

Meeting Date: 12/2/2014

Report Type: Review

Report ID: 2014-00907

Title: (Agreement/Contract for Review and Information) Agreements for 700 Block of K Street

Location: District 4

Recommendation: Review a report approving a 1)\$1,600,000 Construction and Permanent Loan Agreement; 2) \$ 1,543,538 Grant Agreement; 3) related documents with the Downtown Sacramento Revitalization Corporation for the 700 Block of K Street Project; and 4) authorizing the City Manager to execute the documents.

Contact: Leslie Fritzsche, Senior Project Manager, (916) 808-8161, Economic Development Department

Presenter: None

Department: Economic Development Dept

Division: Administration

Dept ID: 18001011

Attachments:

- 1-Description/Analysis
- 2-Background
- 3-Construction and Permanent Loan Agreement
- 4-Conditional Grant Agreement

City Attorney Review

Approved as to Form
Sheryl Patterson
11/20/2014 12:57:50 PM

Approvals/Acknowledgements

Department Director or Designee: John Dangberg - 11/18/2014 2:31:08 PM

Description/Analysis

Issue:

On June 22, 2011, the Redevelopment Agency of the City of Sacramento (“Redevelopment Agency”) entered into a Disposition and Development Agreement (“DDA”) with 700 Block, LLC, which is controlled by D&S Development Inc. and CFY Development Inc. Through the DDA, the developer agreed to purchase from the Agency the real properties located at 700, 704, 708, 710, 712, 716, 718, 722, 724, 726, and 730 K Street, 1111 and 1113 7th Street, and 1110 and 1114 8th Street (the “700 Block Property”) for the development of a mixed-use commercial and affordable housing project (“Project”). With the dissolution of the Redevelopment Agency and subsequent legal challenges to the funding allocated for the Project, changes to the structure and financing are needed to implement the Project. The loss of \$2.6 million in redevelopment funds previously pledged and increased construction costs of \$4.2 million have resulted in a \$6.8 million gap.

To address this funding gap, on October 7, 2014, the Council approved \$2.117 million in City funds, which were comprised of a \$1.6 million loan from the Economic Development Fund (Fund 2031) fund balance and \$517,523 of unencumbered Merged Downtown tax-exempt bond funds (2005 TAB Downtown CIP Tax-Exempt Fund). These funds were in addition to \$1,026,485 in Merged Downtown tax-exempt bond funds originally allocated to the Project and transferred to the City from the Redevelopment Agency Successor Agency (RASA) on September 23, 2014, as part of the approved Settlement Agreement with the State of California Department of Finance.

As part of the Council-approved actions on October 7, 2014, a Funding Commitment Letter with the Downtown Sacramento Revitalization Corporation (DSRC) granted the allocated bond funds and loaned the Economic Development Funds for the Project. DSRC would then grant and loan the funds to the Developer. The Conditional Grant Agreement and the Construction and Permanent Loan Agreement between the City and DSRC, along with promissory notes, are attached to this report and are recommended for approval and for execution by the City Manager. Repayment of the loan is not secured by a deed of trust, but DSRC’s agreements with the Developer impose the repayment requirement.

Policy Considerations: The Project is consistent with long-standing City Council, Redevelopment Agency, and community direction. It is in keeping with the 2030 General Plan, the Central City Community Plan, and the Merged Downtown Implementation Plan. Among the Project benefits are reusing deteriorated historic buildings, developing of a range of housing options to attract new residents downtown, developing of a second catalyst in the area surrounding the new Entertainment and Sports Complex, and creating new employment opportunities.

Economic Impacts: The total cost of the Project is \$51.2 million. This is projected to create 240 direct jobs and 175 indirect jobs. According to the Center for Strategic Economic Research (CSER) calculation, an additional \$40 million in direct output and over \$25 million in indirect or induced activities will be generated by the construction of the Project.

The indicated economic impact estimates are calculated using a tool developed by the CSER. Actual impacts could differ significantly from the estimates and neither the City of Sacramento nor CSER shall be held responsible for consequences from such differences.

Environmental Considerations:

The Project was subject to environmental review and an environmental impact report was certified on May 12, 2011. The Project scope remains unchanged. The recommended actions do not require further environmental review per CEQA Guidelines sections 15612 and 15163.f.

Sustainability Considerations:

The Project is considered to be infill development, which provides multiple benefits including providing mixed income housing options close to jobs, reducing the need to build new development on the urban fringe, increasing the viability of and dependency on alternative modes of transportation, preserving natural resources, and providing for efficient use of land, services, and infrastructure.

Sustainable measures that have been incorporated through conditions of approval for the Project include construction of a green roof and energy efficient windows (except for the historic buildings which will comply with the Secretary of the Interior's Rehabilitation Standards).

Commission/Committee Action: On July 21, 2014, and August 18, 2014, the Oversight Board for RASA approved the assignment of the DDA with 700 Block, LLC and the Funding Commitment Letter with the Downtown Sacramento Revitalization Corporation to the City. In addition, they authorized the transfer of \$1,026,485 in Merged Downtown tax exempt bond funds and the 700 Block Property to the City. On September 15, 2014, the Oversight Board approved the allocation of an additional \$517,053 in Merged Downtown Bond funds for the Project, and the transfer of those funds. On September 30, 2014, the Department of Finance (DOF) approved the previous Oversight Board actions to implement the Settlement Agreement. On November 6, 2014, DOF approved the Oversight Board's action to allocate the additional bond funding.

On October 1, 2014, the Sacramento Housing and Redevelopment Commission approved the modifications to the low and moderate income funding sources allocated for the residential portion of the Project and an amended Funding Commitment Letter. The City Council approved these actions as the Housing Authority board on October 7, 2014.

Rationale for Recommendation:

In June 2011, the Redevelopment Agency entered into a DDA with 700 Block, LLC for the development of the Agency-owned property on the southern block of 700 K Street. Under the DDA, the Developer agreed to redevelop the 700 Block Property to restore the historic storefronts along K Street, rehabilitate the commercial spaces, and bring in new retail tenants. Demolition of the southern 60 feet (back portion) of some of the structures will provide for the construction of a new 6-story residential building over 2 levels of parking. Parking spaces will be available to residential tenants. A total of 73,000 sq. ft. of commercial space will be provided.

To address the goal of additional housing units on K Street, the Project includes 137 residential units; 15 over the commercial uses along K Street and 122 units in the new structure along the alley. The Project is designed to attract a variety of tenants. Units will range in size from studios to two-bedrooms. 72 of the units will be restricted at 60% of area median income (AMI), 11 of the units restricted at 50% of AMI, and the remaining 54 will be unrestricted market rate units. This rent structure is a slight change from the previously approved project, with an increased number of affordable units and 11 units restricted at 50% AMI. The Background section of this report outlines the Project's history and a more detailed description of the Project, as well as the Development team.

This Project has significant benefits for the City's efforts to revitalize the Downtown and can be completed in a timeframe that corresponds to the opening of the new Entertainment and Sports Center. The attributes of the Project include:

- Revitalizes and removes blight from an entire half block on K Street.
- Preserves the historic character of the block.
- Creates unique destination retail and housing in a transit-oriented, mixed-use pedestrian friendly development.
- Attracts \$37.8 million in additional private investment to the block.
- Requires partial repayment of public investment to reinvest in Downtown projects.
- Creates rental housing units with a mix of affordability including 60% affordable units (at 60% and 50% of AMI) and 40% market rate units.
- Bolsters investments made in the downtown area including the new Entertainment and Sports Complex, the renovated 24 Hour Fitness, Citizen Hotel, the Crest, the Cosmopolitan, the Sheraton, and venues on K Street among other businesses on J, K and L Streets and attracts additional investment to the Downtown area.
- Creates 500 permanent jobs.
- Generates approximately \$1.4 million in annual sales tax.
- Brings an estimated additional 5,000-6,000 patrons to K Street each week.

The Project has progressed through final design and is ready for issuance of building permits. If the documents recommended in this report and Housing Authority documents for the Project are approved (a companion Housing Authority report for the Project is scheduled for December 9th), the California Debt Limit Allocation Committee authorizes the mortgage revenues bonds on December 10th and the Tax Credit Allocation Committee approves the tax credits on December 16th, the Project is in a position to close the transaction by the end of the year. The Developer plans to begin construction by early 2015. Construction will span an 18-24 month period and should be complete by the end of 2016.

Financial Considerations:

In June 2011, the Redevelopment Agency approved the DDA for the Project, along with \$10.1 million of low-moderate income housing tax-exempt bond funds and \$3.6 million in non-housing tax-exempt bond funds and tax increment funds. Unfortunately \$2.6 million of these funds were lost when the

State Department of Finance determined that the project agreements were no longer considered an “enforceable obligation” and those funds were distributed to pay the Redevelopment Agency debts.

On October 7, 2014 (Resolution 2014-0337), the Council approved \$517,053 in unencumbered 2005 TAB Downtown CIP Tax-Exempt Funds (Fund 8303), which were then accepted from RASA and transferred to the Economic Development Fund (Fund 2031), and a \$1.6 million loan from the Fund 2031 fund balance for the Project (U18003080). These funds along with \$1,026,485 in Downtown tax-exempt bond funds were incorporated into a Funding Commitment Letter with the Downtown Sacramento Revitalization Corporation (DSRC), also approved by Council as part of the October 7th actions.

The attached documents are in furtherance of the October 7th approvals and comport the approved Funding Commitment Letter. The proposed Construction and Permanent Loan Agreement (Attachment 2) provides for a 30-year, 1% interest \$1.6 million loan to DSRC. DSRC would repay these funds at a rate of \$65,000 annually beginning December 1, 2018. The proposed Conditional Grant Agreement (Attachment 3) grants the \$1,543,538 in Downtown Tax-Exempt Funds to the DSRC. A portion of these funds (\$240,000) will be granted for the residential component of the Project and \$1,303,053 will be provided to the Developer as an equity contribution with DSRC as a member of the partnership. Under the agreements between DSRC and the Developer, DSRC will receive 25% of the Project’s commercial cash flow beginning in the third year of operation and 20% of the residential cash flow beginning in the twentieth year. DSRC will use these funds to repay the City’s \$1.6 million loan.

Local Business Enterprise (LBE): Not applicable.

HISTORY

In December 2009, the City Council acting as the Board of the Redevelopment Agency issued a Request for Qualifications requesting mixed-use development proposals on Agency-owned properties in the 700/800 blocks of K Street. On July 13, 2010, the Agency Board selected two "Development Teams" as the preferred developers to redevelop the Agency-owned properties on the both 700 and 800 blocks of K and L Streets. D&S Development, Inc. and CFY Development, Inc. (700 Block Investors LP) were selected for the south half of the 700 block of K Street and the 800 Block LLC (David Taylor Interests, Inc., CIM Group and Domus Development) for portions of the 800 block between K and L Streets.

