

Recorded at Request of:
RECORDING REQUESTED BY
CHICAGO TITLE COMPANY

When Recorded Mail to:

Kroll McNamara Evans & Delehanty LLP
65 Memorial Road, Suite 300
West Hartford, Connecticut 06107
Attention: Adam F. Zweifler, Esq.

**MODIFICATION OF DEED OF TRUST,
ASSIGNMENT OF LEASES AND SECURITY AGREEMENT
AND ASSIGNMENT OF LEASES RENTS AND PROFITS
AND OTHER LOAN DOCUMENTS**

NOTE: This document amends and modifies documents of record recorded of Alameda County as Series Nos. 2002-205131 and 2002-205132 and 2005-544855.

THIS MODIFICATION AGREEMENT (the "Agreement") is made as of the ____ day of June, 2012 (the "Effective Date"), by and between **ROTUNDA PARTNERS II, LLC** a California limited liability company (the "Borrower"), and **NATIONWIDE LIFE INSURANCE COMPANY**, an Ohio corporation (the "Lender").

RECITALS

1. Borrower and Lender entered into a loan transaction in the original principal amount of \$20,000,000.00 (the "Loan"). The Loan is evidenced by a Note from the Borrower in favor of Lender in the original principal amount of \$20,000,000.00 dated May 8, 2002 as modified by a Modification of Promissory Note dated December 22, 2005 and as further modified by a Second Modification of Promissory Note dated June __, 2012 (the "Note").

2. The Loan is secured by a first priority Deed of Trust, Security Agreement and Fixture Filing from the Borrower, as trustor, to Chicago Title Insurance Company, a California corporation, as trustee, in favor of Lender, as beneficiary, dated and recorded May 8, 2002 and recorded in the Official Records of Alameda County, California as Series No. 2002205131, as modified by a Modification of Deed of Trust, Assignment of Leases and Security Agreement and Assignment of Leases Rents and Profits and Other Loan Documents dated December 22, 2005 and recorded in the Official Records of Alameda County, California as Series No. 2005544855 (the "First Modification Agreement") (the Original Deed of Trust

as amended by the First Modification Agreement, the "Deed of Trust") and by an Assignment of Leases, Rents and Profits from the Borrower, as Assignor, in favor of Lender, as Assignee, dated and recorded May 8, 2002 and recorded in the Official Records of Alameda County, California as Series No. 2002205132 and amended by the First Modification Agreement and the Second Modification Agreement (the Original Assignment of Leases as amended by the First Modification Agreement, the Second Modification Agreement and as further amended and in effect from time to time, the "Assignment of Leases"). The Deed of Trust and the Assignment encumber Borrower's interest in certain real property and the improvements located thereon located in the County of Alameda, City of Oakland, State of California and more particularly described in Exhibit A attached to the Deed of Trust (the "Property"). The Note, the Deed of Trust, the Assignment and the other documents executed by Borrower evidencing or securing the Loan are hereinafter referred to as the "Loan Documents").

3. Pursuant to the terms of a Short Form Application for Commercial Mortgage Loan dated April 12, 2012 the Borrower and the Lender have agreed to modify certain terms of the Loan Documents as more particularly set forth therein.

4. Borrower and Lender are further modifying the Note pursuant to a Modification of Promissory Note of even date herewith (the "Modification Agreement").

5. In order to memorialize the changes to the Loan Documents, the Lender requires that the Borrower enter into this Agreement.

6. In consideration of the foregoing and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree as follows:

A G R E E M E N T

1. Modification of Deed of Trust. Effective as of the date hereof, the Deed of Trust is modified as follows:

(a) Paragraph "1" on Page 3 of the Deed of Trust is deleted in its entirety, and the following is substituted in lieu thereof:

"1. Payment of the entire indebtedness in the aggregate principal sum of Twenty Million and 00/100 Dollars (\$20,000,000.00), with interest thereon, evidenced by (i) that certain Promissory Note, as amended, in the original principal amount of Twenty Million and 00/100 Dollars (\$20,000,000.00) dated May 8, 2002 as modified by a Modification of Promissory Note dated December 22, 2005, and as further modified by a Second Modification of Promissory Note dated June __, 2012 as executed and delivered by Borrower, and payable to the order of Lender and

Rotunda Building 2012 Mod.

performance of each covenant and agreement of Borrower therein and all modifications, amendments, replacements, extensions and renewals thereof and substitutions therefor (the "Note")."

- (b) Section 30 of the Deed of Trust is hereby deleted in its entirety and the following is substituted in lieu thereof:

"30. TRANSFER OF PROPERTY OR CONTROLLING INTEREST IN BORROWER; ASSUMPTION.

