

Attachment D

REHABILITATION LOAN AGREEMENT

by and among

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

THE CITY OF SAN DIEGO

and

DAVID CHINH CHAU and NGO M. CHAU

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REHABILITATION LOAN AGREEMENT

THIS REHABILITATION LOAN AGREEMENT (this “**Agreement**”) is entered into by and among the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic (the “**Agency**”), the CITY OF SAN DIEGO, a municipal corporation (the “**City**”) and DAVID CHINH CHAU, an individual, and NGO M. CHAU, an individual (collectively referred to herein as the “**Owner**”). The Agency and Owner agree as follows:

PART 1. SUBJECT OF AGREEMENT

Section 101 Purpose of the Agreement

The purpose of this Agreement is to effectuate the Redevelopment Plan for the City Heights Redevelopment Project Area by providing part of the financing for the rehabilitation of certain improvements on the hereinafter described Property located within the City Heights Redevelopment Project Area for uses permitted by the Redevelopment Plan. The rehabilitation and use of the Property pursuant to this Agreement, and the fulfillment generally of this Agreement are in the vital and best interest of the City of San Diego and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable federal, state, and local laws and requirements.

Section 102 Definitions

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

“**Agency Executive Director**” shall mean the Executive Director of the Redevelopment Agency of the City of San Diego, or designee (as to the Agency) or the Mayor of the City of San Diego, or designee (as to the City).

“**Agency Loan Documents**” shall mean this Agreement, the Agency Loan Note, the Deed of Trust and the Agreement Affecting Real Property.

“**Agency Loan**” shall mean the loan by the Agency to Owner not to exceed the amount of \$1,394,000 to pay for a portion of Project Costs incurred in completion of the rehabilitation obligations under this Agreement.

“**Agreement Affecting Real Property**” shall mean that certain Form of Agreement Affecting Real Property attached hereto as Attachment No. 9.

“**Approved Title Conditions**” shall mean title that is subject to current property taxes and assessments, Permitted Mortgages and any other easements and other encumbrances specifically approved by the Agency Executive Director.

“**Closing**” shall mean the date the Deed of Trust and Agreement Affecting Real Property are recorded in the official records of San Diego County and all conditions precedent to release of the Agency Loan funds have been satisfied by Owner.

“**Closing Date**” shall mean that certain date upon which the Closing shall occur.

“**Completion**” shall mean the point in time when all of the following shall have occurred: (1) issuance of a permanent Certificate of Occupancy to Owner by the City of San Diego for the Improvements; (2) recordation of a Notice of Completion by Owner or its contractor for the Project; (3) certification by the Owner’s architect that such Improvements (with the exception of minor "punchlist" items) have been completed in a good and workmanlike manner and substantially in accordance with the approved plans and specifications; (4) any mechanic's liens that have been recorded or stop notices that have been delivered have been paid, settled or otherwise extinguished, discharged, released, waived, bonded around or insured against; and (5) the Improvements have been constructed in accordance with this Agreement and the Scope of Rehabilitation.

“**Completion Date**” shall mean the date that Completion has occurred.

“**Covenant Period**” shall mean that certain period of time which commences upon the recordation of the Agreement Affecting Real Property, attached hereto as Attachment No. 9, and terminates upon expiration of the Redevelopment Plan, as may be amended.

“**Deed of Trust**” shall mean that certain Form of Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) attached hereto as Attachment No. 7.

“**Direct Costs**” shall mean direct rehabilitation costs incurred by or on behalf of Owner in connection with the Project, as itemized in the Project Budget.

“**Hazardous Materials**” or “**Hazardous Substances**” shall include, but not be limited to, substances defined as “extremely hazardous substances”, “hazardous substances”, “hazardous materials”, “hazardous waste” or “toxic substances” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 9601 *et seq.*; the Hazardous Materials Transportation Act, 49 U.S.C. sections 5101, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901, *et seq.*; and those substances defined as “hazardous waste” in section 25117 of the California Health and Safety Code, or as “hazardous substances” in section 25316 of the California Health and Safety Code or “hazardous materials” as defined in section 353 of the California Vehicle Code; and in the regulations adopted and publications promulgated pursuant to said laws.

“**Improvements**” shall mean the improvements to be rehabilitated on the Property together with those adjacent sidewalks identified in the Site Map in accordance with this Agreement, including but not limited to the Scope of Rehabilitation.

“Indirect Costs” shall mean costs, other than Direct Costs, incurred by or on behalf of Owner in connection with the Project, as itemized in the Project Budget.

“Legal Description” shall mean the legal description of the Property attached to this Agreement as Attachment No. 1.

“Loan Note” shall mean that certain Form of Agency Loan Note attached hereto as Attachment No. 6.

“Mortgagee” shall mean the maker of a mortgage loan.

“Owner Financial Contribution” shall mean the Owner’s contribution to the rehabilitation of the Property in the approximate amount of \$80,942 as set forth in the Project Budget.

“Permitted Mortgage” shall mean any conveyance of a security interest in the Property to one or more Mortgagees to secure any loan to finance the rehabilitation of the Property as required by this Agreement, or the conveyance of title to the Mortgagee in connection with a foreclosure or a deed in lieu of foreclosure of such loan.

“Permitted Mortgagee” shall mean any maker of a Permitted Mortgage Loan to Owner.

“Permitted Mortgage Loan” shall mean the obligations secured by a Permitted Mortgage.

“Permitted Transfer” shall mean any of the following:

- a. Any Permitted Mortgage;
- b. A conveyance of a security interest in the Property in connection with any Senior Loan and any transfer of title by foreclosure, deed or other conveyance in lieu of foreclosure in connection or following the same;
- c. The lease for occupancy of all or any part of the Improvements within the Property; and
- d. The granting of easements or Permits to facilitate the rehabilitation of the Property in accordance with this Agreement.

Any transfer described in clauses a. through d. shall be subject to the reasonable approval of documentation by the Agency Executive Director.

“Permits” shall mean any building permit or other land use approval relating to the Project which may be required by the City or any other governmental agency having jurisdiction over the Property and Improvements.

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

“**Plans**” shall have the meaning set forth in Section 302.

“**Project**” shall mean the financing, planning, construction, rehabilitation and use of the Improvements as provided in this Agreement and the Scope of Rehabilitation.

“**Project Budget**” shall have the meaning set forth in Section 202.a.

“**Project Costs**” shall mean, collectively, Direct Costs and Indirect Costs for the Project.

“**Property**” shall mean the real property described in Section 104 hereof.

“**Redevelopment Plan**” shall mean the Redevelopment Plan for the City Heights Redevelopment Project which was approved and adopted on May 11, 1992 by the City Council of the City of San Diego by Ordinance No. 17768[NS], as amended from time-to-time, which is incorporated herein by this reference.

“**Release of Construction Covenants**” shall mean that certain Form of Release of Construction Covenants attached hereto as Attachment No. 8.

“**Relocation Laws**” shall mean all applicable state and local relocation laws, including, without limitation, the California Relocation Assistance Law, Government Code Section 7260 *et seq.* and the implementing regulations thereto in the California Code of Regulations, Title 24, Section 6000 *et seq.* and the local implementing regulations thereto, and all applicable federal relocation laws, including, without limitation, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 U.S.C. 4601 *et seq.*, and 49 CFR Part 24.1, the acquisitions and eminent domain laws in Government Code Section 7267 *et seq.* and Code of Civil Procedure Section 1240.010 *et seq.* and any other applicable federal, state or local enactment, regulation or practice providing for relocation assistance and benefits, acquisition and/or compensation of property interests (including, without limitation, goodwill and furnishings, fixtures and equipment, leasehold bonus value, and moving expenses).

“**Senior Loan**” shall mean all loans secured by a deed of trust, recorded as liens against the Property prior to the Closing Date and any other loan to finance Project Costs that is secured by a deed of trust to which the Agency has agreed to subordinate the lien of the Deed of Trust.

“**Schedule of Performance**” shall mean the document attached to this Agreement as Attachment No. 3.

“**Scope of Rehabilitation**” shall mean the document attached to this Agreement as Attachment No. 4.

“**Site**” shall mean the Property as described in the Legal Description attached hereto as Attachment No. 1 and as depicted in the Site Map attached hereto as Attachment No. 2.

“**Site Map**” shall mean that certain illustration depicting the location of the Property and all Improvements which is attached to this Agreement as Attachment No. 2.

“**Term**” shall mean that certain period of time which commences upon the recordation of the Release of Construction Covenants, attached hereto as Attachment No. 8, and terminates ten (10) years thereafter.

“**Title Company**” shall mean a title insurance company mutually acceptable to Agency Executive Director and Owner.

“**Transfer**” means any assignment, sale, lease, conveyance or other transfer of the Property or any portion thereof or interest therein, by any means or method.

Section 103 The Redevelopment Plan

This Agreement is subject to and in furtherance of the Redevelopment Plan. Any amendments hereafter to the Redevelopment Plan which change the uses or development permitted on the Property as proposed in this Agreement, or otherwise change the restrictions or controls that apply to the Property, or otherwise affect Owner’s obligations or rights with respect to the Property, shall not be effective as to the Property without the written consent of Owner. Amendments to the Redevelopment Plan that do not affect the Property shall not require the consent of Owner.

Section 104 The Property

The “Property” is that property in the City described in the Legal Description attached hereto as Attachment No. 1 and depicted in the Site Map attached hereto as Attachment No. 2.

Section 105 Agency and City

a. The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under Chapter 2 of the Community Redevelopment Law of the State of California.

b. The address of the Agency for purposes of this Agreement shall be:

The Redevelopment Agency of the City of San Diego
1200 Third Avenue, Suite 1400
San Diego, CA 92101.

c. Subject to Part 7 below, “Agency” as used in this Agreement includes the Redevelopment Agency of the City of San Diego, California and any assignee or successor to its rights, powers and responsibilities.

d. City is a California municipal corporation.

e. The address of the City for purposes of receiving notices pursuant to the Agreement shall be:

The City of San Diego
Attention: Director, Real Estate Assets Department
1200 Third Avenue, Suite 1700 (MS 51A)
San Diego, California 92101-4106

With a copy by First Class Mail to:
San Diego City Attorney
Attention: Real Property Section
1200 Third Avenue, Suite 1100
San Diego, California 92101-4106

f. “City” as used in this Agreement includes the City of San Diego, California, and any assignee or successor to its rights, power and responsibilities.

Section 106 Owner

a. The Owner is David Chinh Chau, an individual and Ngo M. Chau, an individual, each jointly and severally liable for the obligations of the Owner herein.

b. The address of Owner for receiving notices pursuant to this Agreement is 4029 Euclid Ave, San Diego California 92105.

c. Whenever the term “Owner” is used herein, such term shall mean and include the Owner as of the date hereof; or (2) any assignee of or successor to its rights, powers and responsibilities permitted by this Agreement.

Section 107 Assignments and Transfers

a. Owner represents and agrees that its undertakings pursuant to this Agreement are for the purpose of redevelopment of the Property and not for speculation in land holding. Owner further recognizes that the qualifications and identity of Owner are of particular concern to City and Agency, in light of the following: (1) the importance of the redevelopment of the Property to the general welfare of the community; (2) the public assistance that has been made available by law and by the government for the purpose of making such redevelopment possible; and (3) the fact that a change in management or control of Owner or any other act or transaction involving or resulting in a significant change in management or control of Owner, is for practical purposes

a transfer or disposition of the property interests then owned by Owner. Owner further recognizes that it is because of such qualifications and identity that Agency is entering into the Agreement with Owner. Therefore, no voluntary or involuntary successor in interest of Owner shall acquire any rights or powers under this Agreement except as expressly set forth herein.

b. Prior to Completion, Owner shall not assign all or any part of this Agreement, or any interest herein, without the prior written approval of the Agency. Subject to review of documentation effectuating any such proposed assignment or transfer, the Agency agrees to reasonably give such approval if the assignment is a Permitted Transfer.

c. For the reasons cited above, Owner represents and agrees for itself and any successor in interest that prior to Completion, and without the prior written approval of the Agency, there shall be no significant change in the management or control of Owner or with respect to the identity of the parties in control of Owner, by any method or means, except Permitted Transfers.

d. Owner shall promptly notify the Agency of any and all changes whatsoever in the identity of the parties in control of Owner, or the degree of control, of which it or any of its officers have been notified or otherwise have knowledge or information. Except for Permitted Transfers, this Agreement may be terminated by the Agency if there is any significant change (voluntary or involuntary) in membership, management or control, of Owner, or the persons in control of Owner, prior to Completion

e. For purposes of this Section 107, a significant change shall mean any change in the identity of the person or persons having control over the day-to-day management of Owner. Any periodic, routine changes in board membership shall not be considered a “significant change.”

f. If, except as provided in this Section 107, there is an assignment of this Agreement, or change in the management or control of Owner which the Agency Executive Director does not approve, the Agency may take such reasonable action as the Agency may deem appropriate to ensure that the purposes of this Agreement will be carried out, including without limiting the generality of the foregoing, terminating this Agreement and exercising any rights set forth in the Agency Loan Documents.

g. The restrictions of this Section 107 shall terminate upon Completion.

Section 108 Relocation

a. All rights to possession of all portions of the Property necessary for rehabilitation and operation of the Project shall be cleared by Owner at Owner’s cost and expense. The relocation of any occupants or businesses, if any, required for redevelopment and operation of the Project, including provisions of relocation assistance and benefits pursuant to Relocation Laws shall be the financial responsibility of Owner. Relocation obligations, if any, which arise from the Property, Project and/or this Agreement shall be administered by the Agency (or its

designee, a qualified relocation consultant chosen by the Agency) in conformity with the Relocation Laws, with such administration paid by Owner.

b. All of the cost and expenses incurred or to be incurred by Owner to cause the vacating of the Property and/or relocation of all occupants and businesses from the Property for redevelopment and operation of the Project (including, but not limited to, payments made to displaced persons and businesses, pre or post relocation rental payments, fees and actual expenses of attorneys, relocation consultants and other experts employed to effect the relocation of occupants and businesses, etc.) shall be the financial responsibility of Owner. Any costs arising related in any respect to such displacement, such as, but without limitation, claims for loss of business goodwill, payment for furniture, fixtures and equipment, payment for leasehold bonus value, and any other compensable interest under Relocation Laws shall be the financial responsibility of Owner and administered and reviewed by the Agency (or its designee).

c. Owner hereby covenants and agrees to indemnify, save, protect, hold harmless, pay for and defend the Agency, City, and their respective elected officials, officers, employees, agents, consultants, contractors, attorneys and representatives (collectively, the “**Indemnified Parties**”) from and against any and all liabilities, suits, actions, claims, demands, penalties, damages (including, without limitation, penalties, fines and monetary sanctions), losses, costs, or expenses, including, without limitation, reasonable consultants’ and reasonable attorneys’ fees, or relocation benefits claimed or payable under the Relocation Laws which may now or in the future be incurred or suffered by the Agency, City or the Indemnified Parties by reason of, or resulting from, in full or in part, or in any respect whatsoever from the displacement of businesses or other occupants of the Property pursuant to this Agreement. The foregoing indemnity shall survive termination of this Agreement and shall continue after Completion.

d. Owner, on behalf of itself and any and all successors and assigns, hereby fully and finally releases the Agency, the City and the Indemnified Parties from any and all manner of actions, causes of actions, suits, obligations, liabilities, judgments, executions, debts, claims, and demands of every kind and nature whatsoever, known and unknown, which Owner or any of its successors or assigns may now have or hereafter obtain against the Agency, or the City or the Indemnified Parties by reason of, arising out of, relating to, or resulting from, in full or in part, Owner’s election to acquire fee title to the Property. The parties agree that, with respect to the release of claims as set forth above, all rights under Section 1542 of the California Civil Code and any similar law of any state or territory of the United States are expressly waived. Section 1542 reads as follows:

Civil Code Section 1542. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by

him or her must have materially affected his or her settlement with the debtor.

Owner's Initials

PART 2. AGENCY ASSISTANCE

Section 201 Agency Rehabilitation Loan

In accordance with and subject to all the terms, covenants, and conditions of this Agreement, the Agency agrees to provide the Agency Rehabilitation Loan for the Project in an amount to complete the Scope of Rehabilitation, such amount not to exceed \$1,394,000 in consideration for Owner's agreement to complete the Project in accordance with the Scope of Rehabilitation.

Section 202 Project Costs

a. All Project Costs shall be the sole responsibility of Owner as provided in the Project Budget, attached to this Agreement as Attachment No. 5. The parties hereby acknowledge and agree that any increase in costs above the amounts heretofore projected or assumed by Owner, or decreases in revenues below the amounts heretofore projected or assumed by Owner, shall be at the sole financial risk of Owner.

b. The parties anticipate that all Project Costs shall be as set forth in the Project Budget. Any change order in excess of Fifty Thousand Dollars (\$50,000) or any amendment to the total Project Budget in excess of Fifty Thousand Dollars (\$50,000) (collectively referred to as a "**Revision**") shall require the approval of the Agency Executive Director; provided that the principal amount of the Agency Loan shall not be increased without the express approval of the governing body of the Agency in its sole and absolute discretion. Except as provided in the previous sentence, the Agency Executive Director shall not unreasonably withhold approval of any requested Revision if the following conditions are satisfied:

(1) to the extent the Revision is limited to a reallocation of budgeted funds among Project Budget line items without any increase in the total Project Budget or the Agency Loan, (i) the funds in the line item(s) to be reduced remain sufficient for completion of the Project, and (ii) the requested increase in one or more line item(s) is to be used to pay approved costs; and

(2) to the extent the Revision involves an increase in the total Project Budget, (i) additional funds in an amount equal to the increase in the total Project Budget will be provided by Owner or Permitted Mortgagee and (ii) the requested increase in the Project Budget is to be used to pay approved costs.

Upon approval of any Revision, the Project Budget shall be replaced by the approved revised Project Budget.

