



California Tax Credit Allocation Committee

915 Capitol Mall, Board Room 121
Sacramento, CA 95814

September 1, 2026

CTCAC Committee Meeting Minutes

1. *Agenda Item: Call to Order and Roll Call*

The California Tax Credit Allocation Committee (CTCAC) meeting was called to order at 1:18 p.m. with the following Committee members present:

Voting Members:

Fiona Ma, CPA, State Treasurer, Chairperson
Evan Johnson for Malia M. Cohen, State Controller
Michele Perrault for Joe Stephenshaw, Department of Finance (DOF) Director
Gustavo Velasquez, Department of Housing and Community Development (HCD) Director
Tony Sertich, California Housing Finance Agency (CalHFA) Executive Director

Advisory Members:

Michelle Whitman, County Representative – ABSENT
Tyler Williamson, City Representative – ABSENT

2. *Agenda Item: Approval of the Minutes of the August 18, 2026, Meeting*

Chairperson Ma called for public comments:
None.

MOTION: Mr. Johnson motioned to approve the minutes of the August 18, 2026, meeting, and Ms. Perrault seconded the motion.

The motion passed unanimously via roll call vote.

3. *Agenda Item: Executive Director's Report*

Presented by: Marina Wiant

Marina Wiant, Executive Director, said she does not have a report to present today.

Ms. Perrault said that although Ms. Wiant is not presenting an Executive Director's report today, she wants to take a moment to expand on the comments she made at the last meeting about the upcoming regulatory process that CTCAC normally goes through in the fall. She had an opportunity to speak to the staff about this yesterday. At the last meeting, she made some comments about what was happening simultaneously at the Housing Development and Finance Committee (HDFC). HDFC issued draft regulations yesterday afternoon, but Ms. Perrault has not had a chance to look at them yet. She encourages and urges the CDLAC and CTCAC teams and the new team at HDFC to work closely together as they are taking parallel tracks to develop regulations. There were a few public comments at the last

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meeting about what the process would look like for amending regulations, and more comments have also been received by HDFC.

Ms. Perrault said that in the past, the Committee has been presented with draft regulations, and the public has had the opportunity to review them ahead of time. The Committee has sometimes taken action on the regulations at the same meeting that the regulations were presented to them. Moving forward, it will be important to agendaize some of the draft regulations and let the Committee walk through them and understand what they look like before they take action. Ms. Perrault is always mindful of being aware of what the Committee is doing before taking a vote. There are a lot of things moving down the pipe in two different entities right now, and the Committee should have the mindset of ensuring there is a process for builders that is as smooth as possible so they can move projects forward. She would like to make sure the Committee does not create additional roadblocks.

Ms. Perrault expressed appreciation for the heavy lift by the staff at CDLAC and CTCAC to work alongside the new agency as they are building their team. She thinks this is a critical moment in time to make sure everyone is doing all the collaboration necessary to ensure both of the regulation packages are moving smoothly alongside each other. She would like the staff to make an effort to continue the collaboration on critical points. She thanked the staff for continuing to engage in this conversation. It can be hard to try to stand up a new system, so she appreciates the teams continuing to work closely together. She also appreciates the CDLAC and CTCAC staff lending their expertise to the new agency because they have been doing this work for a long time.

Chairperson Ma said CDLAC and CTCAC have been on a good roll for the last eight years. She will not be here in the next administration to ensure things continue to be efficient moving forward, but she hopes they will be.

Mr. Sertich said one of the things they have been working on at HDFC is trying to figure out how all the pieces are going to work together. He fully agrees with Ms. Perrault that it has been a very collaborative and productive relationship. It is important to find a pathway for projects that receive state funding from HDFC and are looking for 9% tax credits. He would like the staff to think about that and come back to the next meeting with a discussion about a way to make that happen going forward.

Chairperson Ma called for public comments:

Cherene Sandidge from the Black Developers Forum said Ms. Wiant and her staff work extremely hard. She understands that there are a lot of regulation changes forthcoming, and she is asking for collaboration. These applications are difficult for developers, and it is difficult to absorb new regulations and postures from new administrations. She encourages the programs to use similar language to whatever extent possible. That would make the applications and funding requests more professionally polished and easier to read and would encourage developers to continue on in the industry. She looks forward to the new agency and hopes to see and comment on the new regulations.

Andre Perry expressed agreement with all the previous statements. It is important to have the opportunity to have this conversation here, to make the transition as smooth as possible, and to not do anything to upset the current expectations with regards to the CDLAC and CTCAC regulations. In light of the fact that HDFC will receive many of the proceeds from HCD as well as the allocation for the tax-



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exempt bonds and 4% tax credits, the Committee should be certain that they are not doing anything that could have the unintended consequence of discouraging the jurisdictions that are seeding their own funding sources to fill the funding gap. Those resources should still be available to projects that do not rely on state funds but can get to the finish line with 4% or 9% tax credits or bond volume cap.

Ms. Wiant asked for any further public comments to be held for the general public comment period because she did not present an Executive Director's report, and these comments do not pertain to the current agenda item.

Chairperson Ma closed public comments.

4. **Agenda Item: Recommendation for reservation of 2026 second round federal 4% and state LIHTCs. (Health & Saf. Code, §§ 50199.10, 50199.14; Cal. Code Regs., tit. 4, § 10310.)**

Presented by: Carmen Doonan

Carmen Doonan, Section Chief, reported that the staff is recommending 83 projects for reservation of 2026 second round federal 4% and state tax credits. The staff received 123 applications for this round. The 83 projects recommended today will result in approximately 11,000 total units of housing and 10,907 low-income units.

Chairperson Ma called for public comments:

[A written public comment was submitted to CDLAC and CTCAC via email by Gracchus Strauss on August 28, 2026. The email and supporting documents are attached.]

Chairperson Ma closed public comments.

MOTION: Ms. Perrault motioned to approve the recommendation for reservation of 2026 second round federal 4% and state LIHTCs, and Mr. Johnson seconded the motion.

The motion passed unanimously via roll call vote.

5. **Agenda Item: Public Comment**

Alex Rogala, Senior Policy Manager at MidPen Housing, said his organization is a regional nonprofit housing developer. He said state agency reform requires sufficient resources, and he is concerned that HDFC is losing a bit of ground as the state budget investments are anemic. Cap-and-invest proceeds are not what was projected, and what is available is not prioritized for housing at the level he would like to see. There does not seem to be a pathway for HDFC projects to access 9% tax credits or farmworker state credits. Mr. Rogala is supportive of the direction articulated by Mr. Sertich for the staff to bring forward a proposal to clarify and maintain a pathway for state-funded projects to access both of these resources. One example is the treatment of resources that had the policy goal of providing housing for farmworkers. There is a strong policy alignment between HDFC's Joe Serna Jr. Farmworker Housing Grant Program and the 9% tax credit program as well as farmworker state credits. Mr. Rogala is asking for clarity and specifically for maintaining the pathway for these funding sources to be paired, regardless of where each



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program is administered. There is both a policy elegance and a resource efficiency argument for the state to do this.

William Wilcox, Housing Finance Manager at the San Francisco Mayor's Office of Housing and Community Development, echoed Mr. Rogala's comments and expressed agreement with Mr. Sertich and Ms. Perrault's statements. It will be important to integrate the 9% tax credit program and state tax credits with the HDFC programs. This includes both farmworker and enhanced state credits that would have previously gone to the Mixed-Income Program (MIP), which will now be under HDFC. While it is quite clear how the bonds will be administered, these remaining technical challenges are outstanding. Mr. Wilcox looks forward to seeing CDLAC and CTCAC regulations that effectively integrate the HDFC programs. He saw in the recently published HDFC regulations that there is a carve-out to figure out how this can work, and he hopes to see similar progress from CDLAC and CTCAC.

6. *Agenda Item:* **Adjournment**

The meeting was adjourned at 1:34 p.m.

From: [Alexander, Ashley](#)
To: [Alexander, Ashley](#)
Subject: FW: Correspondence for September 1, 2026 Committee Meeting, Agenda Item 5 — Application 26-654 — Supplement to Complaint and Request for Written Determination (CTCAC Reg. § 10325(c); CDLAC Reg. § 5105(m))
Date: Wednesday, September 2, 2026 3:20:11 PM
Attachments: [CIV-120 Notice of Entry of Dismissal 26CV491182.pdf](#)
[CIV-110 Request for Dismissal 26CV491182.pdf](#)
[Complaint and Summons Webster v Haber 26CV491182.pdf](#)
[LSQ 3403 Piedmont Ave with audit trail.pdf](#)

From: [gracchus.strauss](#) [REDACTED]
Sent: Friday, August 28, 2026 9:30 AM
To: Wiant, Marina ; Zeto, Anthony
Cc: CDLAC ; CDLAC Compliance
Subject: Correspondence for September 1, 2026 Committee Meeting, Agenda Item 5 — Application 26-654 — Supplement to Complaint and Request for Written Determination (CTCAC Reg. § 10325(c); CDLAC Reg. § 5105(m))

You don't often get email from [REDACTED]. [Learn why this is important](#)

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To the Executive Director and Members of the California Debt Limit Allocation Committee and the California Tax Credit Allocation Committee:

This supplements the complaint I submitted yesterday, August 27, 2026, concerning the Legal Status Questionnaire certified for Application No. 26-654 (3403 Piedmont Ave, Oakland). With the Committee's meeting now only days away, it is submitted as correspondence for the September 1, 2026 meeting, Agenda Item 5. I request that it be distributed to the Committee members and included in the record for that item — including as supplemental or late correspondence if the meeting materials have already been assembled — and that inclusion be confirmed in writing. The four supporting documents transmitted with the complaint are attached again here for the members' reference.

1. The complaint is directed to the certification, not the award.

As set out in the complaint, the Legal Status Questionnaire for Application 26-654 was certified "Nothing to Disclose" on May 19, 2026, while Webster Development Corp., et al. v. Danny Haber, Santa Clara County Superior Court Case No. 26CV491182 — naming the signatory as the sole named defendant and pleading causes of action for fraud—intentional misrepresentation and fraudulent concealment — was pending. The certification was

complete when made and is unaffected by any subsequent withdrawal, amendment, or non-award of the application. Withdrawal of Application 26-654 would not resolve this complaint.

2. Determination requested.

I request the Committees' written determination whether negative points will be assessed — against the signatory and the applicant entities, irrespective of the disposition of the application — under CTCAC Regulation section 10325(c), whose enumerated grounds include "material misrepresentation of any fact or requirement in an application," and under CDLAC Regulation section 5105(m) or any other applicable provision of the Committee's regulations. This request is consistent with the Committees' current practice of assessing and adjudicating negative points (see CDLAC meeting of May 12, 2026, Agenda Item 8, appeal of negative-points assessment regarding Application CA-25-650 under sections 5108(c)(3), 5105(m)(5), and 5005(c)(1)(E)). I request that any determination state the persons to whom points attach and the period for which they are effective. If the determination is that no assessment will be made, I request a brief statement of the basis.

The four documents attached in support are:

1. LSQ_3403_Piedmont_Ave_with_audit_trail.pdf (2 pages)
2. Complaint_and_Summons_Webster_v_Haber_26CV491182.pdf (46 pages)
3. CIV-110_Request_for_Dismissal_26CV491182.pdf (4 pages)
4. CIV-120_Notice_of_Entry_of_Dismissal_26CV491182.pdf (7 pages)

Each can be re-verified independently from the Committees' own application files, the State Treasurer's Office public-records process, and the Santa Clara County Superior Court public portal under Case No. 26CV491182.

Given the September 1, 2026 meeting date, this is time-sensitive. Please confirm receipt, inclusion in the Item 5 record, and any reference number assigned.

Attachment 5 - Legal Status Questionnaire

Project Name: 3403 Piedmont Ave

APPLICANT'S DISCLOSURE

1. Financial Viability

Disclose material information relating to any legal or regulatory proceeding or investigation in which the applicant/borrower/developer/project sponsor is or has been a party and which might have a material impact on the financial viability of the project or the applicant/ borrower/developer/project sponsor. Such disclosures should include any parent, subsidiary, or affiliate of the applicant/borrower/developer/project sponsor that is involved in the management, operation, or development of the project.

2. Fraud, Corruption, or Serious Harm

Disclose any civil, criminal, or regulatory action in which the applicant/borrower/developer/project sponsor, or any current board members (not including volunteer board members of non-profit entities), partners, limited liability corporation members, senior officers, or senior management personnel has been named a defendant in such action in the past ten years involving fraud or corruption, matters related to employment conditions (including, but not limited to wage claims, discrimination, or harassment), or matters involving health and safety where there are allegations of serious harm to employees, the public or the environment.

Disclosures should include civil or criminal cases filed in state or federal court; civil or criminal investigations by local, state, or federal law enforcement authorities; and enforcement proceedings or investigations by local, state or federal regulatory agencies. The information provided must include relevant dates, the nature of the allegation(s), charges, complaint or filing, and the outcome.

Select only one:

☒ Nothing to Disclose

☐ Disclosure provided in tab 5

Disclosure narratives should be saved as a separate file for each entity that has items to disclose.

Applicant Name: 3400 Broadway LLC

Signatory Name: Danny Haber

Signatory Title: Managing Member

Signature: _____

Danny Haber

General Partner

Date: 5/19/2026

Audit trail

Details

FILE NAME 5C-3400 Broadway LSQ - 5/18/26, 4:24 PM.pdf

STATUS ● Signed

STATUS TIMESTAMP 2026/05/19
04:23:42 UTC

Activity


SENT

jeremy@owow.com **sent** a signature request to:
• Danny Haber (danny@owow.com) 2026/05/18
23:24:14 UTC


SIGNED

Signed by Danny Haber (danny@owow.com) 2026/05/19
04:23:42 UTC


COMPLETED

This document has been signed by all signers and is **complete** 2026/05/19
04:23:42 UTC

The email address indicated above for each signer may be associated with a Google account, and may either be the primary email address or secondary email address associated with that account.

E-FILED
4/6/2026 2:41 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
26CV491182
Reviewed By: S. Rodriguez

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Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

WEBSTER DEVELOPMENT CORP, a
California corporation; FLYING STAR
CONSULTANT COMPANY LLC, a California
limited liability company; 65 CAPITAL LLC, a
California limited liability company; WESTERN
CAPITAL REGIONAL CENTER CORP, a
California corporation; HAO LIU, an individual;
JENNY MA, an individual; LINA WU, an
individual; QINGYANG SONG, an individual;
LISHA YIN, an individual;

Plaintiff,

vs.

DANNY HABER, an individual; and DOES 1
through 100,

Defendants.

Case No. 26CV491182

Assigned To:
Department

COMPLAINT FOR:

- 1. BREACH OF WRITTEN CONTRACT**
- 2. FRAUD – INTENTIONAL
MISREPRESENTATION**
- 3. FRAUDULENT CONCEALMENT**

1 Plaintiffs Webster Development Corp, Flying Star Consultant Company LLC, 65 Capital
2 LLC, Western Capital Regional Center Corp, Hao Liu, Jenny Ma, Lina Wu, Qingyang Song, and Lisha
3 Yin, collectively herein referred to as “Plaintiffs”, allege for their Complaint as follows:

4 **PARTIES**

5 1. At all relevant times mentioned herein, Webster Development Corp was a
6 California corporation with its principal place of business located at 1131 Eagle Nest Court, Danville,
7 CA 94506.

8 2. At all relevant times mentioned herein, Flying Star Consultant Company LLC
9 was a California limited liability company with its principal place of business located at 218 Montalvo
10 Rd., Redwood City, CA 94062.

11 3. At all relevant times mentioned herein, 65 Capital LLC was a California limited
12 liability company with its principal place of business located at 6S Abbott Ave., Milpitas, CA 95035

13 4. At all relevant times mentioned herein, Western Capital Regional Center Corp as
14 a California corporation with its principal place of business located at 2127 Feathermint Dr., San Ramon,
15 CA 94582.

16 5. At all relevant times mentioned herein Plaintiff, Hao Liu was an individual
17 residing in the State of California.

18 6. At all relevant times mentioned herein Plaintiff, Jenny Ma was an individual
19 residing in the State of California.

20 7. At all relevant times mentioned herein Plaintiff, Lina Wu was an individual
21 residing in the State of California.

22 8. At all relevant times mentioned herein Plaintiff, Qingyang Song was an individual
23 residing in the State of California.

24 9. At all relevant times mentioned herein Plaintiff, Lisha Yin was an individual
25 residing in the State of California.

26 10. At all relevant times mentioned herein Defendant, Danny Haber was an individual
27 residing in the State of California.
28

11. Plaintiffs do not know the true names and capacities of the defendants sued as Does 1 through 100, inclusive, and therefore sues these defendants by such fictitious names. Plaintiffs will amend their cross-complaint to add the true names and capacities of these defendants when they are ascertained.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this matter because the amount in question exceeds the jurisdictional minimum for this Court and the written contract at issue contains a jurisdiction clause whereby the Parties purposefully availed themselves to the jurisdiction of this Court by agreeing to jurisdiction in Santa Clara, California.

13. Venue is also proper in this Court because the written contract at issue contains a venue clause whereby the Parties expressly agreed to venue in Santa Clara County, California for any dispute arising out of the loan agreement and the personal guaranty at issue in this litigation.

FACTUAL BACKGROUND

14. Plaintiffs are a group of lenders. On or about March 18, 2021, Plaintiffs and 1510 Webster Street, LLC (“Borrower”) entered into a loan transaction in which Plaintiffs originated a loan in the principal amount of \$7,000,000 to Borrower. A copy of the loan agreement is attached as Exhibit 1.

15. Upon information and belief, the Borrower needed the loan in connection with its purchase and development of a building located at 1510 Webster Street in Oakland, California (“Property”). The loan was secured by a first-position deed of trust on the Property.

16. The loan was evidenced by a Secured Note dated March 18, 2021 that was executed by the Borrower and by a Loan and Security Agreement that was also dated March 18, 2021.

17. Upon information and belief, Defendant Haber is the managing member of the Borrower. As the authorized representative of the Borrower, Defendant Haber executed the loan documents as the authorized signatory for the Borrower.

18. In addition, Plaintiffs required that Defendant Haber provide a personal guaranty of the loaned amount. To that end, Plaintiffs demanded Defendant Haber to provide financial

1 information to support his net worth to ensure themselves that he could actually guarantee the amount
2 loaned in the event of a default by the Borrower.

