



**Sacramento
Housing &
Redevelopment
Agency**

REPORT TO COUNCIL
City of Sacramento
 915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

Consent
August 11, 2009

Honorable Mayor and Members of the City Council

Title: Amended Loan Agreement: La Valentina Project

Location/Council District: 12th Street between C Street Alley and E Street, District 3, Alkali Flat Redevelopment Area

Recommendation: Adopt: a **City Resolution** 1) authorizing the City Manager to commit \$585,781 in federal Energy Efficiency and Conservation Block Grant (EECBG) funds to the La Valentina Project (Project) in the form of a grant, subject to the project being awarded 9% Low Income Housing Tax Credits; 2) authorizing the Sacramento Housing and Redevelopment Agency (Agency) to enter into an amended loan commitment letter and amended loan agreements to increase the Agency loan from \$3,000,000 to \$7,035,000 with 12th Street Partners, L.P. (Developer); 3) authorizing amendment of the Agency budget to allocate an additional \$2,035,000 in City Housing Trust Funds (City HTF) as a loan to the Developer for construction and permanent financing of the Project; 4) accepting \$2,000,000 in State Housing Trust Funds (State HTF) from the State Housing and Community Development Department; and 5) authorizing amendment of the Agency budget to allocate \$2,000,000 in State HTF as a loan to the Developer for construction and permanent financing of the Project.

Contact: Lisa Bates, Deputy Executive Director, 440-1316; Christine Weichert, Assistant Director, Housing and Community Development, 440-1353

Presenters: N/A

Department: Sacramento Housing and Redevelopment Agency

Description/Analysis

Issue: This report requests the approval of an amendment to the Agency loan for construction and permanent financing of La Valentina (Project). The proposed Project is located in the Alkali Flat Redevelopment Area and is a mixed-use, transit-oriented development on eight Agency-owned parcels. A location map is included as Attachment 1 and a site map is included as Attachment 2.

Approval of an Amended Loan Agreement for La Valentina

La Valentina is in a competitive position to receive an award of 9% Low Income Housing Tax Credits (LIHTC), which would allow the project to leverage over \$20 million in tax credit equity. The project's competitiveness is based in part on the amount of leverage associated with the transaction. In June the City Council approved a financial model for this project that included an anticipated \$4,035,000 in Transit Oriented Development (TOD) Housing Program funds from the California State Housing and Community Development Department. The TOD funds were awarded through a highly competitive process, and unfortunately, La Valentina was not awarded the requested funds. As a result, the project will not be financially feasible or competitive unless the Agency can fill the gap created by the absence of TOD funds. The additional \$4,035,000 allocation proposed in this report will cover essential project costs and maintain the project's competitiveness for LIHTCs. The additional Agency loan amount will consist of \$2,035,000 in City HTF and \$2,000,000 in State HTF for a total Agency loan of \$7,035,000.

The Agency loan will be leveraged with a variety of public and private sources, including county development fee waivers, state Proposition 1C brownfield clean-up funds, federal Community Development Block Grant Recovery funds (CDBG-R), federal Energy Efficiency and Conservation Block Grant funds (EECBG), federal Low Income Housing Tax Credits (LIHTC), a bank loan, and a deferred developer fee. Additional background is provided as Attachment 3, a summary of the sources and uses of project funds is included as Attachment 4, a cash flow proforma is included as Attachment 5, a schedule of maximum rents and income levels is included as Attachment 6, and an amended loan commitment letter is included as Attachment 7.

Policy Considerations: The recommended action is consistent with the following goals in the Alkali Flat Implementation Plan and Redevelopment Plan: 1) Develop a mixed-use/transit oriented development which will eliminate factors hindering economically viable use and eliminate an underutilized blighted parcel, 2) Provide safe, decent, adequate and sanitary housing through the development of a mixture of housing types for all income groups; and 3) Maximize private participation and investment in the redevelopment effort.

Environmental Considerations:

California Environmental Quality Act (CEQA): The proposed action meets the requirements of the California Environmental Quality Act ("CEQA"). The "La Valentina Station: Rezone, Plan Review, Special Permit, and Variances," which includes the negative declaration and mitigation measures for this project, as adopted by the City of Sacramento on March 24, 2009, is adequate and sufficient for the environmental review.

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Sustainability Considerations: The Project has been reviewed for consistency with the goals, policies and targets of the Sustainability Master Plan and the 2030 General Plan. If approved, the project will advance the following goals, policies and targets: (1) Goal number one – Energy Independence, specifically by reducing the use of fossil fuels, improving energy efficiency, and providing long term affordable and reliable energy, (2) Goal number three – Air Quality, specifically by reducing the number of commute trips by single occupancy vehicles and reducing vehicle miles traveled, (3) Goal number five – Public Health and Nutrition, specifically by maximizing the number of amenities that are located within ½ mile of all residents and cleanup, redevelopment, and reuse of areas that are brownfields, and (4) 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.

Other: Environmental review pursuant to the National Environmental Policy Act (NEPA) is currently underway. The availability of federal funds for use in the Project is contingent upon the Federal Department of Housing and Urban Development's consent to the Agency's request for release of funds.

Committee/Commission Action: The Sacramento Housing and Redevelopment Commission will consider the staff recommendation for this item at its meeting of August 5, 2009. Staff will notify the Council of the Commission's recommendation.

Rationale for Recommendation: Over the past 18 years, Agency staff and three different development teams have unsuccessfully attempted to revitalize the La Valentina site. As a result, the site remains vacant and unimproved. The actions proposed in this report will enable construction on this mixed-use, transit-oriented development to begin by early 2010. The approved project is designed to achieve goals of the Alkali Flat Redevelopment Plan. In addition, the actions recommended in this report enable the Agency to continue to fulfill its mission to provide a range of affordable housing opportunities in the City.

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Financial Considerations: Staff recommends acceptance of \$2,000,000 in State HTF and approval of a budget amendment for the La Valentina project of up to \$4,035,000, consisting of \$2,035,000 in City HTF and \$2,000,000 in State Housing Trust Funds.

M/WBE Considerations: Minority and Women's Business Enterprise requirements will be applied to all activities to the extent required by federal funding.

Respectfully Submitted by: 
LA SHELLE DOZIER
Executive Director

Recommendation Approved:

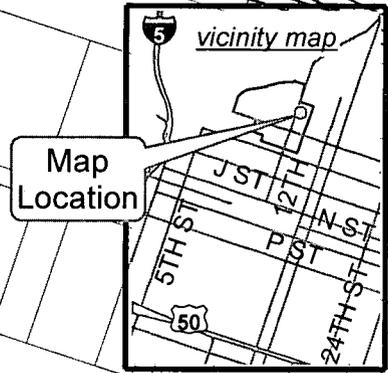
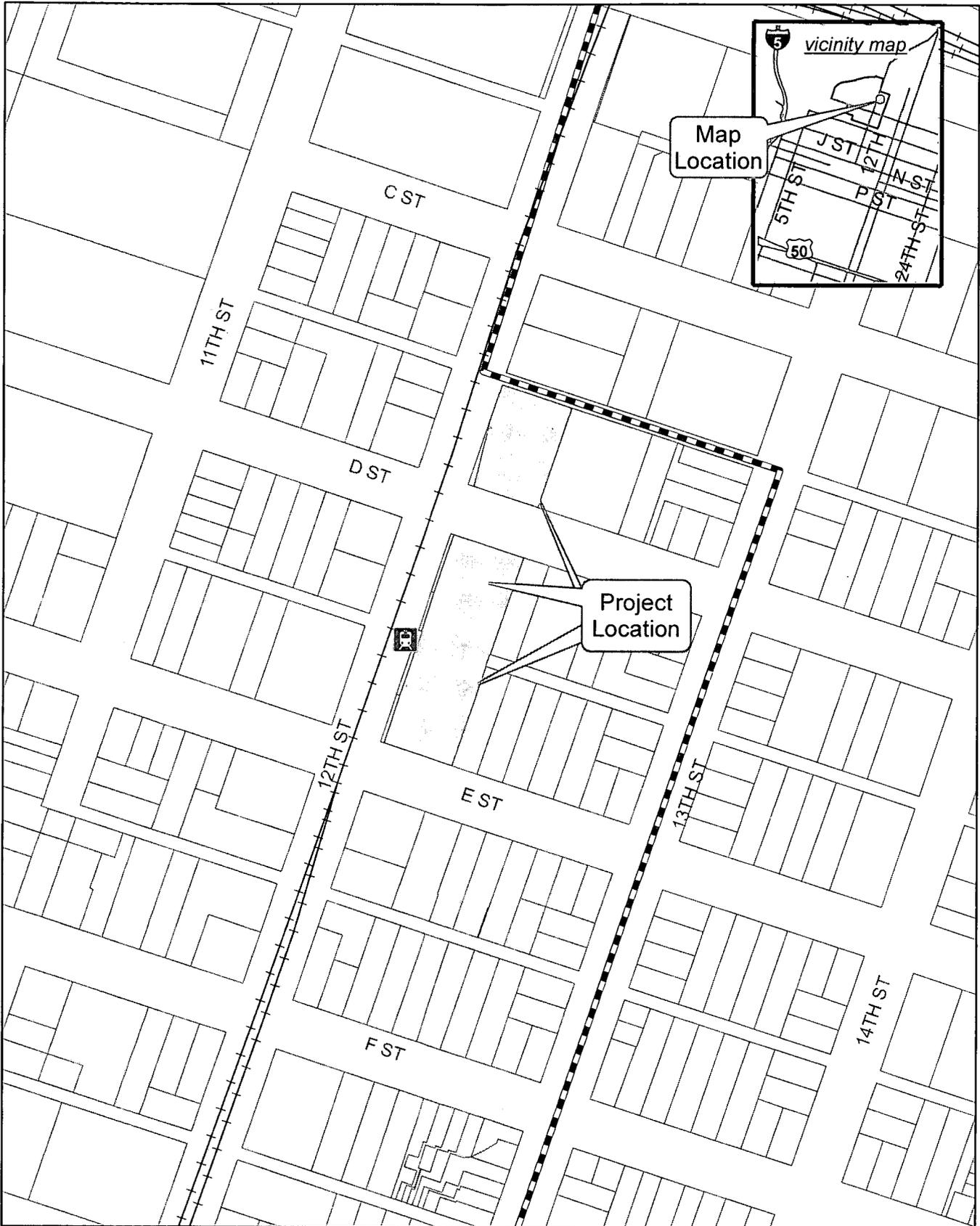

RAY KERRIDGE
City Manager

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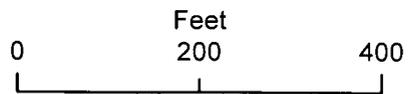
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La Valentina



 La Valentina Project Parcel
  Light Rail Line
 Alkali Flat Redevelopment Area
  Light Rail Stop