Section 203 Conditions Precedent to Closing

The following conditions shall be conditions precedent to Closing, each of which is for the sole benefit of the Agency:

a. Agency's receipt of the following, each in form and substance satisfactory to the Agency Executive Director, in his or her sole reasonable discretion:

(1) Owner has executed and delivered to the Agency a Loan Note conforming in form and substance to the Form of Agency Loan Note attached hereto as Attachment No. 6;

(2) Owner has executed and delivered to the Agency in a recordable form a Deed of Trust conforming in form and substance to the Form of Agency Loan Deed of Trust attached hereto as Attachment No. 7;

(3) Owner has executed and delivered to the Agency in a recordable form of Agreement Affecting Real Property conforming in form and substance to the Form of Agreement Affecting Real Property attached hereto as Attachment No. 9;

(4) A funding control agreement has been executed among the Agency, the Owner and a bonded funding control agent mutually acceptable to the Agency and the Owner for the purpose of disbursing the Agency Loan;

(5) Agency and Owner have approved the Plans for the Scope of Rehabilitation attached hereto as Attachment No. 4;

(6) A copy of the contract between the Owner and the contractor for the Project pursuant to the Scope of Rehabilitation, certified by Owner to be a true and correct copy thereof;

(7) Provide to the Agency a list of all permits required for the Project, including construction and rehabilitation of the Improvements, and demonstrate that all variances, entitlements and approvals (if any) have been obtained and that all conditions for the issuance of all necessary permits have been satisfied (with the exception of payment of fees, which payment is provided for in the approved Project Budget);

(8) Provide to the Agency proof that all permits required by the City for the Project have been obtained;

(9) Owner is in compliance with any and all applicable environmental review requirements under the California Environmental Quality Act;

(10) Provide evidence of insurance as set forth in Section 304.b herein;

(11) Provide documentation satisfactory to the Agency Executive Director that Owner has obtained all of the financing necessary for the Project in accordance with this Agreement, including, but not limited to the Owner Financial Contribution the in the approximate amount of \$80,942;

(12) Provide to the Agency its Work Force Report or Equal Opportunity Plan, and Initial Equal Opportunity Report, to the extent required by this Agreement;

(13) Owner has submitted a final Project Budget to Agency conforming in form and substance to Attachment No. 5;

(14) Owner shall have provided evidence of compliance with the process for historical designation pursuant to the Historical Resource Regulations in accordance with San Diego Municipal Code sections 143.0201 through 143.0280. The Project shall be consistent with the U.S. Secretary of the Interior's Standards for Rehabilitation (Standards) and all Plans related thereto shall have been reviewed and approved by City of San Diego historic resources staff;

(15) Owner shall have entered into relocation or termination agreements or shall have otherwise complied with the Relocation Laws with respect to each of the occupants of the Property and in accordance with Section 108;

(16) The Title Company shall be committed to issue a standard form ALTA Lender's Title Insurance Policy to the Agency, subject to the Approved Title Conditions, together with such endorsements as Agency shall reasonably require, in the amount of the Agency Loan insuring the Deed of Trust. Owner shall pay the cost of any premiums for said policy.

(17) Provide any other documents requested by the Agency Executive Director;
and

(18) Owner is not in default of this Agreement and all documents related hereto.

The Agency shall approve or disapprove all items submitted pursuant to this subsection 203.a within the time established in the Schedule of Performance. Such approval shall not be unreasonably withheld. If the Agency shall disapprove any such item, the Agency shall do so by written notice to the Owner stating the reasons for such disapproval, in which case the Owner shall have a reasonable period of time to correct and resubmit for Agency approval any disapproved item.

b. The terms of the Agency Loan shall be as set forth in this Agreement, the Loan Note evidencing such Agency Loan and that certain Deed of Trust securing the Loan Note.

Section 204 Conditions to Loan Disbursements

Disbursement of the Agency Loan shall be pursuant to the terms of a funding control agreement between the Agency, the Owner and a bonded funding control agent mutually acceptable to the Agency and the Owner. Subject to the Closing, the Agency Loan shall be funded pursuant to draw requests submitted to the funding control agent in accordance with the terms of said executed control agreement and shall be subject to the conditions set forth below:

a. Agency shall, within twenty (20) business days after receipt of a draw request, determine the amount of the draw request to be approved, notify Owner in writing (which may be via electronic email) and approve the draw request through the funding control agent.

b. Any item in the draw request which is not specifically approved within twenty (20) business days shall be deemed disapproved. In the event the Agency disapproves any portion of the amount requested by Owner in a draw request, the Agency shall promptly notify the Owner of the disapproved amount and the reason therefor via electronic email and first class mail.

c. In the event that any item shall be disapproved or deemed disapproved, the Owner and Agency shall meet to promptly and in good faith attempt to resolve the matter to their mutual satisfaction.

d. In the event of any dispute, the Agency shall approve the amount of the draw request not in dispute and fund any disputed amounts promptly upon resolution of the dispute.

e. The Agency shall have the right to inspect the Property. Inspection of the Property shall be for the sole purpose of protecting the security of the Agency and is not to be construed as a representation by the Agency that there has been compliance with the plans approved for the Project or that the Project will be free of faulty materials or workmanship. The Owner may make or cause to be made such other independent inspections as the Owner may desire for its own protection.

f. The Agency Executive Director shall have the right to condition any disbursement upon the receipt and approval of such documentation, evidence or information that the Agency Executive Director may reasonably request, including, but not limited to, estimated or final closing or settlement statements, vouchers, and invoices. In addition, the Agency Executive Director shall have the right in its sole discretion to make disbursements directly to third parties entitled to such payment.

g. The Agency Executive Director may draw upon such Agency Loan funds as necessary to pay for any and all of the costs and expenses incurred or to be incurred in accordance with the provisions of Section 108 of this Agreement. Owner shall thereafter indemnify the Agency in accordance with Section 108 for any such payments made by the

Agency, but Owner shall be limited to use as a source of funds the applicable line item(s) in the Project Budget and the provisions related thereto.

PART 3. REHABILITATION OF THE PROPERTY

Section 301 Obligation to Complete Project

The Project shall be completed in accordance with the Scope of Rehabilitation and Plans (as defined below) approved in accordance with this Agreement. If (i) the Scope of Rehabilitation is completed in accordance with the terms of this Agreement, (ii) the Term has expired, and (iii) Owner, after notice and opportunity to cure, is not in default pursuant to this Agreement, the Loan Note or the Deed of Trust, then the Agency Loan disbursed by the Agency pursuant to the terms and conditions of this Agreement shall be forgiven and deemed a grant to Owner.

Section 302 Plans

a. Subject to the terms of this Agreement, the Agency Executive Director shall have the right of review of all plans and submissions, including any proposed changes therein.

b. Prior to the time provided in the Schedule of Performance for the Closing, Owner shall cause to be prepared and shall submit to the Agency Executive Director for approval all drawings and related documents, if any, needed for the Project (collectively called the “**Plans**”). The Plans shall be consistent with the Scope of Rehabilitation. Any disapproval shall state in writing the reasons for disapproval and the changes which Agency Executive Director requests to be made. Such reasons and such changes must be consistent with the Scope of Rehabilitation and any items previously approved hereunder. Owner, upon receipt of a disapproval based upon powers reserved by Agency hereunder shall revise the plans, drawings and related documents, and shall resubmit to Agency Executive Director in a timely manner after receipt of the notice of disapproval.

c. If any revisions or corrections of plans approved by the Agency shall be required by any government official, agency, department or bureau having jurisdiction over the Property, Owner and Agency shall mutually agree to such changes or cooperate in efforts to obtain waiver of such requirements or to develop a mutually acceptable alternative.

d. In addition, Owner shall use its best efforts for the Property to be designated a historical landmark in accordance with the Historical Resource Regulations pursuant to San Diego Municipal Code sections 143.0201 through 143.0280. The Project shall be consistent with the U.S. Secretary of the Interior’s Standards for Rehabilitation (Standards) and all Plans related thereto shall be reviewed and approved by the City’s historic resources staff prior to Closing.

e. If Owner desires to make any significant change in the Plans after their approval, such proposed change shall be submitted to the Agency Executive Director for approval. If the Plans, as modified by the proposed change, conform to the requirements of this Agreement and

the Scope of Rehabilitation (as the same may be modified in accordance with paragraph (b) of this Section 302), the proposed change shall be approved and Owner shall be notified in writing within thirty (30) days after submission.

f. Following Completion of the Project, the Owner shall submit a nomination for historic designation, along with a Historic Resource Research Report prepared consistent with Historical Resources Guidelines to the Agency and to the City's historic resources staff for processing and review by the Historical Resources Board.

Section 303 Schedule of Performance

a. Each party to this Agreement shall perform the obligations to be performed by such party pursuant to this Agreement within the respective times provided in the Schedule of Performance, and if no such time is provided, within a reasonable time.

b. After the Closing, the Owner shall promptly begin and thereafter diligently proceed until completion of the rehabilitation and construction of the Improvements as provided in the Scope of Rehabilitation. The Owner shall begin and complete all construction and rehabilitation within the times specified in the Schedule of Performance with such reasonable extensions of said dates as may be granted by the Agency Executive Director, provided Owner submits a timely written request with substantiating documentation that establishes good cause for such an extension, and provided such an extension will not have a detrimental affect on the Agency's interests.

c. During periods of construction, the Owner shall submit to the Agency a written report of the progress of rehabilitation when and as reasonably requested by the Agency, but not more frequently than once every quarter. The report shall be in such form and detail as may be reasonably required by the Agency and shall include a reasonable number of construction photographs (if requested) taken since the last report by the Owner.

Section 304 Indemnification and Insurance

a. Owner's Indemnity. To the maximum extent permitted by law, Owner agrees to and shall defend, indemnify and hold harmless Agency, the City and their respective officers, officials, employees, contractors and agents (the "**Indemnified Parties**") from and against all claims, liability, loss, damage, costs or expenses (including reasonable attorneys' fees and court costs) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person resulting or arising from or in any way connected with the following (provided Owner shall not be responsible for (and such indemnity shall not apply to) any negligence or willful misconduct of the Agency, City or their respective officers, officials, employees, contractors and agents or the Indemnified Parties):

(1) The existence, release, presence or disposal on, in, under, about or adjacent to the Property of any Hazardous Materials, except to the extent it is due to the gross

negligence or willful misconduct of Agency, City or their respective officers, officials, employees, contractors or agents;

(2) The development, construction, marketing, operation or use of the Property in any way by Owner, its officers, contractors, subcontractors, agents, employees or other persons acting on Owner's behalf (the "**Indemnifying Parties**");

(3) The displacement or relocation of any person from the Property as the result of development of the Property by the Indemnifying Parties;

(4) Any Plans or designs for Improvements prepared by or on behalf of Owner, or any of the Indemnifying Parties including without limitation any errors or omissions with respect to such Plans or designs;

(5) Any loss or damage to Agency resulting from any inaccuracy in or breach of any representation or warranty of Owner, or resulting from any breach or default by Owner, under this Agreement; and

(6) Any and all actions, claims, damages, injuries, challenges and/or costs or liabilities arising from the approval of any and all entitlements or permits for the Improvements by the City or the Agency.

The foregoing indemnity shall survive the Closing and any termination of this Agreement and shall continue to remain in effect after the recordation of the Release of Construction Covenants.

b. Insurance Policies.

(1) Commencing upon the first to occur of (i) the commencement of any work contemplated by this Agreement and/or entry by Owner onto the Property for any purposes hereunder and (ii) the Closing, until the full reconveyance of the Agency Deed of Trust, Owner shall maintain in effect and deliver to the Agency duplicate originals or appropriate certificates of the following insurance policies (the "**Insurance Policies**") naming the Agency, the City and the Indemnified Parties as additional insureds:

(A) All-Risk Policies: Owner shall maintain or cause to be maintained coverage of the type now known as All Risk Insurance. Such insurance shall insure against direct physical loss or damage by fire, lightning, wind, storm, explosion, collapse, underground hazards, flood, vandalism, malicious mischief, glass breakage and such other causes as are covered by such form of insurance. Such policy shall include (1) an endorsement for broad form property damage, breach of warranty, demolition costs and debris removal, (2) a "Replacement Cost Endorsement" in amount sufficient to prevent Owner from becoming a co-insurer under the terms of the policy, but in any event in an amount not less than 100% of the then full replacement cost, to be determined at least once annually and subject to reasonable approval by Agency, and (3) an endorsement to include coverage for budgeted soft costs. The replacement cost coverage shall be for work performed and equipment, supplies and materials furnished to

the Property or any adjoining sidewalks, streets and passageways, or to any bonded warehouse for storage pending incorporation into the work, without deduction for physical depreciation and with a deductible not exceeding \$25,000 per occurrence (except that earthquake coverage, if obtained, shall carry a deductible not to exceed 25% of the policy amount, or such other deductible amount as Agency may reasonably determine is acceptable, in light of the cost of the premium for such insurance);

(B) **Liability Insurance:** Owner shall maintain or cause to be maintained general liability insurance, to protect against loss from liability imposed by law for damages on account of personal injury, including death therefrom, suffered or alleged to be suffered by any person or persons whomsoever on or about the Property and the business of Owner on the Property, or in connection with the operation thereof, resulting directly or indirectly from any acts or activities of Owner, or any person acting for Owner, or under its respective control or direction, and also to protect against loss from liability imposed by law for damages to any property of any person occurring on or about the Property, or in connection with the operation thereof, caused directly or indirectly by or from acts or activities of Owner or its tenants, or any person acting for Owner, or under its control or direction. Such property damage and personal injury insurance shall also provide for and protect Agency against incurring any legal cost in defending claims for alleged loss. Such personal injury and property damage insurance shall be maintained in full force and effect until reconveyance in full of the Deed of Trust in the following amounts: commercial general liability in a general aggregate amount of not less than Four Million Dollars (\$4,000,000), Four Million Dollars (\$4,000,000) Products and Completed Operations Aggregate, and Two Million Dollars (\$2,000,000) for each occurrence. Owner shall deliver to Agency a Certificate or Certificates of Insurance evidencing such insurance coverage prior to the occurrence of the Closing. Owner agrees that provisions of this paragraph as to maintenance of insurance shall not be construed as limiting in any way the extent to which Owner may be held responsible for the indemnification of Agency, the City or the Indemnified Parties or the payment of damages to persons or property resulting from Owner's activities, activities of its tenants or the activities of any other person or persons for which Owner is otherwise responsible.

(C) **Automobile Insurance:** Owner shall maintain or cause to be maintained automobile insurance, maintained in full force and effect in an amount of not less than Two Million Dollars (\$2,000,000) per accident, which amount shall be subject to increases equal to increases in the Consumer Price Index.

(D) **Workers' Compensation Insurance:** Owner shall maintain or cause to be maintained workers' compensation insurance issued by a responsible carrier authorized under the laws of the State of California to insure employers against liability for compensation under the workers' compensation laws now in force in California, or any laws hereafter enacted as an amendment or supplement thereto or in lieu thereof. Such workers' compensation insurance shall cover all persons employed by Owner in connection with the Property and shall cover liability within statutory limits for compensation under any such act aforesaid, based upon death or bodily injury claims made by, for or on behalf of any person incurring or suffering

injury or death in connection with the Property or the operation thereof by Owner. Notwithstanding the foregoing, Owner may, in compliance with the laws of the State of California and in lieu of maintaining such insurance, self-insure for workers' compensation in which event Owner shall deliver to Agency evidence that such self-insurance has been approved by the appropriate State of California authorities.

(2) All policies or certificates of insurance shall provide that such policies shall not be canceled, reduced in coverage or limited in any manner without at least thirty (30) calendar days prior written notice to Agency. All fire and liability insurance policies (not automobile and Workers' Compensation) may name the Agency, the City, the Indemnified Parties, and Owner as insureds, additional insureds, and/or loss payable parties as their interests may appear.

(3) The Insurance Policies shall name as additional insureds the following:

“The City of San Diego, the Redevelopment Agency of the City of San Diego and their respective officers, employees, contractors, agents and attorneys.”

(4) Owner agrees to timely pay all premiums for such insurance and, at its sole cost and expense, to comply and secure compliance with all insurance requirements necessary for the maintenance of such insurance. Owner agrees to submit binders or certificates evidencing such insurance to Agency prior to the Closing. Within thirty (30) calendar days, if practicable, but in any event prior to expiration of any such policy, copies of renewal policies, or certificates evidencing the existence thereof, shall be submitted to Agency. All insurance herein provided for under this Section shall be provided by insurers licensed to do business in the State of California and rated A-VII or better. To the extent that Owner maintains increased or additional insurance coverage, in excess of the minimum coverage requirements prescribed by paragraphs (b)(1)(B) and (b)(1)(C) of this Section 304, Owner shall ensure that the additional insureds specified in paragraph (b)(3) of this Section 304 derive the benefit of such increased or additional insurance coverage.

(5) If Owner fails or refuses to procure or maintain insurance as required by this Agreement, Agency shall have the right, but not the obligation, at Agency's election, and upon ten (10) calendar days prior notice to Owner, to procure and maintain such insurance. The premiums paid by Agency shall be treated as a loan, due from Owner, to be paid on the first day of the month following the date on which the premiums were paid. Agency shall give prompt notice of the payment of such premiums, stating the amounts paid and the name of the insured(s).

(6) Owner shall have the right in its discretion to provide the insurance coverage required by this Section 304 through one or more umbrella policies, so long as the type and level of insurance protection to be maintained by Owner in accordance with this Section 304 is not diminished by so doing (as reasonably determined by the Agency Executive Director).

(7) All required Insurance Policies under this Section 304 shall provide that the insurance company waives all right of recovery by way of subrogation against City and Agency in connection with any damage or harm covered by such policy.

Section 305 Nondiscrimination and Equal Opportunity

a. Compliance with City's Equal Opportunity Contracting Requirements. Owner and its contractors, subcontractors, consultants, subconsultants, vendors and suppliers shall comply with the City's Equal Opportunity Contracting Requirements, which is attached to this Agreement as Attachment No. 10. Owner represents and warrants that it has received, read, understands and agrees to be bound by the Equal Opportunity Contracting Information Packet provided by the Agency. Owner represents and warrants that it has received, read, understands and agrees to be bound by City of San Diego Municipal Code Division 27 (Equal Employment Opportunity Outreach Program), the City Manager's Policies and Procedures implementing that Program contained in the Equal Opportunity Packet provided by the Agency.

b. Nondiscrimination. Owner shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age or disability in the solicitation, selection, hiring or treatment of any contractors or consultants, to participate in subcontracting/subconsulting opportunities. Owner understands and agrees that violation of this clause shall be considered a material breach of this Agreement and may result in termination, debarment or other sanctions. This language shall be incorporated into all contracts between Owner and any contractor, consultant, subcontractor, subconsultants, vendors and suppliers.

c. Compliance Investigations. Upon the City's request, Owner agrees to provide to the City, within sixty (60) calendar days, a truthful and complete list of the names of all contractors, subcontractors, consultants, subconsultants, vendors and suppliers that Owner has used in the past five (5) years on any of its contracts that were undertaken in San Diego County, including the total dollar amount paid by Owner for each subcontractor or supply contract. Owner further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance, Municipal Code Sections 22.3501 through 22.3517. Owner understands and agrees that violation of this clause shall be considered a material breach of this Agreement and may result in remedies being ordered against Owner up to and including contract termination, debarment and other sanctions for violation of the provisions of the Nondiscrimination in Contracting Ordinance. Owner further understands and agrees that the procedures, remedies and sanctions provided for in the Nondiscrimination in Contracting Ordinance apply only to violations of the Ordinance.

d. City's Equal Opportunity Contracting Program. Prior to commencing construction and in accordance with the Schedule of Performance, Owner shall contact the City's Equal Opportunity Contracting Program to determine compliance with all applicable rules and regulations.

