If requested by Lender as reasonably necessary to assure the security of its Loan, Borrower shall provide Financial Statements prepared or reviewed by a licensed Certified Public Accountant or Public Accountant and fully reflecting the assets and liabilities of the party concerning whom they were prepared.

11.4. NO WAIVER. No failure or delay on the part of Lender in exercising any right or remedy under the Loan Documents will operate as a waiver nor will Lender be estopped to exercise any right or remedy at any future time because of any such failure or delay. No express waiver will affect any matter other than the matter expressly waived and that waiver will be operative only for the time and to the extent stated. Waivers of any covenant, term, or condition in this Loan Agreement will not be construed to waive any subsequent breach of the same covenant, term, or condition.

11.5. NO THIRD PARTIES BENEFITED. This Loan Agreement is made and entered into for the sole protection and benefit of the parties and their permitted successors and assigns, and no other Person will have any right of action or any rights to the Loan funds at any time.

11.6. NOTICES. Borrower irrevocably appoints Lender as its agent (the agency being coupled with an interest) to file for record any notices of completion, cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interests under this Loan Agreement or under the Loan Documents. All notices to be given

under this Loan Agreement shall be in writing and sent to the addresses stated above by one or more of the following methods.

(a) Certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail;

(b) A nationally recognized overnight courier, by priority overnight service, in which case notice shall be deemed delivered one (1) business day after deposit with that courier;

(c) Hand delivery with signed receipt for delivery from a person at the place of business of the receiving party and authorized to accept delivery for the receiving party, in which case notice shall be deemed delivered upon receipt, or

(d) Telecopy, if a copy of the notice is also sent the same day by United States Certified Mail, in which case notice shall be deemed delivered one (1) business day after transmittal by telecopier, provided that a transmission report is automatically generated by the telecopier reflecting the accurate transmission of the notices to receiving party or to such other address as Borrower or Lender may respectively designate by written notice to the other.

11.7. ACTIONS. Lender will have the right to commence, appear in, or defend any action or proceeding purporting to affect the rights, duties, or liabilities of the parties, or the disbursement of any funds under this Loan Agreement. In connection with that, Lender may incur and pay costs and expenses, including, without limitation, reasonable attorney fees. Borrower agrees to pay to Lender on demand all these expenses. This Section does not apply to actions or proceedings between the parties.

11.8. SIGNS. Borrower agrees that on the request of Lender, Borrower will erect and place on or in the immediate vicinity of the Property a sign indicating that HCD has provided construction financing for the Project. The sign will remain the property of Lender and will be required to be removed only after construction has been completed. Lender may also arrange for publicity of the Loan in its sole discretion.

11.9. ASSIGNMENT. The terms of this Loan Agreement will be binding on and inure to the benefit of successors and assigns of the parties. However, Borrower shall not assign this Loan Agreement or any interest it may have in the monies due or, except as otherwise provided, convey or encumber the Property without the prior written consent of Lender. However, if there is an assignment, conveyance, or encumbrance, Lender may nevertheless at its option continue to make disbursements under this Loan Agreement to Borrower or to those who succeed to Borrower's title, and all sums so disbursed will be deemed to be disbursements under this Loan Agreement and not modifications, and will be secured by the Security Documents. Lender may at any time assign the Loan Documents to any affiliate of Lender, the assignee will assume the obligations of Lender, and Lender will have no further obligation of any nature. In that case, the provisions of this Loan Agreement will continue to apply to the Loan, and the assignee will be substituted in the place and stead of Lender, with all rights, obligations, and remedies of Lender, including, without limitation, the right to further assign the Loan Documents. In addition, Lender may at any time assign a participation in the Loan to any other party, provided that Lender continues to be primarily obligated under this Loan Agreement.

11.10. PREPAYMENT. Borrower may prepay the Loan only on and subject to the terms and conditions in the Note. Borrower shall have no rights to receive, and under no circumstances will Borrower receive repayment of any fees previously paid to Lender.

11.11. BORROWER'S RESPONSIBILITIES. To prevent and avoid construction defects, Borrower shall inspect, review, supervise, and assure the high quality, adequacy, and suitability of: (i) the Plans and Specifications and all changes and amendments; and (ii) architects, contractors, subcontractors, and material suppliers employed or used in the Project, and the workmanship of and the materials used by all of them; and (iii) the progress and course of construction and its conformance with the Plans and Specifications and any amendments, alterations, and changes that may be approved by Lender. Borrower will, at Borrower's expense, defend, indemnify, save, and hold Lender harmless against all claims, demands, losses, expenses, damages (general, punitive, or otherwise), and causes of action (whether legal or equitable) asserted by any Person arising out of the use of the proceeds of the Loan. Borrower will pay Lender on demand all claims, judgments, damages, losses, or expenses (including attorney fees

and expenses) incurred by Lender as a result of any legal action arising out of the use of the proceeds of the Loan. The provisions of this Section will survive the termination of this Loan Agreement and the repayment of the Loan.

11.12. NONLIABILITY FOR NEGLIGENCE, LOSS, OR DAMAGE. Borrower acknowledges, understands, and agrees as follows:

11.12.1. The relationship between Borrower and Lender is, and will at all times remain, solely that of borrower and lender, and Lender neither undertakes nor assumes any responsibility for or duty to Borrower to select, review, inspect, supervise, pass judgment on, or inform Borrower of the quality, adequacy, or suitability of the Project work, except as to matters which are within the intent and purpose for which Lender has made the Loan.

11.12.2. Lender owes no duty of care to protect Borrower against negligent, faulty, inadequate, or defective building or construction.

11.12.3. Lender will not be responsible or liable to Borrower for any loss or damage of any kind to person or property whether suffered by Borrower or any other Person or group of Persons or for negligent, faulty, inadequate, or defective building or construction, and Borrower will hold Lender harmless from any liability, loss, or damage for these things.