3 19. After analyzing the financial information provided by Defendant Haber,
4 Defendant Haber executed a personal guaranty. The personal guaranty was entered into on the same
5 date as the loan, March 18, 2021. Under the terms of the personal guaranty, Defendant Haber guarantees
6 payment and performance of all obligations of the Borrower under the loan documents. A copy of the
7 Personal Guaranty is attached as Exhibit 2.

8 20. Under the terms of the loan, the first ten months were “interest-only” with
9 monthly payments of \$61,250. The first payment was due on May 1, 2021.

10 21. Under the terms of the loan, the maturity date was initially set as February 1,
11 2022. A balloon payment of all unpaid principal, interest, and other amounts due were to be paid on or
12 before the maturity date.

13 22. A debt service reserve of \$306,250.00 was established from the loan proceeds to
14 cover monthly payments until exhausted, with the Borrower required to begin making payments with
15 the sixth payment due October 1, 2021.

16 23. The loan documents included representations and warranties by the Borrower
17 regarding authority, compliance with the law, absence of material litigation, proper insurance, and non-
18 consumer business purpose for use of the proceeds.

19 24. The loan documents also prohibited the Borrower from transferring or
20 encumbering the property or transferring interests in the Borrower, without Plaintiffs prior written
21 consent, and provided that such actions would constitute an event of default.

22 25. The loan documents also provided that, upon the event of default, Plaintiff could
23 accelerate the loan and demand immediate payment of all amounts due and could impose default interest
24 at a rate of 14% per year.

25 26. On or about March 31, 2021, the loan closed and the funds were disbursed
26 through escrow.

27 27. On or about August 2022, Plaintiffs were asked by Borrower through Defendant
28 Haber to execute a Consent to a PACE Assessment reflecting a \$40 million PACE loan and a \$7 million

1 senior loan. Plaintiffs, relying on the information provided by Borrower through Defendant Haber,
2 signed the Consent.

3 28. On or about October 2022, at the request of Borrower through Defendant Haber,
4 Plaintiffs signed a Subordination Agreement with the City of Oakland specifically referencing the
5 Property.

6 29. On or about December 2022, Plaintiffs were asked by Borrower through
7 Defendant Haber to sign another Consent to PACE Assessment. Borrower, through Defendant Haber,
8 advised Plaintiffs that the Consent was merely an update of the August 2022 Consent and not materially
9 different. Hidden from Plaintiffs was the fact that this second Consent was actually for a new \$62
10 million PACE loan.

11 30. At the time Plaintiffs executed the December 2022 consent, Plaintiffs were not
12 made aware of the new PACE loan amount. Plaintiffs then signed based on the misinformation provided
13 by the Borrower – through Defendant Haber - that the document was merely an update of the first
14 Consent signed in August 2022.

15 31. Plaintiffs have been unable to locate documentation provided to it that supports
16 the \$62 million PACE loan amount.

17 32. The preliminary terms for the PACE loan states that the PACE loan amount must
18 be less than 30% of the property value and the maximum loan to value ratio must be less than 90%.

19 33. Plaintiff has not received an appraisal or valuation to support compliance with the
20 PACE loan requirements.

21 34. On or about January 2024, Plaintiff and Borrower executed a loan extension.
22 Under the terms of the loan extension, December 2024 was the new maturity date.

23 35. On or about December 2024, Borrower notified Plaintiffs that it was out of funds
24 and would cease making payment. Thereafter, the loan went into default. At the time the loan went
25 into default, at least \$2,000,000.00 of the original principal remained due and payable on the loan in
26 addition to accrued interest payments and late charges as allowed for under the terms of the loan.

27 36. Subsequently, Plaintiffs demanded that Borrower provide all PACE related
28 records to them.

37. On or about November 1, 2025, and in response to Plaintiffs requests, Defendant Haber provided Plaintiff with six documents. Plaintiffs then discovered that it did not have the documents provided by Defendant Haber at the time it was asked to sign the Consent to the PACE Assessment.

FIRST CAUSE OF ACTION

(Breach of Written Contract – Personal Guaranty Against All Defendants)

38. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1-37, as if fully set forth herein.

39. A valid and enforceable personal guaranty agreement (“Guaranty”) exists between Plaintiffs and Defendant Haber. See Exhibit 2 attached herein.

40. Under the terms of the Guaranty, Defendant Haber absolutely and unconditionally guaranteed the full and faithful payment and performance of all obligations owed by Borrower under the loan documents, including the loan and security agreement, the note, and the deed of trust, as evidenced by the written Guaranty.

41. Borrower was obligated to repay the \$7,000,000.00 loan and perform under the loan documents. Borrower, however, made some payments but then defaulted by failing to make the required payments as set forth in the loan documents.

42. In December 2024, Borrower notified Plaintiffs that it would cease making payments. At that time, at least \$2,000,000.00 of the original principal amount remained due and owing on the loan. In addition, accrued interest and late charges as allowed for under the terms of the loan remained due and owing. In total, an amount that exceeds \$2,679,533.37 is owed by Borrower. Interest and late charges continue to accrue.

43. Pursuant to the terms of the Guaranty, Defendant Haber's obligation is absolute and not conditioned on notice of default, and the Guaranty expressly waives any requirement of notice or demand.

44. Defendant Haber failed to pay or perform as required under the Guaranty following the Borrower's default, and Plaintiffs have suffered damages as a result in an amount to be proven at trial. In addition, Plaintiffs have been forced to incur attorney's fees which are recoverable

1 under the Guaranty. The damages incurred by Plaintiffs to date will be proven at trial but exceeds
2 \$2,679,533.37 plus attorney's fees as set forth under the terms of the loan.

3 **SECOND CAUSE OF ACTION**

4 **(Fraud – Intentional Misrepresentation Against All Defendants)**

5 45. Plaintiffs repeat and re-allege all allegations contained in paragraphs 1 through
6 44 above, as if fully set forth herein.

7 46. Defendant Haber made material misrepresentations of fact to Plaintiffs,
8 including, but not limited to, representing to Plaintiffs that the PACE loan amount would be \$40 million
9 and that the terms and documents for the two PACE consents were consistent with the material terms,
10 when in fact Borrower – through Defendant Haber – later executed a consent referencing a \$62 million
11 PACE loan without properly disclosing the increase or providing the supporting documentation to
12 Plaintiffs.

13 47. Defendant Haber knew his representations were false or made them with reckless
14 disregard for the truth, as he was aware of the actual PACE loan amount and intentionally failed to
15 disclose the change or provide documentation.

16 48. Defendant Haber intended to induce Plaintiffs to execute the PACE consents and
17 subordination agreements in reliance on the misrepresented terms.

18 49. Plaintiffs justifiably relied on Defendant Haber's representations by executing the
19 consents and subordination agreements, believing that the PACE loan amount was \$40 million and that
20 the terms were as represented to them through Defendant Haber.

21 50. As a result of Defendant Haber's intentional misrepresentations, Plaintiffs
22 suffered damages in an amount to be proven at trial but exceeds \$2,679,533.37 plus attorney's fees as
23 set forth under the terms of the loan.

24 **THIRD CAUSE OF ACTION**

25 **(Fraudulent Concealment – Against All Defendants)**

26 51. Plaintiffs repeat and re-allege the allegations contained in paragraphs 1 through
27 50, as if fully set forth herein.

28 52. Defendant Haber concealed and suppressed material facts from Plaintiffs,

1 including the true amount of his financial wealth as well as the amount of Borrower's PACE loan.

2 53. Plaintiffs required Defendant Haber to provide a Guaranty of the full amount of
3 funds loaned to Borrower. Prior to providing the loan, Plaintiffs demanded Defendant Haber provide
4 evidence of his wealth to confirm that he had the ability to guarantee repayment of the loaned amount
5 should Borrower go into default.

6 54. Defendant Haber provided financial documentation evidencing considerable
7 wealth and his ability to guarantee the loan should Borrower go into default. As a result, Plaintiffs
8 loaned the funds to Borrower and accepted the Guaranty from Defendant Haber.

9 55. In December 2024, Borrower has ceased making payments on the loan. Plaintiffs
10 demanded that Haber pay the amount owed pursuant to the terms of the Guaranty. Defendant Haber has
11 failed to pay the amount owed.

12 56. Upon information and belief, the financial documentation provided by Defendant
13 Haber was materially false. Plaintiffs relied on the financial documentation provided by Defendant
14 Haber as a condition of making the loan to the Borrower.

15 57. Defendant Haber intentionally concealed and suppressed the facts of his net worth
16 with the intent to defraud Plaintiffs and induce Plaintiffs to move forward with the loan to Borrower –
17 an LLC of which he is the managing member.

18 58. Plaintiffs were unaware of the concealed facts and would not have provided the
19 loan to the Borrower had the true facts been disclosed.

20 59. As a result of Defendant Haber's concealment, Plaintiffs have suffered damages
21 Plaintiffs have been forced to incur attorney's fees which are recoverable under the Guaranty. The
22 damages incurred by Plaintiffs will be proven at trial but to date exceeds \$2,679,533.37 plus attorney's
23 fees as set forth under the terms of the loan.

1 **PRAYER FOR RELIEF**

2 1. An award of Plaintiffs compensatory damages as against Defendant Danny
3 Haber, in an amount to be determined at trial but exceeds \$2,679,533.37 and includes, but is not not
4 limited to, all unpaid principal, interest, default interest, late charges, fees, costs, and other amounts due
5 under the Guaranty of the loan documents. Plaintiffs have been forced to incur attorney's fees which are
6 recoverable under the Guaranty.

7 2. An award of punitive damages in an amount to be determined at trial, for
8 Defendant Haber's fraudulent, malicious, and oppressive conduct as alleged herein.

9 3. An award of attorneys' fees and other fees and costs as allowed for under the
10 Guaranty and applicable law.

11 4. An award of prejudgment interest at the maximum rate allowed by law.

12 5. An award of other and further relief as the Court may deem just and proper.
13

14 Dated: April 6, 2026

BURKHALTER KESSLER CLEMENT & GEORGE LLP

15 By: /s/Keith E. Butler
16 Keith E. Butler, Esq.
17 Attorneys for Plaintiffs
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EXHIBIT “1”

SECURED NOTE

\$7,000,000.00

Date: March 18, 2021
Santa Clara County, California

Property Address: *1510 Webster Street, Oakland, California 94612*

FOR VALUE RECEIVED, the undersigned, 1510 Webster Street LLC, a California limited liability company ("Borrower"), whose address is 411 2nd Street, Oakland, California 94607, hereby promises to pay to Webster Development Corp., a California corporation as to an undivided 1,500,000.00/7,000,000.00 interest; Lisha Yin, a single woman as to an undivided 500,000.00/7,000,000.00 interest; Flying Star Consultant Company LLC, a California limited liability company as to an undivided 400,000.00/7,000,000.00 interest; Hao Liu, a married woman as to an undivided 450,000.00/7,000,000.00 interest; Jenny Ma, a single woman as to an undivided 400,000.00/7,000,000.00 interest; Lina Wu, a married woman as to an undivided 250,000.00/7,000,000.00 interest; Qingyang Song, a married man as to an undivided 250,000.00/7,000,000.00 interest; 65 Capital LLC, a California limited liability company as to an undivided 250,000.00/7,000,000.00 interest; and Western Capital Regional Center Corp., a California corporation as to an undivided 3,000,000.00/7,000,000.00 interest, or order (collectively, "Lender"), whose address is 1551 McCarthy Boulevard, #211, Milpitas, California 95035, the principal sum of Seven Million and 00/100 Dollars (\$7,000,000.00), together with interest on the unpaid principal balance of this Note, as follows:

1. Interest. Interest on the unpaid principal balance, including any Lender Retained Funds, will accrue from the date the proceeds have been distributed to or on behalf of the Borrower (the "Date of Advance") at an annual rate equal to Ten and 50/100 Percent (10.5%).

1.1. Computation of Interest. Interest on this Note is computed on a 30/360 simple interest basis; that is, with the exception of odd days before the first full payment cycle, monthly interest is calculated by applying the ratio of the interest rate over a year of 360 days, multiplied by the outstanding principal balance, multiplied by a month of 30 days. Interest for the odd days before the first full month and any partial month in which the loan is repaid in full is calculated on the basis of the actual days and a 360-day year and shall include the day of payoff. All interest payable under this Note is computed using this method.

2. Payment Obligations.

2.1. In General. Borrower will make a payment each month until the entire indebtedness evidenced by this Note and all accrued and unpaid principal, interest and other charges due hereunder have been paid in full. If Borrower still owes amounts under this Note on February 1, 2022 (the "Maturity Date"), Borrower will pay those amounts in full on that date. Payments due under the Note shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or the Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under this Note and the Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; (d) Electronic Funds Transfer; or (e) wire. Lender reserves the right, in its sole and absolute discretion, to require payment in any other manner.

2.2. Interest-Only Payments. Interest-only payments shall be due and payable in consecutive monthly installments of Sixty-One Thousand Two Hundred Fifty and 00/100 Dollars (\$61,250.00) commencing with the first payment due on May 1, 2021 and continuing for a period of ten (10) consecutive months.

2.3. Balloon Payment. The payment schedule for this Loan requires that on the Maturity Date Borrower make a balloon payment of all unpaid principal, interest, charges, fees, costs and any other unpaid amounts due under the Loan Documents.

2.4. Debt Service Reserve. Pursuant to the terms of the Loan Agreement (as defined below), one or more of the payments due shall be paid from the Debt Service Reserve (as defined in the Loan Agreement).

2.5. Delivery of Payments. Payments due under this Note shall be made to Lender by electronic funds transfer by automated clearing house payments ("ACH Payments"). Borrower shall at all times maintain a valid account to be used for ACH Payments and shall ensure sufficient funds in the account to cover the amount of each payment or debit entry. Borrower's failure to maintain a valid account to be used for ACH Payments or failure to deposit and/or maintain sufficient funds in the account for each debit entry, shall be a Default under this Note and the Loan Agreement. Lender reserves the right, in its sole and absolute discretion, to require payment in any other manner.

2.6. Order of Application of Payments. Each payment under this Note shall be credited in the following order: (a) costs, fees, charges, and advances paid or incurred by Lender or payable to Lender and interest under any provision of this Note, the Loan Agreement, or the Security Instrument, in such order as Lender, in its sole and absolute discretion, elects, (b) interest payable under the Note, and (c) principal under the Note.

2.7. Other Terms. This Note is subject to the following additional terms as provided for in the Loan Agreement.

2.7.1. Debt Service Reserve.

3. Late Charge. Borrower acknowledges that default in the payment of any sum due under this Note will result in losses and additional expenses to Lender in servicing the indebtedness evidenced by this Note, handling such delinquent payments, and meeting its other financial obligations. Borrower further acknowledges that the extent of such loss and additional expenses is extremely difficult and impractical to ascertain. Borrower acknowledges and agrees that, if any payment due under this Note is not received by Lender within ten (10) days when due, a charge of 10 cents (\$0.10) for each dollar (\$1.00) that is not paid when due would be a reasonable estimate of expenses so incurred (the "Late Charge"). Without prejudicing or affecting any other rights or remedies of Lender, Borrower shall pay the Late Charge to Lender as liquidated damages to cover expenses incurred in handling such delinquent payment.

4. Default. On (a) Borrower's failure to pay any installment or other sum due under this Note when due and payable (whether by extension, acceleration, or otherwise), (b) an Event of Default (as defined in the Loan Agreement), or (c) any breach of any other promise or obligation in this Note or in any other instrument now or hereafter securing the indebtedness evidenced by this Note, then, and in any such event, Lender may, at its option, declare this Note (including, without limitation, all accrued interest) due and payable immediately regardless of the Maturity Date. Borrower expressly waives notice of the exercise of this option.

5. Prepayment

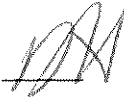
5.1. Prepayment Premium. Borrower may prepay this Note in whole or in part at any time without penalty. However, if Borrower prepays this Note in whole or in part prior to the Maturity Date, Borrower shall pay a Prepayment Premium ("Prepayment Premium") equal to the following:

(a) If prepayment is made on or before three months from the Date of Advance, from the Date of Advance, Borrower shall pay a fee equal to 2.00% of the outstanding principal balance.

On or after three months from the Date of Advance, Borrower may prepay this Note in whole or in part at any time without paying any premium. All prepayments of principal on this Note shall be applied to the most remote principal installment or installments then unpaid.

5.2. Ability to Pay Prepayment. Borrower shall have no right to prepay and Lender shall have no duty to accept full or partial prepayment of this Note without Borrower giving Lender thirty (30) days prior written notice of his, her or its intention to prepay this Note. Said notice shall include the amount Borrower intends to repay. Borrower shall pay Lender the principal due under this Note together with (a) any prepayment premium contemplated in this Note and (b) any accrued but yet unpaid interest and fees.

5.3. Prepayment Waivers. BORROWER ACKNOWLEDGES AND AGREES THAT BORROWER HAS NO RIGHT TO PREPAY THIS NOTE EXCEPT AS PROVIDED IN THIS SECTION. BORROWER FURTHER ACKNOWLEDGES AND AGREES THAT IF THE MATURITY DATE IS ACCELERATED BY LENDER PURSUANT TO THE LOAN DOCUMENTS (INCLUDING, WITHOUT LIMITATION, A JUNIOR LIEN LENDER OF THE PROPERTY), AND BORROWER OR ANY THIRD PERSON THEREAFTER SEEKS TO PAY OFF SUCH ACCELERATED INDEBTEDNESS OR PURCHASE THE PROPERTY AT A FORECLOSURE SALE (WHETHER JUDICIAL OR NON-JUDICIAL), SUCH PAYOFF OR PURCHASE SHALL CONSTITUTE A PREPAYMENT HEREUNDER AND THE PREPAYMENT PREMIUM SET FORTH ABOVE SHALL BE DUE IN THE EVENT PREPAYMENT OCCURS. BY INITIALING BELOW, BORROWER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT BORROWER SHALL PAY THE PREPAYMENT PREMIUM, EVEN IN THE CASE WHERE LENDER HAS ACCELERATED THE MATURITY DATE PURSUANT TO THE LOAN DOCUMENTS; THAT THE CALCULATION OF THE PREPAYMENT PREMIUM IS FAIR AND REASONABLE TO COMPENSATE LENDER FOR THE LOSS WHICH LENDER MAY INCUR AS A RESULT OF PREPAYMENT OF THIS NOTE; THAT BORROWER WAIVES ANY RIGHT BORROWER MAY HAVE OR CLAIM TO HAVE UNDER CALIFORNIA LAW; AND THAT LENDER HAS MADE THE LOAN EVIDENCED BY THIS NOTE IN RELIANCE ON THE AGREEMENTS AND WAIVERS OF BORROWER IN THIS SECTION AND LENDER WOULD NOT HAVE MADE THE LOAN WITHOUT SUCH AGREEMENTS AND WAIVERS.