Section 306 Local, State, and Federal Laws

a. Owner hereby agrees to carry out development, construction, improvement, rehabilitation (as defined by applicable law) and operation of the Improvements on the Property, including, without limitation, any and all public works (as defined by applicable law), in conformity with all applicable local, state and federal labor laws, including, without limitation, the payment of and requirement to pay state or federal prevailing wages, if required for the Project.

b. Owner hereby expressly acknowledges and agrees that neither City nor Agency has ever previously affirmatively represented to Owner or its contractor(s) for the Project in writing or otherwise, in a call for bids or otherwise, that the work to be covered by the bid or contract is not a “public work,” as defined in Section 1720 of the Labor Code or otherwise. Owner hereby agrees that Owner shall have the obligation to provide any and all disclosures, representations, statements, rebidding, and/or identifications which may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Owner hereby agrees that Owner shall have the obligation to provide and maintain any and all bonds to secure the payment to contractors (including the payment of wages to workers performing any public work) which may be required by the Civil Code, Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Owner hereby agrees that Owner shall have the obligation, at Owner’s sole cost, risk and expense, to obligate any party as may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law. Owner shall indemnify, protect, defend and hold harmless the Agency, City and their respective officers, employees, contractors and agents and the Indemnified Parties, with counsel reasonably acceptable to Agency and City, from and against any and all loss, liability, damage, claim, cost, expense, and/or “increased costs” (including labor costs, penalties, reasonable attorneys fees, court and litigation costs, and fees of expert witnesses) which, in connection with the construction, improvement, development, rehabilitation (as defined by applicable law) and/or operation of the Improvements, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (1) the noncompliance by Owner of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state prevailing wages or otherwise); (2) the implementation of Sections 1726 and 1781 of the Labor Code, as the same may be enacted, adopted or amended from time to time, or any other similar law; (3) failure by Owner to provide any required disclosure, representation, statement, rebidding and/or identification which may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law; (4) failure by Owner to provide and maintain any and all bonds to secure the payment to contractors (including the payment of wages to workers performing any public work) which may be required by the Civil Code, Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law; and/or (5) failure by Owner to obligate any party as

may be required by Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, or any other provision of law.

c. It is agreed by the parties that, in connection with the development, construction, improvement, rehabilitation (as defined by applicable law) and operation of the Improvements, including, without limitation, any public work (as defined by applicable law), Owner shall bear all risks of payment or non payment of state prevailing wages and/or the implementation of Labor Code Sections 1726 and 1781, as the same may be enacted, adopted or amended from time to time, and/or any other provision of law. "Increased costs" as used in this Section shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time.

d. The foregoing indemnity shall survive termination of this Agreement and shall continue after Completion and recordation of the Release of Construction Covenants.

e. Without limiting or relieving Owner of its obligations and indemnity in Subsections 306 a. through 306 d. above, Owner expressly acknowledges and agrees:

(1) Owner shall ensure that prevailing wages are paid on the entire Project as required by law.

(2) Before awarding any contract for such work to be done in the Project, Owner shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman needed to execute the services, and to the extent permitted by law, specify in the call for bids for the contract and in the contract such rate and the general prevailing rate for regular holiday and overtime work in the locality, for each craft or type of workman needed to execute the contract.

(3) Owner shall ensure that the contractor to whom the contract is awarded and any subcontractor under it shall pay not less than the specified prevailing rate of wages to all workmen employed in furtherance of the contract.

(4) To the extent permitted by law, Owner shall require that the contractor forfeit ten dollars (\$10) for each calendar day or portion thereof for each workman paid less than the stipulated prevailing rates for any public work done under the contract by it or by any subcontractor under it.

(5) Owner shall ensure that each contractor and subcontractor keep an accurate record showing the name, occupation, and actual per diem wages paid to each workman employed by it in connection with the work. Owner shall keep open any and all such records in its possession at all reasonable hours to the inspection of the Agency.

Section 307 Permits and Approvals

a. Owner shall be responsible for obtaining all Permits and approvals required by the City for the Project.

b. Prior to or concurrently with the Closing, Owner shall satisfy all conditions to the issuance of any Permit required for the Project. Before commencement of demolition, construction, development or rehabilitation of any buildings, structures or other work of Improvement upon any portion of the Property, the Owner shall, at its own expense, secure or cause to be secured, any and all Permits which may be required by the City or any other governmental agency affected by such rehabilitation or work. The disbursement of the Agency Loan is subject, among other conditions, to the issuance of all building permits required by the City for the Project.

c. This Agreement is not a "Development Agreement" as provided in Section 65864 et seq. of the California Government Code. Owner shall comply with all applicable conditions of approval required by the City.

d. Owner shall pay all fees and charges, if any, for the issuance of all Permits, and any costs or fees required as a condition of approval of such Permit.

Section 308 Rights of Access; Inspection of Property

After the Closing and continuing until Completion, representatives of the Agency and the City shall have the reasonable right of access to the Property, upon 24 hours written notice to Owner (except in the case of an emergency, in which case Agency shall provide such notice as may be practical under the circumstances), without charges or fees, at normal construction hours during the period of work for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in rehabilitating the Improvements. Such representatives of the Agency or the City shall be those who are so identified in writing by the Agency Executive Director.

Section 309 Disclaimer of Responsibility by Agency

Except as provided in this Agreement, the Agency neither undertakes nor assumes nor will have any responsibility or duty to Owner or to any third party to review, inspect, supervise, pass judgment upon or inform Owner or any third party of any matter in connection with the Project, whether with respect to the quality, adequacy or suitability of any plans, labor, service, equipment or material furnished to the Property, Improvements, any person furnishing the same or otherwise. Owner and all third parties shall rely upon its or their own judgment with respect to such matter, and any review, inspection, supervision, exercise of judgment or information supplied to Owner or to any third party by the Agency in connection with such matter is for the public purpose of carrying out the Community Redevelopment Law in accordance with this Agreement, and neither Owner (except for the purposes set forth in this Agreement) nor any third

party is entitled to rely thereon. The Agency shall not be responsible for any of the work of construction, improvement or development of the Property.

Section 310 Taxes, Assessments, Encumbrances and Liens

Owner shall pay when due all real estate taxes and assessments assessed and levied on or against the Property. Prior to the expiration of the Term, Owner shall not place, or allow to be placed, on title to the Property or any portion thereof, any mortgage, trust deed, encumbrance or lien not authorized by this Agreement. In addition, Owner shall remove, or shall have removed, any levy or attachment made on title to the Property (or any portion thereof), or shall assure the satisfaction thereof within a reasonable time but in any event prior to a sale thereunder. Nothing herein contained shall be deemed to prohibit the Owner from contesting in good faith the validity or amount of any tax assessment, encumbrance or lien, nor to limit the remedies available to the Owner in respect thereto. The covenants of the Owner set forth in this Section 310 shall remain in effect throughout the Term of the Loan Note.

Section 311 Prohibition against Transfer

a. Prior to Completion, Owner shall not, except as permitted by this Agreement, assign or attempt to assign this Agreement or any right herein, nor make any total or partial sale, transfer, conveyance or assignment of the whole or any part of the Property or the Improvements thereon, without prior written approval of the Agency. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Property, nor shall it prohibit Permitted Transfers.

b. Except as permitted by paragraph a., in the event Owner does assign this Agreement or any of the rights herein, or does sell, transfer, convey or assign the Property or the buildings or structures thereon prior to Completion without the approval of the Agency, subject to the notice and cure provisions of Section 501, the Agency shall have the right to terminate this Agreement.

c. In the absence of a specific written agreement by the Agency, and except as otherwise provided in this Agreement, no such sale, transfer, conveyance or assignment of this Agreement or the Property (or any portion thereof), or approval by the Agency of any such sale, transfer, conveyance or assignment, shall be deemed to relieve Owner or any other party from any obligations under this Agreement.

Section 312 No Encumbrances except Permitted Mortgages

a. Notwithstanding Section 311, upon and after the Closing, Owner shall have the right to encumber the Property with a Permitted Mortgage, but only for the purpose of securing loans of funds to be used for financing the rehabilitation of the Improvements (“**Permitted Financing Purposes**”). Prior to the expiration of the Term: (1) Owner shall not have any authority to encumber the Property for any purpose other than Permitted Financing Purposes; (2) the Owner shall notify the Agency in advance of any proposed financing; and (3) the Owner

shall not enter into any mortgage without the prior written approval of the Agency, which approval the Agency shall grant if it is a Permitted Mortgage. A Permitted Mortgagee of a Permitted Mortgage Loan approved by the Agency pursuant to this Section 312 shall not be bound by any amendment, implementation agreement or modification to this Agreement subsequent to its approval without such lender giving its prior written consent.

b. The Owner shall promptly notify the Agency of any mortgage created or attached to the Property whether by voluntary act of the Owner or otherwise.

c. The words “mortgage” and “deed of trust” as used herein include all other appropriate modes of financing rehabilitation, construction and land development.

d. The Agency agrees to consider making reasonable modifications to Sections 310 through 317 that may be requested by a Permitted Mortgagee, provided such modification does not adversely affect the receipt of any benefit by Agency hereunder.

e. The requirements of this Section 312 shall not apply following expiration of the Term.

Section 313 Permitted Mortgagee Not Obligated to Complete Project

A Permitted Mortgagee shall not be obligated by the provisions of this Agreement to rehabilitate, construct or complete the Project or to guarantee such rehabilitation, construction or completion. Nothing in this Agreement shall be deemed or construed to permit, or authorize any such Permitted Mortgagee to devote the Property to any uses, or to rehabilitate any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

Section 314 Notice of Default to Permitted Mortgagees; Right of Permitted Mortgagee to Cure Defaults

Whenever the Agency shall deliver any notice or demand to the Owner with respect to any breach or default by the Owner in completion of the Project, the Agency shall at the same time deliver to any Permitted Mortgagee of record a copy of such notice or demand. Each such Permitted Mortgagee shall (insofar as the rights of the Agency are concerned) have the right at its option within ninety (90) calendar days after the receipt of the notice, to cure or remedy, or commence to cure or remedy, any such default and to add the cost thereof to the security interest debt and the lien of its security interest. If such default shall be a default which can only be remedied or cured by such Permitted Mortgagee upon obtaining possession of the Property, such Permitted Mortgagee shall seek to obtain possession with diligence and continuity through a receiver or otherwise, and shall remedy or cure such default within ninety (90) calendar days after obtaining possession; provided that in the case of a default which cannot with diligence be remedied or cured, or the remedy or cure of which cannot be commenced within such ninety (90) calendar day period, such Permitted Mortgagee shall have such additional time as the Agency reasonably determines is necessary to remedy or cure such default with diligence and continuity;

provided that such Permitted Mortgagee shall not be required to remedy or cure any non-curable default of the Owner. Any Permitted Mortgagee who forecloses on its Permitted Mortgage, or is assigned or otherwise succeeds to Owner's rights under this Agreement, shall have the right to undertake or continue the Project upon execution of a written agreement with the Agency by which such Permitted Mortgagee expressly assumes the Owner's rights and obligations under this Agreement, approval of which agreement shall not be unreasonably withheld by Agency. Any such Permitted Mortgagee properly completing such improvements shall be entitled, upon written request made to the Agency, to a Release of Construction Covenants from the Agency.

Section 315 Failure of Permitted Mortgagee to Complete Project

In any case where, six (6) months after default by the Owner, any Permitted Mortgagee has not elected to complete the Project, or if it has elected to complete the Project but has not proceeded diligently with completion, the Agency may purchase the mortgage, deed of trust or other security interest by payment to the Permitted Mortgagee of the amount of the unpaid debt, plus any accrued and unpaid interest and other charges permitted by the mortgage instrument approved by the Agency. If the ownership of the Property (or portion thereof) has vested in the Permitted Mortgagee, the Agency, if it so desires, shall be entitled to a conveyance of the Property from the Permitted Mortgagee to the Agency upon payment to the holder of an amount equal to the sum of the following:

- a. The unpaid mortgage, deed of trust or other security interest debt at the time title became vested in the Permitted Mortgagee (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings).
- b. All expenses with respect to foreclosure.
- c. The net expense, if any (exclusive of general overhead), incurred by the Permitted Mortgagee as a direct result of the subsequent ownership or management of the Property (or portion thereof), such as insurance premiums and real estate taxes.
- d. The cost of any improvements made by such Permitted Mortgagee.
- e. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the Agency.

Section 316 Right of the Agency to Cure Defaults

In the event of a default or breach by the Owner of a Permitted Mortgage prior to the expiration of the Term, and the Permitted Mortgagee has not commenced to complete the Project, the Agency may cure the default prior to completion of any foreclosure. In such event, the Agency shall be entitled to reimbursement from the Owner of all costs and expenses incurred by the Agency in curing the default. The Agency shall also be entitled to a lien upon the Property to the extent of such costs and disbursements. Any such lien shall be subordinate and subject to any Senior Loan.

Section 317 Right of the Agency to Satisfy Other Liens on the Property

Prior to recordation of the Release of Construction Covenants and after the Owner has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on its interest in the Property, the Agency shall have the right to satisfy any such liens or encumbrances; provided, however, that nothing in this Agreement shall require the Owner to pay or make provisions for the payment of any tax, assessment, lien or charge or allow the Agency to pay such tax, assessment, lien or charge, so long as the Owner in good faith shall contest the validity or amount thereof, and so long as such delay in payment shall not subject the Property to forfeiture or sale. In such event, the Agency shall be entitled to reimbursement from the Owner of all costs and expenses incurred by the Agency in satisfying any such liens or encumbrances. The Agency shall also be entitled to a lien upon the Property to the extent of such costs and expenses. Any such lien shall be subordinate and subject to any Senior Loan.

Section 318 Release of Construction Covenants

a. Promptly after completion of the Project as required by this Agreement and the Scope of Rehabilitation, Agency shall deliver to Owner a Release of Construction Covenants, upon written request therefor by Owner. Agency shall not unreasonably withhold any such Release of Construction Covenants. Such Release of Construction Covenants shall be, and shall so state, conclusive determination of satisfactory completion of the Project required by this Agreement.

b. The Release of Construction Covenants shall be in such form as to permit it to be recorded in the Office of the Recorder of San Diego County.

c. If Agency fails to deliver the Release of Construction Covenants within ten (10) calendar days after written request from Owner, Agency shall provide Owner with a written statement of its reasons (the “**Statement of Reasons**”) within that ten (10) calendar day period. The statement shall also set forth the steps Owner must take to obtain the Release of Construction Covenants. If the reasons are confined to the immediate unavailability of specific items or materials for landscaping, or to so-called “punch list” items identified by Agency, Agency will issue the Release of Construction Covenants upon the posting of a bond by Owner with Agency in an amount representing Agency's estimate of the cost to complete the work.

d. Such Release of Construction Covenants shall not constitute evidence of compliance with or satisfaction of any obligation of Owner to any mortgagee, or any insurer of a mortgage securing money loaned to finance the Improvements, nor any part thereof. Such Release of Construction Covenants is not notice of completion as referred to in Section 3093 of the California Civil Code.

PART 4. USE OF THE PROPERTY

Section 401 Uses

Owner covenants and agrees for itself, its successors, its assigns and every successor in interest to the Property or any part thereof, that the Owner, such successors and assignees shall use the Property only for the uses specified in the Redevelopment Plan, this Agreement (including the Scope of Rehabilitation), and the Agreement Affecting Real Property. No change in the Property shall be permitted without the prior written approval of the Agency.

Section 402 Maintenance of the Property

Owner shall be responsible to assure that the Project is maintained in good repair and free from any accumulation of debris, graffiti or waste materials; that landscaping required to be planted under the Plans is maintained in a healthy and attractive condition; and take all other actions necessary to maintain and ensure the neat and clean appearance of the streetscape area.

During the Project, Owner shall maintain a well-kept construction site.

Section 403 Obligation to Refrain from Discrimination

Owner covenants and agrees for itself, its successors and its assigns in interest to the Property or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the Owner itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, subtenants, sublessees, or vendees of the Property.

Section 404 Form of Nondiscrimination and Nons segregation Clauses

Owner shall refrain from restricting the rental, sale or lease of the Property on the basis of the race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry of any person. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or non-segregation clauses:

a. In deeds: “The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

b. In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

c. In contracts: “There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land. The foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.”

Section 405 Effect and Duration of Covenants

The covenants established in this Agreement shall run with the land, and without regard to technical classification and designation, shall be binding for the benefit and in favor of, and enforceable against the original Owner and successors in interest by the Agency, its successors and assigns, and the City for such periods set forth herein.

Section 406 Agreement Affecting Real Property

a. Owner shall execute, notarize and record against the Property the Agreement Affecting Real Property. The covenants contained in the Agreement Affecting Real Property shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Agency, its successors and assigns, and any successor in interest to the Property and the Project or any part thereof.

b. All conditions, covenants and restrictions contained in this Part 4 and the Agreement Affecting Real Property shall be covenants running with the land, and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by the Agency, its successors and assigns, and its successors and assigns, against the Owner, its successors and assigns, to or of the Property, the Project or any portion thereof or any interest therein.

c. Except as set forth in the last sentence of this Section 406.c, every covenant and condition and restriction contained in the Agreement Affecting Real Property shall remain in effect for the Covenant Period from the date the Agreement Affecting Real Property is recorded against the Property. The covenants against discrimination set forth therein shall remain in effect in perpetuity.

PART 5. DEFAULTS AND REMEDIES AND TERMINATION

Section 501 Defaults - General

a. Subject to the extensions of time set forth in Section 602, failure or delay by either party to perform any term or provision of this Agreement constitutes a default under this Agreement (“**Event of Default**”). The party who fails or delays must immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with reasonable diligence.

b. The injured party shall give written notice of default to the party in default, specifying the default complained of by the injured party. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Except as otherwise expressly provided in this Agreement, any failures or delays by either party 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 either party in asserting any of its rights and

remedies shall not deprive either party 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.

c. If a monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default written notice of such default. The party in default shall have a period of seven (7) calendar days after such notice is received or deemed received within which to cure the default prior to exercise of remedies by the injured party.

d. If a non-monetary event of default occurs, prior to exercising any remedies hereunder, the injured party shall give the party in default 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 party in default shall have such period to affect a cure prior to exercise of remedies by the injured party. If the default is such that it is not reasonably capable of being cured within thirty (30) calendar days, and the party in default (i) initiates corrective action within said period, and (ii) diligently, continually, and in good faith works to effect a cure as soon as possible, then the party in default shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by the injured party, but in no event shall such additional period exceed sixty (60) calendar days. In no event shall the injured party be precluded from exercising remedies if the non-monetary event of default is not cured within ninety (90) calendar days, or the injured party's rights under this Agreement becomes or is about to become materially jeopardized by any failure to cure a default.

e. 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; 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.

Section 502 Institution of Legal Actions

In addition to any other rights or remedies (and except as otherwise provided in this Agreement), 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 the Superior Court of the County of San Diego, State of California, in any other appropriate court of that county.