On August 24, 2011, the Agency entered into an Exclusive Right to Negotiate with the 700 Block Investors, LP, later doing business as 700 Block, LLC, to allow the Agency the opportunity to evaluate the development proposal, prepare environmental documents, and process entitlements for the project.

Commissions/Committees: On September 11, 2010, the 700 Block Development Team presented the proposed development concept to the Preservation Roundtable. The project was presented to the Preservation Commission on January 5, 2011, the Planning Commission on January 13, 2011 and to the Downtown Strategic Task Force on January 27, 2011 for early review and comment. The project was also presented to the Sacramento Old City Association on April 4, 2011 and to the Neighborhood Area Group 1 on April 6, 2011 for review and comment.

On May 5, 2011, the Downtown Sacramento Partnership Strategic Task Force forwarded a recommendation of project support to the Downtown Sacramento Partnership Board of Directors subject the provisions that 1) the DSRC participate in the sale proceeds, 2) clarification be provided that there would be no recourse to the City should the Developer default on their loan to the New Market Tax Credit (NMTC) investment fund, and 3) the Developer Fee be distributed at specific milestones during construction, lease up, and project stabilization. On May 12, 2011, the Downtown Sacramento Partnership Executive Committee forwarded the same recommendation to the Downtown Sacramento Partnership Board. While the source of the Developer's financing no longer includes NMTC funds, DSRC will be an equity investor consistent with the original recommendation.

City Planning staff also routed the project for early review to the Downtown Sacramento Partnership, the Sacramento Old City Association, The Preservation Roundtable and the Environmental Council of Sacramento (ECOS). On May 12, 2011 the Planning Commission approved the special permits for the project subject to conditions of approval and on May 19, 2011 the Preservation Commission approved the project with conditions.

On June 15, 2011, the Downtown Sacramento Partnership Board and the Sacramento Housing and Redevelopment Commission approved the project and its financing

structure. On June 22, 2011, the Agency Board approved a Disposition and Development Agreement with 700 Block, LP and a Loan Commitment Letter with the Downtown Sacramento Revitalization Corporation for the project.

PROJECT DESCRIPTION

The development plan proposes to transform the blighted half block of K Street between 7th and 8th streets into a vibrant mixed-use development providing both commercial and residential uses. The Developer intends to restore the historic storefronts along K Street, rehabilitate these commercial spaces, and bring in new retail tenants. Demolition of the southern 60 feet (back portion) of some of the structures will provide for the construction of a new 6-story residential building over two levels of parking. A total of 63,000 sq. ft. of commercial space will be provided. Parking spaces will be available to residential tenants.

Retail/Commercial: The Agency’s goal for the 700 block of K Street was to redevelop Agency-owned properties into a vibrant mixed-use development including residential, retail, and commercial uses. The Development Team proposes to bring a unique mix of local and national tenants to the 700 block to create a unique destination. Tenants have been secured for approximately 75% of the ground floor retail space. Ground floor commercial uses will be comprised of 50% restaurant and entertainment uses and 50% retail. The basement and rooftop spaces within the buildings create unique opportunities and are proposed to be developed as active spaces whenever possible.

Housing: To address the goal for additional housing units on K Street, the project includes 137 units—15 over the commercial uses along K Street and 122 units in the new structure along the alley. The project is designed to attract a variety of tenants. Units will range in size from studios to two-bedrooms. Approximately 52% of the units will be at 60% area median income (AMI), with 8% of units at 50% of AMI and the rest at market rate. Resident amenities will include a community room, fitness room, and laundry room, as well as a private rooftop garden.

The original project unit breakdown and affordability mix is as follows:

	Studio	1 Bedroom	2 Bedroom	Total	%
60% AMI	21	47	4	72	52%
50% AMI	4	6	1	11	8%
Unrestricted	17	29	8	54	40%
Total	42	82	13	137	
%	31%	60%	9%		

The affordability mix has changed as noted in the Housing Authority report.

The 700 block project provides for housing options in an excellent location, only two blocks from the State Capitol and within an employment center that includes many office buildings. This transit-oriented development offers housing options adjacent to jobs and light rail.

Developer: The Developer is led by CFY Development, Inc, and D&S Development Inc. CFY has more than 20 years' experience in affordable housing and D&S Development, Inc. has been developing and providing management services to commercial and office properties in the Sacramento area for many years. The Agency had previously participated in financing four affordable housing projects initiated by CFY Development in the greater Sacramento area. The 184-unit Cordova Meadows project involved the rehabilitation of 32 boarded and vacant buildings for affordable family housing in Rancho Cordova, two projects were renovated in the Auburn Boulevard Redevelopment Area—County Square Senior Apartments (78 units) and Ladan Senior Apartments (147 units)—and most recently, CFY completed Globe Mills, a 134-unit historic renovation in the Downtown area. In addition, the Agency has been engaged with D&S Development Inc. on the renovation of the Maydestone and the Old Sac iLofts.

Property Management: Property management will be provided by CFY Development Inc.

Resident Services: The Developer will be required to provide a minimum of 15 hours per week of resident services. The Resident Provider will be determined by the Developer and approved by the City before the funding agreements are implemented. The selected resident service provider will have experience in the provision of Resident Services in affordable housing projects.

Security: Developer will be required to provide a security camera system approved by the SHRA and lighting adequate to properly illuminate all common spaces. In addition, Developer has included funding for security patrol.

Regulatory Agreements: As a condition of the transfer of land to the Developer, regulatory provisions will be attached to the land (55 years for the affordable housing project and 30 years for the commercial provisions) through two regulatory agreements.

CONSTRUCTION AND PERMANENT LOAN AGREEMENT 700 BLOCK OF K STREET PROJECT

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 **Error! Reference source not found.** 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.

A. “Loan Information” The general loan provisions of the Loan:		
“EFFECTIVE DATE”	December 1, 2014	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	City of Sacramento	
Legal Status	A municipal corporation	
Principal Address	915 I Street, 5 th Floor, Sacramento CA 95814	
“BORROWER”	The borrower of the Loan funds whose name, legal status and address are:	
Name	Downtown Sacramento Revitalization Corporation	
Legal Status	a California not for profit public benefit corporation	
Principal Address	c/o Economic Development Department of the City of Sacramento, 915 I Street ,4 th floor Sacramento, CA 95814	
“LOAN”	The Loan made by this Loan Agreement.	
“LOAN COMMITMENT”	Lender’s loan commitment, made by letter dated as of	October 7, 2014
“LOAN PROGRAM”	Lender’s Loan Program, commonly known as	Economic Development Fund
“LOAN AMOUNT”	One Million Six Hundred Thousand Dollars and No Cents (\$1,600,000.00)	
“INTEREST RATE”	The interest rate is 1% per year, simple interest beginning in the 60th calendar month.	
“PAYMENT START DATE”	The first day of the 60 th calendar month following the Effective Date.	
“MATURITY DATE”	The first day of the 360 th calendar month following the Effective Date.	
“PAYMENT SCHEDULE”	Sixty Five Thousand Dollars and no Cents (\$65,000.00) shall be paid annually. All outstanding principal and interest is due and payable on the maturity date.	
“SPECIAL TERMS”	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 and shall indicate the projected final sources of funding. If there is a reduction in the total cost of the commercial portion of the Project, after all other lenders have taken their share of the savings through loan balance reductions, the Lender shall withhold for itself as loan repayment, of the amount of such residual savings, if any, from the amount of retention then held by the Lender, and the Loan Amount shall be reduced by the amount so withheld.	
“PROJECT”	The residential and commercial Project to be developed by 700 Block Investors, L.P. and 700 Block Commercial, L.P. on the Property with the Loan funds, described as:	The Project is the rehabilitation of the existing commercial properties on the south side of K Street between 7 th and 8 th Streets in Downtown Sacramento and the creation of 137 mixed-income rental units, including 15 units in the rehabilitated buildings and 122 units in a newly constructed mid-rise building to the south of, and attached to, the commercial properties.

"RESIDENTIAL PROJECT"	The residential portion of the Project to be developed by 700 Block Investors, L.P.	Creation of 137 mixed-income rental units, including 15 units in the rehabilitated buildings and 122 units in a newly constructed mid-rise building.
"COMMERCIAL PROJECT"	The commercial portion of the Project to be developed by 700 Block Commercial, L.P.	Rehabilitation of the existing commercial properties on the south side of K Street between 7 th and 8 th Streets in Downtown Sacramento.
"PROJECT DEVELOPERS"	The entities developing this Project are 700 Block Investors, L.P. and 700 Block Commercial, L.P.	
B. "COLLATERAL" The Collateral securing repayment of various loans and grants for the Project, which Collateral consists of the following:		
"PROPERTY"	The following described real property, which is security for the various Project loans and grants by other lenders:	
Address	700 K Street, 704 K Street, 708 K Street, 710 K Street, 712 K Street, 716 K Street, 718 K Street, 722 K Street, 724 K Street, 726 K Street, and 730 K Street, 1111 and 1113 7 th Street, and 1110 8 th Street and 1114 8 th Street	
Assessor's Parcel Numbers	006-0096-002, -003, -004, -005, -006, -007, -008, -009, -010- 018 and -019	
"Legal Description"	The Residential 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.	
Partnership's Title Interest	The Partnership has the right to obtain fee interest in the Residential Property from Grantor and will acquire fee interest in the Property as provided in their Amended and Restated Disposition and Development Agreement with the City (the "DDA"). Grantor acknowledges that Grantee has and will have no fee interest in the Property and that Grantor will look solely to the Partnership for effectuating any security interest in the Property.	
"RESIDENTIAL PROPERTY"	The residential portion of the Property described above more particularly described in Exhibit 1 . The Loan from Lender to Borrower is unsecured.	

C. "ESCROW INFORMATION":		
"Title Company" and "Escrow Agent"	Placer 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: Jenny Vega	
"Closing Date"	December 15, 2014	Which is the date for close of the Escrow to transfer the Property to Project Developers, 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"

E. "APPROVAL DOCUMENTS" Borrower shall submit the following documents for Lender approval:	
Borrower's partnership agreement and grant and loan agreements with Project Developers (700 Block Investors, L.P. and 700 Block Commercial, L.P.)	
"Budget" for the Residential Project	
Evidence of Residential Project financing as described in this Loan Agreement	
Plans and Specifications as defined in this Loan Agreement	

F. "CONSTRUCTION INFORMATION":			
"Completion Date"	December 31, 2016	Which is the date on or before which the Completion of the Residential Project must occur.	
"General Contractor"	CFY Development, Inc.	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%)

3. **DEFINITIONS.** As used in this Loan Agreement, the following terms shall have the following meanings:

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

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

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

3.4. "Completion of the Project" means that, in Lender's sole judgment the Residential 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 Residential Project have been filed and all statutory lien periods have expired; all costs of constructing the Residential Project have been paid, including, without limitation, interest on the Note which may be due prior to the Completion Date; all necessary certificates of occupancy have been issued; and all of the conditions to final disbursement of the Loan have been satisfied.

