

LOAN AGREEMENT BY AND BETWEEN
THE REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO
AND
THE CITY OF SAN DIEGO

(LONG-TERM DEBT)

THIS LOAN AGREEMENT (Agreement) is made and entered into on this ____ day of _____, 2011, (Effective Date) by and between the Redevelopment Agency of the City of San Diego, a public body corporate and politic (Agency) and the City of San Diego, a municipal corporation (City), collectively referred to herein as the “Parties”, with reference to the following:

RECITALS

WHEREAS, the City Council of the City adopted Redevelopment Plans for the Centre City, Horton Plaza, Central Imperial, Gateway Center West, Southcrest, Mount Hope, Linda Vista, College Grove, Barrio Logan, City Heights, College Community, North Park, San Ysidro, Naval Training Center, North Bay, Crossroads, and Grantville Redevelopment Projects (collectively referred to herein as the Agency Redevelopment Project Areas, or individually referred to herein as an Agency Redevelopment Project Area); and

WHEREAS, the Implementation Plans approved by the Agency for the respective Agency Redevelopment Project Areas provide for the implementation of certain activities necessary or appropriate to carry out the Redevelopment Plans for the respective Agency Redevelopment Project Areas; and

WHEREAS, pursuant to the provisions of the California Community Redevelopment Law (Community Redevelopment Law), set forth at California Health and Safety Code section 33000 et seq., the Agency is engaged in activities necessary to execute and implement the Redevelopment Plans and Implementation Plans for each of the Agency Redevelopment Project Areas; and

WHEREAS, pursuant to California Health and Safety Code section 33600, the Agency may accept financial or other assistance from any public source for the Agency’s activities, powers, and duties, and expend any funds so received for any of the purposes of the Community Redevelopment Law; and

WHEREAS, pursuant to California Health and Safety Code section 33601, the Agency may borrow or accept financial or other assistance from the state or federal government or any other public agency for any Agency redevelopment project within its area of operation, and may comply with any conditions of such loan or grant; and

WHEREAS, the Agency, acting to carry out its public purposes of executing and implementing the Redevelopment Plans for the Agency Redevelopment Project Areas under the

Community Redevelopment Law, borrowed money from the City on a long-term basis (Long-Term Debt), as described in Exhibit A hereto; and

WHEREAS, on June 30, 2010, the Agency and the City entered into an agreement for the Agency's repayment of CDBG debt to the City in the total amount of approximately \$78.8 million to be paid in annual payments over a ten year term; and

WHEREAS, the Agency and the City now wish to enter into this Agreement to provide for the repayment by the Agency of additional debts owed to the City, and for the Agency to execute a Promissory Note (Note), the form of which is attached hereto as Exhibit B, as evidence of the Agency's debt to the City; and

WHEREAS, the Note is in an amount of \$188,190,719, including principal in an amount of \$65,795,767 and accrued interest through June 30, 2010, in an amount of \$122,394,952; and

WHEREAS, interest on City loans to the Agency accrued at a rate of twelve percent per annum until such interest rate was indexed to the Prime Rate plus two percent beginning on July 1, 1993, pursuant to City Council Resolution No. R-282415; and

WHEREAS, the City acknowledges that certain Agency Redevelopment Project Areas may reach the date beyond which they can no longer collect tax increment or repay debt pursuant to California Health and Safety Code section 33670 (Tax Increment Limitation Date) prior to the term of this Agreement and any debt still owing from such Agency Redevelopment Project Areas may not be paid.

WHEREAS, the Parties hereby determine that the proposed repayment plan set forth in this Agreement serves a public purpose in that: (a) the Agency will reduce its indebtedness to the City; and (b) the City has benefitted, and will continue to benefit, significantly from the Agency's redevelopment projects which have resulted in City assets such as public improvements, parks, buildings and land, in increased revenues to the City in the form of transient occupancy tax, sales tax and property tax, in economic revitalization within the City, in increased public infrastructure and improvements within the City such as improved streets, transit corridors, pedestrian walkways and storm drains, and in increased affordable housing within the City.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises contained herein, and for good and valuable consideration, the receipt of and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

SECTION 1: PURPOSE OF AGREEMENT; REPAYMENT OF LONG-TERM DEBT

In accordance with, subject to, and conditioned on all the terms, covenants, and conditions of this Agreement, the Parties agree that the Agency shall make, and the City shall accept, certain funds in repayment of the Long-Term Debt in a total amount of \$188,190,719,

payable from certain Agency Redevelopment Project Areas, to be paid annually over a thirty year period, when and at such time as funds are available.