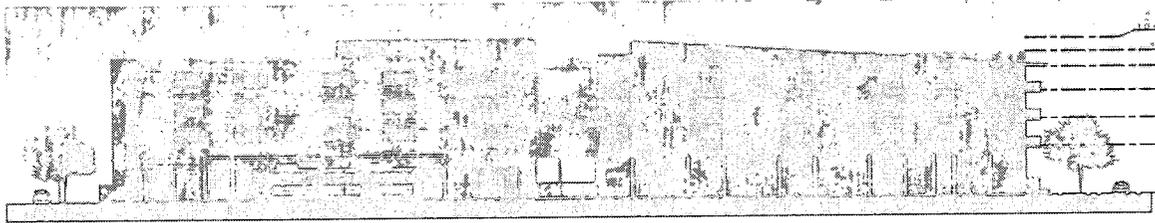
SHRA GIS
July 13, 2009

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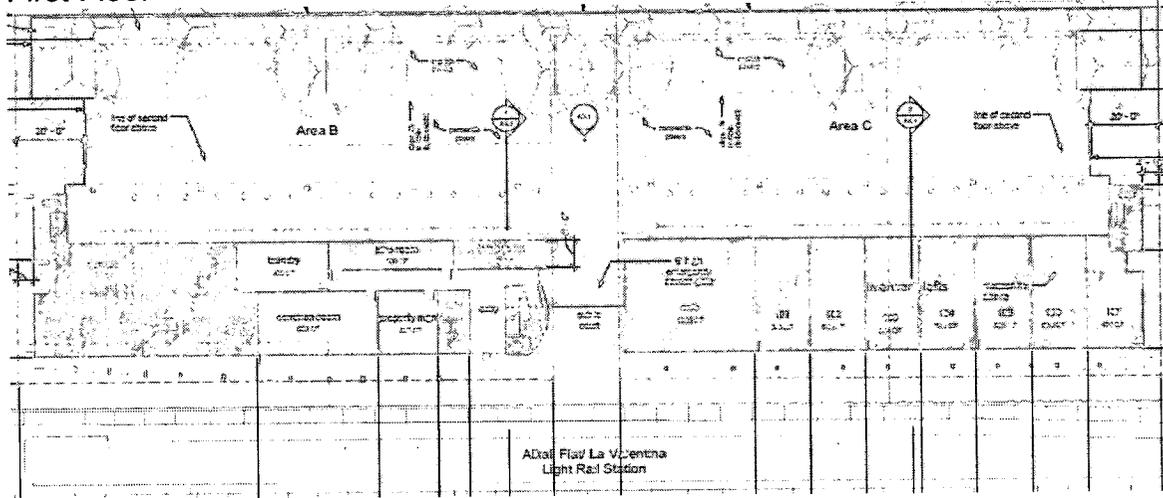
Attachment 2

Site Map

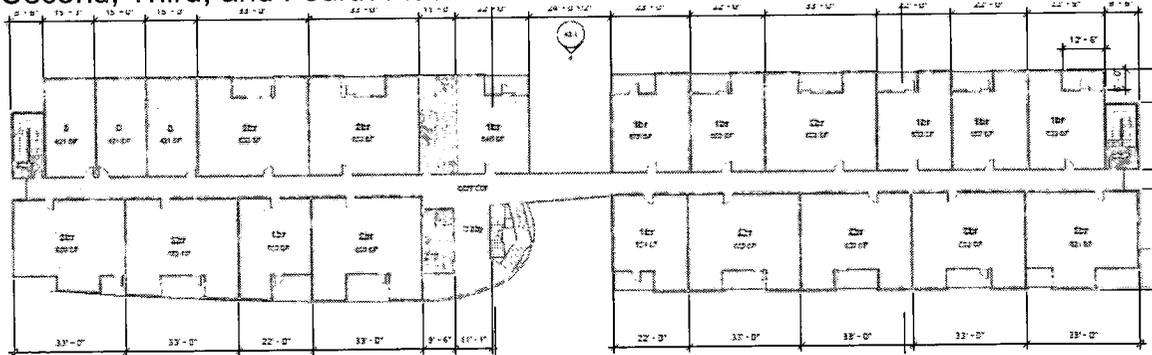
South Site: Mixed-Use Development



First Floor

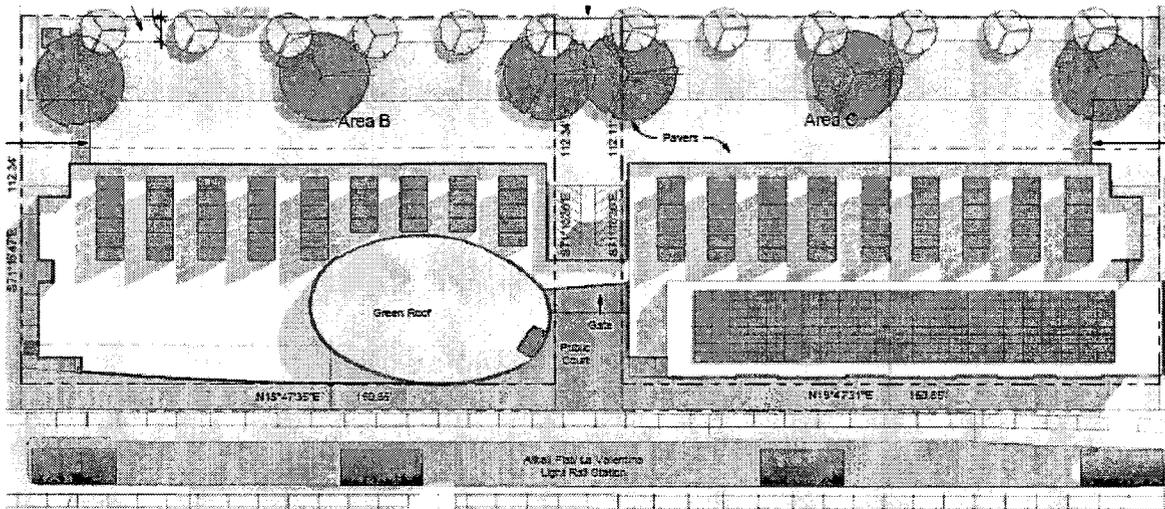


Second, Third, and Fourth Floors



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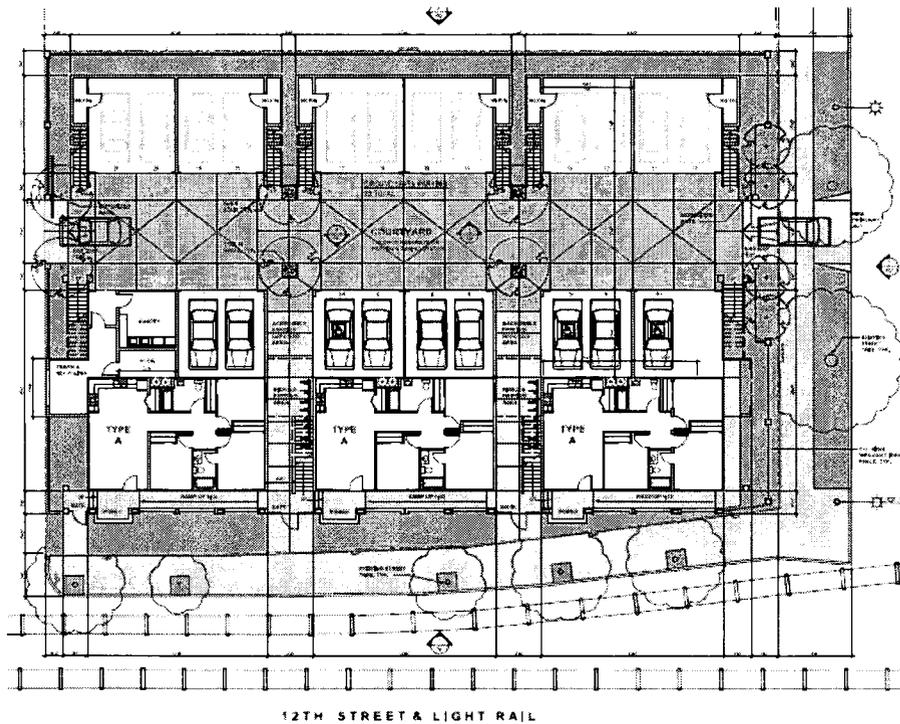
Roof



North Site: Townhomes

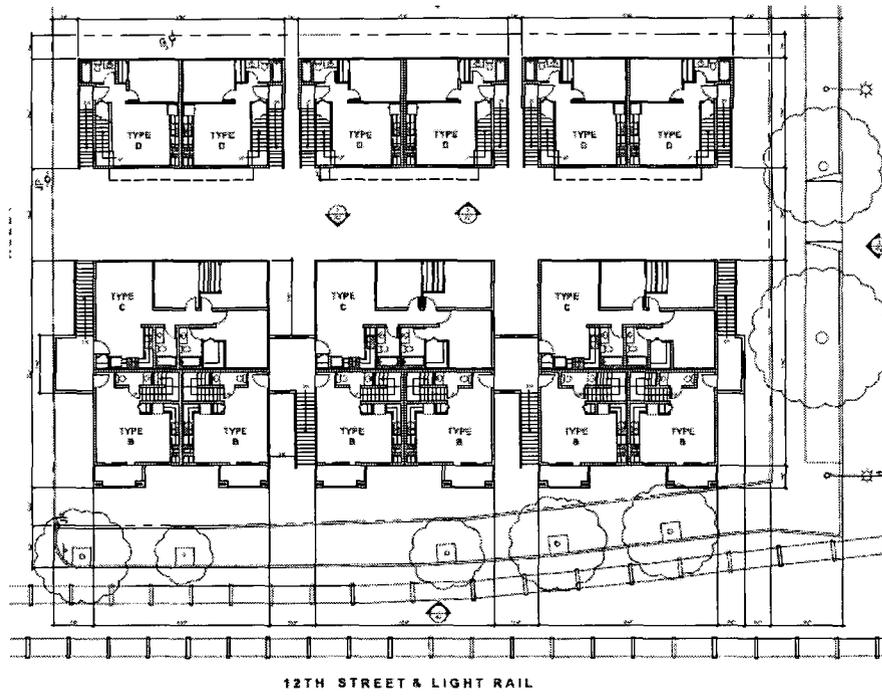


First Floor

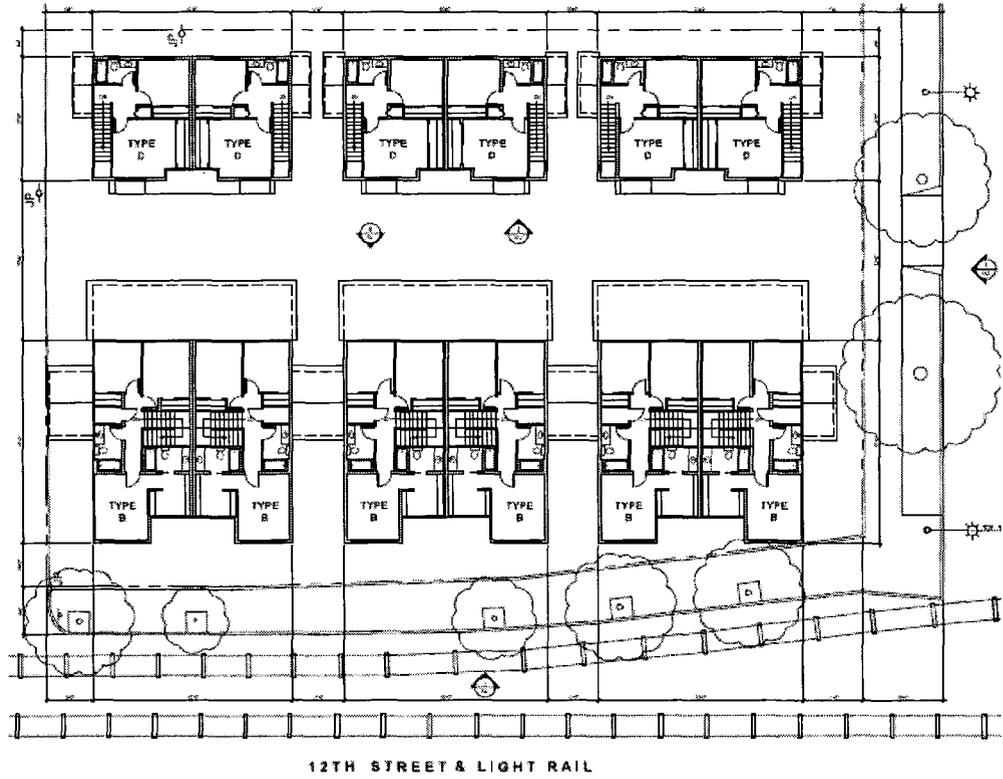


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Second Floor



Third Floor



Project Background

Site Description

The La Valentina Development Site consists of eight parcels on approximately 1.23 acres of land which were incrementally acquired by the Sacramento Housing and Redevelopment Agency (Agency) from 1986 through 2008. The site is comprised of mostly vacant parcels in a highly visible and blighted area of the Alkali Flat Redevelopment Area. The site is located on 12th Street, which serves as the primary commercial corridor for the community of Alkali Flat and is one of the main routes into Sacramento's downtown from the north.