(a) Except as set forth in Section 36(b) hereof, without the prior written consent of Lender, the sale, transfer, assignment or conveyance of all or any portion of the Property, or the transfer, assignment or conveyance of a controlling interest in Borrower or its general partner or managing member, or any Guarantor, whether voluntary or by operation of law, without the prior written consent of Lender, shall constitute a default hereunder, and entitle Lender, at Lender's sole option, to accelerate all sums due on the Note, together with any Prepayment Premiums (to the extent permitted by the Laws of the State), late payment charges or any other amounts secured hereby. Lender may, however, elect to waive the option to accelerate granted hereunder if, prior to any such sale, transfer, assignment or conveyance of the Property, the following conditions shall be fully satisfied: (a) Lender acknowledges in writing that, in Lender's sole discretion, the creditworthiness of the proposed transferee and the ability and experience of the proposed transferee to operate the Property are satisfactory to Lender, (b) Lender and the proposed transferee shall enter into an agreement in writing that (i) the rate of interest payable on the Loan shall be at such rate as Lender shall determine, (ii) the repayment schedule as set forth in the Note shall be modified by Lender, in Lender's sole discretion, to initiate amortization or modify the existing amortization schedule in order to amortize the then remaining unpaid principal balance of the Note over a period of time as determined by Lender, in Lender's sole discretion, without a change in the maturity date of the Note, and (iii) the proposed transferee shall assume all obligations of Borrower under the Note, this Deed of Trust and the other Loan Documents in writing and an assumption fee, to be determined by Lender in Lender's sole discretion (not to exceed one percent (1%) of the outstanding principal balance of the Note), may be charged by Lender; (c) Lender shall receive, for Lender's review and approval, copies of all transfer documents; and (d) Borrower or the transferee shall pay all costs and expenses in connection with such transfer and assumption, including, without limitation, all fees and expenses incurred by Lender (e) no default, or event which, with notice or the passage of time or both, could result in a default, has occurred hereunder or under any of the other Loan Documents; and

(f) any rental achievement threshold required in the Loan Documents has been satisfied.

(b) Borrower, or any subsequent owner of the Property or any portion thereof, shall do all things necessary to preserve and keep in full force and effect its and their legal existence, franchises, rights and privileges as a corporation, partnership or limited liability company, as the case may be, under the Laws of the state of its formation and its right to own property and transact business in the State. It shall be a default hereunder if Borrower, or any subsequent owner of the Property or any portion thereof, shall amend, modify, transfer, assign or terminate the applicable governing documents for such entity, including its partnership agreement, certificate of partnership, operating agreement, articles of organization, regulations, articles of incorporation or bylaws, as the case may be (as applicable, the "**Governing Documents**"), of Borrower or such subsequent owner without the prior written consent of Lender. Borrower, or such subsequent owner of the Property, shall provide Lender with copies of any proposed amendment to its applicable Governing Documents, so that Lender may, in Lender's sole discretion, determine whether such amendment adversely affects Lender, the Property or the security value thereof. Provided, however, that any amendment, modification, transfer, assignment or termination of Borrower's applicable Governing Documents or any other action pursuant to which the current general partner or managing member of Borrower shall either: (i) cease to be the general partner or managing member of Borrower; or (ii) except to the extent permitted herein, cease to own or maintain a partnership or membership interest in Borrower equal to or greater than its partnership or membership interest at the time this Deed of Trust is executed, shall be deemed to have a material adverse effect upon Lender and the Property, and shall be a default hereunder.

(c) Borrower shall not change its name or identity in any manner which may make any financing or continuation statement filed in connection with the Loan seriously misleading within the meaning of the UCC enacted in the State or change its jurisdiction of organization unless Borrower shall have delivered to Lender Written Notice thereof not less than 30 days before the effective date of such change and shall have taken all action which Lender determines to be reasonably necessary or desirable to confirm and protect Lender's security interests and rights under this Deed of Trust and the perfection and priority thereof. Borrower will not change its principal places of business unless it shall have given Lender prior Written Notice of its intent to do so not less than thirty (30) days in advance of the effective date of such change. Borrower shall bear all costs incurred by Lender in connection with any such change including, without limitation, Reasonable Attorney's Fees.

(d) In the event the ownership of the Property, or any part thereof, shall become vested in a person or entity other than Borrower, whether with or without the prior written consent of Lender, Lender may, without notice to Borrower, deal with such successor or successors in interest with reference to the Property, this Deed of Trust and the other Loan Documents, in the same manner and to the same extent as with Borrower without in any way vitiating or discharging Borrower's liability hereunder or under any of the Loan Documents. No sale, transfer or conveyance of the Property, no forbearance on the part of Lender and no extension of time given by Lender to Borrower for the payment of the Note shall operate to release, discharge, modify, change or affect the original liability of Borrower, either in whole or in part, unless expressly set forth in writing executed by Lender. Notwithstanding anything contained herein to the contrary, Borrower hereby waives any right it now has or may hereafter have to require Lender to prove an impairment of its security as a condition to the exercise of Lender's rights under this Section 30.