11.13. CONTROLLING LAW; VENUE. The Loan Documents will be governed by and construed in accordance with California law. The venue for any legal action or proceeding will be in the County of Sacramento, California

11.14. CONSENTS AND APPROVALS. All consents and approvals by Lender required or permitted by any provision of this Loan Agreement will be in writing. Lender's consent to or approval of any act by Borrower requiring further consent or approval will not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act.

11.15. SURVIVAL OF WARRANTIES AND COVENANTS. The warranties, representations, conditions, covenants, and agreements in this Loan Agreement and in the other Loan Documents will survive the making of the Loan and the execution and delivery of the Note and will continue in full force until the Loan has been repaid in full. Nothing in this Section is intended to limit any other provision of the Loan Documents that by their stated terms survive the repayment of the Indebtedness or the termination of any Loan Document.

11.16. RECORDING AND FILING. Borrower, at its expense, will cause the Security Documents and all supplements to be recorded and filed and re-recorded and re-filed in any manner and in any places as Lender will reasonably request, and will pay all recording, filing, re-recording, and re-filing taxes, fees, and other charges.

11.17. LOAN EXPENSES. In making the first disbursement, Lender may, at its option, deduct from the proceeds of that disbursement a sum equal to the aggregate of the following, to the extent Lender has knowledge of it and demand has been made on Lender at the time of the deposit: all expenses specifically incurred in connection with the Loan or the preparation, execution, and delivery of the Loan Documents, including, but not limited to, recording costs and expenses, transfer and other taxes (if any), surveys, appraisal fees, title and hazard insurance premiums, recording, notary, and escrow charges, and all other similar, usual, or customary loan closing charges and expenses; and any other budgeted expenses that have been approved by Lender in writing; and Lender will, for the benefit of Borrower, pay those amounts over to the respective parties on whose behalf the demands will have been received by Lender. Borrower will pay directly any expenses in connection with the Loan not so paid by Lender, including, without limitation, any of the expenses specified above, and will hold Lender free from any cost, liability, or obligation of any nature in connection with it, including reasonable attorney fees incurred by Lender. Borrower further agrees to pay on demand all out-of-pocket costs and expenses reasonably incurred by Lender including, without limitation, the fees and disbursements of Lender's outside counsel, in connection with: (i) the administration of the Loan, including, without limitation, all approvals or consents given or contemplated to be given under the Loan Documents, all amendments to the Loan Documents entered into by Lender or requested by any Loan Party, and all title insurance policies and endorsements required by Lender, and (ii) the enforcement of any rights or remedies under the Loan Documents, whether any action or proceeding is commenced, or the protection of the security, or interests of Lender under the Loan Documents. All costs and expenses, together with interest at Loan rate, will form a part of the indebtedness and will be secured by the Security Documents.

11.18. **NO REPRESENTATIONS BY LENDER.** By accepting or approving anything required to be observed, performed, or fulfilled, or to be given to Lender pursuant to this Loan Agreement or pursuant to the Loan Documents, including, but not limited to, any officer's certificate, balance sheet, statement of income and expense, or other Financial Statement, survey, appraisal, or insurance policy, Lender will not be deemed to have warranted or represented the sufficiency, legality, effectiveness, or legal effect of it or of any particular term, provision, or condition of it, and any acceptance or approval will not be or constitute any warranty or representation by Lender.

11.19. **AMENDMENT.** The Loan Documents and the terms of each of them may not be modified, waived, discharged, or terminated except by a written instrument signed by the party against whom enforcement of the modification, waiver, discharge, or termination is asserted.

11.20. **TERMINATION.** Except as otherwise provided in the Loan Documents, all rights and obligations under this Loan Agreement will terminate except as to any accrued obligations effective on the payment of all Indebtedness owing by Borrower to Lender.

11.21. **COUNTERPARTS.** The Loan Documents may be executed in any number of counterparts and by different parties in separate counterparts, each of which when executed and delivered will be deemed an original and all of which counterparts taken together will constitute one and the same instrument.

11.22. **SEVERABILITY.** If any term, provision, covenant, or condition or any application is held by a court of competent jurisdiction to be invalid, void, or unenforceable, all terms, provisions, covenants, and conditions and all applications not held invalid, void, or unenforceable will continue in full force and will in no way be affected, impaired, or invalidated.

11.23. **CAPTIONS.** All Article and Section headings in the Loan Documents are inserted for convenience of reference only and do not constitute a part of the Loan Documents for any other purpose.

11.24. **INDEMNITY.** Borrower agrees to defend, indemnify, and hold Lender harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorney fees that Lender may reasonably incur as a direct or indirect consequence of the making of the Loan, Borrower's failure to perform any obligations as and when required by this Loan Agreement or any of the other Loan Documents, the failure at any time of any of Borrower's representations or warranties to be true and correct, or any act or omission by Borrower, any contractor, subcontractor, engineer, architect, or other Person with respect to the Property, the Project, or any portion of them. Borrower will pay immediately on Lender's demand any amounts owing under this indemnity, together with interest at the lesser of the Default Rate or the maximum rate permitted by law from the date Lender makes a payment or incurs a loss. Borrower's duty to indemnify Lender will survive the release and cancellation of the Note and the reconveyance or partial reconveyance of the Trust Deed.

11.25. **FURTHER ASSURANCES.** At Lender's request and at Borrower's expense, Borrower will execute, acknowledge, and deliver all other instruments and perform all other acts necessary, desirable, or proper to carry out the purposes of the Loan Documents or to perfect and preserve any liens created by the Loan Documents.

