



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

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Staff Report
April 27, 2010

Honorable Chair and Members of the Redevelopment Agency

Title: Approval of Agency Loan Documents for the Maydestone Building

Location/Council District: 1001 15th Street, Council District 1, Merged Downtown Redevelopment Area

Recommendation: Adopt a **Redevelopment Agency Resolution** a) authorizing the Redevelopment Agency of the City of Sacramento (Agency) to enter into loan documents to increase the Agency loan from \$4,570,000 to \$6,100,000 for acquisition, construction and permanent financing for the Maydestone Project (Project); b) approving the attached Owner Participation Agreement (OPA) and Loan Agreements (Loan Documents); c) authorizing the Executive Director, or her designee, to execute the Loan Documents and related loan documents associated with the transaction; d) authorizing the Executive Director to defund \$959,000 in Downtown Low/Moderate Tax Increment Taxable Bond Funds (Downtown Taxable Bonds) from the Downtown Notice of Funding Availability Project (NOFA) for the Maydestone Project; e) authorizing the Executive Director to amend the Agency budget to allocate \$959,000 of Downtown Taxable Bonds to the Maydestone Project; and f) authorizing amendment of the Agency budget to allocate \$571,000 in Downtown Low/Moderate Tax Increment Housing Funds (Downtown TI) for the Maydestone Project.

Contact: Christine Weichert, Assistant Director, Housing and Community Development, 916-440-1353; Jeree Glasser-Hedrick, Redevelopment Manager, Housing and Community Development, 916-440-1302

Presenters: Jeree Glasser-Hedrick, Redevelopment Manager, Housing and Community Development

Department: Sacramento Housing and Redevelopment Agency

Description/Analysis

Issue: The Redevelopment Agency previously approved a \$4,570,000 loan for the acquisition, rehabilitation, and permanent financing of the 32-unit historic Maydestone apartment building. This 4-story landmark building is located across from

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the Memorial Auditorium at 15th and J Streets. The property has been vacant and boarded for more than six years due to a fire and needs substantial improvements.

Since Redevelopment Agency funding approval was obtained in April 2009, D & S Development, Inc. (Developer) has been working diligently to secure conventional bank financing to proceed with the renovation. Under the current restrictive lending environment, the Developer has been unable to obtain a construction or permanent loan from a conventional lender. The result is a loss of approximately \$2 million in project financing. To fill this gap, the Developer is contributing an additional \$100,000 of Owner Equity, costs savings of \$370,000 have been identified, and the Developer is requesting an additional \$1,530,000 in Agency funds. Staff is seeking approval for an additional \$1,530,000 in Downtown Low/Moderate Housing Funds to augment the existing \$4,570,000 Agency loan which will increase the loan to \$6,100,000.

The \$1.53 million of new Agency funds will consist of a \$1.23 million non-forgivable loan and \$300,000 to be forgivable pursuant to costs associated with ADA/accessibility upgrades including related off-site improvements due to public funding requirements. In consideration for the increased Agency loan, eight market rate units will now be restricted at 110% of Area Median Income for 55 years.

Further background on the Developer and the Project is included in Attachment 1. A location map and site photo are included as Attachments 2 and 3 respectively. A project summary, including proposed sources and uses of funds, is included as Attachment 4. The cash flow projection is presented as Attachment 5. Finally, a schedule of maximum rents and incomes for the Project is included as Attachment 6.

Policy Considerations: The Maydestone renovation is consistent with the Agency's efforts to spur investment, eliminate blight, promote the rehabilitation of the existing housing stock, and provide housing options for all income levels in the Downtown Redevelopment Area. Regulatory restrictions on the property will be specified in an Agency regulatory agreement. As an affordable housing project, the Maydestone is exempt from the Art in Public Places requirement usually associated with projects funded with TI funds.

The electrical service to the building will require a new transformer to be installed. The Developer has explored options for installing the transformer below ground within the public right-of-way, installing it within the building itself, and installing it above ground outside of the public right-of-way. None of these options were found to be practical due to the following: 1) estimated \$400,000 cost makes an underground installation infeasible given the project's economic viability, 2) property for an above ground installation outside of the public right-of-

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way is not available, and 3) there would be significant negative impacts to the historic nature of the building if the transformer were to be housed inside. The Department of Transportation has reviewed the Developer's request and recommends installing the electrical transformer above ground within the public right-of-way and as required by Section 16.48.060 of the City Code has determined that it is impractical under the given circumstances to install the transformer below ground.

The recommended actions are consistent with approved Agency multifamily lending policies with the exception that staff recommends a waiver of the following: 1) the increase in per unit subsidy limit of the Agency loan due to the size of development, small unit configuration and high cost of historic preservation, 2) exceed 90% loan to value ratio because the Project's restricted rents do not support sufficient property valuation, 3) 2% simple interest on \$1.23 million to reduce interest expense to facilitate repayment of the loan, 4) \$300,000 additional Agency funds to be forgivable due to costs related with public financing requirements, and 5) no interest accrual during the construction period.

Finally, the Agency is required to make findings when Low/Moderate Tax Increment Housing Funds exceed 50% of the total project cost. The finding must indicate the level of contribution is necessary because the developer, acting in good faith, has been unable to obtain commercial or private means of financing the units at the same level of affordability and quality.

The proposed \$6.1 million of Agency funds is necessary to fund the Maydestone Project due to the following: 1) the Project is not conducive to the type of leverage achieved through a bond/tax credit financing structure due to the Project's size and the current instability in the credit markets, 2) the Project is unable to secure a construction loan due to loan-to-value requirements and the restrictive lending environment, and 3) property renovations must comply with local historic building code and public funding requirements which increase the total project cost making additional Agency assistance necessary for a viable project.

Environmental Considerations:

California Environmental Quality Act (CEQA): The proposed action is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Sections 15310 and 15301(a) and (d) which exempts bond and loan financing and rehabilitation of existing facilities where the use remains unchanged. The proposed actions are subject to review and approval by the City of Sacramento's Preservation Office.

Sustainability Considerations: The recommended actions would achieve the following goals within the City's Sustainability Master Plan:

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- Replace or renovate obsolete energy or resource inefficient infrastructure (buildings, facilities, systems, etc). (*Plan Goal # 1, Energy Independence*);
- Reduce long commutes by providing a wide array of transportation and housing choices near jobs for a balanced, healthy City. (*Plan Goal # 6, Urban Design, Land Use, Green Building and Transportation*).

Other: There is no federal funding or other federal nexus for this project; therefore, the National Environmental Policy Act (NEPA) does not apply.

Committee/Commission Action: At its meeting of April 7, 2010, the Sacramento Housing and Redevelopment Commission motioned to support the staff recommendation for the project, but recommended that staff seek alternative funding sources for the project. The votes were as follows:

AYES: Burruss, Chan, Gore, Otto, Stivers

ABSTAIN: Rosa

NOES: Morgan

NOT PRESENT TO VOTE: Dean

ABSENT: Fowler, Morton, Shah

Rationale for Recommendation: The renovation of the Maydestone apartment building is an opportunity to convert a blighted, underutilized vacant property into a vibrant, urban, affordable housing option in the heart of Downtown. Historic preservation offers a natural tool in neighborhood revitalization by making use of the existing building and sustaining a sense of character and cohesion in the Historic Memorial Auditorium District.

The actions recommended in this report will enable the Maydestone renovation to move forward by allowing the Developer to proceed with property acquisition and commencement of construction. Upon completion, the Maydestone building will add 32 high quality apartment units to the Downtown affordable housing stock. If additional Agency assistance is not approved, the Maydestone building will likely stay vacant for several years and continue to deteriorate, resulting in increased renovation costs and continued blight to the surrounding area.

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Financial Considerations: Staff recommends approval of a budget amendment of \$1,530,000 consisting of \$571,000 of Downtown Low/Moderate TI and \$959,000 of Downtown Low/Moderate Taxable Bonds to increase the previously approved \$4,570,000 Agency Loan to \$6,100,000 for the Maydestone Project. The \$6.1 million Agency loan will be comprised of a \$2,590,000 forgivable loan to be forgiven in equal

installments annually over thirty years, a \$2,280,000 non-forgivable loan with a 4% interest rate, and a \$1,230,000 non-forgivable loan with a 2% interest rate. The non-forgivable loans will be fully repaid, with interest, from property cash flow.

A portion of the Agency non-forgivable loan proceeds not to exceed \$1.5 million may be disbursed for property acquisition in advance of the close of the construction financing upon Agency approval. The outstanding balances on the non-forgivable and forgivable loans are due and payable upon refinance or sale of the property.

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:

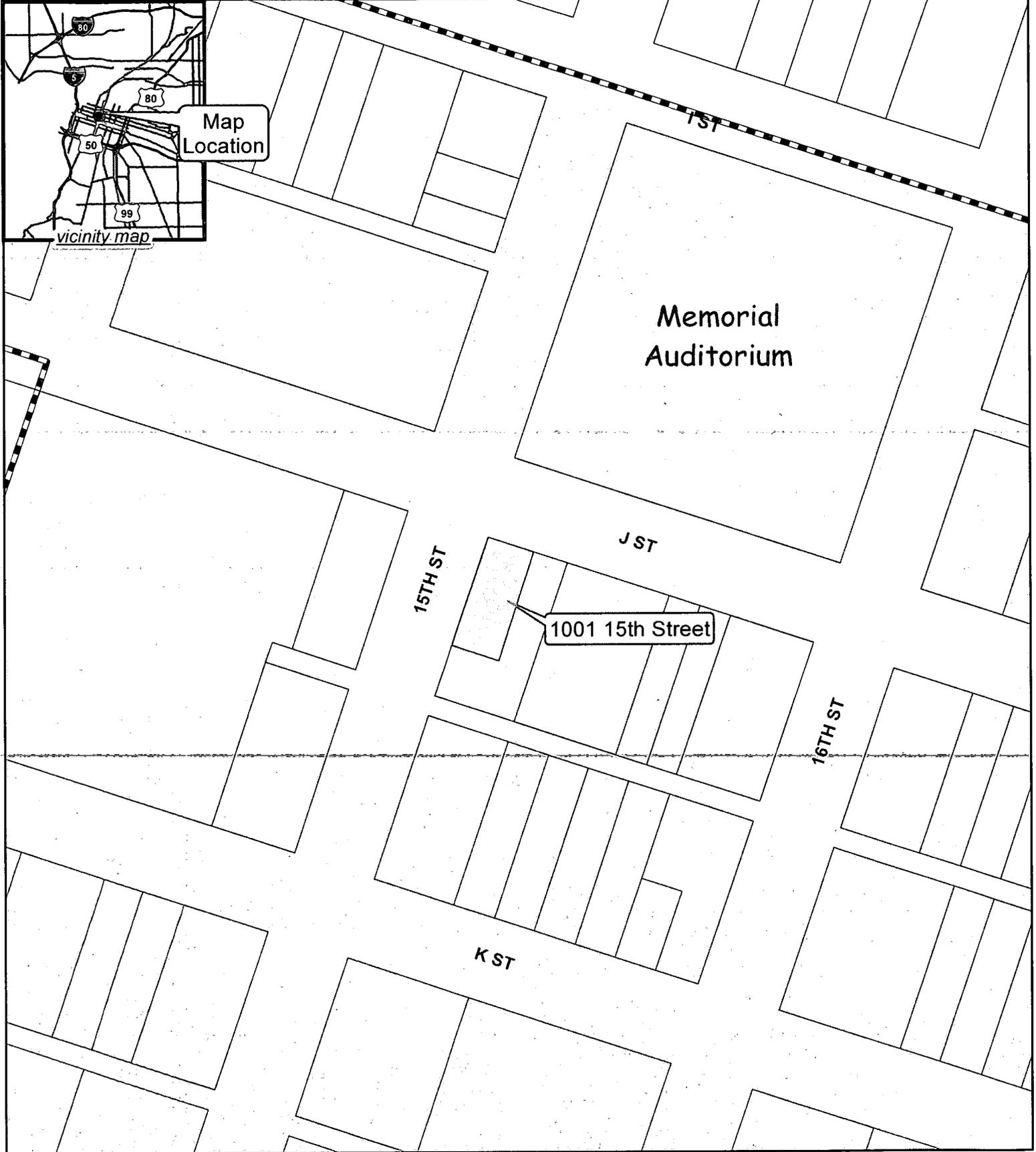

FERGUS VINA
Interim City Manager

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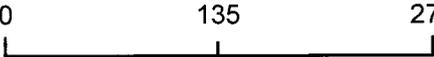
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Maydestone



 1001 15th St
 Downtown Redevelopment Area

0 135 270 Feet


 N
 SHRA GIS
 March 19, 2010

**The Maydestone Apartment Building
Historic Renovation
1001 15th Street**



Attachment 2

The Maydestone Building Background

Description of Development: The Maydestone located at 1001 15th Street in the Memorial Auditorium Historic District is listed as a landmark building in the Sacramento Register of Historic and Cultural Resources. The 4-story apartment building built in 1915 has been vacant and boarded for over six years. The proposed project will convert 32 dilapidated units into 24 studio units, and 8 one-bedroom units affordable to households who earn between 60 -110% of the area median income. Amenities will include a renovated basement for primary use as community space with a community room, manager's office, exercise room, individual storage, and a laundry room.

The proposed rehabilitation budget of approximately \$3.8 million will facilitate necessary repairs to bring the Maydestone apartment building up to market and applicable code standards. The project will preserve the building's historic craftsmanship, including repair and restoration of the original exterior façade, main entry, interior finishes, woodwork, staircase and elevator. All interior and exterior improvements will be renovated in compliance with historic building code. Upgrades will be made to the building's mechanical, electrical and plumbing for increased energy efficiency and sustainability. Due to the Agency's assistance triggering public funding requirements, the Project renovation will include appropriate American with Disabilities Act (ADA)/Accessibility upgrades including related off-site improvements as required by the City of Sacramento Building Department.

Developer: The developer is D & S Development, Inc. (D & S), which has experience with over seventy projects across greater Sacramento including mixed-use, lofts, transit-oriented developments, service stations, façade renovations and retail centers. D & S is Sacramento based with their headquarters located at 13th & H Streets. The primary concentration of D & S has been commercial development; however, in the past few years, D & S has been focused on urban infill residential development. D & S has experience in the renovation of eight historic properties, which makes them well-suited for the Maydestone. Two recent and notable historic renovations completed by D & S include: Old Sac iLofts and 1409 R Street Lofts. The Old Sac iLofts, completed in 2007 offer 9 luxury lofts in the Historic Old Sacramento Riverfront District. 1409 R Lofts is an adaptive reuse of a historic landmark building converted into for-sale lofts and ground floor retail in the R Street Corridor.

D & S has formed Preservation Development LLC, a California Limited Liability Company (LLC) for the acquisition and renovation of the Maydestone Project. The principals of D & S are the managing members of the LLC.

The General Contractor will be CFY Development (CFY), an experienced general contractor who has a track record with the Agency. Most notable is CFY's involvement as the general contractor for the historic Globe Mills adaptive reuse project in the Alkali Flat Redevelopment Area. As the sole construction lender, the Agency will enforce additional requirements of the Developer and General Contractor outlined in the

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attached Loan Agreements to ensure the Project renovation complies with required licensing, bonding and insurance requirements and approved development budget and scope of work.

Property Management: D & S Development, Inc. has been providing management services to commercial and office properties in the Sacramento area for many years. D & S would like to utilize their existing property management division to manage the Maydestone property. Since this is the first affordable housing property in the D & S portfolio, the Agency will require D & S to hire property management staff experienced with management of affordable regulated housing units. The Agency will have the right to approve the staff hired by D & S to manage the Maydestone. In the event D & S Property Management is not adequate or compliant with the requirements of the Agency's Portfolio Management Department and/or Agency regulatory agreement, the Agency reserves the right to require an approved third party property management company with affordable housing experience to manage the property.

Resident Services: Due to the small size of the development, operating budget limitations, and higher income targeting to moderate income households, the Agency is not currently requiring the Project to provide resident services. A converted basement will offer resident community space including a large community room, exercise room, manager's office, individual storage, and laundry room.

Security: The Developer will install a security camera system approved by the Agency and provide lighting adequate to illuminate the property and all common spaces.

Project Financing: As a result of the Developer's inability to secure conventional bank financing for the Project due to the restrictive lending environment for commercial loans, the Developer has proposed to fund the gap resulting from the loss of construction financing through an \$100,000 increase of owner equity totaling \$900,000, identified cost savings in the amount of \$370,000, and a request of additional Agency loan funds in the amount of \$1,530,000. The \$1.53 million will consist of a \$1.23 million non-forgivable loan and \$300,000 to be forgiven pursuant to costs associated with ADA/accessibility upgrades including related off-site improvements due to public funding requirements.

The total Agency loan would increase from the previously approved \$4.57 million to \$6.1 million to be comprised of \$2,590,000 to be forgiven in equal installments annually over 30 years, \$2,280,000 non-forgivable loan at 4% interest, and \$1,230,000 non-forgivable loan at 2% interest. The non-forgivable loans will be fully repaid, with interest, from property cash flow.

The \$2.59 million forgivable loan is comprised of the costs associated with historic preservation, and ADA/accessibility upgrades, including related off-site improvements. These costs are being forgiven due to cost increases due to compliance with historic building code and public funding requirements which are triggered by the Agency's financial assistance. The proposed Agency loan will be funded by Downtown

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Low/Moderate Tax Increment Housing Funds which is an appropriate use of funds for the development of affordable housing in the Merged Downtown Redevelopment Area.

A project summary, including a proposed sources and uses of funds, is included as Attachment 4. A cash flow proforma is included as Attachment 5. Due to the increased Agency loan, an Owner Participation Agreement (OPA) and Loan Agreements included as Attachments 8 and 9 respectively, are required.

Low-Income Set-Aside Requirements: As a condition of Agency tax increment financing, California Redevelopment law requires the apartments be set aside for targeted income groups.

The following chart summarizes the proposed affordability restrictions for the project.

Funding	% of Units	Affordability Restrictions	No. Units	Regulatory Requirements
Downtown Low/Moderate Tax Increment Housing Funds	50%	Low Income (60% AMI)	16	55 years
	25%	Moderate Income (80% AMI)	8	55 years
	25%	Moderate Income (110% AMI)	8	55 years
Total	100%		32	

Maximum rent and income limits for the tax increment funding can be found in Attachment 6. The project's affordability restrictions will be specified in a regulatory agreement with the Developer.

Maydestone Apartment Building

Address	1001 15th Street		
Number of Units	32		
Year Built	1915		
Acreage	0.11		
Affordability	16 units (50%) at or below 60% of median income 8 units (25%) at or below 80% of median income 8 units (25%) at or below 110% of median income		
Unit Mix and Rents	(60% AMI)	(80% AMI)	(110% AMI)
Studio	14	5	5
1 Bedroom	2	3	3
Total	16	8	8
Unit Square Footage			
Studio (Total)	9,355 square feet		
1 Bedroom (Total)	5,159 square feet		
Manager's Office/Community Space	4,190 square feet		
Total	18,684 square feet		
Resident Facilities	The site will include community space including a resident community room, exercise room, individual storage, laundry room, and a manager's office.		
Permanent Sources	<i>Total</i>	<i>Per Unit</i>	<i>Per Square Foot</i>
SHRA Non-Forgivable Loan (Previously Approved)	\$ 2,280,000	\$ 71,250	\$ 122.03
SHRA Non-Forgivable Loan (New)	\$ 1,230,000	\$ 38,438	\$ 65.83
SHRA Forgivable Loan (Previously Approved)	\$ 2,290,000	\$ 71,563	\$ 122.56
SHRA Forgivable Loan (New)	\$ 300,000	\$ 9,375	\$ 16.06
Developer Owner Equity	\$ 900,000	\$ 28,125	\$ 48.17
TOTAL SOURCES	\$ 7,000,000	\$ 218,750	374.65
Permanent Uses			
Acquisition Costs	\$ 2,025,000	\$ 63,281	\$ 108.38
Construction Costs	\$ 3,802,130	\$ 118,817	\$ 203.50
Architecture and Engineering	\$ 150,000	\$ 4,688	\$ 8.03
Development Impact Fees	\$ 65,000	\$ 2,031	\$ 3.48
Legal Fees	\$ 18,000	\$ 563	\$ 0.96
Developer Fee	\$ 574,000	\$ 17,938	\$ 30.72
Insurance, 3rd Party, Marketing, Assign Fee, Other	\$ 365,870	\$ 11,433	\$ 19.58
TOTAL USES	\$ 7,000,000	\$ 218,750	\$ 374.65
Management / Operations			
Developer:	D & S Development, Inc.		
Property Management Company*:	D & S Development, Inc.		
Operations Budget:	\$137,714	\$4,304	
Replacement Reserves:	\$8,000	\$250	
* Property Management Staff To Be Approved By SHRA			

Maydestone Cash Flow Proforma

Unit Type	Number	Average Sq Feet	Total Sq Feet	Monthly Rent (Gross)	Less Utility	Net Rent	Per Sq. Ft.	Net Annl. Rent
Studio @ 60% AMI	14	300	4,200	\$ 765.00	\$ 56.00	\$ 709	2.36	\$ 119,112
Studio @ 80% AMI	4	370	1,480	\$ 1,020.00	\$ 56.00	\$ 964	2.61	\$ 46,272
Studio @ 110% AMI	5	520	2,600	\$ 1,250.00	\$ 56.00	\$ 1,194	2.30	\$ 71,640
1 Bedroom/1 Bath @ 60% AMI	2	640	1,280	\$ 873.00	\$ 63.00	\$ 810	1.27	\$ 19,440
1 Bedroom/1 Bath @ 80% AMI	3	690	2,070	\$ 1,165.00	\$ 63.00	\$ 1,102	1.60	\$ 39,672
1 Bedroom/1 Bath @ 110% AMI	3	690	2,070	\$ 1,410.00	\$ 63.00	\$ 1,347	1.95	\$ 48,492
Manager Unit-Studio @ 80% AMI	1	490	490	\$ -	\$ -	\$ -	0.00	\$ -
Total	32							\$ 344,628

	Rate	Annual Increase	Per Unit	2013 Year 1	2014 Year 2	2015 Year 3	2016 Year 4	2017 Year 5	2018 Year 6	2022 Year 10	2027 Year 15	2032 Year 20	2037 Year 25	2042 Year 30
Potential Gross Income		2.5%		\$ 362,075	\$ 371,127	\$ 380,405	\$ 389,915	\$ 399,663	\$ 409,655	\$ 452,182	\$ 511,602	\$ 578,831	\$ 654,894	\$ 740,953
Other Income		2.5%		\$ 13,323	\$ 13,656	\$ 13,997	\$ 14,347	\$ 14,706	\$ 15,074	\$ 16,639	\$ 18,825	\$ 21,299	\$ 24,098	\$ 27,264
Less Vacancy	10%			(37,540)	(38,478)	(39,440)	(40,426)	(41,437)	(42,473)	(46,882)	(53,043)	(60,013)	(67,899)	(38,411)
Effective Gross Income				\$ 337,858	\$ 346,305	\$ 354,962	\$ 363,836	\$ 372,932	\$ 382,266	\$ 421,939	\$ 477,385	\$ 540,117	\$ 611,093	\$ 729,806
Expenses														
Operating Expenses		3.5%	\$ 3,881	\$124,200	\$128,547	\$133,046	\$137,703	\$142,522	\$147,511	\$169,272	\$201,042	\$238,775	\$283,589	\$336,815
Property Management			\$ 422	\$13,514	\$13,852	\$14,198	\$14,553	\$14,917	\$15,290	\$16,878	\$19,095	\$21,605	\$24,444	\$29,192
Replacement Reserves		3.5%	\$ 250	\$8,280	\$8,570	\$8,870	\$9,180	\$9,501	\$9,834	\$11,285	\$13,403	\$15,918	\$18,906	\$22,454
Total Expenses			\$ 4,554	\$ 145,994	\$ 150,969	\$ 156,114	\$ 161,436	\$ 166,941	\$ 172,635	\$ 197,434	\$ 233,540	\$ 276,298	\$ 326,939	\$ 388,462
Net Operating Income				\$ 191,864	\$ 195,336	\$ 198,848	\$ 202,400	\$ 205,991	\$ 209,621	\$ 224,504	\$ 243,845	\$ 263,819	\$ 284,154	\$ 341,345

AGENCY LOANS	Amount	Rate												
#1 PREVIOUSLY APPROVED FORGIVABLE														
Principle Balance	\$2,280,000	0%	2,213,667	2,137,333	2,061,000	1,984,667	1,908,333	1,832,000	1,526,667	1,145,000	763,333	381,667		
Forgiveness			76,333	76,333	76,333	76,333	76,333	76,333	76,333	76,333	76,333	76,333		
Balance			\$ 2,137,333	\$ 2,061,000	\$ 1,984,667	\$ 1,908,333	\$ 1,832,000	\$ 1,755,667	\$ 1,450,333	\$ 1,068,667	\$ 687,000	\$ 305,333	\$ -	
#2 NEW FORGIVABLE														
Principle Balance	\$300,000	0%	290,000	280,000	270,000	260,000	250,000	240,000	200,000	150,000	100,000	50,000		
Forgiveness			10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000	10,000		
Balance			\$ 280,000	\$ 270,000	\$ 260,000	\$ 250,000	\$ 240,000	\$ 230,000	\$ 190,000	\$ 140,000	\$ 90,000	\$ 40,000	\$ -	
#1 PREVIOUSLY APPROVED NON-FORGIVABLE														
Principal Balance	\$2,280,000	4%	2,280,000	2,280,000	2,230,934	2,154,464	2,071,976	1,983,196	1,559,319	850,540	0	0	0	0
Interest for Period			91,200	91,200	89,237	86,179	82,879	79,328	62,373	34,022	0	0	0	0
Accumulated Interest			182,400	113,713	89,237	86,179	82,879	79,328	62,373	34,022	0	0	0	0
Agency Loan Payment			159,887	162,780	165,707	168,667	171,659	174,684	187,087	203,204	0	0	0	0
Balance			\$ 2,302,513	\$ 2,230,934	\$ 2,154,464	\$ 2,071,976	\$ 1,983,196	\$ 1,887,840	\$ 1,434,605	\$ 681,358	\$ -	\$ -	\$ -	\$ -
#2 NEW NON-FORGIVABLE														
Principal Balance	\$1,230,000	2%	1,230,000	1,230,000	1,230,000	1,230,000	1,230,000	1,230,000	1,230,000	1,230,000	1,230,000	599,252		0
Interest for Period			24,600	24,600	24,600	24,600	24,600	24,600	24,600	24,600	24,600	11,985		0
Accumulated Interest			49,200	73,800	98,400	123,000	147,600	172,200	270,600	393,600	416,327	11,985		0
Agency Loan Payment			0	0	0	0	0	0	0	0	219,850	236,795		0
Balance			\$ 1,279,200	\$ 1,303,800	\$ 1,328,400	\$ 1,353,000	\$ 1,377,600	\$ 1,402,200	\$ 1,500,600	\$ 1,623,600	\$ 1,426,477	\$ 374,442	\$ -	0
Combined Debt Coverage Ratio			1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	-
Net Cash After Loan Repayment			\$ 31,977	\$ 32,556	\$ 33,141	\$ 33,733	\$ 34,332	\$ 34,937	\$ 37,417	\$ 40,641	\$ 43,970	\$ 47,359	\$ 341,345	

MAXIMUM RENT AND INCOME LEVELS 2009
(Rents @ 60%, 80% and 110% of AMI where applicable)

Maximum Income Limits:			
Family Size	Max Income <i>60% AMI</i>	Max Income <i>80% AMI</i>	Max Income <i>110% AMI</i>
1 person	\$30,600	\$40,800	\$56,100
2 person	\$34,920	\$46,600	\$64,020
3 person	\$39,300	\$52,450	\$72,050
Maximum Rent Limits:			
Downtown Project Area Tax Increment Funds			
Unit Size	Gross Rent <i>60% AMI</i>	Gross Rent <i>80% AMI</i>	Gross Rent <i>110% AMI</i>
Studio	\$765.00	\$1,020.00	\$1,402.50
1 Bedroom	\$873.00	\$1,165.00	\$1,600.50

RESOLUTION NO. 2010 –

Adopted by the Redevelopment Agency of the City of Sacramento

on the date

THE MAYDESTONE APARTMENT BUILDING: APPROVAL OF A \$6,100,000 LOAN; EXECUTION OF AN OWNER PARTICIPATION AGREEMENT, LOAN AGREEMENTS AND RELATED DOCUMENTS WITH PRESERVATION DEVELOPMENT LLC; RELATED BUDGET AMENDMENTS

BACKGROUND

- A. The Maydestone is a historic landmark property located at 1001 15th Street in downtown Sacramento. The four-story 32-unit apartment building has been vacant and boarded for over 6 years.
- B. On April 21, 2009, the Redevelopment Agency of the City of Sacramento approved a \$4,570,000 loan and associated budget amendments to assist in funding the costs of acquisition, construction and permanent financing of Maydestone Project and authorized the Executive Director to transmit an Owner Participation and Loan Agreement to D & S Development, Inc.
- C. D & S Development, Inc. has formed Preservation Development LLC, a California Limited Liability Company (LLC) for the acquisition and renovation of the Maydestone Project. The principals of D & S are managing members of the LLC.
- D. The Maydestone ("Project") qualifies for Downtown Low/Moderate Tax Increment (TI) funding under the adopted May 2008 Downtown Housing Investment Strategy and Agency multi-family lending policies and would be an appropriate use of these funds for affordable housing in the downtown.
- E. The Agency finds that the Downtown Low/Moderate Tax Increment Housing Funds that will be used to fund the Project are needed to make these housing units affordable. Therefore, the Project is not required to provide funding for Art in Public Places.
- F. The proposed action is exempt from environmental review under California Environmental Quality Act (CEQA) Guidelines Sections 15310 and 15301(a) and (d) which exempts bond and loan financing and rehabilitation of existing facilities where the use remains unchanged.