BORROWER'S INITIALS: 

6. Interest on Default. If Borrower is in default under the Loan Documents, then at the sole and absolute discretion of Lender and without notice or opportunity to cure, the entire unpaid principal balance shall immediately bear an annual interest rate equal to the lesser of (a) Fourteen and 00/100 Percent (14%); or (b) the maximum interest rate allowed by law (the "Default Rate"). If the Maturity Date is accelerated, the unpaid principal shall accrue interest at the Default Rate only until the default is cured and the Security Instrument is reinstated. Borrower acknowledges and agrees that it would be extremely difficult or impractical to fix the actual damages resulting from Borrower's failure to pay the principal, accrued interest and other sums due on the Maturity Date, and therefore Borrower shall pay interest at the Default Rate not as a penalty, but for purposes of defraying the expenses incident to handling the past due principal, accrued interest and other sums due under this Note. Interest at the Default Rate represents the reasonable estimate of the loss that may be sustained by Lender due to the failure of Borrower to pay the principal, accrued interest and other sums due on the Maturity Date. Interest at the Default Rate shall be payable by Borrower without prejudice to the rights of Lender to collect any other amounts to be paid under this Note (including, without limitation, late charges), the Loan Agreement, or the Security Instrument.

7. Interest on Interest. If any interest payment under this Note is not paid when due, the unpaid interest shall be added to the principal of this Note, shall become and be treated as principal, and shall thereafter bear like interest.

8. Due-on-Sale. If Borrower sells, gives an option to purchase, exchanges, assigns, conveys, encumbers (including, but not limited to PACE/HERO loans, any loans where payments are collected through property tax assessments, and super-voluntary liens which are deemed to have priority over the lien of the Security Instrument) (other than with a Permitted Encumbrance as defined in the Security

Instrument), transfers possession, or alienates all or any portion of the Property, or any of Borrower's interest in the Property, or suffers its title to, or any interest in, the Property to be divested, whether voluntarily or involuntarily; or if there is a sale or transfer of any interests in Borrower; or if Borrower changes or permits to be changed the character or use of the Property, or drills or extracts or enters into any lease for the drilling or extracting of oil, gas, or other hydrocarbon substances or any mineral of any kind or character on the Property; or if title to such Property becomes subject to any lien or charge, voluntary or involuntary, contractual or statutory, without Lender's prior written consent, then Lender, at Lender's option, may, without prior notice, declare all sums secured by the Security Instrument, regardless of their stated due date(s), immediately due and payable and may exercise all rights and remedies in the Loan Documents.

9. **Waiver.** Borrower, endorsers, and all other persons liable or to become liable on this Note waive diligence, presentment, protest and demand, and also notice of protest, demand, nonpayment, dishonor and maturity and consents to any extension of the time or terms of payment hereof, any and all renewals or extensions of the terms hereof, any release of all or any part of the security given for this Note, any acceptance of additional security of any kind and any release of any party liable under this Note. Any such renewals or extensions may be made without notice to Borrower.

10. **Notice.** Any notice required to be provided in this Note shall be given in accordance with the notice requirements provided in the Loan Agreement.

11. **Assignment.** This Note inures to and binds the heirs, legal representatives, successors, and assigns of Borrower and Lender; provided, however, that Borrower may not assign this Note or any proceeds of it, or assign or delegate any of its rights or obligations, without Lender's prior written consent in each instance. Lender in its sole discretion may transfer this Note, and may sell or assign participations or other interests in all or any part of this Note, all without notice to or the consent of Borrower.

12. **Usury.** All agreements between Borrower and Lender are expressly limited, so that in no event or contingency, whether because of the advancement of the proceeds of this Note, acceleration of maturity of the unpaid principal balance, or otherwise, shall the amount paid or agreed to be paid to Lender for the use, forbearance, or retention of the money to be advanced under this Note exceed the highest lawful rate permissible under applicable usury laws. If, under any circumstances, fulfillment of any provision of this Note, or the Loan Documents, after timely performance of such provision is due, shall involve exceeding the limit of validity prescribed by law that a court of competent jurisdiction deems applicable, then, ipso facto, the obligations to be fulfilled shall be reduced to the limit of such validity. If, under any circumstances, Lender shall ever receive as interest an amount that exceeds the highest lawful rate, the amount that would be excessive interest shall be applied to reduce the unpaid principal balance under this Note and not to pay interest, or, if such excessive interest exceeds the unpaid principal balance under this Note, such excess shall be refunded to Borrower. This provision shall control every other provision of all agreements between Borrower and Lender.

13. **Capitalized Terms.** Capitalized terms used but not defined herein shall have the meaning ascribed to such term in the Loan Documents (as defined in the Loan Agreement).

14. **Loan Agreement.** This Note is also secured by and is subject to the provisions of that certain Loan and Security Agreement of even date herewith (the "Loan Agreement") between Borrower and Lender, and all Collateral referenced and incorporated in the Loan Agreement. As specifically provided in the Loan Agreement, if Borrower defaults under this Note, Lender has the right and option to foreclose against any Collateral provided under the Loan Agreement.

[SIGNATURES FOLLOW]

BORROWER:

1510 WEBSTER STREET LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By: 

Danny Haber, Authorized Signatory

LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (this "Agreement") dated as of March 18, 2021, is entered into by 1510 Webster Street LLC, a California limited liability company ("Borrower"), for the benefit of Webster Development Corp., a California corporation as to an undivided 1,500,000.00/7,000,000.00 interest; Lisha Yin, a single woman as to an undivided 500,000.00/7,000,000.00 interest; Flying Star Consultant Company LLC, a California limited liability company as to an undivided 400,000.00/7,000,000.00 interest; Hao Liu, a married woman as to an undivided 450,000.00/7,000,000.00 interest; Jenny Ma, a single woman as to an undivided 400,000.00/7,000,000.00 interest; Lina Wu, a married woman as to an undivided 250,000.00/7,000,000.00 interest; Qingyang Song, a married man as to an undivided 250,000.00/7,000,000.00 interest; 65 Capital LLC, a California limited liability company as to an undivided 250,000.00/7,000,000.00 interest; and Western Capital Regional Center Corp., a California corporation as to an undivided 3,000,000.00/7,000,000.00 interest (collectively, "Lender").

In consideration of the covenants, conditions, representations, and warranties contained in this Agreement, the parties agree as follows:

1. **DEFINITIONS.** As used herein, the following terms shall have the following meanings (all terms defined in this Section or in any other provision of this Agreement in the singular are to have the plural meanings when used in the plural and vice versa, and whenever the context requires, each gender shall include any other gender):

1.1. **"Agreement"** shall mean this Loan and Security Agreement together with all schedules and exhibits hereto, as amended, supplemented or otherwise modified from time to time.

1.2. **"Applicable Law"** shall mean: (a) with respect to matters relating to the creation, perfection and procedures relating to the enforcement of the liens created pursuant to a Security Instrument (including specifically, without limitation, the manner of establishing the amount of any deficiency for which Borrower is liable after any foreclosure of any Real Property Collateral), the laws of the state where the Real Property Collateral subject to such Security Instrument is located; or (b) with respect to any other Loan Document (including but not limited to the Note and this Agreement) the laws of the State of California (or any other jurisdiction whose laws are mandatorily applicable notwithstanding the parties' choice of California law). In either case, Applicable Law shall refer to such laws, as such laws now exist, or may be changed or amended or come into effect in the future.

1.3. **"Attorneys' Fees."** Any and all attorney fees (including the allocated cost of in-house counsel), paralegal, and law clerk fees, including, without limitation, fees for advice, negotiation, consultation, arbitration, and litigation at the pretrial, trial, and appellate levels, and in any bankruptcy proceedings, and attorney costs and expenses incurred or paid by Lender as provided in the Loan Documents.

1.4. **"Collateral"** shall mean the collateral described in Section 2 below.

1.5. **"Environmental Laws"** shall mean any Governmental Requirements pertaining to health, industrial hygiene, or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended (42 United States Code ("U.S.C.") §§ 9601-9675); the Resource Conservation and Recovery Act of 1976 (RCRA) (42 U.S.C. §§ 6901-6992k); the Hazardous Materials Transportation Act (49 U.S.C. §§ 5101-5127); the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1376); the Clean Air Act (42 U.S.C. §§ 7401-7671q); the Toxic Substances Control Act (15 U.S.C. §§ 2601-2692); the Refuse Act (33 U.S.C. §§ 407-426p); the Emergency Planning and Community Right-To-Know Act (42 U.S.C. §§ 11001-11050); the Safe Drinking Water Act (42 U.S.C. §§ 300f-300j), and all present or future environmental quality or protection laws, statutes or codes or other requirements of any federal or state governmental unit, or of any regional or local governmental unit with jurisdiction over the Collateral.

1.6. **"Event of Default"** shall mean any event specified in the Event of Default heading below.

1.7. "Governmental Authority" shall mean any and all courts, boards, agencies, commissions, offices, or authorities of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city, or otherwise) whether now or later in existence.

1.8. "Governmental Requirements" shall mean any and all laws, statutes, codes, ordinances, regulations, enactments, decrees, judgments, and orders of any Governmental Authority.

1.9. "Guarantor" shall mean Danny Haber, and any other guarantor of any Indebtedness evidenced by a Loan Document between Lender and any other guarantor.

1.10. "Guaranty" shall mean each Guaranty of even date herewith executed by Guarantor.

1.11. "Hazardous Materials" means any and all (a) substances defined as "hazardous substances," "hazardous materials," "toxic substances," or "solid waste" in CERCLA, RCRA, and the Hazardous Materials Transportation Act (49 United States Code §§5101-5127), and in the regulations promulgated under those laws; (b) substances defined as "hazardous wastes" under Environmental Laws and in the regulations promulgated under that law in the State where the Real Property Collateral is located and in the regulations promulgated under that law; (c) substances defined as "hazardous substances" under Environmental Laws in the State where the Real Property Collateral is located; (d) substances listed in the United States Department of Transportation Table (49 Code of Federal Regulations § 172.101 and amendments); (e) substances defined as "medical wastes" under Environmental Laws in the State where the Real Property Collateral is located; (f) asbestos-containing materials; (g) polychlorinated biphenyl; (h) underground storage tanks, whether empty, filled, or partially filled with any substance; (i) petroleum and petroleum products, including crude oil or any fraction thereof, natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel, or any such mixture; and (j) such other substances, materials, and wastes that are or become regulated under applicable local, state, or federal law, or that are classified as hazardous or toxic under any Governmental Requirements or that, even if not so regulated, are known to pose a hazard to the health and safety of the occupants of the Real Property Collateral or of real property adjacent to it.

1.12. "Indebtedness" means the principal of, interest on, and all other amounts and payments due under or evidenced by the following:

1.12.1. The Note (including, without limitation, the prepayment premium, late payment, and other charges payable under the Note);

1.12.2. This Agreement;

1.12.3. The Security Instrument and all other Loan Documents;

1.12.4. All funds later advanced by Lender to or for the benefit of Borrower under any provision of any of the Loan Documents;

1.12.5. Any future loans or amounts advanced by Lender to Borrower when evidenced by a written instrument or document that specifically recites that the Secured Obligations evidenced by such document are secured by the terms of the Security Agreement, including, but not limited to, funds advanced to protect the security or priority of the Security Agreement; and

1.12.6. Any amendment, modification, extension, rearrangement, restatement, renewal, substitution, or replacement of any of the foregoing.

1.13. "Loan" shall mean the loan and financial accommodations made by the Lender to the Borrower in accordance with the terms of this Agreement and the Loan Documents.

1.14. "Loan Document(s)" means this Agreement, the Note, Security Agreement, and any other agreement executed in connection therewith, all other documents evidencing, securing or otherwise governing the Loan between Lender, Borrower, any guarantor, pledgor, or debtor, whether now existing or made in the future, and all amendments, modifications, and supplements thereto.

1.15. "Maturity Date" shall mean February 1, 2022.

1.16. "Note(s)" means any and all promissory notes payable by Borrower, as maker to the order of Lender or order, executed concurrently herewith or subsequent to the execution of this Agreement, evidencing a loan from Lender to Borrower, together with any interest thereon at the rate provided in such promissory note and any modifications, extensions or renewals thereof, whether or not any such

modification, extension is evidenced by a new or additional promissory note or notes. Note shall include the Secured Note of even date herewith payable by Borrower to the order of Lender in the amount of Seven Million and 00/100 Dollars (\$7,000,000.00), which matures on the Maturity Date, evidencing the Loan, in such form as is acceptable to Lender, together with any and all rearrangements, extensions, renewals, substitutions, replacements, modifications, restatements, and amendments to the Secured Note.

1.17. "Person" shall mean natural persons, corporations, partnerships, unincorporated associations, joint ventures, and any other form of legal entity.

1.18. "Personal Property Collateral" shall mean any property pledged to secure the Note that is not Real Property Collateral.

1.19. "Real Property Collateral" shall mean all Mortgaged Property described in the Security Instrument(s), commonly known as 1510 Webster Street, Oakland, California 94612.

1.20. "Secured Obligations" shall have the meaning defined in Section 2 below and shall include all Indebtedness, obligations, and liabilities of the Borrower under the Loan Documents, whether on account of principal, interest, indemnities, fees (including, without limitation, attorney's fees, remarketing fees, origination fees, collection fees, and all other professional fees), costs, expenses, taxes, or otherwise.

1.21. "Security Agreement" shall mean any and all agreements creating a security interest in Lender in the Collateral securing the Secured Obligations, including, but not limited to any Collateral Security Agreement, Security Instrument, or Ownership Interest Pledge Agreement, as applicable. The term shall refer to all Security Agreements both individually and collectively.

1.22. "Security Instrument(s)" shall mean the Deed of Trust(s), Assignment of Leases and Rents, Fixture Filing, and Security Agreement of even date herewith which secures the Real Property Collateral.

Capitalized terms not otherwise defined shall have their respective meanings as defined in the Loan Documents.

2. GENERAL.

2.1. Amount and Purpose. In reliance on Borrower's representations and warranties, and subject to the terms and conditions in this Agreement and in the Loan Documents, Lender agrees to make the Loan to Borrower on the terms and conditions set forth in the Note, this Agreement and the other Loan Documents.

2.2. Payment. Borrower shall repay the Loan in accordance with the provisions of the Note. The principal balance outstanding under the Note shall be due and payable in full on the Maturity Date.

2.3. Loan Documentation and Security. Borrower shall execute and acknowledge, or obtain the execution and acknowledgment of, and deliver concurrently with this Agreement, the Loan Documents and other documents signed in connection with this Agreement. Any reference to the Loan Documents shall refer to such documents as they may be amended, renewed, or extended from time to time with the written approval of Lender. All of the Loan Documents shall be in form and substance satisfactory to Lender and shall include such consents from third parties as Lender deems necessary or appropriate.

2.4. Creation of Security Interest; Collateral. For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the purpose of securing the full and timely payment and performance of the Secured Obligations for the benefit of Lender, Borrower hereby irrevocably and unconditionally grants, transfers, bargains, conveys and assigns to the Lender a continuing general, lien on, and security interest in, all the Borrower's estate, right, title, and interest that the Borrower now has or may later acquire in and to the following, which shall be collectively referred to as the "Collateral":

2.4.1. Real Property Collateral. All Real Property Collateral.

2.4.2. Personal Property Collateral. All Personal Property Collateral.

2.4.3. Borrower Funds. All of Borrower's interest in and to the proceeds of the Secured Obligations, whether disbursed or not; all present and future monetary deposits given by Borrower to any public or private utility with respect to utility services furnished to the Real Property Collateral; and all accounts maintained by the Borrower with Lender or any subsidiary or affiliate of Lender, including, without limitation, any accounts established in connection with the Secured Obligations regardless of whether or not such accounts are with Lender;

2.4.4. Lender Retained Funds. All of Borrower's right, title and interest in and to any funds retained by the Lender or its agents including but not limited to any Debt Service Holdbacks, Default Reserves, Impounds, Construction Reserves, Construction Completion Holdbacks, Repair Holdbacks, Tax Holdbacks, Capital Expenditure Holdbacks and Insurance Holdbacks (collectively, "Lender Retained Funds"). The Lender Retained Funds shall be subject to the sole and absolute control of Lender during the term of this Agreement. Borrower shall execute such documents and take such other action as may be requested by Lender to ensure in Lender such sole and absolute control. Borrower shall have no right to the Lender Retained Funds except as provided in this Agreement and the Note. Upon the maturity of the Note, any remaining funds in the Lender Retained Funds shall be credited against amounts due under the Note. Upon the occurrence of an Event of Default hereunder, Lender shall have (i) the right to withdraw all or any portion of the Lender Retained Funds and apply the Lender Retained Funds against the amounts owing under the Note, or any other Loan Document in such order of priority as Lender may determine; (ii) all rights and remedies of a secured party under the Uniform Commercial Code; or (iii) the right to exercise all remedies under the Loan Documents or otherwise available in law or in equity. Unless an agreement is made in writing or applicable law requires interest to be paid on the Lender Retained Funds, Lender shall not be required to pay Borrower any interest or earnings on the Lender Retained Funds.

2.4.5. Additional Property. Any additional personal property otherwise set forth in the Loan Documents;

2.4.6. Proceeds. All proceeds of, supporting obligations for, additions and accretions to, substitutions and replacements for, and changes in any of the property described in this Agreement.