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

3.6. Intentionally Omitted.

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

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

3.9. "Fixtures" means all fixtures located on or within the Residential Project or now or later installed in or used in connection with any of the Residential 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 Residential Project.

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

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

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

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

3.14. "Loan Agreement" means this Construction and Permanent Loan Agreement, all Exhibits attached to this Loan Agreement (which are incorporated in this Loan Agreement by this reference) and the Loan Documents which are not otherwise included in this definition.

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

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

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

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

3.19. "Partnership" means 700 Block Investors L.P., developer of the Residential Project.

3.20. "Personalty" means all of the Partnership'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 Residential 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 the Partnership, now or later located about the Residential Property, together with all present and future attachments, accessions, replacements, substitutions, and additions, and the cash and noncash proceeds.

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

3.22. "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.

3.23. "Project" means the development of the Property in accordance with the plans and specifications for both the Residential Project and Commercial Project 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.

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

3.25. "Security Documents" means the documents entered into between Borrower and Lender or by Borrower and the Partnership in favor of, or for the benefit of, Lender that recite that they are to secure the Loan.

3.26. Intentionally Omitted.

3.27. "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 the Definitions, 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, 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, and each of the other Loan Documents constitute a legal and binding obligation of, and are 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 Residential Property, or any part of it, 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 Residential 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. Intentionally Omitted.

4.8. Intentionally Omitted.

4.9. Intentionally Omitted.

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 development of the Residential Project in accordance with the Plans and Specifications and for other purposes specified in the Loan.

4.11. Intentionally Omitted.

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. To the best of Borrower's knowledge, no violation of any Governmental Requirement exists.

4.13. **ACCURACY.** All of Borrowers applications, financial statements, reports, documents, instruments, information, and forms of evidence delivered to Lender by Borrower 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 Residential 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 Residential 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.** Borrower shall use the loan funds to make a loan to the Partnership for construction of the Residential Project. Income from the Commercial Project is the anticipated source of Borrower's repayment of the Loan. Loan funds shall be used solely for actual costs of the Residential 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.** 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. This Loan is unsecured, and there are no Security Documents in connection with this Loan.

5.6. Intentionally Omitted.

5.7. **ESCROW.** The parties shall open the Escrow promptly after the Effective Date. Escrow shall close 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. Intentionally Omitted.

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) Borrower's representations and warranties in this Loan Agreement are true and correct as of the Close of Escrow; (c) 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 (d) 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) Borrower has met the Conditions to Close of Escrow, (c) 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 (d) 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. Intentionally Omitted.

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

8.1. **CHANGES.** In order to assure sufficient funding for the Residential 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 Residential 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 provided by the Partnership 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 Residential Project then remaining to be completed.

8.2. **CONTRACTORS AND CONTRACTS.** Upon Lender's request, Borrower will furnish to Lender correct lists of the Partnership's contractors, subcontractors and material suppliers employed in connection with the Residential Project, specifying their addresses, their respective portion of the Residential Project and their respective Residential 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 Residential Project will require them to disclose to Lender information sufficient to make such verification.

8.3. **NO DISCRIMINATION DURING CONSTRUCTION.** Borrower shall obligate the Partnership to agree for itself, the general contractor and their respective successors and assigns, that the following provisions shall apply to, and be contained in all contracts and sub-contracts for the construction of the Residential Project.

8.3.1. **EMPLOYMENT.** Borrower shall obligate the Partnership to not discriminate against any employee or applicant for employment because of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. Borrower shall obligate the Partnership to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. 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. Borrower shall obligate the Partnership to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Lender setting forth the provisions of this nondiscrimination clause.

8.3.2. **ECONOMIC OPPORTUNITY EMPLOYMENT REQUIREMENTS.** The contract requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents in the City and County of Sacramento. The Borrower will work with the Partnership to have it instruct the General Contractor and its subcontractors to utilize lower income residents as employees to the greatest extent feasible.

8.3.4. **ADVERTISING.** Borrower shall obligate the Partnership to ensure that the General Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the General Contractor, 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.

8.3.5. **MONITORING PROVISIONS.** Borrower shall obligate the Partnership to ensure that the Partnership oversee the General Contractor and subcontractors to verify compliance with these requirements of the Lender for the anti-discrimination and all applicable labor requirements.

8.4. **INSPECTION.** Lender may, at any time and without notice to Borrower or the Partnership, enter on the Residential Property and inspect the Residential Project; and, during regular business hours, examine the books, records, accounting data, plans, shop drawings, specifications, and other documents of Borrower pertaining to the Residential 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 Partnership and the General Contractor to cooperate fully) with the Lender and its Lender's designated agent and to permit all appropriate access to the Residential Property and to all relevant books and records. Borrower shall obligate the Partnership to 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, the Partnership shall bear the costs of such third party review.

8.5. **PROTECTION AGAINST LIEN CLAIMS.** Borrower shall require the Partnership to promptly and fully discharge all claims for labor, materials and services in connection with the Residential Project. Borrower shall require the Partnership to promptly file a valid Notice of Completion on completion of the Residential Project and provide a copy to the Borrower. Borrower shall require the Partnership to promptly file a Notice of Cessation in the event of a cessation of labor on the Residential Project for a continuous Period of (30) days or more and provide a copy to the Borrower. The Partnership shall take all other reasonable steps to protect against the assertion of lien claims against the Residential Property. Within ten (10) days after the filing of any claim of lien against the Residential Property, the Partnership shall record a surety bond in the office of the Recorder of the County where the Residential 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. A copy of the surety bond should be provided to Borrower.

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

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

8.6. **SECURITY INSTRUMENTS.** There are no Security Documents in connection with this Loan.

8.7. **OTHER LENDER DRAW.** Borrower through the Partnership 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 Residential Project in any material way, or for impairing the ability of Lender to enjoy the practical realization of its rights under the Loan and its related instruments. If Lender rejects an Other Lender Draw, Borrower shall withdraw the Other Lender Draw and shall not accept and shall return any disbursement on account of such Other Lender Draw.

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

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

9. **PREVAILING WAGES.** Lender advises Borrower who will inform the Partnership that the Residential Project is subject to the payment of prevailing wages under California law. Borrower will obligate the Partnership to inform the General Contractor and shall require the General Contractor to inform all subcontractors and materialmen furnishing goods or services to the Residential Project of Lender's determination of the applicability of California prevailing wage requirements. Borrower will inform the Partnership that the Partnership and General Contractor have the opportunity to meet with their respective legal counsel and to request a determination of the matter before the California Department of Industrial Relations and any other appropriate governmental bodies. Borrower will inform the Partnership that the Partnership and General Contractor may make their own independent determinations of the applicability of prevailing wage laws and may independently implement such determinations. Borrower shall obligate the Partnership to indemnify, hold harmless and defend the Borrower and 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 Residential Project by the Partnership or General Contractor or both of them.

10. **LOAN DISBURSEMENT PROCEDURES.** The first Loan disbursement will be a disbursement of the full amount of the Loan at Close of Escrow. Any portion of such funds not disbursed at Close of Escrow will be placed in a construction escrow account with the senior construction lender. Each subsequent disbursement of the Loan funds from the construction escrow account to the Partnership will be subject to the disbursement terms contained in this Loan Agreement and in any other disbursement agreement(s) with the commercial construction lender.

10.1. 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:

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

10.1.2. Intentionally Omitted.

10.1.3. 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 Residential Property will be owned by the Partnership free of any liens, encumbrance, or other interests of any kind other than Lender approved liens or security interests.

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

10.1.5. 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.

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

10.2. 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 10.1 have been met:

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

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

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

10.2.4. Borrower has obtained from the Partnership and has provided to Lender proof of all insurance required by the Loan Documents.

10.2.5. Borrower has required the Partnership and the Partnership has obtained the construction lender's commitment to make a construction loan that is in full force, has not been modified and no event has occurred that with notice or the passage of time or both could result in the termination of it. Nothing in the permanent loan commitment, or submissions and approvals made under it, conflicts with this Loan Agreement. The Partnership and Borrower (as applicable) have done all things necessary to keep unimpaired the Partnership rights under the loan commitment for the construction lender's construction loan.

10.2.6. Borrower has entered into loan and grant agreements creating funding obligations for the Residential Project by and between the Partnership and the Borrower. Such documents have been executed and are in full force and effect. Nothing about those obligations as documented and executed, or in submissions and approvals made under it, conflicts with this Loan Agreement. Borrower has done all things necessary to keep unimpaired its rights under those funding agreements.

10.2.7. Intentionally Omitted.

10.2.8. Intentionally Omitted.

10.3. **CONDITIONS PRECEDENT TO FINAL DISBURSEMENT.** Lender shall authorize the final loan disbursement under this Loan Agreement when the following conditions precedent and the conditions precedent stated in Section 10.1 have been met:

10.3.1. 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 Residential Project has been duly completed in a good and proper manner using sound, new materials;

b. That the Residential 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 Residential Project; and

c. That the Residential Project is structurally sound.

10.3.2. Intentionally Omitted.

10.3.3. Intentionally Omitted.

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

10.3.5. 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 from the Partnership for the Residential Project;

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

d. The completed Residential 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.

10.3.6. That Borrower has obtained from the Partnership and 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 Residential Project, that are included in the collateral for the Loan.

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

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

10.3.9. The Partnership has submitted to Borrower and Lender a final cost certification prepared by a CPA.

10.3.10. Borrower must request Final Disbursement consistent with terms and conditions of this Loan Agreement no later than 3 years and 11 months following the Effective Date of this Loan Agreement. If Borrower fails to request Final Disbursement consistent with the terms and conditions of this Loan Agreement within 3 years and 11 months of the Effective Date, the remaining funds will be recaptured.

10.4. **COMPLETION DISBURSEMENT.** Notwithstanding any provision of this Agreement to the contrary, in no event shall the Final Disbursement be disbursed until the (a) the Residential Project has received a temporary or final certificate of occupancy and (b) the accountants for Borrower have determined that Borrower has met the “50% test” set forth in Internal Revenue Code Section 42(h)(4).