(e) A sale, transfer, assignment or conveyance within the meaning of this Section shall be deemed to include, but not be limited to, (a) an installment sales agreement wherein Borrower agrees to sell the Property or any part thereof for a price to be paid in installments; (b) an agreement by Borrower leasing all or a substantial part of the Property for other than actual occupancy by a tenant under an Occupancy Lease or a sale, assignment or other transfer of, or the grant of a security interest in, Borrower's right, title and interest in and to any leases or any Rents; (c) if Borrower, any Guarantor, or any general partner or managing member of Borrower or any Guarantor or any general partner of any general partner or managing member of Borrower or any Guarantor, is a corporation, the voluntary or involuntary sale, conveyance, transfer or pledge of such corporation's stock (or the stock of any corporation directly or indirectly controlling such corporation by operation of law or otherwise), or the creation or issuance of new stock by which an aggregate of more than ten percent (10%) of such corporation's stock shall be vested in a party or parties who are not now stockholders; and (d) if Borrower, any Guarantor or any general partner or managing member of Borrower or any such other party, is a limited partnership, general partnership, limited liability partnership, limited liability company, or joint venture, the change, removal or resignation of a general partner, managing partner, or managing member, or the transfer or pledge of the interest of any general partner, managing partner, or managing member or any profits or proceeds relating to such interest.

Notwithstanding any provision of this Section 30 to the contrary, provided that the Transfer Conditions (as hereinafter defined) are satisfied, the following transfers of interests in Borrower, shall be permitted: (i) transfers of membership interests in Borrower among the members of Borrower, (ii) transfers to members of the Immediate Family (as hereinafter defined) of any member of Borrower, (iii) transfers to trusts established for the sole benefit of members of the Immediate Family of any member of Borrower, (iv) transfers pursuant to operation of law upon the death of a member of Borrower. As used herein the term "Transfer Conditions" refers to the following requirements: (A) at the time of the transfer in question, Borrower shall not be in default under the Loan Documents, (B) notwithstanding any transfer pursuant to (i) or (ii) above, Leonard I. Epstein, Philip H. Tagami or Mark A. Moss shall at all times maintain a minimum ownership of 51% in Borrower and shall retain Control (as hereinafter defined) of the Borrower and the Property, (iii) no such transfer shall reduce the personal liability of any person, including without limitation any guarantor or indemnitor, under the Loan Documents to the extent that such liability existed prior to such transfer, (iv) Lender shall have received prior notice of any such transfer of interests in Borrower or in the partners of Borrower, as applicable and (v) Borrower shall have paid all fees and expenses incurred by Lender in connection with such transfer, including, without limitation, title insurance charges necessary to provide Lender with any title endorsement reasonably requested by Lender related to such transfer and Reasonable Attorneys Fees. Any required prior notice hereunder shall be given by Borrower in writing at least thirty (30) days prior to the date of the proposed sale, conveyance or transfer, and shall contain a description of the material terms of the proposed transfer in reasonable detail. As used herein the term "Immediate Family" means the spouse, parents, siblings and direct lineal descendants of the person in question. As used herein, the term "Control" means the possession of the legal power to direct the management and policies of the entity in question. The aforementioned transfers shall neither trigger the "due on sale" clause referenced in the first paragraph of this Section 30, nor invoke the assumption fee, or change the monthly payment. As a condition to the above-mentioned transfers, the transferee shall assume in writing all obligations of the transferor under the Loan Documents."

2. Modification of Assignment: Effective as of the date hereof, the Assignment is modified as follows:

- (a) The second paragraph following the word "Witneseth" on page 1 of the Assignment is hereby deleted and the following is substituted in lieu thereof:

"WHEREAS, Assignee is the owner and holder of a certain Deed of Trust, Assignment of Rents and Security Agreement, dated and recorded May 8, 2002 in the Official Records of Alameda County, California as Series No. 2002205131, as modified by a Modification of Deed of Trust, Assignment of Leases and Security Agreement and Assignment of Leases Rents and Profits and Other Loan Documents dated December 22, 2005 and recorded in the Official Records of Alameda County, California as Series No. 2005-544855 (the "Deed of Trust") as modified by a modification thereof dated as of June __, 2012 (the "Modified Deed of Trust"; the Deed of Trust and the Modified Deed of Trust are hereinafter referred to collectively as the "Deed of Trust") encumbering Borrower's interest in the Real Property and other property more specifically described in the Deed of Trust (all of which property is referred to herein as the "Property"), which Deed of Trust secures the payment of the entire indebtedness in the aggregate principal sum of Twenty Million and 00/100 Dollars (\$20,000,000.00), with interest thereon, evidenced by (i) that certain Note from the Borrower in favor of Lender in the original principal amount of \$20,000,000.00 dated May 8, 2002 as modified by a Modification of Promissory Note dated December 22, 2005 and as further modified by a Second Modification of Promissory Note dated June __, 2012 as executed and delivered by Trustor, as Maker, and payable to the order of Beneficiary, as Holder, and performance of each covenant and agreement of Trustor therein and all modifications, amendments, replacements, extensions and renewals thereof and substitutions therefor, (the "Note").