Approval of Agency Loan Documents for the Maydestone Building

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE REDEVELOPMENT AGENCY RESOLVES AS FOLLOWS:

- Section 1. The above recitals are true and correct and the proposed action is exempt from environmental review under CEQA Guidelines Sections 15310 and 15301(a) and (d).
- Section 2. It is found and determined that the use of the Low/Moderate Tax Increment Housing Set-aside funds is necessary because the owner of the units has made a good faith attempt but been unable to obtain commercial or private means of financing the units at the same level of affordability and quantity.
- Section 3. The Redevelopment Agency of the City of Sacramento (Agency) is authorized to increase the Agency loan from \$4,570,000 to \$6,100,000 and enter into loan documents with Preservation Development LLC for the Maydestone Project (Project).
- Section 4. The Executive Director, or her designee, is authorized to defund \$959,000 from the Downtown Housing NOFA in Downtown Low/Moderate Tax Increment Taxable Bond Funds (Downtown Taxable Bonds) for the Maydestone Project.
- Section 5. The Executive Director, or her designee, is authorized to amend the Agency budget to allocate \$959,000 of Downtown Low/Moderate Taxable Bonds to the Maydestone Project.
- Section 6. The Executive Director, or her designee, is authorized to amend the Agency budget to allocate \$571,000 of Downtown Low/Moderate Tax Increment Housing Funds (Downtown TI) to the Maydestone Project.
- Section 7. The \$6,100,000 in Agency funding will be comprised of a \$2,590,000 forgivable loan at 0% interest forgiven in equal installments annually over thirty years; a \$2,280,000 non-forgivable loan at 4% interest; and a \$1,230,000 non-forgivable loan at 2% interest. The non-forgivable loans will be fully repaid, with interest, from property cash flow. The outstanding balance of both the forgivable and non-forgivable loans is due and payable upon refinance or sale of the property.
- Section 8. The Owner Participation Agreement and First, Second and Third Loan Agreements (Loan Documents) incorporated in this resolution by this reference are approved. The Executive Director, or her designee, is authorized to execute the Loan Documents, and to enter into other agreements, including an Regulatory Agreement, execute other documents, and perform other actions necessary in relation to the Loan Documents to provide said funding assistance to the Project, consistent

Approval of Agency Loan Documents for the Maydestone Building

with the Loan Documents and the staff report that accompanies this resolution and as may be necessary to ensure proper repayment of Agency funds in accordance with the Loan Documents, all as approved by Agency Counsel.

Section 9. 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 Loan Documents and related documents, with Agency policy, with this resolution, and with good legal practices for making of such a loan.

Exhibit A – Owner Participation Agreement

Exhibit B – Loan Agreements

OWNER PARTICIPATION AGREEMENT

**Using Funds from MERGED DOWNTOWN SACRAMENTO REDEVELOPMENT PROJECT AREA Tax Increment Housing
Set- Aside Fund**

Maydestone Apartment Building
1001 15th Street, Sacramento, CA 95814

**Redevelopment Agency of the City of Sacramento
and
Preservation Development LLC**

OWNER PARTICIPATION AGREEMENT

Using Funds from MERGED DOWNTOWN SACRAMENTO REDEVELOPMENT PROJECT AREA Tax Increment Housing Set- Aside Fund
Maydestone Apartment Building
1001 15th Street, Sacramento, CA 95814

For purposes of this Agreement, the capitalized terms shall have the meanings assigned in Section 13.

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, and PRESERVATION DEVELOPMENT LLC also defined as Agency and Developer, respectively, enter into this Owner Participation Agreement, ("OPA"), as of _____.

RECITALS

- A. Developer is the owner of real property located at 1001 15th Street, Sacramento, CA 95814, in the City of Sacramento, California, more particularly described in attached Exhibit 1: Legal Description, which is incorporated into this OPA by this reference. The Property is located in the Merged Downtown Sacramento Redevelopment Project Area and is subject to the Project Area's Redevelopment Plan.
- B. This OPA is made in accordance with provisions of the Redevelopment Plan for participation by property owners in redevelopment of the project area (adopted in accordance with California Health & Safety Code Section 33339).
- C. The Agency is participating in this OPA because this OPA is consistent with, and furthers, the Redevelopment Plan and the Implementation Plan and benefits the project area(s) providing the Agency Funding in that workers in the Project area live in the area which includes the Project. Specifically and without limitation, the Agency has determined that the Project will increase and improve supply of low- or moderate-income housing in the community.
- D. In order to accomplish such Agency goals and purpose, the OPA provides that the Developer will redevelop the Property in the manner and for the uses described in this OPA. Therefore, Developer desires to develop the Property, and Agency desires to assist development of the Property, on the terms and conditions in this OPA.

AGREEMENT

NOW THEREFORE, in consideration of the following mutual covenants, obligations and agreements and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. **AGENCY FUNDING.** Agency is providing funding to the Project under the Agency Funding Agreements for development of the Project as described in Section 2. If Developer fails to develop the Project as and when required by this OPA, Developer must repay the Agency

Funding as provided in the Agency Funding Agreements. As a condition of Agency's obligation to provide the Agency Funding and in consideration of the Agency Funding, Agency is purchasing from Developer, and Developer is selling to Agency, an operating covenant to assure the operation of the Project as described in Section 2, as well as other obligations and restrictions, including without limitation, use restrictions and restrictions on amounts that can be charged on sale or rental of the Property, as evidenced by the Regulatory Agreement.

2. PROJECT DESCRIPTION. The Project being assisted with the Agency Funding is the following: The Maydestone property is a historic four story apartment building built in 1915. The renovation will convert 32 dilapidated units into 24 studio units and 8 one-bedroom units affordable to households who earn between 60-110% of the area median income. Amenities will include a renovated basement for primary use as resident community space with a community room, exercise room, manager's office, individual storage, and a laundry room.

3. PREPARATION AND APPROVAL OF PLANS AND RELATED DOCUMENTS. This OPA is a financing document of the Agency and not a land use or planning document. Approval of the Project under this OPA by the Agency is not and shall not be considered an approval of land use entitlements or structural design of the Project, or the aesthetic design of the Project except as an approval by the Agency of the Project design concept as presented in this OPA. Developer shall comply with all applicable land use, planning and design laws, rules and regulations of each governmental agency acting in proper exercise of their respective jurisdictions, including without limitation, departments, staff, boards and commissions of the City. The Agency shall have the right, but not the obligation, to review Plans to assure their conformity with the provisions of this OPA and approvals given under this OPA. Based upon such review, the Agency shall have the right to approve or reject the Plans for reasonable cause. Agency's right of review includes, without limitation, the right to review architectural and engineering plans and specifications, off-site plans and specifications, and landscaping designs and specifications. Agency's approval of Plans is not an assurance of their adequacy or correctness. Agency has reserved approval rights solely: (a) to assure that the Plans further the Redevelopment Plan; (b) to assure that the Final Plans conform to the Preliminary Plans; and (c) to assure that any Agency funds which may be obligated under this OPA are used as intended by the Agency.

3.1. CONCURRENT REVIEW. Agency agrees that its review of the Final Plans shall occur prior to or concurrently with City's review of such plans, so as not to delay the commencement and progress of Project development. Agency agrees that its review of the Final Plans is strictly limited to making a determination that the Final Plans conform to the architectural designs (but not the detailed schematics, if any) presented in the Plans, the Scope of Development, the uses permitted on the Property and the Redevelopment Plan.

3.2. PRELIMINARY PLANS. Developer has provided Agency with Preliminary Plans, and the Agency has approved the Preliminary Plans concurrently with this OPA. The Agency has been induced to undertake its obligations under this OPA by Developer's promise to develop the Project in accordance with the Plans, the Scope of Development and the provisions of this OPA.

3.3. PREPARATION OF FINAL PLANS AND RELATED DOCUMENTS. Developer shall prepare the Final Plans that shall include all construction plans, drawings, specifications and other documents necessary to obtain all required building permits for the construction of the Project. Developer shall submit the Final Plans to the Agency for Agency's review. The Final Plans shall conform in all material respects to the Preliminary Plans and the Scope of Development. To the extent that the Preliminary Plans and Scope of Development have insufficient detail or are unclear, the Preliminary Plans shall be deemed to provide that the Project shall contain high-quality materials, and shall conform to all applicable zoning, design and usage guidelines. The Final Plans shall be considered to include all changes or corrections approved as provided in this OPA. The Final Plans shall comply with CEQA approvals. Developer agrees that it will comply with the requirements of the City of Sacramento Building Department, Preservation Office and Design Commission to the extent of their jurisdiction.

3.4. DELIVERY. Developer shall deliver the Final Plans or changes to the Final Plans for Agency review as soon as available. Said delivery shall be made to the office of the Agency, and market for attention of the Housing Finance Department and shall have clearly marked on its exterior "URGENT: MAYDESTONE PROJECT PLAN REVIEW" or the equivalent.

3.4.1. DEEMED APPROVAL. The Final Plans or changes to the Final Plans shall be deemed approved unless disapproved in whole or in part, in writing, within fifteen (15) days after their proper delivery to Agency.

3.4.2. AGENCY DISAPPROVAL. If Agency disapproves, in whole or in part, the Final Plans or any change to the Final Plans, Agency shall state, specifically and in writing, at the time of disapproval, the reasons for disapproval and the changes which the Agency requests to be made. Agency's reasons for disapproval and such Agency-requested changes shall be consistent with the Preliminary Plans, the Approved Final Plans, the Scope of Development and with any items previously approved under this Section 3. If the Agency rejects the proposed Final Plans, Developer shall obtain no rights to develop the Property under this OPA and Agency shall have no obligations regarding the Project until such time as Developer has modified the proposed Final Plans and received the Agency's approval of the Final Plans as modified.

3.5. GOVERNMENTAL CHANGES. If any revisions or corrections of the Final Plans shall be required by any government official, agency, department or bureau in exercise of its proper jurisdiction, the Developer shall inform the Agency. If Agency and Developer concur in writing with the required change, Developer shall incorporate the change and it shall be deemed approved by Agency. If Agency or Developer reasonably disagree with the required change, they shall reasonably cooperate with the agency requiring the change in efforts to develop a mutually acceptable alternative.

3.6. APPROVAL OF SUBSTANTIAL CHANGES TO FINAL PLAN. If the Developer desires to make any substantial changes in the Final Plans as approved by the Agency, the Developer shall submit such proposed changes, in writing, to the Agency for its approval. The Final Plans shall be construed to include any changes approved in the same manner as for approval of the original Final Plans. The Agency shall approve or disapprove the proposed change as soon as

practicable. Nothing in this Section shall be construed to relieve Developer of its obligations under all applicable laws regarding such changes.

3.6.1. SUBSTANTIAL CHANGE. A substantial change in the Final Plans shall include, without limitation, the following changes, excluding those items generally considered to be tenant improvements. For purposes of this Section 3.6.1, a "material change" is a change that is material to the Agency in accomplishing its purposes under this OPA.

- a) Material changes in the layout, elevation design, square footage.
- b) Material changes in use of exterior finishing materials substantially affecting architectural appearance or functional use and operation.
- c) Material changes in site development items for the Property that are specified in the Final Plans.
- d) Any changes requiring approval of any city, county or state board, body, commission or officer, or any change required by any city, county or state board, body, commission or officer.
- e) Any change which would preclude or materially reduce the ability to use the Project as intended by this OPA.

3.6.2. MISREPRESENTATION. If the Agency's approval of the Final Plans is reasonably based upon a material misrepresentation to Agency by Developer or by anyone on Developer's behalf, the Agency may, within a reasonable time after discovery of the misrepresentation, take any action permitted by law with regard to any such misrepresentation, notwithstanding Agency's prior approval, including without limitation, rescission of the approval or such other equitable remedies as may then be appropriate to such rescission.

4. DEVELOPMENT PROVISIONS. As stated in detail in this Section 4, Developer shall construct and manage the Project according to the requirements established in this OPA, which includes, without limitation, the Scope of Development, the Schedule of Performances and the Plans. Developer shall promptly begin, diligently prosecute and timely complete the construction of the Project. In interpreting the provisions of this OPA, the provisions that specifically enforce the Redevelopment Plan and the applicable provisions of the Community Redevelopment Law shall control.

4.1. CONSTRUCTION CONTRACTS. Developer shall submit to Agency the construction contract for the Project. Agency's review and approval of the construction contract shall be only for determining its compliance with this OPA and the Agency's approval for construction work to commence on the Project. If the cost of construction of the Project or any part of the Project exceeds the costs projected by Developer, Developer shall, nevertheless, bear the responsibility to complete, at Developer's cost, the construction of the Project in accordance with this OPA.

4.2. GOVERNMENTAL REVIEW PROCESS. Notwithstanding any other provision of this OPA, Developer is subject to all building, planning, design and other plan review requirements that are otherwise applicable to the project, including without limitation those of the City of Sacramento. To assure proper review by the City, Developer shall, within thirty (30) days of the date of this OPA, make an initial deposit toward "plan check fees" with the City's Development Services Department. In addition, Developer shall, as applicable, take designs before the Design /Preservation Commissions or its appropriate subcommittee for comment as soon as practicable. Conditions to the project imposed by the City shall be considered obligations of the Developer under this OPA. If a dispute with City staff arises regarding such City conditions, Developer shall accept the decision of the City's Development Service's Department and Design/Preservation Commissions interpreting, imposing and enforcing such City conditions, subject to any applicable appeals process of the Design/Preservation Commissions.

4.3. SUBSTANTIAL CHANGES. Developer covenants and agrees that Developer shall not make or permit to be made any construction of the Project which incorporates a substantial change in the Final Plans, as described in Section 3.6, without Agency approval of such changes as provided in Section 3.6.

4.4. LOCAL, STATE AND FEDERAL LAWS. The Developer shall assure that the construction of the Project is carried out in conformity with all applicable laws and regulations, including all applicable federal and state labor standards. Developer acknowledges and agrees that all wage and hour laws and other labor laws as applicable, including without limitation prevailing wage requirements, are the sole responsibility of Developer and Developer's contractors and subcontractors. Developer and its contractors and subcontractors have undertaken to ascertain the applicability of such laws prior to preparation of the final Project budget and have included the costs arising from such laws in the final Project budget. Developer shall keep, or cause to be kept, all records and make all payments, of any kind, that may be required for compliance with said laws and regulations. Before commencement of construction or development of any buildings, structures or other work of improvement upon the Property, Developer shall at its own expense secure any and all certifications and permits which may be required by any governmental agency having jurisdiction over such construction, development or work. Developer shall permit only persons or entities which are duly licensed in the State of California, County of Sacramento and City of Sacramento, as applicable, to perform work on or for the Project.

4.5. PREVAILING WAGES. In accordance with Labor Code Section 1720(c)(4), so long as the sole and only public subsidy for the Project is from the Agency's Low and Moderate Income Housing Fund as such terms are defined therein, the Project is not subject to prevailing wages. Developer represents to the Agency that Developer has obtained no other public subsidy for the Project. If Developer obtains another public subsidy, Developer shall pay prevailing wages for the Project. The State of California Department of Industrial Relations has undertaken the aggressive and expansive enforcement of prevailing wage laws for redevelopment projects. Therefore, Developer indemnifies, holds harmless and defends the Agency 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 Developer or Contractor or both of them.

4.6. PUBLIC SAFETY PROTECTIONS. Developer shall assure that all necessary steps are taken (including the erection of fences, barricades and warning devices) to protect private contractors and their employees and the public from the risk of injury arising out of the condition of the Property or Developer's activities in connection with the Property, including without limitation, fire, or the failure, collapse or deterioration of any improvements or buildings.

4.7. NONDISCRIMINATION IN CONTRACTING AND EMPLOYMENT. Developer for itself, any project manager, the Contractor, and the property manager engaged in connection with the Project or Property, and their respective successors and assigns, agrees that the following provisions shall apply to, and be contained in all contracts and sub-contracts for the construction of the Project.

4.7.1. EMPLOYMENT. Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, creed or national origin. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, sex, marital status, national origin, ancestry, familial status, or disability. Such action shall include, but not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

4.7.2. ADVERTISING. Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, marital status, national origin, ancestry, familial status, or disability.

4.8. PUBLIC IMPROVEMENTS. Developer shall, at Developer's expense as a Project cost, undertake and complete any modification, construction, relocation or improvement of public facilities, improvements and utilities for the development of the Property.

4.9. AGENCY ACCESS TO THE PROPERTY. Developer shall permit Agency representatives access, without charge, to the entire Property at any time and for any purpose which Agency reasonably considers necessary to carry out its obligations and protect its interests under the OPA. Purposes for Agency entry may include, without limitation, inspection of all work being performed in connection with the construction of the Project.

4.10. PROJECT SIGN. If Developer 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. The Agency name on the sign shall be in letters not less than size of letters used to name any of the other participants.

4.11. CERTIFICATE OF COMPLETION. After the Agency has determined that Developer has completed the construction of the Project in accordance with the Final Plans and Developer's

obligations under this OPA, the Agency will furnish the Developer with a "Certificate of Completion" certifying such completion. Such certification shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the OPA with respect to the obligations of the Developer to construct the Project as of the Completion Date, subject to any qualifications or limitations stated in such certification. Agency shall prepare and execute each Certificate of Completion in a form suitable for recording in the Official Records of Sacramento County.

4.11.1. Such certification and such determination shall not constitute evidence of compliance with any governmental requirements regarding the Project other than those of Agency or satisfaction of any obligation of the Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance all or any part of the Project. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any provision of this OPA that is not related to construction of the Project.

4.11.2. If the Agency fails to provide a Certificate of Completion within fifteen (15) days after written request by Developer, the Agency shall, within an additional fifteen (15) days after a second written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Project in accordance with the provisions of the OPA, or is otherwise in default, and what measure or acts it will be necessary, in the opinion of the Agency, for the Developer to take or perform in order to obtain such certification.

4.12. CONSTRUCTION PERIOD EXTENSION FEE. If Developer does not complete the construction of the Project on or before the Completion Date stated in the Schedule of Performances, Developer shall pay to Agency, monthly, in advance, on the first day of each month beginning the calendar month following the Completion Date, a construction period extension fee of Twenty-Five Dollars and No Cents Dollars (\$25.00) for each day by which the completion of construction is delayed beyond said completion date. Construction Extension Fees due for days of delay occurring prior to the first payment date shall be paid in arrears at the time of the first payment under this Section 1. The number of days used in computation of the Construction Extension Fee shall be reduced by the number of days of Unavoidable Delay. Failure to pay Construction Extension Fees when due is a material default of this OPA. Any unearned portion of an advance payment of any such extension fee shall be refunded by the Agency within thirty (30) days of completion of construction, or of termination of the OPA. Agency shall have the option to terminate, upon ten (10) days prior written notice, Developer's rights to unpaid Construction Extension Fees and to declare Developer in material default of this OPA. In any event, Construction Extension Fees shall not be accepted for a time period greater than six months, at which time Developer shall be deemed in material default of this OPA.

4.13. REPORTS. During the period of construction, the Developer shall submit to the Agency a written report of the progress of the work as and when reasonably requested by the Agency, but not more often than once each month.

4.14. NOTIFICATION OF GENERAL CONTRACTORS, ARCHITECTS AND ENGINEERS. Developer shall assure that the respective parties through the Project Documents have the

responsibility of notifying the Project contractors, architects and engineers for the Project of the requirements of this OPA. Developer shall include, where applicable, the provisions of this OPA in construction contracts and subcontracts for the Project, and Developer shall undertake the enforcement of such provisions.

4.15. PROPERTY CONDITION. Except as provided in this OPA, if the condition of the Property is not in all respects entirely suitable for the use or uses to which the Property will be put, it is the sole responsibility and obligation of the Developer to take such reasonable actions as may be necessary to place the condition of the Property in a condition which is entirely suitable for its development in accordance with the construction plans and drawings approved by Agency.

4.16. ZONING OF THE PROPERTY. Agency exercises no authority with regard to zoning of the Property. Developer shall assure that zoning of the Property at the time of development shall be such as to permit the development and construction, use, operation and maintenance of the Project in accordance with the provisions of this OPA.

4.17. NO WORK PRIOR TO CLOSE OF ESCROW OR APPROVAL OF CONSTRUCTION CONTRACT. Prior to Close of Escrow or Agency approval of construction contract, Developer shall not commence any work or take any action that might be construed as commencement of the work of the Project for establishment of mechanic's lien rights.

5. DEVELOPMENT FINANCING. Developer shall be responsible for and shall pay all costs of developing the Project except as otherwise provided in this OPA. As a condition precedent to Agency's obligation to provide the Agency Funding, Developer shall provide the Agency with a complete and firm Project budget including all proposed sources and uses of funds, all "hard" and "soft" costs and contingencies and reflecting, as possible, firm bids or accepted contracts and with evidence of sufficient funds to meet all budget requirements. To the extent that funds specified in this OPA for the Project are insufficient to fully fund the Project, the Developer shall provide evidence, satisfactory to the Agency, of the additional required construction and permanent financing. Except as expressly provided in this OPA, no party shall have the right of reimbursement for any funds expended by them for the Project. Agency is not obligated by this OPA or otherwise to make any contribution beyond its obligations stated in this OPA.

5.1. EVIDENCE OF AVAILABLE FUNDS. Unless otherwise approved by the Agency, Developer's evidence of available funds must include only the following: (a) Developer equity (as provided in Section 5.2); and (b) Agency contribution, if any, as specified in this OPA. Within ten (10) days after Agency's request, Developer shall provide all additional information requested by the Agency for evaluation of the actual availability of funds included in such evidence, including without limitation, requests for clarification, further evidence or audited financial reports.

5.2. EVIDENCE OF DEVELOPER EQUITY. Unless otherwise agreed in writing by the Agency, Developer may provide evidence of equity in the total amount of \$900,000 for the Project by any one or more of the following actions: (a) predevelopment expenses for the Project paid by the Developer and supported by back-up documentation satisfactory to the Agency and evidence of

funds in escrow applicable toward the acquisition purchase price in the total amount of \$900,000, (b) a deposit of the required equity in a joint account with the Agency, which funds shall be released only upon the joint signatures of the Agency and the Developer; or (c) Developer's provision of financial statements prepared by a certified public accountant that show liquid assets available to the Project (and not subject to other existing or contingent claims) in the amount of One Hundred and Fifty Percent (150%) of the amount of the required equity. Developer shall not provide evidence of equity that includes funds not available at the commencement of construction or that claims as equity any funds to be generated by development of the Project, including without limitation, anticipated Developer profit or fees or Developer contribution of services to the Project. The Agency may reject any submitted evidence of equity if the Agency has any reason to believe that such funds may not be available to the Project.

6. USE COVENANTS. Developer shall own and manage the Property in accordance with the provisions of this OPA.

6.1. NONDISCRIMINATION. Developer covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of, any person or group of persons on the basis of race, color, religion, creed, sex, marital status, national origin, ancestry, familial status, or disability, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property and the Project, nor shall the Developer or any person claiming under or through it, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in Property and the Project. The foregoing covenants shall run with the land.

6.2. REGULATORY AGREEMENT. Developer covenants by and for itself, its heirs, executors, administrators, and all persons claiming under or through it, that the Property shall be used strictly in accordance with the provisions of the Regulatory Agreement.

7. INDEMNIFICATION. Developer shall indemnify, protect, defend and hold harmless Agency, its officers, directors, commission members, employees, advisory committee members, and agents from any and all liability from bodily injury, death and property damage caused by or resulting from the acts or omissions of Developer, its officers, employees, agents or independent contractors and for any and all costs incurred by Agency in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Agency.

Agency shall indemnify, protect, defend and hold Developer harmless from any and all liability from bodily injury, death and property damage caused by or resulting from the acts or omissions of Agency, its officers, commission members, employees, advisory committee members or agents and for any and all costs incurred by Developer in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Developer.

This indemnification provision shall survive the termination of this OPA.

8. **INDEMNIFICATION FOR HAZARDOUS SUBSTANCES.** Developer shall indemnify, protect and defend Agency, its respective officers, directors, commission members, employees, advisory committee members, and agents, and hold them harmless from any and all liability, costs, fees, penalties and claims related to: (a) the removal, discharge or release of Hazardous Substances on the Property after Developer has taken possession of the Property; or (b) the existence of Hazardous Substances on the Property, which were not on the Property prior to Developer's taking possession of the Property.

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

9.1. **LIABILITY INSURANCE POLICY LIMITS.** Developer shall assure that the insurance required by this Section shall be written with a deductible of not more than TWENTY-FIVE THOUSAND DOLLARS (\$25,000).

9.2. **WORKER'S COMPENSATION.** Worker's compensation coverage shall be written for the statutory limits as required by the California Labor Code (commencing with Section 3700, as it may, from time to time, be amended) and having an employer's liability of not less than \$1,000,000 or statutory limits, whichever are greater.

9.3. **COMPREHENSIVE GENERAL LIABILITY.** Commercial general liability coverage shall include premises-operations, independent contractor's protective, products and completed operation (for four years), broad form property damage, and contractual liability coverage (or such other substantially similar coverage as may be approved by Agency Counsel). Such insurance shall have limits of liability which are not less than \$2,000,000, each occurrence, for bodily injury coverage; \$2,000,000 aggregate, for products and completed operations coverage; \$1,000,000 each occurrence for property damage coverage, single limit and aggregate; and which is the same as the foregoing coverages.

9.4. **COMPREHENSIVE AUTOMOBILE LIABILITY.** Comprehensive automobile liability coverage for any vehicle used for, or in connection with, the Project (owned, nonowned, hired, leased) having limits of liability which are not less than \$1,000,000.

9.5. FIRE, HAZARD AND EXTENDED COVERAGE INSURANCE. For the duration of OPA, Developer shall obtain and maintain fire and hazard insurance to the full insurable value of the Property with endorsements of extended coverage, vandalism, and malicious mischief, and with such other endorsements and in such amounts as the Agency may reasonably require to protect the Project. In the event of damage to the Project and subject to the requirements of Lender, Developer shall use the proceeds of such insurance to reconstruct the Project and the public improvements.

9.6. INSURANCE PROVISIONS. Each policy of insurance required under this OPA shall be obtained from a provider licensed to do business in California and having a current Best's Insurance Guide rating, or such other equivalent rating, as may reasonably be approved by Agency's legal counsel. Each policy shall contain the following provisions as applicable:

9.6.1. ADDITIONAL INSURED. During the term of construction, Agency shall be additional insured on all insurance policies, except the fire and hazard insurance and the worker's compensation policy, unless otherwise approved by Agency's legal counsel in writing.

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

9.6.3. CANCELLATION. Each policy shall bear an endorsement precluding cancellation or termination of the policy or reduction in coverage unless the Agency has been given written notice of such intended action at least thirty (30) days prior to its effective date.

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

9.6.5. BLANKET COVERAGE. Developer's obligation to carry insurance as required under this Section 9 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 Agency 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 Agency will not be reduced or diminished thereby, and all of the other requirements of this Section 9 with respect to such insurance shall otherwise be satisfied by such blanket policy.

10. DEFAULTS AND REMEDIES. Except as otherwise provided in the OPA, if either party defaults in its obligations under this OPA, the defaulting party shall immediately commence and diligently proceed to cure the default within thirty (30) days after written notice of default from the other party or, if reasonable, such longer time as is reasonably necessary to remedy such default if such default cannot reasonably be cured within thirty (30) days for reasons beyond the control of the defaulting party, provided that the defaulting party shall promptly begin and diligently pursue such cure to completion. If the defaulting party does not promptly begin and diligently cure the default within a reasonable time, the other party may institute proceedings to cure the default, including without limitation, proceedings to compel specific performance by the defaulting party. Subject to any extension of time permitted by this OPA, a failure or delay by a party to perform any term or provision of this OPA constitutes a default of this OPA. As a condition precedent to termination of the OPA under this Section, each party shall first tender the return of all property or funds received from or on behalf of the other party, other than funds properly retained as liquidated damages. After such return of property and funds and termination of the OPA, neither Agency nor Developer shall have any further rights against or liability to the other under the OPA except as expressly set forth in this OPA to the contrary.

10.1. LIQUIDATED DAMAGES. IF DEVELOPER FAILS TO COMPLETE THE PROJECT AS PROVIDED IN THIS AGREEMENT BY REASON OF ANY DEFAULT OF DEVELOPER, AGENCY MAY PROCEED AGAINST DEVELOPER UPON ANY CLAIM OR REMEDY THAT AGENCY MAY HAVE IN LAW OR EQUITY; PROVIDED, HOWEVER, THAT, BY INITIALING THIS SECTION 11. DEVELOPER AND AGENCY AGREE THAT IN EVENT OF DEFAULT BY DEVELOPER: (A) IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO FIX ACTUAL DAMAGES; AN AMOUNT EQUAL TWENTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$25,000.00) SHALL CONSTITUTE LIQUIDATED DAMAGES PAYABLE TO AGENCY; (B) THE PAYMENT OF THE LIQUIDATED DAMAGES TO SELLER SHALL CONSTITUTE THE EXCLUSIVE REMEDY OF AGENCY FOR DEVELOPER'S FAILURE TO COMPLETE THE PROJECT; AND (C) PAYMENT OF THOSE SUMS TO AGENCY 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 AGENCY PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE.

_____ Developer's Initials
_____ Agency's Initials

10.2. OTHER RIGHTS AND REMEDIES. Upon the occurrence of any default by Developer subject to the liquidated damages provision, Agency's sole remedy therefor shall be as liquidated damages. Upon the occurrence of any default by any party other than subject to liquidated damages, and the expiration of any applicable notice and cure period without a cure having occurred within the specified cure period, the non-defaulting party shall have the right to institute such actions as it may deem desirable to remedy a default of this OPA as allowed under this OPA, at law or in equity.

10.3. NONLIABILITY OF AGENCY OFFICIALS AND EMPLOYEES. No member, official or employee of Agency shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by Agency or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this OPA.