2.5. Secured Obligations. Borrower grants a security interest in the Collateral for the purpose of securing the following Secured Obligations:

2.5.1. Notes. Payment of all obligations at any time under any and all Notes.

2.5.2. Loan Documents. Payment and/or performance of each and every other obligation of Borrower under the Loan Documents;

2.5.3. Related Loan Documents. Payment and/or performance of each covenant and obligation on the part of Borrower or its affiliates to be performed pursuant to any and all Loan Documents that have been or may be executed by Borrower or its affiliates evidencing or securing one or more present or future loans by Lender or its affiliates to Borrower or its affiliates (collectively, the "Related Loans"), whether now existing or made in the future, together with any and all modifications, extensions and renewals thereof; provided, however, that nothing contained herein shall be construed as imposing an obligation upon Lender, or as evidencing Lender's intention, to make any Related Loan to Borrower or its affiliates;

2.5.4. Future Obligations. Payment to Lender of all future advances, Indebtedness and further sums and/or performance of such further obligations as Borrower may undertake to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Lender, its successors and assigns, (it being contemplated by Borrower and Lender that Borrower may hereafter become indebted to Lender in such further sum or sums), when such borrower and/or obligations are evidenced by a written instrument reciting that it or they are secured by this Agreement and a related Security Instrument or Security Agreement; and

2.5.5. Modifications and Payments. Payment and performance of all modifications, amendments, extensions, and renewals, however evidenced, of any of the Secured Obligations.

2.6. Application of Payments. Except as otherwise expressly provided by Governmental Requirements or any other provision of the Loan Documents, all payments received by Lender from

Borrower under the Loan Documents shall be applied by Lender in the following order: (a) costs, fees, charges, and advances paid or incurred by Lender or payable to Lender and interest under any provision of this Agreement, the Note, the Security Agreement, or any other Loan Documents, in such order as Lender, in its sole and absolute discretion, elects, (b) interest payable under the Note, and (c) principal under the Note.

2.7. Termination. This Agreement shall terminate following the repayment in full of all amounts due under the Note, this Agreement and any other documents evidencing the Loan, so long as no written claim has been made hereunder prior to such expiration date.

2.8. Debt Service Reserve. Out of the Loan proceeds, Lender will hold in reserve Three Hundred Six Thousand Two Hundred Fifty and 00/100 Dollars (\$306,250.00) as a debt service reserve (the "Debt Service Reserve"). Lender will use the Debt Service Reserve to pay the monthly debt service payments due under the Note ("Debt Service Payments") until the Debt Service Reserve is exhausted. Accordingly, Borrower will begin to tender payments to Lender with the sixth payment due on October 1, 2021. Upon an Event of Default, Lender may use the Debt Service Reserve to protect its Security Instrument, by: (i) making payments hereunder, (ii) making protective advances under the Security Instrument, or (iii) paying down the principal amount owed on the Loan, in Lender's sole and absolute discretion. Should Lender be required to utilize the Debt Service Reserve for anything other than Debt Service Payments, Borrower shall be required to replenish funds in the Debt Service Reserve. The failure to replenish the Debt Service Reserve upon five (5) business days written notice by Lender to Borrower shall be an additional Event of Default under this Agreement. Upon full repayment of the Loan, and subject to any Prepayment Premium required in the Note, Lender shall credit the Debt Service Reserve balance and reduce any beneficiary demand accordingly.

2.9. Pledge and Grant of Security Interest. To secure the due and punctual payment and performance of all Secured Obligations due under the Note, Borrower hereby pledges, assigns, transfers, and delivers to Lender and hereby grants Lender a security interest in and to all of Borrower's right, title and interest in and to any funds retained by the Lender or its agents including but not limited to any Lender Retained Funds. The Lender Retained Funds shall be subject to the sole and absolute control of Lender during the term of this Agreement. Borrower shall execute such documents and take such other action as may be requested by Lender to ensure in Lender such sole and absolute control. Borrower shall have no right to the Lender Retained Funds except as provided in this Agreement. Upon the maturity of the Note, any remaining funds in the Lender Retained Funds shall be credited against amounts due under the Note. Upon the occurrence of an Event of Default hereunder, Lender shall have (i) the right to withdraw all or any portion of the Lender Retained Funds and apply the Lender Retained Funds against the amounts owing under the Note, or any other Loan Document in such order of priority as Lender may determine; (ii) all rights and remedies of a secured party under the Uniform Commercial Code; or (iii) the right to exercise all remedies under the Loan Documents or otherwise available in law or in equity.

3. BORROWER'S REPRESENTATIONS AND WARRANTIES. To induce Lender to make the Loan, Borrower represents and warrants as follows, which representations and warranties shall be true and correct as of the execution of this Agreement and shall survive the execution and delivery of the Loan Documents:

3.1. Capacity. Borrower and the individuals executing Loan Documents on Borrower's behalf have the full power, authority, and legal right to execute and deliver, and to perform and observe the provisions of this Agreement, the other Loan Documents, and any other document, agreement, certificate, or instrument executed in connection with the Loan, and to carry out the contemplated transactions.

3.2. Authority and Enforceability. Borrower's execution, delivery, and performance of this Agreement, the other Loan Documents, and any other document, agreement, certificate, or instrument executed in connection with the Loan, have been duly authorized by all necessary corporate or other business entity action and do not and shall not require any registration with, consent, or approval of, notice



to, or any action by any Person or Governmental Authority. Borrower has obtained or will obtain all approvals necessary for Borrower to comply with the Loan Documents. This Agreement, the Note, and the other Loan Documents executed in connection with the Loan, when executed and delivered by Borrower, shall constitute the legal, valid, binding, and joint and several obligations of Borrower enforceable in accordance with their respective terms.

3.3. Compliance with Other Instruments. The execution and delivery of this Agreement and the other Loan Documents, and compliance with their respective terms, and the issuance of the Note and other Loan Documents as contemplated in this Agreement, shall not result in a breach of any of the terms or conditions of, or result in the imposition of, any lien, charge, or encumbrance (except as created by this Agreement, the Security Agreement and the other Loan Documents) on any Collateral, or constitute a default (with due notice or lapse of time or both) or result in an occurrence of an event for which any holder or holders of indebtedness may declare the same due and payable under, any indenture, agreement, order, judgment, or instrument to which Borrower is a party or by which Borrower or its properties may be bound or affected.

3.4. Compliance with Law. The execution and delivery of this Agreement, the Note, and the other Loan Documents, or any other document, agreement, certificate, or instrument to which Borrower is bound in connection with the Loan, do not conflict with, result in a breach or default under, or create any lien or charge under any provision of any Governmental Requirements to which it is subject and shall not violate any of the Governmental Requirements.

3.5. Adverse Events. Since the date of the financial statements delivered to Lender before execution of this Agreement, neither the condition (financial or otherwise) nor the business of Borrower and the Collateral have been materially adversely affected in any way.

3.6. Litigation. There are no actions, suits, investigations, or proceedings pending or, to Borrower's knowledge after due inquiry and investigation, threatened against or affecting Borrower at law or in equity, before or by any Person or Governmental Authority, that, if adversely determined, would have a material adverse effect on the business, properties, or condition (financial or otherwise) of Borrower or on the validity or enforceability of this Agreement, any of the other Loan Documents, or the ability of Borrower to perform under any of the Loan Documents.

3.7. No Untrue Statements. All statements, representations, and warranties made by Borrower in this Agreement or any other Loan Document and any other agreement, document, certificate, or instrument previously furnished or to be furnished by Borrower to Lender under the Loan Documents (a) are and shall be true, correct, and complete in all material respects at the time they were made and as of the execution of this Agreement, (b) do not and shall not contain any untrue statement of a material fact, and (c) do not and shall not omit to state a material fact necessary to make the information in them neither misleading nor incomplete. Borrower understands that all such statements, representations, and warranties shall be deemed to have been relied on by Lender as a material inducement to make the Loan.

3.8. Policies of Insurance. Each copy of the insurance policies relating to the Collateral delivered to Lender by Borrower (a) is a true, correct, and complete copy of the respective original policy in effect on the date of this Agreement, and no amendments or modifications of said documents or instruments not included in such copies have been made, and (b) has not been terminated and is in full force and effect. Borrower is not in default in the observance or performance of its material obligations under said documents or instruments and Borrower has done all things required to be done as of the date of this Agreement to keep unimpaired its rights thereunder.

3.9. Financial Statements. All financial statements furnished to Lender are true and correct in all material respects, are prepared in accordance with generally accepted accounting principles, and do not omit any material fact the omission of which makes such statement or statements misleading. There are no facts that have not been disclosed to Lender by Borrower in writing that materially or adversely affect or could potentially in the future affect the Collateral or the business prospects, profits, or condition (financial or otherwise) of Borrower or any Guarantor or Borrower's abilities to perform the Secured Obligations and pay the Indebtedness.



3.10. Taxes. Borrower has filed or caused to be filed all tax returns that are required to be filed by Borrower under the Governmental Requirements of each Governmental Authority with taxing power over Borrower, and Borrower has paid, or made provision for the payment of, all taxes, assessments, fees, and other governmental charges that have or may have become due under said returns, or otherwise, or under any assessment received by Borrower except that such taxes, if any, as are being contested in good faith and as to which adequate reserves (determined in accordance with generally accepted accounting principles) have been provided.

3.11. Further Acts. Borrower shall, at its sole cost and expense, and without expense to Lender, do, execute, acknowledge, and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers, and assurances as Lender shall from time to time require, for the purpose of better assuring, conveying, assigning, transferring, pledging, mortgaging, warranting, and confirming to Lender the Collateral and rights, and as to Lender the security interest, conveyed or assigned by this Agreement or intended now or later so to be, or for carrying out the intention or facilitating the performance of the terms of this Agreement, or for filing, registering, or recording this Agreement and, on demand, shall execute and deliver, and authorizes Lender to execute in the name of Borrower, to the extent it may lawfully do so, one or more financing statements, chattel mortgages, or comparable security instruments, to evidence more effectively the lien of Lender on the Collateral.

3.12. Filing Fees. Borrower shall pay all filing, registration, or recording fees, all Governmental Authority stamp taxes and other fees, taxes, duties, imposts, assessments, and all other charges incident to, arising from, or in connection with the preparation, execution, delivery, and enforcement of the Note, this Agreement, the other Loan Documents, or any instrument of further assurance.

3.13. Entity Compliance. As long as any part of the Secured Obligation is owed by Borrower, Borrower, if a corporation, limited liability company, or partnership, shall do all things necessary to preserve and keep in full force and effect its existence, franchises, rights, and privileges as such entity under the laws of the state of its incorporation or formation, and shall comply with all Governmental Requirements of any Governmental Authority applicable to Borrower or to any Collateral or any part of it.

3.14. Improper Financial Transactions.

3.14.1. Borrower is, and shall remain at all times, in full compliance with all applicable laws and regulations of the United States of America that prohibit, regulate or restrict financial transactions, and any amendments or successors thereto and any applicable regulations promulgated thereunder (collectively, the "Financial Control Laws"), including but not limited to those related to money laundering offenses and related compliance and reporting requirements (including any money laundering offenses prohibited under the Money Laundering Control Act, 18 U.S.C. Section 1956 and 1957 and the Bank Secrecy Act, 31 U.S.C. Sections 5311 *et seq.*) and the Foreign Assets Control Regulations, 31 C.F.R. Section 500 *et seq.*

3.14.2. Borrower represents and warrants that: Borrower is not a Barred Person (hereinafter defined); Borrower is not owned or controlled, directly or indirectly, by any Barred Person; and Borrower is not acting, directly or indirectly, for or on behalf of any Barred Person.

3.14.3. Borrower represents and warrants that it understands and has been advised by legal counsel on the requirements of the Financial Control Laws.

3.14.4. Under any provision of the Loan Documents where Lender shall have the right to approve or consent to any particular action, including, without limitation any (A) sale, transfer, assignment of any Collateral, or any direct or indirect ownership interest in Borrower, (B) leasing of any Collateral, or any portion thereof, or (C) incurring any additional financing secured by the Collateral, or any portion thereof, or by any direct or indirect ownership interest in Borrower, Lender shall have the right to withhold such approval or consent, in its sole discretion, if the granting of such approval or consent could be construed as a violation of any of the Financial Control Laws.

3.14.5. Borrower covenants and agrees that it will upon request provide Lender with (or cooperate with Lender in obtaining) information required by Lender for purposes of complying with any Financial Control Laws. As used in this Agreement, the term "Barred Person" shall mean (A) any person, group or entity named as a "Specially Designated National and Blocked Person" or as a person who commits,

threatens to commit, supports, or is associated with terrorism as designated by the United States Department of the Treasury's Office of Foreign Assets Control ("OFAC"), (B) any person, group or entity named in the lists maintained by the United States Department of Commerce (Denied Persons and Entities), (C) any government or citizen of any country that is subject to a United States Embargo identified in regulations promulgated by OFAC, and (D) any person, group or entity named as a denied or blocked person or terrorist in any other list maintained by any agency of the United States government.

3.15. Representation on Use of Proceeds. Borrower represents and warrants to Lender that the proceeds of the Loan will be used solely for business, commercial investment, or similar purposes, and that no portion of it will be used for personal, family, or household purposes.

3.16. Made or Arranged by a Real Estate Broker. Borrower acknowledges that this Loan was made or arranged by a licensed California Real Estate Broker and that the licensee's participation was a material factor in consummating this Loan.

3.17. Brokerage Fees. Borrower represents and warrants to Lender that Borrower has not dealt with any Person, other than the parties identified in the final settlement statement, who are or may be entitled to any finder's fee, brokerage commission, loan commission, or other sum in connection with the execution of the Loan Documents, the consummation of the transactions contemplated by the Loan Documents, or the making of the Loan by Lender to Borrower, and Borrower indemnifies and agrees to hold Lender harmless from and against any and all loss, liability, or expense, including court costs and attorney fees, that Lender may suffer or sustain if such warranty or representation proves inaccurate in whole or in part.

3.18. Perfection and Priority of Security Interest. Unless otherwise previously disclosed to Lender in writing, Borrower has not entered into or granted any security agreements, or permitted the filing or attachment of any security interests on or affecting any of the Collateral directly or indirectly securing repayment of the Loan, that would be prior or that may in any way be superior to Lender's security interests and rights in and to the Collateral.

4. INSURANCE. Lender's obligation to make the Loan and perform its duties under this Agreement shall be subject to the full and complete satisfaction of the following conditions precedent:

4.1. Casualty Insurance. Borrower shall at all times keep the Collateral insured for the benefit of Lender as follows, despite Governmental Requirements that may detrimentally affect Borrower's ability to obtain or may materially increase the cost of such insurance coverage:

4.1.1. Against damage or loss by fire and such other hazards (including lightning, windstorm, hail, explosion, riot, acts of striking employees, civil commotion, vandalism, malicious mischief, aircraft, vehicle, and smoke) as are covered by the broadest form of extended coverage endorsement available from time to time, in an amount not less than the Full Insurable Value (as defined below) of the Collateral, with a deductible amount not to exceed an amount satisfactory to Lender; windstorm coverage is included under the extended coverage endorsement of most hazard policies, but in some states it may be excluded. If the hazard policy excludes the windstorm/hail endorsement a separate windstorm policy must be provided. The coverage amounts must equal that of the hazard policy;

4.1.2. Rent loss or business interruption or use and occupancy insurance on such basis and in such amounts and with such deductibles as are satisfactory to Lender;

4.1.3. Against damage or loss by flood if the Collateral is located in an area identified by the Secretary of Housing and Urban Development or any successor or other appropriate authority (governmental or private) as an area having special flood hazards and in which flood insurance is available under the National Flood Insurance Act of 1968 or the Flood Disaster Protection Act of 1973, as amended, modified, supplemented, or replaced from time to time, on such basis and in such amounts as Lender may require;

4.1.4. Against damage or loss from (a) sprinkler system leakage and (b) boilers, boiler tanks, heating and air conditioning equipment, pressure vessels, auxiliary piping, and similar apparatus, on such basis and in such amounts as Lender may require;

4.1.5. During any alteration, construction, or replacement of Improvements, or any substantial portion of it, a Builder's All Risk policy with extended coverage with course of construction and completed value endorsements, for an amount at least equal to the Full Insurable Value of the Improvements, and workers' compensation, in statutory amounts, with provision for replacement with the coverage described herein, without gaps or lapsed coverage, for any completed portion of the Improvements; and

4.1.6. If applicable, against damage or loss by earthquake, in an amount and with a deductible satisfactory to Lender, if such insurance is required by Lender in the exercise of its business judgment in light of the commercial real estate practices existing at the time the insurance is issued and in the County where the Collateral is located.

4.2. **Liability Insurance.** Borrower shall procure and maintain workers' compensation insurance for Borrower's employees and comprehensive general liability insurance covering Borrower, and Lender against claims for bodily injury or death or for damage occurring in, on, about, or resulting from the Real Property Collateral, or any street, drive, sidewalk, curb, or passageway adjacent to it, in standard form and with such insurance company or companies and in an amount of at least as Lender may require, which insurance shall include completed operations, product liability, and blanket contractual liability coverage that insures contractual liability under the indemnifications set forth in this Agreement and the Loan Documents (but such coverage or its amount shall in no way limit such indemnification).

4.3. **Other Insurance.** Borrower shall procure and maintain such other insurance or such additional amounts of insurance, covering Borrower or the Collateral, as (a) may be required by the terms of any construction contract for the improvements or by any Governmental Authority, (b) may be specified in any other Loan Documents, or (c) may be required by Lender from time to time.

4.4. **Form of Policies.** All insurance policies required under this Section shall be fully paid for and nonassessable. The policies shall contain such provisions, endorsements, and expiration dates as Lender from time to time reasonably requests and shall be in such form and amounts, and be issued by such insurance companies doing business in the State where the Collateral is located, as Lender shall approve in Lender's sole and absolute discretion. Unless otherwise expressly approved in writing by Lender, each insurer shall have a Best Rating of Class A, Category VIII, or better. All policies shall (a) contain a waiver of subrogation endorsement; (b) provide that the policy will not lapse or be canceled, amended, or materially altered (including by reduction in the scope or limits of coverage) without at least 30 days prior written notice to Lender; (c) with the exception of the comprehensive general liability policy, contain a mortgagee's endorsement (438 BFU Endorsement or equivalent), and name Lender as insured; and (d) include such deductibles as Lender may approve. If a policy required under this Section contains a co-insurance or overage clause, the policy shall include a stipulated value or agreed amount endorsement acceptable to Lender.