11.26. **DISCLOSURE OF INFORMATION.** If Lender elects to sell the Loan, Lender may forward to the buyer of the Loan all documents and information related to the Loan in Lender's possession, including without limitation all Financial Statements, whether furnished by Borrower or otherwise.

11.27. **LENDER'S AGENTS.** Lender may designate agents or independent contractors to exercise any of Lender's rights under the Loan Documents. Any reference to Lender in any of the Loan Documents will include Lender's employees, agents, and independent contractors.

11.28. **INTEGRATION AND INTERPRETATION.** The Loan Documents contain or expressly incorporate by reference the entire agreement between Lender and Borrower with respect to the covered matters and supersede all prior negotiations. Any reference to the Property or Project in any of the Loan Documents will include all or any portion of them. Any reference to the Loan Documents themselves in any of the Loan Documents will include all amendments, renewals, or extensions approved by Lender.

11.29. **NUMBER, IDENTITY AND GENDER.** When the context and construction so require, all words used in the singular will be deemed to have been used in the plural and vice versa. Person means any natural person, corporation, firm, partnership, association, trust, government, governmental agency, or any other entity, whether acting in an individual, fiduciary, or other capacity. When the context and construction so require, all words which indicate a gender will be deemed to have been used to indicate the gender as indicated by the context.

Exhibit 1

Legal Description

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA,
COUNTY OF SACRAMENTO, CITY OF SACRAMENTO, AND IS DESCRIBED AS
FOLLOWS:

LOT 4, AS SHOWN ON THE FINAL MAP OF TOWNSHIP 9 - PHASE 1, FILED FOR
RECORD
__ / __ / __ IN BOOK __ OF FINAL MAPS, PAGE __, SACRAMENTO COUNTY
RECORDS.

APN: 001-0020-019 & 045

Exhibit 2

Note Form

PROMISSORY NOTE TOWNSHIP 9 QIP PARKING GARAGE PROJECT

"EFFECTIVE DATE"	November 1, 2012
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ARTICLE I TERMS AND DEFINITIONS:

BORROWER HAS MADE THIS PROMISSORY NOTE ("NOTE") AS OF THE EFFECTIVE DATE. This Note, in addition to attachments and Exhibits listed below includes Article II Note Provisions, which is attached to and incorporated in this Note by this reference. The capitalized terms in this Note shall have the meanings assigned in this Article I Terms Definitions and as defined in Article II Note Provisions. (Terms being defined are indicated by quotation marks. If an item in a table in this Article 1 is marked "None, Not Applicable, N/A or equivalent or is left blank, that defined term is not applicable to this Note or the referenced item is not required or is not included in this Note as the context may indicate.) The Lender is making the Loan to Borrower in consideration of Borrowers making this Note and delivering it to Lender.

For purposes of this Note, the following terms shall have the following meanings:

DEFINED TERM:	DEFINITION:
"Loan Date"	November 1, 2012
"Lender"	City of Sacramento
"Borrower"	T9 Affordable Housing Partnership, LP
"Borrower Legal Status"	A California limited partnership
"Loan Agreement"	The Loan Agreement between the Borrower and Lender the loan ("Loan") evidenced by this Note Dated: November 1, 2012
"Principal Amount"	\$6,200,000
"Interest Rate"	0%
"Maturity Date"	November 1, 2067
PAYMENT SCHEDULE.	
The Loan is due and payable on the Maturity Date.	

ARTICLE II NOTE PROVISIONS

BORROWER HAS MADE THIS NOTE AS OF THE LOAN DATE. The Lender is making the Loan subject to the terms and conditions of the Loan Agreement and this Note.

FOR VALUE RECEIVED, THE UNDERSIGNED, JOINTLY AND SEVERALLY, PROMISES TO PAY to Lender, or its successors or assigns, the Principal Amount or such lesser amount as may be endorsed on this Note on behalf of Lender. The Loan shall bear interest on the outstanding principal balance, computed from the date of each advance by Lender to Borrower at Interest Rate.

1. This Note evidences the obligation of Borrower to Lender for repayment of funds loaned to Borrower under a loan agreement between Borrower and Lender dated as of the Loan Date ("Loan Agreement"). The terms and covenants of the Loan Agreement are incorporated in this Note by reference. The Loan Agreement provides for and incorporates the Declaration of Restrictive Covenants for the Development of Market Rate Housing and Affordable Housing recorded against the Property on May 14, 2010 at Book 100514 Page 746 (the "Regulatory Agreement"), the making of which is further consideration for this Note.

2. Borrower shall make payments of the unpaid balance of the principal sum of the Loan together with all fees and charges due, if any, on the Maturity Date. All payments on this Note shall be applied first to fees and charges due under the Loan Agreement, if any, then to the principal due on this Note. Borrower shall make the payments to the Lender at

915 "I" Street, Sacramento, CA 95814, or to such other person or organization as may be designated by Lender to Borrower and noticed as provided in the Loan Agreement.

3. This Note is secured by a Deed of Trust with Assignment of Rents against the real property described in the Loan Agreement ("Property"), recorded in the office of the County Recorder of Sacramento County ("Trust Deed"). The Trust Deed securing this Note provides that Lender may at its option, declare all funds secured by the Trust Deed immediately due and payable, if any interest in the real property (subject to the terms of the Loan Agreement) is sold, transferred or conveyed to any person, whether voluntarily or involuntarily. The Trust Deed further provides that if Borrower does not comply with the requirements of the Regulatory Agreement and fails to come into compliance with the Regulatory Agreement within thirty (30) days after Lender's written notice to Borrower of such failure, Lender may at its option, declare all funds secured by the Trust Deed immediately due and payable.

