

**EXHIBIT "A"**

Legal Description of the Site  
(current description of the property at time of execution)

[Attached]

**EXHIBIT "A"**

**Legal Description of Site**

That certain property located in the City of Fullerton, County of Orange, State of California, described as follows:

PARCEL 1:

LOT 1 OF CENTRAL ADDITION TO FULLERTON, IN THE CITY OF FULLERTON, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGES 7 AND 8 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THE NORTH 98 FEET THEREOF.

ALSO EXCEPT THAT PORTION THEREOF DESCRIBED IN THE DEED TO THE CITY OF FULLERTON RECORDED APRIL 22, 1971 IN BOOK 9613 PAGE 929 OF OFFICIAL RECORDS OF SAID COUNTY OF ORANGE.

PARCEL 2:

THE WEST 7 FEET OF THE SOUTH ½ OF LOT 2 OF CENTRAL ADDITION TO FULLERTON, IN THE CITY OF FULLERTON, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7 PAGES 7 AND 8 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

PARCEL 3:

A RIGHT OF WAY AND EASEMENT OVER THE EASTERLY 20.00 FEET OF THE NORTHERLY 98.00 FEET OF LOT 1 OF CENTRAL ADDITION TO FULLERTON, IN THE CITY OF FULLERTON, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 7, PAGES 7 AND 8 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

**EXHIBIT "A-1"**

Legal Description of the Fox Theatre Condominium Unit

[Attached]

**EXHIBIT "A-2"**

Legal Description of the Firestone Building Condominium Unit

[Attached]

**EXHIBIT "A-3"**

Legal Description of the Tea Room Building Condominium Unit

[Attached]

**EXHIBIT "A-4"**

Legal Description of the East Airspace Condominium Unit

[Attached]

**EXHIBIT "B-1"**

Notice of Anticipated Acquisition and Potential Relocation

[Attached]

**INFORMATIONAL NOTICE OF PROPERTY ACQUISITION  
AND POTENTIAL RELOCATION**

Jin Ho Choi or Current Lessee  
Daru & G, Inc.  
500 N. Harbor Blvd.  
Fullerton, CA 92832

Re: Lease at 500 N. Harbor Blvd., Fullerton, CA

Dear Mr. Choi:

The property on which you now conduct your business is in an area to be improved with the assistance of the Fullerton Redevelopment Agency ("Agency"). The Agency plans to acquire the property on which your business currently leases the "Premises" as defined in that certain AIR Standard Retail/Multi-Tenant Lease – Net, dated March 26, 2007, by and between the Fullerton Historic Theatre Foundation and Jin Ho Choi, an individual and d/b/a Daru & G, Inc. (the "Lease"). As set forth in Addendum #1 attached to the Lease, you were made aware of significant renovations planned for the property (known as the "Firestone Building") in which your business is located, and you were advised that your business operations may need to temporarily close from the beginning of the renovations until the end of the renovations.

This notice is only for your information as to the pending property acquisition. The Agency has not yet acquired the property. You will be kept informed and will be notified of the date as to when the Agency acquires the property.

***Please be advised: This is not a notice to move or to temporarily suspend your business operations. You are not being requested or required either to move or to relocate, temporarily or permanently, your business operations.*** If, after the acquisition of the property by the Agency, you will be required to temporarily suspend your business operations and/or relocate your business operations to another suitable commercial space in the Firestone Building, you will receive no less than 90 days' prior written notice. Again, if any temporary suspension and/or relocation of your business operations may be required to facilitate the renovations of the Firestone Building, you will be kept informed.

Nothing in this notice does or shall be construed as amending your Lease. Because nothing in this letter modifies your Lease, ***You are instructed and advised to continue to perform all of the terms and conditions set forth in the Lease.***

It is the goal of the Agency and the Fullerton Historic Theatre Foundation to keep in close contact with you so that you are aware of the schedule for carrying out the renovations affecting the property. Thank you for your time.

Sincerely,

---

Fullerton Historic theatre Foundation



**EXHIBIT "B-2"**

**Amendment to Jin Ho Choi Lease**

[Attached]

**AMENDMENT TO STANDARD RETAIL/MULTI-TENANT LEASE - NET**  
**(Jin Ho Choi Lease)**

This AMENDMENT TO STANDARD RETAIL/MULTI-TENANT LEASE – NET (Jin Ho Choi Lease) (“Amendment”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between FULLERTON HISTORIC THEATRE FOUNDATION, a California nonprofit corporation (“Lessor”), and Jin Ho Choi, an individual d/b/a Daru & G, Inc. (“Lessee”). Lessor and Lessee are periodically referred to herein individually as a “party” and collectively as the “parties.”

**R E C I T A L S**

A. On or about October 19, 2004, the Fullerton Redevelopment Agency, a public body, corporate and politic (“Agency”) and Lessor entered into that certain Disposition and Development Agreement (“Original DDA”), which provided for Lessor to acquire that certain real property located at the northeast corner of Harbor Boulevard and Chapman Avenue in the City of Fullerton, defined in the Original DDA as the “Site,” and to rehabilitate the improvements on the Site. Pursuant to the Original DDA, Lessor acquired the Site on January 24, 2005.

B. The Site was comprised of the “Fox Theatre,” “Tea Room Building,” and “Firestone Building,” all as described in the Scope of Work attached to the Original DDA and defined in the Second Amendment.

C. On or about September 19, 2006, Agency and Lessor entered into that certain First Amendment to Disposition and Development Agreement (“First Amendment”).

D. On or about \_\_\_\_\_, 2009, Agency and Lessor entered into that certain Second Amendment to Disposition and Development Agreement (“Second Amendment”), which among other provisions subdivided the Site into the “Fox Theatre Condominium Unit,” “Tea Room Building Condominium Unit,” and “Firestone Building Condominium Unit,” and created a new “East Airspace Condominium Unit” on adjacent property owned by the City of Fullerton (“City”), all of which are separate legal parcels. The Fox Theatre Condominium Unit, Tea Room Building Condominium Unit, Firestone Building Condominium Unit, and East Airspace Condominium Unit are collectively the “Condominium Units.” The Second Amendment also set forth the terms and conditions for “Agency Rehabilitation Work” and “Foundation Rehabilitation Work” to be completed in, on, and about the Condominium Units, as more specifically set forth therein.

E. Lessor and Lessee entered into that certain AIR Standard Retail/Multi-Tenant Lease-Net, dated March 26, 2007, and the attachments listed in Section 1.15 of said lease (the “Jin Ho Choi Lease” or “Lease”).

F. Pursuant to the terms and conditions in Addendum #1, attached and incorporated into the Lease, Lessee was made aware of significant renovations planned for the Firestone Building, Fox Theatre, and Tea Room Building. Lessee also was advised that its business operations may need to temporarily close from the beginning of the renovations until the end of

the renovations, and that the Premises may be occupied only upon receipt of a "Certificate/Permit of Occupancy."

G. This Amendment is meant to implement the disclosures made to Lessee in Addendum #1 to the Jin Ho Choi Lease, and to accommodate Lessee, Lessor, and Agency so that the rehabilitation work set forth in the Second Amendment may proceed upon satisfaction of conditions set forth therein.

## A G R E E M E N T

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, Agency and Lessor hereby agree as follows:

1. Definitions. Any capitalized terms contained in this Amendment which are not defined herein shall have the meaning given in the Lease, unless expressly provided to the contrary herein.

2. Temporary Closure or Relocation of Business; Accommodation for Rehabilitation Work; Waiver of Relocation and Interruption of Business Expenses. Notwithstanding any provision to the contrary in the Lease, Lessee's use and occupancy of the Premises shall be subject to the following provisions in Sections 2.1-2.5 below:

2.1 Temporary Closure and/or Relocation of Premises for Business. Lessee acknowledges and agrees that, during the Term, Lessor may temporarily close the Premises and/or temporarily or permanently relocate the Premises within the Firestone Building to allow for the completion of rehabilitation work on, in, and about the Firestone Building, Fox Theatre, and Tea Room Building, as contemplated and more specifically set forth in the Second Amendment. Lessee hereby consents to any temporary closure of the Premises and/or temporary or permanent relocation of the Premises within the Firestone Building. During any temporary closure of the Premises for rehabilitation work, Lessee shall have no obligation to pay Rent to Lessor, and Lessee shall have no right to use and occupy the Premises for any use whatsoever, including the Agreed Use set forth in the Lease. Lessor shall provide Lessee no less than thirty (30) days prior written notice of the anticipated date when the Premises will be temporarily closed and/or temporarily or permanently relocated.

2.2 Waiver and Release. Lessee for itself, its agents, assigns and related entities, fully waives, and releases, acquits, and discharges Lessor, Lessor's successor-in-interest, Agency, and City, (collectively the "Released Agencies"), and the officers, directors, employees, attorneys, accountants, other professionals, insurers and agents of the Released Agencies (collectively "Released Agents") from, all rights, claims, demands, actions or causes of action which Lessee now has or may have against the Released Agencies arising from: (i) the acquisition by Agency or City of the Premises, (ii) the assumption by Agency or City of the Lease, (iii) the temporary and/or permanent interruption of Lessee's rights to and use and occupancy of the Premises, and (iv) the temporary and/or permanent interruption, displacement and/or relocation of Lessee, Lessee's business, Lessee-owned improvements pertaining to the realty such as trade fixtures, furnishings, and equipment, and Lessee-owned personal property;

the foregoing waiver, release, acquittal, and discharge from all rights, claims, demands, actions or causes of action include without limitation Lessee's property and franchise rights and interest, relocation benefits and assistance under any Relocation Laws (defined below), all leasehold interests and rights of tenancy or occupancy, any bonus value, business goodwill, lost income (past or future), failure to locate a suitable replacement business location, lost rental income or sublease or license income, severance damages (if any), pre-condemnation and/or inverse condemnation damages (if any), economic or consequential damages, professional consultant or attorney's or expert witness fees and costs (and any interest thereon), and any and all compensable interests, and/or damages, and/or claims, of any kind and nature, claimed or to be claimed, suffered or to be suffered, by Lessee by reason of: (A) the temporary closure of the Premises and/or temporary or permanent relocation of the Premises within the Firestone Building in order to accommodate the rehabilitation work, and (B) the acquisition of the Premises by Agency or City (collectively "Released Claims"). Lessee represents and warrants that Lessee is the holder of all rights to payments relating to the Released Claims, and that none of the Released Claims has been sold, assigned, transferred, or otherwise set over, in whole or in part, to any other person or entity. Lessee further represents and warrants that Lessee has not entered into any agreement with another person or entity to sublease the Premises, and that no person or entity other than Lessee has an agreement (oral or written) for the right to use and/or occupy the Premises.

2.3 Full Release. The release of claims set forth above is intended as a full and complete release and discharge of any and all such claims that Lessee may or might have against any of the Released Agencies and the Released Agents arising from the facts and circumstances described above in this Amendment. In making this release, Lessee intends to release the Released Agencies and the Released Agents from any liability of any nature whatsoever for any claim or injury or for damages or equitable or declaratory relief of any kind, whether the claim, or any facts on which such claim might be based, is known or unknown to the party possessing the claim. Lessee expressly waives all rights under Section 1542 of the Civil Code of the State of California, which Lessee understands provides as follows:

*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.*

Lessee's Initials \_\_\_\_\_

Lessee acknowledges that it may hereafter discover facts or law different from or in addition to those which it now believes to be true with respect to the release of claims. Lessee agrees that the foregoing release shall be and remain effective in all respects notwithstanding such different or additional facts or law or any party's discovery thereof. Lessee shall not be entitled to any relief in connection therewith, including, but not limited to any damages or any right or claim to set aside or rescind this Amendment.

2.4 Post-Acquisition Tenancy. Lessee hereby consents to being deemed a "post-acquisition" tenant as defined in Title 25 of the California Code of Regulations Sections 6008 and 6034 and thus shall not be eligible for any relocation benefits or assistance

when Lessee vacates, whether voluntarily or involuntarily, or upon termination of the Lease for any reason, the Premises. Lessee expressly, knowingly, and voluntarily enters into this Amendment in full awareness and agreement that Lessee shall not be entitled to any relocation benefits or assistance or loss of goodwill under any applicable law upon vacating the Premises, or the termination of the Lease for any reason, and Lessee waives any right to receive any relocation benefits or assistance or loss of goodwill upon such vacation of the Premises, or termination of the Lease for any reason.

2.5 Relocation Laws. For purposes of this Amendment, "Relocation Laws" shall mean any and all relocation benefits pursuant to any federal, state, or local relocation law, regulation, or policy, including but not limited to the Uniform Relocation Act (42 U.S.C. § 4601 *et seq.*) and implementing regulations, California Government Code Section 7260 *et seq.*, and implementing regulations, and the Community Redevelopment Law (California Health & Safety Code § 33000 *et seq.*).

3. No Brokers. The parties each represent and warrant to each other that no other third person- or entity-broker's commission(s) and/or finder's fee(s) are applicable with respect to the transactions contemplated by this Amendment. Each party acknowledges that no other person or entity is known to be entitled to such brokers commission(s) and/or finder's fee(s), and each party agrees to indemnify, defend (with counsel of the aggrieved party's choosing) and hold the other aggrieved party harmless from and against all liabilities, costs, damages, and expenses, including without limitation, attorney's fees, resulting from any claims or fees or commissions, based upon agreements with a party, if any, to pay any such broker's commission(s) and/or finder's fee(s), or those of any third party or other person or entity.

4. Third Party Beneficiaries. The parties expressly make Agency and City intended third party beneficiaries of this Amendment. Agency and City shall have the right but not the obligation to enforce the terms and conditions in this Amendment, including but not limited to Lessee's full and general release of claims set forth in Sections 2.2-2.5 above.

5. Authorization to Execute Amendment. The parties hereby represent and warrant to each other and to all successors-in-interest to either party that each signatory to this Amendment has the full right, power, and authority to enter into this Amendment and perform the obligations hereunder. Each party has obtained any and all corporate authorizations, and this Amendment constitutes a legal, valid, and binding agreement by and between the parties hereto.

6. Lease Provisions Remain Enforceable. Except as specifically amended by this Amendment, all terms, covenants, and conditions in the Lease shall remain in full force and effect.

7. Execution in Counterpart. This Amendment may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have entered into this Amendment as of the date set forth above.

“LESSOR”

FULLERTON HISTORIC THEATRE  
FOUNDATION, a California nonprofit corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

“LESSEE”

JIN HO CHOI, an individual d/b/a Daru & G, Inc.

By: \_\_\_\_\_

**EXHIBIT "C-1"**

Lessee Estoppel Certificate

[Attached]



STANDARD ESTOPPEL CERTIFICATE - BY LESSEE

TO WHOM IT MAY CONCERN

RE: Lease ("Lease") dated \_\_\_\_\_ by and between \_\_\_\_\_ as Lessor, and \_\_\_\_\_ as Lessee, concerning the real property known as: \_\_\_\_\_

("Premises"), which Lease was amended \_\_\_\_\_ and guaranteed by \_\_\_\_\_ ("Guarantors") (it will be presumed no amendments or guarantees exist unless they are specified above) Lessee hereby certifies as follows:

1. True copies of the above referenced Lease as amended and the guarantees, if any, are attached hereto marked Exhibit "1" (Attach a copy of Lease, all amendments and guarantees) Other than the documents included in Exhibit 1 there are no oral or written agreements or understandings between the Lessor and Lessee with respect to the Premises except (if there are no exceptions, write "NONE") \_\_\_\_\_

2. The Lease term commenced on \_\_\_\_\_ and expires on \_\_\_\_\_

3. The current monthly rent and expense pass through, if any, are as follows:

Table with columns: Rent Pass Through, Amount, Day of Month Due, Paid Up Through, Year

No rents or pass-throughs have been prepaid except as reflected in the Lease (it will be presumed that no expense pass throughs are currently required unless set forth above.)

4. The current amount of security deposit held by Lessor is \$ \_\_\_\_\_

5. The Lease has not been modified, orally or in writing, since its execution, except as hereinabove identified. The Lease is in full force and effect and contains the entire agreement between Lessor and Lessee, except (if there are no exceptions, write "NONE"): \_\_\_\_\_

6. The improvements and space required to be provided by Lessor have been furnished and completed in all respects to the satisfaction of Lessee, and all promises of an inducement nature by Lessor have been fulfilled except (if there are no exceptions, write "NONE"): \_\_\_\_\_

7. Lessee has no knowledge of any uncured defaults by Lessor or Lessee under the Lease, except (if there are no exceptions, write "NONE"): \_\_\_\_\_

8. There are no disputes between Lessor and Lessee concerning the Lease, the Premises or the improvements therein or thereon, except (if there are no exceptions, write "NONE"): \_\_\_\_\_

9. Lessee is in full and complete possession of the Premises and has not assigned or sublet any portion of the Premises, except (if there are no exceptions, write "NONE"): \_\_\_\_\_

10. Lessee has no knowledge of any prior sale, transfer, assignment or encumbrance of the Lessor's interest in the Lease, except (if there are no exceptions, write "NONE"): \_\_\_\_\_

11. Lessee has made no alterations or additions to the Premises, except (if there are no exceptions, write "NONE"): \_\_\_\_\_

If alterations or additions have been made by Lessee, Lessee represents that to the best of its knowledge, all such alterations and additions were done in accordance with the terms of the Lease and in compliance with all applicable laws, rules and regulations, except (if there are no exceptions, write "NONE"): \_\_\_\_\_

12. The guarantees of the Guarantors named above are still in full force and effect, except (if there are no exceptions, write "NONE"): \_\_\_\_\_

13. Lessee is not currently the subject of a bankruptcy proceeding and to the best of its knowledge neither Lessor nor any Guarantor is involved in such a proceeding, except (if there are no exceptions, write "NONE"): \_\_\_\_\_



14. Lessee is aware that buyers, lenders and others will rely upon the statements made in this Estoppel Certificate, and has therefore adjusted the language hereof as necessary to make it an accurate statement of the current facts concerning the Lease. If no such adjustments have been made, said parties may rely upon the statements in this form as printed.