SECTION 2: REPAYMENT OF LONG-TERM DEBT

(a) The Agency agrees to pay to the City, when and at such time as funds are available, and the City agrees to accept from the Agency, the repayment of the Long-Term Debt in the total amount of \$188,190,719 to be paid over a thirty year period. The determination of whether a payment is due in any year will be determined as part of the Agency's and the City's respective annual budget processes. If all Long-Term Debt has not been defeased at the end of the 30 year repayment term, the Agency and the City may enter into a further repayment agreement or, at the exclusive option of the City, the City may extinguish the remaining Long-Term Debt. In the event an Agency Redevelopment Project Area reaches its Tax Increment Limitation Date, any remaining Long-Term Debt owed by such Agency Redevelopment Project Area shall be extinguished.

(b) All moneys paid pursuant to this Agreement shall be payable by the Agency from the appropriate Agency Redevelopment Project Areas in proportion to the amounts owed, as set forth in the "Breakdown of Debt by Redevelopment Project Area" attached hereto as Exhibit A and incorporated herein by this reference.

(c) Any payments made by the Agency to the City pursuant to this Agreement shall be made on or before June 30 of each year in which a payment is made. Payments shall be acknowledged in writing by the Agency Executive Director or designee, on behalf of the Agency, and by the Mayor or designee, on behalf of the City, and shall be identified as a credit to the Long-Term Debt.

(d) The Agency may make payments using tax increment, fund balance, land proceeds or any other revenue of the Agency available within each contributing Agency Redevelopment Project Area.

(e) All payments made by the Agency on behalf of each contributing Agency Redevelopment Project Area shall be applied first to outstanding principal and then to accrued interest.

(f) All payments from the Agency to the City pursuant related to the loan of CDBG funds shall be treated by the City as program income to the San Diego CDBG Program.

(g) The City shall have the exclusive right to determine the distribution of payment amounts made under this agreement amongst the various funds from which loans were made.

SECTION 3: SUBORDINATION OF INDEBTEDNESS

The indebtedness of the Agency under this Agreement shall be subordinate to the rights of the holder or holders of any existing bonds, notes and other instruments of indebtedness, and

existing or future contractual indebtedness or other obligations (all referred to herein as indebtedness) of the Agency incurred or issued to finance the Redevelopment Project Areas, including without limitation any pledge of tax increment revenues from the Redevelopment Project Areas to pay any portion of the principal (and otherwise comply with the obligations and covenants) of any existing bond or bonds issued or sold by the Agency with respect to the Redevelopment Project Areas.

SECTION 4: BOOKS AND ACCOUNTS

The Agency and the City shall each keep full and accurate books and accounts, records and other pertinent data showing their financial operations with respect to the holding and disbursement of the monies comprising the repayments provided for in this Agreement. Upon completion of the activities contemplated by this Agreement, the Agency and the City shall prepare a report accounting for the use of all funds.

SECTION 5: LIABILITY AND INDEMNIFICATION

(a) The Parties acknowledge and agree that as stated in California Government Code section 895, this Agreement is an agreement between public entities designed to implement the disbursement or subvention of public funds from one entity to the other and, as such, is not subject to the joint and several liability provisions of California Government Code sections 895 to 895.8.

(b) The City agrees to defend, indemnify, protect, and hold the Agency and its officers, officials, agents and employees harmless from any and all actions, suits, proceedings, liability, loss, expense (including all expenses of investigation and defending against the same), and all claims for injury or damages to any person, arising out of the performance of this Agreement or any agreement entered into to implement this Agreement, but only in proportion to and to the extent such actions, suits, proceedings, liability, loss, expense or claims for injury or damages are caused by, or result from, the negligent or intentional acts or omissions of the Agency or its officers, officials, agents or employees.