4. Upon occurrence of any one or more of the following, and subject to the notice and cure rights set forth in Section 15 of the Trust Deed, Lender may, at its sole discretion, declare all unpaid principal immediately due and payable, together with all unpaid interest at the stated rate from the date of the advancement of the Loan's proceeds:

a. Borrower defaults in the payment of any principal when due.

b. Lender discovers that Borrower, in any application to Lender in connection with the Loan, had failed to disclose or misrepresented any fact deemed by Lender to be material or which would have prevented Borrower from being eligible for the Loan.

c. Lender discovers that Borrower had made any misrepresentations or failed to disclose any fact deemed material by Lender in the Loan Agreement, this Note or the Trust Deed.

d. Borrower defaults or breaches any of the terms of Loan Agreement, this Note, the Trust Deed or the Regulatory Agreement.

e. Borrower fails to perform any covenant, term or condition in any instrument creating a lien upon the Property which is the security under the Trust Deed, or any part thereof, which lien shall have priority over the lien of the Trust Deed securing this Note.

f. The sale, transfer of title, conveyance or further encumbrance of the Property, whether by sale, exchange, gift, inheritance or other means, without prior written consent of Lender.

g. The occurrence of an "Event of Default" under the Loan Agreement or any of the following:

1) Borrower becoming insolvent or bankrupt or being unable or admitting, in writing, his/her inability to pay his/her debts as they mature or making a general assignment of or entering into any arrangement with creditors.

2) Proceedings for the appointment of a receiver, trustee or liquidator of the assets of Borrower or a substantial part of such assets, being authorized or instituted by or against the Borrower.

3) Proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction being authorized or instituted against Borrower.

5. No waiver of any default or breach by Borrower under this Note shall be implied from any omission by Lender to take action on account of such default, and no express waiver shall affect any default, other than the default specified in the waiver. Such waiver shall be in writing and shall be operative only for the time and to the extent therein stated.

6. Borrower may prepay this Note in full or in part at any time, without any prepayment penalty being charged by Lender.

7. During the existence of default or delinquency under the terms of this Note or the Trust Deed, the Lender is expressly authorized to apply all payments made on this Note to the payment of all or part of the delinquency, as it may elect.

8. Borrower shall pay to Lender all costs of enforcement of all or any portion of this Note and the Trust Deed, including attorney's fees, witness fees, investigator fees and court costs, incurred by Lender, whether or not litigation is commenced.

9. The Loan Agreement provides that it is a nonrecourse loan.

IN WITNESS WHEREOF, Borrower has executed this Note as of the Loan Date.

Borrower:

T9 AFFORDABLE HOUSING PARTNERS, LP
a California limited partnership

By: PacH SAC-MIDTOWN HOLDINGS, LLC, a California limited liability company,
its managing general partner

By: Pacific Housing, Inc., a California
nonprofit public benefit corporation,
its sole member and manager

By: _____
Mark A. Wiese
President

By: T9 Affordable Housing GP, LLC, a California
limited liability company,
its administrative general partner

By: JSCo T9, LLC, a California
limited liability company, its member

By: John Stewart Company, its manager

By: _____
Jack D. Gardner
President

By: UrbanCore-Integral T9, LLC, a California
limited liability company, its member

By: UrbanCore Development, LLC, a California
limited liability company, its member

By: _____
Michael E. Johnson
President

Exhibit 3

Trust Deed Form

NO FEE DOCUMENT:

Entitled to free recording
per Government Code 6103.

When recorded, return to:

City of Sacramento
915 I Street
Sacramento, CA 95814
Attention: Economic Development Department

DEED OF TRUST AND ASSIGNMENT OF RENTS TOWNSHIP 9 QIP PARKING GARAGE PROJECT

For purposes of this Deed of Trust the following capitalized terms shall have the meanings ascribed in the space adjacent to them:

TERM	DEFINITION	
“Effective Date”	November 1, 2012	
“Trustor” and “Borrower”	T9 Affordable Housing Partners, LP	
“Borrower Address”	1388 Sutter Street, 11 th Floor, San Francisco, CA 94109	
“Trustee” and “Title Company”	Placer Title Company	
“Beneficiary ” and “Lender”	City of Sacramento, a municipal corporation	
“Lender Address”	915 I Street, Sacramento, California 95814	
“Property”	Which is real property located in the County of Sacramento and the State of California as more particularly described in the Legal Description.	
	Address	North 7 th Street between D and E Streets
	Assessor’s Parcel Number	
“Legal Description”	The Legal Description of the Property which is more particularly described in the attached Exhibit "A" , which is an incorporated in and an integral part of this Deed of Trust	
“Loan”	Which is Lender’s loan to Borrower evidenced by the Note and which is secured by this Deed of Trust.	
“Loan Agreement”	Which is the agreement between Lender and Borrower stating the term and conditions of the Loan.	
	Which is dated: November 1, 2012	
“Additional Notices”	Lender shall give copies of notices required to be delivered to Borrower to the Borrower’s limited partner at the following addresses; provided, however that Borrower acknowledges that such notice is an accommodation and the failure of the Lender to properly deliver any such notice shall not give rise to any claims or defenses of Borrower or any third party: RBC Tax Credit Equity, LLC, 60 Superior Avenue, Suite 2300, Cleveland, Ohio 44114, Attention: President and General Counsel, with a copy to: Bocarsly, Emden, Cowan, Esmail & Arndt LLP, 633 West Fifth Street, 70th Floor, Los Angeles, California 90071, Attention: Kyle Arndt Esq.	

"Note"	Which is Borrower's note made in accordance with the Loan Agreement securing the following principal sum or such lesser amount as shall equal the aggregate amount disbursed to Borrower by Lender, with interest.	
	Which has a principal sum of	\$6,200,000

THIS DEED OF TRUST is made as of the Effective Date between the Trustor also referenced as the Borrower, the Trustee, and the Beneficiary also referenced as Lender.