10.5. **MAKING DISBURSEMENT.** Lender shall authorize the payment of 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 10.1. Lender shall authorize disbursement to the Partnership 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.

10.6. **COMPLIANCE.** To the best of Borrower's actual knowledge, without duty of inquiry, the construction, use, and occupancy of the Residential Property and Residential 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 Residential Project is to any extent dependent on any real property other than the Residential 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 Residential 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.

11. Intentionally Omitted.

11.1.

11.2.

11.3.

12. **DEFAULT.**

12.1. **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:

12.1.1. Intentionally Omitted.

12.1.2. Intentionally Omitted.

12.1.3. Intentionally Omitted.

12.1.4. Intentionally Omitted.

12.1.5. Intentionally Omitted.

12.1.6. Intentionally Omitted.

12.1.7. Intentionally Omitted.

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

13. **REMEDIES.**

13.1. **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:

13.1.1. Terminate its obligation to make or authorize additional disbursements.

13.1.2. Intentionally Omitted.

13.1.3. 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.

13.1.4. 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.

13.1.5. 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.

13.1.6. Notwithstanding anything to the contrary set forth in this Loan Agreement, in the event that 700 Block Commercial, L.P. fails to complete construction of the Commercial Project (which project is the anticipated source of funding for repayment of the Loan), Borrower's obligations under this Loan Agreement shall terminate and Borrower shall not be required to make any payments under the Loan.

13.2. **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.

13.3. **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 Residential Project; to pay any expense in connection with the exercise of any remedy; or to perform any other obligation of Borrower.

13.4. **GRANT OF POWER.** Subject to the prior rights of lenders whose loans are secured by the Residential 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 Residential 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 Residential 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 Residential 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 Residential Project, for the protection or clearance of title to the Personalty, or for the protection of Lender's interests, to employ security guards to protect the Residential 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 Residential Project, or for the protection of Lender's interests; to prosecute and defend all actions and proceedings in connection with the Residential 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 Residential Project, and to do all other acts with respect to the Residential Project that Borrower might do on its own behalf, in each case as Lender in its reasonable discretion deems proper.

14. **LIABILITY INSURANCE.** With regard to this Loan Agreement, the Borrower shall obligate the Partnership to require the General Contractor and subcontractors for the Residential Project to obtain and maintain for the term of the development of the Residential 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.

14.1. **LIABILITY INSURANCE POLICY LIMITS.** Borrower shall obligate the Partnership to ensure that all insurance required under this Section 14 is 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:

14.2. **WORKER'S COMPENSATION.** Borrower shall obligate the Partnership to ensure that worker's compensation coverage required under this Section 14 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.

14.3. **COMMERCIAL GENERAL LIABILITY.** Borrower shall obligate the Partnership to ensure that the Commercial General Liability insurance is 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 Residential Project.

14.4. **COMPREHENSIVE AUTOMOBILE LIABILITY.** Borrower shall obligate the Partnership to ensure that the comprehensive automobile liability coverage for any vehicle used for, or in connection with, the Residential Project (owned, nonowned, hired, leased) has a combined single limit of not less than \$1,000,000.

14.5. **PROPERTY INSURANCE.** Borrower shall obligate the Partnership to ensure that property insurance in ISO policy form CP 10 30 - Building and Personal Property Coverage - Causes of Loss - Special Form, is maintained to the full insurable value of the Residential Property with no coinsurance penalty (and with endorsements of Builder's Risk until completion of construction of the Residential 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 Residential Project and the Residential Property. In the event of damage to the Residential Project and subject to the requirements of Lender, Borrower shall obligate the Partnership to ensure that the proceeds of such insurance are used to reconstruct the Residential Project and the public improvements.

14.6. **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:

14.6.1. **ADDITIONAL INSURED.** Borrower shall obligate the Partnership to ensure that the policy in ISO form CG 00 01 or better names Lender as additional insured under the Commercial General Liability Policy.

14.6.2. **SINGLE PROJECT INSURANCE.** It is the intent of the parties that the Residential Project have available all the specified insurance coverages. Borrower shall ensure that the insurance coverages are not considered in aggregate with other projects which the General Contractor might have concurrently under construction. The Lender may at its discretion permit an aggregate policy if and only if the General Contractor or subcontractor has fully disclosed to Lender other projects which will or may be considered in aggregate with the Residential 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 Residential Project.

14.6.3. **CERTIFIED POLICY COPY.** Borrower shall obligate the Partnership to provide Lender with a certified copy of each required policy of insurance. Pending delivery of the certified policy, Borrower shall obligate the Partnership to 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."

14.6.4. **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. In the alternative to such endorsement, Borrower require that the Partnership provide Borrower and the Lender with the cancellation clause and/or any amendatory endorsements that modify or change the policy cancellation clause of the insurance policies in force. It is the Borrower's responsibility to notify the Lender of any notice of cancellation, non-renewal or non-payment of premium in accordance with the policy provisions, that is received by Borrower from the Partnership. In the event insurance is cancelled or not renewed, the Borrower shall notify the Lender within forty eight (48) hours of receipt of such notice of cancellation or non-renewal.

14.7. **FAILURE TO MAINTAIN.** If Borrower fails to ensure the Partnership's maintenance of 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 behalf of the General Contractor, 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.

14.8. **BLANKET COVERAGE.** The insurance coverages as required under this Section 14 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 14 with respect to such insurance shall otherwise be satisfied by such blanket policy.

15. MISCELLANEOUS.

15.1. **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.

15.2. **CURE BY PARTY OTHER THAN BORROWER.** Any lender whose loan is secured by the Residential 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.

15.3. **CONDEMNATION.** The Borrower's 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 Residential 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 Residential 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 Residential 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 such proportion of the proceeds as is equal to that proportion which the amount of the sums immediately prior to the date of taking bears to the fair market value of the Residential 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 Residential Property and: (1) the Residential 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 Residential Property or to the sums owed under his Loan Agreement.

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.

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

15.5. 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.

15.6. FINANCIAL STATEMENTS. Borrower shall provide Financial Statements when requested by Lender, but in any event not more often than quarterly during construction of the Residential 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.

15.7. 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.

15.8. 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 other than the Partnership will have any right of action or any rights to funds at any time, wherever those funds may be held.

15.9. NO JOINT VENTURE, PARTNERSHIP, OR OTHER RELATIONSHIP. Nothing contained in this Agreement or in any other document executed in connection with this Agreement shall be construed as creating a joint venture or partnership between Lender and Borrower. Each Party is acting as an independent entity and not as an agent of the other in any respect. No relationship exists as between the parties other than that of a lender and a borrower, except with respect to the formation of Borrower's entity and other existing agreements between the parties.

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

15.10.1. METHOD. All notices to be given under this Loan Agreement shall be in writing and sent to the addresses stated above for the respective recipient by one or more of the following methods.

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

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

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

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

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

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

15.12. **SIGNS.** Borrower agrees that on the request of Lender, Borrower will erect and place on or in the immediate vicinity of the Residential Property a sign indicating that Lender has provided construction financing for the Residential Project, which sign shall remain for the duration of construction. If Borrower places a sign on the Residential Property during construction stating the names of the Residential Project participants, it shall also name “City of Sacramento” as a participant in the Residential 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.

15.13. **ASSIGNMENT.** The terms of this Loan Agreement will be binding on and inure to the benefit of successors and assigns of the parties. However, Borrower shall not assign this Loan Agreement or any interest it may have in the monies due or, except as otherwise provided, convey or encumber the Residential Property without the prior written consent of Lender to a party other than the Partnership. 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. 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.

15.14. Intentionally Deleted.

15.15. **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.

15.16. **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 Residential 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 require that the Partnership, at the Partnership's expense, defend, indemnify, save, and hold Borrower and 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 require that the Partnership pay Borrower and Lender on demand all claims, judgments, damages, losses, or expenses (including attorney fees and expenses) incurred by Borrower and Lender as a result of any legal action arising out of the Partnership's use of the proceeds of the Loan.

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

15.17.1. 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 Residential Project work, except as to matters which are within the intent and purpose for which Lender has made the Loan.

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

15.17.3. Lender will not be responsible or liable to Borrower or the Partnership 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 require that the Partnership hold Borrower and Lender harmless from any liability, loss, or damage for these things.

15.18. **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.

15.19. **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.

15.20. **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.

15.21. **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.

15.22. **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.

15.23. **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.

15.24. **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.

15.25. **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.

15.26. **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.

15.27. **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.

15.28. **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.

15.29. **INDEMNITY.** Borrower agrees to require the Partnership to defend, indemnify, and hold Borrower and Lender harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorney fees (collectively "Costs") that Borrower or Lender may reasonably incur as a direct or indirect consequence of the making the Loan proceeds available to the Partnership. Borrower agrees to defend, indemnify, and hold Lender harmless from all Costs due to Borrower's failure to perform any obligations as and when required by this Loan Agreement or any of the other Loan Documents, or 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 with respect to the misapplication of the Loan proceeds, except to the extent caused by the negligence or misconduct of Lender. Borrower will pay immediately on Lender's demand any amounts owing by Borrower 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 will also require that the Partnership pay immediately on Borrower or Lender's demand any amounts owing by the Partnership under this indemnity, together with interest at the maximum rate permitted by law from the date Borrower or Lender makes a payment or incurs a loss.

15.30. **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.

15.31. **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.

15.32. **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.

15.33. **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 Residential Property or Residential 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.

15.34. **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:
DOWNTOWN SACRAMENTO REVITALIZATION CORPORATION

By: _____
Angelique Ashby, DSRC Board President

Dated: _____

Approved as to form:

By: _____
Borrower Counsel

LENDER:
CITY OF SACRAMENTO

By: _____
John F. Shirey, City Manager

Dated: _____

APPROVED AS TO FORM:

By: _____
Senior Deputy City Attorney

ATTEST:

By: _____
Assistant City Clerk

Exhibit 1: Legal Description

CONDOMINIUM COMPRISED OF:

PARCEL 1:

UNIT R AND UNIT C, AS SHOWN AND PARTICULARLY DESCRIBED ON THE CONDOMINIUM PLAN ENTITLED, "CONDOMINIUM PLAN FOR 700 BLOCK CONDOMINIUMS," (THE "PLAN") WHICH WAS RECORDED ON _____, 2014, IN BOOK 2014_____, AT PAGE _____ OF THE OFFICIAL RECORDS OF SAID COUNTY, AND DEFINED IN THAT CERTAIN DOCUMENT ENTITLED THE "DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 700 BLOCK CONDOMINIUMS," (THE "DECLARATION") WHICH WAS RECORDED ON _____, 2014, IN BOOK 2014 ___ AT PAGE ___ OF THE OFFICIAL RECORDS OF SAID COUNTY, FURTHER BEING A DIVISION OF THE REAL PROPERTY DESCRIBED IN THAT CERTAIN RECORD OF SURVEY OF 700 BLOCK CONDOMINIUMS FILED, ON _____, 2014, IN BOOK ___ OF SURVEYS, AT PAGE _____, SACRAMENTO COUNTY RECORDS.