Current Funding Request

In April 2009 the Developer submitted an application to the state Housing and Community Development Department (HCD) for \$4,035,000 in Proposition 1C Transit-Oriented Development (TOD) funding. In the staff report that the City Council reviewed in June 2009 it was assumed that this funding would be received. Results from the TOD competition were recently announced, and unfortunately, La Valentina was not recommended for funding. This left the Project with a gap of \$4,035,000. Replacement funds are required in order for the project to remain feasible and to be competitive to receive 9% tax credits.

The recent loss of the TOD funding has prompted the need for additional Agency resources. The Agency proposes to facilitate the financial feasibility of the Project by funding the gap created by the loss of the TOD funds, increasing the Agency loan amount from \$3,000,000 to \$7,035,000. Without the additional \$4,035,000, the Project will not be able to cover essential Project costs. More importantly, the project will be unable to maintain competitiveness in the 9% Low-Income Housing Tax Credit (LIHTC) program, which requires the Project to demonstrate the ability to leverage a sufficient amount of public funds.

Project Funding Sources

12th Street Partners, LP (Developer) will fund the costs to develop and construct La Valentina (Project) with a combination of public and private funding sources. The Agency loan and a land donation will be leveraged with developer equity, a bank loan, LIHTC equity through the California Tax Credit Allocation Committee (TCAC), CalReUSE Remediation Program grant funds through the California Pollution Control Financing Authority (CPCFA), a grant from the Sacramento Municipal Utility District (SMUD), and Energy Efficiency and Conservation Block Grant (EECBG) and Community Development Block Grant Recovery (CDBG-R) federal stimulus funds.

The majority of Project financing will come from tax credit equity. LIHTC are awarded through competitive processes. The application was submitted to TCAC on June 9, 2009. Despite the market downturn there is still limited demand for 9% LIHTCs and the Developer is confident that they will be able to secure the tax credit equity needed to proceed. If a gap in the Project results from a drop in equity value, the Developer plans to take advantage of the federal stimulus funds being allocated by TCAC. The Developer has already secured commitments from other funding sources. In May 2009 the Agency was awarded \$631,000 in grant funds from CPCFA for soil remediation of

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the site, and the City Council committed a \$3 million loan and a land donation. In June 2009 the Developer received a grant from SMUD and a commitment letter from their lender to finance the Project.

Once the Developer has secured all public and private funding sources, construction will begin on this Project. The Developer anticipates starting construction on the project in early 2010. Project funds will be disbursed to the developer as reimbursement for construction completed.

Current Concept Design

The Project will consist of the construction of a mixed-use, transit-oriented development on eight parcels. The north site, (located on the east side of 12th Street between the C Street Alley and D Street), will consist of 18 affordable split-level townhome-style rental units. The south site, (located on the east side of 12th Street between D and E Streets), will be a mixed-use property adjacent to the Alkali Flat/La Valentina Light Rail Station which will include a 1,300 square foot café, nearly 5,000 square feet of commercial/retail space, a 2,000 square foot community room, a property management office, a play area for resident children, and parking on the ground floor. There will be 63 affordable rental units located on the second, third, and fourth floors.

The Project has been designed as a sustainable development, with Leadership in Energy and Environmental Design (LEED) for Homes Silver rating. SMUD has selected the Project to participate in the Savings by Design Program and the Home of the Future Program. Accordingly, the Project will have many green features, including energy efficient systems, rooftop photovoltaic solar panels, solar hot water heating systems, a green eco-roof featuring rooftop plantings, and a bio-swale infiltration system which filters water runoff through plantings before entering the City's water system.

Development and Management Team

Developer

12th Street Partners, L.P. is the ownership entity for the property under Domus Development, LLC. Domus is a developer of affordable rental housing focusing on the acquisition and rehabilitation of rental housing communities using tax-exempt bonds and low-income housing tax credits. The principals of Domus have completed rehabilitation and construction of several affordable housing projects in northern California, including Northland Village and Southcrest Apartments in Sacramento.

Property Management

Property management will be performed by Domus Management Company, LLC (DMC). DMC was established in 2007 by principals and executives who have extensive experience in affordable housing property management. The primary manager's experience includes supervision of over 5,500 units of affordable housing including both senior and multifamily projects. The principals have worked with projects financed through a variety of sources, including LIHTC's, the Multi Family Housing Program (MHP), the Home Investment Partnership Program (HOME), the California Department of Housing and Community Development (HCD), and the U.S. Department of Housing and Urban Development (HUD).

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Resident Services Plan

Resident Services will be provided by LifeSTEPS, a nonprofit 501(c)(3) corporation. LifeSTEPS proposes to offer a minimum of 15 hours per week of services and programs. LifeSTEPS provides resident services at 85 properties throughout the state of California, including 11 properties in Sacramento.

Security

The Agency requires installation of a security camera system approved by the Agency and lighting adequate to properly illuminate the parking area and all common spaces. In addition, the Agency requires that Developer budget for security patrol for the property if the situation is warranted.

**La Valentina
Project Summary**

Address	12th Street between C Street Alley and E Street			
Number of Units	81			
Year Built	New Construction			
Acreage	1.23 acres			
Affordability	24 units at or below 30% of Area Median Income (AMI) 40 units at or below 50% of AMI 16 units at or below 60% of AMI 1 Manager's Units unrestricted			
Unit Mix and Rents	(30% AMI)	(50% AMI)	(60% AMI)	Manager Unit
Studio	4	6	2	0
1 Bedroom	7	12	5	0
2 Bedroom	6	10	4	1
3 Bedroom	7	12	5	0
	24	40	16	1
Square Footage	<u>Residential</u>	<u>Commercial</u>	<u>Community</u>	<u>Total</u>
Total	75,200	5,000	2,000	82,200
Studio	600			in sq ft
1 Bedroom	900			
2 Bedroom	1000			
3 Bedroom	1100			
Resident Facilities	This is a mixed-use, transit-oriented development adjacent to a light rail station. The project features a community room, laundry facilities, property management office, a green roof, and 5,000 square feet of ground floor commercial space.			
Permanent Sources	<u>Total</u>	<u>Per Unit</u>	<u>Per Sq Ft</u>	
Tax Credit Equity	\$ 20,275,000	\$ 250,309	\$ 246.65	
Agency Loan	\$ 7,035,000	\$ 86,852	\$ 85.58	
Environmental Grant	\$ 631,000	\$ 7,790	\$ 7.68	
Community Development Block Grant	\$ 221,000	\$ 2,728	\$ 2.69	
Energy Efficiency Block Grant	\$ 586,000	\$ 7,235	\$ 7.13	
SMUD Grant	\$ 417,000	\$ 5,148	\$ 5.07	
Bank Loan	\$ 1,459,000	\$ 18,012	\$ 17.75	
Fee Waivers	\$ 120,000	\$ 1,481	\$ 1.46	
Deferred Developer Fee Note	\$ 379,000	\$ 4,679	\$ 4.61	
TOTAL SOURCES	\$ 31,123,000	\$ 384,235	\$ 378.63	
Permanent Uses				
Off-site and Land Improvements	\$ 200,000	\$ 2,469	\$ 2.43	
Construction	\$ 20,770,000	\$ 256,420	\$ 252.68	
Development Impact Fees/Permits	\$ 1,697,000	\$ 20,951	\$ 20.64	
Architecture, Engineering, Survey	\$ 2,160,000	\$ 26,667	\$ 26.28	
Contingency	\$ 2,083,000	\$ 25,716	\$ 25.34	
Financing Costs	\$ 1,296,000	\$ 16,000	\$ 15.77	
Reserves	\$ 287,000	\$ 3,543	\$ 3.49	
Legal Fees	\$ 63,000	\$ 778	\$ 0.77	
Developer Fee	\$ 2,000,000	\$ 24,691	\$ 24.33	
Third Party Reports, Marketing, Other	\$ 567,000	\$ 7,000	\$ 6.90	
TOTAL USES	\$ 31,123,000	\$ 384,235	\$ 378.63	
Management / Operations				
Proposed Developer:	Domus Development, LLC			
Property Management Company:	Domus Management Company			
Operations Budget:	\$351,176		\$4,336 per unit	
Replacement Reserves:	\$24,300		\$300 per unit	

La Valentina
Project Cash Flow Proforma

Unit Type	Number	Square Feet	Total Sq Feet	Gross Rent	Utility Allowance	Net Rent	Rent per Sq Foot	Total Mo. Rent	Annual Rent
Studio @ 30% AMI	4	600	2,400	\$ 382	\$ 52	\$ 330	\$ 0.55	\$ 1,320	\$ 15,840
Studio @ 50% AMI	6	600	3,600	\$ 637	\$ 52	\$ 585	\$ 0.98	\$ 3,510	\$ 42,120
Studio @ 60% AMI	2	600	1,200	\$ 765	\$ 52	\$ 713	\$ 1.19	\$ 1,426	\$ 17,112
1 BD @ 30% AMI	7	900	6,300	\$ 409	\$ 59	\$ 350	\$ 0.39	\$ 2,450	\$ 29,400
1 BD @ 50% AMI	12	900	10,800	\$ 682	\$ 59	\$ 623	\$ 0.69	\$ 7,476	\$ 89,712
1 BD @ 60% AMI	5	900	4,500	\$ 819	\$ 59	\$ 760	\$ 0.84	\$ 3,800	\$ 45,600
2 BD @ 30% AMI	6	1100	6,600	\$ 491	\$ 75	\$ 416	\$ 0.38	\$ 2,496	\$ 29,952
2 BD @ 50% AMI	10	1100	11,000	\$ 818	\$ 75	\$ 743	\$ 0.68	\$ 7,430	\$ 89,160
2 BD @ 60% AMI	4	1100	4,400	\$ 982	\$ 75	\$ 907	\$ 0.82	\$ 3,628	\$ 43,536
3 BD @ 30% AMI	7	1250	8,750	\$ 567	\$ 98	\$ 469	\$ 0.38	\$ 3,283	\$ 39,396
3 BD @ 50% AMI	12	1250	15,000	\$ 946	\$ 98	\$ 848	\$ 0.68	\$ 10,176	\$ 122,112
3 BD @ 60% AMI	5	1250	6,250	\$ 1,135	\$ 98	\$ 1,037	\$ 0.83	\$ 5,185	\$ 62,220
2 BD Manager's Unit	1	1100	1,100	\$ 982	\$ -	\$ 982	\$ 0.89	\$ 982	\$ 11,784
Totals	81		80,800					\$ 52,180	\$ 626,160

	rate	annual increase	per unit	2012 Year 1	2013 Year 2	2014 Year 3	2015 Year 4	2016 Year 5	2021 Year 10	2026 Year 15	2031 Year 20	2041 Year 30
Potential Gross Income		2.50%		626,160	641,814	657,859	674,306	691,163	781,988	884,748	1,001,011	1,281,378
Commercial Income		2.50%				64,800	66,420	68,081	77,027	87,149	98,601	126,217
Other Income		2.50%		7,750	7,944	8,142	8,346	8,555	9,679	10,951	12,390	15,860
Less Commercial Vacancy	20.00%					12,960	13,284	13,616	15,405	17,430	19,720	25,243
Less Residential and Other Vacancy	5.00%			31,308	32,091	32,893	33,715	34,558	39,099	44,237	50,051	64,069
Effective Gross Income				\$602,602	\$617,667	\$684,949	\$702,072	\$719,624	\$814,189	\$921,180	\$1,042,230	\$1,334,143

<u>Operating Expenses</u>												
Operating Expenses	3.50%	4,336	351,176	363,467	376,189	389,355	402,983	478,617	568,447	675,136	952,346	
Assessments	2.00%	105	8,500	8,670	8,843	9,020	9,201	10,158	11,216	12,383	15,095	
Property Management	3.50%	474	38,400	39,744	41,135	42,575	44,065	52,335	62,158	73,824	104,136	
Social Services	2.00%	296	24,000	24,480	24,970	25,469	25,978	28,682	31,667	34,963	42,620	
Safety	2.00%	185	15,000	15,300	15,606	15,918	16,236	17,926	19,792	21,852	26,638	
Replacement Reserves	0.00%	300	24,300	24,300	24,300	24,300	24,300	24,300	24,300	24,300	24,300	
Total Expenses		5,696	\$461,376	\$475,961	\$491,043	\$506,637	\$522,763	\$612,019	\$717,580	\$842,459	\$1,165,135	