10.4. ATTORNEY'S FEES AND RELATED COSTS. If an action is commenced between the parties, the prevailing party in that action shall be entitled to recover from the non-prevailing party all reasonable attorney fees and costs, witness fees, arbitrator's fees, and court and arbitration costs. The term "prevailing party" shall include without limitation, the party who receives performance from the other party for an alleged breach of contract or a desired remedy where the performance is substantially equal to the relief sought in an action; the party who receives any award for relief through arbitration; or the party determined to be the prevailing party by a court of law. In any event, the prevailing party shall mean the party receiving a judgment, ruling or award that is more favorable than the last firm offer of settlement made by such party. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

10.5. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER. In reliance on the financial capability and experience of Developer, substantial public financing and other public aids have been made available by law and by the federal and local governments to make development of the Property possible. Developer shall not, prior to issuance of a Certificate of Completion, assign Developer's interests or obligations under this OPA or undertake any act or transaction resulting in a significant change in the interests of the principals of Developer or the degree of their control of Developer without the prior written consent of Agency. The transfer or assignment, pursuant to this Section, requires the transferee or assignee to execute and deliver to Agency a valid, binding, written assumption of all obligations of Developer. Such a transfer as permitted in this Section 10 shall not relieve Developer, or any other party bound in any way by the OPA, from any of its obligations under the OPA. With respect to this provision, the Developer and the parties signing the OPA on behalf of the Developer represent that they have the authority of all of Developer's principals to agree to and bind them to this provision.

11. DOCUMENT INTERPRETATION. This OPA shall be interpreted in accordance with the following rules.

11.1. INTEGRATED DOCUMENTS; SEVERABILITY. This OPA and the documents incorporated in this OPA are to be considered as one document and default of any of them shall be considered a default of all of them. This OPA, including the incorporated documents, integrates all of the terms and conditions related or incidental to its subject matter, and supersedes all negotiations or previous agreements between the parties with respect to its subject matter. If any term or provision of this OPA shall, to any extent, be held invalid or unenforceable, the remainder of this OPA shall remain in full force and effect and the invalid or unenforceable provision shall be valid and enforceable as to any other person or circumstance.

11.2. CONFLICTING PROVISIONS. If conflicts are discovered in provisions of this OPA and such incorporated documents, this OPA shall control with regard to plan review and construction terms, the Agency Funding Agreement shall control with regard to funding terms and the Regulatory Agreement shall control with regard to affordability restrictions. In any event, the conflicts shall be construed so as to meet the intent of this OPA.

11.3. WAIVERS AND AMENDMENTS. All waivers of the provisions of this OPA must be in writing and signed by Agency or Developer, as applicable, and all amendments to this OPA must be in writing and signed by Agency and Developer. Any delay by Agency in asserting any rights under this Section shall not operate as a waiver of such rights or to deprive Agency of or limit such rights in any way. Any waiver in fact made by Agency with respect to any specific default by Developer under this Section shall not be considered as a waiver of the rights of Agency with respect to any other defaults by Developer under this Section or with respect to the particular default except to the extent specifically waived in writing.

11.4. CAPTIONS, GENDER AND NUMBER. The section headings, captions and arrangement of this OPA are for the convenience of the parties to this OPA. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this OPA. The singular form shall include plural, and vice versa, and gender references shall be construed to include all genders.

11.5. DRAFTER. This OPA shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. Unless otherwise indicated, all references to sections are to this OPA. All exhibits referred to in this OPA are attached to it and incorporated in it by this reference.

11.6. MERGER. All of the terms, provisions, representations, warranties, and covenants of the parties under this OPA shall survive the Close of Escrow and shall not be merged in the Grant Deed or other documents.

11.7. TIME FOR PERFORMANCE. In determining time for performance, it shall be construed that Agency and Developer shall each do the actions required of them, promptly and when specified in this OPA, and that each action specified in the Schedule of Performances shall be performed by the responsible party on or before the date scheduled for its completion.

11.8. GOVERNING LAW. This OPA shall be governed and construed in accordance with California law.

11.9. INSPECTION OF BOOKS AND RECORDS. Agency has the right, at all reasonable times, to inspect the books and records of Developer regarding the Property as reasonably necessary to carry out its purposes under this OPA.

11.10. OWNERSHIP OF DATA. If this OPA is terminated, for any reason, prior to the completion of the Project, Developer shall deliver to Agency any and all data acquired for development of the Property. Agency shall have full ownership and rights to use such data.

11.11. SUCCESSORS. This OPA shall inure to the benefit of and shall be binding upon the parties to this OPA and their respective heirs, successors, and assigns.

12. NOTICES. All notices to be given under this OPA shall be in writing and sent to the following addresses by one or more of the following methods:

12.1. Addresses for notices are as follows:

12.1.1. Agency: Redevelopment Agency of the City of Sacramento, 801 12th Street, Sacramento, California 95814, Attention: Katherine Klein McFadden.

12.1.2. Developer: Preservation Development LLC, 1329 H Street, Sacramento, CA 95814; Attention: Steve Lebastchi.

12.2. Notices may be delivered by one of the following methods:

12.2.1. 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;

12.2.2. 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;

12.2.3. 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

12.2.4. 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 Developer or Agency may respectively designate by written notice to the other.

13. DEFINITIONS.

13.1. "Agency" is the Redevelopment Agency of the City of Sacramento. The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Community Redevelopment Law of the State of California. The principal office of the Agency is located at 801 12th Street, Sacramento, California 95814. Agency as used in this OPA includes the Redevelopment Agency of the City of Sacramento and any assignee of or successor to its rights, powers, and responsibilities. The Sacramento Housing and Redevelopment Agency is a joint powers agency which provides staffing for the operation of the Agency.

13.2. "Agency Funding" is the funding provided by the Agency under this OPA to Developer for the Project.

13.3. "Agency Funding Agreements" are the First Acquisition, Construction, and Permanent Loan Agreement, the Second Acquisition, Construction, and Permanent Loan Agreement, and the Third Acquisition, Construction, and Permanent Loan Agreement.

13.4. "Certificate of Completion" is the certificate issued by the Agency certifying Developer's completion of the construction of the Project.

13.5. "CEQA" is the California Environmental Quality Act (commencing at Public Resources Code Section 21000), together with all rules and regulations promulgated under the statutes.

13.6. "City" is the City of Sacramento, a political subdivision of the State of California.

13.7. "Community Redevelopment Law" is the law governing redevelopment in the State of California and is found commencing at Health and Safety Code Section 33000.

13.8. "Completion Date" is the date on or before which Developer must complete the construction of the Project. The Complete Date for the Project is February 1, 2012.

13.9. "Construction Extension Fee" is the fee payable by Developer for each day by which the completion of construction is delayed beyond the date for completion of construction.

13.10. "Contractor" is the general contractor or contractors with whom Developer has contracted for the construction of the Project.

13.11. "Developer" is Preservation Development LLC, a California limited liability company. Notwithstanding any other provision of this OPA, Developer may assign this OPA to a single asset entity in which Developer has a substantial interest and is the managing member, the general partner or the controlling shareholder and chief operations officer; provided (i) that the entity form and organizational documents have been approved by Agency Counsel, (ii) that the new entity has agreed in writing to be bound by all the provisions of this OPA and all agreements related to this OPA, and (iii) that the entity has been approved in writing, in advance, by the Agency's Executive Director. The principal office of the Developer is located at 1329 H Street, Sacramento, CA 95814.

13.12. "Escrow" is the escrow for the transactions contemplated by this OPA.

13.13. "Escrow Instructions" means the escrow instructions for the close of the Escrow.

13.14. "Final Plans" are the full and final plans, drawings and specifications for the Project as described in, and approved by the Agency under, Section 3, which shall include all construction plans, drawings, specifications and other documents required to obtain all required building permits for the construction of the Project. The Final Plans may refer, as the context may indicate, to partial Final Plans prepared and submitted in accordance with this OPA. The Final Plans shall incorporate any related mitigation measures that may be required for compliance with CEQA. The Final Plans shall specifically include changes or corrections of the Final Plans approved as provided in this OPA. The Final Plans shall include all landscaping, on- and off-site work and artwork related to the Project. Except as approved by the Agency, the Final Plans shall conform in all material respects to all provisions of this OPA, including without limitation, the Preliminary Plans and the Scope of Development.

13.15. "Hazardous Substances" as used in this OPA shall include, without limitation to, all substances, wastes and materials designated or defined as hazardous or toxic pursuant to any of the following statutes, as they may be amended or superseded, from time to time: the Clean Water Act (33 U.S.C.1321 et. seq.); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101); the Environmental Protection Agency list of hazardous materials (40 CFR Part 302) and California Health and Safety Code Sections 25115, 25117, 25122.7, 25140 (Hazardous Waste Control Law), 25316 (Carpenter-Presley-Tanner Hazardous Substances Account Act), 25501 (Hazardous Materials Release Response Final Plans and Inventory) and 25281 (Underground Storage of Hazardous Substances); all applicable local regulations; and all regulations and promulgations pursuant to said laws.

13.16. "Legal Description" is the legal description of the various parcels of real property affected by this OPA. The Legal Description is attached as **Exhibit 1 Legal Description**.

13.17. "Lender" shall include all holders of any lien or encumbrance as security for a loan on all or any part of the Property. Each lender shall be a federal or state chartered financial institution, a pension fund, an insurance company or such other lender which Agency may approve in writing in advance, which approval Agency may withhold in exercise of its reasonable discretion and in consideration of the commercially reasonable protection of its interests under this OPA.

13.18. "OPA" is this Owner Participation Agreement between Agency and Developer, including all documents incorporated in this OPA by reference.

13.19. "Preliminary Plans" are the Project designs prepared by the Project architect, Kuchman Architects, dated March 10, 2009, a portion of which (consisting of various elevations) is attached as **Exhibit 2 Preliminary Plans**. Agency has approved the Preliminary Plans concurrently with the approval of this OPA.

13.20. "Plans" shall mean either or both Preliminary Plans and Final Plans as the context may indicate.

13.21. "Project" is all of the work to be accomplished under this OPA.

13.22. "Project Area" is the Merged Downtown Sacramento Redevelopment Project Area, as defined in the Redevelopment Plan.

13.23. "Redevelopment Plan" is the redevelopment plan for the Project Area (as it may be amended from time to time) for the Merged Downtown Sacramento Redevelopment Project Area as duly adopted by the City Council and currently active in the City.

13.24. "Regulatory Agreement" is the agreement containing covenants, conditions and restrictions, including without limitation, use restrictions, that run with the Property as a condition of Agency Funding.

13.25. "Schedule of Performances" is the schedule that establishes the dates by which obligations of the parties under this OPA must be performed and conditions of the OPA must be satisfied. The Schedule of Performances is attached as **Exhibit 3: Schedule of Performances**.

13.26. "Scope of Development" is the detailed description of the work to be done under this OPA for the Project. The Scope of Development attached as **Exhibit 4: Scope of Development**.

13.27. "Property" is that real property to be developed under this OPA, as more particularly described in the Legal Description. The Property includes all improvements contained within the Property.

13.28. "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 Agency and Developer shall be extended for the period of the enforced delay, as determined by Agency, provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after Developer 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.

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

DEVELOPER :
PRESERVATION DEVELOPMENT LLC, A
CALIFORNIA LIMITED LIABILITY COMPANY

By: _____
Steve Lebastchi, President

Date: _____

Approved as to form:

Developer Counsel

AGENCY: REDEVELOPMENT AGENCY OF THE
CITY OF SACRAMENTO

By: _____
La Shelle Dozier, Executive Director

Approved as to form:

Agency Counsel

Exhibit 1- Legal Description

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

Parcel 1:

The North 104 feet 2 inches of the West 45.1 feet of Lot 1 in block bounded by J and K and 15th and 16th Streets of said City of Sacramento, according to the official map or plan thereof.

Parcel 2:

An easement for passageway, ingress and egress for pedestrian use, over and across the South 44 feet, 2 inches of the North 104 feet 2 inches of the East 5 feet of the West 50 feet of Lot Numbered One in the Block or square bounded by "J" and "K" and Fifteenth and Sixteenth Streets of the said City of Sacramento, according to the official map or plan thereof, reserving, however, to the grantor, her heirs, personal representatives and assigns-and right to use said easement in common with the grantee, his heirs, personal representatives and assigns, being the same easement as contained in that certain Deed dated September 4, 1948, recorded October 2, 1948 in Book 1553 of Official Records, at page 341, executed by Bertha Murray, also known as Bertha Murray, to Otis D. Babcock, a single man.

APN: 006-0121-018-0000



kuchman
ARCHITECTS

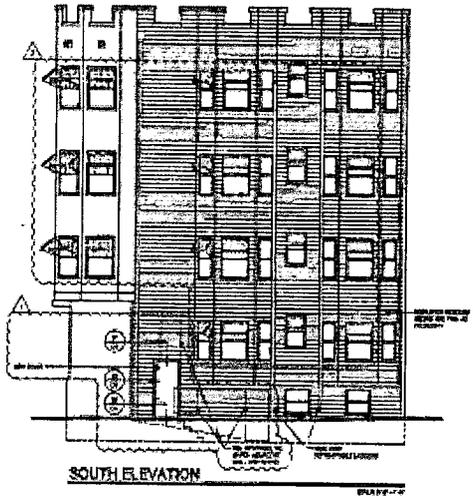


A Professional Corporation
2222 12th Street
Sacramento, CA 95818
Tel: 916 447 9410
Fax: 916 447 9400
www.kuchman.com

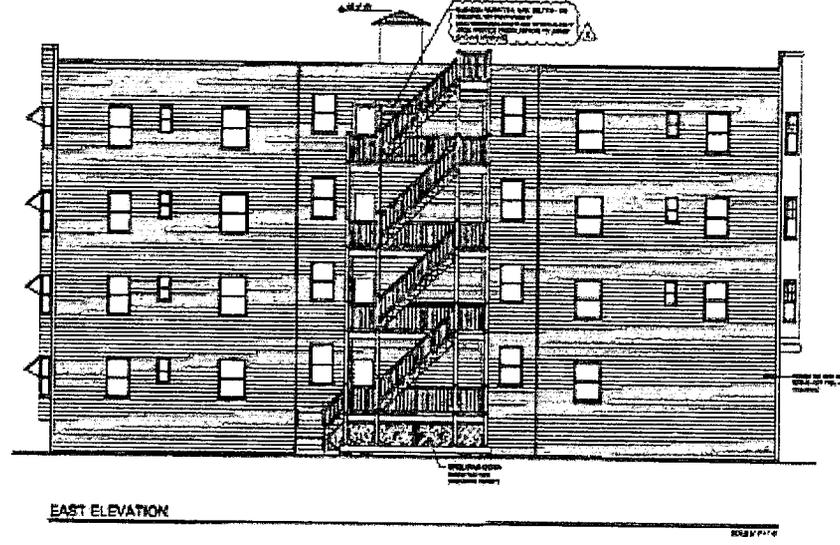
MAYDESTONE
APARTMENTS
1221 16TH STREET
SACRAMENTO, CA
95818

NO.	DESCRIPTION	DATE	BY	CHKD.
1	ISSUED FOR PERMITS			
2	ISSUED FOR PERMITS			
3	ISSUED FOR PERMITS			
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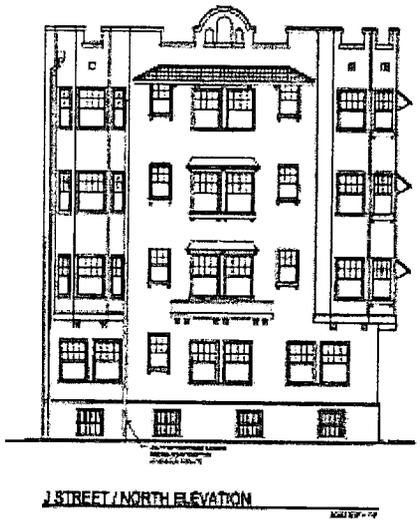
A3.1



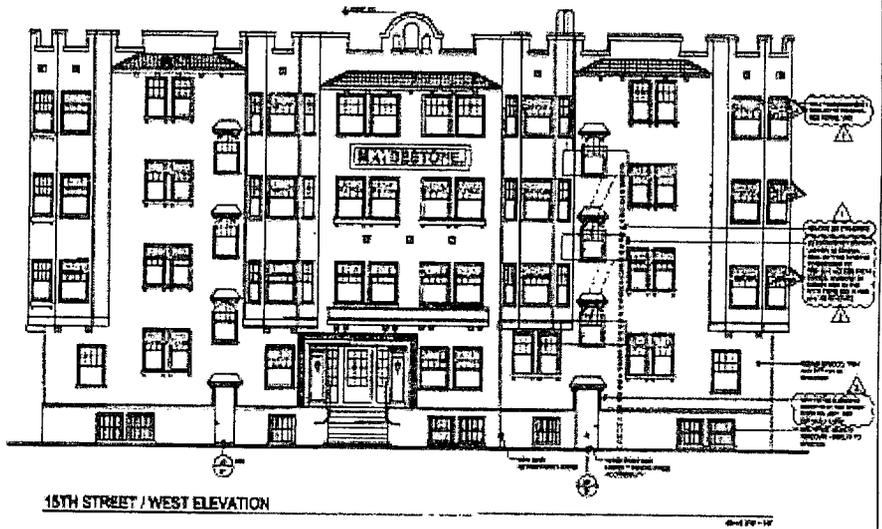
SOUTH ELEVATION



EAST ELEVATION



J STREET / NORTH ELEVATION

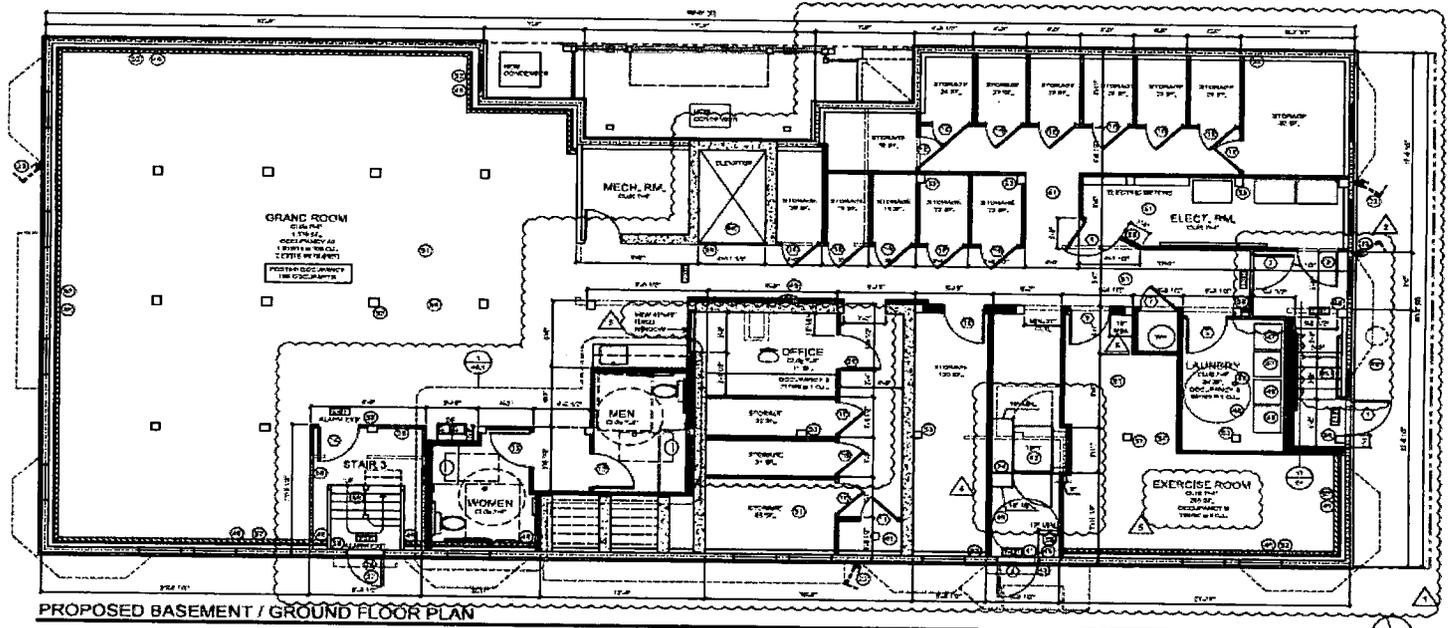
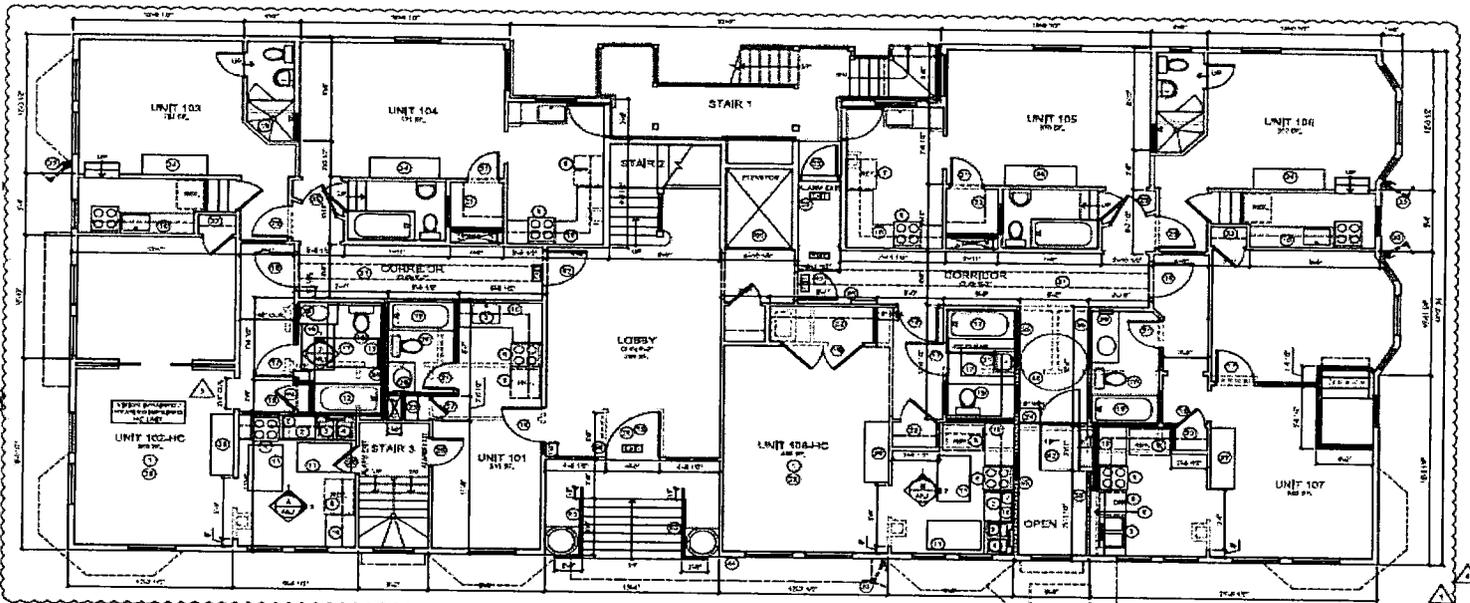


15TH STREET / WEST ELEVATION



kuchman
ARCHITECTS

A Professional Corporation
2203 13th Street
Sacramento, CA 95818
Tel: 916 447 3488
Fax: 916 447 3488
www.kuchman.com



MAYDESTONE APARTMENTS

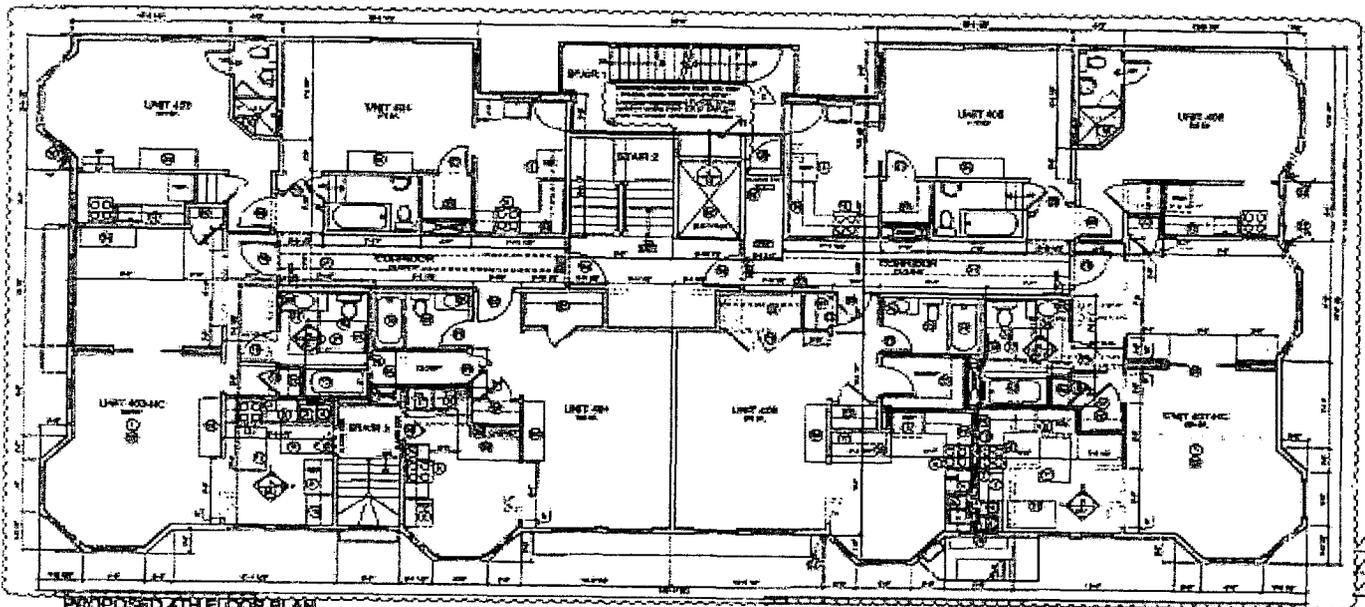
1001 15TH STREET
SACRAMENTO, CA

PROPOSED BASEMENT PLAN
PROPOSED 1ST FLOOR PLAN

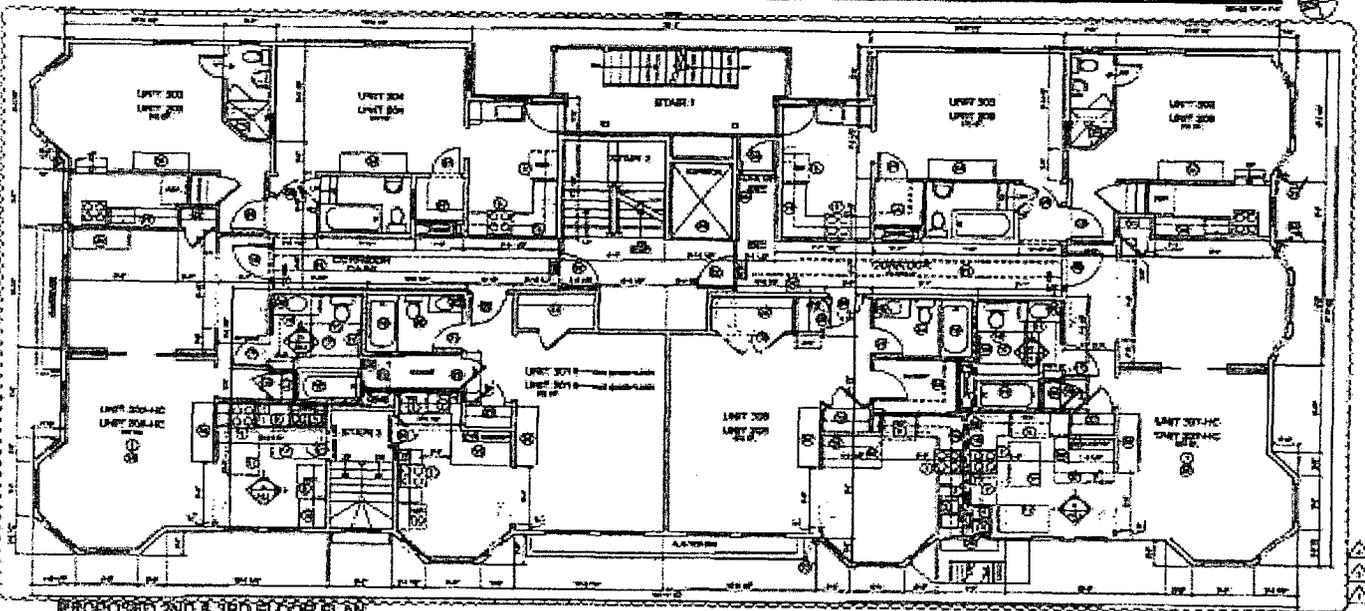
ALT/VP	△	STD	OK
S/IMP	△	STD	OK
ALT/VP	△	STD	OK
S/IMP	△	STD	OK
DATE	W/L	BY	APP.