Assessor Parcel No.s 006-0096-002, -003, -004, -005, -006, -007, -008, -009, -010- 018 and -019

EXCEPTING AND RESERVING THEREFROM, NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS, ENCROACHMENT, INSTALLATION, REPAIR, MAINTENANCE AND REPLACEMENT OF UTILITIES, DRAINAGE, SUPPORT, AND FOR OTHER PURPOSES, ALL AS DESCRIBED IN THE DECLARATION.

PARCEL 2:

AN UNDIVIDED ½ INTEREST AS A TENANT IN COMMON IN THE CONDOMINIUM COMMON AREA AS SO DESCRIBED IN THE DECLARATION AND THE PLAN, WHICH CONDOMINIUM COMMON AREA CONSISTS OF THE REAL PROPERTY DESCRIBED IN THAT CERTAIN RECORD OF SURVEY OF 700 BLOCK CONDOMINIUMS, FILED ON _____, 2014, IN BOOK ___ OF SURVEYS AT PAGE_____, SACRAMENTO COUNTY RECORDS.

PARCEL 3:

NON-EXCLUSIVE RIGHTS APPURTENANT TO PARCELS 1 AND 2 ABOVE FOR INGRESS, EGRESS, AND USE OF AND ENJOYMENT IN, TO, AND THROUGHOUT THE ASSOCIATION COMMON AREA, ALL AS DESCRIBED IN THE DECLARATION.

PARCEL 4:

EXCLUSIVE RIGHTS APPURTENANT TO PARCELS 1 AND 2 ABOVE FOR USE OF AND ENJOYMENT IN AND TO, THOSE EXCLUSIVE USE COMMON AREAS DESIGNATED AS R-EUCA AND C-EUCA,, ALL AS DESCRIBED IN THE DECLARATION AND THE PLAN.

Exhibit 2: Scope of Development

The new construction portion of the 700 Block of K Street Project is a mid-rise building which contains 122 residential units of the project's total 137 units. The residential units are over a two story parking structure and retail space. A concrete podium will separate the parking and retail structure from the five-level wood-framed apartment building.

The project site covers approximately 1.175 acres and is bordered by a 20-foot wide alley and the existing Greyhound bus depot to the south, 7th Street to the west, the existing 700 Block of K Street Mall to the north, and 8th Street to the east. The new mid-rise building will be constructed after the removal of a portion of the existing structures along the alley.

Parking Structure:

The base of the new building will be a 91-space, two-level parking garage with one parking level below grade and the other parking level above grade. The garage will also provide shelter for bicycle and motorcycle parking, spaces for booster pumps for domestic and fire water, utility meters, and a trash and recyclables area connected by refuse chutes from each of the apartment levels above. A retail space of about 3,350 sf is located on the south – east corner of the first floor (ground level).

Apartments:

The mid-rise building contains 122 of the project's 137 total apartments. Of these 122 units, 42 are studios, 83 are one-bedroom apartments and 12 are two-bedroom apartments. The apartments will all be designed with sustainable materials. The top level of the mid-rise building includes 19 apartment units that have mezzanine levels.

On the second level of the project adjacent to the interior of the new mid-rise building will be a 5,069 square-foot roof garden. Apartments on the interior of the new building will have views of this roof area. At the roof level on the east side of the mid-rise building will be an additional 1,733 square-foot roof garden. The new building also includes community facilities for the apartment residents.

Construction Type:

The parking structure is Type 1A cast-in-place concrete construction over concrete mat foundation. The top of this structure would be a concrete podium.

On the concrete podium will be the new residential units, five-level wood-framed apartment building of Type IIIA construction.

Scope of Work - Rehab Construction

The rehab portion of the 700 Block of K Street Project consists of rehabilitation of the existing block of nine buildings. The scope of work includes rehabilitation of the commercial and residential area of the existing buildings as well as converting some of the existing basement area to storage or commercial use. Rehabilitation of the commercial spaces includes structural, mechanical, electrical, and code upgrade. There will be a total of 12 retail spaces and 15 residential units. Amenities in the rehab portion of the project include a community room, lobby entry, and laundry room.

Commercial:

- Structural upgrade of the existing buildings.
- New / upgrade plumbing, mechanical/HVAC, and electrical.
- Fire Sprinkler system.
- Repair and repaint exterior and interior of the building.
- Repair and replacement of walls, doors, finishes as needed.
- Historic Preservation as required.

Residential:

- New framing, drywall, doors, and rough work per architectural plans and narratives.
- New plumbing, mechanical / HVAC and electrical system.
- New fire sprinkler system.
- New elevator and/or restore existing elevator to provide entry, basement, and ground floor access.
- Remodel basement into laundry and access to garage parking.
- Repaint exterior and interior of the building.
- Replace the roof and repair downspouts.
- New hallway lighting, unit, and exterior lighting.

- Restore / replace all windows to operating condition with new sash and glazing as needed.
- New window coverings.
- Restore and replace doors & hardware as needed.
- Historic Preservation as required.
- Install site and common space security lighting and web based security cameras will be provided.
- New monument, building, ADA, and unit signage.
- New awnings.
- Repair and Replace siding, moisture barrier, and insulation as needed. Brick work and plaster shall be repaired and replaced as needed.
- Removal / abatement of Hazardous material.
- Repair and replacement of dry rot lumbers.
- Structural and seismic upgrade.

The project will be constructed in a manner consist with the Sacramento Housing and Redevelopment Agency's Multifamily Lending and Mortgage Revenue Bond Policies Rental Property Minimum Construction Standards.

Exhibit 3: Note Form

PROMISSORY NOTE FOR 700 BLOCK OF K 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”	December 1, 2014
“Lender”	City of Sacramento
“Borrower”	Downtown Sacramento Revitalization Corporation
“Borrower Legal Status”	a California not for profit public benefit corporation
“Loan Agreement”	The 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 Six Hundred Thousand Dollars and No Cents (\$1,600,000.00)
“Interest Rate”	The interest rate is 1% per year, simple interest beginning in the 60th calendar month
“Accrual Date”	Interest shall accrue starting on the following “Accrual Date”:
	December 1, 2019
“Special Terms”	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 and shall indicate the projected final sources of funding. If there is a reduction in the total cost of the commercial portion of the Project, after all other lenders have taken their share of the savings through loan balance reductions, the Lender shall withhold for itself as loan repayment, of the amount of such residual savings, if any, from the amount of retention then held by the Lender, and the Principal Amount shall be reduced by the amount so withheld.
PAYMENT SCHEDULE. Repayment of this Note shall be made the following amounts:	
“Maturity Date”	The first day of the 360 th calendar month following the Effective Date.
“Payment Start Date”	The first day of the 60 th calendar month following the Effective Date.
“Payment Amount(s)”	Sixty Five Thousand Dollars and no Cents (\$65,000.00) shall be paid annually. All outstanding principal and interest is due and payable on the Maturity Date.

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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 requires that Borrower enter into a loan agreement with the 700 Block Investors, L.P. (the "Partnership") in order to provide these funds to the Partnership for construction of the residential portion of its project ("Residential Portion"). The funds will be placed into escrow at closing and will be disbursed to the Partnership at close of escrow. Borrower will also be an equity participant in a related entity partnership, 700 Block Commercial, L.P. ("Commercial Partnership"), which is constructing the commercial portion of the project ("Commercial Portion"). Borrower expects to receive payouts from the Commercial Partnership from which to pay its Payment Amounts under this Note.

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

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. Intentionally Omitted.

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 Loan Agreement or this Note.

e. Intentionally Omitted.

f. The sale, transfer of title, conveyance or further encumbrance of the Project as defined in the Loan Agreement, whether by sale, exchange, gift, inheritance or other means, without prior written consent of Lender.

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.

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. Notwithstanding anything to the contrary set forth in this Note, in the event that the Partnership fails to complete construction of the Commercial Portion of the Project, Borrower's obligations under this Note shall terminate and Borrower shall not be required to make any payments under this Note or the Loan.

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:
DOWNTOWN SACRAMENTO REVITALIZATION CORPORATION

By: _____
Angelique Ashby, DSRC Board President

Dated: _____

CONDITIONAL GRANT AGREEMENT

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

1. **GRANT.** The Grantor is making the Grant pursuant to the terms and conditions of this Grant Agreement. Grantor and Grantee have entered this Grant Agreement as of the Effective Date.
2. **DEFINITIONS TABLES.** The capitalized terms in this Grant 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 Grant or the referenced item is not required or is not included in this Grant as the context may indicate.

A. “Grant Information” The general provisions of this Grant:		
“EFFECTIVE DATE”	December 1, 2014	Being the date as of which this Grant Agreement shall be effective
“GRANTOR”	The following public agency that is making the Grant, and whose legal status and address are:	
Name	City of Sacramento	
Legal Status	A municipal corporation	
Principal Address	915 I Street, 5 th Floor, Sacramento CA 95814	
“GRANTEE”	The Grantee of the Grant funds whose name, legal status and address are:	
Name	The Downtown Sacramento Revitalization Corporation (DSRC), Inc.	
Legal Status	a California not for profit public benefit corporation	
Principal Address	c/o Economic Development Department of the City of Sacramento, 915 I Street , Sacramento, CA 95814	
“GRANT”	The Grant made by this Grant Agreement.	
“GRANT COMMITMENT”	Grantor’s Grant commitment, made by letter dated as of	October 7, 2014
“GRANT PROGRAM”	Grantor’s Grant Program, commonly known as	Merged Downtown Project Area Tax Increment Non-Housing Bond Funds
“GRANT AMOUNT”	One Million Five Hundred and Forty Three Thousand Five Hundred and Thirty Eight Dollars (\$1,543,538)	
“GRANT DISTRIBUTION”	The Grant Amount shall be distributed to the following “Project Developers” of the Project in accordance with the “Partnership Agreement” or other agreements between Project Developers and Grantee as follows:	\$240,000 shall be provided as a grant to 700 Block, LLC for use by 700 Block Investors, L.P. for construction of the residential component of the Project.
		\$1,303,538 shall be provided as an equity contribution to 700 Block Commercial, L.P. for construction of the commercial component of the Project
“DEVELOPER EQUITY”	\$10,200,000 Developers/Investor Equity	Which is the minimum amount of cash or cash equivalent (excluding land equity or other non-cash investment in the Project) that Project Developers are investing in the Project.
“SATISFACTION OF CONDITION”	The Grant shall be satisfied upon completion of construction of the Project and disbursement of 100% of the grant funding.	
“PROJECT”	The Project is the rehabilitation of the existing commercial properties on the south side of K Street between 7 th and 8 th Streets in Downtown Sacramento by 700 Block Investors, L.P. and 700 Block Commercial, L.P. and the creation of 137 mixed-income rental units, including 15 units in the rehabilitated buildings and 122 units in a newly constructed mid-rise building to the south of, and attached to, the commercial properties.	
“PROJECT DEVELOPERS”	The entities developing this Project are the 700 Block Investors, L.P. and 700 Block Commercial, L.P.	