15. Additional items (if there are no additional items, write "NONE") \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_, 20\_\_\_\_  
(Fill in date of execution)

BY: \_\_\_\_\_  
Name Printed: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone (\_\_\_\_) \_\_\_\_\_  
Facsimile (\_\_\_\_) \_\_\_\_\_  
Email: \_\_\_\_\_

NOTICE: These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: AIR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017. Telephone No. (213) 687-8777. Fax No.: (213) 687-8616.

**EXHIBIT "C-2"**

Lessor Estoppel Certificate

[Attached]



STANDARD ESTOPPEL CERTIFICATE - BY LESSOR

TO WHOM IT MAY CONCERN:
RE: Lease ("Lease") dated \_\_\_\_\_ by and between \_\_\_\_\_
as Lessor and \_\_\_\_\_ as Lessee,
concerning the real property known as: \_\_\_\_\_

(Premises"), which Lease was amended \_\_\_\_\_
and guaranteed by \_\_\_\_\_
(Guarantor(s)) (It will be presumed no amendments or guarantees exist unless they are specified above).
In light of the fact that the Lessee has failed to provide an Estoppel Certificate, Lessor hereby certifies as follows.

1. True copies of the above referenced Lease as amended and the guarantees, if any, are attached hereto marked Exhibit "1" (Attach a copy of Lease, all amendments and guarantees.) Other than the documents included in Exhibit 1 there are no oral or written agreements or understandings between the Lessor and Lessee with respect to the Premises except (if there are no exceptions, write "NONE") \_\_\_\_\_

2. The Lease term commenced on \_\_\_\_\_ and expires on \_\_\_\_\_.

3. The current monthly rent and expense pass-through, if any, are as follows.
Table with columns: Amount, Day of Month Due, Paid Up Through, Year.
Rent Pass Through \_\_\_\_\_

No rents or pass-throughs have been prepaid except as reflected in the Lease. (It will be presumed that no expense pass-throughs are currently required unless set forth above.)

4. The current amount of security deposit held by Lessor is \$ \_\_\_\_\_.

5. The Lease has not been modified, orally or in writing, since its execution, except as hereinabove identified. The Lease is in full force and effect and contains the entire agreement between Lessor and Lessee, except (if there are no exceptions, write "NONE") \_\_\_\_\_

6. The improvements and space required to be provided by Lessor have been provided and completed in all respects, and all promises of an inducement nature by Lessor have been fulfilled except (if there are no exceptions, write "NONE") \_\_\_\_\_

7. Lessor has no knowledge of any uncured defaults by Lessor or Lessee under the Lease, except (if there are no exceptions, write "NONE") \_\_\_\_\_

8. There are no disputes between Lessor and Lessee concerning the Lease, the Premises or the improvements therein or thereon, except (if there are no exceptions, write "NONE") \_\_\_\_\_

9. To the best of Lessor's knowledge, Lessee is in full and complete possession of the Premises and has not assigned or sublet any portion of the Premises, except (if there are no exceptions, write "NONE") \_\_\_\_\_

10. Lessor has no knowledge of any prior sale, transfer, assignment or encumbrance of the Lessee's interest in the Lease, except (if there are no exceptions, write "NONE") \_\_\_\_\_

11. To the best of Lessor's knowledge, Lessee has made no alterations or additions to the Premises, except (if there are no exceptions, write "NONE") \_\_\_\_\_

If alterations or additions have been made by Lessee, Lessor represents that to the best of its knowledge, all such alterations and additions were done in accordance with the terms of the Lease and in compliance with all applicable laws, rules and regulations, except (if there are no exceptions, write "NONE") \_\_\_\_\_

12. The guarantees of the Guarantors named above are still in full force and effect, except (if there are no exceptions, write "NONE") \_\_\_\_\_

13. Lessor is not currently the subject of a bankruptcy proceeding and to the best of its knowledge neither Lessee nor any Guarantor is involved in such a proceeding, except (if there are no exceptions, write "NONE") \_\_\_\_\_

14. Lessor is aware that buyers, lenders and others will rely upon the statements made in this Estoppel Certificate, and has therefore adjusted the language hereof as necessary to make it an accurate statement of the current facts concerning the Lease. If no such adjustments have been made, said parties may rely upon the statements in this form as printed.

15. The Lessee may be contacted at: \_\_\_\_\_

Mailing address: \_\_\_\_\_

Telephone: (\_\_\_\_) \_\_\_\_\_

Facsimile: (\_\_\_\_) \_\_\_\_\_

Email: \_\_\_\_\_

16 Additional items (if there are no additional items, write "NONE"): \_\_\_\_\_

DATE: \_\_\_\_\_, 20\_\_\_\_  
(Fill in date of execution)

By: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

**NOTICE:** These forms are often modified to meet changing requirements of law and industry needs. Always write or call to make sure you are utilizing the most current form: ACR Commercial Real Estate Association, 800 W 6th Street, Suite 800, Los Angeles, CA 90017. Telephone No. (213) 687-8777. Fax No.: (213) 687-8818.

**EXHIBIT "D-1"**

Jin Ho Choi Lease Assignment and Assumption Agreement

[Attached]

**ASSIGNMENT AND ASSUMPTION AGREEMENT**  
**(Jin Ho Choi Lease Documents)**

This ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to be effective as of the Effective Date, by and between FULLERTON HISTORIC THEATRE FOUNDATION, a California nonprofit corporation ("Foundation" or "Assignor"), and the FULLERTON REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency" or "Assignee").

**R E C I T A L S**

A. On or about October 19, 2004, Agency and Foundation entered into that certain Disposition and Development Agreement ("Original DDA"), which provided for Foundation to acquire that certain real property located at the northeast corner of Harbor Boulevard and Chapman Avenue in the City of Fullerton, defined in the Original DDA as the "Site," and to rehabilitate the improvements on the Site. Pursuant to the Original DDA, Foundation acquired the Site on January 24, 2005.

B. The Site was comprised of the "Fox Theatre," "Tea Room Building," and "Firestone Building," all as described in the Scope of Work attached to the Original DDA and defined in the Second Amendment.

C. On or about September 19, 2006, Agency and Foundation entered into that certain First Amendment to Disposition and Development Agreement ("First Amendment").

D. On or about \_\_\_\_\_, 2009, Agency and Foundation entered into that certain Second Amendment to Disposition and Development Agreement ("Second Amendment"), which among other provisions subdivided the Site into the "Fox Theatre Condominium Unit," "Tea Room Building Condominium Unit," and "Firestone Building Condominium Unit," and created a new "East Airspace Condominium Unit" on adjacent property owned by the City of Fullerton ("City"), all of which are separate legal parcels. The Fox Theatre Condominium Unit, Tea Room Building Condominium Unit, Firestone Building Condominium Unit, and East Airspace Condominium Unit are collectively the "Condominium Units." The Second Amendment also set forth the terms and conditions for "Agency Rehabilitation Work" and "Foundation Rehabilitation Work" to be completed in, on, and about the Condominium Units, as more specifically set forth therein.

E. Pursuant to the Second Amendment, and upon satisfaction of conditions set forth therein, Agency agreed to assume, and Foundation agreed to assign, that certain AIR Standard Retail/Multi-Tenant Lease-Net, dated March 26, 2007, by and between Foundation and Jin Ho Choi, an individual d/b/a Daru & G, Inc., and the attachments listed in Section 1.15 of said lease (the "Jin Ho Choi Lease").

F. Pursuant to the Second Amendment, Foundation had the obligation to obtain from the lessee(s) of the Jin Ho Choi Lease that certain Amendment to the Jin Ho Choi Lease by and between Foundation and the lessee(s) of the Jin Ho Choi Lease (the "Amendment to Jin Ho Choi

Lease"). The Jin Ho Choi Lease and Amendment to Jin Ho Choi Lease are collectively referred to herein as the "Jin Ho Choi Lease Documents."

G. Pursuant to the terms and conditions of the Second Amendment, Agency and Foundation must execute, and the lessee(s) of the Jin Ho Choi Lease must acknowledge acceptance of, this Assignment so as to effectuate the assignment of the Jin Ho Choi Lease Documents, as more particularly set forth herein and the Second Amendment.

## A G R E E M E N T

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, Agency and Foundation hereby agree as follows:

1. Definitions. Any capitalized terms contained in this Assignment which are not defined herein shall have the meaning given in the Second Amendment, unless expressly provided to the contrary herein.

2. Effective Date. The "Effective Date" of this Assignment shall be the date that Assignee acquires fee title to the Firestone Building Condominium Unit and Tea Room Building Condominium Unit pursuant to the terms and conditions of the Second Amendment. Prior to the Effective Date, this Assignment shall be of no force and effect, and Assignee shall have no rights or obligations that have accrued or may accrue to Assignor under the Jin Ho Choi Lease Documents.

3. Assignment. As of the Effective Date, and only then and thereafter, Assignor assigns to Assignee all of Assignor's right, title and interest in and to the Jin Ho Choi Lease Documents.

4. Assumption. As of the Effective Date, and only then and thereafter, Assignee accepts the foregoing assignment, assumes the Jin Ho Choi Lease Documents, and agrees to assume, keep, perform, and fulfill all of the terms, conditions, covenants, and obligations required to be kept, performed, and fulfilled by Assignor under the Jin Ho Choi Lease Documents.

5. Miscellaneous.

5.1 Failure to Close Condominium Conveyance Escrow under Second Amendment. In the event that the CCE does not close, and Assignee does not acquire fee title to the Firestone Building Condominium Unit and the Tea Room Building Condominium Unit, then this Assignment shall be null and void and of no force and effect.

5.2 Attorneys' Fees. In the event of any action between Assignor and Assignee arising out of or in connection with this Assignment, the prevailing party in such action, whether by fixed judgment or settlement, shall be entitled to recover from the other party to this Assignment, in addition to damages, injunctive or other relief, its actual costs and expenses, including, but not limited to, actual attorneys' fees, court costs and expert witness fees.

5.3 Inurement. This Assignment shall inure to the benefit of Assignor and Assignee and their respective heirs, assigns, and successors in interest

5.4 Governing Law. This Assignment shall be construed in accordance with the internal laws of the State of California without regard to conflict of law principles.

5.5 Execution in Counterpart. This Assignment may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[Signatures on next page]



IN WITNESS WHEREOF, the parties hereto have entered into this Assignment to be effective as of the Effective Date.

“ASSIGNOR”

FULLERTON HISTORIC THEATRE  
FOUNDATION, a California nonprofit corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

“ASSIGNEE”

FULLERTON REDEVELOPMENT AGENCY, a  
public body, corporate and politic

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Agency Secretary

ACKNOWLEDGMENT AND CONSENT: The undersigned representative hereby acknowledges and consents to the terms and conditions of this Assignment:

JIN HO CHOI, an individual d/b/a Daru & G, Inc.

By: \_\_\_\_\_

**EXHIBIT "D-2"**

WRL Assignment and Assumption Agreement

[Attached]

**ASSIGNMENT AND ASSUMPTION AGREEMENT**  
**(Westlake Reed Leskosky Architectural Design Contract)**

This ASSIGNMENT AND ASSUMPTION AGREEMENT (“Assignment”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to be effective as of the Effective Date, by and between FULLERTON HISTORIC THEATRE FOUNDATION, a California nonprofit corporation (“Foundation” or “Assignor”), and the FULLERTON REDEVELOPMENT AGENCY, a public body, corporate and politic (“Agency” or “Assignee”).

**R E C I T A L S**

A. On or about October 19, 2004, Agency and Foundation entered into that certain Disposition and Development Agreement (“Original DDA”), which provided for Foundation to acquire that certain real property located at the northeast corner of Harbor Boulevard and Chapman Avenue in the City of Fullerton, defined in the Original DDA as the “Site,” and to rehabilitate the improvements on the Site. Pursuant to the Original DDA, Foundation acquired the Site on January 24, 2005.

B. The Site was comprised of the “Fox Theatre,” “Tea Room Building,” and “Firestone Building,” all as described in the Scope of Work attached to the Original DDA and defined in the Second Amendment.

C. On or about September 19, 2006, Agency and Foundation entered into that certain First Amendment to Disposition and Development Agreement (“First Amendment”).

D. On or about \_\_\_\_\_, 2009, Agency and Foundation entered into that certain Second Amendment to Disposition and Development Agreement (“Second Amendment”), which among other provisions subdivided the Site into the “Fox Theatre Condominium Unit,” “Tea Room Building Condominium Unit,” and “Firestone Building Condominium Unit,” and created a new “East Airspace Condominium Unit” on adjacent property owned by the City of Fullerton (“City”), all of which are separate legal parcels. The Fox Theatre Condominium Unit, Tea Room Building Condominium Unit, Firestone Building Condominium Unit, and East Airspace Condominium Unit are collectively the “Condominium Units.” The Second Amendment also set forth the terms and conditions for “Agency Rehabilitation Work” and “Foundation Rehabilitation Work” to be completed in, on, and about the Condominium Units, as more specifically set forth therein.

E. Pursuant to the Second Amendment, and upon satisfaction of conditions set forth therein, Agency agreed to assume, and Foundation agreed to assign, that certain Standard Form of Agreement Between Owner and Architect (AIA Document B141 – 1997 Part 1) by and between Foundation and Westlake Reed Leskosky, LLC, an Ohio limited liability company (“WRL”), dated on or about May 6, 2006 (the “WRL Architectural Design Contract”). The WRL Architectural Design Contract generally requires Foundation to make payments to WRL for completion of the architectural, pre-construction, and construction drawings for the Site that will include, among other specifications, plans for seismic retrofitting of the Fox Theatre and Tea Room Building.

F. Pursuant to the terms and conditions of the Second Amendment, Agency and Foundation must execute, and WRL must acknowledge acceptance of, this Assignment so as to effectuate the assignment of the WRL Architectural Design Contract, as more particularly set forth herein and the Second Amendment.

## A G R E E M E N T

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, Agency and Foundation hereby agree as follows:

1. Definitions. Any capitalized terms contained in this Assignment which are not defined herein shall have the meaning given in the Second Amendment, unless expressly provided to the contrary herein.

2. Effective Date. The "Effective Date" of this Assignment shall be the date that Assignee acquires fee title to the Firestone Building Condominium Unit and Tea Room Building Condominium Unit pursuant to the terms and conditions of the *Second Amendment*. Prior to the Effective Date, this Assignment shall be of no force and effect, and Assignee shall have no rights or obligations that have accrued or may accrue to Assignor under the WRL Architectural Design Contract.

3. Assignment. As of the Effective Date, and only then and thereafter, Assignor assigns to Assignee all of Assignor's right, title and interest in and to the WRL Architectural Design Contract as of the Effective Date.

4. Assumption. As of the Effective Date, and only then and thereafter, Assignee accepts the foregoing assignment, assumes the WRL Architectural Design Contract, and agrees to assume, keep, perform, and fulfill all of the terms, conditions, covenants, and obligations required to be kept, performed, and fulfilled by Assignor under the WRL Architectural Design Contract.

5. Miscellaneous.

5.1 Failure to Close Condominium Conveyance Escrow under Second Amendment. In the event that the CCE does not close, and Assignee does not acquire fee title to the Firestone Building Condominium Unit and the Tea Room Building Condominium Unit, then this Assignment shall be null and void and of no force and effect.

5.2 Attorneys' Fees. In the event of any action between Assignor and Assignee arising out of or in connection with this Assignment, the prevailing party in such action, whether by fixed judgment or settlement, shall be entitled to recover from the other party to this Assignment, in addition to damages, injunctive or other relief, its actual costs and expenses, including, but not limited to, actual attorneys' fees, court costs and expert witness fees.

5.3 Inurement. This Assignment shall inure to the benefit of Assignor and Assignee and their respective heirs, assigns, and successors in interest

5.4 Governing Law. This Assignment shall be construed in accordance with the internal laws of the State of California without regard to conflict of law principles.

5.5 Execution in Counterpart. This Assignment may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have entered into this Assignment to be effective as of the Effective Date.

“ASSIGNOR”

FULLERTON HISTORIC THEATRE  
FOUNDATION, a California nonprofit corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

“ASSIGNEE”

FULLERTON REDEVELOPMENT AGENCY, a  
public body, corporate and politic

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Agency Secretary

ACKNOWLEDGMENT AND CONSENT: The undersigned representative hereby acknowledges and consents to the terms and conditions of this Assignment:

WESTLAKE REED LESKOSKY, LLC, an Ohio  
limited liability company

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT "E"**

Grant Deed Form for Condominium Conveyances  
(with Public Agency Certificate of Acceptance)

[Attached]

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

Fullerton Redevelopment Agency  
303 West Commonwealth Ave.  
Fullerton, CA 92832  
Attn: Agency Secretary

(Space Above For Recorder's Use)

This Grant Deed is recorded at the request and for the benefit of the Fullerton Redevelopment Agency and is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

**GRANT DEED**

( \_\_\_\_\_ **Condominium Unit**)

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, FULLERTON HISTORIC THEATRE FOUNDATION, a California nonprofit corporation, hereby grants to the FULLERTON REDEVELOPMENT AGENCY, a public body, corporate and politic, that certain real property located in the City of Fullerton, County of Orange, State of California, described in the legal description attached hereto as Attachment 1 and incorporated herein by this reference, subject to all easements, encumbrances, covenants, and other matters of record.