APPROVED: _____
 DRAWN: _____
 PROJECT NO.: _____
 DATE: APRIL 24, 2008

A2.5



PROPOSED 4TH FLOOR PLAN



PROPOSED 2ND & 3RD FLOOR PLAN

kuchman
ARCHITECTS

A Professional Corporation
3222 17th Street
Sacramento, CA 95818
tel: 916 447 8488
fax: 916 447 8488
www.kuchman.com



MAYDESTONE
APARTMENTS

1001 16TH STREET
SACRAMENTO, CA

PROPOSED 2ND, 3RD & 4TH
FLOOR PLANS

WALL		01	01
GLASS		02	02
FLOOR		03	03
CEILING		04	04
DOOR		05	05
STAIR		06	06
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STAIR		100	100

A2.6

Exhibit 3 – Schedule of Performances

**Maydestone Apartment Building Renovation
Schedule of Performances**

Task	Date
Submittal to Historic Preservation	March 24, 2009
Submittal to Building Department	April 31, 2009
SHRA Commission	April 7, 2010
City Council Approval	April 22, 2010
Purchase of Property	May 31, 2010
Secure Building Permits	July 31, 2010
Start of Construction	August 1, 2010
Construction Completion	February 1, 2012
3 Months Stabilized Occupancy	December 1, 2012

Exhibit 4 – Scope of Development

Maydestone Apartment Building Renovation
1001 15th Street, Sacramento
Scope of Work
April 2010

The developer proposes to acquire and rehabilitate the 4-story historic “Maydestone” apartment building to provide 32 high quality affordable housing units in Downtown Sacramento. Units will be regulated at different levels of affordability per SHRA requirements. The renovation of the project will ensure all SHRA Rental Property Minimum Construction Standards are met and will include the creation of amenities including a community room, exercise room, manager’s office, individual storage units, and a laundry room. The renovation will include the following components:

1. Remove, restore, and replace all necessary drywall, doors, and moldings to match existing finishes.
2. Install GFCI receptacles in all kitchens and bathrooms.
3. Install AFCI circuit breakers as required.
4. Install new 125 amp sub panel, outlets, and lighting in each unit.
5. Designated units shall be made ADA accessible. (2 units on each floor per ADA requirements).
6. Install all new heating and air conditioning units in all units per plans.
7. Provide garbage dumpster and trash enclosure per city requirements.
8. Install ADA lift to provide access to entry, basement, and ground floor.
9. Remodel basement into laundry, individual storage, exercise room, office, and community room and provide fixtures, furnishings, and equipment.
10. Install new energy efficient light fixtures.
11. Install new energy efficient appliances.
12. Restore and replace hardwood flooring throughout with eco friendly hardwood as needed.
13. Repaint exterior and interior of the building.
14. Replace the roof and repair downspouts.
15. Install new hallway lighting, unit, and exterior lighting.
16. Restore all windows to operating condition with new sash and glazing as needed.
17. Install new window coverings.
18. Restore and replace doors & hardware as needed.
19. Install Fire Sprinkler and Fire Alarm systems per City requirements.
20. Install new water heaters throughout.
21. Repair elevator (with access to basement as well).
22. Install new battery operated smoke detectors in the bedroom of all units.
23. Install smoke detectors in common areas meeting the requirements of the fire department.
24. Install new upgraded cabinets and granite countertops in all units.
25. Install new sinks, fixtures, and plumbing hardware and bath accessories in all units.
26. Install new tile tub and shower surrounds and glass shower doors.
27. The quality of the fixtures and finishes shall meet medium grade residential standards meeting or exceeding SHRA Section 32 specifications version 11-27-07. SHRA Section 32 specifications are available upon request.
28. Install all new ceramic tile in kitchen and bathroom floor areas
29. Install new low flow flush eco friendly toilets in all units (tall accessible toilets).
30. California Building Code requirements will be met including Federal and State ADA accessibility requirements. Historic Preservation requirements will be met.
31. Install site and common space security lighting and web based security cameras will be provided.
32. Provide off site utilities (water, sewer, storm drains, gas, electrical, telecom, and fire protection) per City requirements.
33. Repair and replacement of site and common area concrete, sidewalks, pathways, and paving as needed.
34. Patch, seal and stripe existing east parking lot and pedestrian easement as needed.
35. Existing Sewer and storm drains shall be scoped and flushed.

**Maydestone Apartment Building Renovation
1001 15th Street, Sacramento
Scope of Work
April 2010**

36. Provide fencing and gates.
37. Install automated irrigation system and landscaping shall be provided.
38. Install new monument, building, ADA, and unit signage.
39. Install new awnings will be installed.
40. Repair and Replace siding, moisture barrier, and insulation as needed. Brick work and plaster shall be repaired and replaced as needed.
41. Hazardous material abatement requirements will be met, final clearance will be provided.
42. Demolition and disposal of construction debris shall meet City requirements. Dry rot, water, and pest damage shall be treated and repaired as needed. A final clearance report shall be provided.
43. Required structural and seismic repairs will be made.
44. Restore and repair interior stairs. Fire escapes will be installed.
45. Install intercom and FOB entry system.
46. Install new roofing, gutters, and downspouts.
47. Install new plumbing, electrical, telecom, and HVAC systems including exhaust fans.
48. Repair and replace pull-out beds as needed.

**FIRST ACQUISITION, CONSTRUCTION, AND PERMANENT LOAN AGREEMENT
MAYDESTONE APARTMENT BUILDING**

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"	May 1, 2010	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	801 12 th Street, Sacramento CA 95814	
"BORROWER"	The borrower of the Loan funds whose name, legal status and address are:	
Name	Preservation Development LLC	
Legal Status	A California limited liability company	
Principal Address	1329 H Street, Sacramento, CA 95814	
"LOAN"	The Loan made by this Loan Agreement.	
"LOAN COMMITMENT"	Lender's loan commitment, made by letter dated as of	N/A
"LOAN PROGRAM"	Lender's Loan Program, commonly known as	Downtown Project Area Tax Increment Housing Fund
"LOAN AMOUNT"	Two Million Two Hundred Eighty Thousand Dollars and No Cents (\$2,280,000.00)	
"INTEREST RATE"	The interest rate is 4% per year, simple interest.	
"PAYMENT START DATE"	The first day of the 33rd calendar month following the Effective Date.	
"MATURITY DATE"	The first day of the 254th calendar month following the Effective Date.	
"PAYMENT SCHEDULE"	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 as set forth in the Note.	
"BORROWER EQUITY"	Nine Hundred Thousand Dollars and No Cents(\$900,000.00)	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. Borrower equity includes funds Developer has expended for the purchase of the Property.
"SPECIAL TERMS"	The outstanding Loan balance shall be repaid upon the refinancing or sale of the Property.	
"PROJECT"	Which is the Project to be developed on the Property with the Loan funds, described as:	The Project being assisted with the Agency Funding is the following: Rehabilitation of a historic four story apartment building consisting of 24 studio units and 8 one-bedroom units and a renovated basement for the primary use as resident community space. The project will convert 32 dilapidated units into 32 units affordable to households who earn between 60-110% of the area median income.

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	1001 15 th Street, Sacramento, CA 95814	
Assessor's Parcel Number	006-0121-018	
"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"	Fidelity National 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"	May 1, 2010	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: Funding Restrictions</u>	"Funding Restrictions"

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

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

G. "CONSTRUCTION INFORMATION":		
"Completion Date"	February 1, 2012	Which is the date on or before which the Completion of the Project must occur.
"General Contractor"	CFY Development	Which is the general contractor for construction of the Project.

"Project Architect"	Kuchman Architects	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:	
1.	This Loan is made pursuant to the Owner Participation Agreement between the Parties, made concurrently with this Loan Agreement ("OPA"). This Loan Agreement is subject to the OPA including without limitation, conditions precedent to funding the Loan or making disbursements of the Loan proceeds.
2.	Loan proceeds shall be used solely for actual costs of property acquisition (which shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000), actual costs of Project construction, and other development costs as provided in an approved Lender Budget. No more than \$1,500,000 of Loan proceeds allocated for acquisition will be disbursed until Special Provision #5 has been met.
3.	<u>Cost Savings.</u> 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 loan balance and the retention amount held by the Lender shall each be reduced by one half of such savings. 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.
4.	Borrower shall require General Contractor to follow a bidding process for all construction trades involved in the Project. In the event that General Contractor desires to self-perform work related to one or more construction trades, General Contractor shall participate in the bidding process with the other vendors. Borrower shall require General Contractor to implement the following bidding process for the Project: (1) Solicit at least five vendors; (2) Select the lowest responsive, responsible bidder; (3) Provide a summary sheet of bidders with their respective bids to Lender for approval; (4) Provide a copy of the bids or portion thereof to document the bid value as backup to the summary sheet; (5) If the General Contractor desires to select a vendor other than the lowest responsive, responsible bidder, Borrower shall make such request to Lender and provide justification for such request. Approval of a vendor other than the lowest responsive, responsible vendor is at the sole discretion of Lender.
5.	Borrower shall obtain approval of the Construction Contract by the Lender before the Construction Contract is executed and any construction work may begin on the property.
6.	Any change order to the Construction Contract shall be subject to approval by Lender in writing prior to payment to Borrower.
7.	All requests for payment shall take the form of an Application for Payment and shall include related invoices submitted by Borrower. All Applications for Payment shall be subject to review prior to approval by Lender.
8.	Developer Fee shall be paid in proportion to percentage of Loan proceeds disbursed by the Lender. Upon Completion of the Project, Developer shall be paid remainder of total eligible Developer Fee as approved in the Project Budget.

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. "Application for Payment" is the standard American Institute of Architects (AIA) Application and Certificate of Payment form.

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

3.3. "Borrower Equity" means a minimum of \$900,000 of Borrower funds invested in the Project comprised of Agency approved prepaid predevelopment expenses consistent with the Budget and Borrower funds paid into escrow which are applicable to the purchase price for property acquisition.

3.4. "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.

3.5. "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.

3.6. "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.

3.7. "Construction Contract" means the construction contract for the Project between the Borrower and General Contractor.

3.8. "Developer Fee" is funds paid as compensation for developing the Project, to include all development consultant and administrative fees and developer overhead and profit as approved in the Budget.

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

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

3.11. "Event of Default" is breach of or default in a party's obligations under this Loan Agreement, the Trust Deed, the Note, the OPA, the other Loans made for this Project by Lender and any other instrument which is incorporated in this Loan Agreement or which otherwise secures the repayment of the Loan.

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

3.13. "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.

3.14. "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.

3.15. "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.

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

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

3.18. "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.

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

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

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

3.22. "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.

3.23. "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.

3.24. "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.

3.25. "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.

3.26. "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.

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

3.28. "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.

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:

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) Borrower's representations and warranties in this Loan Agreement are true and correct as of the Close of Escrow; (d) the Agreement continues to be in full force and effect, no default on the part of Borrower has occurred under the Loan Agreement, and no event has occurred that, with the giving of notice or the passage of time, will constitute a default by Borrower under the Loan Agreement; and (e) Lender has approved the Approval Documents.

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. **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.

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

7.2. **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.

7.3. 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.

7.4. 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.

7.4.1. 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.

7.4.2. 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.

7.5. 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.

7.6. 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.

7.7. 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.

7.7.1. 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.

7.7.2. 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

7.8. 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.

7.9. PREVAILING WAGES. In accordance with Labor Code Section 1720(c)(4), so long as the sole and only public subsidy for the Project is from the Lender's Low and Moderate Income Housing Fund, the Project is not subject to prevailing wages. Borrower represents to the Lender that Borrower has obtained no other public subsidy for the Project. If Borrower obtains other public subsidy, Borrower shall pay prevailing wages for the Project. Therefore, 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.

8. LOAN DISBURSEMENT PROCEDURES.

8.1. 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:

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

8.1.2. 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.

8.1.3. 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.

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

8.1.5. 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, including, but not limited to, evidence of proper building permits, evidence of required insurance, and invoices from general contractor and subcontractors.

8.1.6. 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.

8.2. 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 8.1 have been met:

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

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

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

8.2.4. 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.

8.3. 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 8.1 have been met:

8.3.1. 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;
- 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.

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

8.3.3. 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.

8.3.4. 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.

8.3.5. 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.

8.3.6. 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.

8.3.7. 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.

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

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

8.4. **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 8.1. 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.

8.5. **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.

9. **RESIDENTIAL OPERATIONS.**

9.1. **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 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 and staff 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 and staff, prior to Borrower's making such changes. Any such changes made without Lender approval shall be a default of the loan. The Lender has the right to approve the Property Manager and staff to be hired by the Borrower to manage the Project.

9.2. **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

9.3. **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.

10. **DEFAULT.**

10.1. **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:

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

10.1.2. 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.

10.1.3. 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.

10.1.4. 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.

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

10.1.6. 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.

10.1.7. 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.

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

11. REMEDIES.

11.1. **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:

11.1.1. Terminate its obligation to make disbursements.

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

11.1.3. 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.

11.1.4. 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.

11.1.5. 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.

11.2. **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.

11.3. **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.

11.4. **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.

12. 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 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.

12.1. 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:

12.2. 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.

12.3. 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.

12.4. 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.

12.5. 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.

12.6. 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:

12.6.1. **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.

12.6.2. **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.

12.6.3. **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."

12.6.4. **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.

12.7. **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.

12.8. **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 12 with respect to such insurance shall otherwise be satisfied by such blanket policy.

13. MISCELLANEOUS.

13.1. **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.

13.2. **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.

13.3. **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.

13.4. 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.

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

13.6. 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.

13.7. 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.

13.8. 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.

13.9. 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.

13.9.1. 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.

13.9.2. **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.

13.10. **ACTIONS.** Lender will have the right to commence, appear in, or defend any action or proceeding purporting to affect the rights, duties, or liabilities of the parties, or the disbursement of any funds under this Loan Agreement. In connection with that, Lender may incur and pay costs and expenses, including, without limitation, reasonable attorney fees. Borrower agrees to pay to Lender on demand all these expenses, 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.

13.11. **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.

13.12. **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.

13.13. **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.

13.14. **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.

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

13.15.1. 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.

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

13.15.3. 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.

13.16. **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.

13.17. **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.

13.18. **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.

13.19. **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.

13.20. **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.

13.21. **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.

13.22. **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.

13.23. **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.

13.24. **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.

13.25. **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.

13.26. **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.

13.27. **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.

13.28. **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.

13.29. **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.

13.30. **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.

13.31. **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.

13.32. **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.

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

BORROWER:
PRESERVATION DEVELOPMENT LLC, A
CALIFORNIA LIMITED LIABILITY COMPANY

LENDER:
REDEVELOPMENT AGENCY OF THE CITY OF
SACRAMENTO

By: _____
Steve Lebastchi, President

By: _____
LaShelle Dozier, Executive Director

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Developer Counsel

Lender Counsel

Exhibit 1: Legal Description

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

Parcel 1:

The North 104 feet 2 inches of the West 45.1 feet of Lot 1 in block bounded by J and K and 15th and 16th Streets of said City of Sacramento, according to the official map or plan thereof.

Parcel 2:

An easement for passageway, ingress and egress for pedestrian use, over and across the South 44 feet, 2 inches of the North 104 feet 2 inches of the East 5 feet of the West 50 feet of Lot Numbered One in the Block or square bounded by "J" and "K" and Fifteenth and Sixteenth Streets of the said City of Sacramento, according to the official map or plan thereof, reserving, however, to the grantor, her heirs, personal representatives and assigns-and right to use said easement in common with the grantee, his heirs, personal representatives and assigns, being the same easement as contained in that certain Deed dated September 4, 1948, recorded October 2, 1948 in Book 1553 of Official Records, at page 341, executed by Bertha Murray, also known as Bertha Murray, to Otis D. Babcock, a single man.

APN: 006-0121-018-0000

**Maydestone Apartment Building Renovation
1001 15th Street, Sacramento
Scope of Work April 2010**

The developer proposes to acquire and rehabilitate the 4-story historic "Maydestone" apartment building to provide 32 high quality affordable housing units in Downtown Sacramento. Units will be regulated at different levels of affordability per SHRA requirements. The renovation of the project will ensure all SHRA Rental Property Minimum Construction Standards are met and will include the creation of amenities including a community room, exercise room, manager's office, individual storage units, and a laundry room. The renovation will include the following components:

1. Remove, restore, and replace all necessary drywall, doors, and moldings to match existing finishes.
2. Install GFCI receptacles in all kitchens and bathrooms.
3. Install AFCI circuit breakers as required.
4. Install new 125 amp sub panel, outlets, and lighting in each unit.
5. Designated units shall be made ADA accessible. (2 units on each floor per ADA requirements).
6. Install all new heating and air conditioning units in all units per plans.
7. Provide garbage dumpster and trash enclosure per city requirements.
8. Install ADA lift to provide access to entry, basement, and ground floor.
9. Remodel basement into laundry, individual storage, exercise room, office, and community room and provide fixtures, furnishings, and equipment.
10. Install new energy efficient light fixtures.
11. Install new energy efficient appliances.
12. Restore and replace hardwood flooring throughout with eco friendly hardwood as needed.
13. Repaint exterior and interior of the building.
14. Replace the roof and repair downspouts.
15. Install new hallway lighting, unit, and exterior lighting.
16. Restore all windows to operating condition with new sash and glazing as needed.
17. Install new window coverings.
18. Restore and replace doors & hardware as needed.
19. Install Fire Sprinkler and Fire Alarm systems per City requirements.
20. Install new water heaters throughout.
21. Repair elevator (with access to basement as well).
22. Install new battery operated smoke detectors in the bedroom of all units.
23. Install smoke detectors in common areas meeting the requirements of the fire department.
24. Install new upgraded cabinets and granite countertops in all units.
25. Install new sinks, fixtures, and plumbing hardware and bath accessories in all units.
26. Install new tile tub and shower surrounds and glass shower doors.
27. The quality of the fixtures and finishes shall meet medium grade residential standards meeting or exceeding SHRA Section 32 specifications version 11-27-07. SHRA Section 32 specifications are available upon request.
28. Install all new ceramic tile in kitchen and bathroom floor areas
29. Install new low flow flush eco friendly toilets in all units (tall accessible toilets).
30. California Building Code requirements will be met including Federal and State ADA accessibility requirements. Historic Preservation requirements will be met.
31. Install site and common space security lighting and web based security cameras will be provided.
32. Provide off site utilities (water, sewer, storm drains, gas, electrical, telecom, and fire protection) per City requirements.
33. Repair and replacement of site and common area concrete, sidewalks, pathways, and paving as needed.
34. Patch, seal and stripe existing east parking lot and pedestrian easement as needed.
35. Existing Sewer and storm drains shall be scoped and flushed.
36. Provide fencing and gates.
37. Install automated irrigation system and landscaping shall be provided.
38. Install new monument, building, ADA, and unit signage.
39. Install new awnings will be installed.

Maydestone Apartment Building Renovation
1001 15th Street, Sacramento
Scope of Work April 2010

40. Repair and Replace siding, moisture barrier, and insulation as needed. Brick work and plaster shall be repaired and replaced as needed.
41. Hazardous material abatement requirements will be met, final clearance will be provided.
42. Demolition and disposal of construction debris shall meet City requirements. Dry rot, water, and pest damage shall be treated and repaired as needed. A final clearance report shall be provided.
43. Required structural and seismic repairs will be made.
44. Restore and repair interior stairs. Fire escapes will be installed.
45. Install intercom and FOB entry system.
46. Install new roofing, gutters, and downspouts.
47. Install new plumbing, electrical, telecom, and HVAC systems including exhaust fans.
48. Repair and replace pull-out beds as needed.

Exhibit 3: Note Form

**PROMISSORY NOTE
FOR MAYDESTONE APARTMENT BUILDING
FIRST ACQUISITION, CONSTRUCTION AND PERMANENT LOAN AGREEMENT**

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

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

DEFINED TERM:	DEFINITION:	
“Effective Date”	May 1, 2010	
“Lender”	Redevelopment Agency of the City of Sacramento	
“Borrower”	Preservation Development LLC	
“Borrower Legal Status”	California Limited Liability Company	
“Loan Agreement”	The First Acquisition, Construction and Permanent Loan Agreement between the Borrower and Lender as of the Effective Date for making of the loan (“Loan”) evidenced by this Note.	
“Principal Amount”	Two Million Two Hundred Eighty Thousand Dollars and No Cents (\$2,280,000.00)	
“Interest Rate”	The interest rate is 4% per year, simple interest.	
“Accrual Date”	Interest shall accrue starting on the following “Accrual Date”:	The first day of the 21 st month following the Effective Date
“Special Terms”		
PAYMENT SCHEDULE. Repayment of this Note shall be made the following amounts:		
“Maturity Date”	The first day of the 254th calendar month following the Effective Date.	
“Payment Start Date”	The first day of the 33rd calendar month following the Effective Date.	
“Payment Amount(s)”	The Loan balance shall be payable monthly, in equal monthly installments commencing on the Payment Start Date and continuing on the first day of each calendar month thereafter, through and including the 254 th month.	
	Payment Month	
	Payment Amount	
	33 through 44	\$13,324
	45 through 56	\$13,565
	57 through 68	\$13,809
	69 through 80	\$14,056
	81 through 92	\$14,305
	93 through 104	\$14,557
	105 through 116	\$14,812
	117 through 128	\$15,069
	129 through 140	\$15,329
	141 through 152	\$15,591
	153 through 164	\$15,855
165 through 176	\$16,122	

"Payment Amount(s)"	Payment Month	Payment Amount
	177 through 188	\$16,390
189 through 200	\$16,661	
201 through 212	\$16,934	
213 through 224	\$17,208	
225 through 236	\$17,484	
237 through 248	\$17,762	
249 through 254	\$19,369	

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

1. This Note evidences the obligation of Borrower to Lender for repayment of funds loaned to Borrower under a loan agreement between Borrower and Lender dated as of the Loan Date ("Loan Agreement"). The terms and covenants of the Loan Agreement are incorporated in this Note by reference. The Loan Agreement provides for and incorporates the Regulatory Agreement ("Regulatory Agreement") and the Owner Participation Agreement ("OPA"), the making of which is further consideration for this Note.

Borrower shall make payments monthly in the amounts shown in the Payment Schedule, on the first day of each month, beginning on the First Payment Date and continuing for the number of payments shown in the Payment Schedule. On the Maturity Date, the unpaid balance of said principal sum, if any, together with all unpaid interest, fees and charges due, if any, shall become due and payable. All payments on this Note shall be applied first to fees and charges due under the Loan Agreement, if any, then interest and then to the principal due on this Note. Borrower shall make the payments to the Lender at 80112th Street, Sacramento, CA 95814, or to such other person or organization as may be designated by Lender to Borrower and noticed as provided in the Loan Agreement.

2. If any installment under this Note is not received by Lender within fifteen (15) calendar days after the installment is due, Borrower shall pay to Lender a late charge of five percent (5%) of such installment. Such late charge shall be immediately due and payable without demand by Lender.

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

4. Lender and Borrower shall comply with and fulfill the Special Terms.

5. Upon occurrence of any one or more of the following, Lender may, at its sole discretion, declare all unpaid principal immediately due and payable, together with all unpaid interest at the stated rate from the date of the advancement of the Loan's proceeds, subject to applicable cure periods, if any:

- a. Borrower defaults in the payment of any principal or interest when due.
- b. Lender discovers that Borrower, in any application to Lender in connection with the Loan, had failed to disclose or misrepresented any fact that would have prevented Borrower from being eligible for the Loan.
- c. Lender discovers that Borrower has made any misrepresentations or has intentionally withheld any fact in the making of this Loan, the knowledge of which could have affected the decision of Lender to make the Loan.
- d. Borrower defaults or breaches any of the terms of the Owner Participation Agreement, Loan Agreements, the Trust Deed, the Regulatory Agreement or this Note.
- e. Borrower fails to perform any covenant, term or condition in any instrument creating a lien upon the Property which is the security under the Trust Deed, or any part thereof, which lien shall have priority over the lien of the Trust Deed securing this Note.

f. The sale, transfer of title, conveyance or further encumbrance of the Property, whether by sale, exchange, gift, inheritance, refinancing or other means.

g. The occurrence of any of the following:

- 1) Borrower becoming insolvent or bankrupt or being unable or admitting, in writing, Borrower's inability to pay debts as they mature or making a general assignment of or entering into any restructure payment arrangement with creditors.
- 2) Proceedings for the appointment of a receiver, trustee or liquidator of the assets of Borrower or a substantial part of such assets, being authorized or instituted by or against the Borrower.
- 3) Proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction being authorized or instituted against Borrower.

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

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

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

9. This Loan is a nonrecourse loan, and notwithstanding any provision of this Note or any document evidencing or securing this Loan, Borrower, and Borrower's principals, members, partners, agents, officers, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

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

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

BORROWER:

PRESERVATION DEVELOPMENT LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: _____
Steve Lebastchi
President

Date: _____

Approved as to form:

Developer Counsel

Exhibit 4: Trust Deed Form

NO FEE DOCUMENT:
Entitled to free recording
per Government Code 6103.

When recorded, return to:
SACRAMENTO HOUSING AND
REDEVELOPMENT AGENCY
801 12th Street
Sacramento, CA 95814
Attention: Legal Department

DEED OF TRUST AND ASSIGNMENT OF RENTS
Maydestone Apartment Building

TO SECURE THE FIRST ACQUISITION, CONSTRUCTION AND PERMANENT LOAN AGREEMENT

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

TERM	DEFINITION	
“Effective Date”	May 1, 2010	
“Trustor” and “Borrower”	Preservation Development LLC, a California Limited Liability Company	
“Borrower Address”	1329 H Street, Sacramento, CA 95814	
“Trustee”	Fidelity National Title Company	
“Beneficiary” and “Lender”	Redevelopment Agency of the City of Sacramento, a public body, corporate and politic	
“Lender Address”	801 12 th Street, Sacramento, California 95814	
“Property”	Which is real property located in the County of Sacramento and the State of California as more particularly described in the Legal Description.	
	Address	1001 15th Street, Sacramento, CA 95814
	Assessor’s Parcel Number	006-0121-018-0000
“Legal Description”	The Legal Description of the Property which is more particularly described in the attached Exhibit 1 Legal Description , which is incorporated in and an integral part of this Deed of Trust	
“Loan”	Which is Lender’s loan to Borrower evidenced by the Note and which is secured by this Deed of Trust.	
“Loan Agreement”	Which is the agreement between Lender and Borrower stating the term and conditions of the Loan.	
	Which is dated:	May 1, 2010
“Additional Notices”	Lender shall give copies of notices required to be delivered to Borrower to the following parties at the following addresses; provided, however that Borrower acknowledges that such notice is an accommodation and the failure of the Lender to properly deliver any such notice shall not give rise to any claims or defenses of Borrower or any third party:	
“Note”	Which is Borrower's note made in accordance with the Loan Agreement securing the following principal sum or such lesser amount as shall equal the aggregate amount disbursed to Borrower by Lender, with interest.	
	Which has a principal sum of	Two Million Two Hundred Eighty Thousand Dollars and No Cents (\$2,280,000.00)

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

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

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

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

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

Borrower and Lender covenant and agree as follows:

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

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

Unless Lender and Borrower otherwise agree in writing, any such application of insurance proceeds to principal shall not extend or postpone the due date of any Loan payment or change the amount of such payment. If the Property is acquired by Lender pursuant to this Deed of Trust, all right, title and interest of Borrower in and to any insurance policies and proceeds of such policies resulting from damage to the Property prior to the sale of acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

4. Liability Insurance. In addition to the casualty insurance required under the Loan Agreement during the course of construction, Borrower shall keep comprehensive general liability insurance for the Property in a form and coverage consistent with the provisions of the Loan Agreement and reasonably approved by Lender.

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

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

Any amounts disbursed by Lender pursuant to this Section 6, with interest, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment, and shall bear interest from the date of disbursement at the highest rate permissible under applicable law. In any event, this Section shall be construed as a right and an option of Lender and shall not be construed to require Lender to incur any expense or take any action.

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

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

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

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

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

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

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

12. Successors and Assigns Bound; Joint and Several Liability Captions. The covenants and agreements contained in this Deed of Trust shall bind, and the rights under this Deed of Trust shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Section 15. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or to define its provisions.

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

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

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

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

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

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

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

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

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

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

19. Nonrecourse. Notwithstanding any provision of this Deed of Trust or any document evidencing or securing this Loan, Borrower, and Borrower's principals, agents, officers, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

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

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

22. Request for Notice. Borrower and each party listed to receive Additional Notices request that copies of the notice of default and notice of sale be sent to their respective addresses.

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

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

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

BORROWER (Trustor):

PRESERVATION DEVELOPMENT LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: _____
Steve Lebastchi
President

V:\Legal\WORK\Housing Development\Downtown Set-Aside\Maydestone

[NOTARIZED ACKNOWLEDGEMENTS]

Exhibit 5: Regulatory Agreement

NO FEE DOCUMENT:

Entitled to free recording
per Government Code 6103.
When recorded, return to:
SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY
ATTN: KATHERINE MCFADDEN
801 12th Street
Sacramento, CA 95814

**REGULATORY AGREEMENT FOR RESIDENTIAL RENTAL PROPERTY
CONTAINING COVENANTS AFFECTING REAL PROPERTY**

PROJECT NAME:	Maydestone Apartment Building
PROJECT ADDRESS:	1001 15th Street, Sacramento, CA 95814

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS ACKNOWLEDGED, AGENCY AND OWNER HAVE ENTERED THIS REGULATORY AGREEMENT AS OF THE EFFECTIVE DATE.

1. **GENERAL.** This Regulatory Agreement includes the Exhibits listed below which are attached to and incorporated in this Regulatory Agreement by this reference.
2. **DEFINITIONS.** The capitalized terms in this Regulatory Agreement shall have the meanings assigned in the following table and in the body of the Regulatory Agreement as the context indicates. (Terms being defined are indicated by quotation marks.)

TERM	DEFINITION				
“Effective Date”	This Regulatory Agreement shall be effective as of the following date: May 1, 2010				
“Agency”	Redevelopment Agency of the City of Sacramento The Agency is a public body, corporate and politic.				
“Owner”	Preservation Development LLC, a California Limited Liability Company				
“Agency Address”	Agency’s business address is 801 12 th Street, Sacramento, California 95814				
“Owner Address”	Owner’s business address is as follows: 1329 H Street, Sacramento, CA 95814				
“Jurisdiction”	City of Sacramento				
“Property”	That certain real property which is subject to this Regulatory Agreement as further described in the legal description, attached as Exhibit 1 – Legal Description of the Property and incorporated in this Regulatory Agreement by this reference				
“Funding Agreements”	The Funding Agreements between Agency and Owner as follows: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">Titled:</td> <td>First Acquisition, Construction and Permanent Loan Agreement; Second Acquisition, Construction, and Permanent Loan Agreement; Third Acquisition, Construction, and Permanent Loan Agreement</td> </tr> <tr> <td>Dated:</td> <td>May 1, 2010</td> </tr> </table>	Titled:	First Acquisition, Construction and Permanent Loan Agreement; Second Acquisition, Construction, and Permanent Loan Agreement; Third Acquisition, Construction, and Permanent Loan Agreement	Dated:	May 1, 2010
Titled:	First Acquisition, Construction and Permanent Loan Agreement; Second Acquisition, Construction, and Permanent Loan Agreement; Third Acquisition, Construction, and Permanent Loan Agreement				
Dated:	May 1, 2010				
“Agency Funding”	The Agency Funding made by Agency to Owner under the Funding Agreements for development of the Property				
“Agency Funding Amount”	The amount of the Agency Funding, as follows: \$6,100,000.00				
“Proportionate Agency Assistance”	The percentage of the Project cost, including without limitation, land, predevelopment and development costs, that is attributable to the Agency Funding. Eighty Seven (87%)				

“Funding Requirements”	The legal restrictions on the use of the funds that Agency has used to make the Agency Funding, as applicable to and restricting the Property. The Funding Requirements are set out in Exhibit 2 – Funding Requirements.	
“Approved Use”	The only permitted use of the Property, which is as a residential property available for rent by the general public and containing not less than the following number of units:	32

RESTRICTED PARCELS; APPROVAL OF LEASES. In order to assure that the proper number and types of units have been rented in accordance with this Regulatory Agreement, Owner is prohibited from leasing any Unit within the Project until either the parties have recorded against the Property a list of the Restricted Units or the Agency has approved the individual lease or lease form for the Restricted Units. The following numbers of Units are restricted for each respective funding source. The initial rents for the respective units shall be the following; provided, however, that upon the request of Owner, Owner and Agency may agree to a schedule for the Restricted Units that complies with the following affordability requirements as of the date when the Project is available for occupancy. In any event the rents for the respective units may be adjusted not more often than annually. The rents shall include allowance for utilities and costs reasonably related to the rental of the units, as may be required in determining the rents for the applicable funding sources. Only units indicated under Agency Funding Source are assisted by the Agency. Nevertheless, Owner shall assure the affordability of all of the following units at the named affordability levels.