B. "COLLATERAL" The Collateral securing repayment of the Grant, which Collateral consists of the following:	
"PROPERTY"	The following described real property, which is security for the Grant and the site of the Project:
Address	700 K Street, 704 K Street, 708 K Street, 710 K Street, 712 K Street, 716 K Street, 718 K Street, 722 K Street, 724 K Street, 726 K Street, and 730 K Street, 1111 and 1113 7 th Street, and 1110 8 th Street and 1114 8 th Street, Sacramento, CA 95814
Assessor's Parcel Numbers	006-0096-002, -003, -004, -005, -006, -007, -008, -009, -010- 018 and -019
"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.
Project Developers' Title Interest	The Project Developers have rights to obtain fee interest in the Property from Grantor and will acquire fee interest in the Property as provided in their Owner Participation Agreement with the Housing Authority of the City of Sacramento dated December 1, 2014 (the "OPA"), and their Amended and Restated Disposition and Development Agreement with the City (the "DDA"). Grantor acknowledges that Grantee has and will have no fee interest in the Property and that Grantor will look solely to the Project Developers for effectuating the Grantor's security interest in the Property.

C. "ESCROW INFORMATION":		
"Title Company" and "Escrow Agent"	Placer 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 Jenny Vega	
"Closing Date"	December 15, 2014	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 Grant Agreement):	
EXHIBIT	DEFINED TERM
<u>Exhibit 1: Legal Description</u>	"Legal Description"
<u>Exhibit 2: Schedule of Performances</u>	"Schedule of Performances"
<u>Exhibit 3: Funding Requirements</u>	"Funding Requirements"
<u>Exhibit 4: Note</u>	"Note"

E. "APPROVAL DOCUMENTS" Grantee shall submit the following documents for Grantor approval:	
The Partnership Agreement(s) and any other agreements between Grantee and the Project Developers	
"Budget" for the Project	

F. "CONSTRUCTION INFORMATION":		
"Completion Date"	December 31, 2016	Which is the date on or before which the Completion of the Project must occur.
"General Contractor"	CFY Development Inc.	Which is the general contractor for construction of the Project.
"Project Architect"	Kuchman Architects	Which is the architect for design of the Project

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

3.1. “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.

3.2. “Escrow” is the escrow with Title Company for the closing of the Grant.

3.3. Intentionally Omitted.

3.4. “Event of Default” is breach of or default in a party’s obligations under this Grant Agreement.

3.5. “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.

3.6. “Governmental Requirement” means any law, ordinance, order, rule, regulation, plan, ruling, determination or requirement of a Governmental Authority.

3.7. “Grant” is the Grant from Grantor to Grantee made pursuant to this Grant Agreement.

3.8. “Grant Agreement” means this Grant Agreement including all Exhibits attached to this Grant Agreement (which are incorporated in this Grant Agreement by this reference) .

3.9. “Grant Proceeds” means funds disbursed by Grantor on account of the Grant and pursuant to this Grant Agreement.

3.10. “Partnership” means 700 Block Commercial L.P., of which Grantee is a limited partner.

3.11. “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.

3.12. “Project Developers” are the two entities developing this project – 700 Block Investors, L.P. and 700 Block Commercial, L.P.

4. **GRANTEE'S REPRESENTATIONS AND WARRANTIES.** As a material inducement to Grantor to enter into this Grant Agreement and to make the Grant to Grantee, Grantee unconditionally, and each signatory who signs on its behalf, to the extent of their actual knowledge, represents and warrants to Grantor, as of the Close of Escrow, as follows:

4.1. **LEGAL ORGANIZATION.** Grantee 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. **GRANTEE'S POWERS.** Grantee has full authority to execute this Grant Agreement, 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 Grant Agreement constitutes a legal and binding obligation of, and is valid and enforceable against Grantee, in accordance with their respective terms.

4.4. **LITIGATION.** There are no actions, suits, or proceedings pending or, to the best knowledge of Grantee, threatened against or affecting Grantee or the validity or enforceability of any of the other Grant Documents, at law or in equity, or before or by any Governmental Authority. Grantee 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 Grant Agreement and the payment and performance of all of the obligations in the Grant Documents, will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, contract, Grant or credit agreement, corporate charter, bylaws, partnership agreement, trust agreement, or other instrument to which the Grantee is a party or by which it may be bound or affected.

4.6. **NO DEFAULT.** There is no Event of Default or Potential Default on the part of Grantee or as a member of the Partnership.

4.7. **USE OF PROCEEDS.** All Grant Proceeds will be disbursed as provided in this Grant Agreement and used only for development of the Project.

4.8. **TAXES PAID.** Grantee has filed all required Federal, State, County, and City tax returns and has paid all taxes due and owing.

4.9. **ACCURACY.** All applications, financial statements, reports, documents, instruments, information, and forms of evidence delivered to Grantor concerning the Grant or required by this Grant Agreement or any of the other Grant Documents are accurate, correct, and sufficiently complete to give Grantor 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. **GRANT.** Grantor agrees to deliver to Grantee, and Grantee agrees to accept from Grantor, an amount not to exceed the Grant Amount subject to the terms, conditions, representations, warranties, and covenants in this Grant Agreement.

5.1. **PRINCIPAL AMOUNT.** The principal amount of the Grant shall be the actual disbursements of the Grantor to or on account of Grantee, not to exceed the Grant Amount.

5.2. **USE OF GRANT FUNDS.** The Grant is to be used by Grantee solely to pay the costs of developing, rehabilitating and constructing the Project, and for such other purposes as Grantor expressly agrees to.

5.2.1. In order to accomplish the purposes stated in this paragraph, Grantee shall take the following actions:

- a. Make a grant (the “Residential Grant”) of \$240,000 to the 700 Block Investors, L.P. or related entity for the residential component of the Project.
- b. Make an equity contribution (the “Partnership Commercial Contribution”) of \$1,303,538 to the Partnership for the commercial component of the Project. Grantee will be a limited partner in the Partnership and will enter into a Partnership agreement under which Grantee will provide the Partnership Commercial Contribution.

5.3. **GRANT TERMS.** The Grant is made pursuant to the Grant Program and is subject to the laws, rules and regulations of the Grant Program. Grantor agrees to disburse the Grant Proceeds in the manner and subject to the limitations stated in this Grant Agreement.

5.4. **REGULATORY AGREEMENT.** The funding for this Grant is from Grantor’s Merged Downtown Redevelopment Project Area Non-Housing Fund. Grantor and the Project Developers are entering into a Residential Regulatory Agreement and a Commercial Regulatory Agreement (the “Regulatory Agreements”) to be recorded against the Property. The Regulatory Agreements impose covenants, conditions and restrictions running with the land and are material consideration for the making of the Grant. Prior to Close of Escrow, the Project Developers must deliver the Regulatory Agreements to Escrow for recordation as a condition precedent to the Grant disbursement.

5.5. Intentionally Omitted.

5.6. **COMMISSIONS.** Grantor is not responsible, by this Grant Agreement or otherwise, to pay commissions in relation to this transaction.

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

6.1. Intentionally Omitted.

6.2. **CONDITIONS TO GRANTOR'S PERFORMANCE.** Grantor's obligation to perform under this Grant Agreement is subject to all of the following conditions: (a) Grantee has performed all of its obligations then to be performed pursuant to this Grant Agreement; (b) Grantee’s representations and warranties in this Grant Agreement are true and correct as of the Close of Escrow; (c) this Grant Agreement continues to be in full force and effect, no default on the part of Grantee has

occurred under the Grant Agreement, and no event has occurred that, with the giving of notice or the passage of time, will constitute a default by Grantee under the Grant Agreement; and (d) Grantor's governing board has approved this document.

6.3. CONDITIONS TO GRANTEE'S PERFORMANCE. Grantee's obligation to perform under this Grant Agreement is subject to satisfaction of all of the following conditions: (a) Grantor has performed all of its obligations then to be performed pursuant to this Grant Agreement; (b) Grantor's representations and warranties in this Grant Agreement are correct as of the date of this Grant Agreement and as of the Close of Escrow; and (c) the Grant Agreement continues to be in full force and effect, no default on the part of Grantor has occurred under the Grant Agreement, and no event has occurred that, with the giving of notice or the passage of time, will constitute a default by Grantor under the Grant Agreement.

7. CONSTRUCTION. As a condition of the Grant, Grantee will obligate the Project Developers to diligently proceed with construction in accordance with the Scope of Development as approved by Grantor. Grantee shall obligate the Project Developers to complete such work on or before the Completion Date, subject to Unavoidable Delay, and all in compliance with the Loan Agreement between Grantor and Grantee.

8. GRANT DISBURSEMENT PROCEDURES. The first Grant disbursements will be disbursements of the full amounts of the Partnership Commercial Contribution and the Residential Grant into their respective senior construction lender escrow accounts at Close of Escrow. Each subsequent disbursement of the Grant funds from the construction escrow accounts will be subject to the disbursement terms contained in this Grant and under any other disbursement agreement(s) with the senior construction lenders. The first disbursement of these funds to the project may be for up to 50% of the project's building permit fees and this could occur prior to closing of all project financing should such financing not be closed by December 31, 2014.

8.1. CONDITIONS PRECEDENT TO EACH GRANT DISBURSEMENT. The obligation of Grantor to make or approve any disbursements under this Grant Agreement shall be subject to the following conditions precedent:

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

8.1.2. Intentionally Omitted.

8.1.3. Grantor 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 commercial portion of the Property will be owned by the Partnership free of any liens, encumbrance, or other interests of any kind other than Grantor's lien or security interest, and the liens of other approved lenders.

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

8.1.5. Grantee has submitted or required the Project Developers to submit to Grantor all documents, records, statements, certificates, reports, and other materials and information then required to be submitted to Grantor for approval under this Grant Agreement.