3. Modification of Other Loan Documents.

(a) All of the other Loan Documents, are hereby amended and modified as follows:

(1) As used in the Loan Documents, the term "Note" shall mean and include (i) that certain Promissory Note in the original principal sum of Twenty Million and 00/100 Dollars (\$20,000,000.00), with interest thereon, evidenced by (i) that certain Promissory Note, as amended, in the original principal amount of Twenty Million and 00/100 Dollars (\$20,000,000.00) dated May 8, 2002 as modified by a Modification of Promissory Note dated December 22, 2005 and as further modified by a Second Modification of Promissory Note dated June __, 2012, as executed and delivered by Borrower, and payable to the order of Lender and performance of each covenant and agreement of Borrower therein and all modifications, amendments, replacements, extensions and renewals thereof and substitutions therefor, including, without limitation, that certain Second Modification of Promissory Note dated as of June __, 2012 (collectively, the "Note");

(2) As used in the Loan Documents, the term "**Loan Documents**" shall mean and include all documents executed and delivered by Borrower to Lender in connection with the Loan as modified by that certain Second Modification of Promissory Note dated as of June __, 2012 and the Modification of Deed of Trust, Assignment of Leases and Security Agreement and Assignment of Leases, Rents and Profits and Other Loan Documents, and including, without limitation the Note.

4. Miscellaneous.

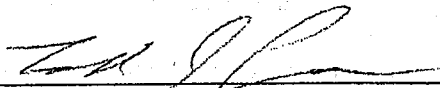
- (a) Borrower hereby warrants and represents that as of the date of this Agreement, there are no defaults under the Deed of Trust and/or the Assignment and the Borrower has no defenses, counterclaims or offsets to the payment or performance of any of its obligations under the Deed of Trust, the Assignment or the other Loan Documents.
- (b) Except as specifically modified hereby, all of the terms and conditions of the Deed of Trust, the Assignment and the Loan Documents, shall remain unmodified and in full force and effect, and the Borrower hereby ratifies and affirms its obligations, covenants, representations and warranties contained therein, except to the extent expressly modified hereby. The Borrower agrees to be bound by the terms and conditions of the Deed of Trust and Assignment and the Loan Documents, as modified by this Modification Agreement.
- (c) The rights and duties of the parties under this Agreement shall be governed by the laws of the State of California.
- (d) This Agreement shall be binding upon the Borrower and the Lender, and each of their respective successors and assigns.
- (e) This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall be deemed one and the same document.

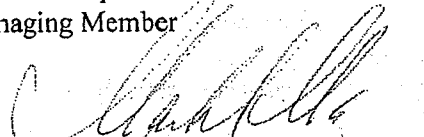
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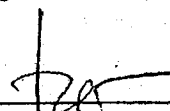
Executed as a sealed instrument as of the day and date first above written.

BORROWER:

ROTUNDA PARTNERS II, LLC,
a California limited liability company

By: 
Leonard I. Epstein
Managing Member

By: 
Mark A. Moss
Managing Member

By: 
Phillip A. Tagami
Managing Member

[ACKNOWLEDGMENTS FOLLOW ON NEXT PAGE]

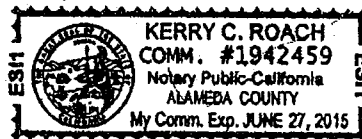
STATE OF CALIFORNIA)
) ss.
COUNTY OF Alameda)

On June 25, 2012, before me, Kerry C. Roach, a Notary Public in and for the State of California, personally appeared Leonard I. Epstein, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the within instrument in his/her authorized capacity and that by his/her signature on the within instrument, the person or entity upon behalf of which he/she acted executed the within instrument.

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

WITNESS my hand and official seal.

Signature [Signature] (Seal)



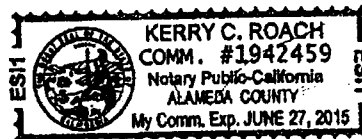
STATE OF CALIFORNIA)
) ss.
COUNTY OF Alameda)

On June 25, 2012, before me, Kerry C. Roach, a Notary Public in and for the State of California, personally appeared Mark A. Moss, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the within instrument in his/her authorized capacity and that by his/her signature on the within instrument, the person or entity upon behalf of which he/she acted executed the within instrument.

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

WITNESS my hand and official seal.

Signature [Signature] (Seal)



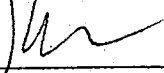
[ACKNOWLEDGMENTS CONTINUE ON NEXT PAGE]

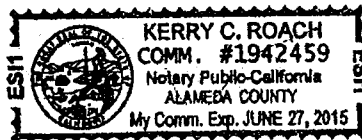
STATE OF CALIFORNIA)
) ss.
COUNTY OF Alameda)

On June 25, 2012, before me, Kerry C. Roach, a Notary Public in and for the State of California, personally appeared Phillip A. Tagami, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the within instrument in his/her authorized capacity and that by his/her signature on the within instrument, the person or entity upon behalf of which he/she acted executed the within instrument.