(c) The Agency agrees to defend, indemnify, protect, and hold the City and its officers, officials, agents and employees harmless from any and all actions, suits, proceedings, liability, loss, expense (including all expenses of investigation and defending against same), and all claims for injury or damages to any person, arising out of the performance of this Agreement or any agreement entered into to implement this Agreement, but only in proportion to and to the extent such actions, suits, proceedings, liability, loss, expense or claims for injury or damages are caused by, or result from, the negligent or intentional acts or omissions of the Agency or its officers, officials, agents or employees.

(d) The provisions of this Section 5 shall survive the expiration, termination, or assignment of this Agreement.

SECTION 6: GENERAL PROVISIONS

(a) The terms of this Agreement are only for the benefit of the Agency and the City and their respective successors and assigns, and there are no other intended or incidental third party beneficiaries hereto.

(b) This Agreement constitutes the entire Agreement between the Agency and the City in connection with the Agency's repayment of Long-Term Debt.

(c) No failure of either the Agency or the City to insist upon strict performance by the other of any covenant, term or condition of the Agreement, nor any failure to exercise any right or remedy consequent upon a breach, shall constitute a waiver of any such breach of such covenant, term or condition.

(d) This Agreement may be amended in writing upon the mutual approval of the governing bodies of the Agency and the City.

(e) The laws of the State of California shall govern and control the terms and conditions of this Agreement.

(f) In addition to any other legal rights or remedies, either Party may institute legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in a court of competent jurisdiction in the County of San Diego, California.

(g) This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.

(h) This Agreement integrates all of the terms and conditions mentioned in this Agreement or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or part of the subject matter hereof.

IN WITNESS WHEREOF, this Agreement is executed by the Redevelopment Agency of the City of San Diego by and through its Executive Director or designee and by the City of San Diego by and through its Mayor or designee.

REDEVELOPMENT AGENCY
OF CITY OF SAN DIEGO

Date: _____

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

JAN I. GOLDSMITH, General Counsel

By: _____
Kevin Reisch
Deputy General Counsel

CITY OF SAN DIEGO

Date: _____

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

JAN I. GOLDSMITH, City Attorney

By: _____
Brant C. Will
Deputy City Attorney

Long-Term Loan Agreement

EXHIBIT A

BREAKDOWN OF DEBT BY REDEVELOPMENT PROJECT AREA

Page 1 of 6

Operating Group	Project Area	Sales Tax			Industrial Development Bonds		
		Principal	Interest	Total	Principal	Interest	Total
CCDC	Centre City						
CCDC	Horton Plaza						
City Redev	Barrio Logan	\$ 1,658,085	\$ 1,079,048	\$ 2,737,134	\$ 90,840	\$ 124,678	\$ 215,519
City Redev	City Heights						
City Redev	College Community	\$ 263,000	\$ 382,008	\$ 645,008			
City Redev	College Grove	\$ 40,963	\$ 34,908	\$ 75,872			
City Redev	Crossroads	\$ 215,000	\$ 136,535	\$ 351,535			
City Redev	Grantville						
City Redev	Linda Vista	\$ 1,134,450	\$ 2,379,241	\$ 3,513,691			
City Redev	Naval Training Center						
City Redev	North Bay						
City Redev	North Park	\$ 148,607	\$ 21,548	\$ 170,155			
City Redev	San Ysidro	\$ 2,446	\$ 355	\$ 2,800			
SEDC	Central Imperial	\$ 1,127,547	\$ 1,572,751	\$ 2,700,298			
SEDC	Gateway Center West	\$ 400,000	\$ 21,000	\$ 421,000			
SEDC	Mount Hope	\$ 7,687	\$ 7,841	\$ 15,529			
SEDC	Southcrest	\$ 42,948	\$ 3,237	\$ 46,185			
Totals		\$ 5,040,733	\$ 5,638,472	\$ 10,679,205	\$ 90,840	\$ 124,678	\$ 215,519