Borrower, in consideration of the indebtedness described below and the trust created by this Deed of Trust, irrevocably grants and conveys the Property to Trustee, in trust with power of sale.

Together with all the improvements now or subsequently erected on the Property, and all easements, rights, appurtenances, rents (subject, however, to the rights and authorities given to Lender to collect and apply such rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock, and all fixtures, including but not limited to all gas and electric fixtures, radiators, heaters, furnaces, heating equipment, steam and hot water boilers, stoves, ranges, bathtubs, sinks, water closets, basins, pipes, faucets and other plumbing, air conditioning and heating equipment, cabinets, mantels, cooking apparatus and appurtenances, and shades, awnings, screens, now or hereafter attached to the property, and memberships or voting rights arising from the ownership of the property, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the property covered by this Deed of Trust; and all of the foregoing, together with said property (or the leasehold estate if this Deed of Trust is on a leasehold) are referred to as the "Property";

To secure to Lender (a) the repayment of the Loan; and (b) the performance of the covenants and agreements of Borrower contained in this Deed of Trust, the Note, the Loan Agreement, and the Regulatory Agreement.

Borrower covenants that Borrower is lawfully seized of the estate conveyed by this Deed of Trust and has the right to grant and convey the Property, and that Borrower will warrant and defend generally the title of the Property against all claims and demands, subject to any declarations, easements or restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property.

Borrower and Lender covenant and agree as follows:

1. Payment of Principal and Interest. Borrower shall promptly pay when due the principal and interest, if any, on the indebtedness evidenced by the Note. All payments received by Lender under the Note shall be applied by Lender to the unpaid principal of the Note.
2. Charges; Liens. Borrower shall pay all taxes, assessments and other charges, fines and impositions attributable to the Property and leasehold payments or ground rents, if any by Borrower making payment, when due, directly to the appropriate payee. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event that Borrower makes payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Borrower shall pay when due any encumbrance, charge and lien, with interest in accordance with its terms, on the Property or any portion which are inferior or superior to this Deed of Trust.
3. Hazard Insurance. Borrower shall keep the improvements now existing or later erected on the Property insured against loss of fire or hazards under a policy approved by Lender consistent with the insurance requirements of the Loan Agreement. In addition, Borrower shall insure against loss of all furniture, equipment and other personal property owned by Borrower related to Borrower's operation of the Property. Lender shall have the right to hold the policies and policy renewals, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower.

Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, as and to the extent provided in the Loan Agreement.

Unless Lender and Borrower otherwise agree in writing, any such application of insurance proceeds to principal shall not extend or postpone the due date of any Loan payment or change the amount of such payment. If the Property is acquired by Lender pursuant to this Deed of Trust, all right, title and interest of Borrower in and to any

insurance policies and proceeds of such policies resulting from damage to the Property prior to the sale of acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

4. Preservation and Maintenance of Property. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment, demolition, or deterioration of the Property.

5. Protection of Lender's Security. Borrower shall appear and defend any action or proceeding purporting to affect the security under this Deed of Trust or the rights of the Lender. If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, foreclosure, involuntary sale, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedant, then Lender may, upon notice to Borrower, make such appearances, disburse such sums and take such action as are necessary to protect Lender's interest, including, but not limited to, disbursement of judgments, costs or reasonable attorney's fees and entry upon the Property to make repairs.

Any amounts disbursed by Lender pursuant to this Section 5, with interest, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment, and shall bear interest from the date of disbursement at the highest rate permissible under applicable law. In any event, this Section shall be construed as a right and an option of Lender and shall not be construed to require Lender to incur any expense or take any action.

6. Inspection. Lender, by its designated representative, may make reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower and any occupant of the Property reasonable prior notice of any such inspection.

7. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of all or any part of the Property, or for conveyance in lieu of condemnation, shall be applied as provided in the Loan Agreement.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the condemnor offers to make an award or settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date such notice is mailed, Lender is authorized to collect and apply the proceeds, at Lender's option, either to restoration or repair of the Property or to the sums secured by this Deed of Trust.

Unless Lender and Borrower otherwise agree in writing, any such application of proceeds to principal shall not extend or postpone the due date of any payment or change the amount of such payment.

8. Borrower Not Released. Extension of the time for payment of the sums secured by this Deed of Trust granted by Lender to Borrower or any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time payment by reason of any demand made by the original Borrower or Borrower's successors in interest.

9. Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy under this Deed of Trust, or otherwise afforded by applicable law, shall not be a waiver or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.

10. Remedies Cumulative. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust, the Note, the Loan Agreement, the Regulatory Agreement or afforded by law or equity, and may be exercised concurrently, independently or successively.

11. Successors and Assigns Bound; Joint and Several Liability Captions. The covenants and agreements contained in this Deed of Trust shall bind, and the rights under this Deed of Trust shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Section 16. All covenants and agreements of Borrower

shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or to define its provisions.

12. Notice. Except for any notice required under applicable law to be given in another manner, any notice to be given under this Deed of Trust shall be given as provided for in the Loan Agreement. Any notice provided for in this Deed of Trust shall be deemed to have been given to Borrower or Lender when given in the manner designated.

13. Governing Law; Severability. This Deed of Trust shall be governed by the law of the State of California. If any term or provision of this Deed of Trust shall, to any extent, be held invalid or unenforceable, the remainder of this Deed of Trust shall remain in full force and effect, and, the invalid or unenforceable provision shall be valid and enforceable as to any other person or circumstance.