Net Operating Income				\$141,226	\$141,706	\$193,906	\$195,435	\$196,861	\$202,170	\$203,600	\$199,772	\$169,008
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<u>Debt Service</u>												
Bank Loan	amount	rate	amort	122,418	122,418	122,418	122,418	122,418	122,418	122,418	122,418	122,418
Debt Service Subtotal	\$1,459,000	7.50%	30	\$122,418	\$122,418	\$122,418	\$122,418	\$122,418	\$122,418	\$122,418	\$122,418	\$122,418

<u>Priority Distributions</u>												
Asset Management Fee (GP)	2.00%			2,808	2,967	9,364	9,551	9,742	10,756	11,876	13,112	15,983
Partnership Management Fee (LP)	2.00%			16,000	16,320	16,646	16,979	17,319	19,121	21,112	0	0
Priority Distributions Subtotal				\$18,808	\$19,287	\$26,010	\$26,531	\$27,061	\$29,878	\$32,987	\$13,112	\$15,983

Net Cash after Priority Distributions				(\$0)	\$0	\$45,477	\$46,486	\$47,382	\$49,874	\$48,194	\$64,241	\$30,606
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<u>Deferred Developer Fee</u>												
Principal Balance	\$379,000	4.00%		379,000	394,160	409,926	380,846	349,594	162,002	0	0	0
Accumulated Interest				15,160	15,766	16,397	15,234	13,984	6,480	0	0	0
Payment				0	0	45,477	46,486	47,382	49,874	0	0	0
Balance				\$394,160	\$409,926	\$380,846	\$349,594	\$316,196	\$118,609	\$0	\$0	\$0

Net Cash after Deferred Developer Fee				(\$0)	\$0	\$0	\$0	\$0	\$0	\$48,194	\$64,241	\$30,606
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<u>Agency Loan</u>												
Principal Balance	\$7,035,000	4.00%		7,035,000	7,035,000	7,035,000	7,035,000	7,035,000	7,035,000	7,035,000	7,035,000	7,035,000
Accumulated Interest				281,400	562,800	844,200	1,125,600	1,407,000	2,814,000	4,221,000	5,447,427	7,911,068
Payment				0	0	0	0	0	0	0	44,058	18,421
Balance				\$7,316,400	\$7,597,800	\$7,879,200	\$8,160,600	\$8,442,000	\$9,849,000	\$11,256,000	\$12,438,369	\$14,927,647

Combined Debt Coverage Ratio				1.15	1.16	1.58	1.60	1.61	1.65	1.66	1.20	1.20
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Net Cash After Loan Repayment				(\$0)	\$0	\$0	\$0	\$0	\$0	\$48,194	\$20,183	\$12,185
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MAXIMUM RENT AND INCOME LEVELS 2009
(Rents @ 30%, 50%, and 60% of AMI where applicable)

Maximum Income Limits:			
Family Size	Max Income 30% AMI	Max Income 50% AMI	Max Income 60% AMI
1 person	\$15,300	\$25,500	\$30,600
2 person	\$17,500	\$29,100	\$34,920
3 person	\$19,650	\$32,750	\$39,300
4 person	\$21,850	\$36,400	\$43,680
Maximum Rent Limits: Alkali Flat Project Area Tax Increment Funds			
Unit Size	Gross Rent 30% AMI	Gross Rent 50% AMI	Gross Rent 60% AMI
Studio	\$382.00	\$637.50	\$765.00
1 Bedroom	\$437.50	\$727.50	\$873.00
2 Bedroom	\$491.25	\$818.75	\$982.50
3 Bedroom	\$546.25	\$910.00	\$1,092.00
Maximum Rent Limits: 9% Low-Income Housing Tax Credit Program			
Unit Size	Gross Rent 30% AMI	Gross Rent 50% AMI	Gross Rent 60% AMI
Studio	\$382.00	\$637.00	\$765.00
1 Bedroom	\$409.00	\$682.00	\$819.00
2 Bedroom	\$491.00	\$818.00	\$982.00
3 Bedroom	\$567.00	\$946.00	\$1,135.00
Maximum Rent Limits: HOME Program			
Unit Size		Gross Rent @ 50% AMI	Gross Rent @ 65% AMI
Studio		\$637.00	\$737.00
1 Bedroom		\$682.00	\$838.00
2 Bedroom		\$818.00	\$1,022.00
3 Bedroom		\$946.00	\$1,196.00

August 11, 2009

Approval of an Amended Loan Agreement for La Valentina

Attachment 7

August 5, 2009

Meea Kang
12th Street Partners, LP
594 Howard Street, Suite 204
San Francisco, CA 94105

RE: Conditional Funding Commitment, La Valentina

Dear Ms. Kang,

On behalf of the Sacramento Housing and Redevelopment Agency and the Redevelopment Agency of the City of Sacramento (collectively "Agency"), we are pleased to advise you of its commitment of construction and permanent loan funds ("Loan") from the City Housing Trust Fund ("City HTF"), State Housing Trust Fund ("State HTF"), Alkali Flat Project Area Tax Increment Funds ("TI"), and City Home Investment Partnership Program ("HOME") for the purpose of financing the development of that certain real property located on the east side of 12th Street between the C Street Alley and E Street in Sacramento, California ("Property"). Agency's decision is based on your application, and all representations and information supplied by you to it. If these representations and information change in a material manner without written approval of Agency, this commitment is void. Agency's obligation to make the Loan is subject to satisfaction of all the following terms and conditions and Borrower's execution of documentation that is in a form and in substance satisfactory to the Agency.

This Loan Commitment shall supersede and replace the prior Loan Commitment dated May 20, 2009. The Loan shall be made on standard Agency loan documents. No loan terms not in this funding commitment shall be included in the final loan documents without additional environmental review and governing board approval. In the event of any discrepancies between terms stated in this commitment and the loan documents, the terms stated in the loan commitment letter shall be deemed to be terms of this commitment.

Unless otherwise agreed in writing by the Agency in exercise of its absolute discretion, the following shall be considered conditions to Agency approval of a financing commitment. The Agency may, in exercise of its absolute discretion, modify its requirements upon written notice to Borrower given at least sixty days prior to close of escrow for the Property.

This commitment will expire on August 31, 2010.

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1. PROJECT DESCRIPTION: The project is the new construction of mixed-use, transit-oriented development. The property is located on two sites along the east side of 12th Street between the C Street Alley and E Street, at assessor's parcel numbers 002-0082-016, 002-0082-024, 002-0121-027, 002-0121-032, 002-0121-034, 002-0121-036, 002-0121-038. The south site, located between D Street and E Street, will contain a community room and at least 5,000 square feet of commercial space on the ground floor and 63 units of affordable rental housing on the second, third, and fourth floors. The north site, located between the C Street Alley and D Street, will contain 18 units of townhome-style rental units. Between the two sites, at least sixty (60) units will be affordable to families earning less than 50 percent of the area median income and all of the remaining units, with the exception of the unrestricted manager's unit, will be affordable to families earning less than 60 percent of the area median income.
2. BORROWER: The name of the Borrower for the Loan is 12th Street Partners, LP.
3. PURPOSE OF LOAN: The Loan is to be used by Borrower solely to pay the costs of construction and permanent financing, or for such other purposes as Agency expressly agrees to in the loan agreement for the Loan, and such other agreements as may be generally required by the Agency for the use of the funding source for the Loan.
4. PRINCIPAL AMOUNT: The combined principal amount of the Loan will be the lesser of (a) Seven Million Thirty Five Thousand Dollars (\$7,035,000), or (b) an amount to be determined prior to close of the Loan based on a project budget approved by Agency. However, the combined indebtedness of the Property must not exceed ninety percent of the appraised value.
5. TERM OF LOAN: The Loan shall mature 40 years from the date of the first disbursement.
6. INTEREST RATE: The Loan shall bear simple interest at Four Percent (4%) per annum. Interest shall be calculated on the basis of a 365-day year and actual days elapsed.
7. AMORTIZATION: Loan shall amortize as permitted by monthly payments.
8. MONTHLY PAYMENT: Monthly payments shall be applied first to outstanding interest accrued and unpaid and then to principal. Interest and principal payments shall be deferred from the date of the loan for the first 168 months. Beginning in month 169, monthly installments shall be made according to the following schedule:

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Months 205-216	\$ 3,917 monthly
Months 217-228	\$ 3,837 monthly
Months 229-240	\$ 3,718 monthly
Months 241-252	\$ 3,576 monthly
Months 253-264	\$ 3,671 monthly
Months 265-276	\$ 3,564 monthly
Months 277-288	\$ 3,437 monthly
Months 289-300	\$ 3,288 monthly
Months 301-312	\$ 3,116 monthly
Months 313-324	\$ 2,921 monthly
Months 325-336	\$ 2,700 monthly
Months 337-348	\$ 2,452 monthly
Months 349-360	\$ 2,176 monthly
Months 361-372	\$ 1,871 monthly
Months 373-384	\$ 1,535 monthly
Months 385-396	\$ 15,569 monthly
Months 397-408	\$ 15,271 monthly
Months 409-420	\$ 14,939 monthly
Months 421-432	\$ 14,573 monthly
Months 433-444	\$ 14,169 monthly
Months 445-456	\$ 13,726 monthly
Months 457-468	\$ 13,243 monthly
Months 469-479	\$ 12,716 monthly
Month 480	All outstanding principal and interest due and payable

9. **SOURCE OF LOAN FUNDS:** Agency is making the Loan from the following sources of funds, and the Loan is subject to all requirements related to the use of such, whether Agency requirements or otherwise: \$2,735,000 in City HTF, \$2,000,000 in State HTF, \$1,600,000 in TI, and \$700,000 in HOME. This Loan is conditioned upon Borrower's acceptance of Agency's requirements and conditions related to such lending programs and funding sources, including among others, the required forms of agreements for the Loan; the requirements for covenants, conditions and restrictions upon the Property; and insurance and indemnity requirements.

Borrower acknowledges that, as a condition of the Agency's making of the Loan, the Property will be subject to restrictions on future sales and rentals which may result in less income to Borrower than could otherwise be realized, and that such restrictions run with the land, and during their operational term, will bind all successors in interest.

_____ (Borrower Initial)

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Borrower acknowledges that every contract for new construction or rehabilitation construction of housing that includes 12 or more units assisted with HOME funds will contain a provision requiring the payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-5), to all laborers and mechanics employed in the development of any part of the housing. Such contracts must also be subject to the overtime provisions, as applicable, of the Contract Work Hours and Safety standards Act (40 U.S.C. 327-332). (24 C.F.R. 92.354). Borrower also acknowledges that any project containing a “subsidy” may be subject to state prevailing wages, which are the responsibility of the Borrower and Borrower’s contractor.

_____ (Borrower Initial)

10. ACCELERATION: Agency shall have the right to accelerate repayment of the Loan in the event of a default under any Loan Document or upon sale, transfer or alienation of the Property except as specifically provided for in the Loan documents.
11. SECURITY: The Loan shall be evidenced by promissory note(s) secured by a deed of trust with assignment of rents against the fee and/or leasehold interest in the Property and Improvements, which shall be a first lien upon the Property and Improvements subject only to other items as the Agency may approve in writing. The Loan shall also be secured by security agreements. The Agency may subordinate said deeds of trust in order to accommodate completion of construction of the Property.
12. LAND DONATION: Agency shall donate to Borrower the eight parcels of land valued at approximately \$1,610,000 identified in Section 1 of this commitment letter. This land donation is conditioned upon Borrower’s acceptance of Agency’s requirements and conditions, including among others, execution of the Disposition and Development Agreement.
13. LEASE AND RENTAL SCHEDULE: All leases of the Property and Improvements shall be subject to Agency's approval prior to execution. Borrower shall not deviate from the rental schedule presented in Borrower's application for the Loan without Agency's prior written approval.
14. PROOF OF EQUITY: Borrower shall provide proof of equity for the Property and Improvements in the amount of no less than \$20,275,000 in Low Income Housing Tax Credit Equity and no less than \$379,000 in deferred developer fee.