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

WITNESS my hand and official seal.

Signature  (Seal)



[Signatures continue on next page]

LENDER:

NATIONWIDE LIFE INSURANCE
COMPANY, an Ohio corporation

OH
CO

By: 

Name:

TODD A. HARROP

Title:

INVESTMENT LEADER

REAL ESTATE INVESTMENTS

AUTHORIZED SIGNATORY

STATE OF OHIO)

) ss.

COUNTY OF FRANKLIN)

On June 20, 2012, before me, Debra L. Horvath, a Notary Public in and for the State of California, personally appeared Todd A. Harrop, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the within instrument in his/her authorized capacity and that by his/her signature on the within instrument, the person or entity upon behalf of which he/she acted executed the within instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
WITNESS my hand and official seal.

Signature Debra L. Horvath (Seal)



DEBRA L. HORVATH
NOTARY PUBLIC STATE OF OHIO
MY Commission EXPIRES
7/17/13

EXHIBIT "A"

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF OAKLAND, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel One:

Beginning at a point in the western line of Broadway, formerly Telegraph Avenue, distant thereon 100 feet southerly from the southern line of 16th Street; running thence southerly along the western line of Broadway 130 feet; thence north $78^{\circ} 48'$ west, 103.95 feet; thence south $75^{\circ} 36'$ west, 102.44 feet to the eastern line of San Pablo Avenue; thence northerly along said eastern line of San Pablo Avenue, 130 feet; thence north $75^{\circ} 33'$ east, 90 feet; thence north $14^{\circ} 24'$ west, 5.72 feet; thence north $11^{\circ} 11'$ east, 112.89 feet to the southern line of 16th Street; thence along the southern line of 16th Street, south $78^{\circ} 48'$ east, 74 feet; thence south $11^{\circ} 12'$ west, 100 feet; thence south $78^{\circ} 48'$ east, 100 feet to the point of beginning.

Parcel Two:

Beginning at a point on the western line of Broadway, formerly Telegraph Avenue, distant thereon 230 feet southerly from the point of intersection thereof with the southern line of 16th Street; thence south $11^{\circ} 12'$ west along said western line of Broadway, 20 feet; thence north $78^{\circ} 48'$ west, 99.41 feet; thence south $75^{\circ} 36'$ west, 97.90 feet to a point on the eastern line of San Pablo Avenue, distant thereon 315.00 feet southerly from the point of intersection thereof with the southern line of 16th Street; thence north $14^{\circ} 24'$ west along said line of San Pablo Avenue, 20 feet; thence north $75^{\circ} 36'$ east, 102.44 feet; thence south $78^{\circ} 48'$ east, 103.95 feet to the point of beginning.

Excepting therefrom, the interest taken by the City of Oakland in the Condemnation Proceedings and in the Superior Court of the State of California, in and for the County of Alameda, entitled City of Oakland, vs. San Pablo Co., et al., Case #74496, a certified copy of Final Judgment was recorded September 23, 1924, in Book 803, Official Records at Page 245, being an interest in a parcel of uniform width of 18 feet extending from the west line of Broadway to the eastern line of San Pablo Avenue.

Parcel Three:

Beginning at the point of intersection of the western line of Telegraph Avenue with the southern line of 16th Street; running thence southerly along said line of Telegraph Avenue, 100 feet; thence at right angles westerly 100 feet; thence at right angles northerly 100 feet to the southern line of 16th street; and thence easterly along said last named line 100 feet to the point of beginning.

Being Lots 1, 2, 3 and 4 in Block "A", as said Lots and Block are shown on the "Map of Survey made for G. C. Potter, March 28, 1877, by T. J. Arnold, C.E.", etc., filed April 23, 1877, in the Office of the County Recorder of Alameda County, Map Book 2, Page 14.

APN: 008-0619-004-01

**RECORDING REQUESTED BY
CHICAGO TITLE COMPANY**

Recorded at Request of:

When Recorded Mail to:

Kroll, McNamara, Evans & Delehanly LLP
65 Memorial Road, Suite 300
West Hartford, CT 06107
Attention: Adam F. Zweifler, Esq.

SECOND AMENDED AND RESTATED SUBORDINATION AGREEMENT

THIS SECOND AMENDED AND RESTATED SUBORDINATION AGREEMENT (this "Agreement") is made as of the ____ day of June, 2012 by and among **NATIONWIDE LIFE INSURANCE COMPANY**, an Ohio corporation ("**Senior Lender**") and **THE CITY OF OAKLAND**, a municipal corporation ("**Subordinate Lender**") and **ROTUNDA PARTNERS II, LLC** a California limited liability company ("**Borrower**").