4.5. **Duplicate Originals or Certificates.** Duplicate original policies evidencing the insurance required herein and any additional insurance that may be purchased on the Collateral by or on behalf of Borrower shall be deposited with and held by Lender and, in addition, Borrower shall deliver to Lender (a) receipts evidencing payment of all premiums on the policies and (b) duplicate original renewal policies or a binder with evidence satisfactory to Lender of payment of all premiums at least 30 days before the policy expires. In lieu of the duplicate original policies to be delivered to Lender provided for herein, Borrower may deliver an underlier of any blanket policy, and Borrower may also deliver original certificates from the issuing insurance company, evidencing that such policies are in full force and effect and containing information that, in Lender's reasonable judgment, is sufficient to allow Lender to ascertain whether such policies comply with the requirements herein.

4.6. **Increased Coverage.** If Lender determines that the limits of any insurance carried by Borrower are inadequate or that additional coverage is required, Borrower shall, within 10 days after written notice from Lender, procure such additional coverage as Lender may require in Lender's sole and absolute discretion.



4.7. No Separate Insurance. Borrower shall not carry separate or additional insurance concurrent in form or contributing in the event of loss with that required herein unless endorsed in favor of Lender as required by this Section and otherwise approved by Lender in all respects.

4.8. Transfer of Title. In the event of foreclosure of any Collateral or other transfer of title or assignment of any Collateral in extinguishment, in whole or in part, of the Secured Obligations and the Indebtedness, all right, title, and interest of Borrower in and to all insurance policies required herein or otherwise then in force with respect to the Collateral and all proceeds payable under, and unearned premiums on, such policies shall immediately vest in the purchaser or other transferee of the Collateral.

4.9. Replacement Cost. For purposes of this Agreement, the term "Full Insurable Value" means the actual cost of replacing the Collateral in question, without allowance for depreciation, as calculated from time to time (but not more often than once every calendar year) by the insurance company or companies holding such insurance or, at Lender's request, by appraisal made by an appraiser, engineer, architect, or contractor proposed by Borrower and approved by said insurance company or companies and Lender. Borrower shall pay the cost of such appraisal.

4.10. No Warranty. No approval by Lender of any insurer may be construed to be a representation, certification, or warranty of its solvency and no approval by Lender as to the amount, type, or form of any insurance may be construed to be a representation, certification, or warranty of its sufficiency.

4.11. Lender's Right to Obtain. Borrower shall deliver to Lender original policies or certificates evidencing such insurance at least 30 days before the existing policies expire. If any such policy is not so delivered to Lender or if any such policy is canceled, whether or not Lender has the policy in its possession, and no reinstatement or replacement policy is received before termination of insurance, Lender, without notice to or demand on Borrower, may (but is not obligated to) obtain such insurance insuring only Lender with such company as Lender may deem satisfactory, and pay the premium for such policies, and the amount of any premium so paid shall be charged to and promptly paid by Borrower or, at Lender's option, may be added to the Indebtedness. Borrower acknowledges that, if Lender obtains insurance, it is for the sole benefit of Lender, and Borrower shall not rely on any insurance obtained by Lender to protect Borrower in any way.

4.12. Duty to Restore After Casualty. If any act or occurrence of any kind or nature (including any casualty for which insurance was not obtained or obtainable) results in damage to or loss or destruction of the Collateral, Borrower shall immediately give notice of such loss or damage to Lender and, if Lender so instructs, shall promptly, at Borrower's sole cost and expense, regardless of whether any insurance proceeds will be sufficient for the purpose, commence and continue diligently to completion to restore, repair, replace, and rebuild the Collateral as nearly as possible to its value, condition, and character immediately before the damage, loss, or destruction.

5. BORROWER COVENANTS AND REPORTING REQUIREMENTS.

5.1. Financial Statements; Estoppel Certificates.

5.1.1. Borrower's Financial Statements. On receipt of Lender's written request and without expense to Lender, Borrower shall furnish to Lender (a) an annual statement of the operation of the Real Property Collateral prepared and certified by Borrower, showing in reasonable detail satisfactory to Lender total Rents (as defined in the Security Instrument) received and total expenses together with an annual balance sheet and profit and loss statement, within 90 days after the close of each fiscal year of Borrower, beginning with the fiscal year first ending after the date of recordation of the Security Instrument; (b) within 30 days after the end of each calendar quarter (March 31, June 30, September 30, December 31) interim statements of the operation of the Real Property Collateral showing in reasonable detail satisfactory to Lender total Rents and other income and receipts received and total expenses for the previous quarter, certified by Borrower; and (c) copies of Borrower's annual state and federal income tax returns within 30 days after filing them. Borrower shall keep accurate books and records, and allow Lender, its representatives and agents, on notice, at any time during normal business hours, access to such books and

records regarding acquisition, construction, development, and operations of the Real Property Collateral, including any supporting or related vouchers or papers, shall allow Lender to make extracts or copies of any such papers, and shall furnish to Lender and its agents convenient facilities for the audit of any such statements, books, and records.

5.1.2. Recordkeeping. Borrower shall keep adequate records and books of account in accordance with generally accepted accounting principles and practices and shall permit Lender, by its agents, accountants, and attorneys, to examine Borrower's records and books of account and to discuss the affairs, finances, and accounts of Borrower with the officers of Borrower, at such reasonable times as Lender may request.

5.1.3. Additional Financial Statements. Except to the extent already required herein, Borrower, its controlling shareholders, and all Guarantors of the Indebtedness, if any, shall deliver to Lender with reasonable promptness after the close of their respective fiscal years a balance sheet and profit and loss statement, prepared by the principal of the Borrower or an independent certified public accountant satisfactory to Lender, setting forth in each case, in comparative form, figures for the preceding year, which statements shall be accompanied by the unqualified opinion of the principal of the Borrower or such accountant as to their accuracy. Throughout the term of the Loan, Borrower and any Guarantor shall deliver, with reasonable promptness, to Lender such other information with respect to Borrower or Guarantor as Lender may from time to time request. All financial statements of Borrower or Guarantor shall be prepared using reasonably accepted accounting practices applied on a consistent basis and shall be delivered in duplicate. Documents and information submitted by Borrower to Lender are submitted confidentially, and Lender shall not disclose them to third parties and shall limit access to them to what is necessary to service the loan, accomplish the normal administrative, accounting, tax-reporting, and other necessary functions, to sell all or any part of the loan and to report such information as required to the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Internal Revenue Service, and similar entities.

5.1.4. No Waiver of Default or Rights. Lender's exercise of any right or remedy provided for herein shall not constitute a waiver of, or operate to cure, any default by Borrower under this Agreement, or preclude any other right or remedy that is otherwise available to Lender under this Agreement or Governmental Requirements.

5.2. Borrower's Obligation to Notify Lender.

5.2.1. Bankruptcy, Insolvency, Transfer, or Encumbrance. Borrower shall notify Lender in writing, at or before the time of the occurrence of any Event of Default, of such event and shall promptly furnish Lender with any and all information on such event that Lender may request.

5.2.2. Government Notice. Borrower shall give immediate written notice to Lender of any notice, proceeding or inquiry by any Governmental Authority. Borrower shall provide such notice to Lender within five (5) days of Borrower's knowledge, constructive or actual, of any such notice, proceeding or inquiry by any Government Authority.

5.3. Funds for Taxes and Insurance. If Borrower is in default under this Agreement or any of the Loan Documents, regardless of whether the default has been cured, then Lender may at any subsequent time, at its option to be exercised on 30 days written notice to Borrower, require Borrower to deposit with Lender or its designee, at the time of each payment of an installment of interest or principal under the Note, an additional amount sufficient to discharge the Secured Obligations as they become due. The calculation of the amount payable and of the fractional part of it to be deposited with Lender shall be made by Lender in its sole and absolute discretion. These amounts shall be held by Lender or its designee not in trust and not as agent of Borrower and shall not bear interest, and shall be applied to the payment of any of the Secured Obligations under the Loan Documents in such order or priority as Lender shall determine. If at any time within 30 days before the due date of these obligations the amounts then on deposit shall be insufficient to pay the obligations under the Note and this Agreement in full, Borrower shall deposit the amount of the deficiency with Lender within 10 days after Lender's demand. If the amounts deposited are in excess of the actual obligations for which they were deposited, Lender may refund any such excess, or,

at its option, may hold the excess in a reserve account, not in trust and not bearing interest, and reduce proportionately the required monthly deposits for the ensuing year. Nothing in this Section shall be deemed to affect any right or remedy of Lender under any other provision of this Agreement or under any statute or rule of law to pay any such amount and to add the amount so paid to the Indebtedness secured by the Security Instrument. Lender shall have no obligation to pay insurance premiums or taxes except to the extent the fund established under this Section is sufficient to pay such premiums or taxes, to obtain insurance, or to notify Borrower of any matters relative to the insurance or taxes for which the fund is established under this Section.

Lender or its designee shall hold all amounts so deposited as additional security for the sums secured by the Security Instrument. Lender may, in its sole and absolute discretion and without regard to the adequacy of its security under the Security Instrument, apply such amounts or any portion of it to any Indebtedness secured by the Security Instrument, and such application shall not be construed to cure or waive any default or notice of default under this Agreement, or any other Loan Document.

If Lender requires deposits to be made under this Section, Borrower shall deliver to Lender all tax bills, bond and assessment statements, statements for insurance premiums, and statements for any other obligations referred to above as soon as Borrower receives such documents.

If Lender sells or assigns the Loan, Lender shall have the right to transfer all amounts deposited under this Section to the purchaser or assignee. After such a transfer, Lender shall be relieved and have no further liability under this Agreement for the application of such deposits, and Borrower shall look solely to such purchaser or assignee for such application and for all responsibility relating to such deposits.

5.4. Compliance with Law. Borrower shall: (a) maintain a yearly accounting cycle; (b) maintain in full force and effect all material licenses, bonds, franchises, leases, trademarks, patents, contracts, and other rights necessary or desirable to the conduct of its business, or related to the Collateral; (c) continue in, and limit its operations to, substantially the same general lines of business as those presently conducted by it; (d) pay when due all taxes, license fees, and other charges upon the Collateral or upon Borrower's business, property or the income therefrom; and (e) comply with all Governmental Requirements.

5.5. Care of Collateral. Borrower shall: (a) keep the Collateral in good condition and repair; (b) restore and repair to the equivalent of its original condition all or any part of any Collateral that may be damaged or destroyed, whether or not insurance proceeds are available to cover any part of the cost of such restoration and repair, and regardless of whether Lender permits the use of any insurance proceeds to be used for restoration under this Agreement, Security Instrument, and Collateral Security Agreement; (c) comply with all laws affecting the Collateral or requiring that any alterations, repairs, replacements, or improvements be made thereon; (d) not commit or permit waste on or to any Collateral, or commit, suffer, or permit any act or violation of law to occur on it; (e) not abandon any Collateral; (f) notify Lender in writing of any condition of any Collateral that may have a significant and measurable effect on its market value; (g) do all other things that the character or use of the Collateral may reasonably render necessary to maintain it in the same condition (reasonable wear and tear expected) as existed at the date of this Agreement; (h) at all times warrant and defend Borrower's ownership and possession of the Collateral; and (i) keep the Collateral free from all liens, claims, encumbrances and security interests.

5.6. Transfer of Collateral. Borrower will not, without obtaining the prior written consent of Lender, transfer or permit any transfer of any Collateral or any part thereof to be made, or any interest therein to be created by way of a sale (except as expressly permitted herein), or by way of a grant of a security interest, or by way of a levy or other judicial process.

5.7. Indemnify Lender. Borrower shall indemnify and hold the Lender and its successors and assigns harmless from and against any and all losses, cost, expense (including, without limitation attorneys' fees, consulting fees and court costs), demand, claim or lawsuit arising out of or related to or in any way connected with or arising out of Borrower's breach of the provisions of this Agreement or any of the other Loan Documents. Lender may commence, appear in, or defend any action or

proceeding purporting to affect the rights, duties, or liabilities of the parties to this Agreement, or the Collateral, and Borrower shall pay all of Lender's reasonable costs and expenses so incurred on demand. If Borrower fails to provide such indemnity as the same accrues and as expenses are incurred, the amount not paid shall be added to the principal amount of the Note and bear interest thereon at the same rate then in effect (including any default rate in effect) and shall be secured by the same collateral as securing the Note and Loan Documents. This Section shall survive execution, delivery, and performance of this Agreement and the other Loan Documents.

6. ENVIRONMENTAL MATTERS.

6.1. Environmental Indemnity Agreement. Concurrently with the execution of this Agreement, Borrower shall execute and deliver to Lender a separate Environmental Indemnity Agreement ("Environmental Indemnity") in form and substance satisfactory to Lender, pursuant to which Borrower will indemnify, defend, and hold Lender harmless from and against any and all losses, damages, claims, costs, and expenses incurred by Lender as a result of the existence or alleged existence of hazardous or toxic substances on, under, or about the Real Property Collateral in violation of Environmental Laws as provided in the Environmental Indemnity. The obligations of the Borrower under the Environmental Indemnity shall not be secured by the Security Instrument.

6.2. Borrower's Representations and Warranties. Borrower represents and warrants to Lender that each and every representation and warranty in the Environmental Indemnity (collectively "Environmental Representations") is true and correct.

6.3. Survival of Representations and Warranties. The Environmental Representations shall be continuing and shall be true and correct for the period from the date of this Agreement to the release of the Security Instrument (whether by payment of the Indebtedness or foreclosure or action in lieu of foreclosure), and these representations and warranties shall survive such release.

6.4. Notice to Lender. Borrower shall give prompt written notice to Lender of:

6.4.1. Any proceeding or inquiry by any Governmental Authority regarding the presence or threatened presence of any Hazardous Materials on the Real Property Collateral;

6.4.2. All claims made or threatened by any third party against Borrower or the Real Property Collateral relating to any loss or injury resulting from any Hazardous Materials;

6.4.3. Any notice given to Borrower under Environmental Laws; and

6.4.4. Discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Real Property Collateral that could cause it or any part of it to be subject to any restrictions on the ownership, occupancy, transferability, or use of the Real Property Collateral under any Environmental Laws.

6.5. Lender's Right to Join Legal Actions. Lender shall have the right, at its option, but at Borrower's sole cost and expense, to join and participate in, as a party if it so elects, any legal proceedings or actions initiated by or against Borrower or the Real Property Collateral in connection with any Environmental Laws.

7. DEFAULT AND REMEDIES.

7.1. Event of Default. The occurrence of any of the following events shall constitute an Event of Default under this Agreement:

7.1.1. Payment of Indebtedness. Borrower fails to pay any installment of interest and/or principal under the Note or any other Indebtedness when due and such failure continues for more than 10 days after the date such payment was due and payable whether on maturity, the date stipulated in any Loan Document, by acceleration, or otherwise.

7.1.2. Performance of Obligations. The failure, refusal, or neglect to perform and discharge fully and timely any of the Secured Obligations as and when required.

7.1.3. Judgment. If any final judgment, order, or decree is rendered against Borrower or a Guarantor and is not paid or executed on, or is not stayed by perfection of an appeal or other appropriate action, such as being bonded, or is not otherwise satisfied or disposed of to Lender's satisfaction within 30 days after entry of the judgment, order, or decree.

7.1.4. Voluntary Bankruptcy. If Borrower or any Guarantor (a) seeks entry of an order for relief as a debtor in a proceeding under the Bankruptcy Code; (b) seeks, consents to, or does not contest the appointment of a receiver or trustee for itself or for all or any part of its property; (c) files a petition seeking relief under the bankruptcy, arrangement, reorganization, or other debtor relief laws of the United States or any state or any other competent jurisdiction; (d) makes a general assignment for the benefit of its creditors; or (e) states in writing its inability to pay its debts as they mature.

7.1.5. Involuntary Bankruptcy. If (a) a petition is filed against Borrower or any Guarantor seeking relief under any bankruptcy, arrangement, reorganization, or other debtor relief laws of the United States or any state or other competent jurisdiction; or (b) a court of competent jurisdiction enters an order, judgment, or decree appointing, without the consent of Borrower or any Guarantor, a receiver or trustee for it, or for all or any part of its property; and (c) such petition, order, judgment, or decree is not discharged or stayed within 30 days after its entry.

7.1.6. Foreclosure of Other Liens. If the holder of any lien or security interest on the Collateral (without implying Lender's consent to the existence, placing, creating, or permitting of any lien or security interest) institutes foreclosure or other proceedings to enforce its remedies thereunder and any such proceedings are not stayed or discharged within 30 days after institution of such foreclosure proceedings.

7.1.7. Sale, Encumbrance, or Other Transfer. If Borrower sells, gives an option to purchase, exchanges, assigns, conveys, encumbers (including, but not limited to PACE/HERO loans, any loans where payments are collected through property tax assessments, and super-voluntary liens which are deemed to have priority over the lien of the Security Instrument) (other than with a Permitted Encumbrance as defined in the Security Instrument), transfers possession, or alienates all or any portion of the Collateral, or any of Borrower's interest in the Collateral, or suffers its title to, or any interest in, the Collateral to be divested, whether voluntarily or involuntarily; or if there is a sale or transfer of any interests in Borrower; or if Borrower changes or permits to be changed the character or use of the Collateral, or drills or extracts or enters into any lease for the drilling or extracting of oil, gas, or other hydrocarbon substances or any mineral of any kind or character on the Real Property Collateral; or if title to the Collateral becomes subject to any lien or charge, voluntary or involuntary, contractual or statutory, without Lender's prior written consent.

7.1.8. Title and Lien Priority. If Borrower's, or any other pledgor of Collateral, as applicable, title to any or all of the Collateral or Lender's security interest on the Collateral or the status of Lender's lien as a lien and security interest in the priority position indicated in any Security Agreement on any Collateral is endangered in any manner, and Borrower fails to cure the same on Lender's demand.

7.1.9. Other Defaults. The occurrence of an Event of Default or any default, as defined or described in the other Loan Documents, or the occurrence of a default on any Indebtedness or Secured Obligations.

7.1.10. Levy on Assets. A levy on any of the assets of Borrower or any Guarantor, and such levy is not stayed or abated within 30 days after such levy.

7.1.11. Breach of Representations. The breach of any representation, warranty, or covenant in this Agreement or other Loan Documents.

7.1.12. Default Under Prior Security Instrument, or Lien. The failure to pay on a timely basis, or the occurrence of any other default under any note, deed of trust, contract of sale, lien, charge, encumbrance, or security interest encumbering or affecting the Collateral and having priority over the lien of Lender.