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15. OTHER FINANCING: Borrower, as a requirement of the Loan, shall procure and deliver to Agency evidence satisfactory to Agency that Borrower has obtained the following described financing which may be secured by a lien upon the Property and Improvements superior or subordinate to Agency's liens, and which shall be otherwise on terms and conditions acceptable to Agency:
- (a) As a condition precedent to disbursement of the remainder of the Agency loan, construction financing from a private lender(s) in an amount(s) sufficient to complete construction of the Property according to a scope of work as approved by Agency and made for a term not less than that specified in the Schedule of Performances for completion of construction, and in any event not less than the time necessary to fulfill all conditions precedent to funding of the permanent financing.
 - (b) Commitments for permanent financing sufficient to "take out" all liens senior to the Agency's lien.
 - (c) Such commitments for financing shall not require modification of Agency loan documents, or any term of this commitment letter.
 - (d) Such commitments shall not be based upon sources and uses of Project funds that are different from those approved by Agency for the project or be subject to conditions which require amendment of the DDA, OPA or other agreements.
16. EVIDENCE OF FUNDS: Prior to the first disbursement of the Loan, Borrower must demonstrate evidence of adequate and assured funding to complete the development of the Project in accordance with the Agency's requirements. Borrower's evidence of available funds must include only one or more of the following: a) Borrower equity; b) firm and binding commitments for the Project from financial institution(s) or from other lender(s) approved by Agency in its reasonable discretion; and c) Agency's contribution, provided, however, that Agency is not obligated by this letter to make any contribution not stated in the terms of the letter.
17. LOAN IN BALANCE: Borrower will be required to maintain the Loan "in balance". The Loan is "in balance" whenever the amount of the undisbursed Loan funds, the remaining sums to be provided by the Borrower and the loan funds from other project lenders are sufficient, in the sole judgment of the Agency, to pay for the remainder of the work to be done on the project as required by written agreement with the Agency. Should the Agency determine that the Loan is not "in balance", the Agency may declare the Loan to be in default.

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18. PLANS AND SPECIFICATIONS: Final plans and specifications for the project must be in accord with the proposal approved as part of the Loan application. Final plans and specifications will be subject to Agency's final approval prior to the disbursement of Agency Loan funds. Borrower must obtain Agency's prior written consent to any change in the approved plans and specifications or any material deviation in construction of the project.
19. ARCHITECTURAL AGREEMENT: The architectural agreement ("Agreement") for the preparation of the plans and specifications and other services shall be subject to Agency's approval. Agency may require an assignment of Borrower's interest in and to the Agreement as security for the Loan.
20. CONSTRUCTION CONTRACT: The construction contract ("Contract"), and any change orders issued thereunder, and the contractor ("Contractor") to be retained by Borrower to construct the Improvements shall be subject to Agency's approval. Agency may require an assignment of Borrower's interest in and to the Contract as security for the Loan.
21. RETENTION AMOUNT: The Agency shall retain ten percent (10%) as retention from each disbursement, not to exceed a total of ten percent (10%) of the total amount of the Loan.
22. COST BREAKDOWN: Borrower shall deliver to Agency for Agency's approval prior to commencement of work a detailed cost breakdown of the cost of constructing, financing and other costs of developing the Improvements, which breakdown conforms to the project plans and specification and the budget approved with this commitment. Borrower shall also deliver a list of all contractors and subcontractors to be employed in connection with the construction of the Improvements. If required by the Agency Borrower shall also submit copies of all bids received for each item of work to be performed as well as copies of executed contracts and subcontracts with acceptable bidders.

All contracts, subcontracts, contractors, and subcontractors shall be subject to Agency's approval prior to close of the Loan. Agency also reserves the right to require performance and material payment bonds on any or all contractors, or in lieu of bond a letter of credit acceptable to Agency.

Agency shall make disbursements of the Loan based on a cost breakdown that lists line items in cost categories. Agency shall require that Borrower provide documentation supporting all requests for disbursement of Loan funds, including proof of work done and actual expenditure. Agency shall conduct inspections of the Property to assure that the work was done before making a disbursement.

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23. ENVIRONMENTAL REVIEW: HOME funds shall not be disbursed prior to the completion of environmental review pursuant to the National Environmental Policy Act.
24. COST SAVINGS: At completion of construction, borrower shall submit to Agency a cost certification prepared by a qualified, independent auditor acceptable to Agency, which cost certification shall indicate the amounts actually spent for each item in the cost breakdown and shall indicate the projected final sources of funding. If there is an aggregate savings, net of any increases or decreases in sources of funding, in the total of all such cost breakdown items from the cost breakdown items in the original budget approved by the Agency, the Agency shall withhold for itself as loan repayment, one-half of such savings from the amount of retention then held by the Agency, and the Loan balance shall be reduced by the amount so withheld. The Agency, in its sole discretion, shall determine any reduction and/or repayment of the Agency loan based upon this cost certification, the projected final sources of funding, and the original approved budget for the project.
25. START OF CONSTRUCTION: Borrower shall commence construction at the earliest possible date subject to the conditions of this Agency and other involved lenders, but no later than December 31, 2010.
26. COMPLETION OF CONSTRUCTION: Borrower shall complete the construction of the Improvements no later than December 31, 2012.
27. HAZARD INSURANCE: Borrower shall procure and maintain fire and extended coverage insurance or in lieu such insurance, Builder's Risk completed value insurance in a form and substance approved by Agency. Coverage shall be for protection against loss of, or damage to the Improvements or materials for their construction to their full insurable value. Borrower shall also procure and maintain insurance against specific hazards affecting Agency's security for the Loan as may be required by Agency, governmental regulations, or any permanent lender. All such policies shall contain a standard mortgagee loss payable clause in favor of Agency. The insurance required shall be written with a deductible of not more than TEN THOUSAND DOLLARS (\$10,000.00).
28. PUBLIC LIABILITY AND OTHER INSURANCE: Borrower must procure and maintain public liability and property damage insurance (with Agency named as additional insured) in a form approved by Agency. Coverage must be approved by Agency and must be in at least the following limits of liability: Bodily injury liability of \$1,000,000 each occurrence and \$5,000,000 Aggregate, Products and Completed Operations; Property damage liability of \$1,000,000 each occurrence, \$1,000,000 single

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29. limit and \$5,000,000 aggregate; Contractual liability for Bodily Injury of \$1,000,000 each occurrence, for Property Damage of \$1,000,000 each occurrence and \$5,000,000 aggregate, and Personal Injury with Employment Exclusion Deleted of \$1,000,000 aggregate; and Comprehensive Automobile Liability for any vehicle used for or in connection with the Work of \$1,000,000. The insurance required shall be written with a deductible of not more than TEN THOUSAND DOLLARS (\$10,000). Borrower must also procure and maintain workers' compensation and all other insurance required under applicable law, as required by law and as approved by Agency.
30. TITLE INSURANCE: Borrower must procure and deliver to Agency a 1970 or 1987 ALTA LP-10 Lender's Policy of Title Insurance, together with such endorsements as Agency may require, including but not limited to CLTA endorsement nos. 100, 116, and 102.5/102.7 insuring Agency in an amount equal to the principal amount of the Loan, that Agency's Deeds of Trust constitutes a third lien or charge upon the Property and Improvements subject only to such items as shall have been approved by Agency. There must be no exceptions permitted for mechanics liens. Title insurance for the Loan must be issued by a title insurer approved by Agency.
31. ORGANIZATIONAL AGREEMENTS: Borrower must submit to Agency certified copies of all of Borrower's organizational documents, including all amendments, modifications or terminations: if a corporation, Borrower's Articles of Incorporation and By-Laws; if a partnership, its Partnership Agreement and, as applicable, Certificate of Limited Partnership or Statement of Partnership; if a Limited Liability Company, its Articles of Organization and its Operating Agreement; and in all cases with all exhibits and amendments to such documents, fictitious business name statements, other related filings or recorded documents and such related documents as Agency may request. If it is a corporation, Borrower must submit a corporate borrowing resolution referencing this Loan. If Borrower is other than a corporation, Borrower must submit such proof of authority to enter this Loan as may be required under the organizational documents.
32. PURCHASE OF PROPERTY: Borrower shall provide Agency with copies of all documents relating to Borrower's purchase of the Property.
33. FINANCIAL INFORMATION: During the term of the Loan, Borrower shall deliver to Agency within 120 days of the end of each fiscal year an audited income and expense statement, a balance sheet, and a statement of all changes in financial position signed by authorized officers of Borrower. Prior to close of the Loan and during its term, Borrower must deliver to Agency such additional financial information as may be requested by Agency. Agency reserves the right to review and approve financial statements and other credit information and references prior to closing. During the term of the Loan, Borrower must deliver to Agency a monthly rent-roll including household composition information, and operating statements with respect to the Property and Improvements, as Agency may request.

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34. MANAGEMENT AGREEMENT: Prior to execution, Borrower must submit to Agency any agreement providing for the management or operation of the Property or Improvements by a third party which agreement is subject to Agency Approval.
35. LOW INCOME HOUSING TAX CREDITS("LIHTC"): Borrower represents that as a condition of closing this Loan it is applying for an allocation of LIHTCs and agrees to perform all actions and to meet all requirements to maintain the LIHTC allocation if granted.
36. SECURITY AND LIGHTING: Project shall include a security camera system approved by the Agency and lighting adequate to properly illuminate the parking area and all common spaces. In addition, project will include security patrol if necessary.
37. SOCIAL SERVICES PLAN: Borrower shall provide Agency with a detailed social services plan including, but not limited to, the following information: 1) identification of all entities responsible for providing social services to Project tenants and each entity's role in the provision of those services; 2) the services will be provided for a minimum of 15 hours per week, including a minimum of 8 hours per week of after school activities; 3) a description of the programs to be offered, and; 4) a proforma social services budget.
38. DOCUMENTATION: This letter is not intended to describe all of the requirements, terms, conditions and documents for the Loan, which shall also include customary provisions and documents for an Agency transaction of this type. All documents to be delivered to or approved by Agency must be satisfactory to Agency in all respects. Borrower must promptly deliver to Agency any further documentation that may be required by Agency.
39. CONSISTENCY OF DOCUMENTS: As a material obligation under this commitment letter, Borrower shall assure that the loan documents for the Project are consistent with lender's commitment approved by the Agency and comply, in all respects, with this commitment letter.
40. CHANGES OR AMENDMENTS: No documents or contracts which are to be delivered to Agency or are subject to Agency's review or approval shall be modified or terminated without the prior written approval of Agency.
41. ACCEPTANCE OF THIS COMMITMENT: Borrower's acceptance of this Commitment shall be evidenced by signing and delivering to Agency the enclosed copy of this letter. Until receipt of such acceptance by Agency, Agency shall have no obligation under this letter. Agency may withdraw this commitment at any time prior to Borrower's acceptance.

August 11, 2009

Approval of an Amended Loan Agreement for La Valentina

Yours truly,

LaShelle Dozier
Executive Director

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

LaShelle Dozier
Executive Director

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

The undersigned acknowledges and accepts the foregoing Commitment and its terms and conditions.

Dated:

BORROWER:
12th Street Partners, LP

By: _____
Meea Kang

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RESOLUTION NO. 2009 –

Adopted by the Sacramento City Council

on the date

LA VALENTINA: AUTHORIZING A LOAN AGREEMENT FOR CONSTRUCTION AND PERMANENT FINANCING WITH 12TH STREET PARTNERS, L.P. FOR THE DEVELOPMENT OF THE LA VALENTINA PROJECT

BACKGROUND

- A. On May 22, 2009, the City Council approved a funding commitment of \$585,781 in Energy Efficiency and Conservation Block Grant (EECBG) to the La Valentina project (Project) subject to being awarded Proposition 1C Transit-Oriented Development Program funds. The project was not awarded these funds.
- B. On June 2, 2009, the Redevelopment Agency of the City of Sacramento and City Council approved a \$3,000,000 loan and associated budget amendments to assist in funding the costs of construction and permanent financing of La Valentina (Project) and authorized the Sacramento Housing and Redevelopment Agency (Agency) to execute and transmit a loan commitment to the Developer.
- C. The California State Housing and Community Development Department (HCD) awarded an allocation of One Million Dollars (\$1,000,000) in 2004 and Two Million Dollars (\$2,000,000) in 2009 of State Housing Trust Funds to the Agency.
- D. 12th Street Partners, L.P. (Developer) has applied for an allocation of Two Million Dollars (\$2,000,000) in State Housing Trust Funds (State HTF) to assist in funding the construction and permanent financing of the Project;
- E. The Developer has applied for an additional allocation of Two Million Thirty-Five Thousand Dollars (\$2,035,000) in City Housing Trust Funds (City HTF) to assist in funding the construction and permanent financing of the Project;
- F. The Project qualifies for City HTF, State HTF, and City HOME funds under Agency guidelines and would be an appropriate use of these funds;
- G. The proposed action is subject to environmental review under the California Environmental Quality Act (CEQA). An Initial Study/Mitigated Negative Declaration was released for circulation on February 19, 2009. The initial study resulted in preparation of a Mitigated Negative Declaration and Mitigation Monitoring Program and adoption of the Mitigated Negative Declaration and Mitigation Monitoring Program by the City Council on March 24, 2009. The environmental analysis is adequate and complete and the adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program is appropriate for this project.