Dated \_\_\_\_\_, \_\_\_\_\_

FULLERTON HISTORIC THEATRE  
FOUNDATION, a California nonprofit  
corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

[continued on next page]



CERTIFICATE OF ACCEPTANCE

This to certify that the interest in real property conveyed by the foregoing Grant Deed, from Fullerton Historic Theatre Foundation, a California nonprofit corporation to the Fullerton Redevelopment Agency ("Agency") is hereby accepted by the undersigned officer of the Agency, on behalf of the Agency, pursuant to authority conferred by Resolution No. \_\_\_\_\_ adopted by the Agency on \_\_\_\_\_, and the grantee, Agency, consents to the recordation thereof by its undersigned duly authorized officer.

FULLERTON REDEVELOPMENT  
AGENCY

\_\_\_\_\_  
Executive Director

ATTEST:

\_\_\_\_\_  
Agency Secretary

State of California )  
County of \_\_\_\_\_ )

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

Notary Public, 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)

State of California )  
County of \_\_\_\_\_ )

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

Notary Public, 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)

**ATTACHMENT 1**  
**to Grant Deed**

**Legal Description of \_\_\_\_\_ Condominium Unit**

That certain property located in the City of Fullerton, County of Orange, State of California, described as follows:

**[Insert appropriate Condominium Unit legal description when known. For one Grant Deed, legal description will be needed for Firestone Building Condominium Unit, for other Grant Deed, legal description will be needed for Tea Room Building Condominium Unit]**

**EXHIBIT "F"**

Affidavit of Non-Foreign Status

[Attached]

**EXHIBIT "F"**

**Affidavit of Non-Foreign Status**

Section 1445 of the Internal Revenue Code provides that the transferee of an interest in real property located in the United States must withhold tax if the transferor is a foreign person. For U.S. Tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the FULLERTON REDEVELOPMENT AGENCY, a public body, corporate and politic ("Transferee"), that withholding of tax under Section 1445 of the Code is not required upon the sale by FULLERTON HISTORIC THEATRE FOUNDATION, a California nonprofit corporation ("Transferor"), of its fee simple interest in that certain real property sold pursuant to the Second Amendment to Disposition and Development Agreement, dated \_\_\_\_\_, 2009 (the "Second Amendment"), which real property is described in the legal description attached to the Second Amendment as Exhibit "A-2" and Exhibit "A-3" and incorporated herein by this reference, the undersigned hereby certifies the following:

The Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and the income tax regulations promulgated thereunder); and

The Transferor's United States Taxpayer Identification Number is \_\_\_\_\_; and

The Transferor's office address is \_\_\_\_\_;  
and

The Transferor is not a disregarded entity as defined in Treasury Regulation section 1.445-2(b)(2)(iii). The Internal Revenue Service has not issued any notice with respect to Transferor or listed Transferor as a person whose affidavit may not be relied upon for purposes of Section 1445 of the Internal Revenue Code.

The Transferor understands that this certification may be disclosed to the Internal Revenue Service by Transferee and that any false statement contained herein could be punished by fine, imprisonment or both.

NOW, THEREFORE, Under penalty of perjury, I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct and complete, and that I have authority to sign this document on behalf of the Transferor.

FULLERTON HISTORIC THEATRE  
FOUNDATION, a California nonprofit  
corporation

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT "G"**

**Reconveyance of Agency Deed of Trust**

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Fullerton Redevelopment Agency  
303 W. Commonwealth Avenue  
Fullerton, CA 92832  
Attn: Agency Secretary

---

(Space above line for Recorder's use)

Exempt from the payment of a recording fee pursuant  
to Government Code Section 27383.

**SUBSTITUTION OF TRUSTEE AND RECONVEYANCE OF DEED OF TRUST**

The FULLERTON REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency"), as the current beneficiary and owner and holder of that certain Deed of Trust and Assignment of Rents executed by the FULLERTON HISTORIC THEATRE FOUNDATION, a California nonprofit public benefit corporation, as trustor, to FIRST AMERICAN TITLE COMPANY, as trustee, for the benefit of Agency, recorded on January 9, 2007, as Instrument No. 2007000013697 in the Official Records of Orange County, California ("Deed of Trust"), hereby substitutes Agency as trustee in lieu of the above-named trustee under said Deed of Trust.

Agency hereby accepts said appointment as trustee under the Deed of Trust and, as successor trustee, pursuant to the request of the current owner and holder and in accordance with the provisions of the Deed of Trust, does hereby reconvey to the person or persons legally entitled thereto, but without warranty, all the estate, title, and interest now held by it under the Deed of Trust.

IN WITNESS WHEREOF, said owner and trustee has caused this Substitution of Trustee and Reconveyance of Deed of Trust to be executed on \_\_\_\_\_, 2008.

FULLERTON REDEVELOPMENT AGENCY; a  
public body, corporate and politic

By: \_\_\_\_\_  
Executive Director

State of California )

)

County of Orange )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public,  
(here 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 "H"**

Agency Option Quitclaim Deed

[Attached]

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

Fullerton Redevelopment Agency  
303 West Commonwealth Ave.  
Fullerton, CA 92832  
Attn: Agency Secretary

(Space Above For Recorder's Use)

This Quitclaim of Option Agreement is recorded at the request and for the benefit of the Fullerton Redevelopment Agency and is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

**QUITCLAIM OF OPTION AGREEMENT**  
**( \_\_\_\_\_ Condominium Unit)**

This QUITCLAIM OF OPTION AGREEMENT ("Quitclaim") is dated as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to be effective only upon recording, by the FULLERTON REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency"), with reference to the following recitals which are incorporated herein:

**R E C I T A L S**

A. On or about October 19, 2004, Agency and Foundation entered into that certain Disposition and Development Agreement ("Original DDA"), which provided for Foundation to acquire that certain real property located at the northeast corner of Harbor Boulevard and Chapman Avenue in the City of Fullerton, defined in the Original DDA as the "Site," and to rehabilitate the improvements on the Site. Pursuant to the Original DDA, Foundation acquired the Site on January 24, 2005. The Original DDA required certain instruments to be recorded against the Site upon acquisition by the Foundation, including the Option Agreement recorded in the Official Records of Orange County, California ("Recorder's Office") on January 24, 2005, as Instrument No. 2005000056615 ("Option Agreement").

B. The Site was comprised of the "Fox Theatre," "Tea Room Building," and "Firestone Building," all as described in the Scope of Work attached to the Original DDA and defined in the Second Amendment (referenced below).

C. On or about September 19, 2006, Agency and Foundation entered into that certain First Amendment to Disposition and Development Agreement ("First Amendment").

D. On or about \_\_\_\_\_, 2009, Agency and Foundation entered into that certain Second Amendment to Disposition and Development Agreement ("Second Amendment"), which among other provisions subdivided the Site into the "Fox Theatre Condominium Unit," "Tea Room Building Condominium Unit," and "Firestone Building

Condominium Unit.” and created a new “East Airspace Condominium Unit” on adjacent property owned by the City of Fullerton (“City”), all of which are separate legal parcels. The Fox Theatre Condominium Unit, Tea Room Building Condominium Unit, Firestone Building Condominium Unit, and East Airspace Condominium Unit are collectively the “Condominium Units.” The Second Amendment also set forth the terms and conditions for “Agency Rehabilitation Work” and “Foundation Rehabilitation Work” to be completed in, on, and about the Condominium Units, as more specifically set forth therein.

E. Pursuant to the terms and conditions of the Second Amendment, Agency has acquired and is owner of fee title to the \_\_\_\_\_ **[INSERT EITHER FIRESTONE BUILDING CONDOMINIUM UNIT or TEA ROOM BUILDING CONDOMINIUM UNIT, whichever is applicable to attached legal description]**, as more particularly described in the legal description attached hereto as Attachment 1 and incorporated herein by this reference (the “\_\_\_\_\_ Condominium Unit”).

F. Pursuant to the Second Amendment, and upon satisfaction of conditions set forth therein, Agency agreed to quitclaim its interest in the Option Agreement as said Option Agreement pertains to those portions of the Site to which Agency would acquire fee title. The \_\_\_\_\_ Condominium Unit, referenced in Recital E above, is a portion of the Site to which Agency acquires fee title pursuant to the Second Amendment.

#### Q U I T C L A I M

NOW, THEREFORE, based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

1. Upon the date of recording of this Quitclaim in the Official Records of Orange County, California, and only upon said date and from thereafter, Agency remises, releases, and quitclaims all of Agency’s right, title, and interest in and to the Option Agreement as it pertains to the \_\_\_\_\_ Condominium Unit.

2. This Quitclaim does not affect any rights or obligations of Agency or Foundation set forth in any document or instrument other than those rights and obligations in the Option Agreement as remised, released, and quitclaimed pursuant to this Quitclaim.

3. Nothing in this Quitclaim remises, releases, or quitclaims, or shall be deemed to remise, release, or quitclaim, Agency’s interest under the Option Agreement as it pertains to the Fox Theatre Condominium Unit. Pursuant to the Second Amendment, the Fox Theatre Condominium Unit and the Foundation, and its successors-in-interest, are bound by the Option Agreement.

[Signature on next page]

IN WITNESS WHEREOF, this Quitclaim of Option Agreement has been executed by Agency on the date first written above and is to be effective upon its recordation in the Official Records of Orange County, California.

"AGENCY"

FULLERTON REDEVELOPMENT  
AGENCY, a public body, corporate and politic

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Secretary

State of California )  
County of \_\_\_\_\_ )

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

Notary Public, 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)

**ATTACHMENT 1**  
**to Quitclaim of Option Agreement**

**Legal Description of \_\_\_\_\_ Condominium Unit**

That certain property located in the City of Fullerton, County of Orange, State of California, described as follows:

**[Insert appropriate Condominium Unit legal description when known. For one Quitclaim, legal description will be needed for Firestone Building Condominium Unit, for other Quitclaim, legal description will be needed for Tea Room Building Condominium Unit]**

**EXHIBIT "I"**

Revised Schedule of Performance (Revised)

[Attached]

**EXHIBIT "I"**

**REVISED SCHEDULE OF PERFORMANCE**

<b>ITEM OF PERFORMANCE</b>		<b>TIME FOR PERFORMANCE</b>
1.	Due Diligence Materials delivered to Foundation (§ 2.3.1).	<b>Completed.</b>
2.	Foundation reviews preliminary title report (§ 2.3.4).	<b>Completed.</b>
3.	Agency and Foundation execute the Assignment Agreement (§ 2.2.1).	Concurrently with the execution of the Agreement. <b>(Completed)</b>
4.	Foundation submits to Agency the evidence of insurance required under Section 2.3.2 (§ 2.3.2).	Prior to conducting its physical inspections of the Site. <b>(Completed)</b>
5.	Foundation conducts its inspections and investigations of the Site (§ 2.3.2).	During Foundation's Due Diligence Period. <b>(Completed)</b>
6.	Foundation delivers Foundation's Due Diligence Notice to Agency (§ 2.3.3).	No later than November 5, 2004. <b>(Completed)</b>
7.	Foundation deposits into Escrow the Foundation Purchase Price, the estimated amount of the Escrow costs and prorations for which the Buyer is responsible under the Purchase Agreement, the executed Regulatory Agreement, Memorandum of DDA, and Option Agreement, two executed copies of the Assignment and Assumption of Tenant Leases, and any other known escrow and closing documents required to be submitted by the Buyer under the Purchase Agreement in order to accomplish the close of Escrow for the Site. (§§ 2.4.1, 2.5.1, 2.6).	No later than November 8, 2004. <b>(Completed)</b>
8.	Agency deposits the Agency Purchase Price into Escrow (§ 2.4.2).	No later than November 10, 2004, and provided the other Conditions to Assignment are satisfied. <b>(Completed)</b>



	ITEM OF PERFORMANCE	TIME FOR PERFORMANCE
9.	Agency exercises the Agency Option (§ 2.2.3).	No later than the Option Expiration Date, provided the Conditions to Assignment are satisfied. <b>(Completed)</b>
10.	The Assignment Agreement becomes effective (§ 2.2.1).	Upon Agency's exercise of the Agency Option. <b>(Completed)</b>
11.	Foundation submits evidence of insurance (§ 3.8).	No later than 10 days prior to the scheduled Closing Date. <b>(Completed)</b>
12.	Agency deposits the executed Regulatory Agreement, Memorandum of DDA, and Option Agreement into Escrow (§ 2.5.2).	Prior to the scheduled Closing Date. <b>(Completed)</b>
13.	Escrow closes and Foundation obtains title to the Site and Escrow Holder records the Regulatory Agreement, Memorandum of DDA, and Option Agreement (§ 2.2.1, 2.5.3, Purchase Agreement).	Concurrently with Morgan's acquisition of the Site from the Current Owner, provided the conditions to closing in the Purchase Agreement are satisfied. <b>(Completed)</b>
14.	As to each Project Phase, Foundation submits evidence of financial capability to develop the Project Phase (§ 3.4.3).	No less than 20 days prior to the date Foundation is required to commence development of the Project Phase. (Removed)
15.	As to each Project Phase, Agency and City approve (or disapprove) Foundation's evidence of financial capability (§ 3.4.3).	Within 20 days after Foundation's submittal and prior to Foundation's commencement of development of a Project Phase. (Removed)
16.	Project Phase 1 Schedule:	
16A.	Foundation commences development of Project Phase 1 on the Site (§ 3.3).	No later than 5 days after the Acquisition Date. <b>(Completed)</b>
16B.	Foundation completes development of Project Phase 1 on the Site (§ 3.3).	No later than 180 days after the Acquisition Date. <b>(Completed)</b>
17.	Project Phase 2 Schedule:	

ITEM OF PERFORMANCE		TIME FOR PERFORMANCE
17A.	Foundation commences development of Project Phase 2 (§ 3.3).	No later than 6 months after the Acquisition Date. <b>(Completed)</b>
17B.	Foundation completes development of Project Phase 2 (§ 3.3).	No later than 18 months after the Acquisition Date. <b>(Completed)</b>
18.	Project Phase 3 Schedule: Rehabilitation of the Firestone and Tea Room Buildings will be completed by the Agency or Agency's agent i.e. construction manager. Foundation Advisory Committee will be to advise and provide comments to Agency at all stages of Agency Rehabilitation Work.	
18A.	Agency or Agency's agent submits the Final Construction Drawings for Project Phase 3 to the Redevelopment Design Review Committee, Landmarks Commission, and City Council for review and a finding of conformity with previously approved plans (§5.2.4).	No later than 7 months after the CCE Closing Date.
18B.	Agency or Agency's agent commences development of Project Phase 3 on the Site.	No later than 12 months after the CCE Closing Date.
18C.	Agency or Agency's agent completes development of Project Phase 3 on the Site.	No later than 30 months after the CCE Closing Date.
19.	Project Phase 4 Schedule: Seismic and Structural stabilization of the Fox Theatre will be completed by the Agency or Agency's agent i.e. construction manager. Foundation Advisory Committee will be to advise and provide comments to Agency at all stages of Agency Rehabilitation Work.	
19A.	Agency or Agency's agent submits the Final Construction Drawings for Project Phase 4 to the Redevelopment Design Review Committee, Landmarks Commission, and City Council for review and a finding of conformity with previously approved plans (§ 5.2.4).	No later than 7 months after the CCE Closing Date.
19B.	Agency or Agency's agent commences development of Project Phase 4 on the Site.	No later than 12 months after the CCE Closing Date.
19C.	Agency completes development of Project Phase 4 on the Site.	No later than 30 months after the CCE Closing Date.
20.	Project Phase 5 Schedule: Rehabilitation of the Fox Theatre Interior and Exterior will be completed by the Foundation	

ITEM OF PERFORMANCE		TIME FOR PERFORMANCE
20A.	Foundation submits to Agency and City for review and approval the Interior and Exterior Treatment Concept for Project Phase 5 and the architectural plans and related documents required to obtain Development Project approval for Project Phase 5 (§5.1.5).	No later than 24 months after the CCE Closing Date.
20B.	Foundation submits the Final Construction Drawings for Project Phase 5 to the Redevelopment Design Review Committee, Landmarks Commission, and City Council for review and a finding of conformity with previously approved plans (§5.1.5).	No later than 36 months after the CCE Closing Date.
20C.	Foundation commences development of Project Phase 5 on the Site.	No later than 36 months after the CCE Closing Date.
20D.	Foundation completes development of Project Phase 5 on the Site.	No later than 48 months after the CCE Closing Date.

It is understood that the foregoing Schedule is subject to all of the terms and conditions of the text of the Agreement. The summary of the items of performance in this Schedule is not intended to supersede or modify the more complete description in the text; in the event of any conflict or inconsistency between this Schedule and the text of the Agreement, the text shall govern.

Times of performance under the Agreement may be extended by mutual written agreement of Agency and Foundation. The Executive Director of Agency shall have the authority on behalf of Agency to approve extensions of time, with the exception of any extension that would result in the completion date for any Project Phase being extended by more than one hundred eighty (180) days.

**EXHIBIT "J"**

Revised Scope of Work

[Attached]

## EXHIBIT "J"

### SCOPE OF WORK

(This Scope of Work consists of the original scope that has been updated and modified for purposes of the Second Amendment)

The Site is currently improved with the following three adjoining Buildings:

Fox Theatre. The 21,025 square foot Fox Theatre is comprised of three levels, including the main auditorium, stagehouse, production support spaces, lobbies, retail space, and basement. The Fox Theatre has been vacant and closed since 1987. Full occupancy is prohibited until it has been seismically retrofitted and brought up to code.

Tea Room Building. The 9,700 square foot Tea Room Building is comprised of three levels, including a partial basement. The Tea Room Building is vacant and is in a state of serious disrepair and occupancy is prohibited until it has been brought up to code.