7.1.13. Materially Adverse Event. The occurrence of any event that in Lender's judgment materially adversely affects (i) the ability of Borrower to perform any of its obligations under this Agreement or under any of the Loan Documents, including, without limitation, the occurrence of any event of dissolution or termination of Borrower, of any member of Borrower, or of any Guarantor; (ii)

the business or financial condition of Borrower, or of any member of Borrower, or of any Guarantor; or (iii) the operation or value of the Collateral.

7.1.14. Violation of Governmental Requirements. The failure of Borrower, any tenant, or any other occupant of the Real Property Collateral to comply with any Governmental Requirement. Any potential violation by a tenant or other occupant of the Real Property Collateral of any Governmental Requirement is an Event of Default under the terms of this Agreement, then Lender, at Lender's option, may, without prior notice, declare all Indebtedness, regardless of the stated due date(s), immediately due and payable and may exercise all rights and remedies in this Agreement, and any other Loan Documents.

7.2. Remedies. On the occurrence of an Event of Default, Lender may, in addition to any other remedies that Lender may have under this Agreement or under the Loan Documents or by law, at its option and without prior demand or notice, take any or all of the following actions:

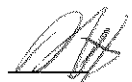
7.2.1. The Lender may, without prejudice to any of its other rights under any Loan Document or by Applicable Law, declare all Secured Obligations to be immediately due and payable without presentment, notice of intent to accelerate, representation, demand of payment or protest, which are hereby expressly waived.

7.2.2. The obligation of the Lender, if any, to make additional loans or financial accommodations of any kind to the Borrower shall immediately terminate upon the occurrence of an Event of Default.

7.2.3. If an Event of Default shall have occurred and be continuing, the Lender may exercise any remedy provided by any or all Security Agreements. In addition, the Lender may exercise in respect of any Collateral, in addition to other rights and remedies provided for herein (or in any Loan Document) or otherwise available to it, all the rights and remedies of a secured party under the applicable Uniform Commercial Code (the "Code") whether or not the Code applies to the affected Collateral, and also may (i) require the Borrower to, and the Borrower hereby agrees that it will at its expense and upon request of the Lender forthwith, assemble all or part of the Collateral as directed by the Lender and make it available to the Lender at a place to be designated by the Lender that is reasonably convenient to both parties and (ii) without notice except as specified below or by Applicable Law, sell the Collateral or any part thereof in one or more lots at public or private sale, at any of the Lender's offices or elsewhere, for cash, on credit, or for future delivery, and upon such other terms as the Lender may deem commercially reasonable. Borrower agrees that, to the extent notice of sale shall be required by law, at least ten days' notice to the Borrower of the time and place of any public sale or the time after which any private sale is to be made shall constitute reasonable notification. The Lender shall not be obligated to make any sale of the Collateral regardless of notice of sale having been given. The Lender may adjourn any public or private sale from time to time by announcement at the time and place fixed therefore, and such sale may, without further notice, be made at the time and place to which it was so adjourned.

7.2.4. Unless otherwise required by Applicable Law, all cash proceeds received by the Lender in respect of any sale of, collection from, or other realization upon all or any part of the Collateral may, in the discretion of the Lender, be held by the Lender as collateral for, or then or at any time thereafter applied in whole or in part by the Lender against all or any part of the Secured Obligations in such order as the Lender shall elect. Any surplus of such cash or cash proceeds held by the Lender and remaining after the full, and final payment of all the Secured Obligations shall be paid over to the Borrower or to such other Person to which the Lender may be required under Applicable Law, or directed by a court of competent jurisdiction, to make payment of such surplus.

7.3. Rights and Remedies Cumulative. All rights and remedies provided for herein or in any other Loan Document are not exclusive, each shall be cumulative and in addition to any and all other rights and remedies existing at law or in equity, and all such remedies shall survive the acceleration of one or more of the Notes. Lender's exercise or partial exercise of, or failure to exercise, any remedy shall not restrict Lender from further exercise of that remedy or any other available remedy. No extension of time for



payment or performance of any obligation shall operate to release discharge, modify, change or affect the original liability of Borrower for any obligations, either in whole or in part.

7.4. Waiver of Marshalling. Despite the existence of interests in the Collateral other than that created by the Security Agreements, and despite any other provision of this Agreement, if Borrower defaults in paying the Indebtedness or in performing any Secured Obligations, Lender shall have the right, in Lender's sole and absolute discretion, to establish the order in which the Collateral will be subjected to the remedies provided in this Agreement and Security Agreement and to establish the order in which all or any part of the Indebtedness secured by the Security Agreement is satisfied from the proceeds realized on the exercise of the remedies provided in the Security Agreement. Borrower and any Person who now has or later acquires any interest in the Collateral with actual or constructive notice of this Agreement and/or any Security Agreement waives any and all rights to require a marshaling of assets in connection with the exercise of any of the remedies provided in this Agreement, any Security Agreement or otherwise provided by Governmental Requirements.

7.5. Limitations on Borrower During Cure Period. For any period during which Borrower has an opportunity to cure an Event of Default in accordance with this Agreement, the Note, the Security Agreement or any other Loan Document, Borrower shall not (a) make any distributions to its members and (b) make any expenditures outside the ordinary course of business, except to cure a Default of this Agreement, the Note, the Security Agreement or any other Loan Document.

8. GENERAL TERMS.

8.1. No Waiver by Lender. No waiver by Lender of any right or remedy provided by the Loan Documents or Governmental Requirements shall be effective unless such waiver is in writing and signed by authorized officer(s) of Lender. Waiver by Lender of any right or remedy granted to Lender under the Loan Documents or Governmental Requirements as to any transaction or occurrence shall not be deemed a waiver of any future transaction or occurrence. The acceptance of payment of any sum secured by the Collateral after its due date, or the payment by Lender of any Indebtedness or the performance by Lender of any Secured Obligations of Borrower under the Loan Documents, on Borrower's failure to do so, or the addition of any payment so made by Lender to the Indebtedness secured by the Collateral, or the exercise of Lender's right to enter the Real Property Collateral and receive and collect the Rents from it, or the assertion by Lender of any other right or remedy under the Loan Documents, shall not constitute a waiver of Lender's right to require prompt performance of all other Secured Obligations of Borrower under the Loan Documents and payment of the Indebtedness, or to exercise any other right or remedy under the Loan Documents for any failure by Borrower to timely and fully pay the Indebtedness and perform its Secured Obligations under the Loan Documents. Lender may waive any right or remedy under the Loan Documents or Governmental Requirements without notice to or consent from Borrower, any Guarantor of the Indebtedness and of the Secured Obligations under the Loan Documents, or any holder or claimant of a lien or other interest in the Collateral that is junior to the lien of Lender, and without incurring liability to Borrower or any other Person by so doing.

8.2. Successors and Assigns. This Agreement is made and entered into for the sole protection and benefit of Lender and Borrower and their successors and assigns, and no other Person or Persons shall have any right of action under this Agreement. The terms of this Agreement shall inure to the benefit of the successors and assigns of the parties, provided, however, that the Borrower's interest under this Agreement cannot be assigned or otherwise transferred without the prior consent of Lender.

8.3. Notice. Except for any notice required by Governmental Requirements to be given in another manner, (a) all notices required or permitted by the Loan Documents shall be in writing; (b) each notice shall be sent (i) for personal delivery by a delivery service that provides a record of the date of delivery, the individual to whom delivery was made, and the address where delivery was made; (ii) by certified United States mail, postage prepaid, return receipt requested; or (iii) by nationally recognized overnight delivery service, marked for next-business-day delivery; and (c) all notices shall be addressed to the appropriate



party at its address as follows or such other addresses as may be designated by notice given in compliance with this provision:

Lender: c/o PHP Funding
1551 McCarthy Boulevard, #211
Milpitas, California 95035

With a copy to:

PHP Funding
1551 McCarthy Boulevard, #211
Milpitas, California 95035

Borrower: 1510 Webster Street LLC
411 2nd Street
Oakland, California 94607

Notices will be deemed effective on the earliest of (a) actual receipt; (b) rejection of delivery; or (c) if sent by certified mail, the third day on which regular United States mail delivery service is provided after the day of mailing or, if sent by overnight delivery service, on the next day on which such service makes next-business-day deliveries after the day of sending.

To the extent permitted by Governmental Requirements, if there is more than one Borrower, notice to any Borrower shall constitute notice to all Borrowers. For notice purposes, Borrower agrees to keep Lender informed at all times of Borrower's current address(es).

8.4. Authority to File Notices. Borrower irrevocably appoints, designates, and authorizes Lender as its agent (this agency being coupled with an interest) to file or send to any third party any notice or documents or take any other action that Lender reasonably deems necessary or desirable to protect its interest under this Agreement, or under the Loan Documents, and will on request by Lender, execute such additional documents as Lender may require to further evidence the grant of this right to Lender.

8.5. Attorney-in-Fact. Borrower irrevocably appoints Lender its true and lawful attorney-in-fact, which appointment is coupled with an interest, for purposes of accomplishing any of the foregoing. Borrower further nominates and appoints Lender as attorney-in-fact to perform all acts and execute all documents deemed necessary by Lender in furtherance of the terms of this Agreement; except, however, for receiving notice on behalf of Borrower.

8.6. Time. Time is of the essence in the Loan Documents.

8.7. Amendments, Termination, Waiver. No amendment, supplement, termination, or waiver of any provision of this Agreement or of any of the Loan Documents, nor consent to any departure by Borrower from the terms of this Agreement or of any of the other Loan Documents, shall be effective unless it is in writing and signed by Lender and Borrower, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

8.8. Headings. The article, section and paragraph headings in this Agreement are for reference only and in no way define, limit, extend, or interpret the scope of this Agreement or of any particular article or section.

8.9. Validity. If any provision of this Agreement is held to be invalid, that holding shall not affect in any respect the validity of the remainder of this Agreement.

8.10. Cross-Default. Any default under the terms of any loan agreement, promissory note, deed of trust, mortgage, lease, conditional sale contract or other agreement, document or instrument evidencing, governing or securing any indebtedness owing by Borrower or any Affiliate of Borrower to Lender or any Affiliate of Lender; shall, at Lender's option, constitute an Event of Default under this Agreement. Notwithstanding anything contained in the Loan Documents to the contrary, any Loan sold, participated,

or otherwise transferred to a third party ("Loan Sale") shall not be cross-defaulted or cross-collateralized with any other loan not sold or transferred as part of the same Loan Sale. The following definitions shall apply to this Section:

"Affiliate" means, with respect to any Person, any other Person that is directly or indirectly Controlling, Controlled by or under common Control with, such Person.

"Control" and derivative terms means the possession, directly or indirectly, and acting either alone or together with others, of the power or authority to direct or cause the direction of the management, material policies, material business decisions or the affairs of a Person, whether through the ownership of equity securities or interests, by contract or other means.

"Person" means any natural person, business, corporation, company, and or association, limited liability company, partnership, limited partnership, limited liability company, joint venture, business enterprise, trust, government authority or other legal entity.

BORROWER'S INITIALS: 

8.11. Survival of Warranties. All agreements, representations, and warranties made in this Agreement shall survive the execution and delivery of this Agreement, of the Loan Documents, and the making of the Loan under this Agreement and continue in full force and effect until the Secured Obligations have been fully paid and satisfied.

8.12. Attorney Fees. Borrower agrees to pay the following costs, expenses, and Attorneys' Fees paid or incurred by Lender, or adjudged by a court: (a) reasonable costs of collection and costs, expenses, and Attorneys' Fees paid or incurred in connection with the collection or enforcement of the Loan Documents, whether or not suit is filed; (b) reasonable costs, expenses, and Attorneys' Fees paid or incurred in connection with representing Lender in any bankruptcy, reorganization, receivership, or other proceedings affecting creditors' rights and involving a claim under the Loan Documents; (c) reasonable costs, expenses, and Attorneys' Fees incurred to protect the lien of the Security Instrument; and (d) costs of suit and such sum as the court may adjudge as Attorneys' Fees in any action to enforce payment of the Loan Documents or any part of it.

8.13. Governing Law; Consent to Jurisdiction and Venue. This Agreement is made by Lender and accepted by Borrower in the State of California, except that at all times the provisions for the creation, perfection, priority, enforcement and foreclosure of the liens and security interests created in the Real Property Collateral under the Loan Documents shall be governed by and construed according to the laws of the state in which each Real Property Collateral is situated. To the fullest extent permitted by the law of the state in which each Real Property Collateral is situated, the law of the State of California shall govern the validity and enforceability of all Loan Documents, and the debt or obligations arising hereunder (but the foregoing shall not be construed to limit Lender's rights with respect to such security interest created in the state in which each Real Property Collateral is situated). The parties agree that jurisdiction and venue for any dispute, claim or controversy arising, other than with respect to perfection and enforcement of Lender's rights against the Real Property Collateral, shall be Santa Clara County, California, or the applicable federal district court that covers said County, and Borrower submits to personal jurisdiction in that forum for any and all purposes. Borrower waives any right Borrower may have to assert the doctrine of forum non conveniens or to object to such venue.

BORROWER'S INITIALS: 

8.14. Legal Relationships. The relationship between Borrower and Lender is that of lender and borrower, and no partnership, joint venture, or other similar relationship shall be inferred from this Agreement. Borrower shall not have the right or authority to make representations, to act, or to incur

debts or liabilities on behalf of Lender. Borrower is not executing this Agreement as an agent or nominee for an undisclosed principal, and no third-party beneficiaries are or shall be created by the execution of this Agreement.

8.15. Dispute Resolution: Waiver of Right to Jury Trial.

8.15.1. ARBITRATION. CONCURRENTLY HEREWITH, BORROWER AND ANY GUARANTOR SHALL EXECUTE THAT CERTAIN ARBITRATION AGREEMENT WHEREBY BORROWER, ANY GUARANTOR, AND LENDER AGREE TO ARBITRATE ANY DISPUTES TO RESOLVE ANY CLAIMS (AS DEFINED IN THE ARBITRATION AGREEMENT).

8.15.2. WAIVER OF RIGHT TO JURY TRIAL. CONCURRENTLY HEREWITH, BORROWER AND ANY GUARANTOR SHALL EXECUTE THAT CERTAIN ARBITRATION AGREEMENT AND WAIVER OF RIGHT TO JURY TRIAL WHEREBY BORROWER, ANY GUARANTOR, AND LENDER AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM (AS DEFINED IN THE ARBITRATION AGREEMENT) OR CAUSE OF ACTION BASED ON OR ARISING FROM THE LOAN.

BORROWER'S INITIALS: DA

8.16. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall be deemed an original. This Agreement shall be deemed fully executed and effective when all Parties have executed at least one of the counterparts, even though no single counterpart bears all such signatures.

8.17. Severability. If any provision of the Loan Documents, or the application of them to the circumstances, is held void, invalid, or unenforceable by a court of competent jurisdiction, the Loan Documents, and the applications of such provision to other parties or circumstances, shall not be affected thereby, the provisions of the Loan Documents being severable in any such instance.

8.18. Cooperation. Borrower acknowledges that Lender and its successors and assigns may (a) sell, transfer, or assign the Loan Documents to one or more investors as a whole loan, in a rated or unrated public offering or private placement; (b) participate the Loan to one or more investors in a rated or unrated public offering or private placement; (c) deposit the Loan Documents with a trust, which trust may sell certificates to investors evidencing an ownership interest in the trust assets in a rated or unrated public offering or private placement; or (d) otherwise sell the Loan or interest therein to investors in a rated or unrated public offering or private placement. (The transactions referred to in clauses (a)-(d) are hereinafter referred to as "Secondary Market Transactions.") Borrower shall, at Lender's expense, cooperate in good faith with Lender in effecting any such Secondary Market Transaction and shall cooperate in good faith to implement all requirements reasonably imposed by the participants involved in any Secondary Market Transaction (including, without limitation, a rating agency and/or an institutional purchaser, participant, or investor) including, without limitation, all structural or other changes to the Loan Documents, modifications to any documents to the Loan Documents, delivery of opinions of counsel acceptable to the rating agency or such other purchasers, participants or investors, and addressing such matters as the rating agency or such other purchasers, participants, or investors may require; provided, however, that the Borrower shall not be required to modify any documents evidencing or securing the Loan Documents that would modify (i) the interest rate payable under the Note, (ii) the stated Maturity Date, (iii) the amortization of principal of the Note, or (iv) any other material terms or covenants of the Note. Borrower shall provide such information and documents relating to Borrower, the Collateral, any Leases (as defined in the Security Instrument), and any lessees as Lender or the rating agency or such other purchasers, participants, or investors may reasonably request in connection with a Secondary Market Transaction. Lender shall have the right to provide to the rating agency or prospective purchasers, participants, or investors any information in its possession including, without limitation, financial statements relating to Borrower, the Collateral, and any lessee. Borrower acknowledges that certain information regarding the Loan and the parties thereto and the Real Property Collateral may be included in a private placement memorandum, prospectus, or other disclosure documents and consents to the release of such information to third parties.

8.19. Obligations of Borrower Joint and Several. If more than one Person is named as Borrower, each obligation of Borrower under this Agreement shall be the joint and several obligations of each such Person.

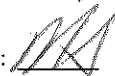
8.20. No Modifications or Amendments; No Waiver. Except as specified herein, the Loan Documents may not be amended, modified or changed, nor shall any waiver of the provisions hereof be effective, except only by an instrument in writing signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought. Additionally, a waiver of any provision in one event shall not be construed as a waiver of any other provision at any time, as a continuing waiver, or as a waiver of such provision on a subsequent event.

IN WITNESS WHEREOF, Borrower has executed this Agreement as of the date first written above by and through their duly authorized representatives.

BORROWER:

1510 WEBSTER STREET LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

By:  _____
Danny Haber, Authorized Signatory



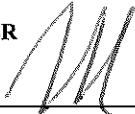
LANGUAGE CAPACITY DECLARATION

IF NO TRANSLATOR IS NECESSARY, THE SIGNOR MUST HANDWRITE THE FOLLOWING IN THE SPACE PROVIDED.

"I speak the English language fluently and read with full understanding. I do not require a translator to understand these loan documents."