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BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The proposed action meets the requirements of the California Environmental Quality Act ("CEQA"). The "La Valentina Station: Rezone, Plan Review, Special Permit, and Variances," which includes the Mitigated Negative Declaration and mitigation measures for this project, as adopted by the City in March 24, 2009, is adequate and sufficient for the environmental review. There is not significant new information beyond that which was evaluated in the previous Mitigated Negative Declaration.
- Section 2. The City Manager or his designee is authorized to commit \$585,781 in EECBG funds to the Project in the form of a grant, subject to the Project being awarded 9% Low Income Housing Tax Credits.
- Section 3. The Agency is authorized to accept up to \$2,000,000 in State HTF from HCD.
- Section 4. The Agency is authorized to amend the budget to transfer up to \$2,035,000 in City HTF and up to \$2,000,000 in State HTF to the Project.
- Section 5. The amended Loan Commitment Letter and amended Loan Agreement, attached to and incorporated in this resolution by this reference, for financing the Project with \$2,035,000 in City HTF and \$2,000,000 in State HTF (for a total of up to \$7,035,000 including \$1,600,000 in Alkali Flat Tax Increment Funds, \$700,000 in City Home Investment Partnership Program, and \$700,000 in City HTF), is approved, and the Agency is authorized to execute and transmit the Loan Commitment and the Loan Agreement to the Developer.
- Section 6. The Agency is authorized to enter into and execute other documents and perform other actions necessary to fulfill the intent of the Loan Agreement that accompanies this resolution, in accordance with its terms, and to ensure proper repayment of the Agency funds including without limitation, subordination, extensions, and restructuring of such a loan.
- Section 7. The Agency is authorized to make technical amendments to said agreements and documents with approval of Agency Counsel, which amendments are in accordance with the amended Loan Commitment, with Agency policy, with this resolution, with good legal practices for making of such a loan.

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Exhibit A – Loan Agreement

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Exhibit A

**CONSTRUCTION AND PERMANENT LOAN AGREEMENT
LA VALENTINA**

IN CONSIDERATION of their mutual promises, the parties agree as follows:

1. **LOAN.** The Lender is making the Loan pursuant to the terms and conditions of this Loan Agreement. Lender and Borrower have entered this Loan Agreement as of the Effective Date.
2. **DEFINITIONS TABLES.** The capitalized terms in this Loan Agreement shall have the meanings assigned in the following Definitions Tables and in Section 3 Definitions. Terms being defined are indicated by quotation marks. If an item in the Definitions 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.

"EFFECTIVE DATE"	August 14, 2009	Being the date as of which this Loan Agreement shall be effective.
"LENDER"	The following public agency that is making the Loan, and whose legal status and address are:	
Name	Redevelopment Agency of the City of Sacramento	
Legal Status	A public body, corporate and politic	
Principal Address	630 I Street, Sacramento CA 95814	
"BORROWER"	The borrower of the Loan funds whose name, legal status and address are:	
Name	12 th Street Partners, LP	
Legal Status	limited partnership	
Principal Address	9 Cushing, Suite 200, Irvine, CA 92618	
"LOAN"	The Loan made by this Loan Agreement.	
"LOAN COMMITMENT"	Lender's loan commitment, made by letter dated as of	August 5, 2009
"LOAN PROGRAM"	Lender's Loan Program, commonly known as	City Housing Trust Funds, State Housing Trust Funds, Alkali Flat Project Area Tax Increment, and City Home Investment Partnership Program Funds
"LOAN AMOUNT"	Seven Million Thirty Five Thousand Dollars and No Cents (\$7,035,000.00)	
"INTEREST RATE"	The interest rate is 4% per year, simple interest.	
"PAYMENT START DATE"	The first day of the 133rd calendar month following the Effective Date.	
"MATURITY DATE"	The first day of the 480th calendar month following the Effective Date.	
"PAYMENT SCHEDULE"	<p>Payable monthly, in monthly installments commencing on the Payment Start Date and continuing on the first day of each calendar month thereafter, through and including the Maturity Date.</p> <p>At completion of construction, Borrower shall submit to Lender a cost certification prepared by a qualified, independent auditor acceptable to Lender, which cost certification shall indicate the amounts actually spent for each item in the cost breakdown. If there is an aggregate savings in the total of all such cost breakdown items from the cost breakdown items in the original Budget approved by the Lender, the Lender shall withhold for itself as loan repayment, one-half of such savings from the amount of retention then held by the Agency, and the Loan balance shall be reduced by the amount so withheld. The Lender, in its sole discretion, shall determine any reduction and/or repayment of the Loan based upon this cost certification and the original approved Budget for the Project.</p>	
"BORROWER EQUITY"	Seventeen Million Dollars and No Cents (\$20,275,000.00)	Which is the minimum amount of cash or cash equivalent (excluding land equity or other non-cash investment in the Project) that Borrower is investing in the Project.

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	Three Hundred Seventy-Five Thousand Dollars and No Cents (\$379,000.00)	Which is Borrower's non-cash contribution to the Project (such as deferred Developer fees).
"SPECIAL TERMS"	NA	
"PROJECT"	Which is the Project to be developed on the Property with the Loan funds, described as:	New construction of a mixed-use, transit oriented development on 12th Street in the Alkali Flat Redevelopment Project Area.

B. "COLLATERAL" The Collateral securing repayment of the Loan, which Collateral consists of the following:

"PROPERTY"	The following described real property, which is security for the Loan and the site of the Project:	
Address	317 12th Street, 331 12th Street, 1210 D Street, 1209 E Street, 417 12th Street, 429 12th Street, and 415 12th Street	
Assessor's Parcel Number	002-0082-016, 002-0082-024, 002-0121-002, 002-0121-027, 002-0121-032, 002-0121-027, 002-0121-032, 002-0121-034, 002-0121-036, 002-0121-038	
"Legal Description"	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.	
Borrower's Title Interest	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.	
"ADDITIONAL COLLATERAL"	The Additional Collateral securing repayment of the Loan is any additional security required by Lender under this Loan Agreement, including without limitation the following items, if any	
"PERSONAL PROPERTY"	Borrower's interest in the following personal property, tangible and intangible, and all other such property listed as security in this Loan Agreement:	Materials and supplies for the Project
OTHER ADDITIONAL COLLATERAL	Borrower's interest in the following property:	None

C. "ESCROW INFORMATION":

"Title Company" and "Escrow Agent"	Chicago Title Company	Which is the title company that will issue the Title Policy and that will act as Escrow Agent for the Escrow.
"Escrow"	The escrow with Escrow Agent	
"Closing Date"		Which is the date for close of the Escrow, as it may be extended.

D. "LIST OF EXHIBITS" (The following are attached and incorporated in this Loan Agreement):

EXHIBIT	DEFINED TERM
<u>Exhibit 1: Legal Description</u>	"Legal Description"
<u>Exhibit 2: Scope of Development</u>	"Scope of Development"
<u>Exhibit 3: Note Form</u>	"Note"
<u>Exhibit 4: Trust Deed Form</u>	"Trust Deed"
<u>Exhibit 5: Regulatory Agreement</u>	"Regulatory Agreement"
<u>Exhibit 6: Escrow Instructions</u>	"Escrow Instructions"
<u>Exhibit 7: Federal Requirements</u>	"Federal Requirements"

E. "APPROVAL DOCUMENTS" Borrower shall submit the following documents for Lender approval:

Construction Agreements for the Project
Architectural Agreement for the Project
Borrower's organizational documents, such as partnership agreements or corporate articles and by-laws
"Budget" for the Project
Evidence of financing as described in Article II of this Loan Agreement
Plans and Specifications as defined in Article II of this Loan Agreement

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F. "ASSIGNED DOCUMENTS" Borrower shall assign the following documents to Lender:	
Construction Contract	
Architectural Contract	

G. "CONSTRUCTION INFORMATION":			
"Completion Date"	December 31, 2012	Which is the date on or before which the Completion of the Project must occur.	
"General Contractor"	Brown Construction	Which is the general contractor for construction of the Project.	
"Project Architect"	YHLA Architects and David Baker and Partners	Which is the architect for design 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%)

H. "SPECIAL PROVISIONS" The following special provisions shall be in addition to the provisions of this Loan Agreement:	
This Loan is made pursuant to the Disposition and Development Agreement between the Parties, made concurrently with this Loan Agreement ("DDA"). This Loan Agreement is subject to the DDA including without limitation, conditions precedent to funding the Loan or making disbursements of the Loan proceeds.	
Loan funds shall be used solely for Project construction. No Loan funds shall be used for predevelopment costs, except as provided in an approved Lender budget. Unless otherwise noted in the budget, predevelopment costs are not subject to withholding as Retention.	
1. Domus Management Company is approved by the Lender as "Property Manager" for the Property and Project.	

3. **DEFINITIONS.** Terms not defined in this Loan Agreement shall have the definitions assigned in the Trust Deed. As used in this Loan Agreement, the following terms shall have the following meanings:

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

3.2. "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.

3.3. "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.

3.4. "Completion of the Project" means that, in Lender's sole judgment the Project has been constructed, rehabilitated, 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.

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

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

3.7. "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.

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3.8. "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.

3.9. "Fixtures" means all fixtures located on or within the Project or now or later installed in or used in connection with any of the Project, including, as applicable and without limitation, all partitions, screens, awnings, motors, engines, boilers, furnaces, pipes, plumbing, elevators, cleaning and sprinkler systems, fire extinguishing apparatus and equipment, water tanks, heating, ventilating, air conditioning and air cooling equipment, built-in refrigerators, and gas and electric machinery, appurtenances, and equipment, whether or not permanently affixed to the Project.

3.10. "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.

3.11. "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.

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

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

3.14. "Loan Agreement" means this Construction and Permanent 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.

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

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

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

3.18. "Other Lender Draw" means a draw request or other request for disbursement submitted to another lender for the Project.

3.19. "Personalty" means, whether or not listed as Additional Collateral, all of Borrower's interest in all accounts, contract rights, and general intangibles (specifically including any insurance proceeds and condemnation awards) arising out of the ownership, development, or operation of the Property, and all furniture, furnishings, equipment, machinery, construction materials and supplies, leasehold interests in personal property, and all other personal property (other than Fixtures) of Borrower now or later located about the Property, together with all present and future attachments, accessions, replacements, substitutions, and additions, and the cash and noncash proceeds.

3.20. "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.

3.21. "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.

3.22. "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.

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3.23. "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.

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

3.25. "Unavoidable Delay" is a delay in the performance by a party of any obligation which delay is unforeseeable and beyond the control of such party and without its fault or negligence. Unavoidable Delay shall include acts of God, acts of the public enemy, acts of the Federal Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, a general moratorium on financing for projects of the same type, and unusually severe weather (as for example, floods, tornadoes, or hurricanes) or delays of subcontractors due to such causes. In the event of the occurrence of any such enforced delay, the time or times for performance of such obligations of the parties shall be extended for the period of the enforced delay, as determined by the Lender, provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after it has or should have knowledge of any such enforced delay, have first notified the other party, in writing, of the delay and its cause, and requested an extension for the period of the enforced delay.