EXHIBIT A

BREAKDOWN OF DEBT BY REDEVELOPMENT PROJECT AREA

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Operating Group	Project Area	CDBG			Section 108		
		Principal	Interest	Total	Principal	Interest	Total
CCDC	Centre City	\$ -	\$ 34,853,261	\$ 34,853,261	\$ 7,264,433	\$ 15,347,077	\$ 22,611,510
CCDC	Horton Plaza						
City Redev	Barrio Logan	\$ 1,256,915	\$ 2,918,242	\$ 4,175,158	\$ 7,200,000	\$ 9,211,738	\$ 16,411,738
City Redev	City Heights	\$ -	\$ 516,956	\$ 516,956	\$ 4,044,429	\$ 4,999,248	\$ 9,043,677
City Redev	College Community	\$ -	\$ 90,383	\$ 90,383			
City Redev	College Grove	\$ -	\$ -	\$ -			
City Redev	Crossroads	\$ -	\$ 127,985	\$ 127,985			
City Redev	Grantville	\$ -	\$ 122,751	\$ 122,751			
City Redev	Linda Vista	\$ -	\$ 1,803,540	\$ 1,803,540			
City Redev	Naval Training Center	\$ -	\$ 32,964	\$ 32,964	\$ -	\$ -	\$ -
City Redev	North Bay	\$ -	\$ -	\$ -			
City Redev	North Park	\$ -	\$ 375,198	\$ 375,198			
City Redev	San Ysidro	\$ -	\$ 176,326	\$ 176,326			
SEDC	Central Imperial	\$ 12,034,195	\$ 11,069,807	\$ 23,104,002	\$ 3,313,785	\$ 2,028,744	\$ 5,342,528
SEDC	Gateway Center West	\$ 5,357,738	\$ 13,458,613	\$ 18,816,351			
SEDC	Mount Hope	\$ -	\$ 106,212	\$ 106,212			
SEDC	Southcrest	\$ 5,289,590	\$ 3,976,859	\$ 9,266,449			
Totals		\$ 23,938,439	\$ 69,629,097	\$ 93,567,536	\$ 21,822,647	\$ 31,586,806	\$ 53,409,453

EXHIBIT A

BREAKDOWN OF DEBT BY REDEVELOPMENT PROJECT AREA

Operating Group	Project Area	EDI Grant			Capital Outlay		
		Principal	Interest	Total	Principal	Interest	Total
CCDC	Centre City						
CCDC	Horton Plaza						\$ -
City Redev	Barrio Logan	\$ 720,000	\$ 858,173	\$ 1,578,173	\$ 1,199,000	\$ 681,931	\$ 1,880,931
City Redev	City Heights				\$ 357,956	\$ 51,904	\$ 409,860
City Redev	College Community						
City Redev	College Grove						
City Redev	Crossroads						
City Redev	Grantville						
City Redev	Linda Vista						
City Redev	Naval Training Center						
City Redev	North Bay				\$ 1,735,391	\$ 767,911	\$ 2,503,302
City Redev	North Park						
City Redev	San Ysidro						
SEDC	Central Imperial				\$ 43,777	\$ 63,708	\$ 107,484
SEDC	Gateway Center West				\$ 529,728	\$ 1,409,831	\$ 1,939,559
SEDC	Mount Hope				\$ 3,246,408	\$ 1,434,876	\$ 4,681,283
SEDC	Southcrest				\$ 1,001,969	\$ 1,526,867	\$ 2,528,836
Totals		\$ 720,000	\$ 858,173	\$ 1,578,173	\$ 8,114,229	\$ 5,937,027	\$ 14,051,255

EXHIBIT A

BREAKDOWN OF DEBT BY REDEVELOPMENT PROJECT AREA

Operating Group	Project Area	Sewer			Water		
		Principal	Interest	Total	Principal	Interest	Total
CCDC	Centre City	\$ 613,327	\$ 534,268	\$ 1,147,595	\$ 357,636	\$ 309,802	\$ 667,438
CCDC	Horton Plaza						
City Redev	Barrio Logan						
City Redev	City Heights						
City Redev	College Community						
City Redev	College Grove						
City Redev	Crossroads						
City Redev	Grantville						
City Redev	Linda Vista						
City Redev	Naval Training Center						
City Redev	North Bay						
City Redev	North Park						
City Redev	San Ysidro						
SEDC	Central Imperial						
SEDC	Gateway Center West						
SEDC	Mount Hope						
SEDC	Southcrest						
Totals		\$ 613,327	\$ 534,268	\$ 1,147,595	\$ 357,636	\$ 309,802	\$ 667,438