Agency Funding Source:	Other Funding Source:	Affordability Level:	Number of Units:	Restricted Units:	Initial Gross Rent per Unit per Month:
Downtown Low/Moderate Tax Increment		60% of Area Median Income (AMI)	14	Studio	\$765
Downtown Low/Moderate Tax Increment		60% of AMI	2	1 bedroom	\$873
Downtown Low/Moderate Tax Increment		80% of AMI	5	Studio	\$1020
Downtown Low/Moderate Tax Increment		80% of AMI	3	1 bedroom	\$1165
Downtown Low/Moderate Tax Increment		110% of AMI	5	Studio	\$1250
Downtown Low/Moderate Tax Increment		110% of AMI	3	1 Bedroom	\$1410

3. MANAGEMENT AGREEMENT. Borrower shall obtain and maintain a property management agreement with a duly accredited real estate property management company for the management of the Property. Owner shall not change management company without the prior written approval of the Agency. If Agency has approved an initial property manager for the Project, the company shall be listed immediately below. The term of such agreement shall be the longer of the term of the Funding Agreements or the longest term of the Funding Restrictions

Approved Management Company
D & S Development, Inc.

4. SPECIAL PROVISIONS. Owner shall also comply with the following special provisions.

Provision	Term
1. Property management staff hired by D & S Development, Inc. to manage the Maydestone apartment building is subject to approval by the Agency.	55 years

5. REPRESENTATIONS. Agency has provided Agency Funding to Owner to develop the Property, subject to the terms of the Funding Agreements. This Regulatory Agreement is a substantial part of the consideration to Agency for making the Agency Funding. [For purposes of this Article II, “Property” shall mean Property or Restricted Unit as the context may

indicate.] The funds used by Agency under the Funding Agreements are funds from public funding sources administered by Agency and their use is subject to certain requirements some of which are embodied in this Regulatory Agreement. Further, Agency has made the Agency Funding in accordance with the laws, rules and regulations to which Agency is subject. Therefore, Agency has made the Agency Funding conditioned upon Owner's agreement, for itself and its successors and assigns, to comply with all provisions of this Regulatory Agreement, including without limitation, the Funding Agreements. Owner has had full opportunity to make itself independently familiar with such limitations and restrictions, and Owner accepts them and agrees to comply fully with them.

6. COVENANTS. Owner makes the following covenants. Unless Owner has received the prior written consent or Agency approval otherwise, Owner shall fully comply with each and every covenant. Except as otherwise stated in this Regulatory Agreement, the following covenants shall have a term that is the same as the longest term specified in the Funding Requirements.

a. Owner shall use and permit others to use the Property only for the Approved Use.

b. Owner shall assure full compliance with the Funding Requirements.

c. Owner shall not transfer or encumber any of the Property or permit the conveyance, transfer, or encumbrance of the Property unless such assignee, transferee or encumbrancer has agreed, in writing and in a form suitable for recordation, to be bound by the terms of this Regulatory Agreement.

d. Owner shall not cause and shall not permit expansion, reconstruction, or demolition of any part of improvements on the Property, except as provided by the Funding Agreements.

e. Owner shall maintain the Property and the building improvements, grounds and equipment of the Property in good repair and condition and in compliance with all applicable housing quality standards and local code requirements. Owner shall maintain the Property in good condition and shall keep the Property reasonably free from graffiti and unrepaired vandalism and from accumulation of abandoned property, inoperable vehicles, unenclosed storage, debris, and waste materials. In the event of a casualty loss, Owner shall cause the restoration or replacement of the Property, in a timely manner and provided that such restoration or replacement is then economically feasible.

f. 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 drive-by security guards if necessary.

g. Owner shall not cause and shall not permit discrimination on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, or rental or in the use or occupancy of the Property. Owner covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. This covenant against discrimination shall continue in perpetuity.

h. Owner shall assure compliance with the obligations imposed by the federal Personal Responsibility and Work Opportunity Act (Public Law 104-193, commonly known as the Welfare Reform Act) as amended by California Welfare and Institutions Code Section 17851, which restrict the Agency funding of federal, state or local benefits to persons who are not citizens or qualified aliens as defined in such act.

7. NATURE OF COVENANTS. The provisions contained in this Regulatory Agreement are covenants which subject and burden the Property, as covenants running with the land. It is intended and agreed that the agreements and covenants provided in the Agreement shall be covenants running with the land and equitable servitudes on the land and that they shall, in any event, and without regard to technical classifications or designation, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Agency, the Agency's successors and assigns, any other governmental entity acting within its authority and any successor in interest to Agency's interest under this Regulatory Agreement against the Owner, its successors and assigns and every successor in interest to all or any part of the Property.

8. TERM. The term of this Regulatory Agreement shall commence on the Effective Date and continue until the terms of all of the covenants, including without limitation, the terms stated in the Funding Requirements, have expired or otherwise been terminated. Notwithstanding the term in the Funding Requirements, the term of this Regulatory Agreement shall be fifty-five (55) years from the Effective Date.

9. **REVIVAL OF COVENANTS AFTER FORECLOSURE.** The affordability restrictions shall be revived after foreclosure, or deed in lieu of foreclosure according to the original terms if, during the original term of this Regulatory Agreement, if the Owner, who was owner of record before the termination event, or a party related to the Owner obtains an ownership interest in the Property or Restricted Unit, as the case may be. For purposes of this provision, a related party is anyone with whom the Owner has or had family or business ties; provided that such interest would not be considered a "remote interest" in the usual and customary use of the term.

10. **MULTIPLE FUNDING REQUIREMENTS.** If more than one form of Funding Requirements is attached, each Restricted Unit shall be subject to the Funding Requirements for every Funding Source applied to the respective Restricted Unit. If the terms of the Funding Requirements shall conflict as to any Restricted Unit, the Funding Requirements shall be construed so as to meet all applicable requirements for the respective Restricted Unit, including without limitation the use of the most restrictive requirements and the use of the "Recapture" formula that results in the greatest repayment to the Agency.

11. **RECORDKEEPING AND REPORTING.** Upon request of Agency, Owner shall promptly provide any additional information or documentation requested in writing by the Agency to verify Owner's compliance with the provisions of this Regulatory Agreement. At the written request of the Agency, Owner shall, within a reasonable time following receipt of such request, furnish reports and shall give specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operations, and condition of the property and the status of the Deeds of Trust.

12. **AUDIT AND INSPECTION.** The Property and all related equipment, buildings, plans, offices, books, contracts, records, documents and other related papers shall at all times be maintained in reasonable condition for audit and shall be subject to examination by the Agency or its agents. The books and accounts of the operations of the Property and of the Property shall be kept in accordance with generally accepted accounting principles. Owner shall provide Agency access to the Property and its tenants during reasonable hours for the purpose of reviewing Owner's compliance with this Regulatory Agreement.

13. **INDEMNITY FOR OWNER'S FAILURE TO MEET LEGAL REQUIREMENTS.** Owner shall indemnify and hold Agency, its officers, directors, and employees harmless from any and all liability arising from Owner's failure to comply with the covenants, conditions and restrictions contained in this Regulatory Agreement or to comply with all other laws, rules, regulations and restrictions related to the use of Agency Funding. Without limitation, such indemnity shall include repayment to the appropriate parties of rents or sales proceeds in excess of amounts authorized to be charged and repayment to the Agency of the costs of funds and the value of lost opportunities resulting from the required repayment by Agency to the funding source of funds improperly used.

14. **CHANGES WITHOUT CONSENT OF TENANTS, LESSEES, OR OTHERS.** Only Agency and its successors and assigns, and Owner (subject to the reasonable approval of Owner's lender in accordance with its rights under its loan terms) shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in this Agreement without the consent of any easement holder, licensee, other mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Site.

15. **DEFAULT.** Upon a breach of any of the provisions of this Regulatory Agreement by Owner, the Agency may give written notice of such breach to Owner by registered or certified mail. If such violation is not corrected to the satisfaction of Agency within sixty (60) days after the date such notice is mailed or within such further time as the Agency may reasonably determine is necessary to correct the breach, and without further notice to Owner, the Agency may declare a default under the Agreement, effective on the date of such declaration of default, and upon such default the Agency may: (a) take any action then available under the Funding Agreements for a default under the Funding Agreements and (b) apply to any court for specific performance of this Regulatory Agreement, for an injunction against any violation of the Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Regulatory Agreement, for money damages or for such other relief as may be appropriate, since the injury to the Agency arising from a default under any of the terms in this Regulatory Agreement would be irreparable, and the amount of damage would be difficult to ascertain.

16. **BINDING SUCCESSORS IN INTEREST.** This Regulatory Agreement shall bind and the benefits shall inure to the Owner, its successors in interest and assigns, and to the Agency and its successors for the term of this Regulatory Agreement.

17. **CONTRADICTORY AGREEMENTS.** Owner warrants that he has not, and will not, execute any other agreement with provisions contradictory of or in opposition to, the provisions of this Regulatory Agreement, and that, in any event, the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other requirements in conflict with this Regulatory Agreement.

18. **ATTORNEYS' FEES.** If the services of any attorney are required by any party to secure the performance of this Regulatory Agreement or otherwise upon the breach of default of another party, or if any judicial remedy or mediation is necessary to enforce or interpret any provision of this Regulatory Agreement or the rights and duties of any person in relation to this Regulatory Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Any award of damages following judicial remedy or arbitration as a result of this Regulatory Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law. The prevailing party shall mean the party receiving an award in arbitration or a judgment in its favor, unless the award or judgment is less favorable than the best settlement offered in writing in a reasonable manner by the other party, in which case the prevailing party is the other party.

19. **SEVERABILITY.** The invalidity of any clause, part or provision of this Regulatory Agreement shall not affect the validity of the remaining portions.

20. **ELECTION OF REMEDIES.** To the extent applicable, in the event of any breach of the covenants, conditions and restrictions contained in this Regulatory Agreement, the Agency shall reasonably endeavor to remedy such breach by conference and conciliation. If, in the opinion of Agency, the Agency and Owner are unable mutually to agree upon a suitable remedy or the circumstances so warrant, such breach may be enjoined or abated by appropriate proceedings brought by the Agency.

Agency may institute or prosecute in its own name, any suit Agency may consider advisable in order to compel performance of any obligation of any owner to develop and maintain the subject property in conformity with this Regulatory Agreement and to remedy any default of this Regulatory Agreement. Agency may also seek a decree requiring removal of any improvements constructed on the Property which improvements are designed for uses not permitted under this Regulatory Agreement and which improvements are unsuitable only for uses not permitted under this Regulatory Agreement.

The remedies of the Agency under this Regulatory Agreement are cumulative, and the exercise of one or more of such remedies, including, without limitation, remedies under the Funding Agreements shall not be deemed an election of remedies and shall not preclude the exercise by the Agency of any one or more of its other remedies.

21. **NO WAIVER.** No waiver by the Agency of any breach of or default under this Regulatory Agreement shall be deemed to be a waiver of any other or subsequent breach or default.

22. **NOTICES.** Written notices and other written communications by and between the parties shall be addressed to the Owner at the Owner Address and to the Agency at the Agency Address or such other address as each respective party has designated by written notice to the other party.

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

OWNER : PRESERVATION DEVELOPMENT LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Steve Lebastchi
President

By: _____
LaShelle Dozier, Executive Director

Date: _____

Date: _____

Approved as to form: _____

Approved as to form: _____
Agency Counsel

Developer Counsel

Exhibit 1 – Legal Description of the Property

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

Parcel 1:

The North 104 feet 2 inches of the West 45.1 feet of Lot 1 in block bounded by J and K and 15th and 16th Streets of said City of Sacramento, according to the official map or plan thereof.

Parcel 2:

An easement for passageway, ingress and egress for pedestrian use, over and across the South 44 feet, 2 inches of the North 104 feet 2 inches of the East 5 feet of the West 50 feet of Lot Numbered One in the Block or square bounded by "J" and "K" and Fifteenth and Sixteenth Streets of the said City of Sacramento, according to the official map or plan thereof, reserving, however, to the grantor, her heirs, personal representatives and assigns-and right to use said easement in common with the grantee, his heirs, personal representatives and assigns, being the same easement as contained in that certain Deed dated September 4, 1948, recorded October 2, 1948 in Book 1553 of Official Records, at page 341, executed by Bertha Murray, also known as Bertha Murray, to Otis D. Babcock, a single man.

APN: 006-0121-018-0000

Exhibit 2 – Funding Requirements

TI FUNDING REQUIREMENTS FOR RENTAL HOUSING MERGED DOWNTOWN PROJECT AREA REDEVELOPMENT HOUSING FUND

These “TI Funding Requirements” are attached to a Regulatory Agreement, and are incorporated in that Regulatory Agreement. In turn, the Regulatory Agreement is incorporated in the financing document that is described in the Regulatory Agreement. [The capitalized terms used shall have the meanings below. Terms being defined are indicated by quotation marks. Capitalized terms in these TI Funding Requirements that are not defined below are defined in the Regulatory Agreement and in such financing document.]

1. **RECITALS.** Agency is a redevelopment agency organized and operating under the California Redevelopment Law (commencing at Health & Safety Code Section 33000). The Agency Funding is funded by the Agency with proceeds of the Housing Fund (as defined in Health & Safety Code Section 33334.3) of the Project Area Redevelopment Project Area (“Project Area”) and made in accordance with the provisions of the redevelopment plan for the Project Area (“Redevelopment Plan”) and the California Redevelopment Law. The Agency has approved the Agency Funding on condition that the property securing the Agency Funding (“Property”) is rehabilitated or developed as residential rental property (“Project”) with certain units regulated in accordance with Health & Safety Code Section 33487 (“TI Restricted Units”) by recordation of these TI Funding Restrictions as covenants running with the land, in accordance with Health & Safety Code Section 33334.3(e). TI Restricted Units are made affordable by such regulation to persons and households that qualify as moderate-income, low-income or very low-income as indicated in Article I of the Regulatory Agreement. The development of the Project will benefit the Project Area because the Project will provide housing for persons who work within the Project Area.
2. **AFFORDABILITY REQUIREMENTS.** Owner shall assure that the TI Restricted Units shall be rented or sold at or below the following rates to households whose incomes are at or below the respective income limits for the rental rate :
 - a. Moderate-Income TI Restricted Units shall be rented for amounts that do not exceed payments of thirty percent (30%) of one hundred and ten percent (110%) the Sacramento Metropolitan Statistical Area median income (“Median Income”), as determined annually by the federal Department of Housing and Urban Development, as adjusted for family size appropriate to the size and number of bedrooms in the respective TI Restricted Unit.
 - b. Low-Income TI Restricted Units shall be rented for amounts that do not exceed payments of thirty percent (30%) of sixty percent (60%) the Median Income as adjusted for family size appropriate to the size and number of bedrooms in the respective TI Restricted Unit.
 - c. Very Low-Income TI Restricted Units shall be rented for amounts that do not exceed payments of thirty percent (30%) of fifty percent (50%) the Median Income as adjusted for family size appropriate to the size and number of bedrooms in the respective TI Restricted Unit.
 - d. Owner shall be responsible to determine the affordable amounts for the TI Restricted Units. Within ten (10) days of Owner request, Agency shall provide all information necessary for Owner to compute such affordable rents and will assist Owner in determining such amounts.
3. **TERM.** These covenants shall burden and regulate the TI Restricted Units for a term of fifty-five (55) years, unless a longer term is specified in the body of the document to which this attached.

Exhibit 6: Escrow Instructions

**JOINT ESCROW INSTRUCTIONS
FOR AGENCY LOANS**

“Effective Date”	May 1, 2010
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Agency and Borrower execute these Escrow Instructions as of the Effective Date. This document, including attachments and any amendments and additions, shall constitute the joint escrow instructions of Agency and Borrower for the Agency loan secured by the Property.

ARTICLE I. GENERAL TERMS.

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

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

“Title Company”	Fidelity National Title Company		
	Address:	3075 Prospect Park Drive, Suite 130, Rancho Cordova, CA 95670	
“Escrow” with Title Company	Escrow Number:	09-710267Z-LT	Attention: Liz Tholen
	“Agency”		
Redevelopment Agency of the City of Sacramento			
Address: 801 12 th Street, Sacramento, CA 95814			
Attention: Katherine Klein McFadden			
“Borrower”	Preservation Development LLC		
	Address:	1329 H Street, Sacramento, CA 95814	
	Attention:	Steve Lebastchi	
“Closing Date”	May 1, 2010		
“Property”	Address:	1001 15th Street, Sacramento, CA 95814	APN: 006-0121-018-0000
	Description of the transaction		
Acquisition and rehabilitation of the historic four story Maydestone apartment building consisting of 24 studio units and 8 one-bedroom units and a renovated basement for the primary use as resident community space. The renovation will convert 32 dilapidated units into 32 units affordable to households who earn between 60-110% of the area median income.			

“Recorded Documents”- The following documents are to be recorded in the order listed (top being first in priority). Copies of the Recorded documents are attached.	Documents:	Marked for return to:
	Regulatory Agreement	Redevelopment Agency of the City of Sacramento 801 12 th Street Sacramento, CA 95814 Attn: Katherine McFadden
	First Deed of Trust	
	Second Deed of Trust	
	Third Deed of Trust	
Notice of Affordability Restrictions		
“Agency Items”	First Promissory Note	
	Second Promissory Note	
	Third Promissory Note	
	First Loan Agreement	
	Second Loan Agreement	
	Third Loan Agreement	
	Authorizing resolutions for all Borrower signatories	
	Owner Participation Agreement	
“Borrower Items”	Conformed copies of recorded documents	

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“Special Provisions”:	ALTA 101.1 Mechanic’s Lien Endorsement, For the Regulatory Agreement - CLTA 124.1
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“Agency Title Policy” in the form of an ALTA Agency’s Policy insuring that the following are valid liens against the property:	Documents:	Coverage amount:	
	Regulatory Agreement and Trust Deed	In the amount of the loans secured (\$6,100,000)	
The title policies shall be subject only to the following “Conditions of Title”:	Items 1-8, and 10 of Title Company’s Preliminary Report for the Escrow	Dated:	March 3, 2010
		Number:	09-710267Z-B

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

BORROWER: PRESERVATION DEVELOPMENT LLC

By: _____
 Name: Steve Lebastchi
 Title: President
 Authorized signatory

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
 LaShelle Dozier
 Executive Director

ARTICLE II. INSTRUCTIONS

1. **CLOSING DATE.** Escrow shall close on or before the Closing Date as it may be changed from time to time by written agreement of Borrower and Agency.
2. **CONDITIONS TO CLOSE OF ESCROW.** "Close of Escrow" means the fulfillment of the Escrow terms and conclusion of the Escrow, including, without limitation, the execution of unexecuted documents, the recordation of documents specified for recording, the issuance of title insurance policies, the payment of fees and the delivery of funds and documents as directed in the escrow instructions for the Escrow. The Close of Escrow shall occur on the Closing Date.

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

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

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

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

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

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

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

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

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

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

2.3.1. Assure fulfillment of the Special Provisions;

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

2.3.3. Obtain full execution of all unexecuted documents;

2.3.4. Date all undated documents as of the Closing Date;

2.3.5. Record the Recorded Documents in the priority listed;

2.3.6. Determine all closing costs and fees; including without limitation, all charges, fees, taxes and title insurance premiums payable under this Agreement on Close of Escrow and any other fees and charges approved for payment from Escrow by both parties and deduct such fees from the Loan proceeds deposited by Agency in Escrow;

2.3.7. Deliver the Agency Items to Agency and the Borrower Items to Borrower; and

2.3.8. Prepare and deliver to Borrower and Agency, respectively, one signed original of all documents included for delivery to either party and not delivered for recording, one signed original of Title Company's closing statement showing all receipts and disbursements of the Escrow, and one conformed copy of each of the recorded documents.

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

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

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ACCEPTANCE OF ESCROW INSTRUCTIONS

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

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

Borrower agrees to indemnify and hold you harmless from damages incurred as a result of your good faith and diligent performance of your duties under these escrow instructions.

Upon your acceptance of these escrow instructions, return the executed counterparts of these escrow instructions to Agency and Borrower, respectively.

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

Dated: _____

**TITLE COMPANY
FIDELITY NATIONAL TITLE COMPANY**

By: _____

Name: _____

Title: _____

Its authorized agent and signatory

SECOND ACQUISITION, CONSTRUCTION, AND PERMANENT LOAN AGREEMENT MAYDESTONE APARTMENT BUILDING

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"	May 1, 2010	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	801 12 th Street, Sacramento CA 95814	
"BORROWER"	The borrower of the Loan funds whose name, legal status and address are:	
Name	Preservation Development LLC	
Legal Status	A California limited liability company	
Principal Address	1329 H Street, Sacramento, CA 95814	
"LOAN"	The Loan made by this Loan Agreement.	
"LOAN COMMITMENT"	Lender's loan commitment, made by letter dated as of	N/A
"LOAN PROGRAM"	Lender's Loan Program, commonly known as	Downtown Project Area Tax Increment Housing Fund
"LOAN AMOUNT"	One Million Two Hundred Thirty Thousand Dollars and No Cents (\$1,230,000.00)	
"INTEREST RATE"	The interest rate is 2% per year, simple interest.	
"PAYMENT START DATE"	The first day of the 255th calendar month following the Effective Date.	
"MATURITY DATE"	The first day of the 356th calendar month following the Effective Date.	
"PAYMENT SCHEDULE"	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 as set forth in the Note.	
"BORROWER EQUITY"	Nine Hundred Thousand Dollars and No Cents (\$900,000.00)	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. Borrower equity includes funds Developer has expended for the purchase of the Property.
"SPECIAL TERMS"	The outstanding Loan balance shall be repaid upon the refinancing or sale of the Property.	
"PROJECT"	Which is the Project to be developed on the Property with the Loan funds, described as:	The Project being assisted with the Agency Funding is the following: Rehabilitation of a historic four story apartment building consisting of 24 studio units and 8 one-bedroom units and a renovated basement for the primary use as resident community space. The project will convert 32 dilapidated units into 32 units affordable to households who earn between 60-110% of the area median income.

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	1001 15th Street, Sacramento, CA 95814	
Assessor's Parcel Number	006-0121-018	
"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"	Fidelity National 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"	May 1, 2010	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: Funding Restrictions</u>	"Funding Restrictions"	

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	

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

G. "CONSTRUCTION INFORMATION":		
"Completion Date"	February 1, 2012	Which is the date on or before which the Completion of the Project must occur.

"General Contractor"	CFY Development	Which is the general contractor for construction of the Project.	
"Project Architect"	Kuchman Architects	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:			
1. This Loan is made pursuant to the Owner Participation Agreement between the Parties, made concurrently with this Loan Agreement ("OPA"). This Loan Agreement is subject to the OPA including without limitation, conditions precedent to funding the Loan or making disbursements of the Loan proceeds.			
2. Loan funds shall be used solely for actual costs of Project construction, and other development costs as provided in the Budget. No Loan proceeds may be disbursed until Special Provision #5 has been met.			
3. <u>Cost Savings</u> . 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 loan balance and the retention amount held by the Lender shall each be reduced by one half of such savings. 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.			
4. Borrower shall require General Contractor to follow a bidding process for all construction trades involved in the Project. In the event that General Contractor desires to self-perform work related to one or more construction trades, General Contractor shall participate in the bidding process with the other vendors. Borrower shall require General Contractor to implement the following bidding process for the Project: (1) Solicit at least five vendors; (2) Select the lowest responsive, responsible bidder; (3) Provide a summary sheet of bidders with their respective bids to Lender for approval; (4) Provide a copy of the bids or portion thereof to document the bid value as backup to the summary sheet; (5) If the General Contractor desires to select a vendor other than the lowest responsive, responsible bidder, Borrower shall make such request to Lender and provide justification for such request. Approval of a vendor other than the lowest responsive, responsible vendor is at the sole discretion of Lender.			
5. Borrower shall obtain approval of the Construction Contract by the Lender before the Construction Contract is executed and any construction work may begin on the Project.			
6. Any change order to the Construction Contract shall be subject to approval by Lender in writing prior to payment to Borrower.			
7. All requests for payment shall take the form of an Application for Payment and shall include related invoices submitted by Borrower. All Applications for Payment shall be subject to review prior to approval by Lender.			
8. Developer Fee shall be paid in proportion to percentage of Loan proceeds disbursed by the Lender. Upon Completion of the Project, Developer shall be paid remainder of total eligible Developer Fee as approved in the Budget.			

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. "Application for Payment" is the standard American Institute of Architects (AIA) Application and Certificate of Payment form.

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

3.3. "Borrower Equity" means a minimum of \$900,000 of Borrower funds invested in the Project comprised of Agency approved prepaid predevelopment expenses consistent with the Budget and Borrower funds paid into escrow which are applicable to the purchase price for property acquisition.

3.4. "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.

3.5. "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.

3.6. "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.

3.7. "Construction Contract" means the construction contract for the Project between the Borrower and General Contractor.

3.8. "Developer Fee" is funds paid as compensation for developing the Project, to include all development consultant and administrative fees and developer overhead and profit as approved in the Budget.

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

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

3.11. "Event of Default" is breach of or default in a party's obligations under this Loan Agreement, the Trust Deed, the Note, the OPA, the other Loans made for this Project by Lender and any other instrument which is incorporated in this Loan Agreement or which otherwise secures the repayment of the Loan.

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

3.13. "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.

3.14. "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.

3.15. "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.

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

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

3.18. "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.

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

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

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

3.22. "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.

3.23. "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.

3.24. "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.

3.25. "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.

3.26. "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.

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

3.28. "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.

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:

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) Borrower's representations and warranties in this Loan Agreement are true and correct as of the Close of Escrow; (d) the Agreement continues to be in full force and effect, no default on the part of Borrower has occurred under the Loan Agreement, and no event has occurred that, with the giving of notice or the passage of time, will constitute a default by Borrower under the Loan Agreement; and (e) Lender has approved the Approval Documents.

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. **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.

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

7.2. **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.

7.3. 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.

7.4. 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.

7.4.1. 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.

7.4.2. 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.

7.5. 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.

7.6. 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.

7.7. 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.

7.7.1. 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.

7.7.2. 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

7.8. 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.

7.9. PREVAILING WAGES. In accordance with Labor Code Section 1720(c)(4), so long as the sole and only public subsidy for the Project is from the Lender's Low and Moderate Income Housing Fund, the Project is not subject to prevailing wages. Borrower represents to the Lender that Borrower has obtained no other public subsidy for the Project. If Borrower obtains other public subsidy, Borrower shall pay prevailing wages for the Project. Therefore, 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.

8. LOAN DISBURSEMENT PROCEDURES.

8.1. 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:

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

8.1.2. 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.

8.1.3. 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.

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

8.1.5. 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, including, but not limited to, evidence of proper building permits, evidence of required insurance, and invoices from general contractor and subcontractors.

8.1.6. 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.

8.2. 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 8.1 have been met:

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

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

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

8.2.4. 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.

8.3. 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 8.1 have been met:

8.3.1. 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;
- 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.

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

8.3.3. 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.

8.3.4. 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.

8.3.5. 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.

8.3.6. 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.

8.3.7. 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.

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

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

8.4. **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 8.1. 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.

8.5. **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.

9. RESIDENTIAL OPERATIONS.

9.1. **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 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 and staff 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 and staff, prior to Borrower's making such changes. Any such changes made without Lender approval shall be a default of the loan. The Lender has the right to approve the Property Manager and staff to be hired by the Borrower to manage the Project.

9.2. **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

9.3. **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.

10. DEFAULT.

10.1. **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:

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

10.1.2. 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.

10.1.3. 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.

10.1.4. 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.

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

10.1.6. 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.

10.1.7. 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.

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

11. REMEDIES.

11.1. **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:

11.1.1. Terminate its obligation to make disbursements.

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

11.1.3. 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.

11.1.4. 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.

11.1.5. 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.

11.2. **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.

11.3. **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.

11.4. **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.

12. 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 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.

12.1. 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:

12.2. 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.

12.3. 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.

12.4. 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.

12.5. 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.

12.6. 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:

12.6.1. **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.

12.6.2. **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.

12.6.3. **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."

12.6.4. **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.

12.7. **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.

12.8. **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 12 with respect to such insurance shall otherwise be satisfied by such blanket policy.

13. MISCELLANEOUS.

13.1. **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.

13.2. **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.

13.3. **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.

13.4. 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.

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

13.6. 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.

13.7. 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.

13.8. 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.

13.9. 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.

13.9.1. 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.

13.9.2. **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.

13.10. **ACTIONS.** Lender will have the right to commence, appear in, or defend any action or proceeding purporting to affect the rights, duties, or liabilities of the parties, or the disbursement of any funds under this Loan Agreement. In connection with that, Lender may incur and pay costs and expenses, including, without limitation, reasonable attorney fees. Borrower agrees to pay to Lender on demand all these expenses, 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.