Firestone Building. The 7,150 square foot Firestone Building is comprised of six commercial units, two of which are currently leased. The Firestone Building is somewhat run down, but functional. It has already been seismically upgraded, so most of what remains to be done is a major facelift.

\* \* \* \* \*

The Project consists of the rehabilitation of the existing improvements on the Site and the installation of related improvements to the Site including landscaping, and signage, as well as all other on-site and off-site improvements required for the rehabilitation of the buildings and other improvements on the Site such as the addition to the east side of the Theatre.

The Fox Theatre and the Tea Room Building shall be rehabilitated to their original condition with such rehabilitation to match the design, plans, and appearance of the original facilities substantially consistent with the plans prepared by Meyer & Holler dated 1924 identified as Job No. 1924. The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings shall be applied to the rehabilitation, taking into consideration the proposed uses of the buildings and current accessibility and code requirements.

The Firestone Building shall be rehabilitated such that the elements of the facility that are damaged or deteriorated or in need of repair, as reasonably determined by the Agency and Foundation, are repaired or replaced, with such rehabilitation to be undertaken in a manner that will retain and preserve the building's Spanish Colonial Revival architecture and other features which convey the building's historical and architectural value. The Secretary of the Interior's Standards for the Treatment of Historic Buildings with Guidelines for Rehabilitation and requirements of the State Architect's Office shall be applied to the rehabilitation of the Firestone Building. In addition to the foregoing, the parking field in front of the Firestone Building shall be converted to a use approved by Agency.

The Firestone and Tea Room buildings will be rehabilitated first in order to dramatically improve the area as soon as possible. Although the construction on each building may commence at different times, the planning and pre-development tasks for the entire Project will be performed at

the same time to increase the effectiveness of the development plan, streamline the permitting and approval process, and allow the Foundation to plan an adequate funding strategy..

The Project will be developed in five Project Phases as set forth below. **The following is not a complete description of all of the improvements that are to be completed in each Project Phase.**

1. Project Phase 1 – Stabilization of Fox Theatre and Tea Room Building. The first phase of the Project included stabilization of the Fox Theatre and the Tea Room Building (but did not include seismic rehabilitation) and included without limitation the following improvements to those buildings:

- Paint the exterior of the buildings
- Replace the glass in all of the boarded up windows and glass doors
- Secure the buildings from trespassers and vandalism
- Address the mold damage in the buildings to prevent further damage prior to construction
- Clean the drains and repair roof leaks
- Clean up trash, debris and weeds

Project Phase 1 has been completed by Foundation.

2. Project Phase 2 – Planning and Pre-Development. The second phase of the Project will include the completion of planning and pre-development tasks for the entire Project and will include without limitation the following tasks:

- Engage professionals and coordinate specialty consultants such as historic, signage, telecommunications, security, conservator, and various construction specialists
- Identify all necessary regulatory approvals including the building code, ADA accommodations and accessibility, environmental, zoning, and historic preservation.
- Develop a comprehensive project budget, including all sources and uses of project funds
- Develop a comprehensive schedule including planning, pre-construction, regulatory approval process, construction, and occupancy of all buildings, with the understanding that the schedule shall be consistent with the outside performance dates set forth in the Second Amendment
- Identify milestones and critical path of construction
- Hold regular team construction meetings and coordinate actions of the architects, engineers, and contractor to ensure consistency with project program and contracts

Project Phase 2 will be completed by the Agency

3. Project Phase 3 – Rehabilitation of Firestone Building and Tea Room Building. The third phase of the Project will include the rehabilitation of the Firestone Building to a tenant – ready condition (not including food service tenant fixturation and will include without limitation the following improvements:

- Conversion of parking field in front of the Firestone building to a use approved by the Agency
- Install landscaping, if required
- Improve exterior appearance of building by painting, removing inappropriate stucco, repair and replace missing roof tiles, update window treatment, update signage, replace windows and doors to be more historically compatible.
- Update plumbing and HVAC systems to meet code requirements
- Update fire sprinklers and safety systems to meet code requirements
- Update computer and communications systems and install telecommunication and security equipment to meet code requirements
- Address any environmental issues that may still remain on the Site

Rehabilitation of Tea Room Building. The third phase of the Project will also include the rehabilitation of the interior and exterior of the Tea Room Building to a shell condition ready for additional tenant improvements by future tenants and will include without limitation the following improvements:

- Patch, repair, finish and paint exterior treatment to reflect original construction
- Repair existing roofs
- Provide seismic and structural stabilization
- Repair or replace electrical fixtures inside and outside the building
- Repair and update plumbing, including floor drains and sump pumps
- Renovate/replace or cause the renovation/replacement of HVAC system
- Abate asbestos, lead, mold
- Provide for ADA compliance
- Update fire sprinklers and safety systems to meet code requirements
- Upgrade landscaping in a first class manner
- Update computer and communications systems and install telecommunication and security equipment to meet code requirements
- Construct new basement and kitchen areas as required by the new plans

Project Phase 3 will be completed by the Agency.

4. Project Phase 4 – Provide seismic and structural stabilization to the Theatre building.

- Seismically stabilize Theatre Building with temporary bracing, if necessary on the east wing, until Theatre Building is ready for rehabilitation pursuant to Phase 5

Project Phase 4 will be completed by the Agency.

5. Project Phase 5 –Rehabilitation of Fox Theatre Exterior and Interior (Engineering and Mechanical Systems) and Other Site Improvements. The fifth phase of the Project will include the rehabilitation of the exterior and interior of the Fox Theatre and any other improvements to the Site that have not been completed including landscaping and improvements to other non-building areas. The exterior rehabilitation of the Fox Theatre will include without limitation the following improvements:

- Construct addition to the east wing of the Theatre building

- Landscape and improve all courtyards, plazas, and exterior surface areas on the Site in a first class manner
- Patch, repair, finish and paint exterior treatment to reflect original construction
- Repair or replace existing roofs
- Refurbish rooftop scaffold sign
- Complete any seismic *retrofit* to the Theatre Building
- Repair, restore, or rehabilitate exterior electrical fixtures
- Repair and update plumbing, including floor drains and sump pumps
- Renovate/replace or cause the renovation/replacement of HVAC system
- Update fire sprinklers and safety systems
- Provide for ADA compliance
- Address asbestos, lead and mold abatement
- Update computer and communications systems and install telecommunication and security equipment to meet code requirements
- Repair, restore, rehabilitate or replicate the marquee and box office, with the precise scope of the work to be determined by Foundation after review and comment by the Agency and the public at a public meeting or such other forum as determined by Agency, with such work to be subject to the normal planning process

Rehabilitation of the interior of the Fox Theatre and will include without limitation the following improvements:

*Decorative Features and Commercial Fixtures.*

- Repair fountain
- Repair or replace the seats and provide for ADA compliant access and seating
- Restore and stabilize ceiling medallions and decorative vents
- Repair, restore, rehabilitate or replicate ceilings and moldings
- Repair, restore, rehabilitate or replicate terra cotta features, stencil work and plaster work
- Repair, restore, rehabilitate or replicate the decorative urns, vases, statuary, and fountains
- Repair, restore, rehabilitate or replicate the proscenium arch, herms, and associated features
- Repair, restore, and rehabilitate the wrought iron chandeliers
- Equip theatre with the appropriate acoustics, projection and lighting equipment, stage house equipment, box office and concession equipment, film screen, and piano
- Repair, restore, rehabilitate or replicate all interior electrical and light fixtures
- Repair or replace all seats

*Specialty Items.*

- Repair, restore, rehabilitate or replicate the six Anthony Heinsbergen murals
- Repair, restore, rehabilitate or replicate the John Gabriel Beckman lobby murals and artwork on both the ground floor and the mezzanine floor



If, as a result of unforeseen conditions or costs, Foundation desires to defer or extend the time to perform the two Specialty Items referred to above, Agency agrees that Foundation may submit a request for a deferral or time extension to the Landmarks Commission. Agency and Foundation shall each observe and abide by the decision of the Landmarks Commission with respect to such a request.

Project Phase 5 will be completed by the Foundation.

**EXHIBIT "K"**

Updated Preliminary Title Report

[Attached]



3780 Wilshire Airport Way, Suite 130  
Long Beach, California 90806  
Office Phone: (562)988-7870  
Office Fax: (562)427-0359  
Email: mheil@nat.com

## Updated

City Of Fullerton

303 W. Commonwealth Ave Engineering Dept. 2Nd  
Floor  
Fullerton, CA 92832

Your Ref: 500 & 512 N. Harbor

Our Order No.: 926692

Property Address: 500 & 512 North Harbor Boulevard,  
Fullerton, CA 92832

Attention: Linda Mansfield

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Dated as of July 20, 2009 at 7:30 A.M.

In response to the above referenced application for a Policy of Title Insurance,

### North American Title Company

Hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referred to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and limitations on covered risks of said Policy or Policies are set forth in Exhibit A attached. The Policy to be issued may contain an Arbitration Clause. When the amount of insurance is less than that set forth in the Arbitration Clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the Parties. Limitations on covered risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a deductible amount and a maximum dollar limit of liability for certain coverages are also set forth in Exhibit A. Copies of the Policy forms should be read. They are available from the office which issued this report.

**Please read the exceptions shown or referred to below and the exceptions and exclusions set forth in Exhibit A of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.**

**It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.**

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.

The form of Policy of title insurance contemplated by this report is:  
Title Examination

Mike Heil, Title Officer

## IMPORTANT NOTICE

California Assembly Bill 512 ("AB 512") is effective on January 1, 1990. Under AB 512, all title companies may only make funds available for monetary disbursement in accordance with the following rules:

1. Same Day Availability. Disbursement on the date of deposit is allowed only when funds are deposited to NATC in cash or by electronic transfer (wire). Bear in mind that cash will be accepted from customers only under special circumstances as individually approved by management.
2. Next Day Availability. If funds are deposited to NATC by cashier's checks, certified checks, or teller's checks, disbursement may be on the next business day following deposit. A "teller's check" is one drawn by an insured financial institution against another insured financial institution (e.g., a savings and loan funding with a check drawn against an FDIC insured bank).
3. 3-7 Banking Days Availability (Regulation CC). If the deposit is made by checks other than those described in Paragraphs 1 and 2 above, disbursement may occur on the day when funds must be made available to depositors under Federal Reserve Regulation CC. This requires a "hold" on some checks of 2-7 banking days or longer in some instances. Personal checks, private corporation and company checks, and funding checks from mortgage companies that are not teller's checks are among those checks subject to such holds.

(For further details, consult Chapter 598, statutes of 1989.)

Note: The above guidelines are in conformity with those issued by the Department of Insurance for all California Title Insurers.

## SCHEDULE A

1. The estate or interest in the land hereinafter described or referred to covered by this report is:  

A fee as to Parcel(s) 1 and 2, an easement as to Parcel(s) 3.
2. Title to said estate or interest at the date hereof is vested in:  

Fullerton Historic Theatre Foundation, a California nonprofit public benefit corporation
3. The Land referred to in this report is situated in the State of California, County of Orange, and is described as follows:

SEE EXHIBIT "A" ATTACHED HEREWITH AND MADE A PART HEREOF

## LEGAL DESCRIPTION

Real property in the City of Fullerton, County of Orange, State of California, described as follows:

### PARCEL 1:

LOT 1 OF CENTRAL ADDITION TO FULLERTON, AS PER MAP RECORDED IN BOOK 7, PAGES 7 AND 8 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT THE NORTH 98 FEET THEREOF.

ALSO EXCEPT THAT PORTION THEREOF DESCRIBED IN THE DEED TO THE CITY OF FULLERTON RECORDED APRIL 22, 1971 IN BOOK 9613, PAGE 929 OF OFFICIAL RECORDS OF SAID COUNTY OF ORANGE.

### PARCEL 2:

THE WEST 7 FEET OF THE SOUTH 1/2 OF LOT 2 OF CENTRAL ADDITION TO FULLERTON, AS PER MAP RECORDED IN BOOK 7, PAGES 7 AND 8 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

### PARCEL 3:

A RIGHT OF WAY AND EASEMENT OVER THE EASTERLY 20.00 FEET OF THE NORTHERLY 98.00 FEET OF LOT 1 OF CENTRAL ADDITION TO FULLERTON, AS PER MAP RECORDED IN BOOK 7, PAGES 7 AND 8 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 029-033-20 and 029-033-21

## SCHEDULE B

At the date hereof exceptions to coverage in addition to the printed exceptions and exclusions in the policy form designated on the face page of this report would be as follows:

1. General and special taxes and assessments for the fiscal year 2009-2010, a lien not yet due or payable.
2. *General and special taxes and assessments for the fiscal year 2008-2009.*

First Installment:	\$15,379.79, DELINQUENT
Penalty:	\$1,537.98
Second Installment:	\$15,379.79, DELINQUENT
Penalty:	\$1,560.98
Tax Rate Area:	03-067
A. P. No.:	029-033-20
3. *The lien of defaulted taxes for the fiscal year 2006-2007, and any subsequent delinquencies.*

Tax Rate Area:	03-067
A. P. No.:	029-033-20
Amount to redeem:	\$116,420.41
Valid through:	July 2009
Amount to redeem:	\$117,771.14
Valid through:	August 2009
4. *General and special taxes and assessments for the fiscal year 2008-2009.*

First Installment:	\$6,380.08, DELINQUENT
Penalty:	\$638.01
Second Installment:	\$6,380.08, DELINQUENT
Penalty:	\$661.01
Tax Rate Area:	03-067
A. P. No.:	029-033-21
5. *The lien of defaulted taxes for the fiscal year 2006-2007, and any subsequent delinquencies.*

Tax Rate Area:	03-067
A. P. No.:	029-033-21
Amount to redeem:	\$47,784.74
Valid through:	July 2009
Amount to redeem:	\$48,339.20
Valid through:	August 2009
6. *The lien of supplemental taxes, if any, assessed pursuant to Chapter 3.5 commencing with Section 75 of the California Revenue and Taxation Code.*
7. *The use and control of cienegas and natural streams of water, if any, naturally upon, flowing across, into or by the herein described tract, and the right of way for and to construct irrigation or drainage ditches through said land to irrigate or drain adjacent lands, as provided in various deeds of record.*

8. Covenants, conditions, restrictions and easements in the document recorded in Book 233 of Deeds, Page 394, which provide that a violation thereof shall not defeat or render invalid the lien of any first mortgage or deed of trust made in good faith and for value, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, sexual orientation, marital status, ancestry, disability, handicap, familial status, national origin or source of income (as defined in California Government Code §12955(p)), to the extent such covenants, conditions or restrictions violate 42 U.S.C. § 3604(c) or California Government Code §12955. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.
  
9. Covenants, conditions, restrictions and easements in the document recorded in Book 324 of Deeds, Page 358, which provide that a violation thereof shall not defeat or render invalid the lien of any first mortgage or deed of trust made in good faith and for value, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, sexual orientation, marital status, ancestry, disability, handicap, familial status, national origin or source of income (as defined in California Government Code §12955(p)), to the extent such covenants, conditions or restrictions violate 42 U.S.C. § 3604(c) or California Government Code §12955. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.
  
10. Covenants, conditions, restrictions and easements in the document recorded in Book 514 of Deeds, Page 184, which provide that a violation thereof shall not defeat or render invalid the lien of any first mortgage or deed of trust made in good faith and for value, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, sexual orientation, marital status, ancestry, disability, handicap, familial status, national origin or source of income (as defined in California Government Code §12955(p)), to the extent such covenants, conditions or restrictions violate 42 U.S.C. § 3604(c) or California Government Code §12955. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.
  
11. An easement as shown by a Memorial on Certificate of Title No. 8521 and 10.344.  
 In favor of : Anaheim Union Water Company  
 For : Ditch or pipe line for the conveyance of irrigation water  
 and incidental purposes  
 Over : The Southerly side of Parcel 1.
  
12. An easement for underground conduits and incidental purposes and incidental purposes,  
 recorded as Book 9004, Page 710 of Official Records.  
 In Favor of: Southern California Edison Company  
 Affects: Parcel 2
  
13. The terms and provisions contained in the document entitled Memorandum of Agreement  
 Containing Covenants Affecting Real Property recorded June 22, 1992 as Instrument No. 92-  
 417125 of Official Records.
  
14. Any lien, assessment, and/or violation or enforcement of any law, ordinance, permit or  
 governmental regulation arising from the document entitled Notice of Substandard Building  
 recorded August 21, 1992 as Instrument No. 92-0557226 of Official Records.
  
15. Notice of the violation or enforcement of a law, ordinance, permit, or governmental regulation  
 relating to building and zoning as disclosed by the following document entitled Notice of



Substandard Building recorded August 21, 1992 as Instrument No. 92-557226 of Official Records.