RECITALS

WHEREAS, Senior Lender made a loan to Borrower in the original principal amount of \$20,000,000.00 (the "**Loan**"). The Loan is evidenced by a Note dated May 8, 2002 (the "**Original Note**") as amended by a Modification of Note (the "**Note Modification**") dated on or about December 22, 2005 and by a Second Modification of Note dated on or about the date hereof in the principal amount of \$20,000,000.00 executed by Borrower in favor of Senior Lender (the Original Note as amended by the Note Modification and the Second Note Modification and as further amended and in effect from time to time, the "**Note**"). The Note is secured by a Deed of Trust, Security Agreement and Fixture Filing dated May 8, 2002 from Borrower, as trustor, for the benefit of Senior Lender, as beneficiary and recorded in the Official Records of Alameda County, California on May 8, 2002 as Document Number 2002205131 (the "**Original Deed of Trust**"), as amended by a Modification of Deed of Trust, Assignment of Leases and Security Agreement and Assignment of Leases Rents and Profits and Other Loan Documents dated December 22, 2005 (the "**First Modification Agreement**") and by a Second Modification of Deed of Trust, Assignment of Leases and Security Agreement and Assignment of Leases Rents and Profits and Other Loan Documents dated on or about the date hereof (the "**Second Modification Agreement**") (the Original Deed of Trust as amended by the First Modification Agreement, the Second Modification Agreement and as further amended and in effect from time to time, the "**Deed of Trust**") which Deed of Trust encumbers certain real property and the improvements thereon commonly known as the 300 Frank H. Ogawa Plaza, Oakland, California, as more particularly described in Exhibit A attached hereto (the "**Property**") and by an Assignment of Leases, Rents and Profits dated May 8, 2002 executed by

Borrower in favor of Senior Lender and recorded in the Official Records of Alameda County, California on May 8, 2002 as Document Number 2002205132 (the "**Original Assignment of Leases**") and amended by the First Modification Agreement and the Second Modification Agreement (the Original Assignment of Leases as amended by the First Modification Agreement, the Second Modification Agreement and as further amended and in effect from time to time, the "**Assignment of Leases**"). The Loan is evidenced, secured and guaranteed by certain other documents executed and delivered by Borrower and Leonard I. Epstein and Phillip H. Tagami in connection therewith (collectively with the Note, the Deed of Trust and the Assignment of Leases, and as modified by the Modification Agreement, the "**Senior Loan Documents**").

WHEREAS, Subordinate Lender's assignor, **THE REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND**, a public body, corporate and politic (the "**Redevelopment Agency**") made a loan to Borrower in the original principal amount of \$12,000,000.00 (the "**Subordinate Loan**"). The Subordinate Loan arises under or is evidenced by (i) a Promissory Note Secured by a Deed of Trust in the amount of \$12,000,000.00 from Borrower to Subordinate Lender dated October 20, 1999 (the "**Junior Note**"); (ii) a Deed of Trust with Assignment of Rents as Additional Security and Fixture Filing (the "**Subordinate Deed of Trust**") and (iii) certain other documents evidencing, securing, guaranteeing or otherwise executed by Borrower and Leonard I. Epstein, Mark A. Moss and Phillip H. Tagami in connection with the Subordinate Lender Loans (collectively with the Junior Note, the "**Subordinate Loan Documents**"). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Senior Loan Documents.

WHEREAS, pursuant to a Loan Assignment and Assumption Agreement dated March 3, 2011 and Redevelopment Agency Resolution 2011-0026 C.M.S. dated March 3, 2011, the Redevelopment Agency assigned all of its right title and interest in and to the Subordinate Loan and the Subordinate Loan Documents to Subordinate Lender.

WHEREAS, Senior Lender and Subordinate Lender entered into a Subordination Agreement dated May 8, 2002 and recorded in the Official Records of Alameda County, California on May 8, 2002 as Document Number 2002205133 (the "**Original Subordination Agreement**"), and an Amended and Restated Subordination Agreement dated December 22, 2005 pursuant to which the Subordinate Loan Documents were subordinated to the Senior Loan Documents;

WHEREAS, Senior Lender and Borrower are amending the Senior Loan Documents and the parties wish to confirm the continued subordination of the Subordinate Loan Documents to the Senior Loan Documents as amended.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which hereby are acknowledged by each party hereto, the parties hereto hereby agree that:

1. **Amendment and Restatement.** This Agreement amends and restates the Original Subordination Agreement in its entirety and the Original Subordination Agreement is superseded in its entirety by this Agreement.

2. Subordination. The Subordinate Loan and each of the Subordinate Loan Documents is and shall be subsequent to and subordinate in right, lien and payment to the Loan, the Senior Loan Documents and any and all other documents evidencing and securing the Loan, the rights of the Senior Lender thereunder and all advances made and other expenses incurred under or as permitted in the Senior Loan Documents.