13.11. **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.

13.12. **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.

13.13. **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.

13.14. **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.

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

13.15.1. 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.

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

13.15.3. 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.

13.16. **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.

13.17. **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.

13.18. **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.

13.19. **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.

13.20. **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.

13.21. **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.

13.22. **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.

13.23. **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.

13.24. **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.

13.25. **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.

13.26. **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.

13.27. **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.

13.28. **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.

13.29. **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.

13.30. **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.

13.31. **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.

13.32. **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.

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

BORROWER:
PRESERVATION DEVELOPMENT LLC, A
CALIFORNIA LIMITED LIABILITY COMPANY

LENDER:
REDEVELOPMENT AGENCY OF THE CITY OF
SACRAMENTO

By: _____
Steve Lebastchi, President

By: _____
LaShelle Dozier, Executive Director

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Developer Counsel

Lender Counsel

Exhibit 1: Legal Description

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

Parcel 1:

The North 104 feet 2 inches of the West 45.1 feet of Lot 1 in block bounded by J and K and 15th and 16th Streets of said City of Sacramento, according to the official map or plan thereof.

Parcel 2:

An easement for passageway, ingress and egress for pedestrian use, over and across the South 44 feet, 2 inches of the North 104 feet 2 inches of the East 5 feet of the West 50 feet of Lot Numbered One in the Block or square bounded by "J" and "K" and Fifteenth and Sixteenth Streets of the said City of Sacramento, according to the official map or plan thereof, reserving, however, to the grantor, her heirs, personal representatives and assigns-and right to use said easement in common with the grantee, his heirs, personal representatives and assigns, being the same easement as contained in that certain Deed dated September 4, 1948, recorded October 2, 1948 in Book 1553 of Official Records, at page 341, executed by Bertha Murray, also known as Bertha Murray, to Otis D. Babcock, a single man.

APN: 006-0121-018-0000

Exhibit 2: Scope of Development

**Maydestone Apartment Building Renovation
1001 15th Street, Sacramento
Scope of Work April 2010**

The developer proposes to acquire and rehabilitate the 4-story historic "Maydestone" apartment building to provide 32 high quality affordable housing units in Downtown Sacramento. Units will be regulated at different levels of affordability per SHRA requirements. The renovation of the project will ensure all SHRA Rental Property Minimum Construction Standards are met and will include the creation of amenities including a community room, exercise room, manager's office, individual storage units, and a laundry room. The renovation will include the following components:

1. Remove, restore, and replace all necessary drywall, doors, and moldings to match existing finishes.
2. Install GFCI receptacles in all kitchens and bathrooms.
3. Install AFCI circuit breakers as required.
4. Install new 125 amp sub panel, outlets, and lighting in each unit.
5. Designated units shall be made ADA accessible. (2 units on each floor per ADA requirements).
6. Install all new heating and air conditioning units in all units per plans.
7. Provide garbage dumpster and trash enclosure per city requirements.
8. Install ADA lift to provide access to entry, basement, and ground floor.
9. Remodel basement into laundry, individual storage, exercise room, office, and community room and provide fixtures, furnishings, and equipment.
10. Install new energy efficient light fixtures.
11. Install new energy efficient appliances.
12. Restore and replace hardwood flooring throughout with eco friendly hardwood as needed.
13. Repaint exterior and interior of the building.
14. Replace the roof and repair downspouts.
15. Install new hallway lighting, unit, and exterior lighting.
16. Restore all windows to operating condition with new sash and glazing as needed.
17. Install new window coverings.
18. Restore and replace doors & hardware as needed.
19. Install Fire Sprinkler and Fire Alarm systems per City requirements.
20. Install new water heaters throughout.
21. Repair elevator (with access to basement as well).
22. Install new battery operated smoke detectors in the bedroom of all units.
23. Install smoke detectors in common areas meeting the requirements of the fire department.
24. Install new upgraded cabinets and granite countertops in all units.
25. Install new sinks, fixtures, and plumbing hardware and bath accessories in all units.
26. Install new tile tub and shower surrounds and glass shower doors.
27. The quality of the fixtures and finishes shall meet medium grade residential standards meeting or exceeding SHRA Section 32 specifications version 11-27-07. SHRA Section 32 specifications are available upon request.
28. Install all new ceramic tile in kitchen and bathroom floor areas
29. Install new low flow flush eco friendly toilets in all units (tall accessible toilets).
30. California Building Code requirements will be met including Federal and State ADA accessibility requirements. Historic Preservation requirements will be met.
31. Install site and common space security lighting and web based security cameras will be provided.
32. Provide off site utilities (water, sewer, storm drains, gas, electrical, telecom, and fire protection) per City requirements.
33. Repair and replacement of site and common area concrete, sidewalks, pathways, and paving as needed.
34. Patch, seal and stripe existing east parking lot and pedestrian easement as needed.
35. Existing Sewer and storm drains shall be scoped and flushed.
36. Provide fencing and gates.
37. Install automated irrigation system and landscaping shall be provided.
38. Install new monument, building, ADA, and unit signage.
39. Install new awnings will be installed.

Maydestone Apartment Building Renovation
1001 15th Street, Sacramento
Scope of Work April 2010

40. Repair and Replace siding, moisture barrier, and insulation as needed. Brick work and plaster shall be repaired and replaced as needed.
41. Hazardous material abatement requirements will be met, final clearance will be provided.
42. Demolition and disposal of construction debris shall meet City requirements. Dry rot, water, and pest damage shall be treated and repaired as needed. A final clearance report shall be provided.
43. Required structural and seismic repairs will be made.
44. Restore and repair interior stairs. Fire escapes will be installed.
45. Install intercom and FOB entry system.
46. Install new roofing, gutters, and downspouts.
47. Install new plumbing, electrical, telecom, and HVAC systems including exhaust fans.
48. Repair and replace pull-out beds as needed.

Exhibit 3: Note Form

**PROMISSORY NOTE
FOR MAYDESTONE APARTMENT BUILDING
SECOND ACQUISITION, CONSTRUCTION AND PERMANENT LOAN AGREEMENT**

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

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

DEFINED TERM:	DEFINITION:	
“Effective Date”	May 1, 2010	
“Lender”	Redevelopment Agency of the City of Sacramento	
“Borrower”	Preservation Development LLC	
“Borrower Legal Status”	California Limited Liability Company	
“Loan Agreement”	The Second Acquisition, Construction and Permanent Loan Agreement between the Borrower and Lender as of the Effective Date for making of the loan (“Loan”) evidenced by this Note.	
“Principal Amount”	One Million Two Hundred Thirty Thousand Dollars and No Cents (\$1,230,000.00)	
“Interest Rate”	The interest rate is 2% per year, simple interest.	
“Accrual Date”	Interest shall accrue starting on the following “Accrual Date”:	The first day of the 21st month following the Effective Date
“Special Terms”		
PAYMENT SCHEDULE. Repayment of this Note shall be made the following amounts:		
“Maturity Date”	The first day of the 356th calendar month following the Effective Date.	
“Payment Start Date”	The first day of the 255th calendar month following the Effective Date.	
“Payment Amount(s)”	The Loan balance shall be payable monthly, in equal monthly installments commencing on the Payment Start Date and continuing on the first day of each calendar month thereafter, through and including the 361 st month.	
	Payment Month	Payment Amount
	255 through 260	\$16,712
	261 through 272	\$18,321
	273 through 284	\$18,602
	285 through 296	\$18,884
	297 through 308	\$19,167
	309 through 320	\$19,450
	321 through 332	\$19,733
	333 through 344	\$20,016
	345 through 356	\$12,048

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

1. This Note evidences the obligation of Borrower to Lender for repayment of funds loaned to Borrower under a loan agreement between Borrower and Lender dated as of the Loan Date ("Loan Agreement"). The terms and covenants of the Loan Agreement are incorporated in this Note by reference. The Loan Agreement provides for and incorporates the Regulatory Agreement ("Regulatory Agreement") and the Owner Participation Agreement ("OPA"), the making of which is further consideration for this Note.

Borrower shall make payments monthly in the amounts shown in the Payment Schedule, on the first day of each month, beginning on the First Payment Date and continuing for the number of payments shown in the Payment Schedule. On the Maturity Date, the unpaid balance of said principal sum, if any, together with all unpaid interest, fees and charges due, if any, shall become due and payable. All payments on this Note shall be applied first to fees and charges due under the Loan Agreement, if any, then interest and then to the principal due on this Note. Borrower shall make the payments to the Lender at 801 12th Street, Sacramento, CA 95814, or to such other person or organization as may be designated by Lender to Borrower and noticed as provided in the Loan Agreement.

2. If any installment under this Note is not received by Lender within fifteen (15) calendar days after the installment is due, Borrower shall pay to Lender a late charge of five percent (5%) of such installment. Such late charge shall be immediately due and payable without demand by Lender.

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

4. Lender and Borrower shall comply with and fulfill the Special Terms.

5. Upon occurrence of any one or more of the following, Lender may, at its sole discretion, declare all unpaid principal immediately due and payable, together with all unpaid interest at the stated rate from the date of the advancement of the Loan's proceeds, subject to applicable cure periods, if any:

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

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

c. Lender discovers that Borrower has made any misrepresentations or has intentionally withheld any fact in the making of this Loan, the knowledge of which could have affected the decision of Lender to make the Loan.

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

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

f. The sale, transfer of title, conveyance or further encumbrance of the Property, whether by sale, exchange, gift, inheritance, refinancing or other means.

g. The occurrence of any of the following:

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

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

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

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

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

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

9. This Loan is a nonrecourse loan, and notwithstanding any provision of this Note or any document evidencing or securing this Loan, Borrower, and Borrower's principals, members, partners, agents, officers, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

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

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

BORROWER:

PRESERVATION DEVELOPMENT LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: _____
Steve Lebastchi
President

Date: _____

Approved as to form:

Developer Counsel

V:\Legal\WORK\Housing Development\Downtown Set-Aside\Maydestone

Exhibit 4: Trust Deed Form

NO FEE DOCUMENT:
Entitled to free recording
per Government Code 6103.

When recorded, return to:
SACRAMENTO HOUSING AND
REDEVELOPMENT AGENCY
801 12th Street
Sacramento, CA 95814
Attention: Legal Department

DEED OF TRUST AND ASSIGNMENT OF RENTS
Maydestone Apartment Building

TO SECURE THE SECOND ACQUISITION, CONSTRUCTION AND PERMANENT LOAN AGREEMENT

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

TERM	DEFINITION	
"Effective Date"	May 1, 2010	
"Trustor" and "Borrower"	Preservation Development LLC, a California Limited Liability Company	
"Borrower Address"	1329 H Street, Sacramento, CA 95814	
"Trustee"	Fidelity National Title Company	
"Beneficiary" and "Lender"	Redevelopment Agency of the City of Sacramento, a public body, corporate and politic	
"Lender Address"	801 12 th Street, Sacramento, California 95814	
"Property"	Which is real property located in the County of Sacramento and the State of California as more particularly described in the Legal Description.	
	Address	1001 15th Street, Sacramento, CA 95814
	Assessor's Parcel Number	006-0121-018-0000
"Legal Description"	The Legal Description of the Property which is more particularly described in the attached Exhibit 1 Legal Description , which is incorporated in and an integral part of this Deed of Trust	
"Loan"	Which is Lender's loan to Borrower evidenced by the Note and which is secured by this Deed of Trust.	
"Loan Agreement"	Which is the agreement between Lender and Borrower stating the term and conditions of the Loan.	
	Which is dated:	May 1, 2010
"Additional Notices"	Lender shall give copies of notices required to be delivered to Borrower to the following parties at the following addresses; provided, however that Borrower acknowledges that such notice is an accommodation and the failure of the Lender to properly deliver any such notice shall not give rise to any claims or defenses of Borrower or any third party:	
"Note"	Which is Borrower's note made in accordance with the Loan Agreement securing the following principal sum or such lesser amount as shall equal the aggregate amount disbursed to Borrower by Lender, with interest.	
	Which has a principal sum of	One Million Two Hundred Thirty Thousand Dollars and No Cents (\$1,230,000.00)

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

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

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

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

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

Borrower and Lender covenant and agree as follows:

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

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

Unless Lender and Borrower otherwise agree in writing, any such application of insurance proceeds to principal shall not extend or postpone the due date of any Loan payment or change the amount of such payment. If the Property is acquired by Lender pursuant to this Deed of Trust, all right, title and interest of Borrower in and to any insurance policies and proceeds of such policies resulting from damage to the Property prior to the sale of acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

4. Liability Insurance. In addition to the casualty insurance required under the Loan Agreement during the course of construction, Borrower shall keep comprehensive general liability insurance for the Property in a form and coverage consistent with the provisions of the Loan Agreement and reasonably approved by Lender.
5. Preservation and Maintenance of Property. Borrower shall keep the Property in good repair and shall not commit waste or permit impairment, demolition, or deterioration of the Property.
6. Protection of Lender's Security. Borrower shall appear and defend any action or proceeding purporting to affect the security under this Deed of Trust or the rights of the Lender. If Borrower fails to perform the covenants and agreements contained in this Deed of Trust, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, foreclosure, involuntary sale, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedant, then Lender may, upon notice to Borrower, make such appearances, disburse such sums and take such actions as are necessary to protect Lender's interest, including, but not limited to, disbursement of judgments, costs or reasonable attorney's fees and entry upon the Property to make repairs.

Any amounts disbursed by Lender pursuant to this Section 6, with interest, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment, and shall bear interest from the date of disbursement at the highest rate permissible under applicable law. In any event, this Section shall be construed as a right and an option of Lender and shall not be construed to require Lender to incur any expense or take any action.

7. Inspection. Lender, by its designated representative, may make reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower and any occupant of the Property reasonable prior notice of any such inspection.
8. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of all or any part of the Property, or for conveyance in lieu of condemnation, shall be applied as provided in the Loan Agreement.

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

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

9. Borrower Not Released. Extension of the time for payment of the sums secured by this Deed of Trust granted by Lender to Borrower or any successor in interest of Borrower shall not operate to release, in any manner, the liability of the original Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against such successor or refuse to extend time payment by reason of any demand made by the original Borrower or Borrower's successors in interest.
10. Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy under this Deed of Trust, or otherwise afforded by applicable law, shall not be a waiver or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Deed of Trust.
11. Remedies Cumulative. All remedies provided in this Deed of Trust are distinct and cumulative to any other right or remedy under this Deed of Trust, the Note, the Loan Agreement or afforded by law or equity, and may be exercised concurrently, independently or successively.
12. Successors and Assigns Bound; Joint and Several Liability Captions. The covenants and agreements contained in this Deed of Trust shall bind, and the rights under this Deed of Trust shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Section 15. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or to define its provisions.

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

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

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

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

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

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

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

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

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

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

19. Nonrecourse. Notwithstanding any provision of this Deed of Trust or any document evidencing or securing this Loan, Borrower, and Borrower's principals, agents, officers, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

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

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

22. Request for Notice. Borrower and each party listed to receive Additional Notices request that copies of the notice of default and notice of sale be sent to their respective addresses.

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

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

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

BORROWER (Trustor):

PRESERVATION DEVELOPMENT LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: _____
Steve Lebastchi
President

V:\Legal\WORK\Housing Development\Downtown Set-Aside\Maydestone

[NOTARIZED ACKNOWLEDGEMENTS]

Exhibit 5: Regulatory Agreement

NO FEE DOCUMENT:

Entitled to free recording
per Government Code 6103.

When recorded, return to:

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

ATTN: KATHERINE MCFADDEN

801 12th Street

Sacramento, CA 95814

**REGULATORY AGREEMENT FOR RESIDENTIAL RENTAL PROPERTY
CONTAINING COVENANTS AFFECTING REAL PROPERTY**

PROJECT NAME:	Maydestone Apartment Building
PROJECT ADDRESS:	1001 15th Street, Sacramento, CA 95814

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS ACKNOWLEDGED, AGENCY AND OWNER HAVE ENTERED THIS REGULATORY AGREEMENT AS OF THE EFFECTIVE DATE.

1. **GENERAL.** This Regulatory Agreement includes the Exhibits listed below which are attached to and incorporated in this Regulatory Agreement by this reference.

2. **DEFINITIONS.** The capitalized terms in this Regulatory Agreement shall have the meanings assigned in the following table and in the body of the Regulatory Agreement as the context indicates. (Terms being defined are indicated by quotation marks.)

TERM	DEFINITION	
“Effective Date”	This Regulatory Agreement shall be effective as of the following date:	May 1, 2010
“Agency”	Redevelopment Agency of the City of Sacramento The Agency is a public body, corporate and politic.	
“Owner”	Preservation Development LLC, a California Limited Liability Company	
“Agency Address”	Agency’s business address is 801 12 th Street, Sacramento, California 95814	
“Owner Address”	Owner’s business address is as follows:	1329 H Street, Sacramento, CA 95814
“Jurisdiction”	City of Sacramento	
“Property”	That certain real property which is subject to this Regulatory Agreement as further described in the legal description, attached as Exhibit 1 – Legal Description of the Property and incorporated in this Regulatory Agreement by this reference	
“Funding Agreements”	The Funding Agreements between Agency and Owner as follows:	Titled: First Acquisition, Construction and Permanent Loan Agreement; Second Acquisition, Construction, and Permanent Loan Agreement; Third Acquisition, Construction, and Permanent Loan Agreement
		Dated: May 1, 2010
“Agency Funding”	The Agency Funding made by Agency to Owner under the Funding Agreements for development of the Property	
“Agency Funding Amount”	The amount of the Agency Funding, as follows:	\$6,100,000.00
“Proportionate Agency Assistance”	The percentage of the Project cost, including without limitation, land, predevelopment and development costs, that is attributable to the Agency Funding.	Eighty Seven (87%)

"Funding Requirements"	The legal restrictions on the use of the funds that Agency has used to make the Agency Funding, as applicable to and restricting the Property. The Funding Requirements are set out in Exhibit 2 – Funding Requirements.	
"Approved Use"	The only permitted use of the Property, which is as a residential property available for rent by the general public and containing not less than the following number of units:	32

RESTRICTED PARCELS; APPROVAL OF LEASES. In order to assure that the proper number and types of units have been rented in accordance with this Regulatory Agreement, Owner is prohibited from leasing any Unit within the Project until either the parties have recorded against the Property a list of the Restricted Units or the Agency has approved the individual lease or lease form for the Restricted Units. The following numbers of Units are restricted for each respective funding source. The initial rents for the respective units shall be the following; provided, however, that upon the request of Owner, Owner and Agency may agree to a schedule for the Restricted Units that complies with the following affordability requirements as of the date when the Project is available for occupancy. In any event the rents for the respective units may be adjusted not more often than annually. The rents shall include allowance for utilities and costs reasonably related to the rental of the units, as may be required in determining the rents for the applicable funding sources. Only units indicated under Agency Funding Source are assisted by the Agency. Nevertheless, Owner shall assure the affordability of all of the following units at the named affordability levels.

Agency Funding Source:	Other Funding Source:	Affordability Level:	Number of Units:	Restricted Units:	Initial Gross Rent per Unit per Month:
Downtown Low/Moderate Tax Increment		60% of Area Median Income (AMI)	14	Studio	\$765
Downtown Low/Moderate Tax Increment		60% of AMI	2	1 bedroom	\$873
Downtown Low/Moderate Tax Increment		80% of AMI	5	Studio	\$1020
Downtown Low/Moderate Tax Increment		80% of AMI	3	1 bedroom	\$1165
Downtown Low/Moderate Tax Increment		110% of AMI	5	Studio	\$1250
Downtown Low/Moderate Tax Increment		110% of AMI	3	1 Bedroom	\$1410

3. MANAGEMENT AGREEMENT. Borrower shall obtain and maintain a property management agreement with a duly accredited real estate property management company for the management of the Property. Owner shall not change management company without the prior written approval of the Agency. If Agency has approved an initial property manager for the Project, the company shall be listed immediately below. The term of such agreement shall be the longer of the term of the Funding Agreements or the longest term of the Funding Restrictions

Approved Management Company
D & S Development, Inc.

4. SPECIAL PROVISIONS. Owner shall also comply with the following special provisions.

Provision	Term
1. Property management staff hired by D & S Development, Inc. to manage the Maydestone apartment building is subject to approval by the Agency.	55 years

5. REPRESENTATIONS. Agency has provided Agency Funding to Owner to develop the Property, subject to the terms of the Funding Agreements. This Regulatory Agreement is a substantial part of the consideration to Agency for making the Agency Funding. [For purposes of this Article II, "Property" shall mean Property or Restricted Unit as the context may

indicate.] The funds used by Agency under the Funding Agreements are funds from public funding sources administered by Agency and their use is subject to certain requirements some of which are embodied in this Regulatory Agreement. Further, Agency has made the Agency Funding in accordance with the laws, rules and regulations to which Agency is subject. Therefore, Agency has made the Agency Funding conditioned upon Owner's agreement, for itself and its successors and assigns, to comply with all provisions of this Regulatory Agreement, including without limitation, the Funding Agreements. Owner has had full opportunity to make itself independently familiar with such limitations and restrictions, and Owner accepts them and agrees to comply fully with them.

6. COVENANTS. Owner makes the following covenants. Unless Owner has received the prior written consent or Agency approval otherwise, Owner shall fully comply with each and every covenant. Except as otherwise stated in this Regulatory Agreement, the following covenants shall have a term that is the same as the longest term specified in the Funding Requirements.

a. Owner shall use and permit others to use the Property only for the Approved Use.

b. Owner shall assure full compliance with the Funding Requirements.

c. Owner shall not transfer or encumber any of the Property or permit the conveyance, transfer, or encumbrance of the Property unless such assignee, transferee or encumbrancer has agreed, in writing and in a form suitable for recordation, to be bound by the terms of this Regulatory Agreement.

d. Owner shall not cause and shall not permit expansion, reconstruction, or demolition of any part of improvements on the Property, except as provided by the Funding Agreements.

e. Owner shall maintain the Property and the building improvements, grounds and equipment of the Property in good repair and condition and in compliance with all applicable housing quality standards and local code requirements. Owner shall maintain the Property in good condition and shall keep the Property reasonably free from graffiti and unrepaired vandalism and from accumulation of abandoned property, inoperable vehicles, unenclosed storage, debris, and waste materials. In the event of a casualty loss, Owner shall cause the restoration or replacement of the Property, in a timely manner and provided that such restoration or replacement is then economically feasible.

f. 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 drive-by security guards if necessary.

g. Owner shall not cause and shall not permit discrimination on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, or rental or in the use or occupancy of the Property. Owner covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. This covenant against discrimination shall continue in perpetuity.

h. Owner shall assure compliance with the obligations imposed by the federal Personal Responsibility and Work Opportunity Act (Public Law 104-193, commonly known as the Welfare Reform Act) as amended by California Welfare and Institutions Code Section 17851, which restrict the Agency funding of federal, state or local benefits to persons who are not citizens or qualified aliens as defined in such act.

7. NATURE OF COVENANTS. The provisions contained in this Regulatory Agreement are covenants which subject and burden the Property, as covenants running with the land. It is intended and agreed that the agreements and covenants provided in the Agreement shall be covenants running with the land and equitable servitudes on the land and that they shall, in any event, and without regard to technical classifications or designation, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Agency, the Agency's successors and assigns, any other governmental entity acting within its authority and any successor in interest to Agency's interest under this Regulatory Agreement against the Owner, its successors and assigns and every successor in interest to all or any part of the Property.

8. TERM. The term of this Regulatory Agreement shall commence on the Effective Date and continue until the terms of all of the covenants, including without limitation, the terms stated in the Funding Requirements, have expired or otherwise been terminated. Notwithstanding the term in the Funding Requirements, the term of this Regulatory Agreement shall be fifty-five (55) years from the Effective Date.

9. REVIVAL OF COVENANTS AFTER FORECLOSURE. The affordability restrictions shall be revived after foreclosure, or deed in lieu of foreclosure according to the original terms if, during the original term of this Regulatory Agreement, if the Owner, who was owner of record before the termination event, or a party related to the Owner obtains an ownership interest in the Property or Restricted Unit, as the case may be. For purposes of this provision, a related party is anyone with whom the Owner has or had family or business ties; provided that such interest would not be considered a "remote interest" in the usual and customary use of the term.

10. MULTIPLE FUNDING REQUIREMENTS. If more than one form of Funding Requirements is attached, each Restricted Unit shall be subject to the Funding Requirements for every Funding Source applied to the respective Restricted Unit. If the terms of the Funding Requirements shall conflict as to any Restricted Unit, the Funding Requirements shall be construed so as to meet all applicable requirements for the respective Restricted Unit, including without limitation the use of the most restrictive requirements and the use of the "Recapture" formula that results in the greatest repayment to the Agency.

11. RECORDKEEPING AND REPORTING. Upon request of Agency, Owner shall promptly provide any additional information or documentation requested in writing by the Agency to verify Owner's compliance with the provisions of this Regulatory Agreement. At the written request of the Agency, Owner shall, within a reasonable time following receipt of such request, furnish reports and shall give specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operations, and condition of the property and the status of the Deeds of Trust.

12. AUDIT AND INSPECTION. The Property and all related equipment, buildings, plans, offices, books, contracts, records, documents and other related papers shall at all times be maintained in reasonable condition for audit and shall be subject to examination by the Agency or its agents. The books and accounts of the operations of the Property and of the Property shall be kept in accordance with generally accepted accounting principles. Owner shall provide Agency access to the Property and its tenants during reasonable hours for the purpose of reviewing Owner's compliance with this Regulatory Agreement.

13. INDEMNITY FOR OWNER'S FAILURE TO MEET LEGAL REQUIREMENTS. Owner shall indemnify and hold Agency, its officers, directors, and employees harmless from any and all liability arising from Owner's failure to comply with the covenants, conditions and restrictions contained in this Regulatory Agreement or to comply with all other laws, rules, regulations and restrictions related to the use of Agency Funding. Without limitation, such indemnity shall include repayment to the appropriate parties of rents or sales proceeds in excess of amounts authorized to be charged and repayment to the Agency of the costs of funds and the value of lost opportunities resulting from the required repayment by Agency to the funding source of funds improperly used.

14. CHANGES WITHOUT CONSENT OF TENANTS, LESSEES, OR OTHERS. Only Agency and its successors and assigns, and Owner (subject to the reasonable approval of Owner's lender in accordance with its rights under its loan terms) shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in this Agreement without the consent of any easement holder, licensee, other mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Site.

15. DEFAULT. Upon a breach of any of the provisions of this Regulatory Agreement by Owner, the Agency may give written notice of such breach to Owner by registered or certified mail. If such violation is not corrected to the satisfaction of Agency within sixty (60) days after the date such notice is mailed or within such further time as the Agency may reasonably determine is necessary to correct the breach, and without further notice to Owner, the Agency may declare a default under the Agreement, effective on the date of such declaration of default, and upon such default the Agency may: (a) take any action then available under the Funding Agreements for a default under the Funding Agreements and (b) apply to any court for specific performance of this Regulatory Agreement, for an injunction against any violation of the Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Regulatory Agreement, for money damages or for such other relief as may be appropriate, since the injury to the Agency arising from a default under any of the terms in this Regulatory Agreement would be irreparable, and the amount of damage would be difficult to ascertain.

16. BINDING SUCCESSORS IN INTEREST. This Regulatory Agreement shall bind and the benefits shall inure to the Owner, its successors in interest and assigns, and to the Agency and its successors for the term of this Regulatory Agreement.

17. **CONTRADICTORY AGREEMENTS.** Owner warrants that he has not, and will not, execute any other agreement with provisions contradictory of or in opposition to, the provisions of this Regulatory Agreement, and that, in any event, the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other requirements in conflict with this Regulatory Agreement.

18. **ATTORNEYS' FEES.** If the services of any attorney are required by any party to secure the performance of this Regulatory Agreement or otherwise upon the breach of default of another party, or if any judicial remedy or mediation is necessary to enforce or interpret any provision of this Regulatory Agreement or the rights and duties of any person in relation to this Regulatory Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Any award of damages following judicial remedy or arbitration as a result of this Regulatory Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law. The prevailing party shall mean the party receiving an award in arbitration or a judgment in its favor, unless the award or judgment is less favorable than the best settlement offered in writing in a reasonable manner by the other party, in which case the prevailing party is the other party.

19. **SEVERABILITY.** The invalidity of any clause, part or provision of this Regulatory Agreement shall not affect the validity of the remaining portions.

20. **ELECTION OF REMEDIES.** To the extent applicable, in the event of any breach of the covenants, conditions and restrictions contained in this Regulatory Agreement, the Agency shall reasonably endeavor to remedy such breach by conference and conciliation. If, in the opinion of Agency, the Agency and Owner are unable mutually to agree upon a suitable remedy or the circumstances so warrant, such breach may be enjoined or abated by appropriate proceedings brought by the Agency.

Agency may institute or prosecute in its own name, any suit Agency may consider advisable in order to compel performance of any obligation of any owner to develop and maintain the subject property in conformity with this Regulatory Agreement and to remedy any default of this Regulatory Agreement. Agency may also seek a decree requiring removal of any improvements constructed on the Property which improvements are designed for uses not permitted under this Regulatory Agreement and which improvements are unsuitable only for uses not permitted under this Regulatory Agreement.

The remedies of the Agency under this Regulatory Agreement are cumulative, and the exercise of one or more of such remedies, including, without limitation, remedies under the Funding Agreements shall not be deemed an election of remedies and shall not preclude the exercise by the Agency of any one or more of its other remedies.

21. **NO WAIVER.** No waiver by the Agency of any breach of or default under this Regulatory Agreement shall be deemed to be a waiver of any other or subsequent breach or default.

22. **NOTICES.** Written notices and other written communications by and between the parties shall be addressed to the Owner at the Owner Address and to the Agency at the Agency Address or such other address as each respective party has designated by written notice to the other party.

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

OWNER : PRESERVATION DEVELOPMENT LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: _____
Steve Lebastchi
President

Date: _____

Approved as to form: _____

Developer Counsel

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
LaShelle Dozier, Executive Director

Date: _____

Approved as to form: _____
Agency Counsel

Exhibit 1 – Legal Description of the Property

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

Parcel 1:

The North 104 feet 2 inches of the West 45.1 feet of Lot 1 in block bounded by J and K and 15th and 16th Streets of said City of Sacramento, according to the official map or plan thereof.