EXHIBIT A

BREAKDOWN OF DEBT BY REDEVELOPMENT PROJECT AREA

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Operating Group	Project Area	TransNet Prop A			General Fund		
		Principal	Interest	Total	Principal	Interest	Total
CCDC	Centre City						
CCDC	Horton Plaza						
City Redev	Barrio Logan						
City Redev	City Heights	\$ 93,655	\$ 109,805	\$ 203,460			
City Redev	College Community	\$ 93,591	\$ 128,454	\$ 222,045			
City Redev	College Grove						
City Redev	Crossroads						
City Redev	Grantville						
City Redev	Linda Vista						
City Redev	Naval Training Center				\$ 1,340,990	\$ 875,141	\$ 2,216,131
City Redev	North Bay						
City Redev	North Park						
City Redev	San Ysidro						
SEDC	Central Imperial	\$ 802,732	\$ 1,181,845	\$ 1,984,577			
SEDC	Gateway Center West						
SEDC	Mount Hope	\$ 235,042	\$ 250,314	\$ 485,356			
SEDC	Southcrest	\$ 16,454	\$ 25,545	\$ 41,999			
Totals		\$ 1,241,474	\$ 1,695,963	\$ 2,937,437	\$ 1,340,990	\$ 875,141	\$ 2,216,131

EXHIBIT A

BREAKDOWN OF DEBT BY REDEVELOPMENT PROJECT AREA

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Operating Group	Project Area	Route 252 Acq or Mitigation			Total P&I Breakdown		TOTAL LOAN
		Principal	Interest	Total	Principal	Total Interest through 6/30/10	
CCDC	Centre City				\$ 8,235,396	\$ 51,044,407	\$ 59,279,803
CCDC	Horton Plaza						
City Redev	Barrio Logan				\$ 12,124,841	\$ 14,873,811	\$ 26,998,652
City Redev	City Heights				\$ 4,496,040	\$ 5,677,912	\$ 10,173,953
City Redev	College Community				\$ 356,591	\$ 600,845	\$ 957,436
City Redev	College Grove				\$ 40,963	\$ 34,908	\$ 75,872
City Redev	Crossroads				\$ 215,000	\$ 264,521	\$ 479,521
City Redev	Grantville				\$ -	\$ 122,751	\$ 122,751
City Redev	Linda Vista				\$ 1,134,450	\$ 4,182,781	\$ 5,317,231
City Redev	Naval Training Center				\$ 1,340,990	\$ 908,105	\$ 2,249,095
City Redev	North Bay				\$ 1,735,391	\$ 767,911	\$ 2,503,302
City Redev	North Park				\$ 148,607	\$ 396,746	\$ 545,353
City Redev	San Ysidro				\$ 2,446	\$ 176,681	\$ 179,127
SEDC	Central Imperial				\$ 17,322,035	\$ 15,916,854	\$ 33,238,889
SEDC	Gateway Center West				\$ 6,287,466	\$ 14,889,443	\$ 21,176,910
SEDC	Mount Hope				\$ 3,489,137	\$ 1,799,243	\$ 5,288,380
SEDC	Southcrest	\$ 2,515,453	\$ 5,205,524	\$ 7,720,977	\$ 8,866,414	\$ 10,738,032	\$ 19,604,446
Totals		\$ 2,515,453	\$ 5,205,524	\$ 7,720,977	\$ 65,795,767	\$ 122,394,952	\$ 188,190,719

**PROMISSORY NOTE
TO THE CITY OF SAN DIEGO**

0% Interest
\$188,190,719

San Diego, California
Date: February _____, 2011

FOR VALUE RECEIVED, the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic (Agency or Borrower) hereby promises to pay to the CITY OF SAN DIEGO, a California municipal corporation (City) the amount of ONE HUNDRED AND EIGHTY EIGHT MILLION ONE HUNDRED NINETY THOUSAND SEVEN HUNDRED NINETEEN DOLLARS and No/100 Cents (\$188,190,719) (City Loan) including principal in the amount of \$65,795,767 and accrued interest through June 30, 2010 in an amount of \$122,394,952, which shall not accrue additional interest.