Section 503 Applicable Law

The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

Section 504 Rights and Remedies Are Cumulative

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

Section 505 Damages

Subject to the notice and cure provisions of Section 501, if either party defaults with regard to any of the provisions of this Agreement, the non-defaulting party shall serve written notice of such default upon the defaulting party. If the default is not cured within the time provided in Section 501, the defaulting party shall be liable to the non-defaulting party for any damages caused by such default, and the non-defaulting party may thereafter (but not before) commence an action for damages against the defaulting party with respect to such default.

Section 506 Specific Performance

Subject to the notice and cure provisions of Section 501, if either party defaults with regard to any of the provisions of this Agreement, the non-defaulting party shall serve written notice of such default upon the defaulting party. If the default is not cured within the time provided in Section 501, the non-defaulting party, at its option, may thereafter (but not before) commence an action for specific performance of the terms of this Agreement pertaining to such default.

Section 507 Termination by Either Party

Prior to the Closing, either party shall have the right to terminate this Agreement, by providing written notice to the other party, in the event of a failure of any condition precedent to the Agency Loan Closing as set forth in Section 204 of this Agreement, provided that such failure is outside the control of the party seeking to terminate this Agreement.

Section 508 Termination by Owner

Prior to the Closing, subject to the notice and cure provisions of Section 501, Owner shall have the right to terminate this Agreement, by providing written notice to Agency, in the event of a material default by Agency pursuant to this Agreement.

Section 509 Termination by Agency

a. Subject to the notice and cure provisions of Section 501, Agency shall have the right, prior to the Closing, to terminate this Agreement, by providing written notice to Owner, in the event of a material default by Owner under the terms of this Agreement or failure of any

condition precedent to the Closing which is in the control of Owner, including but not limited to the following:

(1) Owner fails to satisfy any condition precedent to the Closing as provided in Section 204 within the time established therefore in the Schedule of Performance; or

(2) Owner assigns or attempts to assign the Agreement or any right therein, or transfers Owner's interest in the Property (or any portion thereof or interest therein), except as permitted by this Agreement; or

(3) there is a significant change (as defined in Section 107) in the management or control of Owner contrary to the provisions of Section 107 hereof; or

(4) Owner fails to submit any of the Plans and related documents required by this Agreement by the respective dates provided in this Agreement therefore.

b. After the Closing but before the Recordation of the Release of Construction Covenants, subject to the notice and cure provisions of Section 501, Agency shall have the right to terminate this Agreement, by providing written notice to Owner, and all outstanding amounts due under the Loan Note, including accrued interest, shall become immediately due and payable by Owner to the Agency as set forth therein, in the event any of the following defaults shall occur:

(1) Owner fails to commence construction to the Project as required by this Agreement without the consent of the Agency; or

(2) Owner fails to use the Agency Loan funds exclusively for the costs incurred in the completion of the rehabilitation obligations as required by this Agreement; or

(3) Owner abandons or substantially suspends the Project for any consecutive period of thirty (30) calendar days without the consent of the Agency; or

(4) Owner assigns or attempts to assign this Agreement, or any rights herein, or transfer, or there is any Transfer of Owner's interest in the Property, or any part thereof, in violation of this Agreement; or

(5) Owner otherwise materially breaches this Agreement, and such breach is not cured within the time provided in Section 501 of this Agreement.

c. After recordation of the Release of Construction Covenants but before the expiration of the Term, subject to the notice and cure provisions of Section 501, Agency shall have the right to terminate this Agreement, by providing written notice to Owner, and all outstanding amounts due under the Loan Note, including accrued interest, shall become immediately due and payable by Owner to the Agency as set forth therein, in the event any of the following defaults shall occur:

(1) Owner assigns or attempts to assign this Agreement, or any rights herein, or transfer, or there is any Transfer of Owner's interest in the Property, or any part thereof, in violation of this Agreement; or

(2) Owner changes the use of the Property as set forth herein, in violation of this Agreement; or

(3) Owner otherwise materially breaches this Agreement, and such breach is not cured within the time provided in Section 501 of this Agreement.

PART 6. GENERAL PROVISIONS

Section 601 Notices

Formal notices, demands and communications between Agency and Owner shall be deemed sufficiently given if dispatched by first class mail, registered or certified mail, postage prepaid, return receipt requested, or by electronic facsimile transmission followed by delivery of a "hard" copy, or by personal delivery (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), to the addresses of Agency and Owner as set forth in Sections 105 and 106 hereof. Such written notices, demands and communications may be sent in the same manner to such other addresses as either party may from time to time designate by mail. Any notice that is transmitted by electronic facsimile transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice 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; and any notice that is sent by registered or certified mail, postage prepaid, return receipt required shall be deemed received on the date of receipt thereof.

Section 602 Force Majeure: Extension of Time of Performance

a. Performance by either party hereunder shall not be deemed to be in default 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, litigation, unusually severe weather, inability to secure necessary labor, material or tools, delays of any contractor, sub-contractor or supplier, acts of the other party, acts or failure to act of the City or any other public or governmental agency or entity (except that acts or failure to act of Agency shall not excuse performance of Agency), or any causes beyond the control or without the fault of the party claiming an extension of time to perform.

b. An extension of time for any such cause (a "**Force Majeure Delay**") shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) calendar days of knowledge of the commencement of the cause. Notwithstanding the

foregoing, none of the foregoing events shall constitute a Force Majeure Delay unless and until the party claiming such delay and interference delivers to the other party written notice describing the event, its cause, when and how such party obtained knowledge, the date the event commenced, and the estimated delay resulting therefrom. Any party claiming a Force Majeure Delay shall deliver such written notice within thirty (30) calendar days after it obtains actual knowledge of the event. Times of performance under this Agreement may also be extended in writing by Agency and Owner.

Section 603 Conflict of Interest

a. No member, official, or employee of Agency shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested.

b. Owner warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

Section 604 Nonliability of Agency Officials and Employees

No member, official, agent, legal counsel or employee of Agency shall be personally liable to Owner, or any successor in interest in the event of any default or breach by Agency or for any amount which may become due to Owner or successor or on any obligation under the terms of this Agreement.

Section 605 Inspection of Books and Records

For a period of five (5) years following the expiration of the Term, Agency shall have the right at all reasonable times to inspect the books and records of Owner pertaining to the use of Agency Loan funds and the Project pursuant to this Agreement.

Section 606 Approvals

a. Except as otherwise expressly provided in this Agreement, approvals required of Agency or Owner in this Agreement, including the attachments hereto, shall not be unreasonably withheld or delayed. All approvals shall be in writing. Failure by either party to approve a matter within the time provided for approval of the matter shall not be deemed a disapproval, and failure by either party to disapprove a matter within the time provided for approval of the matter shall not be deemed an approval.

b. Except as otherwise expressly provided in this Agreement, approvals required of Agency shall be deemed granted by the written approval of Agency's Executive Director. Agency agrees to provide notice to Owner of the name of the Agency Executive Director's designee on a timely basis, and to provide updates from time to time. Notwithstanding the foregoing, the Agency Executive Director may, in his or her sole discretion, refer to the

governing body of Agency any item requiring Agency approval; otherwise, "Agency approval" shall mean and refer to approval by the Agency Executive Director.

Section 607 Real Estate Commissions

Neither Owner nor Agency shall be liable for any real estate commissions or brokerage fees which may arise from this Agreement. Owner and Agency each represent that it has engaged no broker, agent or finder in connection with this Agreement.

Section 608 Construction and Interpretation of Agreement

a. The language in all parts of this Agreement shall in all cases be construed simply, as a whole and in accordance with its fair meaning and not strictly for or against any party. The parties hereto acknowledge and agree that this Agreement has been prepared jointly by the parties and has been the subject of arm's length and careful negotiation over a considerable period of time, that each party has been given the opportunity to independently review this Agreement with legal counsel, and that each party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of this Agreement, this Agreement shall not be interpreted or construed against the party preparing it, and instead other rules of interpretation and construction shall be utilized.

b. If any term or provision of this Agreement, the deletion of which would not adversely affect the receipt of any material benefit by any party hereunder, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each other term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. It is the intention of the parties hereto that in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement an enforceable clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision as may be possible.

c. The captions of the articles, sections, and subsections herein are inserted solely for convenience and under no circumstances are they or any of them to be treated or construed as part of this instrument.

d. References in this instrument to this "Agreement" mean, refer to and include this instrument as well as any riders, exhibits, addenda and attachments hereto (which are hereby incorporated herein by this reference) or other documents expressly incorporated by reference in this instrument. Any references to any covenant, condition, obligation, and/or undertaking "herein," "hereunder," or "pursuant hereto" (or language of like import) shall mean, refer to, and include the covenants, obligations, and undertakings existing pursuant to this instrument and any riders, exhibits, addenda, and attachments or other documents affixed to or expressly incorporated by reference in this instrument.

e. As used in this Agreement, and as the context may require, the singular includes the plural and vice versa, and the masculine gender includes the feminine and vice versa.

Section 609 Time of Essence

Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Agreement.

Section 610 No Partnership

Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, or any other relationship between the parties hereto other than lender and Owner according to the provisions contained herein, or cause Agency to be responsible in any way for the debts or obligations of Owner, or any other party.

Section 611 Compliance with Law

Owner agrees to comply with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the Property, and the Improvements, as well as operations conducted thereon. The judgment of any court of competent jurisdiction, or the admission of Owner or any lessee or permittee in any action or proceeding against them, or any of them, whether Agency be a party thereto or not, that Owner, lessee or permittee has violated any such ordinance or statute in the use of the premises shall be conclusive of that fact as between Agency and Owner.

Section 612 Binding Effect

This Agreement, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

Section 613 No Third Party Beneficiaries

The parties to this Agreement acknowledge and agree that the provisions of this Agreement are for the sole benefit of Agency and Owner, and not for the benefit, directly or indirectly, of any other person or entity, except as otherwise expressly provided herein.

Section 614 Authority to Sign

Owner hereby represents that the person executing this Agreement on behalf of Owner have full authority to do so and to bind Owner to perform pursuant to the terms and conditions of this Agreement.

Section 615 Incorporation by Reference

Each of the attachments and exhibits attached hereto is incorporated herein by this reference.

Section 616 Counterparts

This Agreement may be executed by each party on a separate signature page, and when the executed signature pages are combined with the balance of the Agreement, it shall constitute one single instrument.

Section 617 Joint and Severally Liable

The undersigned for Owner shall be jointly and severally liable hereunder.

PART 7. SPECIAL PROVISIONS

a. The parties acknowledge and agree that: (i) Agency and City have entered into that certain Cooperation Agreement for Payment of Costs Associated with Certain Redevelopment Agency Funded Projects effective February 28, 2011, including all subsequent amendments thereto (collectively, "Cooperation Agreement"); (ii) through the Cooperation Agreement, City agreed to aid and cooperate with Agency in order to implement various redevelopment-related programs, activities and projects, including the Project, in an expeditious manner; and (iii) Agency has advanced to the City the funds necessary to implement various redevelopment-related programs, activities and projects, including the Project, as contemplated by the Cooperation Agreement. By executing this Agreement, the parties (including Owner, Agency and City) confirm that they are all parties to this Agreement and all attachments and exhibits attached hereto this Agreement in accordance with Section 615 above. The parties agree that, except as otherwise specified herein, all references to "Agency" in this Agreement shall mean either Agency or City, whichever of those two parties is the holder of funds comprising the Agency Loan at the relevant time (or, as the case may be, whichever of those two parties has disbursed to Owner the proceeds of the Agency Loan). For the sake of clarity, as between Agency or City, the party that possess the funds comprising the Agency Loan at the relevant time (or, as the case may be, whichever of those two parties has disbursed to Owner the proceeds of the Agency Loan) shall be entitled to exercise all rights, and shall be required to fulfill all outstanding obligations, attributable to "Agency" under this Agreement. Notwithstanding the foregoing, if Agency's prior transfer to City of funds comprising the Agency Loan is nullified, rescinded or invalidated for any reason whatsoever, then it is expressly agreed that the obligation to disburse the Agency Loan shall be carried out by Agency (or its applicable successor, which may include City).

b. Owner acknowledges and agrees that the City intends to fulfill its financial obligations under this Agreement through tax increment funds and/or associated bond proceeds made available by the Agency, and not through the City's general fund. Accordingly, nothing in this Agreement shall require the City to expend or promise to expend monies from its general

fund to satisfy all or any portion of the obligations set forth in this Agreement. The City's liability for damages resulting from or under this Agreement shall be limited to tax increment funds and/or associated bond proceeds in the City's possession, and without resort to any other assets of the City.

PART 8 ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

a. This Agreement is executed in five (5) duplicate originals, each of which is deemed to be an original.

b. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

c. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of Agency, City and Owner, and all amendments hereto must be in writing and signed by the appropriate authorities of Agency, City and Owner. Notwithstanding the immediately preceding sentence or any provision of this Agreement to the contrary, (a) Owner shall be entitled to rely upon a written waiver provided solely by Agency, as fully binding and effective against both Agency and City, so long as Agency is the holder of the funds comprising the Agency Loan at the time the written waiver is provided; (b) Owner shall be entitled to rely upon a written waiver provided solely by City, as fully binding and effective against both City and Agency, so long as City is the holder of the funds comprising the Agency Loan at the time the written waiver is provided; (c) a written amendment executed only by Owner and Agency shall be fully binding and effective as to all parties so long as Agency is the holder of the funds comprising the Agency Loan at the time such amendment is executed; and (d) a written amendment executed only by Owner and City shall be fully binding and effective as to all parties so long as City is the holder of the funds comprising the Agency Loan at the time such amendment is executed.

PART 9. TIME FOR ACCEPTANCE OF AGREEMENT BY AGENCY

This Agreement, when executed by Owner and delivered to Agency and/or City, must be authorized, executed and delivered by Agency and/or City within forty-five (45) calendar days after date of signature by Owner or this Agreement may be terminated by Owner upon written notice to Agency. The effective date of this Agreement shall be the earlier date when this Agreement has been executed by Agency or City.

[Signatures Begin on Following Page]

IN WITNESS WHEREOF, Agency, City and Owner have signed this Agreement as of the dates set opposite their signatures.

**REDEVELOPMENT AGENCY OF THE CITY
OF SAN DIEGO**, a public body, corporate and
politic

Dated: _____

By: _____

Janice L. Weinrick
Deputy Executive Director

APPROVED AS TO FORM
AND LEGALITY:

JAN I. GOLDSMITH
Agency General Counsel

By: _____

Monique R. Tayyab
Deputy General Counsel

KANE, BALLMER & BERKMAN
Agency Special Counsel

By: *Theodore M. Ballmer*

Theodore M. Ballmer

[Signatures Continue on Following Page]

THE CITY OF SAN DIEGO, a municipal corporation

Dated: _____

By: _____

Wally Hill
Assistant Chief Operating Officer

APPROVED AS TO FORM
AND LEGALITY:

JAN I. GOLDSMITH
City Attorney

By: _____
Deputy Attorney

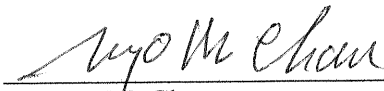
[Signatures Continue on Following Page]

OWNER

DAVID CHINH CHAU, an individual

By: 
David Chinh Chau

NGO M. CHAU, an individual

By: 
Ngo M. Chau

ATTACHMENT NO. 1

LEGAL DESCRIPTION

All the certain real property located in the County of San Diego, State of California, described as follows:

LOTS 23 AND 24 IN BLOCK 21 OF FAIRMONT ADDITION TO CITY HEIGHTS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1035, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, ON MARCH 8, 1907.

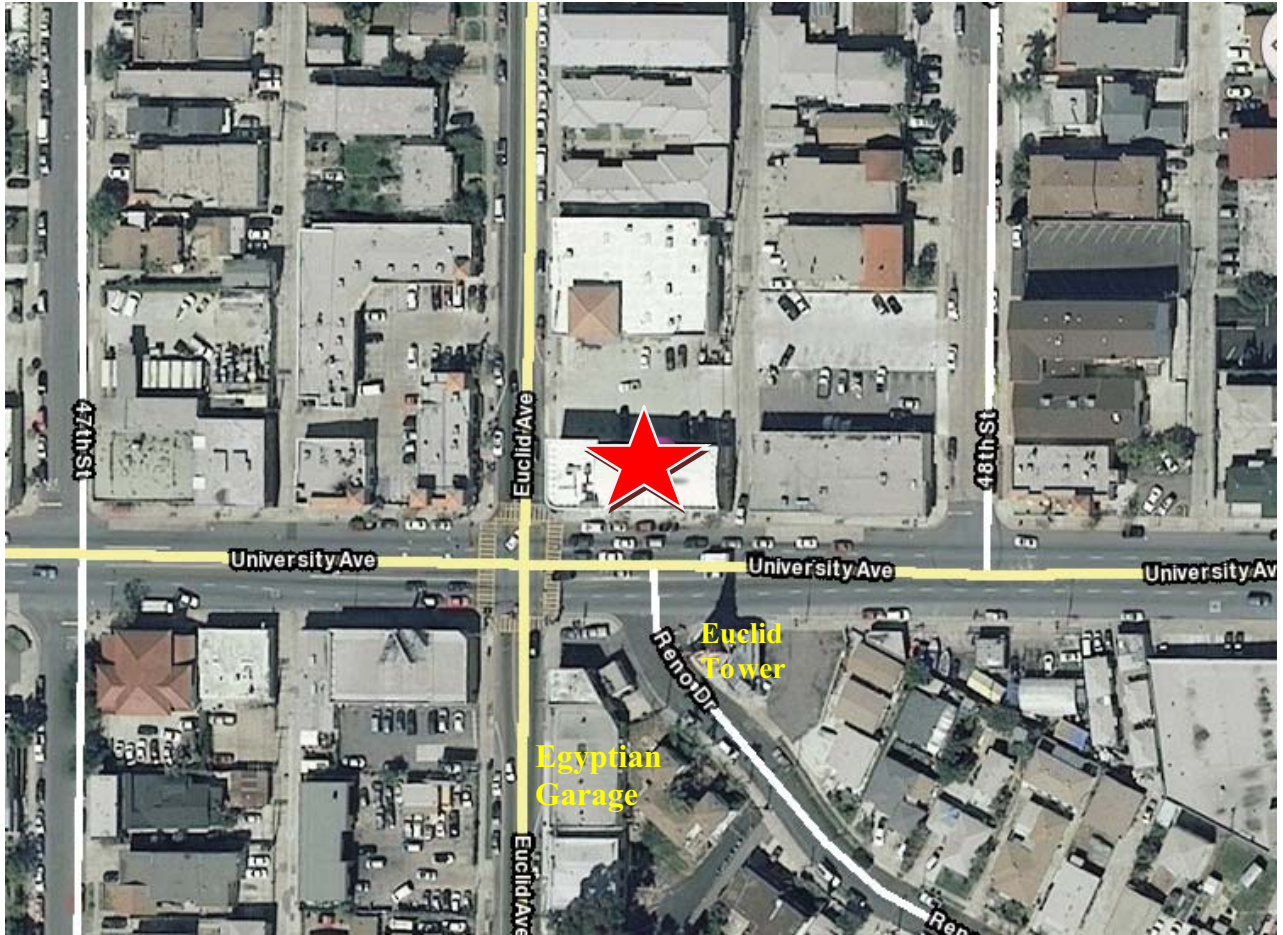
ATTACHMENT NO. 2

SITE MAP

[BEHIND THIS PAGE]

ATTACHMENT NO. 2

SITE MAP



ATTACHMENT NO. 3

SCHEDULE OF PERFORMANCE

[BEHIND THIS PAGE]

ATTACHMENT NO. 3

SCHEDULE OF PERFORMANCE

1. Execution of Agreement by Agency, City and Owner. Agency and City shall execute and deliver the Agreement to Owner. Within forty-five (45) calendar days after submission of executed Agreement by Owner.
2. Basic Concept and Schematic Drawings. Owner shall complete and submit for approval to Agency the Basic Concept and Schematic Drawings required to implement the Scope of Rehabilitation. Concurrently with the approval of the Agreement.
3. Evidence of Financing. Owner shall submit to the Agency evidence of financial commitments for Completion of the Project, including evidence of the Owner's Financial Contribution as set forth in the Project Budget. No later than three (3) months after execution of the Agreement by the Agency.
4. Approval of Financing. The Agency shall approve or disapprove of the evidence of financing. Within twenty (20) calendar days after Agency receives each such submission of evidence of financing.
5. Submission of 100% Design Development Drawings. The Owner shall prepare and submit to the Agency for approval the 100% Design Development Drawings. No later than three months after Agency approval of the Basic Concept and Schematic Drawings.
6. Approval of 100% Design Development Drawings. The Agency shall approve or disapprove the 100% Design Development Drawings. Within thirty (30) calendar days after submittal.