3. Right to Accept Payments After Default. The Subordinate Lender, upon written notice from the Senior Lender of Borrower's failure to pay amounts due under the Loan, shall not accept any payments from the Borrower on account of the Subordinate Loan and shall immediately deliver to the Senior Lender those payments received by the Subordinate Lender after receipt of the written notice from the Senior Lender.

4. Subordinate Lender's Right to Accept Advance Payments. Subordinate Lender shall not, without the prior consent of Senior Lender, accept any payment from Borrower with respect to the Subordinate Loan more than thirty (30) days in advance of its due date under the Subordinate Loan Documents.

5. Modification of Senior Loan. The Senior Lender, in its sole discretion, may take any action respecting the Borrower, the Loan or the collateral securing the Loan and the Subordinate Loan (the "Collateral") without affecting this Agreement and without notice to or the consent of the Subordinate Lender, including but not limited to the following: (a) modifying the terms of the Loan; (b) granting an extension or renewal of the Loan; (c) deferring payments or entering into a workout agreement of the Loan; (d) releasing or substituting collateral securing the Loan; (e) forbearing from collecting on existing collateral or requiring additional collateral; (f) declaring a default on the Loan and notifying the Subordinate Lender to stop accepting payments; and (g) agreeing to a release, compromise, or settlement of the Loan. Notwithstanding the foregoing, Senior Lender shall not make any of the following modifications to the Loan without the prior written consent of Subordinate Lender, which consent shall not be unreasonably withheld or delayed, (i) make additional advances under the Loan (except for protective advances permitted under the Senior Loan Documents), (ii) readvance amounts which Borrower has paid to Lender on account of the Loan, (iii) extend the Maturity Date of the Loan to date more than thirty (30) years from the funding of the Loan, or (iv) change the amortization schedule of the Loan to reduce the rate of amortization thereunder. The parties hereto acknowledge and agree that it shall not be unreasonable for Subordinate Lender to withhold its consent to a modification if such modification conflicts with Subordinate Lender's requirements for subordinating to refinancing or permanent financing of Borrower's construction financing set out in Section 3(e) of the Promissory Note Secured by Deed of Trust and Article 3 of Subordinated Deed Of Trust And Fixture Filing between Subordinate Lender and Borrower dated October 20, 1999.

6. Notice and Cure. Each Lender agrees to promptly send to the other Lender a copy of any notice of default or failure to perform sent to Borrower. If Borrower shall fail to perform any obligation of Borrower under the Senior Loan Documents, Senior Lender shall not exercise its remedies under the Senior Loan Documents as a result of such default unless and until written notice of such failure has been delivered to Subordinate Lender and, with (i) respect to a Monetary Default, fifteen (15) business days has lapsed following the delivery of such notice to

Subordinate Lender, or (ii) in the case of a Non-Monetary Default, thirty (30) days shall have elapsed following the delivery of such notice, unless such Non-Monetary Default cannot reasonably be cured within said thirty (30) day period, in which event Subordinate Lender shall have a reasonable period of time to complete such cure, provided that action to cure such Non-Monetary Default is commenced within said thirty (30) day period and Subordinate Lender is, in Senior Lender's reasonable judgment, not diminishing or impairing the value of the Property, and is continuously and diligently pursuing the cure of such Non-Monetary Default to completion, or (iii) in the case of an Incurable Default thirty (30) days shall have elapsed following the delivery of such notice to Subordinate Lender, unless within such thirty (30) day period Subordinate Lender commences foreclosure of the Subordinate Loan Documents and thereafter continuously and diligently pursues such foreclosure to completion (the periods described in (i) (ii) and (iii) of this Section 5 being referred to as the "Cure Period"). The Cure period shall not apply with respect to any default which is an Incurable Default under the Senior Loan Documents. With respect to any default which is both a Monetary Default and a Non-Monetary Default, this paragraph shall not operate to extend the Cure Period beyond the fifteen (15) business day period granted above with respect to Monetary Defaults.

7. Default Under Subordinate Loan Documents. Senior Lender shall not declare a default under the Senior Loan Documents solely on the basis of the occurrence of a default by Borrower under the Subordinate Loan Documents, provided however the foregoing shall not prevent Senior Lender from enforcing its rights under the Senior Loan Documents as a result of any default or failure to perform thereunder, subject only to Subordinate Lender's rights under Section 5 of this Agreement.