14. Acceleration on Transfer or Refinancing of the Property; Assumption. Unless otherwise specified in the Loan Agreement, if all or any part of the Property or an interest in the Property is sold or transferred or refinanced by Borrower without Lender's prior written consent, Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the refinancing, sale or transfer, Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the loan may be assumed. If Lender has waived the option to accelerate provided in this Section 14 and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Deed of Trust and the Note.

If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by this Deed of Trust.

15. Acceleration on Breach; Remedies. Except as provided in Section 16, upon Borrower's breach of any covenant or agreement of Borrower in this Deed of Trust, the Note, (including the covenants to pay when due any sums secured by this Deed of Trust and restricting transfer of the Property) or Loan Agreement, Lender shall mail notice to Borrower specifying: (1) the breach; (2) the action required to cure such breach; (3) a date, no less than 30 days from the date the notice is mailed to Borrower, by which breach must be cured; and (4) that failure to cure such breach on or before the date specified in the notice may result in acceleration of the sums secured by this Deed of Trust and sale of the Property. If the breach is not cured on or before the date specified in the notice, Lender at Lender's option may declare all of the sums secured by this Deed of Trust to be immediately due and payable without further demand and may invoke the power of sale and any other remedies permitted by applicable law. Lender shall be entitled to collect from the Borrower, or sale proceeds, if any, all reasonable costs and expenses incurred in pursuing the remedies provided in this Section 15, including, but not limited to reasonable attorney's fees.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which any portion of the Property is located. Lender or Trustee shall mail copies of such notice in the manner prescribed by applicable law to Borrower and to the other persons prescribed by applicable law. Trustee shall give public notice of sale to the persons and in the manner prescribed by applicable law. After the lapse of such time as may be required by applicable law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale, in one or more parcels and in such order as Trustee may determine. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or Lender's designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser a Trustee's deed conveying the Property so sold without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements it contains. Trustee shall apply the proceeds of the sale in the following order: (a) to all reasonable costs and expenses of the sale, including, but not limited to, reasonable Trustee's and attorney's fees and costs of title evidence; (b) to all sums secured by this Deed of Trust; and (c) the excess, if any, to the person or persons legally entitled thereto as determined by Lender. In the event of a dispute regarding the excess funds, either Lender or

Trustee may file an action in interpleader to determine who shall receive the funds and may then deposit the excess funds with the court.

16. Assignment of Rents; Appointment of Receiver; Lender in Possession. As additional security, Borrower assigns to Lender the rents of the Property, provided that Borrower shall, prior to an acceleration for breach as provided above or abandonment of the Property, have the right to collect such rents as they become due.

Upon acceleration for breach or abandonment of the Property, Lender, in person, by agent or by judicially appointed receiver shall be entitled to enter upon, take possession of and manage the Property and to collect the rents of the Property including those past due. All rents collected by Lender, its agent, or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to receiver's fees, premiums on receiver's bonds and reasonable attorney's fees, and then to the sums secured by this Deed of Trust. Lender, its agent and the receiver shall be liable to account only for those rents actually received.

17. Prior Lienholder. The provisions of this Deed of Trust shall operate subject to the claims of prior lienholders to the extent of such claims.

18. Reconveyance. Upon payment of all sums secured by this Deed of Trust, Lender shall request Trustee to reconvey the Property and shall surrender this Deed of Trust and all notes evidencing indebtedness secured by this Deed of Trust to Trustee. Trustee shall reconvey the Property without warranty and without charge to the person or persons legally entitled to such reconveyance. Such person or persons shall pay all costs of recordation, if any. The recitals in the reconveyance of any matters or facts shall be conclusive proof of their truthfulness.

19. Substitute Trustee. Lender, at Lender's option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed under this Deed of Trust. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon the Trustee by this Deed of Trust and applicable law.

20. Request for Notice. Borrower requests that copies of the notice of default and notice of sale be sent to Borrower's address.

21. Statement of Obligation. Lender may collect a reasonable fee for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California, as it may be amended from time to time.

22. Use of Property. Borrower shall not permit or suffer the use of any of the Property for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed.

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IN WITNESS WHEREOF, Borrower has executed this Deed of Trust on the following date, effective as of the date first written above.

BORROWER (Trustor):

T9 AFFORDABLE HOUSING PARTNERS, LP

a California limited partnership

By: PacH SAC-MIDTOWN HOLDINGS, LLC, a California limited liability company,
its managing general partner

By: Pacific Housing, Inc., a California nonprofit public benefit corporation,
its sole member and manager

By: _____
Mark A. Wiese
President

By: T9 Affordable Housing GP, LLC, a California limited liability company,
its administrative general partner

By: JSCo T9, LLC, a California limited liability company, its member

By: John Stewart Company, its manager

By: _____
Jack D. Gardner
President

By: UrbanCore-Integral T9, LLC, a California limited liability company, its member

By: UrbanCore Development, LLC, a California limited liability company, its member

By: _____
Michael E. Johnson
President

Exhibit A
Legal Description

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SACRAMENTO, CITY OF SACRAMENTO, AND IS DESCRIBED AS FOLLOWS:

LOT 4, AS SHOWN ON THE FINAL MAP OF TOWNSHIP 9 - PHASE 1, FILED FOR RECORD ___/___/___ IN BOOK ___ OF FINAL MAPS, PAGE ___, SACRAMENTO COUNTY RECORDS.

APN: 001-0020-019 & 045

Exhibit 4

JOINT ESCROW INSTRUCTIONS FOR LENDER LOAN TOWNSHIP 9 QIP PARKING GARAGE PROJECT

“Effective Date”	November 1, 2012
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Lender and Borrower execute these Escrow Instructions as of the Effective Date. This document, including attachments and any amendments and additions, shall constitute the joint escrow instructions of Lender and Borrower for the Lender loan secured by the Property.

ARTICLE I. GENERAL TERMS.