Note: These drawings will be approved in increments as they are submitted.
7. Submission of 50% Final Construction Drawings and Specifications. The Owner shall prepare and submit to the Agency for approval the 50% Final Construction Drawings which implement the Scope of Rehabilitation. No later than six (6) months after Agency approval of the Basic Concept and Schematic Drawings.
8. Approval of 50% Final Construction Drawings and Specifications. The Agency shall approve or disapprove the 50% Final Construction Within thirty (30) calendar days after submittal.

Drawings.

Note: These drawings will be approved in increments as they are submitted.

- | | |
|--|--|
| 9. <u>Submission of 100% Final Construction Drawings and Specifications.</u> The Owner shall prepare and submit to the Agency for approval the 100% Final Construction Drawings which implement the Scope of Rehabilitation. | No later than ten (10) months after Agency approval of the Basic Concept and Schematic Drawings. |
| 10. <u>Approval of 100% Final Construction Drawings and Specifications.</u> The Agency shall approve or disapprove the 100% Final Construction Drawings. | Within thirty (30) calendar days after submittal. |
| Note: These drawings will be approved in increments as they are submitted. | |
| 11. <u>Submission – Conditions Precedent to Closing.</u> Borrower shall satisfy all conditions precedent to Closing, as required by Section 203 of the Agreement. | Prior to the Closing. |
| 12. <u>Loan Closing.</u> The Closing shall occur and the Deed of Trust and the Agreement Affecting Real Property shall be recorded. Agency shall begin making disbursements of the Agency Loan to Owner in accordance with Section 204 of the Agreement. | Within fifteen (15) business days of the date that all conditions precedent have been satisfied or waived as set forth in Section 203 of Agreement, but no later than twelve (12) months from execution of the Agreement by the City and the Agency. |
| 13. <u>Relocation of Occupants or Businesses.</u> Owner shall relocate the occupants or businesses pursuant to Section 108 of the Agreement. | Prior to commencement of the rehabilitation of the Improvements. |
| 14. <u>Commencement of Project.</u> The qualified licensed contractor shall commence construction of the Improvements pursuant to the Scope of Rehabilitation. | No later than ten (10) calendar days after the Closing Date. |
| 15. <u>Completion of Project.</u> Owner shall complete the rehabilitation of the Improvements pursuant to the Scope of Rehabilitation. | No later than fifteen (15) months after commencement of the rehabilitation of the Improvements. |
| 16. <u>Historic Designation.</u> Owner shall submit a nomination for historic designation, pursuant to | No later than thirty (30) calendar days after the Completion Date of Project. |

Section 302 of the Agreement.

NOTES:

1. Deadlines set forth in this Schedule of Performance are subject to the enforced delay provisions of Section 602 of the Agreement.
2. Extensions may be approved in writing pursuant to Section 303 of the Agreement.
3. Descriptions of items of performance and deadlines in this Schedule of Performance are not intended to supersede more complete descriptions in the text of the Agreement; and in the event of any conflict between the text of the Agreement and this Schedule, the text of the Agreement shall govern.

ATTACHMENT NO. 4

SCOPE OF REHABILITATION

[BEHIND THIS PAGE]

ATTACHMENT NO. 4

SCOPE OF REHABILITATION

This Scope of Rehabilitation is attached to the Rehabilitation Loan Agreement (the “**Agreement**”) entered into by and among the City of San Diego, a municipal corporation (the “**City**”), the Redevelopment Agency of the City of San Diego (the “**Agency**”) and DAVID CHINH CHAU, an individual, and NGO M. CHAU, an individual (collectively referred to herein as the “**Owner**”). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Agreement.

Project Description:

Owner shall cause the timely completion of Improvements at the Property (including the adjacent sidewalks identified in the Site Map), consisting of the historic restoration of the Art Deco building including the restoration/reconstruction of the second floor for a ballroom/meeting hall space (200 person capacity) with kitchen facilities, common areas and related parking. Upgrades to the building shall include structural, mechanical, electrical, exiting, and wheelchair accessibility.

Project Approvals and Construction Standards:

Owner shall obtain all permits and entitlements as may be necessary for completion of the Improvements, and shall comply with all applicable local, state and federal laws and regulations in connection with the performance of all work on the Property. Without limiting the generality of the immediately preceding sentence, (i) the Project shall comply with the City’s building code and all other applicable local codes, construction standards, ordinances and zoning ordinances in effect at the time of Completion, (ii) the Project shall be conducted in a decent, safe and sanitary manner, and (iii) the Project shall comply with all applicable accessibility requirements.

Owner shall be responsible for payment of all fees required by the City or other public agency in connection with the subdivision of the Property and the permitting and construction of the Improvements.

The Agency and Owner agree to consider in good faith written changes to this Scope of Rehabilitation to the extent necessary to conform to any requirements imposed by other regulatory or permitting authorities. The Agency Executive Director is permitted to make such changes on behalf of the Agency without further or additional review or consideration by the Agency Board.

Construction Drawings:

Owner shall submit to Agency, for approval by the Agency Executive Director, Final Construction Drawings and Specifications which implement the design and intent of the

Agreement and this Scope of Rehabilitation.

Project Identification Signs:

Prior to commencement of any work on the Property, Owner shall prepare and install, at Owner's cost and expense, at least one sign on the Property which identifies the Project. The sign shall be at least four (4) feet by six (6) feet and be visible to passing pedestrian and vehicular traffic. The design of the sign as well as its proposed location shall be submitted to the Agency Executive Director for review and written approval prior to installation. Owner shall obtain a current roster of Agency members before any sign is manufactured. The sign shall at a minimum include:

- Illustration of the Project
- Project name
- Owner
- The text:

A project of the Redevelopment Agency of the City of San Diego

Executive Director: Mayor Jerry Sanders

Redevelopment Agency Members:

Sherry Lightner
Kevin Faulconer
Todd Gloria
Tony Young
Carl DeMaio
Lorie Zapf
Marti Emerald
David Alvarez

- Completion Date _____
- For Information, Call _____

Owner shall provide on the sign any updated and current names and information as of the start of construction for the site.

ATTACHMENT NO. 4

SCOPE OF REHABILITATION (CONTINUED)

	COST	ELIGIBLE AGENCY EXPENSE	OWNER EXPENSE
CONSTRUCTION COSTS			
SITE REQUIREMENTS			
Pedestrian Protection	\$ 25,000	\$ 25,000	
GENERAL REHAB-FIRST FLOOR			
Existing flooring demolition	\$ 8,318	\$ 8,318	
Demo and construct elevator pit	\$ 8,000	\$ 8,000	
New shaft walls around new elevator	\$ 5,000	\$ 5,000	
Weathered ceiling removal	\$ 11,090	\$ 11,090	
Storefront glass removal	\$ 12,750	\$ 12,750	
Prep existing walls for finishes	\$ 21,500	\$ 21,500	
Misc rehab of MEP equip.	\$ 33,270	\$ 33,270	
INTERIOR FINISHES-FIRST FLOOR "VANILLA"			
Prep existing floor for new flooring	\$ 15,390	\$ 15,390	
New floor covering	\$ 21,800	\$ 21,800	
Cosmetic upgrades to ceilings	\$ 11,543	\$ 11,543	
Patch drywall ceiling	\$ 19,238	\$ 19,238	
Rework lighting and convenience power	\$ 30,780	\$ 30,780	
Reconfigure ductwork and diffusers	\$ 19,238	\$ 19,238	
Finishing interior walls and ceilings	\$ 18,630	\$ 18,630	
BUILDING EXTERIOR			
Infill and Patching	\$ 17,500	\$ 17,500	
1 Entry Change	\$ 35,000	\$ 35,000	
Wall Prep	\$ 24,500	\$ 24,500	
Exterior Painting	\$ 15,750	\$ 15,750	
Sash Repair	\$ 12,500	\$ 12,500	
5 Storefront entry doors	\$ 12,500	\$ 12,500	
4 Sash Windows	\$ 8,000	\$ 8,000	
Storefront Glazing	\$ 76,500	\$ 76,500	
METALS			
1 Exterior Stair and Handrail	\$ 40,000	\$ 40,000	
WOODS & PLASTICS			
1 Interior Stair	\$ 50,000	\$ 50,000	

	COST	ELIGIBLE AGENCY EXPENSE	OWNER EXPENSE
INTERIOR FINISHES-SECOND FLOOR			
Prep and polish existing wood floor	\$ 25,028	\$ 25,028	
New finishes in bathrooms	\$ 7,300	\$ 7,300	
New ceiling in office area	\$ 7,200	\$ 7,200	
New walls in office area with insulation	\$ 11,887	\$ 11,887	
Lighting and power for office and ballroom	\$ 69,814	\$ 69,814	
Ductwork diffusers for office and ballroom	\$ 62,543	\$ 62,543	
Patch ceiling in ballroom	\$ 11,700	\$ 11,700	
Paint walls in office and ballroom	\$ 13,002	\$ 13,002	
GENERAL REHAB-SECOND FLOOR			
General demolition of office area	\$ 6,808	\$ 6,808	
2 New bathrooms walls and fixtures	\$ 40,000	\$ 40,000	
New structure around new elevator opening	\$ 7,500	\$ 7,500	
New shaft walls around new elevator	\$ 5,000	\$ 5,000	
3 New split system mech equip	\$ 24,000	\$ 24,000	
New electrical panels and feeders	\$ 66,540	\$ 66,540	
Misc rehab items	\$ 12,365	\$ 12,365	
CONVEYING SYSTEMS			
1 Hydraulic Elevator	\$ 65,000	\$ 65,000	
ELECTRICAL			
Main Distribution (Electrical Service)	\$ 15,000	\$ 15,000	
EXTERIOR IMPROVEMENTS (PAVING & HARDSCAPE)			
Remove and Replace 4" Concrete Sidewalks	\$ 37,000	\$ 37,000	
Redo Parking Area for Stair & Rear entries	\$ 12,000	\$ 12,000	
INDIRECT COSTS			
Permit Fees	\$ 7,000		\$ 7,000
Arch & Engineering Fees	\$ 70,777		\$ 70,777
Funding Control Agent	\$ 3,165		\$ 3,165
General Contractor	\$ 126,418	\$ 126,418	
Historical Designation/Approvals	\$ 19,800	\$ 19,800	
Title & Recording	\$ 5,000	\$ 5,000	
Relocation	\$ 66,000	\$ 66,000	
Contingency for Design Completion 10%	\$ 123,298	\$ 123,298	
TOTAL COSTS	\$ 1,474,942	\$ 1,394,000	\$ 80,942

ATTACHMENT NO. 5

PROJECT BUDGET

[BEHIND THIS PAGE]

ATTACHMENT NO.5

PROJECT BUDGET

SOURCES

Redevelopment Agency	\$ 1,394,000
Owner	\$ 80,942
TOTAL SOURCES	<u>\$ 1,474,942</u>

USES

CONSTRUCTION COSTS

Site Requirements	\$ 25,000
General Interior and Exterior Improvements	\$ 608,797
Second Floor (Ballroom) Improvements	\$ 370,687
Paving and Hardscape	\$ 49,000
Total Construction Costs	<u>\$ 1,053,484</u>

INDIRECT COSTS

Permit Fees	\$ 7,000
Funding Control Agent	\$ 3,165
Arch & Engineering Fees	\$ 70,777
General Contractor	\$ 126,418
Historic Designation/Approval (Local)	\$ 19,800
Title & Recording	\$ 5,000
Relocation	\$ 66,000
Contingency for Design Completion 10%	\$ 123,298
Total Indirect Costs	<u>\$ 421,458</u>

TOTAL USES	<u>\$ 1,474,942</u>
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ATTACHMENT NO. 6

FORM OF PROMISSORY NOTE

[BEHIND THIS PAGE]

**PROMISSORY NOTE
SECURED BY DEED OF TRUST**

\$1,394,000

San Diego, California

_____, 20__

FOR VALUE RECEIVED, the undersigned DAVID CHINH CHAU, an individual, and NGO M. CHAU, an individual (collectively referred to herein as “**Owner**”) promises to pay to the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO (“**Agency**”), at 1200 Third Avenue, Suite 1400, San Diego, California 92101, or at such other address as the Agency may direct from time-to-time in writing, the principal sum ONE MILLION THREE HUNDRED THOUSAND NINETY FOUR DOLLARS (\$1,394,000) (the “**Note Amount**”), as provided in this Promissory Note. All sums hereunder shall be payable in lawful money of the United States of America.

1. **Rehabilitation Loan Agreement.** This Promissory Note is made and delivered pursuant to and in implementation of that certain Rehabilitation Loan Agreement entered into by and among the City of San Diego, a municipal corporation (the “**City**”), the Agency and Owner dated _____, 2011 (the “**Loan Agreement**”), a copy of which is on file as a public record with the Agency and is incorporated herein by reference. The Loan Agreement provides for an Agency Rehabilitation Loan (referred to herein as the “**Agency Loan**”) in the Note Amount set forth herein to Owner to be used towards the Project, including the rehabilitation of the Improvements, as set forth in the Loan Agreement. Any capitalized term not defined herein shall have the meaning ascribed to such term in the Loan Agreement.

2. **Agency Loan** Agency has provided to Owner the Agency Loan in the amount of this Promissory Note pursuant to the Loan Agreement. Owner’s use of the Agency Loan shall be subject to the terms and conditions set forth in the Loan Agreement. Owner acknowledges that but for the execution of this Promissory Note, the Agency would not make the loan evidenced by this Promissory Note. This Note is secured by that certain Deed of Trust and Security Agreement dated on or about the date hereof, executed by Owner in favor of Agency (the “**Deed of Trust**”).

3. **Interest.** This Promissory Note shall bear no interest, except in the Event of Default, as defined below, during its Term, as defined below, which shall be from the date of this Promissory Note until it is repaid to the Agency or canceled.

4. **Term of Note** The term of this Promissory Note shall be ten (10) years commencing upon the date of the issuance of the Certificate of Occupancy for the Improvements by the City of San Diego or the recordation of the Release of Construction Covenants pursuant to the Loan Agreement, whichever is later (the “**Term**”). Provided no Event of Default remains uncured after notice and opportunity to cure as provided herein, an amount equal to 10.00% of the Note Amount shall be deemed paid on each anniversary of this Promissory Note, so that on the tenth

(10th) anniversary of this Promissory Note, the Note Amount shall be deemed paid in full and this Promissory Note shall be marked as cancelled and the Deed of Trust shall be reconveyed.

5. **Acceleration.** The principal amount of this Promissory Note shall become immediately due and payable upon the occurrence of any one of the following events during the Term of this Promissory Note (“**Event of Default**”):

- (a) The sale, transfer, assignment or other conveyance of the Property, any portion thereof or interest therein, prior to the tenth (10th) anniversary of the Loan Date, unless approved in writing by Agency;
- (b) Changes or alters in any way the current use of the Property as set forth in the Loan Agreement; or
- (c) An uncured default in performance or breach by Owner of any provision of the Loan Agreement, this Promissory Note, the Agreement Affecting Real Property, or the Deed of Trust or any deed of trust securing a Senior Loan or any deed of trust secured as a lien against the Property.

The Agency may, in its sole and absolute discretion, waive these requirements and/or defer repayment and/or extend the term of the Agency Loan. Any such waiver, deferment or extension must be in writing and signed by the Agency.

Amounts declared due and payable under this Promissory Note shall thereafter bear interest at the “Default Interest Rate” (as hereinafter defined) until the Event of Default is cured. For purposes of this Note, the “**Default Interest Rate**” shall be the higher of (i) the interest rate payable hereunder, or (ii) a per annum percentage rate which is five (5) percentage points above the rate on the twenty-fifth (25th) day of the month preceding the date of such Event of Default established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended. Notwithstanding the foregoing or any other provision of this Promissory Note, in no event shall the Default Interest Rate or any other rate of interest under this Promissory Note exceed the maximum rate permitted by law; and if such rate of interest, computed in the amount provided for in this Promissory Note, should exceed said maximum legal rate, then the rate of interest shall be automatically reduced to such maximum legal rate. The imposition of the Default Interest Rate shall be in addition to and not in lieu of any other rights and remedies provided for in the Deed of Trust or otherwise by law. The remedies of a holder of this Promissory Note as provided herein and in the Deed of Trust shall be cumulative and concurrent and may be pursued singularly, successively or together, at the sole discretion of the holder, and may be exercised as often as occasion therefor may arise under the terms of such documents.

6. **No Payments Due Except in the Event of Declaration** Except as otherwise provided herein, Owner shall have no obligation to make any payments of principal in

connection with this Agency Loan. Notwithstanding the foregoing, upon the occurrence of any Event of Default as provided in Section 5 above, and the failure to cure such Event of Default as provided in this Promissory Note, the outstanding principal balance of this Agency Loan shall immediately be due and payable.

7. **Nondiscrimination.** There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property nor shall Owner itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Property.