8.1.6. Grantee has delivered or required the Project Developers to deliver to Grantor all funds, documents, instruments, policies, evidence of satisfaction of conditions, and other materials then due or otherwise requested by Grantor under the Grant Documents.

8.2. CONDITIONS PRECEDENT TO FIRST DISBURSEMENT. Grantee's request for the first disbursement under this Grant Agreement is a representation and warranty by Grantee that there has been no material adverse change in Grantee's financial capacity or in any representation made to Grantor in Grantee's application for the Grant or Grantee's supporting documentation. Grantor shall make the first grant disbursement under this Grant Agreement when the following conditions precedent and the conditions precedent stated in Section 8.1 have been met:

8.2.1. The Grantee and the Project Developers have executed the required conditional grant agreement, loan documents, and partnership agreement by and between themselves requiring the disbursement of these Grant Funds in accordance with and pursuant to the terms and conditions of this Grant Agreement to and for the Project.

8.2.2. There is no legal action threatened or pending against Grantee or affecting the Property.

8.2.3. All conditions to Close of Escrow have been satisfied in accordance with this Grant Agreement.

8.2.4. The Grantee has required Project Developers to obtain and Project Developers have obtained and Grantor has approved a loan approval from a financial institution or other Grantor approved by Grantor in its sole discretion, to make the permanent financing obtained by the Project Developers or the Project Developers have obtained commitments to issue bonds, which repay after completion of the Project all construction and other loans secured by the Project and which are secured by a senior lien against the Property. Such permanent financing approval must provide: (a) that it is subject only to those conditions that are usual and customary in the industry and that can be satisfied by the proposed closing date of the permanent financing; (b) that it is in full force with no default by any party; and (c) that Grantor will have notice of, and a reasonable opportunity to cure, any Grantee defaults.

8.2.5. The Grantee has obtained from the Partnership documentation providing proof of all insurance required by the Grant Agreement between Grantee and Grantor.

8.2.6. The Grantee has obtained from the Partnership documentation verifying that all of the Project Developers' commitments for construction financing are full force, have not been modified and no event has occurred that with notice or the passage of time or both could result in the termination of it, and has provided such documentation to Grantor. Grantee has obtained from the Partnership documentation verifying that nothing in the Project Developers' construction loan commitments, or submissions and approvals made under it, conflicts with this Grant Agreement, and the Project Developers have done all things necessary to keep unimpaired its rights under the loan commitments for the loans, and has provided such documentation to Grantor.

8.2.7. Grantee has filed all tax returns required to be filed and paid all taxes due.

8.3. **CONDITIONS PRECEDENT TO FINAL DISBURSEMENT.** Grantor shall authorize the final Grant disbursement under this Grant 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 Project Developers' designated agents will have certified to Grantor, on AIA Form G704 and in a manner satisfactory to Grantor:

- 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. The Grantee has obtained from the Partnership documentation verifying that the Project Developers have filed all tax returns required to be filed and paid all taxes due, which, if unfiled or unpaid, might adversely affect Grantor's security under the Security Documents, and has provided such documentation to Grantor.

8.3.3. Grantee has furnished evidence, in form and substance satisfactory to Grantor, that:

- a. The General Contractor and subcontractors and material suppliers and their subcontractors and material suppliers have been paid in full;
- b. The Project Developers have 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 Grantor, 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 Grantee in favor of Grantor.

8.3.4. Grantee has obtained from the Partnership and provided to Grantor 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 Grant.

8.4. **MAKING DISBURSEMENT.** Grantor shall authorize the construction lender to pay each disbursement request within thirty (30) business days after the disbursement request is submitted to Grantor, subject to fulfillment of the conditions precedent as stated in Section 8.1. Grantor shall authorize disbursement to the Project Developers, on behalf of Grantee, the actual cost of the work represented in the disbursement request by Grantee, 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 Grantee's actual knowledge, without duty of inquiry, 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 loans secured by real property in the general area of the Property, to the extent available as of the date of this Grant Agreement, have been given or taken, or the Partnership is entitled to have them given or taken as the ministerial act of the applicable Governmental Authority.

9. Intentionally Omitted.

10. **EVENTS OF DEFAULT.** At the option of Grantor, each of the following events will constitute an "Event of Default", subject to applicable cure rights, if any as provided in the loan documents between Grantor and the Project Developers if the event occurs before the Satisfaction of Condition as defined above:

10.1.1. Default by the Partnership under the Disposition and Development Agreement with Grantor.

10.1.2. Default by 700 Block Investors, L.P., or its related persons or entities, under the OPA with SHRA.

10.1.3. Default by the Grantee under the loan from Grantor to Grantee in the amount of \$1,600,000 as evidenced by that certain Construction and Permanent Loan Agreement and Promissory Note.

10.1.4. Default by the Partnership under (1) the loan from Grantee to the Partnership in the amount of \$3,159,738, as evidenced by that certain Construction and Permanent Loan Agreement and Promissory Note, (2) the loan from Grantee to the Partnership in the amount of \$1,760,000, as evidenced by a second Construction and Permanent Loan Agreement and Promissory Note, and (3) the Conditional Grant Agreement from Grantee to the Partnership in the amount of \$900,000.

10.1.5. The Project Developers' failure to comply with any Governmental Requirements.

10.1.6. The Project Developers' failure to keep in full force any permit, license, consent, or approval with respect to the commercial component of the Project.

10.1.7. The lien, attachment, levy, execution, or other judicial seizure of any portion of the Property, or any substantial portion of the other assets of the Project Developers, 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 Grant Proceeds or other funds of Grantor.

11. REMEDIES

11.1.1. **OPTION TO ACT.** On the occurrence of any Event of Default should it occur before the Satisfaction of Condition as defined above, in addition to its other rights in this Grant Agreement, at law, or in equity, Grantor may, without prior demand, exercise any one or more of the following rights and remedies:

11.1.2. Withhold any additional payments not yet disbursed under the Grant.

11.1.3. Make disbursement after the happening of any one or more of the Events of Default, without waiving its right to demand from the Project Developers repayment of the Grant and all other sums that may then be owing to Grantor or any other rights or remedies, regardless of Grantor'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 Grant Agreement.

11.1.5. Recover from the Project Developers its funds expended in exercising or enforcing any of its rights or remedies, together with interest at the maximum amount allowed by law from the date the funds were spent until repaid.

a. In the event of default by the Project Developers, Grantee shall not be liable to Grantor for Grant Proceeds actually disbursed to the Project Developers under the terms and conditions of this Grant Agreement for purposes of developing, rehabilitating and constructing the Project in a manner required under the OPA or DDA.

b. Grantee shall be liable to Grantor in the event that Grantee grants or loans Grant proceeds in a manner, or for a purpose, which is inconsistent with this Grant Agreement, the DDA, or the OPA by and between Grantor and Partnership.

11.1.6. Grantee shall only be liable to Grantor in the event that Grantee grants or loans Grant proceeds in a manner, or for a purpose, which violates the terms of this Grant Agreement.

11.2. **RIGHTS CUMULATIVE, NO WAIVER.** All of Grantor's rights and remedies provided in this Grant Agreement are cumulative and may be exercised by Grantor at any time. Grantor's exercise of any right or remedy will not constitute a cure of any Event of Default unless Grantee has cured all other Events of Default. No waiver will be implied from Grantor'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 of the rights of Grantor must be in writing and will be limited to its specific terms.

11.3. **DISCLAIMER.** Whether Grantor elects to employ any of the remedies available to it in connection with an Event of Default, Grantor will not be liable to perform any obligation of Grantee.

11.4. Intentionally Omitted [this is already in 8.2.5].

11.5. **NONRECOURSE.** Grantee's obligations to repay the Grant upon the occurrence of an Event of Default shall be nonrecourse. Grantor may only look to any other collateral provided by the Project Developers securing Grantee's obligations under this Grant Agreement, and in no event shall Grantor look to the assets of the Grantee as a source of repayment.

12. MISCELLANEOUS

12.1. **NATURE OF REPRESENTATIONS AND WARRANTIES.** Grantee certifies to Grantor that all representations and warranties by Grantee made in this Grant Agreement and all other Grant 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 Grantee's obligations have not been satisfied or the Grant or any part of it remains outstanding, and for any applicable statute of limitations period. Each request by Grantee for a disbursement will constitute an affirmation that all representations and warranties remain true and correct as of the date of that request.

12.2. **NO WAIVER.** No failure or delay on the part of Grantor in exercising any right or remedy under the Grant Documents will operate as a waiver nor will Grantor 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 Grant Agreement will not be construed to waive any subsequent breach of the same covenant, term, or condition.

12.3. **NO THIRD PARTIES BENEFITED.** This Grant 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 Grant funds, except as expressly designated in this Grant Agreement.

12.4. **NOTICES.** Grantee irrevocably appoints Grantor 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 Grantor deems necessary or desirable to protect its interests under this Grant Agreement. Grantor shall give copies of notices required to be delivered to Grantee to the following parties at the following addresses; provided, however that Grantee acknowledges that such notice is an accommodation and the failure of the Grantor to properly deliver any such notice shall not give rise to any claims or defenses of Grantee or any third party:

If to GRANTEE:

Downtown Revitalization Corporation
c/o Economic Development Department of the City of Sacramento
915 I Street, Fourth Floor
Sacramento, CA 95814

If to the Investor Limited Partner:

700 Block Investors, L.P.
1006 Fourth Street, Suite 701
Sacramento, CA 95814
ATTN: Ali Youssefi

700 Block Commercial, L. P.
1011 10th Street,
Sacramento, CA 95814
ATTN: Bay Miry

with a copy to:

700 Block Investors, L.P.
1011 10th Street,
Sacramento, CA 95814
ATTN: Bay Miry

700 Block Commercial, L. P.
1006 Fourth Street, Suite 701
Sacramento, CA 95814
ATTN: Ali Youssefi

If to GRANTOR:

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

12.4.1. **METHOD.** All notices to be given under this Grant 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

12.4.2. 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” or to such other address as Grantee may respectively designate by written notice to the other.

12.4.3. 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 Economic Development Department. Such notice shall include the time allowed under this Grant Agreement for action.

12.5. **ACTIONS.** Grantor 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 Grant Agreement. In connection with that, Grantor may incur and pay costs and expenses, including, without limitation, reasonable attorney fees. Grantee agrees to pay to Grantor on demand all these expenses. This Section does not apply to actions or proceedings between the parties.

12.6. **ASSIGNMENT.** The terms of this Grant Agreement will be binding on and inure to the benefit of successors and assigns of the parties. However, Grantee shall not assign this Grant Agreement or any interest it may have in the monies, other than as set forth in Section 5.2, due without the prior written consent of Grantor.