The Agency, acting to carry out its public purposes of executing and implementing the Redevelopment Plans for various Redevelopment Project Areas (the "Project Areas") under the Community Redevelopment Law, borrowed from the City the City Loan. This Note evidences the City Loan to the Agency, and is given by the Agency pursuant to the Community Redevelopment Law and the following: (a) the Resolution approved by the City Council of the City of San Diego memorializing the City Loan, (b) the Resolution approved by the Agency's governing board memorializing the City Loan, and (c) the Loan Agreement (Loan Agreement) and related staff reports (collectively, City Loan Documents). The obligation of the Agency to the City to repay the City Loan is subject to the terms of (i) this Note and (ii) the City Loan Documents. The City Loan Documents are public records on file in the offices of the Agency and the City, and the provisions of said documents are incorporated herein by this reference. The Note shall be paid in accordance with the provisions contained herein and as provided in the City Loan Documents, and in any event shall be paid in full by that date which is thirty (30) years after the execution hereof, if not earlier defeased by the Agency or extinguished by the City.

1. Definitions. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement. In addition, the following terms shall have the following meanings:

"Affiliate" shall mean (1) any Person directly or indirectly controlling, controlled by, or under common control with another Person; (2) any Person owning or controlling ten percent (10%) or more of the outstanding voting securities of such other Person; or (3) if that other Person is an officer, director, member or partner, of any company for which such Person acts in any such capacity. The term "control" as used in the immediately preceding sentence, shall mean the power to direct the management or the power to control election of the board of directors. It shall be a presumption that control with respect to a corporation or limited liability company is the right to exercise or control, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the controlled corporation or limited liability company, and, with respect to any individual, partnership, trust, other entity or association, control is the possession, indirectly or directly, of the power to direct or cause the direction of the management or policies of the controlled entity.

“City Loan” shall mean the loan made by the City to the Agency pursuant to the Community Redevelopment Law and the City Loan Documents in the principal amount of \$188,190,719, which is evidenced by this Note.

“Community Redevelopment Law” shall mean the Community Redevelopment Law of the State of California set forth at California Health and Safety Code Section 33000 et seq.

“Net Tax Increment Revenue” shall mean the Tax Increment Revenue received by the Agency less all superior indebtedness of the Agency including, without limitation, the rights of the holder or holders of any existing bonds, notes and other instruments of indebtedness, and existing contractual indebtedness (all referred to herein as indebtedness) of the Agency incurred or issued to finance the Project Area, including without limitation any pledge of tax increment revenues from the Project Area to pay any portion of the principal (and otherwise comply with the obligations and covenants) of any existing bond or bonds issued or sold by the Agency with respect to the Project Area.

“Person” means an individual, partnership, limited partnership, trust, estate, association, corporation, limited liability company or other entity, domestic or foreign.

“Tax Increment Revenue” means the portion of property tax revenues from the increase in assessed value of real property within the Project Area that has occurred after adoption of the Redevelopment Plan for the Project Area received by the Agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the Agency to finance or refinance, in whole or in part, the Project Area.

“Term” of this Note shall mean the period of time thirty (30) years following the execution of this Note by the Agency, which execution date shall constitute the “Effective Date” of this Note.

“Transfer” shall have the meaning set forth in Section 9 of this Note.

2. This Note evidences the obligation of the Agency to the City for the repayment of the City Loan. None of the funds provided pursuant to the City Loan were funded (i) directly or indirectly with any obligation the interest on which is exempt from tax under Section 103 of the Internal Revenue Code of 1986, as amended, or (ii) pursuant to any United States government federal source, except as provided below. (Check if appropriate):

- The funds were obtained from assistance provided under Section 106, 107 or 108 of the Housing and Community Development Act of 1974 (CDBG funds); or
- The funds were obtained pursuant to the Home Investment Partnership Act; or
- None of the above.

3. This Note is payable at the principal office of the City, 202 C Street; Floor ____, San Diego, California 92101, or at such other place as the holder hereof may inform the Agency in writing, in lawful money of the United States.

4. This Note shall be secured by the Agency's pledge of Net Tax Increment Revenue.

5. This Note shall not bear interest.

6. The indebtedness of the Agency under this Note shall be subordinate to the rights of the holder or holders of any existing bonds, notes and other instruments of indebtedness, and existing or future contractual indebtedness or other obligations (all referred to herein as indebtedness) of the Agency incurred or issued to finance the Project Areas, including without limitation any pledge of tax increment revenues from the Project Areas to pay any portion of the principal (and otherwise comply with the obligations and covenants) of any existing bond or bonds issued or sold by the Agency with respect to the Project Areas.

