

**RESOLUTION NO. 2012-11OB**

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE CITY OF GALT  
APPROVING THE EXECUTION OF THE FOURTH AMENDMENT TO THE  
OWNER PARTICIPATION, GRANT AND LOAN AGREEMENT WITH  
D&S DEVELOPMENT FOR REHABILITATION OF THE HISTORIC  
STRUCTURE LOCATED AT 201 4<sup>TH</sup> STREET**

**WHEREAS**, the City Council (the “City Council”) of the City of Galt (the “City”) adopted and amended , from time to time, the Redevelopment Plan for the Galt Redevelopment Plan for the Galt Redevelopment Project Area (the “Project Area”); and

**WHEREAS**, the Redevelopment Agency for the City of Galt (the “Agency”) was responsible for administering the Redevelopment Plan to cause redevelopment of the Project Area, including the rehabilitation of buildings in the Project Area; and

**WHEREAS**, pursuant to Health and Safety Code Section 33444.5, the Agency was authorized to make loans to owners for the purpose of rehabilitating commercial buildings or structures within the Project Area; and

**WHEREAS**, to implement the Redevelopment Plan, the Agency entered into that certain Owner Participation, Grant and Loan Agreement (the “Loan Agreement”), dated November 4, 2008, on file with the Agency Secretary, with D&S Development, Inc., a California corporation (“Borrower”); the First Amendment to the Loan Agreement on April 21, 2009 (“First Amendment”); the Second Amendment to the Loan Agreement on November 16, 2010 (“Second Amendment”); and the Third Amendment to the Loan Agreement on February 15, 2011 (“Third Amendment”), all on file with the Agency Secretary; and

**WHEREAS**, under the Loan Agreement, First Amendment, Second Amendment and Third Amendment, the Agency agreed to grant \$342,000 for seismic retrofits and loan \$1,258,000 to Borrower for the rehabilitation by Borrower of that certain property generally located at 201 4<sup>th</sup> Street in the City of Galt and more commonly referred to as the Odd Fellows Building (the “Property”) and to pay for any related and required public improvements; and

**WHEREAS**, the Borrower has rehabilitated the Property pursuant to the terms more specifically described in the Loan Agreement, First Amendment, Second Amendment and Third Amendment; and

**WHEREAS**, Health and Safety Code section 34181(e) authorizes the Oversight Board to approve an amendment to an existing agreement between the Successor Agency and private parties if it finds that such amendment would be in the best interests of the taxing entities; and

**WHEREAS**, the Successor Agency and Borrower desire to enter into a Fourth Amendment to the Loan Agreement in order to assist with the long-term viability of the project; and

**WHEREAS**, the Successor Agency approved the Fourth Amendment to the Loan Agreement at its meeting on September 4, 2012.

**NOW, THEREFORE, BE IT RESOLVED** that the Oversight Board of the former Redevelopment Agency does hereby take the following actions:

1. The Oversight Board hereby finds and determines that the above recitals are true and correct.

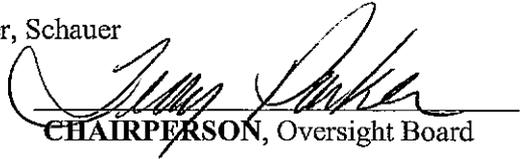
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2. The Oversight Board hereby approves the Fourth Amendment to the Loan Agreement and related documents (the "Loan Documents").

The Board Secretary shall certify the passage and adoption of this resolution and enter it into the book of original resolutions.

**PASSED AND ADOPTED** by the Board Members of the Oversight Board of the City of Galt, this 27<sup>th</sup> day of September, 2012, upon a motion by Board Member Kiriu, seconded by Board Member Marx, by the following vote, to sit:

|          |                |                                       |
|----------|----------------|---------------------------------------|
| AYES:    | Board Members: | Parker, Kiriu, Puentes-Griffith, Marx |
| NOES:    | Board Members: |                                       |
| ABSTAIN: | Board Members: |                                       |
| ABSENT:  | Board Members: | Carson, Ebner, Schauer                |

  
\_\_\_\_\_  
CHAIRPERSON, Oversight Board

ATTEST:

  
\_\_\_\_\_  
Secretary, Oversight Board

**RESOLUTION NO. 2012-12OB**

**A RESOLUTION OF THE OVERSIGHT BOARD OF THE CITY OF GALT  
AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH  
MAZE AND ASSOCIATES TO PERFORM THE DUE DILIGENCE REVIEW  
AND ACCEPTING A LOAN FROM THE CITY FOR THE COST OF SERVICES**

**WHEREAS**, AB x1 26, enacted on June 27, 2011, dissolved California redevelopment agencies, including the Galt Redevelopment Agency, as of February 1, 2012, and AB 1484, enacted on June 27, 2012, made technical and substantive amendments to AB x1 26; and

**WHEREAS**, Health and Safety Code section 34179.5(a) requires the Successor Agency to employ a licensed accountant, approved by the county auditor-controller and with experience and expertise in local government accounting, to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities; and

**WHEREAS**, Maze and Associates is a licensed accounting firm with experience and expertise in local government accounting, and with particular experience relating to the finances of the City of Galt, and the former Galt Redevelopment Agency; and

**WHEREAS**, the County Auditor Controller has approved the employment of Maze and Associates to perform the Due Diligence Review; and

**WHEREAS**, the Successor Agency has approved the agreement with Maze and Associates to perform the Due Diligence Review; and

**WHEREAS**, the City has approved a loan to the Successor Agency in an amount not to exceed \$15,000 for services related to the Due Diligence Review.

