

PROMISSORY NOTE
FOR EBNER EMPIRE REDEVELOPMENT PROJECT
CONSTRUCTION AND PERMANENT LOAN AGREEMENT
LOAN ONE

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 Borrowers making this Note and delivering it to Lender.

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

DEFINED TERM:	DEFINITION:
“Effective Date”	February 14, 2006
“Lender”	Redevelopment Agency of the City of Sacramento
“Borrower”	Ebner/Empire LLC
“Borrower Legal Status”	A California Limited Liability Company
“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”	Two Million Three Hundred Fifty Thousand Dollars and No Cents (\$2,350,000.00)
“Interest Rate”	The interest rate is 4% per year, simple interest.
“Special Terms”	Borrower shall provide Agency with a copy of any appraisals obtained for the Property during the term of this Loan. Borrower is required to submit compiled financial statements prepared by an independent accountant annually.
PAYMENT SCHEDULE. Repayment of this Note shall be made the following amounts:	
“Maturity Date”	25 years from the Effective Date or upon sale of the property.
“Payment Start Date”	The first day of the 5th calendar month following the first calendar year following the Effective Date

<p>“Payment Amount(s)”</p>	<p>1. <u>Cash Flow Payment:</u></p> <ul style="list-style-type: none"> • For any calendar year that Developer’s Preferred Return is less than 12%, no payment is due. • For any calendar year that Developer’s Preferred Return is greater than 12%, Borrower shall make a payment equal to 50% of the amount of Developer’s Preferred Return between 12-14%. This entire payment shall be applied to the principal loan balance. • For any calendar year that Developer’s Preferred Return is greater than 14%, Borrower shall make an additional payment equal to 50% of the amount by which Developer’s Preferred Return exceeds 14%. This additional payment shall be first applied to interest for the subject year, then to principal. • Interest payments shall be capped at no more than 50% of the Developer’s Preferred Return over 14% for any calendar year. Any interest due over that amount shall be forgiven. <p>2. <u>Refinance Payment:</u> Payment required if refinancing of Primary Loan results in proceeds in excess of payoff amount of the Primary Loan. Payment shall equal 50% of the amount in excess of payoff amount of the Primary Loan. If interest is applicable, payment shall equal 50% of the amount in excess of the payoff amount Primary Loan to be applied first to any interest due based on the preceding 12 months principal balance with any remaining amounts being applied to the principal balance.</p> <p>3. <u>Payment Due Upon Loan Maturity:</u> At loan maturity, Borrower shall pay the remaining principal balance plus interest payable for the prior calendar year (computed in the manner set forth above), if any.</p>
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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 date of each advance by Lender to Borrower at Interest Rate.

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

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make the payments to the Lender at 630 "I" Street, Sacramento, CA 95814-2490, or to such other person or organization as may be designated by Lender to Borrower and noticed as provided in the Loan Agreement.

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

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

4. 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 had made any misrepresentations or failed to disclose any fact in the Loan Agreement, this Note or the Trust Deed that would affect the interests of Lender.

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

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

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

g. The occurrence of any of the following:

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

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

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

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

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

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

9. It is the intent of the parties that this Loan be a nonrecourse loan, and notwithstanding any provision of this Note or any document evidencing or securing this Loan, Borrower, and Borrower's principals, agent, officer, and successors in interest shall not be personally liable for the payment of the Loan or any obligation of the Loan.

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

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

Borrower:

Ebner/Empire LLC
A California Limited Liability Company

Carson Development

The Scurfield Company

By:

By:

Johan Otto, Member

Dave Scurfield, Member

Authorized Representatives