8. **Defaults.** Failure or delay by Owner to perform any term or provision of this Promissory Note, the Deed of Trust or the Agreement Affecting Real Property that is to be performed by Owner constitutes a default under this Promissory Note. The Agency shall give written notice of default to the Owner specifying in reasonable detail the matter constituting the default. If a monetary event of default occurs, Owner shall have a period of seven (7) calendar days after such notice is received or deemed received within which to cure the default prior to the Agency exercising its remedies. If a non-monetary event of default occurs, Owner shall have thirty (30) calendar days following receipt of notice to cure the default. Except as required to protect against further damages, the Agency shall not institute proceedings against the Owner unless the matter is not cured within such thirty (30) calendar day period, or, if the default is of a nature requiring more than thirty (30) calendar days to cure, the Owner commences to cure the matter within such thirty (30) calendar day period and diligently pursues such cure to completion within a reasonable time, but in no event more than sixty (60) days after notice of default. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default. Failure to cure the default within the applicable cure period shall entitle the Agency to terminate the Agency Loan, accelerate payment under this Promissory Note, and/or exercise any other remedies available to such party, including, without limitation, foreclosure on the Deed of Trust.

9. **Non-Waiver.** Failure to exercise or delay in exercising any right the Agency may have or be entitled to, in the event of default hereunder, shall not constitute a waiver of such right or any other right in the event of a subsequent default.

10. **Owner's Waivers.** Owner hereby waives diligence, presentment, protest and demand, notice of protest, dishonor and nonpayment of this Promissory Note, and expressly agrees that, without in any way affecting the liability of Owner hereunder, the Agency may extend any maturity date or the time for payment of any installment due hereunder, accept additional security, release any party liable hereunder and release any security now or hereafter securing this Promissory Note. Owner further waives, to the full extent permitted by law, the right to plead any and all statutes of limitations as a defense to any demand on this Promissory

Note, or on any deed of trust, security agreement, guaranty or other agreement now or hereafter securing this Promissory Note.

11. **Governing Law.** This Promissory Note shall be governed by the internal laws of the State of California.

12. **Severability.** In the event that any provision or clause of this Promissory Note conflicts with applicable law, such conflict will not affect other provisions of this Promissory Note which can be given effect without the conflicting provision, and to this end the provisions of the Promissory Note are declared to be severable.

13. **Amendment of Promissory Note** No modification, rescission, waiver, release or amendment of any provision of this Promissory Note shall be made except by a written agreement executed by Owner and the duly authorized representative of the Agency.

14. **Assignment by Agency Permitted.** The Agency may, in its sole and absolute discretion, assign its rights under this Promissory Note and/or its right to receive repayment of the Agency Loan without obtaining the consent of Owner.

15. **Assignment by Owner Prohibited.** In no event shall Owner assign or transfer any portion of this Promissory Note or any rights herein without the prior express written consent of the Agency, which consent the Agency may give or withhold in its sole and absolute discretion. This provision shall not affect or diminish the Agency's right to assign all or any portion of its rights under this Promissory Note or to the proceeds of the Agency Loan hereunder.

16. **Junior Liens.** Except for the pre-existing deed of trust securing the Senior Loan, if any, Owner shall not encumber the Property for the purpose of securing financing either senior or junior in priority or subordinated to this Agency Loan without the prior written approval of the Agency in its sole and absolute discretion.

17. **Relationship of Owner and Agency.** The relationship of Owner and Agency pursuant to this Promissory Note is that of debtor and creditor and shall not be, or be construed to be a joint venture, equity venture, partnership or other relationship.

18. **Notices.** (a) Except as otherwise expressly provided in this Promissory Note, in every case when, under the provisions of this Promissory Note, it shall be necessary or desirable for one party to serve any notice, request, demand, report or other communication on another party, the same shall be in writing and shall not be effective for any purpose unless served (i) personally, (ii) by independent, reputable, overnight commercial courier, or (iii) by deposit in the United States mail, postage and fees fully prepaid, registered or certified mail, with return receipt requested, addressed as follows:

To Owner: David Chinh Chau

4029 Euclid Ave
San Diego, California 92105

With Copy to: Ngo M. Chau

Attention: _____

To Agency: Redevelopment Agency of the City of San Diego
1200 Third Avenue, Suite 1400
San Diego, CA 92101
Attention: Deputy Executive Director

19. **Attorneys' Fees.** In the event that any action is instituted to enforce payment or performance under this Promissory Note, or otherwise in connection with this Promissory Note, the parties agree that the prevailing party shall be reimbursed by the other party for all costs and all attorneys' fees incurred by the prevailing party in such action. In addition, Owner agrees to reimburse the Agency for reasonable costs of collection, costs, and expenses, and attorneys' fees paid or incurred in connection with the collection or enforcement of this Promissory Note, whether or not suit is filed.

20. **Captions.** The captions and headings in this Promissory Note are for convenience only and are not to be used to interpret or define the provisions hereof.

21. **Joint and Several Liability.** The undersigned for Owner shall be jointly and severally liable hereunder.

22. **Successors Bound** This Promissory Note shall be binding upon the parties hereto and their respective heirs, successors and assigns.

“OWNER”

DAVID CHINH CHAU, an individual

By: _____
David Chinh Chau

NGO M. CHAU, an individual

By: _____
Ngo M. Chau

ATTACHMENT NO. 7
FORM OF DEED OF TRUST
[BEHIND THIS PAGE]

No Fee for Recordation
Government Code Section 6103

Recording Requested by
Redevelopment Agency of the City of San Diego

When Recorded Return to:
Redevelopment Agency of the City of San Diego
c/o City Heights Redevelopment Project
1200 3rd Ave., 14th Floor
San Diego, California 92101

Attention: Assistant Executive Director

Recordable Document:
Government Code Sections 27279,
27280 and 27281.5

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**DEED OF TRUST, SECURITY AGREEMENT
AND FIXTURE FILING
(WITH ASSIGNMENT OF RENTS)**

This Deed of Trust, Security Agreement and Fixture Filing (With Assignment of Rents) is made as of _____, 20____, by DAVID CHINH CHAU, an individual, and NGO M. CHAU, an individual (collectively referred to hereinafter as "**Trustor**"), whose address for purposes of notice is 4029 Euclid Ave, San Diego California 92105 to _____ ("**Trustee**"), for the benefit of the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body corporate and politic ("**Beneficiary**"), whose address is c/o City Heights Redevelopment Project, 1200 Third Avenue, Suite 1400, San Diego, California 92101, Attn: Project Manager.

Witnesseth: That Trustor IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS to Trustee, its successors and assigns, in Trust, with POWER OF SALE TOGETHER WITH RIGHT OF ENTRY AND POSSESSION the following property (the "**Trust Estate**"):

(a) That certain real property in the City of San Diego, County of San Diego, State of California more particularly described in Exhibit A attached hereto and by this reference made a part hereof (such interest in real property is hereafter referred to as the "**Subject Property**");

(b) All buildings, structures and other improvements now or in the future located or to be constructed on the Subject Property (the "**Improvements**");

(c) all tenements, hereditaments, appurtenances, privileges, franchises and other rights and interests now or in the future benefitting or otherwise relating to the Subject Property or the Improvements, including easements, rights-of-way and development rights (the “**Appurtenances**”). (The Appurtenances, together with the Subject Property and the Improvements, are hereafter referred to as the “**Real Property**”);

(e) subject to the assignment to Beneficiary set forth in Section 4 below, all rents, issues, income, revenues, royalties and profits now or in the future payable with respect to or otherwise derived from the Trust Estate or the ownership, use, management, operation leasing or occupancy of the Trust Estate, including those past due and unpaid (the “**Rents**”);

(f) all present and future right, title and interest of Trustor in and to all inventory, equipment, fixtures and other goods (as those terms are defined in Division 9 of the California Uniform Commercial Code (the “**UCC**”), and whether existing now or in the future) now or in the future located at, upon or about, or affixed or attached to or installed in, the Real Property, or used or to be used in connection with or otherwise relating to the Real Property or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing or occupancy of the Real Property, including furniture, furnishings, theater equipment, seating, machinery, appliances, building materials and supplies, generators, boilers, furnaces, water tanks, heating ventilating and air conditioning equipment and all other types of tangible personal property of any kind or nature, and all accessories, additions, attachments, parts, proceeds, products, repairs, replacements and substitutions of or to any of such property, but not including personal property that is donated to Trustor (the “**Goods**” and together with the Real Property, the “**Property**”); and

(g) all present and future right, title and interest of Trustor in and to all accounts, general intangibles, chattel paper, deposit accounts, money, instruments and documents (as those terms are defined in the UCC) and all other agreements, obligations, rights and written material (in each case whether existing now or in the future) now or in the future relating to or otherwise arising in connection with or derived from the Property or any other part of the Trust Estate or the ownership, use, development, construction, maintenance, management, operation, marketing, leasing, occupancy, sale or financing of the property or any other part of the Trust Estate, including (to the extent applicable to the Property or any other portion of the Trust Estate) (i) permits, approvals and other governmental authorizations, (ii) improvement plans and specifications and architectural drawings, (iii) agreements with contractors, subcontractors, suppliers, project managers, supervisors, designers, architects, engineers, sales agents, leasing agents, consultants and property managers, (iv) takeout, refinancing and permanent loan commitments, (v) warranties, guaranties, indemnities and insurance policies, together with insurance payments and unearned insurance premiums, (vi) claims, demands, awards, settlements, and other payments arising or resulting from or otherwise relating to any insurance or any loss or destruction of, injury or damage to, trespass on or taking, condemnation (or conveyance in lieu of condemnation) or public use of any of the Property, (vii) license agreements, service and maintenance agreements, purchase and sale agreements and purchase options, together with advance payments, security deposits and other amounts paid to or deposited with Trustor under any such agreements, (viii) reserves, deposits, bonds, deferred

payments, refunds, rebates, discounts, cost savings, escrow proceeds, sale proceeds and other rights to the payment of money, trade names, trademarks, goodwill and all other types on intangible personal property of any kind or nature, and (ix) all supplements, modifications, amendments, renewals, extensions, proceeds, replacements and substitutions of or to any of such property (the “**Intangibles**”).

Trustor further grants to Trustee and Beneficiary, pursuant to the UCC, a security interest in all present and future right, title and interest of Trustor in and to all Goods and Intangibles and all of the Trust Estates described above in which a security interest may be created under the UCC (collectively, the “**Personal Property**”). This Deed of Trust constitutes a security agreement under the UCC, conveying a security interest in the Personal Property to Trustee and Beneficiary. Trustee and Beneficiary shall have, in addition to all rights and remedies provided herein, all the rights and remedies of a “secured party” under the UCC and other applicable California law. Trustor covenants and agrees that this Deed of Trust constitutes a fixture filing under Section 9313 and 9402(6) of the UCC.

FOR THE PURPOSE OF SECURING due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:

- (1) due, prompt and complete observance, performance and discharge of each and every condition, obligation, covenant and agreement contained herein or contained in the following:
 - (a) the Promissory Note executed by Trustor (Owner therein) of even date herewith in the principal amount of \$1,394,000 (“**Note**”);
 - (b) the Rehabilitation Loan Agreement dated _____, 20____ by and among Trustor (Owner therein), the City of San Diego, a municipal corporation (City therein) and Beneficiary (Agency therein) (“**Loan Agreement**”); and
 - (c) the Agreement Affecting Real Property between Trustor (Owner therein) and Beneficiary (Agency therein) recorded concurrently herewith (“**Agreement Affecting Real Property**”).
- (2) payment of indebtedness of the Trustor to the Beneficiary not to exceed \$1,394,000 according to the terms of the Note.

Said Note, Loan Agreement and Agreement Affecting Real Property (collectively, the “**Secured Obligations**”) and all of their terms are incorporated herein by reference and this conveyance shall secure any and all extensions, amendments, modifications or renewals thereof however evidenced, and additional advances evidenced by any promissory note, agreement or instrument reciting that it is secured hereby.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

1. That Trustor shall pay the obligation set forth in the Note as provided therein and perform the obligations of Trustor as set forth in the Loan Agreement, the Agreement Affecting Real Property and the Note in the time and in the manner respectively provided therein.
2. That Trustor shall not permit or suffer the use of any of the Property for any purpose other than the use for which the same was intended at the time this Deed of Trust was executed.
3. That the Secured Obligations are incorporated in and made a part of the Deed of Trust. Upon default of a Secured Obligation, and after the giving of notice and the expiration of any applicable cure period, the Beneficiary, at its option, may declare the whole of the indebtedness secured hereby to be due and payable.
4. That all rents, profits and income from the property covered by this Deed of Trust are hereby assigned to the Beneficiary for the purpose of discharging the debt hereby secured. Permission is hereby given to Trustor so long as no default exists hereunder after the giving of notice and the expiration of any applicable cure period, to collect such rents, profits and income for use in accordance with the provisions of the Loan Agreement and the Agreement Affecting Real Property.
5. That upon default hereunder or under the aforementioned agreements, and after the giving of notice and the expiration of any applicable cure period, Beneficiary shall be entitled to the appointment of a receiver by any court having jurisdiction, without notice, to take possession and protect the property described herein and operate same and collect the rents, profits and income therefrom.
6. That Trustor will keep the improvements now existing or hereafter erected on the Property insured against loss by fire and such other hazards, casualties, and contingencies as may reasonably be required in writing from time to time by the Beneficiary, and all such insurance shall be evidenced by standard fire and extended coverage insurance policy or policies. In no event shall the amounts of coverage be less than 100 percent of the insurable value of the Property. Such policies shall be endorsed with standard mortgage clause with loss payable to the Beneficiary and certificates thereof together with copies of original policies shall be deposited with the Beneficiary.
7. To pay, at least 10 days before delinquency, any taxes and assessments affecting said Property; to pay, when due, all encumbrances, charges and liens, with interest, on said Property; and to pay all costs, fees, and expenses of this Deed of Trust.
8. To keep said property in good condition and repair, subject to ordinary wear and tear, casualty and condemnation, not to remove or demolish any buildings thereon; to complete or restore promptly and in good and workmanlike manner any building which

may be constructed, damaged, or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon (subject to Trustor's right to contest the validity or applicability of laws or regulations); not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law and/or covenants, conditions and/or restrictions affecting said property; not to permit or suffer any material alteration of or addition to the buildings or improvements hereafter constructed in or upon said property without the consent of the Beneficiary.

9. To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and to pay all costs and expenses, including cost of evidence of title and reasonable attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear.
10. Should Trustor fail, after the giving of notice and the expiration of any applicable cure period, to make any payment or do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Following default, after the giving of notice and the expiration of any applicable cure period, Beneficiary or Trustee being authorized to enter upon said property for such purposes, may commence, appear in and/or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; may pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, may pay necessary expenses, employ counsel, and pay his reasonable fees.
11. Beneficiary shall have the right to pay fire and other property insurance premiums when due should Trustor fail to make any required premium payments. All such payments made by the Beneficiary shall be added to the indebtedness and obligations secured hereby.
12. To pay immediately and without demand all sums so expended by Beneficiary or Trustee, under permission given under this Deed of Trust, with interest from date of expenditure at the rate specified in the Note.
13. That upon the failure of Trustor, after the giving of notice and the expiration of any applicable cure period, to keep and perform all the covenants, conditions, and agreements of the Loan Agreement, the Note and/or the Agreement Affecting Real Property, the entire indebtedness evidenced by the Note shall at the option of the Beneficiary of this Deed of Trust become due and payable, anything contained herein to the contrary notwithstanding.

14. Trustor further covenants that it will not voluntarily create, suffer, or permit to be created against the property subject to this Deed of Trust any lien or liens except as authorized by Beneficiary and further that they will keep and maintain the property free from the claims of all persons supplying labor or materials which will enter into the construction of any and all buildings now being erected or to be erected on said premises. Notwithstanding anything to the contrary contained in this Deed of Trust, Trustor shall not be obligated to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting, provided that Trustor shall, at Beneficiary's written request, within thirty (30) days after the filing of any claim or lien (but in any event, and without any requirement that Beneficiary must first provide a written request, prior to foreclosure) record in the Office of the Recorder of San Diego County, a surety bond in an amount one-and-one-half (1.) times the amount of such claim item to protect against a claim of lien, or provide such other security reasonably satisfactory to Beneficiary.
15. That any and all improvements made or about to be made upon the premises covered by the Deed of Trust, and all plans and specifications, comply with all applicable municipal ordinances and regulations and all other applicable regulations made or promulgated, now or hereafter, by lawful authority, and that the same will upon completion comply with all such municipal ordinances and regulations and with the rules of the applicable fire rating or inspection organization, bureau, association or office.
16. Trustor herein agrees to pay to Beneficiary or to the authorized loan servicing representative of the Beneficiary a reasonable charge for providing a statement regarding the obligation secured by this Deed of Trust as provided by Section 2954, Article 2, Chapter 2 Title 14, Division 3, of the California Civil Code.

IT IS MUTUALLY AGREED THAT:

17. Should the property or any part thereof be taken or damaged by reason of any public improvement or condemnation proceeding, or damaged by fire, or earthquake, or in any other manner, Beneficiary shall be entitled to all compensation, awards, and other payments or relief therefor which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, and shall be entitled at its option to commence, appear in and prosecute in its own name, any action or proceedings, or to make any compromise or settlement, in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, including the proceeds of any policies of fire and other insurance affecting said property, are hereby assigned to Beneficiary. After deducting therefrom all its expenses, including attorney's fees, the balance of the proceeds which are not used to reconstruct, restore or otherwise improve the property or part thereof that was taken or damaged, shall be applied to the amount due under the Note secured hereby. No amount applied to the reduction of the principal shall relieve the trustor from making regular payments as required by the Note.

18. Upon default by Trustor in making any payments provided for herein or upon default by Trustor in making any payment required in the Note secured hereby, or if Trustor shall fail to perform any covenant or agreement in this Deed of Trust, after the giving of notice and the expiration of any applicable cure period, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale, and of written notice of default and of election to cause the property to be sold, which notice Trustee shall cause to be duly filed for record and Beneficiary may foreclose this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust, the Note and all documents evidencing expenditures secured hereby.
19. After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time and place of sale, and from time to time thereafter may postpone the sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee or Beneficiary, may purchase at the sale. The Trustee shall apply the proceeds of sale to payment of (1) the expenses of such sale, together with the reasonable expenses of this Deed of Trust including therein reasonable Trustee's fees or attorneys' fees for conducting the sale, and the actual cost of publishing, recording, mailing and posting notice of the sale; (2) the cost of any search and/or other evidence of title procured in connection with such sale and revenue stamps on Trustee's Deed; (3) all sums expended under the terms hereof, not then repaid, with accrued interest at the rate specified in the Note; (4) all other sums then secured hereby; and (5) the remainder, if any, to the person or persons legally entitled thereto.
20. Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Deed of Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.
21. The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

22. Upon written request of Beneficiary stating that all sums secured hereby have been paid and all obligations secured hereby have been satisfied, and upon surrender of this Deed of Trust and the Note to Trustee for cancellation and retention and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or fact shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as “the person or persons legally entitled thereto”.
23. The trust created hereby is irrevocable by Trustor.
24. This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term “Beneficiary” shall include not only the original Beneficiary hereunder but also any future owner and holder including pledgees, of the Note secured hereby. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural. All obligations of Trustor hereunder are joint and several.
25. Trustee accepts this Deed of Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.
26. The undersigned Trustor requests that a copy of any notice of default and of any notice of sale hereunder be mailed to Trustor at the address set forth in the first paragraph of this Deed of Trust.
27. Trustor agrees at any time and from time to time upon receipt of a written request from Beneficiary, to furnish to Beneficiary detailed statements in writing of income, rents, profits, and operating expenses of the premises, and the names of the occupants and tenants in possession, together with the expiration dates of their leases and full information regarding all rental and occupancy agreements, and the rents provided for by such leases and rental and occupancy agreements, and such other information regarding the Premises and their use as may be requested by Beneficiary.
28. Trustor agrees that the indebtedness secured by this Deed of Trust is made expressly for the purpose of financing the construction of improvements thereon as provided in the Loan Agreement and to be operated as provided in the Agreement Affecting Real Property.
29. (a) Failure or delay by Trustor to perform any term or provision respectively required to be performed under the Note, the Loan Agreement, the Agreement Affecting Real Property or this Deed of Trust constitutes a default under this Deed of Trust.