SIGNOR:

DANNY HABER



Danny Haber, an individual

EXHIBIT “2”

GUARANTY

THIS GUARANTY ("Guaranty") is entered into and effective as of March 18, 2021, and is by and among Danny Haber, whose address for purposes of this Guaranty is 411 2nd Street, Oakland, California 94607 ("Guarantor"); and Webster Development Corp., a California corporation as to an undivided 1,500,000.00/7,000,000.00 interest; Lisha Yin, a single woman as to an undivided 500,000.00/7,000,000.00 interest; Flying Star Consultant Company LLC, a California limited liability company as to an undivided 400,000.00/7,000,000.00 interest; Hao Liu, a married woman as to an undivided 450,000.00/7,000,000.00 interest; Jenny Ma, a single woman as to an undivided 400,000.00/7,000,000.00 interest; Lina Wu, a married woman as to an undivided 250,000.00/7,000,000.00 interest; Qingyang Song, a married man as to an undivided 250,000.00/7,000,000.00 interest; 65 Capital LLC, a California limited liability company as to an undivided 250,000.00/7,000,000.00 interest; and Western Capital Regional Center Corp., a California corporation as to an undivided 3,000,000.00/7,000,000.00 interest (collectively, "Lender"), whose address for purposes of this Guaranty is 1551 McCarthy Boulevard, #211, Milpitas, California 95035, and is delivered to and in favor of Lender, its successors and assigns.

To induce Lender to make the Loan to 1510 Webster Street LLC, a California limited liability company ("Borrower"), which Guarantor acknowledges that Lender would not do without this Guaranty, and for other valuable consideration, the receipt and adequacy of which are hereby acknowledged, Guarantor agrees as follows:

1. **Guaranty.**

1.1 Guaranty of Obligations. Guarantor guarantees to Lender, its successors, and assigns the full and faithful payment of all amounts owed and performance of each and every one of the obligations, responsibilities, and undertakings to be carried out, performed, or observed by Borrower under the Loan Agreement, the Note, the Security Agreement, any other agreement that now or later secures repayment of the Note, any other agreement that Guarantor now or later states is guaranteed, and any other agreement that Guarantor or Borrower signs in connection with the loan obtained by Borrower. All these documents are collectively referred to as the "Loan Documents," which Loan Documents evidence the "Loan." The obligations guaranteed are referred to as the "Guaranteed Obligations."

1.2 Guaranty of Borrower's Performance. If at any time Borrower, or its successors or permitted assigns, fails, neglects or refuses to pay when due amounts or perform when due any of its obligations, responsibilities, or undertakings as expressly provided under the terms and conditions of the Loan Documents, Guarantor shall pay such amounts or perform or cause to be performed such obligations, responsibilities, or undertakings as required under the terms and conditions of the Loan Documents.

2. Absolute. This Guaranty is irrevocable, absolute, present, and unconditional. The obligations of Guarantor under this Guaranty shall not be affected, reduced, modified, or impaired on the happening from time to time of any of the following events, whether or not with notice to (except as notice is otherwise expressly required) or the consent of Guarantor:

2.1 Failure to Give Notice. The failure to give notice to Guarantor of the occurrence of a default under the terms and provisions of this Guaranty or the Loan Documents;

2.2 Modifications or Amendments. The modification or amendment, whether material or otherwise, of any obligation, covenant, or agreement set forth in this Guaranty or Loan Documents;

2.3 Lender's Failure to Exercise Rights. Any failure, omission, delay by, or inability by Lender to assert or exercise any right, power, or remedy conferred on Lender in this Guaranty or the Loan Documents, including the failure to execute on collateral held for this Guaranty or the Loan Documents;

2.4 Release of Security. Any release of any real or personal property or other security now held or to be held by Lender for the performance of the Guaranteed Obligations;

2.5 Borrower's Termination. A termination, dissolution, consolidation, or merger of Borrower with or into any other entity;

2.6 Borrower's Bankruptcy. The voluntary or involuntary liquidation, dissolution, sale, or other disposition of all or substantially all of Borrower's assets, the marshalling of Borrower's assets and liabilities, the receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors, or readjustment of, or other similar proceedings affecting Borrower, Guarantor or any of the assets of either Borrower or Guarantor;

2.7 Lender's Assignment of Rights. The assignment of any right, title, or interest of Lender in this Guaranty or the Loan Documents to any other person; or

2.8 Extent of Guarantor's Obligations. Any other cause or circumstance, foreseen or unforeseen, whether similar or dissimilar to any of the foregoing; it being the intent of Guarantor that its obligations under this Guaranty shall not be discharged, reduced, limited, or modified except by (a) payment of amounts owing pursuant to this Guaranty and/or Loan Documents (and then only to the extent of such payment or payments); and (b) full performance of obligations under this Guaranty and/or Loan Documents (and then only to the extent of such performed or discharged obligation or obligations).

2.9 Exercise of Lender Rights. Any action of Lender authorized herein.

3. Additional Credit. Additional credit under the Loan Documents may be granted from time to time at Borrower's request and without further authorization from or notice to Guarantor and shall automatically be deemed part of the Guaranteed Obligations. Lender need not inquire into Borrower's power or the authority of its members, officers, or agents acting or purporting to act on its behalf. Each credit granted to Borrower under the Loan Documents shall be deemed to have been granted at Guarantor's insistence and request and in consideration of, and in reliance on, this Guaranty.

4. Guaranty of Payment. Subject to the limitations provided herein, Guarantor's liability on this Guaranty is a guaranty of payment and performance, not of collectability.

5. Cessation of Liability. Guarantor's liability under this Guaranty shall not in any way be affected by the cessation of Borrower's liability for any reason other than full performance of all the obligations under the Loan Documents, including, without limitation, any and all obligations to indemnify Lender.

6. Authorization of Lender. Guarantor authorizes Lender, without notice or demand and without affecting its liability under this Guaranty, and without consent of Guarantor or prior notice to Guarantor, to:

6.1 Modify Loan Documents. Make any modifications to the Loan Documents;

6.2 Assign Guaranty. Assign the Loan Documents and this Guaranty;

6.3 Modify Security. Take, hold, or release security for the performance of the Guaranteed Obligations with the consent of the party providing such security;

6.4 Additional Guarantors. Accept or discharge, in whole or in part, additional guarantors;

6.5 Order of Sale. Direct the order and manner of any sale of all or any part of security now or later held under the Loan Documents or this Guaranty, and also bid at any such sale to the extent allowed by law; and

6.6 Application of Proceeds. Apply any payments or recovery from Borrower, Guarantor, or any source, and any proceeds of any security, to Borrower's obligations under the Loan Documents in such manner, order, and priority as Lender may elect, whether or not those obligations are guaranteed by this Guaranty or secured at the time of such application.

7. Lender's Rights on Borrower's Default. Guarantor agrees that on Borrower's default Lender may elect to nonjudicially or judicially foreclose against all or part of the real or personal property securing Borrower's obligations, or accept an assignment of any such security in lieu of foreclosure, or compromise or adjust any part of such obligations, or make any other accommodation with Borrower or Guarantor, or exercise any other remedy against Borrower or any security. No such action by Lender shall release or limit Guarantor's liability to Lender, even if the effect of that action is to deprive Guarantor of the right to collect reimbursement from Borrower or any other person for any sums paid to Lender or bar or prejudice

Guarantor's rights of subrogation, contribution, or indemnity against Borrower or any other person. Without limiting the foregoing, it is understood and agreed that, on any foreclosure or assignment in lieu of foreclosure of any security held by Lender, such security shall no longer exist and that any right that Guarantor might otherwise have, on full payment of the Borrower's obligations by Guarantor to Lender, to participate in any such security or to be subrogated to any rights of Lender with respect to any such security shall be nonexistent; nor shall Guarantor be deemed to have any right, title, interest, or claim under any circumstances in or to any real or personal property held by Lender or any third party following any foreclosure or assignment in lieu of foreclosure of any such security. Guarantor again specifically acknowledges and waives the above as more specifically provided for herein.

8. Effect of Borrower's Bankruptcy. The liability of Guarantor under this Guaranty shall in no way be affected by:

8.1 Release of Borrower. Release or discharge of Borrower in any creditor proceeding, receivership, bankruptcy, or other release or discharge of Borrower, for any reason;

8.2 Modification of Borrower's Liability. Impairment, limitation, or modification of Borrower's liability or the estate, or of any remedy for the enforcement of Borrower's liability, which may result from the operation of any present or future provision of the Bankruptcy Code (Title 11 of the United States Code, as amended; 11 U.S.C. §§ 101-1330) or any bankruptcy, insolvency, state or federal debtor relief statute, any other statute, or from the decision of any court;

8.3 Rejection of Debt. Rejection or disaffirmance of the Indebtedness, or any portion of the Indebtedness, in any such proceeding;

8.4 Cessation of Borrower's Liability. Cessation, from any cause whatsoever, whether consensual or by operation of law, of Borrower's liability to Lender resulting from any such proceeding; or

8.5 Modification and Replacement of Guaranteed Obligation. If the Guaranteed Obligations are restructured or replaced in connection with a bankruptcy proceeding or case, Guarantor shall remain liable as guarantor of such restructured or replaced obligation.

9. Subordination. Until the Guaranteed Obligations have been paid or otherwise discharged in full, Guarantor subordinates any and all liability or indebtedness of Borrower owed to Guarantor to the obligations of Borrower to Lender that arise under the Guaranteed Obligations. However, Guarantor may receive payment of current reasonable salary and current reasonable payments made in the ordinary course of business for goods provided or services rendered.

10. Application of Payments. With or without notice to Guarantor, Lender, in its sole and absolute discretion may:

10.1 Priority of Payments. Apply any or all payments or recoveries from Borrower, from Guarantor, or from any other guarantor or endorser under this or any other instrument, or realized from any security, in such manner, order, or priority as Lender sees fit, to the indebtedness of Borrower to Lender under the Loan Documents, whether such indebtedness is guaranteed by this Guaranty or is otherwise secured or is due at the time of such application; and

10.2 Refund to Borrower. Refund to Borrower any payment received by Lender on any indebtedness guaranteed in this Guaranty, and payment of the amount refunded is fully guaranteed. Any recovery realized from any other guarantor under this or any other instrument shall be first credited on that portion of the indebtedness of Borrower to Lender that exceeds the maximum liability, if any, of Guarantor under this Guaranty.

11. Claims in Bankruptcy. Guarantor shall file all claims against Borrower in any bankruptcy or other proceeding in which the filing of claims is required or allowed by law on any indebtedness of Borrower to Guarantor, and shall assign to Lender all rights of Guarantor on any such indebtedness. If Guarantor does not file any such claim, Lender, as attorney-in-fact for Guarantor, is authorized to do so in Guarantor's name, or, in Lender's discretion, to assign the claim and to file a proof of claim in the name of Lender's nominee. In all such cases, whether in bankruptcy or otherwise, the person or persons authorized to pay such claim shall pay to Lender the full amount of any such claim, and, to the full extent necessary

for that purpose, Guarantor assigns to Lender all of Guarantor's rights to any such payments or distributions to which Guarantor would otherwise be entitled.

12. Representations and Warranties if Guarantor is an Entity. If Guarantor is an entity, Guarantor represents and warrants to Lender that:

12.1 Legal Status. Guarantor (a) is duly organized, validly existing under, and in good standing with, the laws of the state in which it is domiciled and in the state in which the property secured the Loan is located in; (b) has all requisite power, and has all material governmental licenses, authorizations, consents, and approvals necessary to own its assets and carry on its business as now being or as proposed to be conducted; and (c) is qualified to do business in the state in which any property securing the loan is located in.

12.2 No Breach. Neither the execution and delivery of this Guaranty nor compliance with its terms and provisions shall conflict with or result in a breach of, or require any consent under, the organizational documents of Guarantor, or any agreement or instrument by which Guarantor is bound.

12.3 Authority and Power. Guarantor has all necessary power and authority to execute, deliver, and perform its obligations under this Guaranty. Guarantor's execution, delivery, and performance of this Guaranty has been duly authorized by all necessary action on its part; and this Guaranty has been duly and validly executed and delivered by Guarantor and constitutes its legal, valid, and binding obligation, enforceable against Guarantor in accordance with its terms. Guarantor shall, concurrently with the execution of this Guaranty, deliver to Lender a copy of a resolution of Guarantor's managing member(s), if a limited liability company, or board of directors and/or shareholders, if a corporation, authorizing or ratifying execution of this Guaranty.

13. Representations and Warranties if Guarantor is an Individual. If Guarantor is an individual, Guarantor represents and warrants to Lender that:

13.1 Legal Status. Guarantor has all requisite power and has all material governmental licenses, authorizations, consents, and approvals necessary to carry on his business as now being or as proposed to be conducted.

13.2 No Breach. Neither the execution and delivery of this Guaranty nor compliance with its terms and provisions shall conflict with or result in a breach of, or require any consent under any agreement or instrument by which Guarantor is bound.

13.3 Authority and Power. This Guaranty has been duly and validly executed and delivered by Guarantor and constitutes its legal, valid, and binding obligation, enforceable against Guarantor in accordance with its terms.

13.4 Financial Statements. All financial information furnished or to be furnished to lender is or will be true and correct, does or will fairly represent the financial condition of Guarantor, and was or will be prepared in accordance with generally accepted accounting principles ("GAAP").

13.5 Claims and Proceedings. There are no claims, actions, proceedings, or investigations pending against Guarantor.

14. Information Not Required. Guarantor represents that Guarantor is fully aware of Borrower's financial condition and operation and is in a position by virtue of his, her, or its relationship to Borrower to obtain all necessary financial and operational information concerning Borrower. Lender need not disclose to Guarantor any information about:

14.1 Loan Documents. The Loan Documents or any modification of them, and any action or non-action in connection with them;

14.2 Other Guaranteed Obligations. Any other obligation guaranteed in this Guaranty;

14.3 Borrower's Financial Condition. The financial condition or operation of Borrower; or

14.4 Other Guarantors. Any other guarantors.

15. Notice. Except for any notice required by Governmental Requirements to be given in another manner, (a) all notices required or permitted by this Guaranty shall be in writing; (b) each notice to Guarantor shall be sent (i) for personal delivery by a delivery service that provides a record of the date of

21. **Revival of Guaranty.** If a claim ("Claim") is made on Lender at any time (whether before or after payment or performance in full of any Guaranteed Obligation, and whether such claim is asserted in a bankruptcy proceeding or otherwise) for repayment or recovery of any amount or other value received by Lender (from any source) in payment of, or on account of, any Guaranteed Obligation, and if Lender repays such amount, returns value or otherwise becomes liable for all or part of such Claim by reason of (a) any judgment, decree, or order of any court or administrative body or (b) any settlement or compromise of such Claim, Guarantor shall remain severally liable to Lender for the amount so repaid or returned or for which Lender is liable to the same extent as if such payments or value had never been received by Lender, despite any termination of this Guaranty or the cancellation of any note or other document evidencing any Guaranteed Obligation.

22. **Captions.** The captions and section headings appearing in this Guaranty are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Guaranty.

23. **Severability.** If any provision in this Guaranty is invalid and unenforceable in the jurisdiction whose law is applied to this Guaranty or in any particular context, then, to the fullest extent permitted by law, (a) the other provisions shall remain in full force and effect in such jurisdiction or context and shall be liberally construed in favor of Lender in order to carry out the parties' intentions as nearly as possible, and (b) the invalidity or unenforceability of any provision in that jurisdiction or context shall not affect the validity or enforceability of such provision in any other jurisdiction.

24. **Waivers.**

24.1 **Waiver of Rights to Require Lender to Act.** Guarantor waives the right to require Lender to:

- 24.1.1. Proceed against Borrower or any other person;
- 24.1.2. Proceed or exhaust any security held from any person;
- 24.1.3. Proceed against any other guarantor; or
- 24.1.4. Pursue any other remedy available to Lender.

24.2 **Waivers Until Obligation Is Repaid.** Until the Guaranteed Obligations have been paid or otherwise discharged in full:

24.2.1. Guarantor waives all rights of subrogation, indemnity, any rights to collect reimbursement from Borrower, and any right to enforce any remedy that Lender now has, or may have, against Borrower.

24.2.2. Guarantor waives any benefit of, and any right to participate in, any security now or later held by Lender.

24.2.3. Guarantor waives any defense it may have now or in the future based on any election of remedies by Lender that destroys Guarantor's subrogation rights or Guarantor's rights to proceed against Borrower for reimbursement, and Guarantor acknowledges that it shall be liable to Lender even though Guarantor may well have no such recourse against Borrower.

24.2.4. Guarantor waives notice of (a) acceptance and reliance on this Guaranty; (b) notice of renewal, extension, or modification of any Guaranteed Obligation under this Guaranty; and (c) notice of default or demand in the case of default.

24.2.5. Guarantor waives any right or defense it may now or hereafter have based on (a) Lender's full or partial release of any party who may be obligated to Lender; (b) Lender's full or partial release or impairment of any collateral for the Guaranteed Obligations; and (c) the modification or extension of the Guaranteed Obligations.

24.2.6. Guarantor waives any and all suretyship defenses now or later available to it under the law governing this Guaranty.

24.2.7. Without limiting the generality of any other waiver or provision of this Guaranty, Guarantor waives, to the maximum extent such waiver is permitted by law, any and all benefits or defenses arising directly or indirectly under the law governing this Guaranty.

24.2.8. Guarantor waives any statute of limitation affecting liability under this Guaranty or the enforceability of this Guaranty and further waives any defense that might otherwise exist because of the expiration of the statute of limitations on the Loan Documents.

24.2.9. Guarantor waives any duty of Lender to disclose to Guarantor any facts Lender may now know or later learn about Borrower or Borrower's financial condition regardless of whether Lender has reason to believe that any such facts materially increase the risk beyond that which Guarantor intends to assume, or has reason to believe that such facts are unknown to Guarantor, or has a reasonable opportunity to communicate such facts to Guarantor, it being understood and agreed that Guarantor is fully responsible for and is capable of being and keeping informed of Borrower's financial condition and of all circumstances bearing on the risk of nonpayment of any indebtedness guaranteed under this Guaranty.

24.2.10. Guarantor waives all notices to Guarantor.

24.2.11. Without limiting the generality of any other waiver or provision of this Guaranty, Guarantor waives, to the maximum extent such waiver is permitted by law, any and all benefits or defenses arising directly or indirectly under any one or more of (a) California Civil Code §§ 2799, 2808, 2809, 2810, 2815, 2819, 2820, 2821, 2822, 2838, 2839, 2845, 2846, 2847, 2848, 2849, 2850, 2899, and 3433; (b) Chapter 2 of Title 14 of the California Civil Code; (c) California Code of Civil Procedure §§580a, 580b, 580c, 580d, and 726; (d) California Commercial Code §3605 or (e) any rights identified in *Union Bank v. Gradsky*, 265 Cal. App. 2d 40 (1968).