4. 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:

4.1. 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.

4.2. 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.

4.3. 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.

4.4. 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.

4.5. NO OTHER BREACH. 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.

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

4.7. TITLE TO PROPERTY. Borrower is 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.

4.8. 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.

4.9. TITLE OF PERSONALTY. All Personalty is vested solely in Borrower, free of all claims, liens, and encumbrances, and the security interest of Lender in the Personalty is a first lien.

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

4.11. **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.

4.12. **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.

4.13. **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.

5. **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 and for other purposes as specified in the Scope of Development, subject to the terms, conditions, representations, warranties, and covenants in this Loan Agreement.

5.1. **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.

5.2. **USE OF LOAN FUNDS.** Loan funds shall be used solely for actual costs of the Project as stated in the Budget. No Loan funds shall be used for any costs, except as provided in the Budget. Unless otherwise noted in the Budget, allowed predevelopment costs, if any, are not subject to the withholding as Retention.

5.3. **LOAN TERMS.** The Loan is made pursuant to the Loan Program and is subject to the laws, rules and regulations of the Loan Program. Lender agrees to disburse the Loan Proceeds in the manner and subject to the limitations stated in this Loan Agreement. Interest, at the Interest Rate, shall accrue on each disbursement of Loan Proceeds commencing on the date on which each such disbursement is made. Repayment of the loan shall be made, in payments of principal and interest, in lawful tender of the United States, in accordance with the Payment Schedule.

5.4. **CLOSING IN ADVANCE OF SENIOR LOAN.** Lender will subordinate this Loan to the senior loan, provided that the senior loan does not require modification of this Loan Agreement or Lender's entry into any agreements containing new or modified Loan terms.

5.5. **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. The Loan is also secured by the Additional Collateral, if any, as evidenced by the applicable Security Documents.

5.6. **REGULATORY AGREEMENT.** The Regulatory Agreement imposing covenants, conditions and restrictions running with the land is a material consideration for the making of the Loan. Borrower shall execute the Regulatory Agreement prior to Close of Escrow and deliver it to Escrow for recordation.

5.7. **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.

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

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

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6.1. **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.

6.2. **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) the closing conditions as defined in the Escrow Instructions have been fulfilled as of Close of Escrow; (c) Lender has received environmental clearance for the use of HOME Funds from the Department of Housing and Urban Development; (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 (f) Lender has approved the Approval Documents.

6.3. **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 Conditions to Close of Escrow, (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.

7. **RELOCATION.** Lender is required by law to provide relocation services and make relocation payments to eligible tenants that are displaced as a result of the Project. Borrower shall comply fully with all relocation laws that are the obligation of Lender or are otherwise applicable to the Project. Borrower's compliance with the relocation requirements as stated in this Section 7 is a material element of this Loan. Borrower's failure to comply with the relocation requirements as stated in this Section 7 is an Event of Default, subject to Borrower's opportunity to cure in accordance with applicable law.

7.1. **RELOCATION COSTS.** Unless otherwise stated in this Agreement, any amounts paid by Lender for relocation costs and services shall be considered advances under the Loan.

7.2. **COOPERATION AND ACCESS.** Borrower shall cooperate fully with Lender in complying with such relocation laws, including without limitation, providing Lender access to all tenants of the Property, to all books and records related to the tenants of the Property and to all properties offered for temporary or permanent relocation. Prior to taking any action with respect to relocation of tenants, Borrower shall meet with Lender to establish reasonable protections for tenants and related reporting requirements for Borrower.

7.3. **BORROWER AS RELOCATION AGENT.** With the approval of Lender, Borrower may act as Lender's agent in accomplishing such relocation. Lender and Borrower by memorandum in writing shall establish their respective duties related to such relocation. If Lender and Borrower agree that Borrower will act as Lender's agent for purposes of this Loan, Borrower may enter into agreements for the provision of relocation services, or Borrower may perform such services directly. Borrower shall, by provisions in its agreements or by direction to its staff, assure that the entity performing the relocation services: (a) shall comply with all applicable law; (b) shall fully inform Lender of all relocation activities; (c) shall make all requests for direction or clarification to Lender; and (d) shall respond to and follow the Lender's instruction and direction.

8. **CONSTRUCTION.** As a condition of the Loan, Borrower will diligently proceed with construction in accordance with the Scope of Development as approved by Lender. Borrower shall complete such work on or before the Completion Date, subject to Unavoidable Delay.

8.1. **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

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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.

8.2. 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.

8.3. 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 Lender's designated agent and to permit all appropriate access to the Property and to all relevant books and records. Borrower shall bear the cost of reasonable inspections, except that Lender shall bear its costs of inspection. If however, Lender's inspection discovers issues of a nature that require further third-party review or investigation, Borrower shall bear the costs of such third party review.

8.4. PROTECTION AGAINST LIEN CLAIMS. Borrower shall promptly and fully discharge all claims for labor, materials and services in connection with the Project. Borrower shall promptly file a valid Notice of Completion on completion of the Project. Borrower shall 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. Borrower shall take all other reasonable steps to protect against the assertion of lien claims against the Property. Within ten (10) days after the filing of any claim of lien against the Property, Borrower shall record a surety bond in the office of the Recorder of the County where the Property is located in an amount sufficient to release the claim of lien or deliver to Lender any other assurance as may be acceptable to Lender as evidenced by Lender's written acceptance of such assurance.

8.4.1. 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.

8.4.2. In any event, Borrower is not required to pay, prior to adjudication, any claims for labor, materials, or services that Borrower, in good faith, reasonably disputes, and that Borrower, at its own expense, is currently and diligently contesting in the proper forum, provided that Borrower has filed the surety bond or given Lender such other assurance as Lender accepts in writing.

8.5. PAYMENT AND PERFORMANCE BONDS. As a condition precedent to beginning construction of the Project, the Borrower shall provide the Lender a performance bond and a labor and material payment bond 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.

8.6. SECURITY INSTRUMENTS. Upon request by Lender and subject to the security interests of lender whose loan is secured by the Property and senior to Lender's security interest in the Property, 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.

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8.7. **OTHER LENDER DRAW.** Borrower shall provide Lender with true, accurate and correct copies of each Other Lender Draw, if any, including without limitation all supporting information, documents, and other required submittals. Lender shall have the right to reject an Other Lender Draw, for failing to comply with the Loan, for changing the Project in any material way, or for impairing the ability of Lender to enjoy the practical realization of its rights under the Loan and its related instruments. If Lender rejects an Other Lender Draw, Borrower shall withdraw the Other Lender Draw and shall not accept and shall return any disbursement on account of such Other Lender Draw.

8.7.1. **ACKNOWLEDGMENT OF RELIANCE.** Borrower acknowledges that Lender is making Loan disbursements in advance of disbursements of other lenders in reliance upon Borrowers compliance with this provision.

8.7.2. **LIQUIDATED DAMAGES.** IF BORROWER FAILS TO PROVIDE TO LENDER ANY OTHER LENDER DRAW, AS AND WHEN REQUIRED UNDER THIS LOAN AGREEMENT, LENDER SHALL BE IRREPARABLY HARMED IN THAT BORROWER'S ABILITY TO REPAY THE LOAN AND LENDER'S SECURITY FOR THE LOAN SHALL BE IMPAIRED TO AN UNKNOWN EXTENT. BORROWER AND LENDER AGREE THAT IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO FIX ACTUAL RESULTING DAMAGES IN SUCH EVENT. BORROWER AND LENDER, THEREFORE, AGREE THAT AN AMOUNT EQUAL TO TWO PERCENT (2%) OF THE LOAN AMOUNT SHALL CONSTITUTE LIQUIDATED DAMAGES PAYABLE TO LENDER ON ACCOUNT OF SUCH EVENT, RECEIPT OF WHICH SHALL CONSTITUTE THE EXCLUSIVE REMEDY OF LENDER FOR SUCH EVENT, AND ONLY FOR SUCH EVENT. PAYMENT OF SAID AMOUNT TO LENDER AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT INSTEAD, IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO LENDER PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE. SAID AMOUNT SHALL BE IMMEDIATELY DUE AND PAYABLE AS OF THE DATE ON WHICH BORROWER DELIVERED SUCH OTHER LENDER DRAW TO THE OTHER LENDER. LENDER SHALL HAVE THIRTY (30) DAYS AFTER RECEIVING ACTUAL NOTICE OF SUCH EVENT TO NOTIFY BORROWER IN WRITING THAT LIQUIDATED DAMAGES UNDER THIS SECTION ARE DUE. BORROWER SHALL HAVE FIFTEEN (15) DAYS AFTER SUCH WRITTEN NOTIFICATION TO CURE THE DEFAULT BY WITHDRAWING THE OTHER LENDER DRAW AND RETURNING ANY DISBURSEMENT ON ACCOUNT OF SUCH OTHER LENDER DRAW. IF BORROWER FAILS TO PAY LIQUIDATED DAMAGES WHEN DUE UNDER THIS SECTION, THE LOAN SHALL BE ALL DUE AND PAYABLE AT THE ELECTION OF LENDER.

____ Lender's Initials

____ Borrower's Initials

8.8. **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.

8.9. **PREVAILING WAGES.** Unless stated otherwise above, Lender advises Borrower that the Project is subject to the payment of prevailing wages under California law. Borrower shall inform the General Contractor and shall require the General Contractor to inform all subcontractors and materialmen furnishing goods or services to the Project of Lender's determination of the applicability of California prevailing wage requirements. Borrower and General Contractor have had the opportunity to meet with their respective legal counsel and to request a determination of the matter before the California Department of Industrial Relations and any other appropriate governmental bodies. Borrower and General Contractor have made their own independent determinations of the applicability of prevailing wage laws and have independently implemented such determinations. Borrower indemnifies, holds harmless and defends the Lender from all additional wages, benefits, fees, penalties, fines, legal fees, court costs, arbitration costs, and other costs arising from the improper application of California prevailing wage laws to the Project by Borrower or General Contractor or both of them. If more than eleven (11) units are assisted with HOME funds as the Funding Source (as indicated in the Regulatory Agreement), Borrower shall comply with Davis-Bacon prevailing wage requirements as described in the Federal Requirements.

9. **LOAN DISBURSEMENT PROCEDURES.**

9.1. **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:

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

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9.1.2. 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.

9.1.3. 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.

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

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

9.1.6. 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.

9.2. 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 shall make the first loan disbursement under this Loan Agreement when the following conditions precedent and the conditions precedent stated in Section 9.1 have been met:

9.2.1. There is no legal action threatened or pending against Borrower or affecting the Property or any Additional Collateral.

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

9.2.3. 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 permanent financing obtained by Borrower, or has obtained commitments to issue bonds, which repays after completion of the Project all construction and other loans secured by the Project and which is secured by a senior lien against the Property. Such permanent financing approval must provide: (a) that it is subject only to those conditions that are usual and customary in the industry and that can be satisfied by the proposed closing date of the permanent financing; (b) that it is in full force with no default by any party; and (c) that Lender will have notice of, and a reasonable opportunity to cure, any Borrower defaults.

9.2.4. Borrower has provided proof of all insurance required by the Loan Documents.

9.2.5. The construction lender's commitment to make a construction loan 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, 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 for the construction lender's construction loan.

9.2.6. 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.

9.3. 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 9.1 have been met:

9.3.1. As applicable, the Project Architect and the Lender's designated agent will have certified to Lender, on AIA Form G704 and in a manner satisfactory to Lender:

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

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b. 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

c. That the Project is structurally sound.

9.3.2. Borrower has provided to Lender a true, accurate and complete copy of the final draw request to all other lenders for the Project.

9.3.3. 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.

9.3.4. 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.

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

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

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

c. 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

d. 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.

9.3.6. 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 of a value in excess of \$1,000 and used in the management, maintenance, and operation of the Project, that are included in the collateral for the Loan.

9.3.7. 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.

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

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

9.4. **MAKING DISBURSEMENT.** Lender shall pay each disbursement request within twenty (20) business days after the disbursement request is submitted to Lender, subject to fulfillment of the conditions precedent as stated in Section 9.1. 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.