12.7. **NONLIABILITY FOR NEGLIGENCE, LOSS, OR DAMAGE.** The relationship between Grantee and Grantor is, and will at all times remain, solely that of Grantee and Grantor, and Grantor neither undertakes nor assumes any responsibility for or duty to Grantee, except as to matters which are within the intent and purpose of the Grant.

12.8. **CONTROLLING LAW; VENUE.** The Grant 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

12.9. **CONSENTS AND APPROVALS.** All consents and approvals by Grantor required or permitted by any provision of this Grant Agreement will be in writing. Grantor's consent to or approval of any act by Grantee 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.

12.10. **SURVIVAL OF WARRANTIES AND COVENANTS.** The warranties, representations, conditions, covenants, and agreements in this Grant Agreement and in the other Grant Documents will survive the making of the Grant and will continue in full force. Nothing in this Section is intended to limit any other provision of the Grant Documents that by their stated terms survive the termination of any Grant Document.

12.11. **AMENDMENT.** The Grant 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.

12.12. **TERMINATION.** Upon termination of this Grant, all rights and obligations under this Grant Agreement will terminate with no further rights or obligations.

12.13. **COUNTERPARTS.** The Grant 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.

12.14. **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.

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

12.16. **INDEMNITY.** Grantee agrees to defend, indemnify, and hold Grantor harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorney fees that Grantor may reasonably incur as a direct or indirect consequence of the making of the Grant, Grantee's failure to perform any obligations as and when required by this Grant Agreement or any of the other Grant Documents, the failure at any time of any of Grantee's representations or warranties to be true and correct, or any act or omission by Grantee.

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

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

12.19. **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 GRANT AGREEMENT in Sacramento, California as of the Effective Date.

GRANTEE :
Downtown Sacramento Revitalization Corporation

By: _____
Angelique Ashby, Board President

Approved as to form:

By: _____
DSRC Counsel

GRANTOR:
CITY OF SACRAMENTO

By: _____
John F. Shirey, City Manager

Approved as to form:

By: _____
Senior Deputy City Attorney

Attest:

By: _____
Assistant City Clerk

**EXHIBIT 1
LEGAL DESCRIPTION**

CONDOMINIUM COMPRISED OF:

PARCEL 1:

UNIT R AND UNIT C, AS SHOWN AND PARTICULARLY DESCRIBED ON THE CONDOMINIUM PLAN ENTITLED, "CONDOMINIUM PLAN FOR 700 BLOCK CONDOMINIUMS," (THE "PLAN") WHICH WAS RECORDED ON _____, 2014, IN BOOK 2014____, AT PAGE _____ OF THE OFFICIAL RECORDS OF SAID COUNTY, AND DEFINED IN THAT CERTAIN DOCUMENT ENTITLED THE "DECLARATIONS OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 700 BLOCK CONDOMINIUMS," (THE "DECLARATION") WHICH WAS RECORDED ON _____, 2014, IN BOOK 2014 ____ AT PAGE _____ OF THE OFFICIAL RECORDS OF SAID COUNTY, FURTHER BEING A DIVISION OF THE REAL PROPERTY DESCRIBED IN THAT CERTAIN RECORD OF SURVEY OF 700 BLOCK CONDOMINIUMS FILED, ON _____, 2014, IN BOOK _____ OF SURVEYS, AT PAGE _____, SACRAMENTO COUNTY RECORDS.

Assessor Parcel No.s 006-0096-002, -003, -004, -005, -006, -007, -008, -009, -010- 018 and -019

EXCEPTING AND RESERVING THEREFROM, NON-EXCLUSIVE EASEMENTS FOR ACCESS, INGRESS, EGRESS, ENCROACHMENT, INSTALLATION, REPAIR, MAINTENANCE AND REPLACEMENT OF UTILITIES, DRAINAGE, SUPPORT, AND FOR OTHER PURPOSES, ALL AS DESCRIBED IN THE DECLARATION.

PARCEL 2:

AN UNDIVIDED ½ INTEREST AS A TENANT IN COMMON IN THE CONDOMINIUM COMMON AREA AS SO DESCRIBED IN THE DECLARATION AND THE PLAN, WHICH CONDOMINIUM COMMON AREA CONSISTS OF THE REAL PROPERTY DESCRIBED IN THAT CERTAIN RECORD OF SURVEY OF 700 BLOCK CONDOMINIUMS, FILED ON _____, 2014, IN BOOK _____ OF SURVEYS AT PAGE _____, SACRAMENTO COUNTY RECORDS.

PARCEL 3:

NON-EXCLUSIVE RIGHTS APPURTENANT TO PARCELS 1 AND 2 ABOVE FOR INGRESS, EGRESS, AND USE OF AND ENJOYMENT IN, TO, AND THROUGHOUT THE ASSOCIATION COMMON AREA, ALL AS DESCRIBED IN THE DECLARATION.

PARCEL 4:

EXCLUSIVE RIGHTS APPURTENANT TO PARCELS 1 AND 2 ABOVE FOR USE OF AND ENJOYMENT IN AND TO, THOSE EXCLUSIVE USE COMMON AREAS DESIGNATED AS R-EUCA AND C-EUCA,, ALL AS DESCRIBED IN THE DECLARATION AND THE PLAN.

**EXHIBIT 2
SCHEDULE OF PERFORMANCES**

<u>Tentative Dates</u>	<u>Activity</u>
June 2011	Redevelopment Agency of the City of Sacramento approve the Prior Disposition and Development Agreement and Funding Commitment with DSRC
September 2014	Redevelopment Agency Successor Agency assigns to the City of Sacramento the Property and bond funds for the Project per the terms of the Settlement Agreement
October 2014	City of Sacramento approves the Amended and Restated Disposition and Development Agreement
February 2015	Secures funding for the Project and Developer closes on construction financing
April 2015	Construction begins
December 2016	Construction completed
June 2017	Project units placed in service

**EXHIBIT 3
FUNDING REQUIREMENTS**

**TAX INCREMENT FUNDING REQUIREMENTS
FOR NON-HOUSING FUND PROJECTS**

These “TI Funding Requirements” are incorporated in the “Grant Agreement” to which they are attached. [The capitalized terms used in these TI Funding Requirements shall have the meanings stated below. Terms being defined are indicated by quotation marks. Capitalized terms that are not defined in these TI Funding Requirements are defined in the Grant Agreement.]

- 1. RECITALS.** The Grant Agreement are made pursuant to the California Community Redevelopment Law (commencing at Health & Safety Code Section 33000). The Project is being developed on the Property which is in the Merged Downtown Redevelopment Project Area. Grantor has approved the Grant Agreement on condition that the “Property” as identified in the Legal Description is rehabilitated and developed for the Project as defined in the Grant Agreement, and operated and maintained in accordance with these TI Funding Requirements as covenants running with the land.
- 2. USE.** The Property shall be used solely for the uses as described in the Project description.
- 3. PLAN COMPLIANCE.** Grantee shall comply, in all respects, with the Merged Downtown Project Area Redevelopment Plan until it expires or is repealed.

EXHIBIT 4

PROMISSORY NOTE

PROMISSORY NOTE FOR 700 BLOCK OF K CONDITIONAL GRANT AGREEMENT

BORROWER HAS MADE THIS PROMISSORY NOTE (“NOTE”) AS OF THE EFFECTIVE DATE. The Lender is making the Grant pursuant to the terms and conditions of the Grant 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 Grant 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.	Definitions:
“Effective Date”	December 1, 2014
“Lender”	City of Sacramento
“Borrower”	Downtown Sacramento Revitalization Corporation
“Borrower Legal Status”	A California not for profit public benefit corporation
“Grant Agreement”	The Grant Agreement between the Borrower and Lender as of the Effective Date for making of the Grant (“Grant”) evidenced by this Note.
“Principal Amount”	One Million Five Hundred and Forty Three Thousand Five Hundred and Thirty Eight Dollars (\$1,543,538)
“Special Terms”	The Grant shall be satisfied upon completion of construction of the Project and disbursement of 100% of the Grant funding to 700 Block Investors, L.P., 700 Block Commercial, L.P., 700 Block, LC in accordance with the Grant Agreement. Upon satisfaction of these Special Terms, Borrower's obligations under this Note shall terminate and Borrower shall not be required to make any payments under this Note or the Grant.
PAYMENT SCHEDULE. Repayment of this Note shall be made the following amounts:	
“Payment Amount(s)”	Failure by Grantee to grant a portion of the Grant proceeds to 700 Block Investors, L.P. and 700 Block Commercial, L.P. in accordance with the Grant Agreement within thirty days of the making of this Note shall require full and immediate repayment of this Note by Grantee to Grantor.

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 for failure to comply with the Grant Agreement.

1. This Note evidences the obligation of Borrower to Lender for repayment of funds Granted to Borrower under the Grant Agreement between Borrower and Lender. The terms and covenants of the Grant Agreement are incorporated in this Note by reference. The Grant Agreement requires that Borrower enter into a grant agreement with 700 Block Investors, L.P. to provide it with \$240,000 of the Grant funds , and enter into a limited partnership agreement with 700 Block Commercial, L.P. to provide the partnership with \$1,303,000 in equity funds from the Grant. The Grant funds will be placed in certain construction escrow accounts for disbursement upon Borrower's approval. This Note evidences Lender's requirement that Borrower repay any portion of the Grant proceeds misapplied by Borrower under the terms of the Grant Agreement.

All payments on this Note shall be applied first to fees and charges due under the Grant Agreement, if any, then interest and then to the principal due on this Note. Borrower shall make the payments to the Lender at 915 I Street, Sacramento, CA 95814, or to such other person or organization as may be designated by Lender to Borrower and noticed as provided in the Grant Agreement.

2. Intentionally Omitted.

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 misapplied principal immediately due and payable, subject to applicable cure periods, if any:
 - a. Borrower defaults or breaches any of the terms of Grant Agreement or this Note.
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, 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 Grant is a nonrecourse Grant, and notwithstanding any provision of this Note or any document evidencing or securing this Grant, Borrower, and Borrower's principals, members, partners, agents, officers, and successors in interest shall not be personally liable for the payment of the Grant or any obligation of the Grant. Borrower shall only be liable to Lender in the event that Borrower violates the terms of the Grant Agreement.
9. Borrower shall pay to Lender all costs of enforcement of all or any portion of this Note, 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 Grant Agreement Date.

Borrower:

Downtown Sacramento Revitalization Corporation

By: _____
Angelique Ashby, Board President

Dated: _____