Parcel 2:

An easement for passageway, ingress and egress for pedestrian use, over and across the South 44 feet, 2 inches of the North 104 feet 2 inches of the East 5 feet of the West 50 feet of Lot Numbered One in the Block or square bounded by "J" and "K" and Fifteenth and Sixteenth Streets of the said City of Sacramento, according to the official map or plan thereof, reserving, however, to the grantor, her heirs, personal representatives and assigns-and right to use said easement in common with the grantee, his heirs, personal representatives and assigns, being the same easement as contained in that certain Deed dated September 4, 1948, recorded October 2, 1948 in Book 1553 of Official Records, at page 341, executed by Bertha Murray, also known as Bertha Murray, to Otis D. Babcock, a single man.

APN: 006-0121-018-0000

Exhibit 2 – Funding Requirements

TI FUNDING REQUIREMENTS FOR RENTAL HOUSING MERGED DOWNTOWN PROJECT AREA REDEVELOPMENT HOUSING FUND

These “TI Funding Requirements” are attached to a Regulatory Agreement, and are incorporated in that Regulatory Agreement. In turn, the Regulatory Agreement is incorporated in the financing document that is described in the Regulatory Agreement. [The capitalized terms used shall have the meanings below. Terms being defined are indicated by quotation marks. Capitalized terms in these TI Funding Requirements that are not defined below are defined in the Regulatory Agreement and in such financing document.]

1. **RECITALS.** Agency is a redevelopment agency organized and operating under the California Redevelopment Law (commencing at Health & Safety Code Section 33000). The Agency Funding is funded by the Agency with proceeds of the Housing Fund (as defined in Health & Safety Code Section 33334.3) of the Project Area Redevelopment Project Area (“Project Area”) and made in accordance with the provisions of the redevelopment plan for the Project Area (“Redevelopment Plan”) and the California Redevelopment Law. The Agency has approved the Agency Funding on condition that the property securing the Agency Funding (“Property”) is rehabilitated or developed as residential rental property (“Project”) with certain units regulated in accordance with Health & Safety Code Section 33487 (“TI Restricted Units”) by recordation of these TI Funding Restrictions as covenants running with the land, in accordance with Health & Safety Code Section 33334.3(e). TI Restricted Units are made affordable by such regulation to persons and households that qualify as moderate-income, low-income or very low-income as indicated in Article I of the Regulatory Agreement. The development of the Project will benefit the Project Area because the Project will provide housing for persons who work within the Project Area.
2. **AFFORDABILITY REQUIREMENTS.** Owner shall assure that the TI Restricted Units shall be rented or sold at or below the following rates to households whose incomes are at or below the respective income limits for the rental rate :
 - a. Moderate-Income TI Restricted Units shall be rented for amounts that do not exceed payments of thirty percent (30%) of one hundred and ten percent (110%) the Sacramento Metropolitan Statistical Area median income (“Median Income”), as determined annually by the federal Department of Housing and Urban Development, as adjusted for family size appropriate to the size and number of bedrooms in the respective TI Restricted Unit.
 - b. Low-Income TI Restricted Units shall be rented for amounts that do not exceed payments of thirty percent (30%) of sixty percent (60%) the Median Income as adjusted for family size appropriate to the size and number of bedrooms in the respective TI Restricted Unit.
 - c. Very Low-Income TI Restricted Units shall be rented for amounts that do not exceed payments of thirty percent (30%) of fifty percent (50%) the Median Income as adjusted for family size appropriate to the size and number of bedrooms in the respective TI Restricted Unit.
 - d. Owner shall be responsible to determine the affordable amounts for the TI Restricted Units. Within ten (10) days of Owner request, Agency shall provide all information necessary for Owner to compute such affordable rents and will assist Owner in determining such amounts.
3. **TERM.** These covenants shall burden and regulate the TI Restricted Units for a term of fifty-five (55) years, unless a longer term is specified in the body of the document to which this attached.

Exhibit 6: Escrow Instructions

**JOINT ESCROW INSTRUCTIONS
FOR AGENCY LOANS**

“Effective Date”	May 1, 2010
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Agency and Borrower execute these Escrow Instructions as of the Effective Date. This document, including attachments and any amendments and additions, shall constitute the joint escrow instructions of Agency and Borrower for the Agency loan secured by the Property.

ARTICLE I. GENERAL TERMS.

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

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

“Title Company”	Fidelity National Title Company		
	Address:	3075 Prospect Park Drive, Suite 130, Rancho Cordova, CA 95670	
“Escrow” with Title Company	Escrow Number:	09-710267Z-LT	Attention: Liz Tholen
	Redevelopment Agency of the City of Sacramento		
“Agency”	Address:	801 12 th Street, Sacramento, CA 95814	
	Attention:	Katherine Klein McFadden	
	Preservation Development LLC		
“Borrower”	Address:	1329 H Street, Sacramento, CA 95814	
	Attention:	Steve Lebastchi	
	May 1, 2010		
“Closing Date”			
“Property”	Address:	1001 15th Street, Sacramento, CA 95814	APN: 006-0121-018-0000
	Acquisition and rehabilitation of the historic four story Maydestone apartment building consisting of 24 studio units and 8 one-bedroom units and a renovated basement for the primary use as resident community space. The renovation will convert 32 dilapidated units into 32 units affordable to households who earn between 60-110% of the area median income.		

“Recorded Documents”- The following documents are to be recorded in the order listed (top being first in priority). Copies of the Recorded documents are attached.	Documents:	Marked for return to:
	Regulatory Agreement	Redevelopment Agency of the City of Sacramento 801 12 th Street Sacramento, CA 95814 Attn: Katherine McFadden
	First Deed of Trust	
	Second Deed of Trust	
	Third Deed of Trust	
Notice of Affordability Restrictions		
“Agency Items”	First Promissory Note	
	Second Promissory Note	
	Third Promissory Note	
	First Loan Agreement	
	Second Loan Agreement	
	Third Loan Agreement	
	Authorizing resolutions for all Borrower signatories	
	Owner Participation Agreement	
“Borrower Items”	Conformed copies of recorded documents	

“Special Provisions”:	ALTA 101.1 Mechanic’s Lien Endorsement, For the Regulatory Agreement - CLTA 124.1
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“Agency Title Policy” in the form of an ALTA Agency’s Policy insuring that the following are valid liens against the property:	Documents:	Coverage amount:	
	Regulatory Agreement and Trust Deed	In the amount of the loans secured (\$6,100,000)	
The title policies shall be subject only to the following “Conditions of Title”:	Items 1-8, and 10 of Title Company’s Preliminary Report for the Escrow	Dated:	March 3, 2010
		Number:	09-710267Z-B

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

BORROWER: PRESERVATION DEVELOPMENT LLC

By: _____
Name: Steve Lebastchi
Title: President
Authorized signatory

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
LaShelle Dozier
Executive Director

ARTICLE II. INSTRUCTIONS

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

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

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

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

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

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

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

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

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

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

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

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

2.3.1. Assure fulfillment of the Special Provisions;

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

2.3.3. Obtain full execution of all unexecuted documents;

2.3.4. Date all undated documents as of the Closing Date;

2.3.5. Record the Recorded Documents in the priority listed;

2.3.6. Determine all closing costs and fees; including without limitation, all charges, fees, taxes and title insurance premiums payable under this Agreement on Close of Escrow and any other fees and charges approved for payment from Escrow by both parties and deduct such fees from the Loan proceeds deposited by Agency in Escrow;

2.3.7. Deliver the Agency Items to Agency and the Borrower Items to Borrower; and

2.3.8. Prepare and deliver to Borrower and Agency, respectively, one signed original of all documents included for delivery to either party and not delivered for recording, one signed original of Title Company's closing statement showing all receipts and disbursements of the Escrow, and one conformed copy of each of the recorded documents.

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

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

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ACCEPTANCE OF ESCROW INSTRUCTIONS

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

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

Borrower agrees to indemnify and hold you harmless from damages incurred as a result of your good faith and diligent performance of your duties under these escrow instructions.

Upon your acceptance of these escrow instructions, return the executed counterparts of these escrow instructions to Agency and Borrower, respectively.

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

Dated: _____

TITLE COMPANY
FIDELITY NATIONAL TITLE COMPANY

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

THIRD ACQUISITION, CONSTRUCTION, AND PERMANENT LOAN AGREEMENT MAYDESTONE APARTMENT BUILDING

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"	May 1, 2010	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	801 12 th Street, Sacramento CA 95814	
"BORROWER"	The borrower of the Loan funds whose name, legal status and address are:	
Name	Preservation Development LLC	
Legal Status	A California limited liability company	
Principal Address	1329 H Street, Sacramento, CA 95814	
"LOAN"	The Loan made by this Loan Agreement.	
"LOAN COMMITMENT"	Lender's loan commitment, made by letter dated as of	N/A
"LOAN PROGRAM"	Lender's Loan Program, commonly known as	Downtown Project Area Tax Increment Housing Fund
"LOAN AMOUNT"	Two Million Five Hundred Ninety Thousand Dollars and No Cents (\$2,590,000.00)	
"INTEREST RATE"	The interest rate is 0% per year, simple interest.	
"FORGIVENESS START DATE"	The first day of the 21st calendar month following the Effective Date.	
"MATURITY DATE"	The first day of the 368th calendar month following the Effective Date.	
"PAYMENT SCHEDULE"	See Special Terms.	
"BORROWER EQUITY"	Nine Hundred Thousand Dollars and No Cents(\$900,000.00)	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. Borrower equity includes funds Developer has expended for the purchase of the Property.
"SPECIAL TERMS"	<p>1. The Loan shall be forgiven in equal installments annually over a 30 year term ("Forgivable Loan") provided that no default on the part of Borrower has occurred that, with the giving of notice or the passage of time, will constitute a default by Borrower under the Loan Agreements, the OPA, or the Regulatory Agreement at the time the installment is forgiven.</p> <p>1.1 The outstanding Forgivable Loan balance shall be repaid upon the refinancing or sale of the Property.</p>	

"PROJECT"	Which is the Project to be developed on the Property with the Loan funds, described as:	The Project being assisted with the Agency Funding is the following: Rehabilitation of a historic four story apartment building consisting of 24 studio units and 8 one-bedroom units and a renovated basement for the primary use as resident community space. The project will convert 32 dilapidated units into 32 units affordable to households who earn between 60-110% of the area median income.
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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	1001 15th Street, Sacramento, CA 95814	
Assessor's Parcel Number	006-0121-018	
"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"	Fidelity National 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"	May 1, 2010	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: Funding Restrictions</u>	"Funding Restrictions"

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

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

G. "CONSTRUCTION INFORMATION":			
"Completion Date"	February 1, 2012	Which is the date on or before which the Completion of the Project must occur.	
"General Contractor"	CFY Development	Which is the general contractor for construction of the Project.	
"Project Architect"	Kuchman Architects	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:	
1.	This Loan is made pursuant to the Owner Participation Agreement between the Parties, made concurrently with this Loan Agreement ("OPA"). This Loan Agreement is subject to the OPA including without limitation, conditions precedent to funding the Loan or making disbursements of the Loan proceeds.
2.	Loan funds shall be used solely for actual costs of Project costs associated with historic preservation, ADA/accessibility upgrades and related off-site improvements pursuant to public funding requirement as provided in the Budget. No Loan proceeds shall be disbursed until Special Provision #5 has been met.
3.	<u>Cost Savings.</u> 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 loan balance and the retention amount held by the Lender shall each be reduced by one half of such savings. 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.
4.	Borrower shall require General Contractor to follow a bidding process for all construction trades involved in the Project. In the event that General Contractor desires to self-perform work related to one or more construction trades, General Contractor shall participate in the bidding process with the other vendors. Borrower shall require General Contractor to implement the following bidding process for the Project: (1) Solicit at least five vendors; (2) Select the lowest responsive, responsible bidder; (3) Provide a summary sheet of bidders with their respective bids to Lender for approval; (4) Provide a copy of the bids or portion thereof to document the bid value as backup to the summary sheet; (5) If the General Contractor desires to select a vendor other than the lowest responsive, responsible bidder, Borrower shall make such request to Lender and provide justification for such request. Approval of a vendor other than the lowest responsive, responsible vendor is at the sole discretion of Lender.
5.	Borrower shall obtain approval of the Construction Contract by the Lender before the Construction Contract is executed and any construction work may begin on the property.
6.	Any change order to the Construction Contract shall be subject to approval by Lender in writing prior to payment to Borrower.
7.	All requests for payment shall take the form of an Application for Payment and shall include related invoices submitted by Borrower. All Applications for Payment shall be subject to review prior to approval by Lender.
8.	Developer Fee shall be paid in proportion to percentage of Loan proceeds disbursed by the Lender. Upon Completion of the Project, Developer shall be paid remainder of total eligible Developer Fee as approved in the Budget.

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. "Application for Payment" is the standard American Institute of Architects (AIA) Application and Certificate of Payment form..

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

3.3. "Borrower Equity" means a minimum of \$900,000 of Borrower funds invested in the Project comprised of Agency approved prepaid predevelopment expenses consistent with the Budget and Borrower funds paid into escrow which are applicable to the purchase price for property acquisition.

3.4. "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.

3.5. "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.

3.6. "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.

3.7. "Construction Contract" means the construction contract for the Project between the Borrower and General Contractor.

3.8. "Developer Fee" is funds paid as compensation for developing the Project, to include all development consultant and administrative fees and developer overhead and profit as approved in the Budget.

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

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

3.11. "Event of Default" is breach of or default in a party's obligations under this Loan Agreement, the Trust Deed, the Note, the OPA, the other Loans made for this Project by Lender and any other instrument which is incorporated in this Loan Agreement or which otherwise secures the repayment of the Loan.

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

3.13. "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.

3.14. "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.

3.15. "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.

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

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

3.18. "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.

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

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

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

3.22. "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.

3.23. "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.

3.24. "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.

3.25. "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.

3.26. "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.

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

3.28. "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.

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:

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) Borrower's representations and warranties in this Loan Agreement are true and correct as of the Close of Escrow; (d) the Agreement continues to be in full force and effect, no default on the part of Borrower has occurred under the Loan Agreement, and no event has occurred that, with the giving of notice or the passage of time, will constitute a default by Borrower under the Loan Agreement; and (e) Lender has approved the Approval Documents.

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. **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.

7.1. **CHANGES.** In order to assure sufficient funding for the Project, Borrower shall not authorize any Change without the prior written consent of Lender. If in the judgment of Lender, a Change, together with all other Changes contemplated

or previously approved by Lender, will cause an increase in the cost of the Project in excess of the contingency reserve identified in the Budget, then Borrower will, as a condition precedent to Lender's consent, provide Lender with proof that the contingency reserve has been increased as necessary to pay for all such Changes. Borrower will submit any such Change to Lender for approval on a form acceptable to Lender, together with approvals by the Project Architect, if any, and the General Contractor. Borrower shall maintain funds available in the contingency reserve that are in substantially the same percentage of the original contingency reserve as the percentage of the Project then remaining to be completed.

7.2. 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.

7.3. 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.

7.4. 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.

7.4.1. 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.

7.4.2. 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.

7.5. 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.

7.6. 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.

7.7. **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.

7.7.1. **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.

7.7.2. **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

7.8. **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.

7.9. **PREVAILING WAGES.** In accordance with Labor Code Section 1720(c)(4), so long as the sole and only public subsidy for the Project is from the Lender's Low and Moderate Income Housing Fund, the Project is not subject to prevailing wages. Borrower represents to the Lender that Borrower has obtained no other public subsidy for the Project. If Borrower obtains other public subsidy, Borrower shall pay prevailing wages for the Project. Therefore, 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.

8. **LOAN DISBURSEMENT PROCEDURES.**

8.1. **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:

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

8.1.2. 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.

8.1.3. 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.

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

8.1.5. 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, including, but not limited to, evidence of proper building permits, evidence of required insurance, and invoices from general contractor and subcontractors.

8.1.6. 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.

8.2. 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 8.1 have been met:

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

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

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

8.2.4. 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.

8.3. 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 8.1 have been met:

8.3.1. 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;
- 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.

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

8.3.3. 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.

8.3.4. 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.

8.3.5. 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.

8.3.6. 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.

8.3.7. 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.

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

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

8.4. **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 8.1. 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.

8.5. **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.

9. RESIDENTIAL OPERATIONS.

9.1. **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 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 and staff 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 and staff, prior to Borrower's making such changes. Any such changes made without Lender approval shall be a default of the loan. The Lender has the right to approve the Property Manager and staff to be hired by the Borrower to manage the Project.

9.2. **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

9.3. **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.

10. DEFAULT.

10.1. **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:

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

10.1.2. 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.

10.1.3. 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.

10.1.4. 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.

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

10.1.6. 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.

10.1.7. 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.

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

11. **REMEDIES.**

11.1. **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:

11.1.1. Terminate its obligation to make disbursements.

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

11.1.3. 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.

11.1.4. 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.

11.1.5. 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.

11.2. **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.

11.3. 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.

11.4. 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.

12. 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 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.

12.1. 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:

12.2. 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.

12.3. 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.

12.4. 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.

12.5. 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.

12.6. 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:

12.6.1. 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.

12.6.2. 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.

12.6.3. 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."

12.6.4. 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.

12.7. 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.

12.8. 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 12 with respect to such insurance shall otherwise be satisfied by such blanket policy.

13. MISCELLANEOUS.

13.1. 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.

13.2. 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.

13.3. 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.

13.4. 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.

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

13.6. 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.

13.7. 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.

13.8. 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.

13.9. 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.

13.9.1. **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.

13.9.2. **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.

13.10. **ACTIONS.** Lender will have the right to commence, appear in, or defend any action or proceeding purporting to affect the rights, duties, or liabilities of the parties, or the disbursement of any funds under this Loan Agreement. In connection with that, Lender may incur and pay costs and expenses, including, without limitation, reasonable attorney fees. Borrower agrees to pay to Lender on demand all these expenses, 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.

13.11. **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.

13.12. **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.

13.13. **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.

13.14. **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.

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

13.15.1. 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.

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

13.15.3. 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.

13.16. 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.

13.17. 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.

13.18. 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.

13.19. 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.

13.20. 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.

13.21. **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.

13.22. **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.

13.23. **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.

13.24. **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.

13.25. **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.

13.26. **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.

13.27. **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.

13.28. **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.

13.29. **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.

13.30. **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.

13.31. **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.

13.32. **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.

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

BORROWER:
PRESERVATION DEVELOPMENT LLC, A
CALIFORNIA LIMITED LIABILITY COMPANY

LENDER:
REDEVELOPMENT AGENCY OF THE CITY OF
SACRAMENTO

By: _____
Steve Lebastchi, President

By: _____
LaShelle Dozier, Executive Director

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Developer Counsel

Lender Counsel

Exhibit 1: Legal Description

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

Parcel 1:

The North 104 feet 2 inches of the West 45.1 feet of Lot 1 in block bounded by J and K and 15th and 16th Streets of said City of Sacramento, according to the official map or plan thereof.

Parcel 2:

An easement for passageway, ingress and egress for pedestrian use, over and across the South 44 feet, 2 inches of the North 104 feet 2 inches of the East 5 feet of the West 50 feet of Lot Numbered One in the Block or square bounded by "J" and "K" and Fifteenth and Sixteenth Streets of the said City of Sacramento, according to the official map or plan thereof, reserving, however, to the grantor, her heirs, personal representatives and assigns and right to use said easement in common with the grantee, his heirs, personal representatives and assigns, being the same easement as contained in that certain Deed dated September 4, 1948, recorded October 2, 1948 in Book 1553 of Official Records, at page 341, executed by Bertha Murray, also known as Bertha Murray, to Otis D. Babcock, a single man.

APN: 006-0121-018-0000

Exhibit 2: Scope of Development**Maydestone Apartment Building Renovation
1001 15th Street, Sacramento
Scope of Work April 2010**

The developer proposes to acquire and rehabilitate the 4-story historic "Maydestone" apartment building to provide 32 high quality affordable housing units in Downtown Sacramento. Units will be regulated at different levels of affordability per SHRA requirements. The renovation of the project will ensure all SHRA Rental Property Minimum Construction Standards are met and will include the creation of amenities including a community room, exercise room, manager's office, individual storage units, and a laundry room. The renovation will include the following components:

1. Remove, restore, and replace all necessary drywall, doors, and moldings to match existing finishes.
2. Install GFCI receptacles in all kitchens and bathrooms.
3. Install AFCI circuit breakers as required.
4. Install new 125 amp sub panel, outlets, and lighting in each unit.
5. Designated units shall be made ADA accessible. (2 units on each floor per ADA requirements).
6. Install all new heating and air conditioning units in all units per plans.
7. Provide garbage dumpster and trash enclosure per city requirements.
8. Install ADA lift to provide access to entry, basement, and ground floor.
9. Remodel basement into laundry, individual storage, exercise room, office, and community room and provide fixtures, furnishings, and equipment.
10. Install new energy efficient light fixtures.
11. Install new energy efficient appliances.
12. Restore and replace hardwood flooring throughout with eco friendly hardwood as needed.
13. Repaint exterior and interior of the building.
14. Replace the roof and repair downspouts.
15. Install new hallway lighting, unit, and exterior lighting.
16. Restore all windows to operating condition with new sash and glazing as needed.
17. Install new window coverings.
18. Restore and replace doors & hardware as needed.
19. Install Fire Sprinkler and Fire Alarm systems per City requirements.
20. Install new water heaters throughout.
21. Repair elevator (with access to basement as well).
22. Install new battery operated smoke detectors in the bedroom of all units.
23. Install smoke detectors in common areas meeting the requirements of the fire department.
24. Install new upgraded cabinets and granite countertops in all units.
25. Install new sinks, fixtures, and plumbing hardware and bath accessories in all units.
26. Install new tile tub and shower surrounds and glass shower doors.
27. The quality of the fixtures and finishes shall meet medium grade residential standards meeting or exceeding SHRA Section 32 specifications version 11-27-07. SHRA Section 32 specifications are available upon request.
28. Install all new ceramic tile in kitchen and bathroom floor areas
29. Install new low flow flush eco friendly toilets in all units (tall accessible toilets).
30. California Building Code requirements will be met including Federal and State ADA accessibility requirements. Historic Preservation requirements will be met.
31. Install site and common space security lighting and web based security cameras will be provided.
32. Provide off site utilities (water, sewer, storm drains, gas, electrical, telecom, and fire protection) per City requirements.
33. Repair and replacement of site and common area concrete, sidewalks, pathways, and paving as needed.
34. Patch, seal and stripe existing east parking lot and pedestrian easement as needed.
35. Existing Sewer and storm drains shall be scoped and flushed.
36. Provide fencing and gates.
37. Install automated irrigation system and landscaping shall be provided.
38. Install new monument, building, ADA, and unit signage.
39. Install new awnings will be installed.

**Maydestone Apartment Building Renovation
1001 15th Street, Sacramento
Scope of Work April 2010**

40. Repair and Replace siding, moisture barrier, and insulation as needed. Brick work and plaster shall be repaired and replaced as needed.
41. Hazardous material abatement requirements will be met, final clearance will be provided.
42. Demolition and disposal of construction debris shall meet City requirements. Dry rot, water, and pest damage shall be treated and repaired as needed. A final clearance report shall be provided.
43. Required structural and seismic repairs will be made.
44. Restore and repair interior stairs. Fire escapes will be installed.
45. Install intercom and FOB entry system.
46. Install new roofing, gutters, and downspouts.
47. Install new plumbing, electrical, telecom, and HVAC systems including exhaust fans.
48. Repair and replace pull-out beds as needed.

Exhibit 3: Note Form

**PROMISSORY NOTE
FOR MAYDESTONE APARTMENT BUILDING
THIRD ACQUISITION, CONSTRUCTION AND PERMANENT LOAN AGREEMENT**

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

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

DEFINED TERM:	DEFINITION:
“Effective Date”	May 1, 2010
“Lender”	Redevelopment Agency of the City of Sacramento
“Borrower”	Preservation Development LLC
“Borrower Legal Status”	California Limited Liability Company
“Loan Agreement”	The Third Acquisition, Construction and Permanent Loan Agreement between the Borrower and Lender as of the Effective Date for making of the loan (“Loan”) evidenced by this Note.
“Principal Amount”	Two Million Five Hundred Ninety Thousand Dollars and No Cents (\$2,590,000.00)
“Interest Rate”	The interest rate is 0% per year, simple interest.
“Accrual Date”	Interest shall accrue starting on the following “Accrual Date”:
	N/A
“Special Terms”	<p>The Loan shall be forgiven in equal installments annually over a 30 year term (“Forgivable Loan”) provided that no default on the part of Borrower has occurred that, with the giving of notice or the passage of time, will constitute a default by Borrower under the First Acquisition, Construction and Permanent Loan Agreement and Second Acquisition, Construction and Permanent Loan Agreement (Loan Agreements); the Owner Participation Agreement (OPA); or the Regulatory Agreement at the time the installment is forgiven.</p> <p>The repayment of the outstanding balance that has not been forgiven is due upon occurrence of any event identified in Section 3 or Section 5 of this Note.</p>
FORGIVENESS SCHEDULE. Repayment of this Note shall be made the following amounts:	
“Maturity Date”	The first day of the 368th calendar month following the Effective Date.
“Forgiveness Start Date”	Loan forgiveness shall commence the first day of the 2012 calendar year.
“Forgiveness Amount(s)”	The Forgivable Loan balance shall be forgiven in equal installments annually over a 30 year term commencing on the Forgiveness Start Date and continuing on the first day of each calendar year provided that no default on the part of the Borrower has occurred under the OPA, Loan Agreements or Regulatory Agreement, thereafter, through and including the 2039 calendar year.

Year	Annual Forgiveness
2010	\$0.00
2011	\$0.00
2012	\$86,333.33
2013	\$86,333.33
2014	\$86,333.33
2015	\$86,333.33
2016	\$86,333.33
2017	\$86,333.33
2018	\$86,333.33
2019	\$86,333.33
2020	\$86,333.33
2021	\$86,333.33
2022	\$86,333.33
2023	\$86,333.33
2024	\$86,333.33
2025	\$86,333.33
2026	\$86,333.33
2027	\$86,333.33
2028	\$86,333.33
2029	\$86,333.33
2030	\$86,333.33
2031	\$86,333.33
2031	\$86,333.33
2032	\$86,333.33
2033	\$86,333.33
2034	\$86,333.33
2035	\$86,333.33
2036	\$86,333.33
2037	\$86,333.33
2038	\$86,333.33
2039	\$86,333.33
2040	\$86,333.33

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

1. This Note evidences the obligation of Borrower to Lender for forgiveness or repayment of funds loaned to Borrower under a loan agreement between Borrower and Lender dated as of the Loan Date ("Loan Agreement"). The terms and covenants of the Loan Agreement are incorporated in this Note by reference. The Loan Agreement provides for and incorporates the Regulatory Agreement ("Regulatory Agreement") and the Owner Participation Agreement ("OPA"), the making of which is further consideration for this Note.

2. This Note is secured by a Deed of Trust with Assignment of Rents against the real property described in the Loan Agreement ("Property"), recorded in the office of the County Recorder of Sacramento County ("Trust Deed"). The Trust Deed securing this Note provides that Lender may at its option, declare all funds secured by the Trust Deed immediately due and payable, if any interest in the real property is sold, transferred or conveyed to any person, whether voluntarily or involuntarily. The Trust Deed further provides that if Borrower does not comply with the requirements of the Regulatory Agreement and fails to come into compliance with the Regulatory Agreement within thirty (30) days after Lender's written notice to Borrower of such failure, Lender may at its option, declare all funds secured by the Trust Deed immediately due and payable.
3. Lender and Borrower shall comply with and fulfill the Special Terms.
4. Upon occurrence of any one or more of the following, Lender may, at its sole discretion, declare all unpaid principal immediately due and payable, together with all unpaid interest at the stated rate from the date of the advancement of the Loan's proceeds, subject to applicable cure periods, if any:
- a. Borrower defaults in the payment of any principal or interest when due on the Promissory Notes on the First Acquisition, Construction and Permanent Loan and Second Acquisition, Construction and Permanent Loan.
 - b. Lender discovers that Borrower, in any application to Lender in connection with the Loan, had failed to disclose or misrepresented any fact that would have prevented Borrower from being eligible for the Loan.
 - c. Lender discovers that Borrower has made any misrepresentations or has intentionally withheld any fact in the making of this Loan, the knowledge of which could have affected the decision of Lender to make the Loan.
 - d. Borrower defaults or breaches any of the terms of the Owner Participation Agreement, Loan Agreements, the Trust Deed, the Regulatory Agreement or this Note.
 - e. Borrower fails to perform any covenant, term or condition in any instrument creating a lien upon the Property which is the security under the Trust Deed, or any part thereof, which lien shall have priority over the lien of the Trust Deed securing this Note.
 - f. The sale, transfer of title, conveyance or further encumbrance of the Property, whether by sale, exchange, gift, inheritance, refinancing or other means.
 - g. The occurrence of any of the following:
 - 1) Borrower becoming insolvent or bankrupt or being unable or admitting, in writing, Borrower's inability to pay debts as they mature or making a general assignment of or entering into any restructure payment arrangement with creditors.
 - 2) Proceedings for the appointment of a receiver, trustee or liquidator of the assets of Borrower or a substantial part of such assets, being authorized or instituted by or against the Borrower.
 - 3) Proceedings under any bankruptcy, reorganization, readjustment of debt, insolvency, dissolution, liquidation or other similar law of any jurisdiction being authorized or instituted against Borrower.
5. No waiver of any default or breach by Borrower under this Note shall be implied from any omission by Lender to take action on account of such default, and no express waiver shall affect any default, other than the default specified in the waiver. Such waiver shall be in writing and shall be operative only for the time and to the extent therein stated.
6. Borrower may prepay this Note in full or in part at any time, without any prepayment penalty being charged by Lender.
7. During the existence of default or delinquency under the terms of this Note or the Trust Deed, the Lender is expressly authorized to apply all payments made on this Note to the payment of all or part of the delinquency, as it may elect.
8. This Loan is a nonrecourse loan, and notwithstanding any provision of this Note or any document evidencing or securing this Loan, Borrower, and Borrower's principals, members, partners, agents, officers, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.
9. Borrower shall pay to Lender all costs of enforcement of all or any portion of this Note and the Trust Deed, including attorney's fees, witness fees, investigator fees and court costs, incurred by Lender, whether or not litigation is commenced.