16. Any lien, assessment, and/or violation or enforcement of any law, ordinance, permit or governmental regulation arising from the document entitled Notice of Substandard Building recorded August 21, 1992 as Instrument No. 92-557231 of Official Records.
17. Notice of the violation or enforcement of a law, ordinance, permit, or governmental regulation relating to building and zoning as disclosed by the following document entitled Notice of Substandard Building, recorded August 21, 1992 as Instrument No. 92-557231 of Official Records.
18. The terms and provisions contained in the document entitled A Resolution of The Landmarks Commission of The City of Fullerton Granting Local Landmark Designation for the Fox Fullerton Theater on Property at 508-516 North Harbor Boulevard (East Side of Harbor Boulevard Between Approximately 80 & 232 Feet North of Chapman Avenue) recorded September 24, 1993 as Instrument No. 93-0648799 of Official Records.
19. An option in favor of Fullerton Redevelopment Agency, a public body, corporate and politic as contained in or disclosed by a document recorded January 24, 2005 as Instrument No. 2005000056615 of Official Records.
20. The terms and provisions contained in the document entitled Memorandum of Disposition and Development Agreement recorded January 24, 2005 as Instrument No. 2005000056616 of Official Records.
21. The terms and provisions contained in the document entitled Regulatory Agreement and Declaration of Covenants, Conditions and Restrictions recorded January 24, 2005 as Instrument No. 2005000056617 of Official Records.
22. A deed of trust to secure an original indebtedness of \$256,000.00 recorded January 09, 2007 as Instrument No. 2007000013697 of Official Records.  
Dated: December 22, 2006  
Trustor: Fullerton Historic Theatre Foundation, a California nonprofit corporation  
Trustee: First American Title Company  
Beneficiary: Fullerton Redevelopment Agency, a public body, corporate and politic
23. Any facts, rights, interests or claims that may exist or arise by reason of matters, if any, disclosed by that certain Record of Survey filed in book 226 of Records of Survey, pages 35 thru 40.
24. Lien for Design Professional's Lien in favor of Westlake Reed Leskosky LLC  
  
Against: The Fullerton Historic Theatre Foundation Inc.  
Amount: \$736,154.16  
Recorded: June 5, 2009 as Instrument No. 09-292700 of Official Records.

25. Notice of pendency of action recorded July 10, 2009 as Instrument 09-368082 of Official Records.

Court: Orange County Superior Court  
Case No.: 30-2009-00125779  
Plaintiff: Westlake Reed Leskosky LLC  
Defendant: The Fullerton Historic Theatre Foundation Inc.  
Purpose: Not Shown

26. Rights of parties in possession.
27. Water rights, claims or title to water, whether or not shown by the public records.

**Prior to the issuance of any policy of title insurance, the Company will require:**

28. With respect to Fullerton Historic Theatre Foundation, a California nonprofit public benefit corporation:
- a. A certificate of good standing of recent date issued by the Secretary of State of the corporation's state of domicile.
  - b. A certified copy of a resolution of the Board of Directors authorizing the contemplated transaction and designating which corporate officers shall have the power to execute on behalf of the corporation.
  - c. Other requirements which the Company may impose following its review of the material required herein and other information which the Company may require.

\*\*\*\*\* END OF REPORT \*\*\*\*\*

1. According to the public records, there has been no conveyance of the land within a period of twenty-four months prior to the date of this report, except as follows:

None

2. Basic rate applies.
3. Notice of change in ownership recording procedure

Effective July 1, 1985, pursuant to a new state law (Section 480.3 of the Revenue and Taxation Code), all Deeds and other Documents that reflect a change in ownership must be accompanied by a Preliminary Change of Ownership Report to be completed by the transferee.

If this special report is not presented at the time of recording, an additional recording fee of \$20.00, as required by law, will be charged.

Preliminary Change in Ownership forms, instructions on how to complete them, and a non-exclusive list of documents that are affected by this change, are available from the County Recorder's Office or the Office of the County Assessor.

4. Pursuant to Section 12413.1 of the insurance code funds deposited in escrow must be held for the following time periods before they can be disbursed:
  1. Cash or wired funds--available or immediate dispersal after deposit in bank or confirmation of receipt in account. Bear in mind that Cash will be accepted from customers only under special circumstances as individually approved by management.
  2. Cashier checks, certified checks, tellers checks--next day available funds.
  3. All other checks must be held in accordance with regulation CC adopted by the Federal Reserve Board of Governors before they must be disbursed.
  4. Drafts must be collected before they may be disbursed.

North American Title Company will not be responsible for accruals of interest or other charges resulting from compliance with the disbursement restrictions imposed by state law.

For Your Information, Our Wire Instructions Are:

**Wire To:**

Comerica Bank  
2321 Rosecrans Ave, Ste 5000  
El Segundo, CA 90245

**Credit the Account of:**

North American Title Company  
Bank Account No.: 1891528331 ABA No.: 121137522  
Escrow No. 90803-926692-09

**ACH FUNDS** - Automatic Clearing House

North American Title Company will not accept funds in the form of ACH transfers.

Be sure to reference our order number and Title Officer name.

Should this office be required to wire funds out at close of escrow, please be informed that wiring instructions should be received as soon as possible, but no later than the following times.

Wires outside the State of California:  
11:00 A.M. ON DATE OF WIRE

Wires within the State of California:  
12:00 P.M. ON DATE OF WIRE

Effective January 1, 1991

A service charge of \$25.00 will be assessed for all funds disbursed by this Company by wire.

5. Payoff Requirement

If any of the deeds of trust shown in this Preliminary Report secures a revolving credit loan, this Company will require prior to closing that:

1. The Borrower provide authorization to the Lender to freeze the loan from further disbursements and that we be provided with proof that the account has been frozen and the effective date of the freeze.
2. All unused checks, voided checks and/or credit cards be submitted to this Company.
3. There are no outstanding checks unpaid.
4. Should the Company be unable to ascertain that one or more of the above have not been complied with, we will withhold from the proceeds the maximum amount of the loan obligation until such time as we may verify that the payoff was sufficient to obtain a full reconveyance.

6. This report is incomplete. We will require a statement of information from the parties indicated below, five (5) days prior to closing, in order to complete this report, based on the effect of Documents, Proceedings, Liens, Decrees, or other matters which do not specifically describe said Land, but which, if any do exist, may affect the title or impose Liens or Encumbrances thereon.

Borrower:

Seller: Fullerton Historic Theatre

All Parties:

NOTE: The statement of information is necessary to complete the search and examination of Title under this order. Any Title Search includes matters that are indexed by name only, and having a completed Statement of Information assists the Company in the elimination of certain matters which appear to involve the Parties, but in fact affect another Party with the same or similar name.

Be assured that the *Statement of Information* is essential and will be kept strictly confidential to this file.

7. North American Title Company, Inc.'s charges for recording the transaction documents include charges for services performed by North American Title Company, Inc., in addition to an estimate of payments to be made to governmental agencies.
8. If North American Title Company is asked to hold money for taxes at the close of escrow, written approval by the Borrower/Seller must be submitted prior to closing.

9. The map attached, if any, may or may not be a survey of the land depicted hereon. North American Title Co. expressly disclaims any liability for loss or damage which may result from reliance on this map except to the extent coverage for such loss or damage is expressly provided by the terms and provisions of the title insurance policy, if any, to which this map is attached.

**NORTH AMERICAN TITLE COMPANY**

378 Gateway Airport Way, Suite 130, Long Beach, CA 90806  
(562)988-7870  
Fax: (562)492-9265 Email: gab@nat.com

Attention:

Your Ref:

Our Order No.: 90803-926692-09

**LENDERS SUPPLEMENTAL REPORT**

Dated as of July 20, 2009 AT 7:30 A.M.

Title Officer: Mike Heil

The above numbered report (including any supplements or amendments thereto) is hereby modified and/or supplemented in order to reflect the following additional items relating to the issuance of an American Land Title Association loan form policy of Title Insurance:

Our ALTA Loan Policy, when issued, will contain Endorsement Nos. 100 and 116.

There is located on said land a Commercial Structure  
Known as: 500 & 512 North Harbor Boulevard  
City of Fullerton  
County of Orange  
State of California 92832.

# Privacy Policy Notice

We at the North American Title Group family of companies take your privacy very seriously. This Notice is being given on behalf of each of the companies listed below<sup>1</sup> (the "North American Title Companies"), as well as on behalf of North American Advantage Insurance Services, LLC. It explains our policy regarding the personal information of our customers and our former customers.

## OUR PRIVACY POLICIES AND PRACTICES

### The North American Title Companies

**1 Information North American Title Companies collect, and the sources from which we collect it:** On forms related to your real estate transaction, North American Title Companies collect personal information that you, our affiliates or third parties have provided to us, such as, for example, your name, address, and sale price of your home. All of the information that we collect is referred to in this notice as "NAT Collected Information".

**2 What information North American Title Companies disclose to our affiliates:** From time to time, as permitted by law, the North American Title Companies may share NAT Collected Information with each other and with North American Advantage Insurance Services, LLC ("NAAIS") about customers and former customers. You may ask us not to share NAT Collected Information among the North American Title Companies and NAAIS by writing to us and letting us know at: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107th Avenue, Suite 300, Miami, FL 33172. Your request will not affect NAT Collected Information that the North American Title Companies are otherwise permitted by law to share, such as, in certain circumstances, NAT Collected Information related to our experiences and transactions with you.

**3 What information North American Title Companies disclose to third parties:**

- If permitted by federal law and the law of your state, we may disclose some or all of the following information to companies that perform marketing services on our behalf and to certain unaffiliated insurance companies with whom we have joint marketing agreements: your name, current address, purchased property address, and closing date.
- We also may share NAT Collected Information about customers and former customers with other unaffiliated third parties, as permitted by law. For example, NAT Collected Information may be shared in certain circumstances (A) with companies involved in servicing or processing your account (B) with insurance regulatory authorities, and (C) with law enforcement officials, to protect against fraud or other crimes.

**4 Your right to access your personal information:** You have the right to review your personal information that we have on record about you. If you wish to review that information, please contact the local North American Title Company office identified on the title insurance product to which this notice is attached or where you received this notice and give us a reasonable time to make that information available to you. If you believe any information is incorrect, notify us, and if we agree, we will correct it. If we disagree, we will advise you in writing why we disagree.

### North American Advantage Insurance Services, LLC

**1. Information North American Advantage Insurance Services, LLC ("NAAIS") collect and sources from which we collect it:** NAAIS collects personal information about you from you, our affiliates, or third parties on forms related to your transaction with NAAIS or a North American Title Company, such as your name, address, or information about the property that is or will be insured. We also receive information from companies, which compile and distribute public records. All of the information that NAAIS collects, as described in this paragraph, is referred to in this notice as "NAAIS Collected Information."

**2. Information NAAIS may disclose to its affiliates or third parties:** NAAIS may disclose NAAIS Collected Information about you or others without your permission as permitted or required by law, including to the following types of institutions for the reasons described:

- To a third party or an affiliate if the disclosure will enable that party to perform a business, professional or insurance function for us in connection with an insurance transaction involving you.

- To an insurance institution, agent, or credit reporting agency in order to detect or prevent criminal activity, fraud or misrepresentation in connection with an insurance transaction.
- To an insurance institution, agent, or credit reporting agency for either this agency or the entity to whom we disclose the information to perform a function in connection with an insurance transaction involving you.
- To an insurance regulatory authority, law enforcement, or other governmental authority in order to protect our interests in preventing or prosecuting fraud, or if we believe that you have conducted illegal activities.

3. **Your right to access and amend your personal information:** You have the right to request access to the personal information that we record about you. Your right includes the right to know the source of the information and the identity of the persons, institutions or types of institutions to whom we have disclosed such information within two (2) years prior to your request. Your right includes the right to view such information and copy it in person, or request that a copy of it be sent to you by mail (for which we may charge you a reasonable fee to cover our costs). Your right also includes the right to request corrections, amendments or deletions of any information in our possession. The procedures that you must follow to request access to or an amendment of your information are as follows:

To obtain access to your information: You should submit a request in writing to: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107th Avenue, Suite 300, Miami, FL 33172. The request should include your name, address, social security number, telephone number, and the recorded information to which you would like access. The request should state whether you would like access in person or a copy of the information sent to you by mail. Upon receipt of your request, we will contact you within 30 business days to arrange providing you with access in person or the copies that you have requested.

To correct, amend, or delete any of your information: You should submit a request in writing to: North American Title Group, Inc., Attention: Corporate Affairs, 700 NW 107th Avenue, Suite 300, Miami, FL 33172. The request should include your name, address, social security number, telephone number, the specific information in dispute, and the identity of the document or record that contains the disputed information. Upon receipt of your request, we will contact you within 30 business days to notify you either that we have made the correction, amendment or deletion, or that we refuse to do so and the reasons for the refusal, which you will have an opportunity to challenge.

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#### SECURITY PROCEDURES

We restrict access to NAT Collected Information and NAAIS Collected Information about you to individuals who need to know such information in order to provide you with your product or service. We maintain physical, electronic and procedural safeguards to protect NAT Collected Information and NAAIS Collected Information about you.

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#### CHANGES TO OUR PRIVACY POLICY

This Notice reflects our privacy policy as of February 1, 2008. We reserve the right to change, modify or amend this policy at any time. Please check our Privacy Policy periodically for changes.

1The North American Title Group Family of Companies are: North American Title Company, North American Title Insurance Company, North American Title Alliance, LLC, North American Title Florida Alliance, LLC, North American Services, LLC, North American Exchange Company, North American Title Agency, North American Abstract Agency and North American Legal Services, LLC

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#### ACKNOWLEDGEMENT

Your receipt of a copy of the preliminary report, commitment, your policy of insurance, or escrow documents accompanied by this Notice will constitute your acknowledgment of receipt of this Privacy Policy Notice.



**CALIFORNIA LAND TITLE ASSOCIATION  
STANDARD COVERAGE POLICY - 1990**

**Exclusions From Coverage**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building or zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien, or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) whether or not recorded in the public records at Date of Policy, but created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy; or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage or for the estate or interest insured by this policy.
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with the applicable doing business laws of the state in which the land is situated
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any claim, which arises out of the transaction vesting in the insured the estate of interest insured by this policy or the transaction creating the interest of the insured lender, by reason of the operation of federal bankruptcy, state insolvency or similar creditors' rights laws.

**EXCEPTIONS FROM COVERAGE – SCHEDULE B, PART I**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
- Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests, or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

**CLTA HOMEOWNER'S POLICY OF TITLE INSURANCE (10/22/03)  
ALTA HOMEOWNER'S POLICY OF TITLE INSURANCE**

**EXCLUSIONS**

In addition to the Exceptions in Schedule B, You are not insured against loss, costs, attorneys' fees, and expenses resulting from:

1. Governmental police power, and the existence or violation of any law or government regulation. This includes ordinances, laws and regulations concerning:
  - a. building
  - b. zoning
  - c. Land use
  - d. improvements on the Land
  - e. Land division
  - f. environmental protection

This Exclusion does not apply to violations or the enforcement of these matters if notice of the violation or enforcement appears in the Public Records at the Policy Date.

This Exclusion does not limit the coverage described in Covered Risk 14, 15, 16, 17 or 24.
2. The failure of Your existing structures, or any part of them, to be constructed in accordance with applicable building codes. This Exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at the Policy Date.
3. The right to take the Land by condemning it, unless:
  - a. a notice of exercising the right appears in the Public Records at the Policy Date; or
  - b. the taking happened before the Policy Date and is binding on you if You bought the Land without knowing of the taking
4. Risks:
  - a. that are created, allowed, or agreed to by You, whether or not they appear in the Public Records;
  - b. that are known to You at the Policy Date, but not to Us, unless they appear in the Public Records at the Policy Date;
  - c. that result in no loss to You; or
  - d. that first occur after the Policy Date - this does not limit the coverage described in Covered Risk 7, & d. 22, 23, 24 or 25.
5. Failure to pay value for Your Title
6. Lack of a right:
  - a. to any Land outside the area specifically described and referred to in paragraph 3 of Schedule A; and
  - b. in streets, alleys, or waterways that touch the Land.

This Exclusion does not limit the coverage described in Covered Risk 11 or 18

**EXCLUSIONS**

- In addition to the Exceptions in Schedule B, you are not insured against loss, costs, attorneys' fees, and expenses resulting from:
1. Governmental police power, and the existence or violation of any law or government regulation. This includes building and zoning ordinances and also laws and regulations concerning:
    - land use
    - improvements on the land
    - land division
    - environmental protection
 This exclusion does not apply to violations or the enforcement of these matters which appear in the public records at Policy Date. This exclusion does not limit the zoning coverage described in items 12 and 13 of Covered Title Risks.
  2. The right to take the land by condemning it, unless:
    - a notice of exercising the right appears in the public records
    - on the Policy Date
    - the taking happened prior to the Policy Date and is binding on you if you bought the land without knowing of the taking
  3. Title Risks:
    - that are created, allowed, or agreed to by you
    - that are known to you, but not to us, on the Policy Date -- unless they appeared in the public records
    - that result in no loss to you
    - that first affect your title after the Policy Date -- this does not limit the labor and material lien coverage in Item 8 of Covered Title Risks
  4. Failure to pay value for your title.
  5. Lack of a right:
    - to any land outside the area specifically described and referred to in Item 3 of Schedule A
    - OR
    - in streets, alleys, or waterways that touch your land
 This exclusion does not limit the access coverage in Item 5 of Covered Title Risks.

**AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10-17-92)  
WITH ALTA ENDORSEMENT-FORM 1 COVERAGE**

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
3. Defects, liens, encumbrances, adverse claims or other matters:
  - (a) created, suffered, assumed or agreed to by the insured claimant;
  - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
  - (c) resulting in no loss or damage to the insured claimant;
  - (d) attaching or created subsequent to Date of Policy (except to the extent that this policy insures the priority of the lien of the insured mortgage over any statutory lien for services, labor or material or to the extent insurance is afforded herein as to assessments for street improvements under construction or completed at Date of Policy); or
  - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the insured mortgage
4. Unenforceability of the lien of the insured mortgage because of the inability or failure of the insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the land is situated.
5. Invalidity or unenforceability of the lien of the insured mortgage, or claim thereof, which arises out of the transaction evidenced by the insured mortgage and is based upon usury or any consumer credit protection or truth in lending law.
6. Any statutory lien for services, labor or materials (or the claim of priority of any statutory lien for services, labor or materials over the lien of the insured mortgage) arising from an improvement or work related to the land which is contracted for and commenced subsequent to Date of Policy and is not financed in whole or in part by proceeds of the indebtedness secured by the insured mortgage which at Date of Policy the insured has advanced or is obligated to advance.
7. Any claim, which arises out of the transaction creating the interest of the mortgagee insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
  - (i) the transaction creating the interest of the insured mortgagee being deemed a fraudulent conveyance or fraudulent transfer, or
  - (ii) the subordination of the interest of the insured mortgagee as a result of the application of the doctrine of equitable subordination; or
  - (iii) the transaction creating the interest of the insured mortgagee being deemed a preferential transfer except where the preferential transfer results from the failure:
    - (a) to timely record the instrument of transfer; or
    - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.