**NOW, THEREFORE, THE OVERSIGHT BOARD DOES HEREBY RESOLVE  
AS FOLLOWS:**

Section 1. The Oversight Board hereby approves an agreement with Maze and Associates to perform the due diligence review required by Health and Safety Code section 34179.5 for both the Low Moderate Income Housing Fund(s) and the Other Funds, in an amount not to exceed \$15,000, and authorizes the Executive Director to execute such agreement.

Section 2. The Oversight Board further authorizes the acceptance of a loan from the City of Galt in the amount of \$15,000 to cover the cost of services to be performed by Maze and Associates, pursuant to Health and Safety Code section 34175(h), subject to Oversight Board approval.

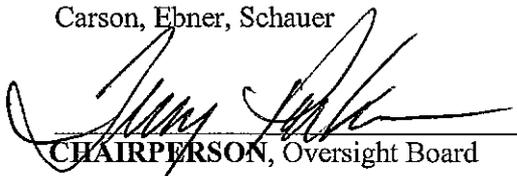
Section 3. The Oversight Board further acknowledges that the agreement with Maze and Associates and the loan of funds from the City of Galt to the Successor Agency, as described above, are both enforceable obligations, and as such, shall be listed on the Recognized Obligation Payment Schedule for the six-month fiscal period of July 1 through December 31, 2013.

The Board Secretary shall certify the passage and adoption of this resolution and enter it into the book of original resolutions.

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**PASSED AND ADOPTED** by the Board Members of the Oversight Board of the City of Galt, this 27<sup>th</sup> day of September, 2012, upon a motion by Board Member Marx, seconded by Board Member Kiriu, by the following vote, to sit:

|          |                |                                       |
|----------|----------------|---------------------------------------|
| AYES:    | Board Members: | Parker, Kiriu, Puentes-Griffith, Marx |
| NOES:    | Board Members: |                                       |
| ABSTAIN: | Board Members: |                                       |
| ABSENT:  | Board Members: | Carson, Ebner, Schauer                |

  
\_\_\_\_\_  
CHAIRPERSON, Oversight Board

ATTEST:

  
\_\_\_\_\_  
Secretary, Oversight Board

EXHIBIT A

**FOURTH AMENDMENT TO  
OWNER PARTICIPATION, GRANT AND LOAN AGREEMENT  
(ODD FELLOWS BUILDING)**

This Fourth Amendment to Owner Participation, Grant and Loan Agreement (the "**Fourth Amendment**") is entered into as of September \_\_, 2012 (the "**Effective Date**"), by and between the Successor Agency to the former Redevelopment Agency of the City of Galt, a public body, corporate and politic (the "**Agency**"), and D&S Development, Inc., a California corporation (the "**Borrower**") (collectively, the "**Parties**"), with reference to the following facts, understandings and intentions of the Parties:

**RECITALS**

A. The former Redevelopment Agency and the Borrower entered into an Owner Participation, Grant and Loan Agreement (the "**Agreement**") on November 4, 2008, relating to the rehabilitation of the property located at 201 4<sup>th</sup> Street, commonly referred to as the "Odd Fellows Lodge" in the City of Galt (the "**City**"); and further entered into the First Amendment to the Agreement ("**First Amendment**") on April 21, 2009 and the Second Amendment to the Agreement ("**Second Amendment**") on November 16, 2010; and the Third Amendment ("**Third Amendment**") on February 15, 2011; and

B. The Parties desire to amend the Agreement, as more particularly set forth in this Fourth Amendment.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises of the Parties contained in this Fourth Amendment, the Agency and the Borrower agree as follows:

**AGREEMENT**

1. **Section 2.2** **Loan**, is replaced in its entirety, and amended to read as follows:

The Agency has disbursed to the Borrower the Loan in the principal amount of One Million Two Hundred and Fifty-Eight Thousand Dollars (\$1,258,000) for the purposes set forth in Section 2.4. The Borrower's obligation to repay the Loan shall be evidenced by the Promissory Note, a form of which is attached to this Fourth Amendment as Exhibit A; and shall be secured by the Deed of Trust , a form of which is attached to this Fourth Amendment as Exhibit B; and shall further be secured by the Personal Guarantee of David Miry and Steve Lebastchi, a form of which is attached to this Second Amendment as Exhibit C. The Promissory Note, Deed of Trust and Personal Guarantee shall replace and supersede all such earlier versions of these three documents executed by the parties.