9.5. **COMPLIANCE.** To the best of Borrower's knowledge, the construction, use, and occupancy of the Property and Project comply in full with, or 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.

10. RESIDENTIAL OPERATIONS.

10.1. **PROPERTY MANAGEMENT COMPANY.** For the life of the Loan, Borrower shall obtain and maintain a property management agreement with a top quality and duly accredited real estate property management company for the

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management of the Property, and shall assure the compliance of the property management with such agreement. Lender shall not disburse any funds under this Loan Agreement unless and until it has reviewed and approved the agreement as adequate and the property management company as top quality and duly accredited. Lender shall have the right to review and approve any proposed changes to scope of said agreement and to changes in the real estate property management company, prior to Borrower's making such changes. Any such changes made without Lender approval shall be a default of the loan. The Lender has approved the Property Manager as a qualified property management company for the Project.

10.2. REPLACEMENT RESERVES. Borrower shall maintain reserves for replacement and repairs required to be made to the Property, fixtures on the Property or personal property used on the Property, or otherwise as approved by Lender, in an amount, at all times, not less than Two Hundred Fifty Dollars (\$250) for each residential unit in the Project

10.3. VERIFICATION OF NET INCOME. When requested by Lender, Borrower shall provide certified financial statements and such other evidence as the Lender may deem necessary to verify the Project net income, including without limitation copies of certified rent rolls, bank statements, billing statements and invoices.

11. DEFAULT.

11.1. EVENTS OF DEFAULT. At the option of Lender, each of the following events will constitute an Event of Default, subject to applicable cure rights, if any:

11.1.1. The occurrence of an Event of Default under the Trust Deed.

11.1.2. Subject to Borrower's legal rights to contest a governmental requirement, Borrower's failure to comply with any governmental requirements, unless within ten (10) days after notice of such failure by Lender or the respective governmental entity or after any action has been commenced to enforce such requirement, Borrower has cured such failure.

11.1.3. 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, unless within ten (10) days after notice by the issuing entity or Lender of such failure, Borrower has promptly cured such failure.

11.1.4. 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.

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

11.1.6. 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.

11.1.7. 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.

11.1.8. Making of any unauthorized payment from Loan Proceeds or other funds of Lender.

12. REMEDIES.

12.1. 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:

12.1.1. Terminate its obligation to make disbursements.

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

12.1.3. 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.

12.1.4. 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.

12.1.5. 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 maximum amount allowed by law from the date the funds were spent until repaid which amounts will be deemed secured by the Trust Deed.

12.2. 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.

12.3. 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 to construct, complete, or protect the Project; to pay any expense in connection with the exercise of any remedy; or to perform any other obligation of Borrower.

12.4. GRANT OF POWER. Subject to the prior rights of lenders whose loans are secured by the Property and senior to the rights of Lender, 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 Personalty, 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.

13. LIABILITY INSURANCE. With regard to this Loan Agreement, the Borrower shall obtain and maintain for the life of the Regulatory Agreements, and require the General Contractor and subcontractors for the Project to obtain and maintain for the term of the development of the Project, such insurance as will protect them, respectively, from the following claims which may result from the operations of the Borrower, General 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

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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.

13.1. LIABILITY INSURANCE POLICY LIMITS. Borrower shall obtain all insurance under this Section 13 written with a deductible of not more than ONE HUNDRED THOUSAND DOLLARS (\$100,000) or an amount approved by Lender, and for limits of liability which shall not be less than the following:

13.2. WORKER'S COMPENSATION. Borrower shall obtain and maintain worker's compensation coverage shall be written for the statutory limits as required by Article 1 (commencing with Section 3700) of Chapter 4 of Part 1 of Division 4 of the California Labor Code (as it may, from time to time, be amended) and having an employer's liability of not less than \$1,000,000.

13.3. COMMERCIAL GENERAL LIABILITY. Borrower shall obtain and maintain Commercial General Liability insurance in Insurance Services Office ("ISO") policy form CG 00 01 Commercial General Liability (Occurrence) or better. Such insurance shall have limits of liability, which are not less than \$1,000,000, per occurrence limit; \$5,000,000 general aggregate limit, and \$5,000,000 products and completed operations aggregate limit, all per location of the Project.

13.4. COMPREHENSIVE AUTOMOBILE LIABILITY. Borrower shall obtain and maintain comprehensive automobile liability coverage for any vehicle used for, or in connection with, the Project (owned, nonowned, hired, leased) having a combined single limit of not less than \$1,000,000.

13.5. PROPERTY INSURANCE. For the duration of the Regulatory Agreements, Borrower shall obtain and maintain property insurance in ISO policy form CP 10 30 - Building and Personal Property Coverage - Causes of Loss - Special Form, to the full insurable value of the Property with no coinsurance penalty (and with endorsements of Builder's Risk until completion of construction of the Project), Boiler and Machine to the extent necessary to obtain full insurance coverage, and with such other endorsements and in such amounts as the Lender may reasonably require to protect the Project and the Property. 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.

13.6. 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 of B++ VII, which rating has been substantially the same or increasing for the last five (5) years, or such other equivalent rating, as may reasonably be approved by Lender's legal counsel. Each policy shall contain the following provisions as applicable, unless otherwise approved by Lender's legal counsel in writing in advance:

13.6.1. ADDITIONAL INSURED. Borrower shall obtain a policy in ISO form CG 20 33 or better, naming Lender as additional insured under the Commercial General Liability Policy.

13.6.2. SINGLE PROJECT INSURANCE. It is the intent of the parties that the Project have available all the specified insurance coverages. Borrower shall not provide insurance coverages that are considered in aggregate with other Projects which Borrower or its General Contractor might have concurrently under construction. The Lender may at its discretion permit an aggregate policy if and only if Borrower or the respective General Contractor or subcontractor has fully disclosed to Lender other projects which will or may be considered in aggregate with the Project, and thereafter, Borrower shall immediately inform Lender of the change in or addition to any such projects. Nevertheless, Lender may, at any time require that the insurance coverage be provided solely for the Project.

13.6.3. CERTIFIED POLICY COPY. Borrower shall provide Lender with a certified copy of each required policy of insurance. Pending delivery of the certified policy, Borrower shall provide Lender with a Certificate of Insurance of Insurance for each policy on the applicable ACORD form. The ACORD form shall not substitute for the policy. ACORD 25-S "Certificate of Liability Insurance shall be used for liability insurance deleting the sentence in the top right-hand block immediately below the title (commencing "This certificate is issued as a matter of information . . .) and in the bottom right-hand box above the authorized representative signature, deleting the words "endeavor to" and "but failure to do so shall impose not obligation or liability of any kind upon the insurer, its agents or representatives."

13.6.4. CANCELLATION. 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.

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13.7. 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, upon five (5) days written notice and opportunity to cure, 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.

13.8. BLANKET COVERAGE. Borrower's obligation to carry insurance as required under this Section 16 may be satisfied by coverage under a "blanket" policy or policies of insurance (as the term is customarily used in the insurance industry); provided, however, that the Lender shall nevertheless be named as an additional insured under such blanket policy or policies to the extent required by this Section, the coverage afforded the Lender will not be reduced or diminished thereby, and all of the other requirements of this Section 13 with respect to such insurance shall otherwise be satisfied by such blanket policy.

14. MISCELLANEOUS.

14.1. NONRECOURSE. Notwithstanding any provision of this Loan Agreement or any document evidencing or securing this Loan, Borrower, and Borrower's principals, partners, members, agents, officers, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

14.2. CURE BY PARTY OTHER THAN BORROWER. Any lender whose loan is secured by the property and any principal of Borrower may cure a default of the Loan, provided that such cure rights shall be the same as Borrower's cure rights. Such other curing party must cure by the date on which Borrower was obligated to cure, except if Lender is obligated by this Loan Agreement to give separate notice to such other curing party, in which instance, the cure period shall begin when Lender makes such notice to such other curing party.

14.3. 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, are hereby assigned and shall be paid to Lender. In the event of a taking of all of the Property, the proceeds shall be applied to the sums provided by this Loan, subject to any claims of prior lienholder, with the excess, if any, paid to junior lienholders and Borrower, as they may determine. In the event of the partial taking of the Property, unless Borrower and Lender otherwise agree in writing, and subject to any claims of prior lienholders, there shall be applied to the sums secured by this Deed of Trust such proportion of the proceeds as is equal to that proportion which the amount of the sums secured by this Deed of Trust immediately prior to the date of taking bears to the fair market value of the Property immediately prior to the date of taking, with the balance of the proceeds paid to junior lienholders and Borrower, as they may determine.

If the condemnor offers to make an award or settle a claim for damages to the Property and: (1) the Property is abandoned by Borrower; or (2) after notice by Lender to Borrower of the condemnor's offer, 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.

14.4. SUBORDINATION. Lender will subordinate this Loan to the senior loan, provided that the senior loan for the Project indicated in the Budget meets all requirements of this Loan Agreement, and that the senior loan does not require modification of this Loan Agreement, Lender's execution of any agreements containing new or modified Loan terms or Lender's execution of any agreement creating a contractual relationship between Lender and the senior lender including obligations or liabilities between Lender and the senior lender.

14.5. FEDERAL REQUIREMENTS. If any Loan Program is federally funded, Borrower shall comply with all laws, rules, regulations and funding requirements that govern the use of such funds. Lender shall fully cooperate with, and assist, Borrower in fulfillment of such obligations.

14.6. 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

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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.

14.7. 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.

14.8. 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.

14.9. 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 funds at any time on deposit in the Construction Account or the Impound Account, if established.

14.10. 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.

14.10.1. METHOD. All notices to be given under this Loan Agreement shall be in writing and sent to the addresses stated above for the respective recipient 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 at the "Fax Number" given in the Escrow Attachment or to such other address as Borrower or Lender may respectively designate by written notice to the other.

14.10.2. SHORT TERM NOTICES. Notices, including requests for approval, requiring action in less than thirty (30) days may only be given by the foregoing overnight courier or hand delivery method, and shall include the following language on its face: "URGENT – TIME SENSITIVE – IMMEDIATE ACTION REQUIRED" and marked for delivery to Portfolio Management. Such notice shall include the time allowed under this Loan Agreement for action.

14.11. 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.

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Borrower agrees to pay to Lender on demand all these expenses, and Lender is authorized to disburse funds from the Construction Account for that purpose. This Section does not apply to actions or proceedings between the parties.

14.12. **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 Lender has provided construction financing for the Project, which sign shall remain for the duration of construction. If Borrower places a sign on the Property during construction stating the names of the Project participants, it shall also name "Sacramento Housing and Redevelopment Agency" as a participant in the Project. Lender's name on the sign shall be in letters not less than size of letters used to name any of the other participants.

14.13. **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 to a party other than a general partner or managing member of Borrower or a single asset entity wholly owned and controlled by Borrower or a general partner or managing member of Borrower. 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 Trust Deed. Lender may at any time assign the Loan Documents to any affiliate of Lender or to a national bank or other lender having experience with construction lending, and 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.

14.14. **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.

14.15. **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.

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

14.16.1. 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.

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

14.16.3. 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.

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14.17. **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.

14.18. **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.

14.19. **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 Indebtedness has been paid 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.

14.20. **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.

14.21. **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.

14.22. **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.

14.23. **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.

14.24. **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.

14.25. **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.

Approval of an Amended Loan Agreement for La Valentina

14.26. **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.

14.27. **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.

14.28. **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 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.

14.29. **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.

14.30. **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.

14.31. **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.

14.32. **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.

14.33. **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.

August 11, 2009

Approval of an Amended Loan Agreement for La Valentina

THE PARTIES HAVE EXECUTED THIS LOAN AGREEMENT in Sacramento, California as of the Effective Date.

BORROWER :
12TH STREET PARTNERS, L.P.

BY: DOMUS DEVELOPMENT, LLC, GENERAL PARTNER

By: MNJ Development, LLC, a California limited liability company, Member

By: Newport Partners, LLC, a California limited liability company, its member

By: _____
Monique Hastings, its member/manager

Date: _____

Approved as to form:

Borrower Counsel

LENDER:
REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
LaShelle Dozier, Executive Director

Date: _____

Approved as to form:

Lender Counsel