The above policy forms may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following General Exceptions:

## EXCEPTIONS FROM COVERAGE

- This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:
1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records. Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
  2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by persons in possession thereof.
  3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
  4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
  5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records.

## 2006 ALTA LOAN POLICY (06-17-06)

### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to:
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location, of any improvement erected on the land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;Or the effect of any violation of these laws, ordinances, or governmental regulations. This exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters:
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 11, 13, or 14); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
4. Unenforceability of the lien of the Insured Mortgage because of the inability or failure of an Insured to comply with applicable doing business laws of the state where the Land is situated.
5. Invalidity or unenforceability in whole or in part of the lien of the Insured Mortgage that arises out of the transaction evidenced by the Insured Mortgage and is based upon usury or any consumer credit protection or truth-in-lending law.
6. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction creating the lien of the Insured Mortgage, is:
  - (a) a fraudulent conveyance or fraudulent transfer, or
  - (b) a preferential transfer for any reason not stated in Covered Risk 13(b) of this policy.
7. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the Insured Mortgage in the Public Records. This Exclusion does not modify or limit the coverage provided under Covered Risk 11(b).

The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

### EXCEPTIONS FROM COVERAGE

- This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) that arise by reason of:
1. (a) Taxes or assessments that are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records, (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
  2. Any facts, rights, interests, or claims that are not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
  3. Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
  4. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
  5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

1. (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the land; (iii) a separation in ownership or a change in the dimensions or area of the land or any parcel of which the land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
  - (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the land has been recorded in the public records at Date of Policy.
  2. Rights of eminent domain unless notice of the exercise thereof has been recorded in the public records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
  3. Defects, liens, encumbrances, adverse claims or other matters:
    - (a) created, suffered, assumed or agreed to by the insured claimant;
    - (b) not known to the Company, not recorded in the public records at Date of Policy, but known to the insured claimant and not disclosed in writing to the Company by the insured claimant prior to the date the insured claimant became an insured under this policy;
    - (c) resulting in no loss or damage to the insured claimant;
    - (d) attaching or created subsequent to Date of Policy; or
    - (e) resulting in loss or damage which would not have been sustained if the insured claimant had paid value for the estate or interest insured by this policy.
  4. Any claim, which arises out of the transaction vesting in the insured the estate or interest insured by this policy, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that is based on:
    - (i) the transaction creating the estate or interest insured by this policy being deemed a fraudulent conveyance or fraudulent transfer, or
    - (ii) the transaction creating the estate or interest insured by this policy being deemed a preferential transfer except where the preferential transfer results from the failure:
      - (a) to timely record the instrument of transfer; or
      - (b) of such recordation to impart notice to a purchaser for value or a judgment or lien creditor.
- The above policy forms may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage Policy will also include the following General Instructions.

**EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage (and the Company will not pay costs, attorneys' fees or expenses) which arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.  
Proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.
2. Any facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or which may be asserted by making inquiry of persons in possession thereof.
3. Easements, liens or encumbrances, or claims thereof, which are not shown by the public records.
4. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
5. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b) or (c) are shown by the public records

**2006 ALTA OWNER'S POLICY (06-17-06)**

**EXCLUSIONS FROM COVERAGE**

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
  - (i) the occupancy, use, or enjoyment of the Land;
  - (ii) the character, dimensions, or location of any improvement erected on the Land;
  - (iii) the subdivision of land; or
  - (iv) environmental protection;
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 6.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
  - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
  - (b) not known to the Company, not recorded in the Public Records at Date of Policy, but Known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
  - (c) resulting in no loss or damage to the Insured Claimant;
  - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
  - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
  - (a) a fraudulent conveyance or fraudulent transfer; or
  - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.  
The above policy form may be issued to afford either Standard Coverage or Extended Coverage. In addition to the above Exclusions from Coverage, the Exceptions from Coverage in a Standard Coverage policy will also include the following Exceptions from Coverage:

## EXCEPTIONS FROM COVERAGE

- This policy does not insure against [redacted] (and the Company will not pay costs, attorneys' fees [redacted] (fees) that arise by reason of:
- (a) Taxes or assessments that [redacted] shown as existing liens by the records of any taxing authority [redacted] levies taxes or assessments on real property or by the Public Records; (b) proceedings by a public agency that may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
  - Any facts, rights, interests, or claims that are not shown in the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land
  - Easements, liens or encumbrances, or claims thereof, not shown by the Public Records.
  - Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and that are not shown by the Public Records
  - (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.

## ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)

### EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy and the Company will not pay loss or damage, costs, attorneys' fees or expenses which arise by reason of:

- (a) Any law, ordinance or governmental regulation (including but not limited to building and zoning laws, ordinances, or regulations) restricting, regulating, prohibiting or relating to (i) the occupancy, use, or enjoyment of the Land; (ii) the character, dimensions or location of any improvement now or hereafter erected on the Land; (iii) a separation in ownership or a change in the dimensions or areas of the Land or any parcel of which the Land is or was a part; or (iv) environmental protection, or the effect of any violation of these laws, ordinances or governmental regulations, except to the extent that a notice of the enforcement thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
- (b) Any governmental police power not excluded by (a) above, except to the extent that a notice of the exercise thereof or a notice of a defect, lien or encumbrance resulting from a violation or alleged violation affecting the Land has been recorded in the Public Records at Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 12, 13, 14, and 16 of this policy.
- Rights of eminent domain unless notice of the exercise thereof has been recorded in the Public Records at Date of Policy, but not excluding from coverage any taking which has occurred prior to Date of Policy which would be binding on the rights of a purchaser for value without knowledge.
- Defects, liens, encumbrances, adverse claims or other matters:
  - created, suffered, assumed or agreed to by the insured Claimant,
  - not known to the Company, not recorded in the Public Records at Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy,
  - resulting in no loss or damage to the Insured Claimant;
  - attaching or created subsequent to Date of Policy (this paragraph does not limit the coverage provided under Covered Risks 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 and 26); or
  - resulting in loss or damage which would not have been sustained if the Insured Claimant had paid value for the Insured Mortgage.
- Unenforceability of the lien of the Insured Mortgage because of the inability or failure of the Insured at Date of Policy, or the inability or failure of any subsequent owner of the indebtedness, to comply with applicable doing business laws of the state in which the Land is situated.
- Invalidity or unenforceability of the lien of the Insured Mortgage, or claim thereof, which arises out of the transaction evidenced by the Insured Mortgage and is based upon usury, except as provided in Covered Risk 27, or any consumer credit protection or truth in lending law.
- Real property taxes or assessments of any governmental authority which become a lien on the Land subsequent to Date of Policy. This exclusion does not limit the coverage provided under Covered Risks 7, 8(e) and 26.
- Any claim of invalidity, unenforceability or lack of priority of the lien of the Insured Mortgage as to advances or modifications made after the Insured has knowledge that the vestee shown in Schedule A is no longer the owner of the estate or interest covered by this policy. This exclusion does not limit the coverage provided in Covered Risk 8.
- Lack of priority of the lien of the Insured Mortgage as to each and every advance made after Date of Policy, and all interest charged thereon, over liens, encumbrances and other matters affecting the title, the existence of which are known to the Insured at:
  - The time of the advance; or
  - The time a modification is made to the terms of the Insured Mortgage which changes the rate of interest charged, if the rate of interest is greater as a result of the modification than it would have been before the modification. This exclusion does not limit the coverage provided in Covered Risk 8.
- The failure of the residential structure, or any portion thereof to have been constructed before, on or after Date of Policy in accordance with applicable building codes. This exclusion does not apply to violations of building codes if notice of the violation appears in the Public Records at Date of Policy.

## NATCO NOTES:

**DON'T DELAY YOUR CLOSE OF ESCROW! IF ANY OF THE FOLLOWING ITEMS AFFECT YOUR TRANSACTION, PLEASE NOTIFY YOUR ESCROW OFFICER AS SOON AS POSSIBLE.**

### I. Ongoing Construction

The Title Company will require, as a minimum, the following prior to insuring:

- A. Valid Notice of Completion verified by inspection and expiration of 60 days from recordation of said notice or,
- B. Approved Indemnities from Borrower/Seller, approved financial statement not over one year old and a waiver of lien rights from the general contractor.
- C. The Title Company may also require proof of payment of subcontractors, indemnity and financial statement from the general contractor, a copy of the contract and the with-holding of a sum of money, to cover the contract until the mechanics lien period has expired, with which to pay filed mechanics liens, or other assurances to be determined on a case by case basis.

### II. Bankruptcy

The Title Company will require, as a minimum, the following prior to insuring:

- A. The bankruptcy case be closed or,
- B. An order from the bankruptcy court verifying the transaction, with a demand placed into escrow by the trustee.
- C. Escrow may not close until 15 days have elapsed from the order and the file has been checked to verify that there are no objections to said order.

### III. Abstracts of Judgment, Liens, Tax Liens

The Title Company will require, as a minimum, the following prior to insuring:

- A. Proof that the buyer/seller is not the same party as on the recorded liens.
- B. This is accomplished by the buyer/seller/borrower completely filling out and signing a statement of information.
- C. The items are to be paid off in escrow.
- D. The items are to be subordinated to the new transaction.

### IV. Community Property

California is a community property state:

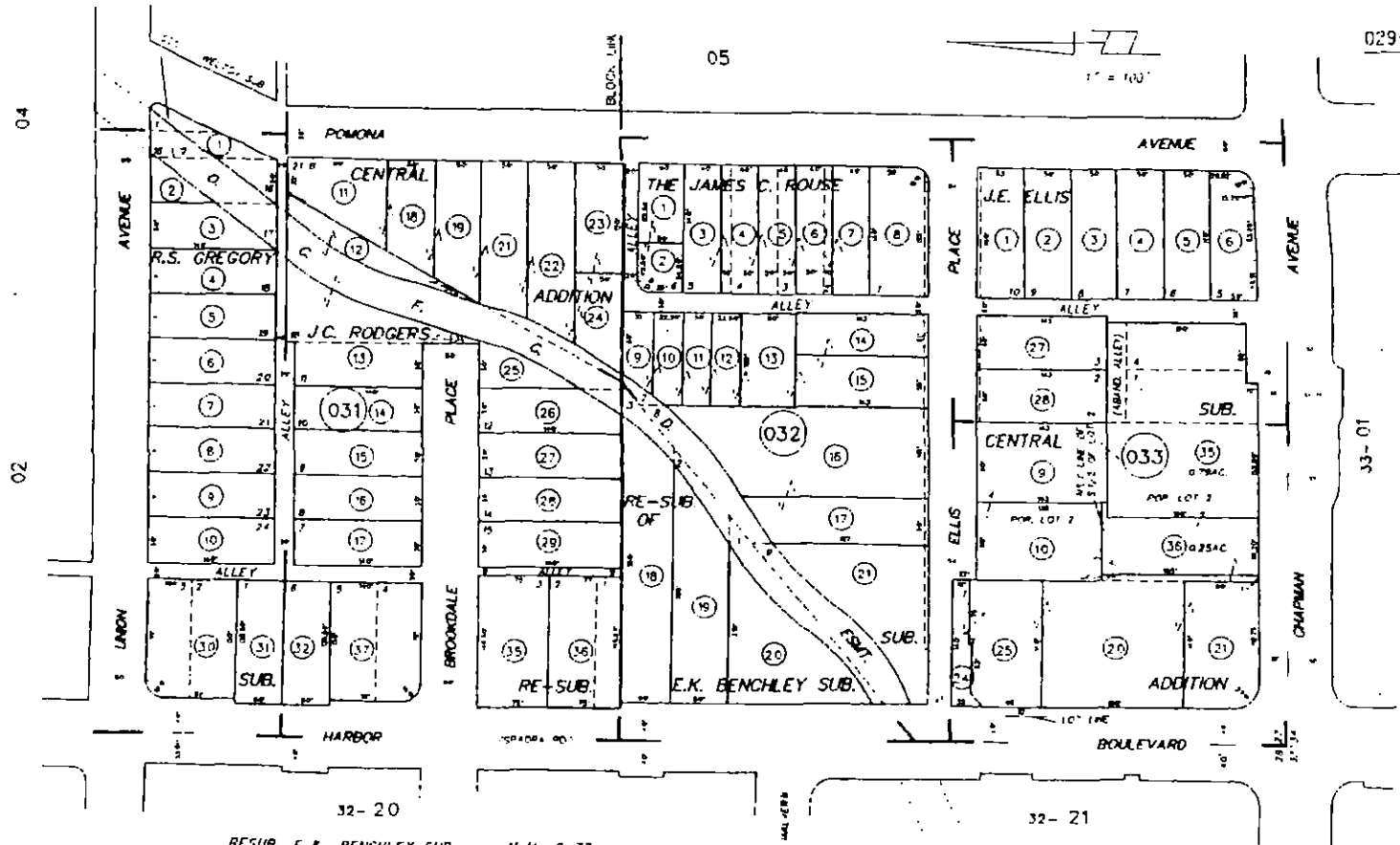
- A. A quitclaim from one spouse to another must specifically quitclaim any community property interest.
- B. An interlocutory decree of divorce specifically granting the property to one spouse is sufficient if a final decree is issued and recorded in the county.

### DID YOU KNOW?

Any of the following situations could cause a substantial delay in close of escrow. The earlier we are made aware of potential problems, the earlier the issues can be dealt with to ensure a smooth and timely close of your transaction.

- Are your principals trying to accomplish a tax deferred exchange? If so, have they chosen an intermediary and who is it?
- Will any of the principals be using a Power of Attorney?
- Are any of the vested owners deceased or in any way incapacitated?
- Do all of the principals who will be signing have a current photo I.D. or Driver's License?
- Are the sellers of this transaction residents of California?
- Has there been a change in marital status of any of the vested owners or will we be adding anyone to title, i.e. co-signers, additional insured, etc.?
- Is the property currently vested in a trust or will the new buyer/borrower vest in a trust?
- Are any of the trustees of the trust deceased or incapacitated?
- Will this transaction involve a short sale?
- Will there be a new entity formed, i.e. partnership, corporation?
- Will all of the principals be available to sign or will we be Federal Expressing documents to another state/country? If so, where?

If you have any other information which may be useful to us, please contact your escrow officer as soon as possible. Our goal is to make your transaction as easy and trouble-free as possible. We appreciate your business and hope that you find North American Title Company your company of choice for all of your title and escrow needs.



MARCH 1949

RESUB. E.K. BENCHLEY SUB.  
 GEO. C. WELTON SUB.  
 R.S. GREGORY SUB.  
 J.C. RODGERS RESUB.  
 CENTRAL ADD.  
 J.C. ROUSE SUB.

M.M. 8-73  
 M.M. 8-43  
 M.M. 8-55  
 M.M. 9-1E  
 M.M. 7-7, 8  
 M.M. 8-17

NOTE - ASSESSOR'S BLOCK &  
 PARCEL NUMBERS  
 SHOWN IN CIRCLES

ASSESSOR'S MAP  
 BOOK 029 PAGE 03  
 COUNTY OF ORANGE

SEP 2005

**EXHIBIT "L"**

Foundation Conveyance Option

[Attached]



RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

Fullerton Redevelopment Agency  
303 West Commonwealth Ave.  
Fullerton, CA 92832  
Attn: Agency Secretary

---

(Space Above For Recorder's Use)

This Option Agreement is recorded at the request and for the benefit of the Fullerton Redevelopment Agency and is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

**OPTION AGREEMENT**  
**(Foundation Conveyance Option)**

This OPTION AGREEMENT (Foundation Conveyance Option) (the "Foundation Conveyance Option") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to be effective on the "Effective Date" as defined below, by and between FULLERTON HISTORIC THEATRE FOUNDATION, a California nonprofit corporation ("Foundation"), and the FULLERTON REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency"). Agency and Foundation are hereinafter periodically referred to individually as a "party" and collectively as the "parties."

**R E C I T A L S**

A. On or about October 19, 2004, Agency and Foundation entered into that certain Disposition and Development Agreement ("Original DDA"), which provided for Foundation to acquire that certain real property located at the northeast corner of Harbor Boulevard and Chapman Avenue in the City of Fullerton, defined in the Original DDA as the "Site," and to rehabilitate the improvements on the Site. Pursuant to the Original DDA, Foundation acquired the Site on January 24, 2005.

B. The Site was comprised of the "Fox Theatre," "Tea Room Building," and "Firestone Building," all as described in the Scope of Work attached to the Original DDA and defined in the Second Amendment.

C. On or about September 19, 2006, Agency and Foundation entered into that certain First Amendment to Disposition and Development Agreement ("First Amendment").

D. On or about \_\_\_\_\_, 2009, Agency and Foundation entered into that certain Second Amendment to Disposition and Development Agreement ("Second Amendment"), which among other provisions subdivided the Site into the "Fox Theatre Condominium Unit," "Tea Room Building Condominium Unit," and "Firestone Building Condominium Unit," and created a new "East Airspace Condominium Unit" on adjacent property owned by the City of Fullerton ("City"), all of which are separate legal parcels. The

Fox Theatre Condominium Unit, Tea Room Building Condominium Unit, Firestone Building Condominium Unit, and East Airspace Condominium Unit are collectively the "Condominium Units." The Second Amendment also set forth the terms and conditions for "Agency Rehabilitation Work" and "Foundation Rehabilitation Work" to be completed in, on, and about the Condominium Units, as more specifically set forth therein.