1. **GENERAL.** These Escrow Instructions, in addition to items listed below, include Article II Instructions, which is attached to and incorporated in these Escrow Instructions by this reference.

2. **DEFINITIONS.** The capitalized terms in these Escrow Instructions shall have the meanings assigned in Article I General Terms and as defined in Article II Instructions. (Terms being defined are indicated by quotation marks.)

“Title Company”	Placer Title Company		
	Address:	301 University Avenue, Ste 120, Sacramento CA 95825	
“Escrow” with Title Company	Escrow#:	404-9656	Attention: Jenny M. Vega
“Lender”	CITY OF SACRAMENTO		
	Address:	Economic Development Department, City Hall, 915 I Street, 3 rd Floor, Sacramento, CA 95814	
	Attention:	Rachel Hazelwood	
“Borrower”	T9 Affordable Housing Partners, LP		
	Address:	1388 Sutter Street, 11 th Floor, San Francisco, CA 94109	
	Attention:	Marc Slutzkin	
“Closing Date”	November 14, 2012 which may be extended as necessary.		
“Property”	Address:	APN:	001-0020-019 & 045
Description of the transaction	Loan for construction of a 180 space parking garage (“Garage Loan”) to serve the 180 unit affordable housing project to be located on the same site as the Property, and Density Bonus Agreement for the increased density and concessions from development standards.		
“Recorded Documents”- The following documents are to be recorded in the order listed (top being first in priority). Copies of the documents from Lender to be Recorded are attached.	Documents:		Marked for return to:
	Density Bonus Agreement Deed of Trust – For Garage Loan		City of Sacramento 915 I Street 3rd Floor Sacramento, CA 95814 Attn: Economic Development Department
“Lender Items”	Loan Agreement for the Garage Loan Promissory Note for the Garage Loan Density Bonus Agreement		
“Borrower Items”	Conformed copies of recorded documents		
	Non-foreign certificate		
	Closing Statements		
“Special Provisions”:	Title Insurance shall bear the following CLTA endorsements: <ul style="list-style-type: none"> • No. 100 • No. 116 • No. 102.5 or 102.7 		

“Lender Title Policy” in the form of an ALTA LP-10 Lender’s Policy insuring that the following are valid liens against the property:	Documents:	Coverage amount:	
	Trust Deed	\$6,200,000.00	
The title policies shall be subject only to the following “Conditions of Title”:	Items 7-17, and items 20-24 of Title Company’s Preliminary Report for the Escrow	Dated:	
		Number:	404-9656

THE PARTIES HAVE EXECUTED THESE ESCROW INSTRUCTIONS in Sacramento, California as of the date first written above.

BORROWER:
T9 AFFORDABLE HOUSING PARTNERS, LP
a California limited partnership

By: PacH SAC-MIDTOWN HOLDINGS, LLC,
a California limited liability company,
its managing general partner

By: Pacific Housing, Inc., a California
nonprofit public benefit corporation,
its sole member and manager

By: _____
Mark A. Wiese
President

By: T9 Affordable Housing GP, LLC, a
California limited liability company,
its administrative general partner

By: JSCo T9, LLC, a California limited
liability company, its member

By: John Stewart Company, its manager

By: _____
Jack D. Gardner
President

By: UrbanCore-Integral T9, LLC, a
California limited liability company,
its member

By: UrbanCore Development, LLC, a
California limited liability company, its
member

By: _____
Michael E. Johnson
President

LENDER:
CITY OF SACRAMENTO

By: _____
Jim Rinehart,
Economic Development Manager
For: John F. Shirey, City Manager

Approved as to form:

By: _____
Senior Deputy City Attorney

Attest:

By: _____
Assistant City Clerk

ARTICLE II. INSTRUCTIONS

12. CLOSING DATE. Escrow shall close on or before the Closing Date as it may be changed from time to time by written agreement of Borrower and Lender.

13. CONDITIONS TO CLOSE OF ESCROW. "Close of Escrow" means the fulfillment of the Escrow terms and conclusion of the Escrow, including, without limitation, the execution of unexecuted documents, the recordation of documents specified for recording, the issuance of title insurance policies, the payment of fees and the delivery of funds and documents as directed in the escrow instructions for the Escrow. The Close of Escrow shall occur on the Closing Date.

13.1. **CONDITIONS.** The following are conditions to the Close of Escrow:

13.1.1. The conditions precedent to performance stated in the Recorded Documents are satisfied as of the Closing Date.

13.1.2. Simultaneously with the Close of Escrow, Title Company shall issue the Lender Title Insurance to Lender (at Borrower's cost) in the amount stated. The Lender Title Insurance shall include all usual and customary endorsements and any endorsements and other commitments as Lender may reasonably require. The Lender Title Insurance shall show the Recorded Documents marked for return to Lender as valid liens against the Property in favor of the Lender, subject only to the Conditions of Title, and securing, as applicable, Borrower's performance of its obligations and repayment of Lender Funding.

13.1.3. Prior to the Closing Date, the parties shall duly execute (in Escrow or prior to deposit in Escrow) each such document and shall execute those to be recorded in a manner suitable for recording.

13.1.4. On or before the Closing Date, Lender shall also deposit with Title Company the Borrower Items and any Loan Amount then to be disbursed under this Agreement, but not less than closing costs, fees and charges required for Close of Escrow.

13.1.5. On or before the Close of Escrow, Borrower shall also deposit with Title Company the Lender Items and Borrower's share of closing costs and fees.

13.1.6. Title Company is satisfied that all required funds have been deposited in Title Company's account for the Escrow, have cleared the originating bank and are available for transfer by Title Company's check or wire transfer to the appropriate party.