- (b) Beneficiary shall give written notice of default to Trustor, specifying the default complained of by the Beneficiary. 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 Beneficiary 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 Beneficiary in asserting any of its rights and remedies shall not deprive Beneficiary 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, prior to exercising any remedies hereunder Beneficiary shall give Trustor written notice of such default. Trustor shall have ten (10) calendar days after such notice is received or deemed received within which to cure the default prior to exercise of remedies by Beneficiary under the this Deed of Trust. In no event shall Beneficiary be precluded from exercising 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, prior to exercising any remedies hereunder, Beneficiary shall give Trustor 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, Trustor shall have such period to effect a cure prior to exercise of remedies by the Beneficiary. If the default is such that it is not reasonably capable of being cured within thirty (30) days, and Trustor (i) initiates corrective action within said period, and (ii) diligently and in good faith works to effect a cure as soon as possible, then Trustor shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Beneficiary; provided, however, that in no event shall Beneficiary 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) 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 Trustor; 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.

30. Trustor agrees that, except as otherwise provided in the Note, upon sale or refinancing of the property, the entire indebtedness secured by this Deed of Trust shall at the option of Beneficiary be immediately due and payable.
31. If the rights and liens created by this Deed of Trust shall be held by a court of competent jurisdiction to be invalid or unenforceable as to any part of the obligations described herein, the unsecured portion of such obligations shall be completely performed and paid prior to the performance and payment of the remaining and secured portion of the obligations, and all performance and payments made by Trustor shall be considered to have been performed and paid on and applied first to the complete payment of the unsecured portion of the obligations.
32. The undersigned for Trustor shall be jointly and severally liable hereunder.

IN WITNESS WHEREOF Trustor has executed this Deed of Trust as of the day and year set forth above.

“TRUSTOR”

DAVID CHINH CHAU, an individual

By: _____
David Chinh Chau

NGO M. CHAU, an individual

By: _____
Ngo M. Chau

CALIFORNIA ACKNOWLEDGEMENT

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

CALIFORNIA ACKNOWLEDGEMENT

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ **(Seal)**

EXHIBIT A

LEGAL DESCRIPTION

All the certain real property located in the County of San Diego, State of California, described as follows:

LOTS 23 AND 24 IN BLOCK 21 OF FAIRMONT ADDITION TO CITY HEIGHTS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1035, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, ON MARCH 8, 1907.

ATTACHMENT NO. 8

FORM OF
RELEASE OF CONSTRUCTION COVENANTS

[BEHIND THIS PAGE]

No Fee for Recordation
Government Code Section 6103

Recording Requested by
Redevelopment Agency of the City of San Diego

When Recorded Return to:
Redevelopment Agency of the City of San Diego
c/o City Heights Redevelopment Project
1200 3rd Ave., 14th Floor
San Diego, California 92101

Attention: Assistant Executive Director

Recordable Document:
Government Code Sections 27279,
27280 and 27281.5

SPACE ABOVE THIS LINE FOR RECORDER'S USE

RELEASE OF CONSTRUCTION COVENANTS

WHEREAS, the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, public body corporate and politic (the “**Agency**”) and the City of San Diego, a municipal corporation, have entered into a Rehabilitation Loan Agreement with DAVID CHINH CHAU, an individual, and NGO M. CHAU, an individual (collectively referred to herein as “**Owner**”) which was approved by the Agency on _____ pursuant to Resolution No. R-_____ and filed as Document No. _____ (the “**Loan Agreement**”) relating to property in the City of San Diego, County of San Diego and State of California described as set forth in Exhibit A (the “**Property**”), for the specific purpose of rehabilitating certain improvements on the Property (the “**Project**”) in accordance with the terms and conditions contained in the Loan Agreement. Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement;

WHEREAS, pursuant to Section 318 of the Loan Agreement, upon the completion of the Project and the request of Owner, the Agency is required to issue for recordation a Release of Construction Covenants (“**Release**”) acknowledging the completion of the rehabilitation required by the Loan Agreement relating to the Property and releasing certain obligations and rights of the Owner and the Agency set forth in the Loan Agreement;

WHEREAS, the Owner has completed the rehabilitation required by the Loan Agreement relating to the Property as required by the Loan Agreement and has requested that the Agency issue the Release for the Project;

WHEREAS, Agency has inspected and determined that the rehabilitation required by the Loan Agreement relating to the Property has been satisfactorily completed and now desires to issue the Release pursuant to the terms and conditions of the Loan Agreement.

NOW THEREFORE, it is hereby acknowledged and certified by the Agency that:

1. The rehabilitation of the Property is in substantial compliance with the plans, drawings and related documents referred to in Section 302 of the Loan Agreement.
2. The Owner is in full compliance with the terms of Section 318 of the Loan Agreement.
3. All Agency rights pursuant to Section 509.b of the Loan Agreement providing the Agency the right to terminate the Loan Agreement in the event of an uncured default prior to Completion of the Project are no longer enforceable.
4. The issuance and recording of this Release shall cancel and release any rights, remedies or controls that the parties would otherwise have or be entitled to exercise under the Loan Agreement with respect to the Property as a result of a default in or breach of any provision thereof prior to Completion of the Project, and the respective rights and obligations of the parties with reference to the Property (or any portion thereof) shall thereafter be limited to those provided by the terms of the Loan Agreement, Agency Promissory Note, Agency Deed of Trust and the Agreement Affecting Real Property that survive the issuance and recordation of this Release.

[Signatures appear on following page]

IN WITNESS WHEREOF, Agency has executed this Release this ____ day of _____, 20__.

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

By: _____
Janice Weinrick
Deputy Executive Director

APPROVED AS TO FORM
AND LEGALITY:

JAN I. GOLDSMITH
Agency General Counsel

By: _____
Monique R. Tayyab
Deputy General Counsel

KANE, BALLMER AND BERKMAN
Agency Special Counsel

By: _____
Theodore M. Ballmer

[Signatures continued on following page]

Accepted jointly and severally by:

OWNER

DAVID CHINH CHAU, an individual

By: _____
David Chinh Chau

NGO M. CHAU, an individual

By: _____
Ngo M. Chau

CALIFORNIA ACKNOWLEDGEMENT

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

CALIFORNIA ACKNOWLEDGEMENT

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

CALIFORNIA ACKNOWLEDGEMENT

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION

All the certain real property located in the County of San Diego, State of California, described as follows:

LOTS 23 AND 24 IN BLOCK 21 OF FAIRMONT ADDITION TO CITY HEIGHTS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1035, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, ON MARCH 8, 1907.

ATTACHMENT NO. 9

FORM OF
AGREEMENT AFFECTING REAL PROPERTY

[BEHIND THIS PAGE]

No Fee for Recordation
Government Code Section 6103

Recording Requested by
Redevelopment Agency of the City of San Diego

When Recorded Return to:
Redevelopment Agency of the City of San Diego
c/o City Heights Redevelopment Project
1200 3rd Ave., 14th Floor
San Diego, California 92101

Attention: Assistant Executive Director

Recordable Document:
Government Code Sections 27279,
27280 and 27281.5

SPACE ABOVE THIS LINE FOR RECORDER'S USE

AGREEMENT AFFECTING REAL PROPERTY

THIS AGREEMENT AFFECTING REAL PROPERTY (this “**Agreement**”) is entered into as of _____, 20__ by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic (“**Agency**”), and DAVID CHINH CHAU, an individual, and NGO M. CHAU, an individual (jointly and severally referred to herein as “**Owner**”). Agency and Owner shall be referred to herein collectively as the “**Parties**”.

A. Owner is the owner of that certain real property located in the City of San Diego, County of San Diego, State of California, legally described in the “Legal Description” attached hereto as Exhibit A and incorporated herein by this reference (the “**Property**”).

B. The Property is within the City Heights Redevelopment Project Area (the “**Project Area**”) in the City of San Diego and is subject to the provisions of the redevelopment plan for the Project Area, which was approved and adopted on May 11, 1992 by the City Council of the City of San Diego by Ordinance No. 17768[NS], as amended from time-to-time, which is incorporated herein by this reference (the “**Redevelopment Plan**”).

C. In furtherance of the Redevelopment Plan, the City of San Diego, a municipal corporation, and the Agency have entered into that certain Rehabilitation Loan Agreement with Owner, dated _____, 2011 (the “**Loan Agreement**”), which is incorporated herein by this reference. “Loan Agreement” as used herein shall mean, refer to and include the Loan Agreement, as well as any amendments, exhibits and attachments thereto (which are

hereby incorporated herein by this reference). Any capitalized term not otherwise defined herein shall have the meaning ascribed to such term in the Loan Agreement. Whenever the term “Owner” is used herein, such term shall mean and include: (i) Owner as of the date hereof, (ii) any assignee of, or successor to its rights, powers and responsibilities permitted by the Loan Agreement and (iii) every successor in interest to the Property or any part thereof.

D. Pursuant to the Loan Agreement, Owner shall develop the Project, including the improvements to be rehabilitated on the Property together with those adjacent sidewalks identified in the Site Map attached thereto, including but not limited to the Scope of Rehabilitation (the “**Improvements**”).

E. This Agreement is entered into and recorded in accordance with the Redevelopment Plan, the Loan Agreement and the California Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*) (the “**CRL**”).

NOW, THEREFORE, AGENCY AND OWNER HEREBY AGREE AS FOLLOWS:

1. Owner covenants and agrees as follows:

(a) Owner shall use the Property only for the uses specified in the Redevelopment Plan, the Loan Agreement (including the Scope of Rehabilitation) and this Agreement. No change in the use of the Property shall be permitted without the prior written approval of Agency. The Improvements shall be constructed in compliance with the California Building Code applicable at the time of submittal of the application for rehabilitation of the Improvements.

(b) Without limiting the generality of the foregoing, Owner shall use the Property, in part, for the rehabilitation and operation on the second floor for a ballroom/meeting hall space (200 person capacity) with kitchen facilities, common areas and related parking (collectively, the “**Ballroom/MeetingHall**”), as described in the Scope of Rehabilitation and in accordance with this Agreement. Owner shall operate and manage (or cause to be managed) the Ballroom/Meeting Hall in a manner consistent with comparable facilities, and shall provide (or cause to be provided) appropriate security and comply with all governmental regulations (e.g., ABC daily license). Owner shall make good faith efforts to make available at all times to the public the rental of the Ballroom/Meeting Hall at market rates comparable to the City Heights Redevelopment Project Area.

(c) Owner shall maintain the Improvements and landscaping on the Property in first-class order, condition and repair (and, as to landscaping, in a healthy and thriving condition) in accordance with the approved plans for the Project and all applicable governmental restrictions.

(d) If Agency gives written notice to Owner that the maintenance or condition of the Property, the Project or any portion thereof or any other Improvements thereon does not comply with this Agreement, then Owner shall correct, remedy or cure the deficiency within 30

days following the date of such notice, unless the notice states that the deficiency is an urgent matter relating to public health and safety, in which case, Owner shall cure such deficiency within 48 hours following the date of the notice. In the event that Owner fails to cure any such deficiencies within the applicable period described above, Agency shall have, in addition to any other rights and remedies hereunder, the right to maintain the Property, the Project or any portion thereof or any other Improvements thereon or to contract for the correction of any deficiencies, and Owner shall be responsible for payment of all such costs actually and reasonably incurred by Agency, and such payment shall constitute a lien on the Property until paid by Owner pursuant to California Civil Code Section 2881. Any such lien shall be subordinate and subject to the lien of any Senior Loan.

(e) Owner shall be responsible for the operation of the Improvements either by direct management or by contracting its managerial functions to a third party property manager, which property manager will be charged with managing the Improvements on behalf of Owner.

(f) Owner covenants and agrees for itself, its successors and its assigns in interest to the Property or any part thereof, that there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Property, nor shall the Owner itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, subtenants, sublessees, or vendees of the Property.

(g) Owner shall refrain from restricting the rental, sale or lease of the Property on the basis of the race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry of any person. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or non-segregation clauses:

(1) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

(2) In leases: “The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.”

(3) In contracts: “There shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the land, nor shall the transferee itself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of the land. The foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties or other transferees under the instrument.”

2. In accordance with California Civil Code Section 1461 *et seq.*, all conditions, covenants and restrictions contained in this Agreement shall be covenants running with the land. The Parties acknowledge and agree that the conditions, covenants and restrictions directly benefit the Property and benefit property Agency and/or the City of San Diego, a municipal corporation (“**City**”) owns or will own (including, without limitation, underlying interests in streets) within the Project Area and shall, in any event, and without regard to technical classification or designation, legal or otherwise, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by Agency, City and their respective governmental successors and assigns and any property Agency and/or City owns or will own (including, without limitation, underlying interests in streets) within the Project Area, against Owner, its successors and assigns, to or of the Property or any portion thereof or any interest therein, and any party in possession or occupancy of said Property or portion thereof. Agency and City shall be deemed the beneficiaries of the covenants, conditions and restrictions of this Agreement both for and in their own rights and for the purposes of protecting the interests of the community. The covenants, conditions, and restrictions shall run in favor of Agency and

City, without regard to whether Agency or City has been, remains or is an owner of any land or interest therein in the Property or the Project Area. Except as provided in the preceding sentences and in applicable law (as now exists or as hereinafter may be amended), the covenants, conditions and restrictions contained herein shall not be enforceable by any third party.

In addition to the authority provided under California Civil Code Section 1461 *et seq.*, the Parties acknowledge and agree that CRL Sections 33435, 33436, 33437 and 33439 provide legal authority, separate and apart from California Civil Code Section 1461 *et seq.*, for establishing the covenants running with the land set forth herein. Agency deems the covenants, conditions and restrictions in this Agreement to be necessary to prevent speculation and to carry out the purposes of the CRL.

3. Agency and City shall each have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

4. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agreement shall defeat or render invalid or in any way impair the lien or charge of any mortgage permitted by the Loan Agreement.

5. Except as set forth in the last sentence of this Section 5, every covenant, condition and restriction contained in this Agreement shall remain in effect until the end of the period of effectiveness of the Redevelopment Plan upon the Property ((currently scheduled to expire May 11, 2033), including any time extension of such period of effectiveness) (the “**Covenant Period**”). The covenants against discrimination set forth therein shall remain in effect in perpetuity.

6. a. Prior to exercising any remedies hereunder, Agency (or City, as applicable) shall give Owner notice of such default. Except as otherwise set forth herein, if a non-monetary default is reasonably capable of being cured within 30 calendar days, then Owner shall have such period to effect a cure prior to exercise of remedies by Agency (or City, as applicable). If the non-monetary default is such that it is not reasonably capable of being cured within 30 calendar days, and Owner (i) initiates corrective action within said period and (ii) diligently, continually and in good faith works to effect a cure as soon as possible, then Owner shall have such additional time as is reasonably necessary to cure the default prior to exercise of any remedies by Agency (or City, as applicable); provided, however, that in no event shall Agency (or City, as applicable) be precluded from exercising remedies if the default is not cured within 120 days after the first notice of default is given. Monetary defaults shall be cured within 10 days.

b. Agency shall give a Permitted Mortgagee notice of any Owner default. Agency agrees to accept cures tendered by any Permitted Mortgagee within the cure periods provided herein. In no event shall Agency be precluded from exercising remedies if its rights become or are about to become materially jeopardized by any failure to cure a default or the

default is not cured by the Permitted Mortgagee within 150 calendar days after the first notice of default is given to Owner.

7. If a violation of any of the covenants or provisions of this Agreement remains uncured after the respective time period set forth in Section 6, above, then Agency, City and their respective governmental successors and assigns, without regard to whether Agency, City or their respective governmental successors and assigns is an owner of any land or interest therein to which these covenants relate, may institute and prosecute any proceedings at law or in equity to abate, prevent or enjoin any such violation or attempted violation or to compel specific performance by Owner of its obligations hereunder. No delay in enforcing the provisions hereof as to any breach or violation shall impair, damage or waive the right of any party entitled to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time.

8. This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. The signature pages of one or more counterpart copies may be removed from such counterpart copies and all attached to the same copy of this Agreement, which, with all attached signature pages, shall be deemed to be an original agreement.

9. The undersigned for Owner shall be jointly and severally liable hereunder.

[Signatures on following page]

IN WITNESS WHEREOF, Agency and Owner have executed this Agreement as of the dates set opposite their signatures.

**REDEVELOPMENT AGENCY OF THE CITY
OF SAN DIEGO**, a public body, corporate and
politic

Dated: _____

By: _____
Janice L. Weinrick
Deputy Executive Director

APPROVED AS TO FORM AND LEGALITY:

JAN I. GOLDSMITH,
Agency General Counsel

By: _____
Monique R. Tayyab
Deputy General Counsel

KANE, BALLMER & BERKMAN
Agency Special Counsel

Theodore M. Ballmer

[Signatures continue on following page]

OWNER

DAVID CHINH CHAU, an individual

By: _____
David Chinh Chau

NGO M. CHAU, an individual

By: _____
Ngo M. Chau

CALIFORNIA ACKNOWLEDGEMENT

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ **(Seal)**

CALIFORNIA ACKNOWLEDGEMENT

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

CALIFORNIA ACKNOWLEDGEMENT

State of California

County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____,

_____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All the certain real property located in the County of San Diego, State of California, described as follows:

LOTS 23 AND 24 IN BLOCK 21 OF FAIRMONT ADDITION TO CITY HEIGHTS, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 1035, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, ON MARCH 8, 1907.

ATTACHMENT NO. 10

CITY OF SAN DIEGO'S
EQUAL OPPORTUNITY CONTRACTING REQUIREMENTS

[BEHIND THIS PAGE]

ATTACHMENT NO. 10

EQUAL OPPORTUNITY CONTRACTING REQUIREMENTS

TABLE OF CONTENTS

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I. **City’s Equal Opportunity Commitment.** The City of San Diego (City) is strongly committed to equal opportunity for employees, developers, contractors, subcontractors, subconsultants and vendors/suppliers doing business with the City. The City encourages its developers to share this commitment.