7. Prior to the expiration of the thirty (30) anniversary following the Effective Date of this Note, the Agency shall be obligated to repay the City Loan as provided in the Loan Agreement.

8. The entire unpaid principal balance of this Note and any accrued but unpaid interest shall be due and payable immediately in the event that, prior to the thirty (30) anniversary of the Effective Date, there is a default by the Agency under the terms of this Note or the City Loan Documents which is not cured within the respective time period provided herein and therein.

9. (a) Prior to the repayment in full of the City Loan, the Agency shall not assign or attempt to assign any right or interest in the City Loan Documents (referred to hereinafter as a Transfer), without prior written approval of the City. Consent to one such transaction shall not be deemed to be a waiver of the right to require consent to future or successive transactions. The City shall not unreasonably withhold or delay its consent. If consent should be given, any such Transfer shall be subject to this Section 9, and any such transferee shall assume all obligations hereunder and agree to be bound by all provisions contained herein.

(b) Any such proposed transferee shall have the qualifications and financial responsibility necessary and adequate as may be reasonably determined by the City, to fulfill the obligations undertaken by the Agency in the City Loan Documents and this Note. Any such proposed transferee, by instrument in writing satisfactory to the City, for itself and its successors and assigns, and for the benefit of the City shall expressly assume all of the obligations of the Agency under the City Loan Documents and agree to be subject to all conditions and restrictions applicable to the Agency in this Note. There shall be submitted to the City for review all instruments and other legal documents proposed to effect any such Transfer; and if approved by the City its approval shall be indicated to the Agency in writing.

(c) In the absence of specific written agreement by the City, no unauthorized Transfer, or approval thereof by the City, shall be deemed to relieve the Agency or any other party from any obligations under the City Loan Documents.

(d) In the event of a Transfer prior to the time the City Loan is paid in full, without the prior written consent of the City, the remaining principal balance of the City Loan and all accrued but unpaid interest shall be immediately due and payable.

(e) As used herein, "Transfer" includes the transfer, assignment, hypothecation or conveyance of legal or beneficial ownership of any interest in the Agency, or any conversion of the Agency to an entity form other than that of the Agency at the time of execution of this Note.

(f) The City shall not unreasonably withhold, condition or delay its approval of any matter for which its approval is required hereunder. Any disapproval shall be in writing and contain the City's reasons for disapproval.

10. Subject to the provisions and limitations of this Section 10, the obligation to repay the City Loan is a nonrecourse obligation of the Agency. Agency officials, officers, directors, members, employees, agents and attorneys shall not have any personal liability for repayment of the City Loan. The sole recourse of the City for repayment of the City Loan shall be the exercise of its rights against the security for the City Loan. Provided, however, that the foregoing shall not (a) constitute a waiver of any obligation evidenced by this Note; (b) limit the right of the City to name the Agency as a party defendant in any action or proceeding hereunder so long as no judgment in the nature of a deficiency judgment shall be asked for or taken against the Agency; (c) release or impair this Note; (d) prevent or in any way hinder the City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, any other remedy or any other instrument securing the Note or as prescribed by law or in equity in case of default; (e) prevent or in any way hinder the City from exercising, or constitute a defense, an affirmative defense, a counterclaim, or other basis for relief in respect of the exercise of, its remedies in respect of any deposits, insurance proceeds, condemnation awards or other monies or other collateral or letters of credit securing the Note; (f) relieve the Agency of any of its obligations under any indemnity delivered by the Agency to the City; or (g) affect in any way the validity of any guarantee or indemnity from any Person of all or any of the obligations evidenced and secured by this Note. Notwithstanding the first sentence of this paragraph, the City may recover directly from the Agency or from any other party:

(a) Any damages, costs and expenses incurred by the City as a result of fraud or any criminal act or acts of the Agency or any member, officer, director or employee of the Agency;

(b) Any damages, costs and expenses incurred by the City as a result of any misappropriation of funds; and

(c) All court costs and attorneys' fees reasonably incurred in enforcing or collecting upon any of the foregoing exceptions (provided that the City shall pay to the Agency

the Agency's reasonable court costs and attorneys' fees if the Agency is the prevailing party in any such enforcement or collection action).