13.2. TRUST DEED FORM. If no exhibit setting out the form of the Trust Deed form is attached, the Title Company shall draw the Trust Deed on the Title Company's Long Form Deed of Trust. Title Company shall assure that the Trust Deed includes a standard clause giving Lender the option to accelerate the Loan upon the sale, conveyance, transfer or further encumbrance of the Property, whether voluntary or involuntary. Title Company shall also affix the following provision to the Trust Deed and incorporate it in the Trust Deed by reference:

"The Loan Agreement requires compliance with the "Regulatory Agreement" that is defined in the Loan Agreement. The Regulatory Agreement contains covenants running with the land and is recorded against the Property. If Developer does not comply with the requirements of the Regulatory Agreement and fails to come into compliance with the Regulatory Agreement within thirty (30) days after Lender's written notice to Developer of such failure, the principal balance of the Loan shall, at Lender's option, be immediately due and payable, together with all unpaid interest at the stated rate from the date of the advancement of the Loan's proceeds."

13.3. UPON CLOSE OF ESCROW. The Close of Escrow shall take place on the Closing Date. On the Closing Date, Title Company shall complete the Close of Escrow as follows and in the following order (unless otherwise stated, all recorded documents are recorded with the Sacramento County Recorder):

13.3.1. Assure fulfillment of the Special Provisions;

13.3.2. Assure all documents are complete and affix legal descriptions of the Property as necessary to complete them;

13.3.3. Obtain full execution of all unexecuted documents;

- 13.3.4. Date all undated documents as of the Closing Date;
- 13.3.5. Record the Recorded Documents in the priority listed;
- 13.3.6. Determine all closing costs and fees; including without limitation, all charges, fees, taxes and title insurance premiums payable under this Agreement on Close of Escrow and any other fees and charges approved for payment from Escrow by both parties and deduct such fees from the Loan proceeds deposited by Lender in Escrow;
- 13.3.7. Deliver the Lender Items to Lender and the Borrower Items to Borrower; and
- 13.3.8. Prepare and deliver to Borrower and Lender, respectively, one signed original of all documents included for delivery to either party and not delivered for recording, one signed original of Title Company's closing statement showing all receipts and disbursements of the Escrow, and one conformed copy of each of the recorded documents.

13.4. **INABILITY TO CLOSE.** If Title Company is unable to simultaneously perform all of the preceding instructions, Title Company shall notify Borrower and Lender, and upon each of their directions return to each party all documents, items and funds deposited in Escrow by such party (less fees and expenses incurred by the respective party) and bill the respective parties for any unpaid fees and expenses incurred in Escrow. If Escrow fails to close on the Closing Date because Borrower has not complied with Borrower's obligations under this Loan Agreement, then Borrower shall pay the costs incurred through Escrow to the date the Escrow is terminated, including the cost of any preliminary title report and any cancellation fees or other costs of this Escrow.

If Escrow fails to close on or before the Closing Date because Lender has not complied with Lender's obligations under this Loan Agreement, such costs shall be paid by Lender. If Escrow fails to close on or before the Closing Date for any other reason, such costs shall be divided equally between the parties.

13.5. **COMMISSIONS.** Lender is not responsible, by this Loan Agreement or otherwise, to pay commissions in relation to this transaction.

ACCEPTANCE OF ESCROW INSTRUCTIONS

Your acceptance of this escrow shall create a contractual obligation by you with Lender and Borrower for complete compliance with these instructions. Lender and Borrower reserve the right to jointly revoke this escrow at any time upon their payment to you of your fees and reimbursement to you of your expenses in accordance with the terms of these escrow instructions. Your obligations as Escrow Holder under these escrow instructions shall be subject to the following provisions:

You are not responsible as to the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited in this escrow nor as to the authority or rights of any person executing such instrument. Except as otherwise provided in these escrow instructions, your duties as Escrow Holder are limited to the proper handling of monies and the proper safekeeping of instruments and other items received by you as Escrow Holder, and for the performance of your obligations as specifically provided under these escrow instructions. You are responsible for the sufficiency of any instruments or documents prepared by you for this escrow.

Borrower agrees to indemnify and hold you harmless from damages incurred as a result of your good faith and diligent performance of your duties under these escrow instructions. Upon your acceptance of these escrow instructions, return the executed counterparts of these escrow instructions to Lender and Borrower, respectively.

Escrow Holder acknowledges receipt of the foregoing escrow instructions and agrees to act as Escrow Holder and to comply with the terms and conditions of the escrow instructions.

PLACER TITLE COMPANY

By: _____
 Name: _____
 Title: _____
 Its authorized agent and signatory

Exhibit 5

Project Budget

TOWNSHIP 9 - GARAGE BUDGET

<u>USES</u> Line Item	180 Space Garage	16 Space Garage	196 Space Total Garage
Construction Costs	\$ 4,321,047	\$ 384,093	\$ 4,705,140
Building Permits	633,848	56,342	690,190
Impact Fees	321,068	28,539	349,607
Construction Management Fee	327,869	55,275	383,143
Architectural/Engineering/Fees	353,183	31,394	384,577
Surveying	5,298	471	5,769
Soil Testing/Inspections	82,653	7,347	90,000
Entitlement Consultant	64,598	5,742	70,341
Insurance	51,679	4,594	56,272
Legal	31,869	2,833	34,701
Lender - Third Party Due Diligence Review Fees	6,890	612	7,502
TOTAL COSTS	\$ 6,200,000	\$ 577,242	\$ 6,777,242

<u>SOURCES</u>	180 Space Garage	16 Space Garage	196 Space Total Garage
SHRA Loan			
City HCD Infill Grant	6,200,000		6,200,000
Investor Equity		577,242	577,242
TOTAL SOURCES	\$ 6,200,000	\$ 577,242	\$ 6,777,242

Variance (0) - (0)