II. **Demonstrated Commitment to Equal Opportunity.** The City seeks to foster a business climate of inclusion and to eliminate barriers to inclusion. Developers are encouraged to take positive steps to diversify and expand their contractor, subcontractor, subconsultant, and vendor/supplier solicitation base and to offer contracting opportunities to these groups. To support its Equal Opportunity Contracting commitment, the Developer is required to submit with its development proposal/application for Affordable Housing Program Funding (NOFA) a Letter of Commitment which must contain the following:

A. Subcontracting Commitment Goal. Anticipated subcontracting participation goal for utilization of Disadvantaged Business Enterprises (DBE's) and underrepresented firms during the course of the project.

B. Outreach Efforts. Network activities and outreach strategies intended to be utilized to recruit, hire, train and promote a diverse workforce.

C. Community Activities. Listing of Developer’s current community activities such as membership and participation in local organizations,

associations, scholarship programs, mentoring, apprenticeships, internships, community projects, charitable contributions and similar endeavors.

III. Reporting Requirements.

- A. Quarterly Update Report. Developer is required to submit quarterly reports detailing and explaining efforts made to reach its stated commitment goal.
 - 1. Due Date: *Quarterly Update Report* must be submitted every three months by the 30th day of the month.
- B. Monthly Invoicing Report. Developer must list monthly dollar amounts invoiced and paid by contractor to subcontractor, subconsultant and vendor/supplier.
- C. Monthly Employment Report. Developer must have Contractor list each employee working on the specific project by full name, social security number, gender, ethnic category, craft and employee source. Developer is responsible for collecting and submitting *Monthly Employment Report* from prime contractor and all subcontractors at any level, working at the site. Contractors and all subcontractors must submit this report monthly until their portion of work is complete. Reporting period is from first day of calendar month through last day of calendar month and reflects total work hours performed on this project.
 - 1. Due Date: *Monthly Invoicing Report* and *Monthly Employment Report* must be submitted by the 5th day of the subsequent month.
- D. Certified Payroll. If project is federally and/or state funded prevailing wages apply and certified payrolls must be submitted either weekly, bi-weekly or monthly.

During the course of the project, reports and certified payrolls must be submitted to the EOC Program Manager at 1010 Second Ave., Suite 500, San Diego, CA 92101.

IV. Nondiscrimination in Contracting Ordinance. All developers, contractors, and consultants doing business with the City, and their subcontractors, subconsultants and vendors/suppliers must comply with requirements of the City's *Nondiscrimination in Contracting Ordinance*, San Diego Municipal Code Sections 22.3501 through 22.3517.

- A. Developers Proposal/Application to include Disclosure of Discrimination Complaints. As part of its proposal/application, Developer shall provide to the City a list of all instances within the past ten (10) years where a complaint was filed or pending against Developer in a legal or administrative proceeding alleging that Developer discriminated against its employees, subcontractors, subconsultants and vendors/suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

- B. Contract Language. The following language shall be included in contracts for City projects between the Developer and any contractor, subcontractor, subconsultant and vendor/supplier:

Developer shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Developer shall provide equal opportunity for subcontractors to participate in subconsulting opportunities. Developer understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in contract termination, debarment, or other sanctions.

- C. Compliance Investigations. Upon the City's request, Developer agrees to provide to the City, within sixty (60) calendar days, a truthful and complete list of the names of all subcontractors, subconsultants, vendors, and suppliers that Developer has used in the past five (5) years on any of its contracts that were undertaken within San Diego County, including the total dollar amount paid by Developer for each subcontract or supply contract. Developer further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's *Nondiscrimination in Contracting Ordinance*, Municipal Code Sections 22.3501 through 22.3517. Developer understands and agrees that violation of this clause shall be considered a material breach of the contract and may result in remedies being ordered against the Developer up to and including contract termination, debarment and other sanctions for violation of the provisions of the *Nondiscrimination in Contracting Ordinance*. Developer further understands and agrees that the procedures, remedies and sanctions provided for in the *Nondiscrimination in Contracting Ordinance* apply only to violations of the *Ordinance*.

- V. **Equal Employment Opportunity**. Developers shall comply with requirements of San Diego Ordinance No. 18173, Section 22.2701 through 22.2707, Equal Employment Opportunity Outreach Program. Developers must submit with its proposal/application a *Work Force Report* or an *Equal Employment Opportunity (EEO) Plan* to the Manager of the City of San Diego Equal Opportunity Contracting for approval. All submittals must be sent to 1010 Second Ave., Suite 500, San Diego, CA 92101.

- A. Work Force Report. If a *Work Force Report* (Attachment AA) is submitted, and the Work Force Analysis reflects under representations when compared to County Labor Force Availability data, Developer will be required to submit an *Equal Employment Opportunity Plan*.

- B. Equal Employment Opportunity Plan. If an *Equal Employment Opportunity Plan* is submitted, it must include at least the following assurances that:
1. The Developer will maintain a working environment free of discrimination harassment, intimidation and coercion at all sites and in all facilities at which the Developer's employees are assigned to work;
 2. A responsible official is designated to monitor all employment related activity to ensure the Developer's EEO Policy is being carried out and to submit reports relating to EEO provisions;
 3. Developer disseminates and reviews its EEO Policy with all employees at least once a year, posts the policy statement and EEO posters on all company bulletin boards and job sites, and documents every dissemination review and posting with a written record to identify the time, place, employees present, subject matter, and disposition of meetings;
 4. The Developer reviews, at least annually, all supervisor's adherence to and performance under the EEO Policy and maintains written documentation of these reviews;
 5. The Developer discusses its EEO Policy Statement with Subconsultants with whom it anticipates doing business, includes the EEO Policy Statement in its subcontracts, and provides such documentation to the City upon request;
 6. The Developer documents and maintains a record of all bid solicitations and outreach efforts to and from subcontractors and subconsultants, consultant associations, vendors/suppliers and other business associations;
 7. The Developer disseminates its EEO Policy externally through various media, including the media of people of color and women, in advertisements to recruit, maintains files documenting these efforts, and provides copies of these advertisements to the City upon request;
 8. The Developer disseminates its EEO Policy to union and community organizations;
 9. The Developer provides immediate written notification to the City when any union referral process has impeded the Developer's efforts to maintain its EEO Policy;
 10. The Developer maintains a current list of recruitment sources, including those outreaching to people of color and women, and provides written notification of employment opportunities to these recruitment sources with a record of the organizations' responses;

11. The Developer maintains a current file of names, addresses and phone numbers of each walk-in applicant, including people of color and women, and referrals from unions, recruitment sources, or community organizations with a description of the employment action taken;
12. The Developer encourages all present employees, including people of color and women employees, to recruit others;
13. The Developer maintains all employment selection process information with records of all tests and other selection criteria;
14. The Developer develops and maintains documentation for on-the-job training opportunities and/or participates in training programs for all of its employees, including people of color and women, and establishes apprenticeship, trainee, and upgrade programs relevant to the Developer's employment needs;
15. The Developer conducts, at least annually, an inventory and evaluation of all employees for promotional opportunities and encourages all employees to seek and prepare appropriately for such opportunities;
16. The Developer ensures the company's working environment and activities are non-segregated except for providing separate or single-user toilets and necessary changing facilities to assure privacy between the sexes;
17. The Developer establishes and documents policies and procedures to ensure job classifications, work assignments, promotional tests, recruitment and other personnel practices do not have a discriminatory effect; and
18. The Developer is encouraged to participate in voluntary associations, which assist in fulfilling one or more of its non-discrimination obligations. The efforts of a consultant association, consultant/community professional association, foundation or other similar group of which the Developer is a member will be considered as being part of fulfilling these obligations, provided the Developer actively participates.

VI. List of Subcontractors. Developers are required to submit a *Subcontractors List* for their Prime Contractor at the start of the project. As subcontractors are added to the project, the Developer is required to notify EOC by submitting an updated *Subcontractors List* within five (5) days of addition of subcontractor to the project.

- A. Subcontractors List. The *Subcontractors List* (Attachment EOCP-7) shall indicate the name and address, scope of work, dollar amount and percent of total proposed subcontract amount, certification status and where certified for each proposed subcontractor.

1. Subcontractors must be named on the *Subcontractors List* if they receive more than one-half of one percent (0.5%) of the Developer's fee.

VII. Certification.

- A. The City of San Diego is a signatory to a Memorandum of Agreement (MOA) in the statewide California Unified Certification Program, and therefore has adopted a policy regarding certification of DBE firms. Pursuant to the MOA, a DBE can be certified by any participating government agency in the State of California.
- B. The City will accept a current certification by the State of California Department of Transportation (CALTRANS) or any other participating government agency in the State of California as an MBE or WBE: or
- C. The City will accept current DVBE certification granted by the State of California's Department of General Services, Office of Small and Minority Business, (916) 322-5060.

VIII. Definitions.

Certified "**Minority Business Enterprise**" (MBE) means a business which is at least fifty-one percent (51%) owned by African Americans, American Indians, Asians, Filipinos, and/or Latinos and whose management and daily operation is controlled by one or more members of the identified ethnic groups. In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more members of the identified ethnic groups.

Certified "**Women Business Enterprise**" (WBE) means a business which is at least fifty one percent (51%) owned by one or more women and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, one or more women.

Certified "**Disadvantaged Business Enterprise**" (DBE) means a business which is at least fifty-one percent (51%) owned and operated by one or more socially and economically disadvantaged individuals and whose management and daily operation is controlled by the qualifying party(ies). In the case of a publicly-owned business, at least fifty-one percent (51%) of the stock must be owned by, and the business operated by, socially and economically disadvantaged individuals.

Certified "**Disabled Veteran Business Enterprise**" (DVBE) means a business which is at least fifty-one percent (51%) owned by one or more veterans with a service related disability and whose management and daily operation is controlled by the qualifying party(ies).

“Other Business Enterprise” (OBE) means any business which does not otherwise qualify as Minority, Woman, Disadvantaged or Disabled Veteran Business Enterprise.

IX. List of Attachments.

EOC-7- Subcontractors List

EOC -8- Subconsultants List

EOC -AA (1-3) – Work Force Report

EOC-BB – Developer Monthly Invoicing Report

EOC-CC- Monthly Employment Report

SUBCONTRACTORS LIST
INFORMATION REGARDING SUBCONTRACTOR PARTICIPATION:

1. Subcontractor's List shall include name and complete address of all Subcontractors who will receive more than one half of one percent (0.5%) of the Developer's fee.
2. Developer shall also submit subcontractor commitment letters on subcontractor's letterhead, no more than one page each, from subcontractors listed below to acknowledge their commitment to the team, scope of work, and percent of participation in the project.
3. Subcontractors shall be used for scope of work listed. No changes to this Subcontractors List will be allowed without prior written City approval.

NAME AND ADDRESS OF SUBCONTRACTORS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/DBE/DVBE/OBE	**WHERE CERTIFIED

**For information only.* As appropriate, Developer shall identify Subcontractors as:

Certified Minority Business Enterprise	MBE
Certified Woman Business Enterprise	WBE
Certified Disadvantaged Business Enterprise	DBE
Certified Disabled Veteran Business Enterprise	DVBE
Other Business Enterprise	OBE

***For information only.* As appropriate, Developer shall indicate if Subcontractor is certified by:

City of San Diego	CITY
-------------------	------

SUBCONSULTANTS LIST

INFORMATION REGARDING SUBCONSULTANTS PARTICIPATION:

4. Subconsultant’s List shall include name and complete address of all Subconsultants who will receive more than one half of one percent (0.5%) of the Prime Consultant’s fee.

5. Developer shall also submit Subconsultant commitment letters on Subconsultant’s letterhead, no more than one page each, from Subconsultants listed below to acknowledge their commitment to the team, scope of work, and percent of participation in the project.

6. Subconsultants shall be used for scope of work listed. No changes to this Subconsultants

NAME AND ADDRESS SUBCONSULTANTS	SCOPE OF WORK	PERCENT OF CONTRACT	DOLLAR AMOUNT OF CONTRACT	*MBE/WBE/ DBE/DVBE/ OBE	**WHERE CERTIFIED

List will be allowed without prior written City approval.

**For information only.* As appropriate, Developer shall identify Subconsultants as:

- | | |
|--|------|
| Certified Minority Business Enterprise | MBE |
| Certified Woman Business Enterprise | WBE |
| Certified Disadvantaged Business Enterprise | DBE |
| Certified Disabled Veteran Business Enterprise | DVBE |
| Other Business Enterprise | OBE |

***For information only.* As appropriate, Developer shall indicate if Subconsultant is certified by:

City of San Diego	CITY
State of California Department of Transportation	CALTRANS
City of San Diego	CITY
State of California Department of Transportation	CALTRANS



THE CITY OF SAN DIEGO
EQUAL OPPORTUNITY CONTRACTING
 1010 SECOND AVENUE, SUITE 500
 SAN DIEGO, CA 92101
 PHONE (619) 533-4464 • FAX (619) 533-4474

WORK FORCE REPORT

The objective of the Equal Employment Opportunity is to ensure that contractors doing business with the City, or receiving funds from the City, will not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship.

NO OTHER FORMS WILL BE ACCEPTED CONTRACTOR IDENTIFICATION

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: DAVID CHAU

ADA/DBA: _____

Address (Corporate Headquarters, where applicable): 4029 EUCLID AVE

City SAN DIEGO County SAN DIEGO State CA Zip 92105

Telephone Number: (619) 281 - 5646 Fax Number: (619) 281 - 6978

Name of Company CEO: _____

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: _____

City _____ County _____ State _____ Zip _____

Telephone Number: () _____ - _____ Fax Number: () _____ - _____

Type of Business: _____ Type of License: _____

The Company has appointed: _____

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: _____

Telephone Number: () _____ - _____ Fax Number: () _____ - _____

For Firm's: San Diego Work Force and/or Managing Office Work Force

I, The undersigned representative of DAVID CHAU

SAN DIEGO (County) CALIFORNIA (State)

hereby certify that information provided herein is true and correct. This document was executed on this day of _____, 20____

David Chau
 (Authorized Signature)

DAVID CHAU
 (Print Authorized Signature Name)

WORK FORCE REPORT -- Page 3

NAME OF FIRM: DAVID CHAU DATE: 3/16/11

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- | | |
|--|--|
| (1) African-American, Black | (5) Filipino |
| (2) Latino, Hispanic, Mexican-American, Puerto Rican | (6) Caucasian |
| (3) Asian, Pacific Islander | (7) Other ethnicity; not falling into other groups |
| (4) American Indian, Eskimo | |

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
	Carpenter													
Drywall Installer														
Electrician														
Elevator Installers														
Finishers, Concrete or Terrazzo														
Glaziers														
Helpers, Construction Trade														
Ironworkers, Structural Metal Workers														
Laborers														
Millwrights														
Masons, Bricklayers														
Tile setters														
Operators														
Painters														
Pipe fitter, Plumbers														
Plasterers														
Roofers														
Security, Protective Services														
Sheet Metal, Duct Installers														
Welders, Cutters														

TOTALS EACH COLUMN														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

GRAND TOTAL ALL EMPLOYEES 0

INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:

DISABLED														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

WORK FORCE REPORT – Page 2

NAME OF FIRM: DAVID CHAU DATE: 3/16/11

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) African-American, Black
- (2) Latino, Hispanic, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) Caucasian
- (7) Other ethnicity; not falling into other groups

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian		(4) American Indian		(5) Filipino		(6) Caucasian		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Executive, Administrative, Managerial														
Professional Specialty														
Engineers/Architects														
Technicians and Related Support														
Sales					1									
Administrative Support/Clerical														
Services			1											
Precision Production, Craft and Repair														
Machine Operators, Assemblers, Inspectors														
Transportation and Material Moving														
Handlers, Equipment Cleaners, Helpers and Non-construction Laborers*					1									

*Construction laborers and other field employees are not to be included on this page

TOTALS EACH COLUMN			1		2									
--------------------	--	--	---	--	---	--	--	--	--	--	--	--	--	--

GRAND TOTAL ALL EMPLOYEES 3

INDICATE BY GENDER AND ETHNICITY THE NUMBER OF ABOVE EMPLOYEES WHO ARE DISABLED:

DISABLED														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

NON-PROFIT ORGANIZATIONS ONLY:

BOARD OF DIRECTORS														
VOLUNTEERS														
ARTISTS														

DEVELOPER MONTHLY INVOICING REPORT

Developer: _____

Contract Value To-Date: _____

Prime Contractor: _____

Current Reporting Month: _____ 200_____

Submitted By: _____

Work Order No: _____

Project Title: _____

NOFA Project No: _____

Contact Person and Phone Number: _____

Original Contract Amt: _____

SUBCONTRACTORS/SUPPLIERS: List Names of all Subcontractors/Suppliers:	*DBE or DVBE	Anticipated Start Date	Date of Last Inv.	Dollar Amount Paid This Month	Total Dollar Amount Invoiced To Date	CUMULATIVE AMOUNTS Paid To Date		ORIGINAL AMOUNTS LISTED IN BID		Change Order Paid this Month
						Dollar Amount	%	Dollar Amount	%	
SUBCONTRACTORS:										
SUPPLIERS:										

TOTAL DBE Subcontractors/Suppliers									
TOTAL DVBE Subcontractors/Suppliers									
TOTAL NON-DBE/DVBE Subcontractors/suppliers									
TOTAL AMOUNT PAID TO PRIME									
TOTAL CHANGE ORDERS TO DATE									

Use this table for federal or federally funded projects:

TOTAL MBE Subcontractors/Suppliers:								
TOTAL WBE Subcontractors/Suppliers:								

*On federal or federally funded projects indicate whether DBE is an MBE

I certify under penalty of perjury that the foregoing information is true and correct: _____

MONTHLY EMPLOYMENT REPORT

Contractor: _____

Employer I.D. Number: _____

Project Title: _____

Work Order Number: _____

Reporting Period: From: _____ To: _____

NOFA Project No: _____

Employee List		Social Security #	Male or Female	1 Ethnic Symbol	Craft	2 Employee Source	Number of Hours Worked
Last Name, First Name, Middle Initial	Social Security #						
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							

1 Ethnic Symbol	
Black, African American	BL
Mexican American, Hispanic, Latino, Puerto Rican	MA
Native American, American Indian, Eskimo	NA
Asian, Pacific Islander	AP
Filipino	FI
Caucasian	CA
Other Ethnicity (not defined above)	OTH

2 Employee Source	
Apprenticeship Program	A
Employment Agency	E
Training Program	T
Union Hiring Hall	U
Other	O

I certify under penalty of perjury that the foregoing information is true and correct:

Authorized Signature

Printed Name / Title

Date Prepared