11. The Agency waives presentment for payment, demand, protest, and notices of dishonor and of protest; the benefits of all waivable exemptions; and all defenses and pleas on the ground of any extension or extensions of the time of payment or of any due date under this Note, in whole or in part, whether before or after maturity and with or without notice. The Agency hereby agrees to pay all costs and expenses, including reasonable attorneys' fees, which may be incurred by the holder hereof, in the enforcement of this Note, the City Loan Documents or any term or provision thereof.

12. Upon the failure of Agency to perform or observe any other term or provision of this Note, upon any event of acceleration described in Section 8, or upon the occurrence of any other event of default under the terms of the City Loan Documents, the holder may exercise its rights or remedies hereunder or thereunder.

13. (a) Subject to the extensions of time set forth in Section 14, and subject to the further provisions of this Section 13, failure or delay by the Agency to perform any material term or provision of this Note or the City Loan Documents constitutes a default under this Note.

(b) The City shall give written notice of default to the Agency, specifying the default complained of by the City. Delay in giving such notice shall not constitute a waiver of any default nor shall it change the time of default.

(c) Any failures or delays by the City in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies. Delays by the City in asserting any of its rights and remedies shall not deprive the City of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

(d) If a monetary event of default occurs under the terms of this Note or the City Loan Documents, prior to exercising any remedies hereunder or thereunder, the City shall give to the Agency written notice of such default. The Agency shall have a reasonable period of time after such notice is given within which to cure the default prior to exercise of any remedies by the City under this Note and/or the City Loan Documents; provided, however, that in no event shall the City be precluded from exercising any remedies if its security becomes or is about to become materially impaired by any failure to cure a default or the default is not cured within ten (10) calendar days after the notice of default is received or deemed received.

(e) If a non-monetary event of default occurs under the terms of this Note or the City Loan Documents, prior to exercising any remedies hereunder or thereunder, the City shall give to the Agency written notice of such default. If the default is reasonably capable of being cured within thirty (30) calendar days after such notice is received or deemed received, the Agency shall have such period to effect a cure prior to exercise of any remedies by the City under this Note and/or the City Loan Documents. If the default is such that it is not reasonably capable of being cured within thirty (30) calendar days, and the Agency (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as

possible, then the Agency shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the City; provided, however, that in no event shall the City be precluded from exercising remedies if its security becomes or is about to become materially jeopardized by any failure to cure a default or the default is not cured within ninety (90) calendar days after the notice of default is received or deemed received.

(f) Any notice of default that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice of default that is personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt by Borrower; and any notice of default that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

14. Notwithstanding specific provisions of this Note, the Agency shall not be deemed to be in default for failure to perform any non-monetary performance hereunder where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, or acts of the City or any other public or governmental agency or entity (Force Majeure Event). An extension of time for any such Force Majeure Event shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause of the Force Majeure Event, if notice by the Agency is sent to the City within thirty (30) calendar days of knowledge of the commencement of such cause. Notwithstanding the foregoing, none of the foregoing events shall constitute a Force Majeure Event unless and until the Agency delivers to the City written notice describing the event, its cause, when and how the Agency obtained knowledge, the date and the event commenced, and the estimated delay resulting therefrom. The Agency shall deliver such written notice within thirty (30) calendar days after it obtains actual knowledge of the Force Majeure Event. Times of performance under this Note may also be extended by mutual written agreement of the City and the Agency.

15. If the rights created by this Note shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the remaining obligations shall be completely performed and paid.

16. The Agency shall have the right to prepay the obligation evidenced by this Note, or any part thereof, without penalty.

17. The City shall have the exclusive right to forgive the obligation evidenced by this Note, or any part thereof.

18. The obligations under this Note shall be binding on the Agency and its successors and assigns.

IN WITNESS WHEREOF, the Agency has executed this Note as of the day and year set forth above.

BORROWER

**REDEVELOPMENT AGENCY OF THE
CITY OF SAN DIEGO**

Dated: _____

By: _____

Name: _____

Title: _____

Attest:

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

JAN I. GOLDSMITH

General Counsel

By: _____

Name: _____

Title: Deputy General Counsel