E. Pursuant to the Second Amendment, and upon satisfaction of conditions set forth therein, Foundation agreed to convey to Agency, and Agency agreed to acquire from Foundation, fee title to the Firestone Building Condominium Unit and Tea Room Building Condominium Unit for the purposes of overseeing the completion of the Agency Rehabilitation Work and Foundation Rehabilitation Work, and the repayment from Foundation to Agency of specified costs and expenses incurred by Agency, as more specifically set forth in the Second Amendment.

F. Agency is the owner in fee of the Firestone Building Condominium Unit, more particularly described in the legal description attached hereto as Attachment 1 and incorporated herein by this reference. Agency is the owner in fee of the Tea Room Building Condominium Unit, more particularly described in the legal description attached hereto as Attachment 2 and incorporated herein by this reference. Agency is the owner in fee of the East Airspace Condominium Unit, more particularly described in the legal description attached hereto as Attachment 3 and incorporated herein by this reference. The Firestone Building Condominium Unit, Tea Room Building Condominium Unit, and East Airspace Condominium Unit are periodically referred to herein as the "Agency-Owned Condominium Units."

G. Pursuant to the terms and conditions of the Second Amendment, Agency agreed to grant an option to Foundation that would allow the conveyance to Foundation of fee title to the Firestone Building Condominium Unit, Tea Room Building Condominium Unit, and East Airspace Condominium Unit upon satisfaction of Foundation's repayment obligations to Agency, as more specifically set forth in the Second Amendment.

H. Pursuant to the terms and conditions of the Second Amendment, Agency and Foundation execute this Foundation Conveyance Option based on the terms and conditions as set forth herein and the Second Amendment.

## A G R E E M E N T

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, Agency and Foundation hereby agree as follows:

1. Definitions. Any capitalized terms contained in this Foundation Conveyance Option which are not defined herein shall have the meaning given in the Second Amendment, unless expressly provided to the contrary herein.

2. Effective Date; Recording of Option. The "Effective Date" of this Foundation Conveyance Option shall be the date that this Foundation Conveyance Option is recorded in the Recorder's Office against fee title for the Firestone Building Condominium Unit, Tea Room Building Condominium Unit, and East Airspace Condominium Unit. Pursuant to Section 7.3.1 of the Second Amendment, this Foundation Conveyance Option shall be recorded in the

Recorder's Office no later than thirty (30) days after the completion of the Foundation Rehabilitation Work for the Fox Theatre evidenced by the Release of Construction Covenants recorded against the Fox Theatre Condominium Unit. Prior to the Effective Date, this Foundation Conveyance Option shall be of no force and effect.

3. Grant of Option. Upon the Effective Date, Agency grants to Foundation an option to acquire the Firestone Building Condominium Unit, Tea Room Building Condominium Unit, and East Airspace Condominium Unit (the "Option"), upon all of the terms and conditions set forth in this Foundation Conveyance Option. The Option thereby created shall be irrevocable by Agency and shall be binding upon the successors and assigns of Agency for the Option Term (defined below).

4. Option Term. The Option set forth in this Foundation Conveyance Option shall commence on the Effective Date and shall terminate on the date that is one hundred eighty (180) days after the Foundation Repayment Account Disbursement Date (the "Option Term"). The "Foundation Repayment Account Disbursement Date" shall have the same meaning set forth in the Second Amendment, which, for reference purposes in this Foundation Conveyance Option, generally means the date on which funds from the Foundation Repayment Account (as defined in the Second Amendment) are disbursed to Agency for repayment of all costs and expenses for which Agency is entitled to reimbursement from Foundation pursuant to the Second Amendment. Upon the expiration of the Option Term, this Foundation Conveyance Option shall terminate on its own terms, and shall be of no further force and effect.

5. Exercise of Option. In the event that Foundation elects to exercise the Option to acquire the Firestone Building Condominium Unit, Tea Room Building Condominium Unit, and East Airspace Condominium Unit, Foundation shall exercise the Option by delivering written notice to Agency no earlier than the Foundation Repayment Account Disbursement Date and no later than one hundred eighty (180) days after the Foundation Repayment Account Disbursement Date (the "Option Exercising Period").

6. Conveyance of All Agency-Owned Condominium Units. Upon the timely exercise of the Option within the Option Exercising Period, Agency agrees to convey to Foundation, and Foundation agrees to acquire from Agency, the Firestone Building Condominium Unit, Tea Room Building Condominium Unit, and East Airspace Condominium Unit, collectively and pursuant to the escrow provisions set forth below. Foundation may not exercise the Option granted herein for only one of the Agency-Owned Condominium Units. Foundation may only exercise the Option granted herein to acquire all of the Agency-Owned Condominium Units together.

7. Consideration for Option. Agency's granting of the Option to Foundation shall be in consideration of Foundation's performance of its obligations under the Second Amendment. Foundation shall not be required to pay any option fee, or pay or provide any other consideration for or purchase price for the acquisition of the Agency-Owned Condominium Units.

8. Right of Entry; Inspections and Review. In the event that Foundation timely exercises the Option, then during the Option Exercising Period and until the A-OCU Closing Date (defined below), Foundation and Foundation's employees, representatives, and agents shall be permitted to enter the Agency-Owned Condominium Units for purposes of examining,

inspecting, investigating, and testing the physical and environmental condition of the Agency-Owned Condominium Units. Foundation's obligation to close the A-OCU Escrow (defined below) shall be subject to Foundation's approval of any environmental and other site testing conducted by Foundation in its reasonable discretion. Foundation shall deliver to Agency no less than five (5) days' notice prior to any entry onto any one or all of the Agency-Owned Condominium Units pursuant to this Section 8. Agency shall have the right to require that Foundation be accompanied during its inspections by an officer, director, or the Executive Director of Agency.

## 9. Agency-Owned Condominium Units Escrow.

9.1 Opening of Escrow. Within five (5) business days after Foundation timely exercises the Option to acquire the Agency-Owned Condominium Units, Foundation and Agency shall cause an escrow ("the Agency-Owned Condominium Units Escrow" or "A-OCU Escrow") to be opened with an escrow company as may be approved in writing by Agency ("A-OCU Escrow Holder") for the conveyance of the Agency-Owned Condominium Units from Agency to Foundation. The A-OCU Escrow shall be deemed opened on the date that a fully executed copy of this Foundation Conveyance Option is delivered to the A-OCU Escrow Holder ("Opening of the A-OCU Escrow"). The A-OCU Escrow Holder shall notify Foundation and Agency in writing of the date of the Opening of the A-OCU Escrow promptly following the opening of the A-OCU Escrow.

9.2 Close of Escrow; Closing Date. The A-OCU Escrow shall close on or before the date that is sixty (60) days after the Opening of the A-OCU Escrow ("Close of the A-OCU Escrow" or "A-OCU Closing Date"). The terms "Close of the A-OCU Escrow" and/or the "A-OCU Closing" shall mean the date the grant deeds conveying fee title to the Firestone Building Condominium Unit, Tea Room Building Condominium Unit, and East Airspace Condominium Unit from Agency to Foundation have been recorded in the Office of the County Recorder of Orange County, California (the "Recorder's Office").

9.3 Escrow Instructions. This Foundation Conveyance Option, together with any standard instructions of the A-OCU Escrow Holder, shall constitute the joint escrow instructions of Foundation and Agency to the A-OCU Escrow Holder as well as an agreement between Foundation and Agency. In the event of any conflict between the provisions of this Foundation Conveyance Option and the A-OCU Escrow Holder's standard instructions, this Foundation Conveyance Option shall prevail.

9.4 Condition of Title. Agency shall convey and Foundation shall accept fee title to the Agency-Owned Condominium Units free and clear of all recorded and unrecorded monetary liens, encumbrances, easements, leases, covenants, conditions, restrictions, and other exceptions to or defects in title, excepting only the following: (a) the exceptions to title approved by Foundation upon receipt of a preliminary title report issued by the A-OCU Title Company (defined below) for the conveyance of the Agency-Owned Condominium Units; (b) current taxes not yet delinquent; (c) liens and encumbrances in favor of the Foundation, Agency, or the City of Fullerton; (d) matters shown as printed exceptions in the standard form CLTA owner's policy of title insurance; and (e) those additional title exceptions as may be approved in writing by Foundation in its sole and absolute discretion.

9.5 Escrow Fees, Title Charges, and Closing Costs. Agency and Foundation shall each be responsible for one-half of the escrow fees, recording fees, and any other costs and expenses of the A-OCU Escrow. Agency shall pay any property taxes and assessments (if any) and all costs (if any) required to place title in the condition described in Section 9.4. Concurrently with the conveyance of the Agency-Owned Condominium Units to Foundation, and as a condition to Foundation's acceptance of said conveyance, Agency shall cause the title company as may be selected by Foundation and Agency ("A-OCU Title Company") to deliver to Foundation a CLTA standard owners policy of title insurance showing title vested in Foundation in the condition described in Section 9.4 with insurance coverage in the amount of the fair market value of the Agency-Owned Condominium Units as reasonably estimated by Agency at some time during the Option Exercising Period ("A-OCU Title Policy"). Agency shall pay the premium for the A-OCU Title Policy. Foundation shall pay for any additional coverage or endorsements to the A-OCU Title Policy.

9.6 Deposits into Escrow. On or before 1:00 p.m. on the last business day preceding the scheduled the A-OCU Closing Date, Foundation shall deposit or cause to be deposited with the A-OCU Escrow Holder the following: (a) the escrow fees and closing costs for which Foundation is responsible; and (b) any and all additional instruments or other documents required from Foundation (executed and acknowledged if appropriate) as may be necessary in order to effect the transfer of the Agency-Owned Condominium Units to Foundation. On or before 1:00 p.m. on the last business day preceding the scheduled A-OCU Closing Date, Agency shall deposit or cause to be deposited with the A-OCU Escrow Holder the following: (a) executed and acknowledged grant deeds conveying the Firestone Condominium Unit, Tea Room Building Condominium Unit, and East Airspace Condominium Unit, to Foundation in a form approved by Foundation (the "grant deeds"); (b) the escrow fees and closing costs for which Agency is responsible; and (c) any and all additional funds, instruments, or other documents required from Agency (executed and acknowledged if appropriate), as may be necessary in order to effect the transfer of the Agency-Owned Condominium Units to Foundation.

9.7 Closing, Recording and Disbursement. On or before the A-OCU Closing Date, and when the A-OCU Escrow Holder has received all of the documents and funds listed in Section 9.6 above, and the A-OCU Escrow Holder is in a position to cause the A-OCU Title Policy referred to in Section 9.5 to be issued to Foundation, and provided Foundation has approved the physical condition of the Agency-Owned Condominium Units, the A-OCU Escrow Holder shall close the A-OCU Escrow by taking the following actions: (a) recording the grant deeds conveying the Firestone Building Condominium Unit, Tea Room Building Condominium Unit, and East Airspace Condominium Unit in the Recorder's Office, and delivering the recorded grant deeds to Foundation and conformed copies to Agency; and (b) causing the A-OCU Title Policy to be issued to Foundation.

## 10. Miscellaneous.

10.1 Notices. All notices required to be delivered under this Foundation Conveyance Option to the other party must be in writing, addressed as set forth below or to such other address and to such other persons as a party may hereafter designate by written notice to the other party, and delivered in one of the following methods: (a) personal delivery by the other party or messenger or courier thereof; (b) deposit in the United States mail; (c) deposit with a

reputable overnight courier or service; or (d) by telecopy or fax transmission, provided a hard copy of such transmission shall thereafter be delivered in one of the methods described in the foregoing (a) through (c):

To Agency: Fullerton Redevelopment Agency  
303 West Commonwealth Avenue  
Fullerton, CA 92832  
Attn: Agency Secretary  
Fax: (714) 738-6843

with copy to: Rutan & Tucker, LLP  
611 Anton Blvd., Suite 1400  
Costa Mesa, CA 92626  
Attn: Jeffrey M. Oderman, Esq.  
Fax: (714) 546-9034

To Foundation: Fullerton Historic Theatre Foundation  
P.O. Box 6753  
Fullerton, CA 92834  
Attn: President  
Fax: (714) 870-5123

10.2 Broker's Fee. Each party agrees to indemnify and hold the other harmless from and against all liabilities, costs, damages and expenses, including, without limitation, attorneys' fees, resulting from any claims or fees or commissions, based upon agreements by it, if any, to pay broker's commissions and/or finder's fees arising from or as a result of this Foundation Conveyance Option.

10.3 Assignment. Foundation shall not assign all or any part of this Foundation Conveyance Option or any rights hereunder without Agency's prior written approval, which approval may be withheld in Agency's sole and absolute discretion. Agency shall have the right to assign its interest hereunder to the City of Fullerton.

10.4 Attorney's Fees. If either party commences an action against the other to enforce any of the terms of this Foundation Conveyance Option or because of the breach by either party of any of the terms of this Foundation Conveyance Option, the losing party shall pay to the prevailing party its expert witness fees and its reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, including appeal of and/or enforcement of a judgment.

10.5 Binding Effect. This Foundation Conveyance Option shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns (if authorized in accordance herein) of the respective parties hereto.

10.6 Rights and Remedies Are Cumulative. The rights and remedies of the parties are cumulative, and the exercise by either party of one or more of its 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.

10.7 Entire Agreement, Waivers and Amendments. This Foundation Conveyance Option incorporates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to the Option, with the exception of the Second Amendment and its exhibits and attachments. All waivers of the provisions of this Foundation Conveyance Option must be in writing and signed by the appropriate authorities of the party to be charged. A waiver of the breach of the covenants, conditions or obligations under this Foundation Conveyance Option by either party shall not be construed as a waiver of any succeeding breach of the same or other covenants, conditions or obligations of this Foundation Conveyance Option. Any amendment or modification to this Foundation Conveyance Option must be in writing and executed by the appropriate authorities of Agency and Foundation.

10.8 Severability. If any term, provision, covenant, or condition of this Foundation Conveyance Option is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Foundation Conveyance Option shall continue in full force and effect, unless and to the extent the rights and obligations of one or both parties has been materially altered or abridged by such holding.

10.9 Applicable Law. This Foundation Conveyance Option shall be construed and enforced in accordance with the internal laws of the State of California without regard to conflicts of law principles.

10.10 Authority to Execute. Agency and Foundation each represents and warrants to the other party that (a) such party is duly organized and existing, (b) it is duly authorized to execute and deliver this Foundation Conveyance Option, (c) by so executing this Foundation Conveyance Option, such party is formally bound to the provisions of this Foundation Conveyance Option, and (d) the entering into this Foundation Conveyance Option does not violate any provision of any other agreement to which said party is bound.

10.11 No Effect on Agency Option Recorded Against Fox Theatre. Nothing in this Foundation Conveyance Option does or shall be deemed to affect, modify, or restrict Agency's and Foundation's rights and obligations under that certain Option Agreement recorded in the Official Records of Orange County, California ("Recorder's Office") on January 24, 2005, as Instrument No. 2005000056615 ("Option Agreement"), originally recorded pursuant to the Original DDA (as defined in the Second Amendment) and required to remain binding and enforceable against Foundation and any successor-in-interest as owner of the Fox Theatre Condominium Unit pursuant to the terms and conditions of the Second Amendment.

10.12 Execution in Counterpart. This Assignment may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have entered into this Foundation  
Conveyance Option to be effective as of the Effective Date.

“FOUNDATION”

FULLERTON HISTORIC THEATRE  
FOUNDATION, a California nonprofit corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

“AGENCY”

FULLERTON REDEVELOPMENT AGENCY, a  
public body, corporate and politic

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Agency Secretary



State of California )  
County of \_\_\_\_\_ )

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

Notary Public, 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)

State of California )  
County of \_\_\_\_\_ )

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

Notary Public, 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 "M"**

Memorandum of Second Amendment to Disposition and Development Agreement

[Attached]

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

Fullerton Redevelopment Agency  
303 West Commonwealth Ave.  
Fullerton, CA 92832  
Attn: Agency Secretary

---

(Space Above For Recorder's Use)

This Memorandum of Second Amendment to Disposition and Development Agreement is recorded at the request and for the benefit of the Fullerton Redevelopment Agency and is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

**MEMORANDUM OF SECOND AMENDMENT**  
**TO DISPOSITION AND DEVELOPMENT AGREEMENT**  
**( \_\_\_\_\_ Condominium Unit)**

This MEMORANDUM OF SECOND AMENDMENT DISPOSITION AND DEVELOPMENT AGREEMENT ("Memorandum") is dated as of \_\_\_\_\_, 2009, and entered into by and between the FULLERTON REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency"), and the FULLERTON HISTORIC THEATRE FOUNDATION, a California nonprofit corporation ("Foundation").

This Memorandum is made with reference to the following:

1. On or about October 19, 2004, Agency and Foundation entered into that certain Disposition and Development Agreement ("Original DDA"), which provided for Foundation to acquire that certain real property located at the northeast corner of Harbor Boulevard and Chapman Avenue in the City of Fullerton, defined in the Original DDA as the "Site," and to rehabilitate the improvements on the Site. Pursuant to the Original DDA, Foundation acquired the Site on January 24, 2005. The Original DDA required certain instruments to be recorded against the Site upon acquisition by the Foundation, including a Memorandum of Disposition and Development Agreement recorded in the Official Records of Orange County, California ("Recorder's Office") on January 24, 2005, as Instrument No. 2005000056616 (the "Original Memorandum"), the Option Agreement recorded in the Official Records of Orange County, California ("Recorder's Office") on January 24, 2005, as Instrument No. 2005000056615 ("Option Agreement"), and the Regulatory Agreement and Declaration of Covenants, Conditions, and Restrictions recorded on January 24, 2005, as Instrument No. 2005000056617 ("Regulatory Agreement").