25. Arbitration. Concurrently herewith, Borrower and Guarantor shall execute that certain Arbitration Agreement whereby Borrower, Guarantor, and Lender agree to arbitrate any disputes to resolve any Claims (as defined in the Arbitration Agreement).

26. Jurisdiction. The parties agree that all actions or proceedings arising in connection with this Guaranty and the other Loan Documents shall be tried and litigated only in the state courts located in the county in which notice shall be sent to Lender pursuant to this Guaranty, or the applicable federal district court that covers said county.

27. Joint and Several. If this Guaranty is issued by more than one party or if any other party guarantees the obligations of Borrower, the obligations of Guarantor and any others under this Guaranty shall be joint and several.

28. Entire Agreement. This Guaranty embodies the entire agreement and understanding between Guarantor and Lender pertaining to the subject matter of this Guaranty, and supersedes all prior agreements, understandings, negotiations, representations, and discussions, whether verbal or written, of the parties, pertaining to that subject matter. Guarantor is not relying on any representations, warranties, or inducements from Lender that are not expressly stated in this Guaranty.

29. Further Assurances. Guarantor shall promptly and duly execute and deliver to Lender such further documents and assurances and take such further action as Lender may from time to time reasonably request, including, without limitation, any amendments to this Guaranty to establish and protect the rights, interests, and remedies created or intended to be created in favor of Lender.

30. Gender; Singular Includes Plural. As used in this Guaranty, the singular includes the plural, and the masculine includes the feminine and neuter, and vice versa, if the context so requires.

31. Nonwaiver. No provision of this Guaranty or right of Lender under this Guaranty can be waived, nor can Guarantor be released from its obligations under this Guaranty except by a writing duly executed by an authorized representative of Lender.

32. Continuing Liability. Guarantor shall continue to be liable under this Guaranty despite the transfer by Borrower of all or any portion of the property encumbered by the Loan Documents.

33. Time Is of the Essence. Time is of the essence under this Guaranty and any amendment, modification, or revision of this Guaranty.

34. Cumulative Rights. The extent of Guarantor's liability and all rights, powers, and remedies of Lender under this Guaranty, and under any other agreement now or at any future time in force between Lender and Guarantor, shall be cumulative and not alternative, and such rights, powers, and remedies shall

be in addition to all rights, powers, and remedies given to Lender by law. This Guaranty is in addition to and exclusive of the guaranty of any other guarantor of any indebtedness of Borrower to Lender.

35. WAIVER OF JURY TRIAL. TO THE EXTENT PERMITTED BY APPLICABLE LAW, GUARANTOR, AND LENDER AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED ON OR ARISING FROM THE LOAN DOCUMENTS. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL-ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS TRANSACTION, INCLUDING, WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. GUARANTOR AND, BY ITS ACCEPTANCE OF THE BENEFITS OF THE LOAN, LENDER EACH (A) ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT FOR BORROWER AND LENDER TO ENTER INTO A BUSINESS RELATIONSHIP, THAT BORROWER AND LENDER HAVE ALREADY RELIED ON THIS WAIVER BY ENTERING INTO THE LOAN OR ACCEPTING ITS BENEFITS, AS THE CASE MAY BE, AND THAT EACH SHALL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS, AND (B) FURTHER WARRANTS AND REPRESENTS THAT EACH HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS WAIVER IS IRREVOCABLE, IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS, OR MODIFICATIONS TO THE LOAN AGREEMENT OR THE NOTE.

36. Separation of Parties. Guarantor is separate and distinct from Borrower. Borrower and Guarantor were solely responsible for all corporate structuring and Lender had no role in the corporate structuring of Borrower and/or Guarantor. Borrower and Guarantor have provided independent financial statements to Lender and Lender has relied on such financial statements in making loan to Borrower.

37. Capitalized Terms. Capitalized terms used but not defined herein shall have the meaning ascribed to such term in the Loan Documents, each executed of even date herewith.

38. Community Property. If Guarantor (or any Guarantor, if more than one) is a married person, and the state of residence of Guarantor or Guarantor's spouse ("Guarantor Spouse") is a community property jurisdiction, then each of the following apply:

38.1 Guarantor (or each such married Guarantor, if more than one) agrees that Lender may satisfy Guarantor's obligations under this Guaranty to the extent of all Guarantor's separate property and against the marital community property of Guarantor and Guarantor Spouse.

38.2 If Guarantor Spouse is not also a Guarantor of the Loan, Guarantor certifies that none of the assets shown on his or her financial statements submitted to Lender for purposes of underwriting the Loan were either (i) Guarantor Spouse's individual property, or (ii) community property under the sole management, control, and disposition of Guarantor Spouse.

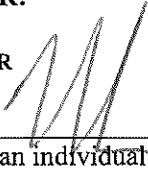
38.3 If Guarantor Spouse is not also a Guarantor of this loan and Guarantor or Guarantor Spouse's state of residence is Alaska, Arizona, Idaho, Louisiana, Nevada, New Mexico, Washington, or Wisconsin, Guarantor has caused Guarantor Spouse to acknowledge this Guaranty as required on the signature page of this Guaranty.

[SIGNATURES FOLLOW]

IN WITNESS WHEREOF, Guarantor has executed and delivered this Guaranty as of the date first written above.

GUARANTOR:

DANNY HABER



Danny Haber, an individual

SUMMONS

(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

E-FILED
4/6/2026 2:41 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
26CV491182
Reviewed By: S. Rodriguez
Envelope: 23255680

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

DANNY HABER, an individual; and DOES 1 through 100,

YOU ARE BEING SUED BY PLAINTIFF: WEBSTER DEVELOPMENT CORP, a California corporation;
(LO ESTÁ DEMANDANDO EL DEMANDANTE): FLYING STAR CONSULTANT COMPANY LLC, a California limited liability company; 65 CAPITAL LLC, a California limited liability company; WESTERN CAPITAL REGIONAL CENTER CORP, a California corporation; HAO LIU, an individual; JENNY MA, an individual; LINA WU, an individual; QINGYANG SONG, an individual; LISHA YIN, an individual;

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): Santa Clara Superior Court

Downtown Superior Court -191 North First Street, San Jose, CA 95113

CASE NUMBER:
(Número del Caso):

26CV491182

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Keith E. Butler, Esq. 2020 Main Street, Suite 600, Irvine, CA 92614

DATE: 4/6/2026 2:41 PM Clerk of Court Clerk, by S. Rodriguez, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):
- ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
- ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: Daniel J. Kessler FIRM NAME: BURKHALTER KESSLER CLEMENT & GEORGE LLP STREET ADDRESS: 2020 Main St., Suite 600 CITY: Irvine STATE: CA ZIP CODE: 92614 TELEPHONE NO.: (949) 975-7500 FAX NO.: EMAIL ADDRESS: dkessler@bkcgllaw.com ATTORNEY FOR (name): Plaintiffs	FOR COURT USE ONLY Electronically Filed by Superior Court of CA, County of Santa Clara, on 6/4/2026 3:28 PM Reviewed By: J. Li Env. #23979548 - Case #26CV491182
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 North First Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, 95113 BRANCH NAME: Downtown Superior Court	
PLAINTIFF/PETITIONER: Webster Development Corp., et al. DEFENDANT/RESPONDENT: Danny Haber	
REQUEST FOR DISMISSAL	
CASE NUMBER: 26CV491182	
A conformed copy will not be returned by the clerk unless a method of return is provided with the document.	
This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)	

1. TO THE CLERK: Please **dismiss** this action as follows:

- a. (1) ☒ With prejudice and (2) ☐ Without prejudice (3) ☐ Without prejudice and with the court retaining jurisdiction (Code Civ. Proc., § 664.6)
- b. (1) ☐ Complaint (2) ☐ Petition
- (3) ☐ Cross-complaint filed on (date): by (name):
- (4) ☐ Cross-complaint filed on (date): by (name):
- (5) ☒ Entire action of all parties and all causes of action (with the court retaining jurisdiction (Code Civ. Proc., § 664.6))
- (6) ☐ Other (specify)*:

2. (Complete in all cases except family law cases.)

The court ☐ did ☒ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed.)

Date: June 4, 2026

Daniel J. Kessler

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed



/s/Daniel J. Kessler

(SIGNATURE)

Attorney or party without attorney for

- ☒ Plaintiff/Petitioner ☐ Defendant/Respondent
- ☐ Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.†

Date:



(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

† If item 1a(3) is checked, all parties must sign.

If a cross-complaint—or Response—Marriage/Domestic Partnership (form FL-120) seeking affirmative relief—is on file, the attorney for cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(i) or (j).

☐ Check here and use form MC-025 or a separate page for additional signatures. Include date, printed name, and party information.

4. ☒ Dismissal entered as requested on (date): **6/4/2026 3:28 PM**

5. ☐ Dismissal entered on (date): as to only (name):

6. ☐ Dismissal **not entered** as requested for the following reasons (specify):

7. a. ☒ Attorney or party without attorney notified on (date): **6/4/2026 3:28 PM**

b. ☐ Attorney or party without attorney not notified. Filing party failed to provide

☐ a copy to be conformed

☐ means to return conformed copy

Date: **6/4/2026 3:28 PM**

Clerk, by

J. Li

, Deputy

Page 1 of 2

PLAINTIFF/PETITIONER: Webster Development Corp., et al.
 DEFENDANT/RESPONDENT: Danny Haber

CASE NUMBER:
 26CV491182

COURT'S RECOVERY OF WAIVED COURT FEES AND COSTS

If a party whose court fees and costs were initially waived has recovered or will recover \$10,000 or more in value by way of settlement, compromise, arbitration award, mediation settlement, or other means, the court has a statutory lien on that recovery. The court may refuse to dismiss the case until the lien is satisfied. (Gov. Code, § 68637.)

Declaration Concerning Waived Court Fees

1. The court waived court fees and costs in this action for *(name)*:
2. The person named in item 1 is *(check one below)*
 - a. ☐ not recovering anything of value by this action.
 - b. ☐ recovering less than \$10,000 in value by this action.
 - c. ☐ recovering \$10,000 or more in value by this action. *(If item 2c is checked, item 3 must be completed.)*
3. All court fees and court costs that were waived in this action have been paid to the court *(check one)*: ☐ Yes ☐ No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY MAKING DECLARATION)



(SIGNATURE)

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

3 I am employed in the County of Orange, State of California. I am over the age of 18
4 years and not a party to the within action; my business address is 2020 Main Street, Suite 600, Irvine,
5 California 92614.

6 On **June 4, 2026** I caused the foregoing document described as **REQUEST FOR**
7 **DISMISSAL** to be served on the interested parties in this action [X] by placing [] the original
8 [X] a true copy thereof enclosed in a sealed envelope addressed as stated on the attached
9 service list.

10 **[X] BY ELECTRONIC TRANSMISSION**

11 **[X]** I sent via electronic transmission on this date, originating from
12 **afrljuckic@bkcglaw.com**, a copy of the above-referenced document to the addressee(s) at the e-mail
13 address(es) indicated on the attached Service List.

14 **[X] (State)** I declare under penalty of perjury under the laws of the State of California that the
15 above is true and correct.

16 **[] (Federal)** I declare that I am employed in the office of a member of the bar of this court at
17 whose direction the service was made.

18 Executed on **June 4, 2026**, at **Irvine, California**.

19 /s Andrea Frljuckic
20 ANDREA FRLJUCKIC

SERVICE LIST

Ellen Cirangle, Esq.
Alex Pugh, Esq.
Lubin Olson
ecirangle@lubinolson.com
apugh@lubinolson.com
The Transamerica Pyramid
600 Montgomery Street, 14th Floor
San Francisco, CA 94111
Attorneys for Defendant

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Keith E. Butler, Esq. SBN: 200496 BURKHALTER KESSLER CLEMENT & GEORGE LLP 2020 Main Street, Suite 600 Irvine, CA 92614 TELEPHONE NO.: (949) 975-7500 FAX NO.: E-MAIL ADDRESS: kbutler@bkcgclaw.com ATTORNEY FOR (Name): Plaintiffs		FOR COURT USE ONLY Electronically Filed by Superior Court of CA, County of Santa Clara, on 6/9/2026 3:22 PM Reviewed By: R. Fleming Env. #24029473 Case #26CV491182
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 North First Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose North BRANCH NAME: Downtown Superior Court		CASE NUMBER: 26CV491182
PLAINTIFF/PETITIONER: Webster Development Corp., et al. DEFENDANT/RESPONDENT: Danny Haber		
NOTICE OF ENTRY OF DISMISSAL AND PROOF OF SERVICE ☐ Personal Injury, Property Damage, or Wrongful Death ☐ Motor Vehicle ☐ Other ☐ Family Law ☐ Eminent Domain ☒ Other (specify): Breach of Contract		

TO ATTORNEYS AND PARTIES WITHOUT ATTORNEYS: A dismissal was entered in this action by the clerk as shown on the *Request for Dismissal*. (Attach a copy completed by the clerk.)

Date: June 9, 2026

Keith E. Butler, Esq.

/s/Keith E. Butler

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

(SIGNATURE)

PROOF OF SERVICE

1. I am over the age of 18 and not a party to this cause. My residence or business address is:

SEE THE ATTACHED PROOF OF SERVICE

2. ☐ I am a resident of or employed in the county where the mailing occurred. I served a copy of the *Notice of Entry of Dismissal* and *Request for Dismissal* by mailing them, in a sealed envelope with postage fully prepaid, as follows:
- ☐ I deposited the envelope with the United States Postal Service.
 - ☐ I placed the envelope for collection and processing for mailing following this business's ordinary practice with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.
 - Date of deposit:
 - Place of deposit (city and state):
 - Addressed as follows (name and address):
3. ☐ I served a copy of the *Notice of Entry of Dismissal* and *Request for Dismissal* by personally delivering copies as shown below:
- Name of person served:
 - Address at which person served:
 - On (date):
 - At (time):
4. ☐ I served a copy of the *Notice of Entry of Dismissal* and *Request for Dismissal* by electronically serving copies as shown below (complete if electronic service is used based on a court order or agreement of the parties):
- Name of person served:
 - Electronic service address of person served:
 - On (date):
 - At (time):
 - Electronic service address from which I served the documents:
☐ Proof of electronic service is attached.
5. ☐ Proof of service on additional parties is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: Daniel J. Kessler FIRM NAME: BURKHALTER KESSLER CLEMENT & GEORGE LLP STREET ADDRESS: 2020 Main St., Suite 600 CITY: Irvine STATE: CA ZIP CODE: 92614 TELEPHONE NO.: (949) 975-7500 FAX NO.: EMAIL ADDRESS: dkessler@bkcgllaw.com ATTORNEY FOR (name): Plaintiffs	FOR COURT USE ONLY Electronically Filed by Superior Court of CA, County of Santa Clara, on 6/4/2026 3:28 PM Reviewed By: J. Li Env. #23979548 - Case #26CV491182
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 191 North First Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, 95113 BRANCH NAME: Downtown Superior Court	
PLAINTIFF/PETITIONER: Webster Development Corp., et al. DEFENDANT/RESPONDENT: Danny Haber	
REQUEST FOR DISMISSAL	
CASE NUMBER: 26CV491182	
A conformed copy will not be returned by the clerk unless a method of return is provided with the document.	
This form may not be used for dismissal of a derivative action or a class action or of any party or cause of action in a class action. (Cal. Rules of Court, rules 3.760 and 3.770.)	

1. TO THE CLERK: Please **dismiss** this action as follows:

- a. (1) ☒ With prejudice and (2) ☐ Without prejudice (3) ☐ Without prejudice and with the court retaining jurisdiction (Code Civ. Proc., § 664.6)
- b. (1) ☐ Complaint (2) ☐ Petition
- (3) ☐ Cross-complaint filed on (date): by (name):
- (4) ☐ Cross-complaint filed on (date): by (name):
- (5) ☒ Entire action of all parties and all causes of action (with the court retaining jurisdiction (Code Civ. Proc., § 664.6))
- (6) ☐ Other (specify)*:

2. (Complete in all cases except family law cases.)

The court ☐ did ☒ did not waive court fees and costs for a party in this case. (This information may be obtained from the clerk. If court fees and costs were waived, the declaration on the back of this form must be completed.)

Date: June 4, 2026

Daniel J. Kessler

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

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/s/Daniel J. Kessler

(SIGNATURE)

Attorney or party without attorney for

- ☒ Plaintiff/Petitioner ☐ Defendant/Respondent
- ☐ Cross-Complainant

3. TO THE CLERK: Consent to the above dismissal is hereby given.†

Date:



(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

† If item 1a(3) is checked, all parties must sign.

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Clerk, by

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Page 1 of 2

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CASE NUMBER:
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COURT'S RECOVERY OF WAIVED COURT FEES AND COSTS

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Declaration Concerning Waived Court Fees

1. The court waived court fees and costs in this action for *(name)*:
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3. All court fees and court costs that were waived in this action have been paid to the court *(check one)*: ☐ Yes ☐ No

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY MAKING DECLARATION)



(SIGNATURE)

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18 Executed on **June 4, 2026**, at **Irvine, California**.

19 /s Andrea Frljuckic
20 ANDREA FRLJUCKIC

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Alex Pugh, Esq.

Lubin Olson

ecirangle@lubinolson.com

apugh@lubinolson.com

The Transamerica Pyramid

600 Montgomery Street, 14th Floor

San Francisco, CA 94111

Attorneys for Defendant

STATE OF CALIFORNIA, COUNTY OF ORANGE

On **June 9, 2026** I caused the foregoing document described as **NOTICE OF ENTRY OF DISMISSAL** to be served on the interested parties in this action [X] by placing [] the original [X] a true copy thereof enclosed in a sealed envelope addressed as stated on the attached service list.

[X] I sent via electronic transmission on this date, originating from **afrljuckic@bkcglaw.com**, a copy of the above-referenced document to the addressee(s) at the e-mail address(es) indicated on the attached Service List.

☐ **(Federal)** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s Andrea Frljuckic
ANDREA FRLJUCKIC

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Attorneys for Defendant