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

BORROWER:
PRESERVATION DEVELOPMENT LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: _____
Steve Lebastchi
President

Date: _____

Approved as to form:

Developer Counsel

V:\Legal\WORK\Housing Development\Downtown Set-Aside\Maydestone

Exhibit 4: Trust Deed Form

NO FEE DOCUMENT:
Entitled to free recording
per Government Code 6103.

When recorded, return to:
SACRAMENTO HOUSING AND
REDEVELOPMENT AGENCY
801 12th Street
Sacramento, CA 95814
Attention: Legal Department

DEED OF TRUST AND ASSIGNMENT OF RENTS
Maydestone Apartment Building

TO SECURE THE THIRD ACQUISITION, CONSTRUCTION AND PERMANENT LOAN AGREEMENT

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

TERM	DEFINITION	
“Effective Date”	May 1, 2010	
“Trustor” and “Borrower”	Preservation Development LLC, a California Limited Liability Company	
“Borrower Address”	1329 H Street, Sacramento, CA 95814	
“Trustee”	Fidelity National Title Company	
“Beneficiary” and “Lender”	Redevelopment Agency of the City of Sacramento, a public body, corporate and politic	
“Lender Address”	801 12 th Street, Sacramento, California 95814	
“Property”	Which is real property located in the County of Sacramento and the State of California as more particularly described in the Legal Description.	
	Address	1001 15th Street, Sacramento, CA 95814
	Assessor’s Parcel Number	006-0121-018-0000
“Legal Description”	The Legal Description of the Property which is more particularly described in the attached Exhibit 1 Legal Description , which is incorporated in and an integral part of this Deed of Trust	
“Loan”	Which is Lender’s loan to Borrower evidenced by the Note and which is secured by this Deed of Trust.	
“Loan Agreement”	Which is the agreement between Lender and Borrower stating the term and conditions of the Loan.	
	Which is dated:	May 1, 2010
“Additional Notices”	Lender shall give copies of notices required to be delivered to Borrower to the following parties at the following addresses; provided, however that Borrower acknowledges that such notice is an accommodation and the failure of the Lender to properly deliver any such notice shall not give rise to any claims or defenses of Borrower or any third party:	
“Note”	Which is Borrower's note made in accordance with the Loan Agreement securing the following principal sum or such lesser amount as shall equal the aggregate amount disbursed to Borrower by Lender, with interest.	
	Which has a principal sum of	Two Million Five Hundred Ninety Thousand Dollars and No Cents (\$2,590,000.00)

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

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

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

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

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

Borrower and Lender covenant and agree as follows:

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

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

Unless Lender and Borrower otherwise agree in writing, any such application of insurance proceeds to principal shall not extend or postpone the due date of any Loan payment or change the amount of such payment. If the Property is acquired by Lender pursuant to this Deed of Trust, all right, title and interest of Borrower in and to any insurance policies and proceeds of such policies resulting from damage to the Property prior to the sale of acquisition shall pass to Lender to the extent of the sums secured by this Deed of Trust immediately prior to such sale or acquisition.

4. Liability Insurance. In addition to the casualty insurance required under the Loan Agreement during the course of construction, Borrower shall keep comprehensive general liability insurance for the Property in a form and coverage consistent with the provisions of the Loan Agreement and reasonably approved by Lender.

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

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

Any amounts disbursed by Lender pursuant to this Section 6, with interest, shall become additional indebtedness of Borrower secured by this Deed of Trust. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment, and shall bear interest from the date of disbursement at the highest rate permissible under applicable law. In any event, this Section shall be construed as a right and an option of Lender and shall not be construed to require Lender to incur any expense or take any action.

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

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

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

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

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

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

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

12. Successors and Assigns Bound; Joint and Several Liability Captions. The covenants and agreements contained in this Deed of Trust shall bind, and the rights under this Deed of Trust shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of Section 15. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the paragraphs of this Deed of Trust are for convenience only and are not to be used to interpret or to define its provisions.

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

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

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

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

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

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

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

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

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

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

19. Nonrecourse. Notwithstanding any provision of this Deed of Trust or any document evidencing or securing this Loan, Borrower, and Borrower's principals, agents, officers, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

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

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

22. Request for Notice. Borrower and each party listed to receive Additional Notices request that copies of the notice of default and notice of sale be sent to their respective addresses.

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

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

IN WITNESS WHEREOF, Borrower has executed this Deed of Trust.

BORROWER (Trustor):

PRESERVATION DEVELOPMENT LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: _____
Steve Lebastchi
President

V:\Legal\WORK\Housing Development\Downtown Set-Aside\Maydestone

Exhibit 5: Regulatory Agreement

NO FEE DOCUMENT:

Entitled to free recording
per Government Code 6103.

When recorded, return to:

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

ATTN: KATHERINE MCFADDEN

801 12th Street

Sacramento, CA 95814

**REGULATORY AGREEMENT FOR RESIDENTIAL RENTAL PROPERTY
CONTAINING COVENANTS AFFECTING REAL PROPERTY**

PROJECT NAME:	Maydestone Apartment Building
PROJECT ADDRESS:	1001 15th Street, Sacramento, CA 95814

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS ACKNOWLEDGED, AGENCY AND OWNER HAVE ENTERED THIS REGULATORY AGREEMENT AS OF THE EFFECTIVE DATE.

1. **GENERAL.** This Regulatory Agreement includes the Exhibits listed below which are attached to and incorporated in this Regulatory Agreement by this reference.

2. **DEFINITIONS.** The capitalized terms in this Regulatory Agreement shall have the meanings assigned in the following table and in the body of the Regulatory Agreement as the context indicates. (Terms being defined are indicated by quotation marks.)

TERM	DEFINITION	
"Effective Date"	This Regulatory Agreement shall be effective as of the following date:	May 1, 2010
"Agency"	Redevelopment Agency of the City of Sacramento The Agency is a public body, corporate and politic.	
"Owner"	Preservation Development LLC, a California Limited Liability Company	
"Agency Address"	Agency's business address is 801 12 th Street, Sacramento, California 95814	
"Owner Address"	Owner's business address is as follows:	1329 H Street, Sacramento, CA 95814
"Jurisdiction"	City of Sacramento	
"Property"	That certain real property which is subject to this Regulatory Agreement as further described in the legal description, attached as Exhibit 1 – Legal Description of the Property and incorporated in this Regulatory Agreement by this reference	
"Funding Agreements"	The Funding Agreements between Agency and Owner as follows:	Titled: First Acquisition, Construction and Permanent Loan Agreement; Second Acquisition, Construction, and Permanent Loan Agreement; Third Acquisition, Construction, and Permanent Loan Agreement
		Dated: May 1, 2010
"Agency Funding"	The Agency Funding made by Agency to Owner under the Funding Agreements for development of the Property	
"Agency Funding Amount"	The amount of the Agency Funding, as follows:	\$6,100,000.00
"Proportionate Agency Assistance"	The percentage of the Project cost, including without limitation, land, predevelopment and development costs, that is attributable to the Agency Funding.	Eighty Seven (87%)

"Funding Requirements"	The legal restrictions on the use of the funds that Agency has used to make the Agency Funding, as applicable to and restricting the Property. The Funding Requirements are set out in Exhibit 2 – Funding Requirements.	
"Approved Use"	The only permitted use of the Property, which is as a residential property available for rent by the general public and containing not less than the following number of units:	32

RESTRICTED PARCELS; APPROVAL OF LEASES. In order to assure that the proper number and types of units have been rented in accordance with this Regulatory Agreement, Owner is prohibited from leasing any Unit within the Project until either the parties have recorded against the Property a list of the Restricted Units or the Agency has approved the individual lease or lease form for the Restricted Units. The following numbers of Units are restricted for each respective funding source. The initial rents for the respective units shall be the following; provided, however, that upon the request of Owner, Owner and Agency may agree to a schedule for the Restricted Units that complies with the following affordability requirements as of the date when the Project is available for occupancy. In any event the rents for the respective units may be adjusted not more often than annually. The rents shall include allowance for utilities and costs reasonably related to the rental of the units, as may be required in determining the rents for the applicable funding sources. Only units indicated under Agency Funding Source are assisted by the Agency. Nevertheless, Owner shall assure the affordability of all of the following units at the named affordability levels.

Agency Funding Source:	Other Funding Source:	Affordability Level:	Number of Units:	Restricted Units:	Initial Gross Rent per Unit per Month:
Downtown Low/Moderate Tax Increment		60% of Area Median Income (AMI)	14	Studio	\$765
Downtown Low/Moderate Tax Increment		60% of AMI	2	1 bedroom	\$873
Downtown Low/Moderate Tax Increment		80% of AMI	5	Studio	\$1020
Downtown Low/Moderate Tax Increment		80% of AMI	3	1 bedroom	\$1165
Downtown Low/Moderate Tax Increment		110% of AMI	5	Studio	\$1250
Downtown Low/Moderate Tax Increment		110% of AMI	3	1 Bedroom	\$1410

3. MANAGEMENT AGREEMENT. Borrower shall obtain and maintain a property management agreement with a duly accredited real estate property management company for the management of the Property. Owner shall not change management company without the prior written approval of the Agency. If Agency has approved an initial property manager for the Project, the company shall be listed immediately below. The term of such agreement shall be the longer of the term of the Funding Agreements or the longest term of the Funding Restrictions

Approved Management Company
D & S Development, Inc.

4. SPECIAL PROVISIONS. Owner shall also comply with the following special provisions.

Provision	Term
1. Property management staff hired by D & S Development, Inc. to manage the Maydestone apartment building is subject to approval by the Agency.	55 years

5. REPRESENTATIONS. Agency has provided Agency Funding to Owner to develop the Property, subject to the terms of the Funding Agreements. This Regulatory Agreement is a substantial part of the consideration to Agency for making the

Agency Funding. [For purposes of this Article II, "Property" shall mean Property or Restricted Unit as the context may indicate.] The funds used by Agency under the Funding Agreements are funds from public funding sources administered by Agency and their use is subject to certain requirements some of which are embodied in this Regulatory Agreement. Further, Agency has made the Agency Funding in accordance with the laws, rules and regulations to which Agency is subject. Therefore, Agency has made the Agency Funding conditioned upon Owner's agreement, for itself and its successors and assigns, to comply with all provisions of this Regulatory Agreement, including without limitation, the Funding Agreements. Owner has had full opportunity to make itself independently familiar with such limitations and restrictions, and Owner accepts them and agrees to comply fully with them.

6. COVENANTS. Owner makes the following covenants. Unless Owner has received the prior written consent or Agency approval otherwise, Owner shall fully comply with each and every covenant. Except as otherwise stated in this Regulatory Agreement, the following covenants shall have a term that is the same as the longest term specified in the Funding Requirements.

a. Owner shall use and permit others to use the Property only for the Approved Use.

b. Owner shall assure full compliance with the Funding Requirements.

c. Owner shall not transfer or encumber any of the Property or permit the conveyance, transfer, or encumbrance of the Property unless such assignee, transferee or encumbrancer has agreed, in writing and in a form suitable for recordation, to be bound by the terms of this Regulatory Agreement.

d. Owner shall not cause and shall not permit expansion, reconstruction, or demolition of any part of improvements on the Property, except as provided by the Funding Agreements.

e. Owner shall maintain the Property and the building improvements, grounds and equipment of the Property in good repair and condition and in compliance with all applicable housing quality standards and local code requirements. Owner shall maintain the Property in good condition and shall keep the Property reasonably free from graffiti and unrepaired vandalism and from accumulation of abandoned property, inoperable vehicles, unenclosed storage, debris, and waste materials. In the event of a casualty loss, Owner shall cause the restoration or replacement of the Property, in a timely manner and provided that such restoration or replacement is then economically feasible.

f. 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 drive-by security guards if necessary.

g. Owner shall not cause and shall not permit discrimination on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, or rental or in the use or occupancy of the Property. Owner covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. This covenant against discrimination shall continue in perpetuity.

h. Owner shall assure compliance with the obligations imposed by the federal Personal Responsibility and Work Opportunity Act (Public Law 104-193, commonly known as the Welfare Reform Act) as amended by California Welfare and Institutions Code Section 17851, which restrict the Agency funding of federal, state or local benefits to persons who are not citizens or qualified aliens as defined in such act.

7. NATURE OF COVENANTS. The provisions contained in this Regulatory Agreement are covenants which subject and burden the Property, as covenants running with the land. It is intended and agreed that the agreements and covenants provided in the Agreement shall be covenants running with the land and equitable servitudes on the land and that they shall, in any event, and without regard to technical classifications or designation, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Agency, the Agency's successors and assigns, any other governmental entity acting within its authority and any successor in interest to Agency's interest under this Regulatory Agreement against the Owner, its successors and assigns and every successor in interest to all or any part of the Property.

8. TERM. The term of this Regulatory Agreement shall commence on the Effective Date and continue until the terms of all of the covenants, including without limitation, the terms stated in the Funding Requirements, have expired or otherwise

been terminated. Notwithstanding the term in the Funding Requirements, the term of this Regulatory Agreement shall be fifty-five (55) years from the Effective Date.

9. REVIVAL OF COVENANTS AFTER FORECLOSURE. The affordability restrictions shall be revived after foreclosure, or deed in lieu of foreclosure according to the original terms if, during the original term of this Regulatory Agreement, if the Owner, who was owner of record before the termination event, or a party related to the Owner obtains an ownership interest in the Property or Restricted Unit, as the case may be. For purposes of this provision, a related party is anyone with whom the Owner has or had family or business ties; provided that such interest would not be considered a "remote interest" in the usual and customary use of the term.

10. MULTIPLE FUNDING REQUIREMENTS. If more than one form of Funding Requirements is attached, each Restricted Unit shall be subject to the Funding Requirements for every Funding Source applied to the respective Restricted Unit. If the terms of the Funding Requirements shall conflict as to any Restricted Unit, the Funding Requirements shall be construed so as to meet all applicable requirements for the respective Restricted Unit, including without limitation the use of the most restrictive requirements and the use of the "Recapture" formula that results in the greatest repayment to the Agency.

11. RECORDKEEPING AND REPORTING. Upon request of Agency, Owner shall promptly provide any additional information or documentation requested in writing by the Agency to verify Owner's compliance with the provisions of this Regulatory Agreement. At the written request of the Agency, Owner shall, within a reasonable time following receipt of such request, furnish reports and shall give specific answers to questions upon which information is desired from time to time relative to the income, assets, liabilities, contracts, operations, and condition of the property and the status of the Deeds of Trust.

12. AUDIT AND INSPECTION. The Property and all related equipment, buildings, plans, offices, books, contracts, records, documents and other related papers shall at all times be maintained in reasonable condition for audit and shall be subject to examination by the Agency or its agents. The books and accounts of the operations of the Property and of the Property shall be kept in accordance with generally accepted accounting principles. Owner shall provide Agency access to the Property and its tenants during reasonable hours for the purpose of reviewing Owner's compliance with this Regulatory Agreement.

13. INDEMNITY FOR OWNER'S FAILURE TO MEET LEGAL REQUIREMENTS. Owner shall indemnify and hold Agency, its officers, directors, and employees harmless from any and all liability arising from Owner's failure to comply with the covenants, conditions and restrictions contained in this Regulatory Agreement or to comply with all other laws, rules, regulations and restrictions related to the use of Agency Funding. Without limitation, such indemnity shall include repayment to the appropriate parties of rents or sales proceeds in excess of amounts authorized to be charged and repayment to the Agency of the costs of funds and the value of lost opportunities resulting from the required repayment by Agency to the funding source of funds improperly used.

14. CHANGES WITHOUT CONSENT OF TENANTS, LESSEES, OR OTHERS. Only Agency and its successors and assigns, and Owner (subject to the reasonable approval of Owner's lender in accordance with its rights under its loan terms) shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in this Agreement without the consent of any easement holder, licensee, other mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Site.

15. DEFAULT. Upon a breach of any of the provisions of this Regulatory Agreement by Owner, the Agency may give written notice of such breach to Owner by registered or certified mail. If such violation is not corrected to the satisfaction of Agency within sixty (60) days after the date such notice is mailed or within such further time as the Agency may reasonably determine is necessary to correct the breach, and without further notice to Owner, the Agency may declare a default under the Agreement, effective on the date of such declaration of default, and upon such default the Agency may: (a) take any action then available under the Funding Agreements for a default under the Funding Agreements and (b) apply to any court for specific performance of this Regulatory Agreement, for an injunction against any violation of the Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Regulatory Agreement, for money damages or for such other relief as may be appropriate, since the injury to the Agency arising from a default under any of the terms in this Regulatory Agreement would be irreparable, and the amount of damage would be difficult to ascertain.

16. **BINDING SUCCESSORS IN INTEREST.** This Regulatory Agreement shall bind and the benefits shall inure to the Owner, its successors in interest and assigns, and to the Agency and its successors for the term of this Regulatory Agreement.

17. **CONTRADICTORY AGREEMENTS.** Owner warrants that he has not, and will not, execute any other agreement with provisions contradictory of or in opposition to, the provisions of this Regulatory Agreement, and that, in any event, the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other requirements in conflict with this Regulatory Agreement.

18. **ATTORNEYS' FEES.** If the services of any attorney are required by any party to secure the performance of this Regulatory Agreement or otherwise upon the breach of default of another party, or if any judicial remedy or mediation is necessary to enforce or interpret any provision of this Regulatory Agreement or the rights and duties of any person in relation to this Regulatory Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Any award of damages following judicial remedy or arbitration as a result of this Regulatory Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law. The prevailing party shall mean the party receiving an award in arbitration or a judgment in its favor, unless the award or judgment is less favorable than the best settlement offered in writing in a reasonable manner by the other party, in which case the prevailing party is the other party.

19. **SEVERABILITY.** The invalidity of any clause, part or provision of this Regulatory Agreement shall not affect the validity of the remaining portions.

20. **ELECTION OF REMEDIES.** To the extent applicable, in the event of any breach of the covenants, conditions and restrictions contained in this Regulatory Agreement, the Agency shall reasonably endeavor to remedy such breach by conference and conciliation. If, in the opinion of Agency, the Agency and Owner are unable mutually to agree upon a suitable remedy or the circumstances so warrant, such breach may be enjoined or abated by appropriate proceedings brought by the Agency.

Agency may institute or prosecute in its own name, any suit Agency may consider advisable in order to compel performance of any obligation of any owner to develop and maintain the subject property in conformity with this Regulatory Agreement and to remedy any default of this Regulatory Agreement. Agency may also seek a decree requiring removal of any improvements constructed on the Property which improvements are designed for uses not permitted under this Regulatory Agreement and which improvements are unsuitable only for uses not permitted under this Regulatory Agreement.

The remedies of the Agency under this Regulatory Agreement are cumulative, and the exercise of one or more of such remedies, including, without limitation, remedies under the Funding Agreements shall not be deemed an election of remedies and shall not preclude the exercise by the Agency of any one or more of its other remedies.

21. **NO WAIVER.** No waiver by the Agency of any breach of or default under this Regulatory Agreement shall be deemed to be a waiver of any other or subsequent breach or default.

22. **NOTICES.** Written notices and other written communications by and between the parties shall be addressed to the Owner at the Owner Address and to the Agency at the Agency Address or such other address as each respective party has designated by written notice to the other party.

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

OWNER : PRESERVATION DEVELOPMENT LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Steve Lebastchi
President

By: _____
LaShelle Dozier, Executive Director

Date: _____

Date: _____

Approved as to form: _____

Approved as to form: _____
Agency Counsel

Developer Counsel

Exhibit 1 – Legal Description of the Property

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

Parcel 1:

The North 104 feet 2 inches of the West 45.1 feet of Lot 1 in block bounded by J and K and 15th and 16th Streets of said City of Sacramento, according to the official map or plan thereof.

Parcel 2:

An easement for passageway, ingress and egress for pedestrian use, over and across the South 44 feet, 2 inches of the North 104 feet 2 inches of the East 5 feet of the West 50 feet of Lot Numbered One in the Block or square bounded by "J" and "K" and Fifteenth and Sixteenth Streets of the said City of Sacramento, according to the official map or plan thereof, reserving, however, to the grantor, her heirs, personal representatives and assigns-and right to use said easement in common with the grantee, his heirs, personal representatives and assigns, being the same easement as contained in that certain Deed dated September 4, 1948, recorded October 2, 1948 in Book 1553 of Official Records, at page 341, executed by Bertha Murray, also known as Bertha Murray, to Otis D. Babcock, a single man.

APN: 006-0121-018-0000

Exhibit 2 – Funding Requirements

TI FUNDING REQUIREMENTS FOR RENTAL HOUSING MERGED DOWNTOWN PROJECT AREA REDEVELOPMENT HOUSING FUND

These “TI Funding Requirements” are attached to a Regulatory Agreement, and are incorporated in that Regulatory Agreement. In turn, the Regulatory Agreement is incorporated in the financing document that is described in the Regulatory Agreement. [The capitalized terms used shall have the meanings below. Terms being defined are indicated by quotation marks. Capitalized terms in these TI Funding Requirements that are not defined below are defined in the Regulatory Agreement and in such financing document.]

1. **RECITALS.** Agency is a redevelopment agency organized and operating under the California Redevelopment Law (commencing at Health & Safety Code Section 33000). The Agency Funding is funded by the Agency with proceeds of the Housing Fund (as defined in Health & Safety Code Section 33334.3) of the Project Area Redevelopment Project Area (“Project Area”) and made in accordance with the provisions of the redevelopment plan for the Project Area (“Redevelopment Plan”) and the California Redevelopment Law. The Agency has approved the Agency Funding on condition that the property securing the Agency Funding (“Property”) is rehabilitated or developed as residential rental property (“Project”) with certain units regulated in accordance with Health & Safety Code Section 33487 (“TI Restricted Units”) by recordation of these TI Funding Restrictions as covenants running with the land, in accordance with Health & Safety Code Section 33334.3(e). TI Restricted Units are made affordable by such regulation to persons and households that qualify as moderate-income, low-income or very low-income as indicated in Article I of the Regulatory Agreement. The development of the Project will benefit the Project Area because the Project will provide housing for persons who work within the Project Area.
2. **AFFORDABILITY REQUIREMENTS.** Owner shall assure that the TI Restricted Units shall be rented or sold at or below the following rates to households whose incomes are at or below the respective income limits for the rental rate :
 - a. Moderate-Income TI Restricted Units shall be rented for amounts that do not exceed payments of thirty percent (30%) of one hundred and ten percent (110%) the Sacramento Metropolitan Statistical Area median income (“Median Income”), as determined annually by the federal Department of Housing and Urban Development, as adjusted for family size appropriate to the size and number of bedrooms in the respective TI Restricted Unit.
 - b. Low-Income TI Restricted Units shall be rented for amounts that do not exceed payments of thirty percent (30%) of sixty percent (60%) the Median Income as adjusted for family size appropriate to the size and number of bedrooms in the respective TI Restricted Unit.
 - c. Very Low-Income TI Restricted Units shall be rented for amounts that do not exceed payments of thirty percent (30%) of fifty percent (50%) the Median Income as adjusted for family size appropriate to the size and number of bedrooms in the respective TI Restricted Unit.
 - d. Owner shall be responsible to determine the affordable amounts for the TI Restricted Units. Within ten (10) days of Owner request, Agency shall provide all information necessary for Owner to compute such affordable rents and will assist Owner in determining such amounts.
3. **TERM.** These covenants shall burden and regulate the TI Restricted Units for a term of fifty-five (55) years, unless a longer term is specified in the body of the document to which this attached.

Exhibit 6: Escrow Instructions

**JOINT ESCROW INSTRUCTIONS
FOR AGENCY LOANS**

“Effective Date”	May 1, 2010
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Agency and Borrower execute these Escrow Instructions as of the Effective Date. This document, including attachments and any amendments and additions, shall constitute the joint escrow instructions of Agency and Borrower for the Agency loan secured by the Property.

ARTICLE I. GENERAL TERMS.

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

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

“Title Company”	Fidelity National Title Company		
	Address:	3075 Prospect Park Drive, Suite 130, Rancho Cordova, CA 95670	
“Escrow” with Title Company	Escrow Number:	09-710267Z-LT	Attention: Liz Tholen
	“Agency”		
Redevelopment Agency of the City of Sacramento			
Address: 801 12 th Street, Sacramento, CA 95814			
Attention: Katherine Klein McFadden			
“Borrower”	Preservation Development LLC		
	Address: 1329 H Street, Sacramento, CA 95814		
	Attention: Steve Lebastchi		
“Closing Date”	May 1, 2010		
“Property”	Address:	1001 15th Street, Sacramento, CA 95814	APN: 006-0121-018-0000
	Description of the transaction		
Acquisition and rehabilitation of the historic four story Maydestone apartment building consisting of 24 studio units and 8 one-bedroom units and a renovated basement for the primary use as resident community space. The renovation will convert 32 dilapidated units into 32 units affordable to households who earn between 60-110% of the area median income.			

“Recorded Documents”- The following documents are to be recorded in the order listed (top being first in priority). Copies of the Recorded documents are attached.	Documents:	Marked for return to:
	Regulatory Agreement First Deed of Trust Second Deed of Trust Third Deed of Trust Notice of Affordability Restrictions	Redevelopment Agency of the City of Sacramento 801 12 th Street Sacramento, CA 95814 Attn: Katherine McFadden
“Agency Items”	First Promissory Note	
	Second Promissory Note	
	Third Promissory Note	
	First Loan Agreement	
	Second Loan Agreement	
“Borrower Items”	Third Loan Agreement	
	Authorizing resolutions for all Borrower signatories	
	Owner Participation Agreement	
Conformed copies of recorded documents		

“Special Provisions”:	ALTA 101.1 Mechanic’s Lien Endorsement, For the Regulatory Agreement - CLTA 124.1
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“Agency Title Policy” in the form of an ALTA Agency’s Policy insuring that the following are valid liens against the property:	Documents:	Coverage amount:	
	Regulatory Agreement and Trust Deed	In the amount of the loans secured (\$6,100,000)	
The title policies shall be subject only to the following “Conditions of Title”:	Items 1-8, and 10 of Title Company’s Preliminary Report for the Escrow	Dated:	March 3, 2010
		Number:	09-710267Z-B

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

BORROWER: PRESERVATION DEVELOPMENT LLC

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Name: Steve Lebastchi
Title: President
Authorized signatory

By: _____
LaShelle Dozier
Executive Director

ARTICLE II. INSTRUCTIONS

1. **CLOSING DATE.** Escrow shall close on or before the Closing Date as it may be changed from time to time by written agreement of Borrower and Agency.
2. **CONDITIONS TO CLOSE OF ESCROW.** "Close of Escrow" means the fulfillment of the Escrow terms and conclusion of the Escrow, including, without limitation, the execution of unexecuted documents, the recordation of documents specified for recording, the issuance of title insurance policies, the payment of fees and the delivery of funds and documents as directed in the escrow instructions for the Escrow. The Close of Escrow shall occur on the Closing Date.

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

- 2.1.1. The conditions precedent to performance stated in the Recorded Documents are satisfied as of the Closing Date.
- 2.1.2. Simultaneously with the Close of Escrow, Title Company shall issue the Agency Title Insurance to Agency (at Borrower's cost) in the amount stated. The Agency Title Insurance shall include all usual and customary endorsements and any endorsements and other commitments as Agency may reasonably require. The Agency Title Insurance shall show the Recorded Documents marked for return to Agency as valid liens against the Property in favor of the Agency, subject only to the Conditions of Title, and securing, as applicable, Borrower's performance of its obligations and repayment of Agency Funding.
- 2.1.3. Prior to the Closing Date, the parties shall duly execute (in Escrow or prior to deposit in Escrow) each such document and shall execute those to be recorded in a manner suitable for recording.
- 2.1.4. On or before the Closing Date, Agency shall also deposit with Title Company the Borrower Items and any Loan Amount then to be disbursed under this Agreement, but not less than closing costs, fees and charges required for Close of Escrow.
- 2.1.5. On or before the Close of Escrow, Borrower shall also deposit with Title Company the Agency Items and Borrower's share of closing costs and fees.
- 2.1.6. Title Company is satisfied that all required funds have been deposited in Title Company's account for the Escrow, have cleared the originating bank and are available for transfer by Title Company's check or wire transfer to the appropriate party.

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

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

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

- 2.3.1. Assure fulfillment of the Special Provisions;
- 2.3.2. Assure all documents are complete and affix legal descriptions of the Property as necessary to complete them;

2.3.3. Obtain full execution of all unexecuted documents;

2.3.4. Date all undated documents as of the Closing Date;

2.3.5. Record the Recorded Documents in the priority listed;

2.3.6. Determine all closing costs and fees; including without limitation, all charges, fees, taxes and title insurance premiums payable under this Agreement on Close of Escrow and any other fees and charges approved for payment from Escrow by both parties and deduct such fees from the Loan proceeds deposited by Agency in Escrow;

2.3.7. Deliver the Agency Items to Agency and the Borrower Items to Borrower; and

2.3.8. Prepare and deliver to Borrower and Agency, respectively, one signed original of all documents included for delivery to either party and not delivered for recording, one signed original of Title Company's closing statement showing all receipts and disbursements of the Escrow, and one conformed copy of each of the recorded documents.

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

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

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ACCEPTANCE OF ESCROW INSTRUCTIONS

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

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

Borrower agrees to indemnify and hold you harmless from damages incurred as a result of your good faith and diligent performance of your duties under these escrow instructions.

Upon your acceptance of these escrow instructions, return the executed counterparts of these escrow instructions to Agency and Borrower, respectively.

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

Dated: _____

**TITLE COMPANY
FIDELITY NATIONAL TITLE COMPANY**

By: _____

Name: _____

Title: _____

Its authorized agent and signatory