The Agency Loan shall be treated in three separate components:

(a) The "Rehabilitation Component" is in an amount of Four Hundred Fifty-Eight Thousand Dollars (\$458,000). The Rehabilitation Component was used by Borrower to pay costs for rehabilitation of the Building.

(b) The "Restaurant Component" is in an amount of Five Hundred and Fifty Thousand Dollars (\$550,000). The Restaurant Component was used by Borrower to pay costs for rehabilitation of the Building.

(c) The "Second Floor Component" is in an amount of Two Hundred Fifty Thousand Dollars (\$250,000). The Second Floor Component was used by Borrower to pay costs for rehabilitation and improvements to the second floor of the Building.

2. **Section 2.5** Loan Term and Repayment Schedule, is replaced in its entirety, and amended to read as follows:

(a) Rehabilitation Component. On the date ten years after the First Loan Disbursement Date for the Rehabilitation Component of the Loan, the Borrower shall make one payment of Five Hundred and Ninety-Five Thousand and Four Hundred Dollars (\$595,400) as repayment of the principal (\$458,000) and simple interest thereon for ten (10) years (\$137,400) for the Rehabilitation Component of the Loan. However, if on such payment date (i) the Borrower is not in default under the Loan Agreement or under any other Loan Document, and (ii) the Borrower has caused operation of a restaurant in the Building in accordance with Section 3.5 for at least eight of the ten years following the First Loan Disbursement Date for the Rehabilitation Component of the Loan, the Agency shall forgive repayment of all the principal and interest of the Rehabilitation Component of the Loan.

(b) Repayment of Restaurant Component. No payment shall be due on the Restaurant Component of the Loan until September 30, 2013. Beginning on September 31, 2013 and on the last day of each month thereafter for the next nineteen (19) years, the Borrower shall make monthly payments, due on the last day of each month, in the amount of Three Thousand Two Hundred and Sixty-Two Dollars and Seventy-One Cents (\$3,262.71), which represents fully amortized payments (on a monthly basis) of the principal (\$550,000) and interest of the Structural Component of the Loan over twenty (20) years, payable over nineteen (19) years. **[Payment to be recalculated due to delay in commencement of payments.]**

(c) Repayment of Second Floor Component. The Second Floor Component shall be divided equally into a forgivable loan and a low interest loan, and repaid in the following manner:

1. On the date ten years after the First Loan Disbursement Date for the Second Floor Component of the Loan, the Borrower shall make one payment of One Hundred and Sixty Two and Five Hundred Dollars (\$162,500) as repayment of the principal (\$125,000) and simple interest thereon for ten (10) years (\$37,500) for one half of the Second Floor Component of the Loan. However, if on such payment date (i) the Borrower is not in default under the Loan Agreement or under any other Loan Document, and (ii) the Borrower has caused operation of a restaurant in the Building in accordance with Section 3.5 for at least eight of the ten years following the First Loan Disbursement Date for the Rehabilitation Component of the Loan, the Agency shall forgive repayment of all the principal and interest of one half of the Second Floor Component of the Loan.

2. No payment shall be due on one half of the Second Floor Component of the Loan until September 31, 2013. Beginning on September 31, 2013 and on the last day of each month thereafter for the next nineteen (19) years, the Borrower shall make monthly payments, due on the last day of each month, in the amount of Seven Hundred and Forty Two Dollars (\$742.00), which represents fully amortized payments (on a monthly basis) of the principal (\$125,000) and interest on one half of the Second Floor Component of the Loan over twenty (20) years, payable over nineteen (19) years. **[Payment to be recalculated amortization due to delay in commencement of payments.]**

(d) Balance Due. Except for any portion of the Loan previously forgiven by the Agency, all outstanding principal and accrued interest on the Loan shall be due in full on the earliest to occur of: (1) the expiration of the Term; (2) the date of any unapproved Transfer if the Agency so elects, as provided in Section 5.3; and (3) the date of declaration by the Agency of an Event of Default, as provided in Section 7.1.

(e) Prepayment. The Borrower shall have the right to prepay the Loan at any time.

3. Except as otherwise set forth in the First Amendment, Second Amendment, Third Amendment, and this Fourth Amendment, all terms of the Agreement shall remain in full force and effect.

BY SIGNING BELOW, the Parties agree to this Fourth Amendment as of the date first written above.

**AGENCY:**

SUCCESSOR AGENCY TO THE FORMER  
REDEVELOPMENT AGENCY OF THE  
CITY OF GALT, a public body, corporate  
and politic

By: \_\_\_\_\_  
Jason Behrmann, Executive Director

**BORROWER:**

D&S DEVELOPMENT, INC., a California Corporation

By: \_\_\_\_\_  
David Miry, President

Approved as to form:

\_\_\_\_\_  
Steven P. Rudolph, Agency Counsel

Attest:

\_\_\_\_\_  
Elizabeth Aguire, Agency Clerk