2. The Site was comprised of the "Fox Theatre," "Tea Room Building," and "Firestone Building," all as described in the Scope of Work attached to the Original DDA and defined in the Second Amendment (referenced below).

3. On or about September 19, 2006, Agency and Foundation entered into that certain First Amendment to Disposition and Development Agreement ("First Amendment").

4. On or about \_\_\_\_\_, 2009, Agency and Foundation entered into that certain Second Amendment to Disposition and Development Agreement ("Second Amendment"), which among other provisions subdivided the Site into the "Fox Theatre Condominium Unit," "Tea Room Building Condominium Unit," and "Firestone Building Condominium Unit," and created a new "East Airspace Condominium Unit" on adjacent property owned by the City of Fullerton ("City"), all of which are separate legal parcels. The Fox Theatre Condominium Unit, Tea Room Building Condominium Unit, Firestone Building Condominium Unit, and East Airspace Condominium Unit are collectively the "Condominium Units." The Second Amendment also set forth the terms and conditions for "Agency Rehabilitation Work" and "Foundation Rehabilitation Work" to be completed in, on, and about the Condominium Units, as more specifically set forth therein.

5. Pursuant to the terms and conditions of the Second Amendment, \_\_\_\_\_ **[INSERT EITHER FOUNDATION or AGENCY, as applicable to the particular Condominium Unit]** is owner of fee title to the \_\_\_\_\_ Condominium Unit, as more particularly described in the legal description attached hereto as Attachment 1 and incorporated herein by this reference.

6. The Second Amendment provides that Agency and Foundation shall enter into this Memorandum and shall record this Memorandum in the Recorder's Office against all of the Condominium Units, such that this Memorandum shall be deemed to and does provide notice to all persons that the Second Amendment shall be and is binding on Agency and Foundation and their respective successors-in-interest as to their respective interests in the Condominium Units.

7. On or about the date of the recordation of this Memorandum, Foundation retained fee title to the newly created Fox Theatre Condominium Unit, and Agency acquired fee title to the Firestone Building Condominium Unit, Tea Room Building Condominium Unit, and Agency retained fee title to the newly created East Airspace Condominium Unit.

8. This Memorandum may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[signatures on next page]

IN WITNESS WHEREOF, Agency and Foundation have entered into this Memorandum as of the date first set forth above.

“AGENCY”

FULLERTON REDEVELOPMENT  
AGENCY, a public body, corporate and politic

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Secretary

“FOUNDATION”

FULLERTON HISTORIC THEATRE  
FOUNDATION, a California nonprofit  
corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

State of California )  
County of \_\_\_\_\_ )

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

Notary Public, 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)

State of California )  
County of \_\_\_\_\_ )

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

Notary Public, 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)

**ATTACHMENT 1**  
**to Memorandum of Second Amendment to**  
**Disposition and Development Agreement**

**Legal Description of \_\_\_\_\_ Condominium Unit**

That certain property located in the City of Fullerton, County of Orange, State of California, described as follows:

[insert appropriate Condominium Unit legal description when known]

**EXHIBIT "N"**

Foundation Advisory Committee Protocols

[Attached]



**Exhibit "N"**

**Foundation Advisory Committee Protocols**

The Foundation Advisory Committee Protocols shall follow the terms and conditions set forth in Sections 5.2.6 and 6.4 of the Second Amendment to the Disposition and Development Agreement ("Second Amendment"), and any other pertinent provisions concerning the consultations between the Fullerton Redevelopment Agency ("Agency") and the Foundation Advisory Committee set forth in the Second Amendment.

The Foundation designates the following as the "Foundation Advisory Committee" members:

Tom Tice

Sam Allen

John Silber

Tom Dalton (Alternate)

The Foundation Advisory Committee may substitute a designated member upon written notice thereof delivered to the Agency.

**EXHIBIT "O"**

**Reciprocal Restrictive Covenants**

(Attached)

RECORDED AT THE REQUEST OF  
AND WHEN RECORDED RETURN TO:

Fullerton Redevelopment Agency  
303 West Commonwealth Ave.  
Fullerton, CA 92832  
Attn: Agency Secretary

---

(Space Above For Recorder's Use)

This Declaration of Reciprocal Restrictive Covenants is recorded at the request and for the benefit of the Fullerton Redevelopment Agency and is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

**DECLARATION OF RECIPROCAL RESTRICTIVE COVENANTS**  
**(Fox Theatre, Firestone Building, Tea Room Building,  
and East Airspace Condominium Units)**

This DECLARATION OF RECIPROCAL RESTRICTIVE COVENANTS (Fox Theatre, Firestone Building, Tea Room Building, and East Airspace Condominium Units) ("Declaration") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, to be effective on the "Effective Date" as defined below, by and between FULLERTON HISTORIC THEATRE FOUNDATION, a California nonprofit corporation ("Foundation"), and the FULLERTON REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency"). Agency and Foundation are hereinafter periodically referred to individually as a "party" and collectively as the "parties."

**R E C I T A L S**

A. On or about October 19, 2004, Agency and Foundation entered into that certain Disposition and Development Agreement ("Original DDA"), which provided for Foundation to acquire that certain real property located at the northeast corner of Harbor Boulevard and Chapman Avenue in the City of Fullerton, defined in the Original DDA as the "Site," and to rehabilitate the improvements on the Site. Pursuant to the Original DDA, Foundation acquired the Site on January 24, 2005.

B. The Site was comprised of the "Fox Theatre," "Tea Room Building," and "Firestone Building," all as described in the Scope of Work attached to the Original DDA and defined in the Second Amendment.

C. On or about September 19, 2006, Agency and Foundation entered into that certain First Amendment to Disposition and Development Agreement ("First Amendment").

D. On or about \_\_\_\_\_, 2009, Agency and Foundation entered into that certain Second Amendment to Disposition and Development Agreement ("Second Amendment"), which among other provisions subdivided the Site into the "Fox Theatre Condominium Unit," "Tea Room Building Condominium Unit," and "Firestone Building

Condominium Unit,” and created a new “East Airspace Condominium Unit” on adjacent property owned by the City of Fullerton (“City”), all of which are separate legal parcels. The Fox Theatre Condominium Unit, Tea Room Building Condominium Unit, Firestone Building Condominium Unit, and East Airspace Condominium Unit are collectively the “Condominium Units.” The Second Amendment also set forth the terms and conditions for “Agency Rehabilitation Work” and “Foundation Rehabilitation Work” to be completed in, on, and about the Condominium Units, as more specifically set forth therein.

E. Pursuant to the Second Amendment, and upon satisfaction of conditions set forth therein, Foundation agreed to convey to Agency, and Agency agreed to acquire from Foundation, fee title to the Firestone Building Condominium Unit and Tea Room Building Condominium Unit for the purposes of overseeing the completion of the Agency Rehabilitation Work and Foundation Rehabilitation Work, and the repayment from Foundation to Agency of specified costs and expenses incurred by Agency, as more specifically set forth in the Second Amendment.

F. **[MODIFY AS APPROPRIATE, DEPENDING UPON WHICH OWNER OF A CONDOMINIUM UNIT IS “BURDENED” AND “BENEFITED” CONDOMINIUM UNITS]** [FOUNDATION] / [AGENCY] is the owner in fee of the \_\_\_\_\_ Condominium Unit, more particularly described in the legal description attached hereto as Attachment 1 and incorporated herein by this reference (the “Burdened Condominium Unit”). [FOUNDATION] / [AGENCY] is the owner in fee of the \_\_\_\_\_ Condominium Unit, more particularly described in the legal description attached hereto as Attachment 2 and incorporated herein by this reference, [ \_\_\_\_\_ Condominium Unit, more particularly described in the legal description attached hereto as Attachment 3 and incorporated herein by this reference, and \_\_\_\_\_ Condominium Unit, more particularly described in the legal description attached hereto as Attachment 4 and incorporated herein by this reference ], (collectively herein the “Benefitted Condominium Units”).

G. Pursuant to the terms and conditions of the Second Amendment, Agency and Foundation agreed to provide reciprocal restrictive covenants, which would burden the Burdened Condominium Unit for the benefit of the Benefitted Condominium Units, as set forth herein and the Second Amendment.

## A G R E E M E N T

Based upon the foregoing Recitals, which are incorporated herein by this reference, and for good and valuable consideration, the receipt and sufficiency of which is acknowledged by both parties, Agency and Foundation hereby agree as follows:

1. Definitions. Any capitalized terms contained in this Foundation Conveyance Option which are not defined herein shall have the meaning given in the Second Amendment, unless expressly provided to the contrary herein.

2. Effective Date; Recording of Declaration. The “Effective Date” of this Declaration shall be the date that this Declaration is recorded in the Recorder’s Office against fee title for the Burdened Condominium Unit. This Declaration shall be recorded pursuant to the terms and conditions of the Second Amendment and closing of the Condominium Conveyance Escrow.

3. Pedestrian Use and Easement. The owner of the Burdened Condominium Unit hereby grants to the owners of the Benefitted Condominium Units, and their officials, officers, employees, agents, guests, and invitees of the Benefitted Condominium Units, a non-exclusive pedestrian easement during normal business hours for access, ingress, and egress over the outdoor areas of the Condominium Unit that are adjacent to the Benefitted Condominium Units and that may be necessary or convenient to provide access to the entry ways of the Benefitted Condominium Units and the Common Area (as defined in the Second Amendment and Condominium Plan).

4. Maintenance Obligation. The owner of the Burdened Condominium Unit shall maintain or cause to be maintained the Burdened Condominium Unit and all improvements thereon in first class condition and repair (and, as to landscaping, in a healthy condition) and in accordance with all applicable laws, rules, ordinances, orders, and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having or claiming jurisdiction, and the plans approved for the Project set forth in the Second Amendment. Agency places prime importance on quality maintenance to protect its investment and to ensure that redevelopment projects within the City of Fullerton are not allowed to deteriorate due to substandard maintenance. In addition, the owner of the Burdened Condominium Unit shall keep the Burdened Condominium Unit free from all graffiti and any accumulation of debris or waste material. The owner of the Burdened Condominium Unit shall make all repairs and replacements necessary to keep the improvements in first class condition and repair and shall promptly eliminate all graffiti and replace dead and diseased plants and landscaping with comparable approved materials. In the event that the owner of the Burdened Condominium Unit breaches any of the covenants contained in this Section 4, and such default continues for a period of five (5) rain free business days after written notice from Agency or an owner of the Benefitted Condominium Units (with respect to landscaping, graffiti, debris, waste material, and general maintenance) or thirty (30) days after written notice from Agency or an owner of the Benefitted Condominium Units (with respect to building improvements), then in addition to whatever other remedy it may have at law or in equity, the Agency or an owner of a Benefitted Condominium Unit shall have the right to enter upon the Burdened Condominium Unit and perform or cause to be performed all such acts and work necessary to cure the default. Pursuant to such right of entry, Agency or any Benefitted Condominium Owner shall be permitted (but is not required) to enter upon the Burdened Condominium Unit and perform all acts and work necessary to protect, maintain, and preserve the improvements and landscaped areas on the Burdened Condominium Unit. The rights and remedies set forth in this Section 4 shall be concurrent with and in addition to any rights and remedies available to Agency in that certain Regulatory Agreement and Declaration of Covenants, Conditions, and Restrictions recorded on January 24, 2005, as Instrument No. 2005000056617 ("Regulatory Agreement").

5. Covenants Run with the Land. The Burdened Condominium Unit shall be held, sold, conveyed, hypothecated, encumbered, used, occupied and improved subject to the covenants, conditions, and restrictions set forth herein, which are hereby declared to be for the benefit of the Benefitted Condominium Units. The covenants, conditions, restrictions, reservations, equitable servitudes, liens and charges set forth herein shall run with the Burdened Condominium Unit (and each portion thereof) and shall be binding upon all persons having any right, title or interest in the Burdened Condominium Unit, or any portion thereof, their heirs, successive owners and assigns; shall inure to the benefit of the Benefitted Condominium Units,

and the City of Fullerton (as an express third party beneficiary as provided for hereinafter) and their successors and assigns, and may be enforced by the Benefitted Condominium Units or the City of Fullerton (the "City") and their successors and assigns. The covenants established in this Declaration shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Benefitted Condominium Units and City and their successors and assigns, and is further designed and intended to benefit the, the Project Area (as defined in the Second Amendment), and the Agency's implementation of the Redevelopment Plan, and therefore the parties hereto expressly agree that this Declaration and the covenants herein shall run in favor of Agency, without regard to whether Agency has been an owner of the Benefitted Condominium Units or any portion thereof, or has been, remains, or is an owner of any land or interest therein in the Project Area. This Agreement is further designed to create equitable servitudes and covenants appurtenant to the Benefitted Condominium Units and running with the Burdened Condominium Unit in accordance with the provisions of Civil Code Section 1468. Agency and City are deemed beneficiaries of the terms and provisions of this Declaration and of the covenants running with the land, for and in their own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Declaration and the covenants running with the land have been provided. The owner of the Burdened Condominium Unit hereby declares its understanding and intent that the burden of the covenants set forth herein touch and concern the land. The owner of the Burdened Condominium Unit hereby further declares its understanding and intent that the benefit of such covenants touch and concern the land by benefiting the Project Area and the Agency's implementation of the Redevelopment Plan as well as by enhancing and increasing the enjoyment and use of the Benefitted Condominium Units, and by furthering the health, safety, and welfare of the residents of the City. Agency and City shall have the right to designate other or additional real property as benefited by the covenants contained herein during the term of this Declaration. The owner of the Burdened Condominium Unit agrees to cooperate in executing any document necessary to designate such other real property as owned by Agency or City to benefit from the covenants herein. The owner of the Burdened Condominium Unit further agrees that in the event the City no longer owns or has easement rights in all or any part of real property that touches and concerns the Burdened Condominium Unit, (a) the covenants, conditions, restrictions, equitable servitudes, liens and charges set forth in this Declaration will continue to be binding upon all persons having any right, title, or interest in the Burdened Condominium Unit, or any part thereof, their heirs, successive owners, and assigns, and (b) the owner of the Burdened Condominium Unit and its heirs, successive owners, and assigns shall be estopped from arguing that the covenants, conditions, restrictions, equitable servitudes, liens and charges set forth herein are unenforceable. The covenants contained in this Declaration shall be construed as covenants running with the land and not as conditions which might result in forfeiture of title.

6. Miscellaneous.

6.1 Notices. All notices required to be delivered under this Foundation Conveyance Option to the other party must be in writing, addressed as set forth below or to such other address and to such other persons as a party may hereafter designate by written notice to the other party, and delivered in one of the following methods: (a) personal delivery by the other party or messenger or courier thereof; (b) deposit in the United States mail; (c) deposit with a reputable overnight courier or service; or (d) by telecopy or fax transmission, provided a hard

copy of such transmission shall thereafter be delivered in one of the methods described in the foregoing (a) through (c):

To Agency: Fullerton Redevelopment Agency  
303 West Commonwealth Avenue  
Fullerton, CA 92832  
Attn: Agency Secretary  
Fax: (714) 738-6843

with copy to: Rutan & Tucker, LLP  
611 Anton Blvd., Suite 1400  
Costa Mesa, CA 92626  
Attn: Jeffrey M. Oderman, Esq.  
Fax: (714) 546-9034

To Foundation: Fullerton *Historic* Theatre Foundation  
P.O. Box 6753  
Fullerton, CA 92834  
Attn: President  
Fax: (714) 870-5123

6.2 Third Party Beneficiary. The City of Fullerton is an express third party beneficiary to this Declaration and shall have the right, but not the obligation, to enforce its terms.

6.3 Assignment. The terms and conditions set forth in Section 13.3 of the Regulatory Agreement shall govern the restrictions on assignment and transfer of this Declaration, and the provisions set forth in Section 13.3 of the Regulatory Agreement are incorporated herein by reference.

6.4 Attorney's Fees. If either party commences an action against the other to enforce any of the terms of this Declaration or because of the breach by either party of any of the terms of this Declaration, the losing party shall pay to the prevailing party its expert witness fees and its reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, including appeal of and/or enforcement of a judgment.

6.5 Severability. If any term, provision, covenant, or condition of this Declaration is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Declaration shall continue in full force and effect, unless and to the extent the rights and obligations of one or both parties has been materially altered or abridged by such holding.

6.6 Applicable Law. This Declaration shall be construed and enforced in accordance with the internal laws of the State of California without regard to conflicts of law principles.

6.7 Authority to Execute. Agency and Foundation each represents and warrants to the other party that (a) such party is duly organized and existing, (b) it is duly authorized to execute and deliver this Declaration, (c) by so executing this Declaration, such party is formally bound to the provisions of this Declaration, and (d) the entering into this Declaration does not violate any provision of any other agreement to which said party is bound.

6.8 Execution in Counterpart. This Assignment may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[Signatures on next page]



IN WITNESS WHEREOF, the parties hereto have entered into this Declaration of Reciprocal Restrictive Covenants to be effective as of the Effective Date.

“FOUNDATION”

FULLERTON HISTORIC THEATRE  
FOUNDATION, a California nonprofit corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

“AGENCY”

FULLERTON REDEVELOPMENT AGENCY, a  
public body, corporate and politic

By: \_\_\_\_\_

Its: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Agency Secretary

State of California )  
County of \_\_\_\_\_ )

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

Notary Public, 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)

State of California )  
County of \_\_\_\_\_ )

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

Notary Public, 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)