8. Transfer of Property to Subordinate Lender.

(a) Subordinate Lender may acquire title to the Collateral by foreclosure or deed-in-lieu of foreclosure (hereinafter a "Transfer") and such Transfer shall not constitute a default under the Senior Loan Documents, nor shall Senior Lender charge a fee in connection with such Transfer or require any change in the terms of the Loan, provided that the following conditions are satisfied: (i) at the time of the Transfer, there shall exist no uncured Monetary Default under the Senior Loan Documents beyond the expiration of the Cure Period permitted under Section 5 of this Agreement, (ii) upon completion of such transfer Subordinate Lender shall retain Control (as hereinafter defined) of the Collateral, (iii) Senior Lender shall have received prior notice of such Transfer, (iv) Subordinate Lender shall have assumed all obligations of Borrower under the Senior Loan Documents from and after the date of such Transfer, (v) Subordinate Lender shall deliver to Lender such additional documentation as Lender may reasonably request, consistent with Lender's customary practices in connection with loan assumption, including, without limitation, UCC-1 Financing Statements, a legal opinion of Subordinate Lender's legal counsel and an update to Lender's policy of title insurance, and (vi) Subordinate Lender shall have paid all fees and expenses incurred by Lender in connection with such transfer, including, without limitation, title insurance charges and Reasonable Attorneys Fees. Any required prior notice hereunder shall be given by Borrower in writing at least thirty (10) days prior to the date of the proposed Transfer. As used herein, the term "Control" means the possession of the direct or indirect legal power to direct the management and policies of the entity in question.

(b) Following Subordinate Lender's acquisition of the Collateral, and as long as no default, or event which, with notice or the passage of time or both, could result in a default exists under the Note or any of the other Senior Loan Documents, Senior Lender shall permit one (1) bona fide arm's length transfer of the Property to another borrowing entity without a change in the terms of the Loan; provided, however, that no such transfer shall be valid or permitted hereunder unless: (i) Lender receives prior written notice of such proposed transfer; (ii) such proposed transferee (the "New Borrower") and the person or entity who will have personal liability under any indemnities delivered to Lender in connection with the Loan (the "New Responsible Party") have been approved in writing by Lender in its sole good faith discretion (taking into consideration such factors as the New Borrower's and New Responsible Party's creditworthiness, business experience, financial condition and managerial capabilities); (iii) Subordinate Lender pays all fees and expenses incurred by Lender in connection with such transfer and assumption, including, without limitation, inspection and investigation fees, title insurance charges, and Reasonable Attorneys' Fees; (v) the proposed New Borrower and the New Responsible Party assume in writing all obligations of Borrower and the original indemnitors and guarantors under the Note, the Deed of Trust and the other Senior Loan Documents, with the same degree of liability as Borrower and the original indemnitors; and (vi) Lender approves the management agreement and the management company to be employed by the proposed New Borrower. Any transfer of all or any portion of the Property which does not strictly comply with the terms and conditions of the foregoing shall be a default under the Senior Loan Documents. This one-time right of transfer shall apply to the Subordinate Lender and not to any subsequent owner of the Collateral.

9. No Third Party Beneficiaries. All undertakings, agreements, representations and warranties contained in this Agreement are solely for the benefit of the Senior Lender and Subordinate Lender and there are no other parties (including, without limitation, the Borrower or any guarantor), who are intended to be benefited in any way by this Agreement.

10. Insurance Proceeds and Condemnation Awards.

(a) Notwithstanding that both the Senior Lender and the Subordinate Lender may be named as loss payee on certain insurance policies covering the Collateral, in the event of any casualty loss, damage or destruction with respect to such Collateral or the payment of any condemnation award with respect to a taking by eminent domain of any portion of the Collateral, the parties hereto agree that the rights of Subordinate Lender in and to any such proceeds and awards shall be subsequent and subordinate to the rights of Senior Lender with respect thereto.

(b) Notwithstanding that both the Senior Lender and the Subordinate Lender may be named as loss payee on certain insurance policies covering the Collateral, in the event of any casualty loss, damage or destruction with respect to such Collateral, the parties hereto agree as follows:

(i) Senior Lender shall have the exclusive right to adjust, compromise or settle any such loss, damage or destruction and any claim relating thereto with the insurance carrier(s) for such policies and to collect and receive the proceeds from such insurance carrier(s) without the participation of Subordinate Lender, provided, however,

if the loss is in excess of \$120,000.00 Subordinate Lender shall have the right to participate jointly with Senior Lender to adjust, compromise or settle any such loss, damage or destruction and any claim relating thereto with the insurance carrier(s).

(ii) So long as the Loan or any portion thereof remains outstanding, all insurance proceeds received from any insurance carrier(s) with respect to a casualty affecting the Collateral shall be paid to and held by Senior Lender.

(iii) Senior Lender agrees that all insurance proceeds received by Senior Lender with respect to the Collateral shall be applied to repayment of the Loan or disbursed to Borrower to reconstruct the Collateral in accordance with the terms of the Senior Loan Documents. In the event such proceeds are applied to repay the Loan, Senior Lender shall deliver to Subordinate Lender any excess proceeds remaining after repayment of the Loan in full to be disbursed by Subordinate Lender in accordance with the terms of the Subordinate Loan Documents.

(c) Notwithstanding that both the Senior Lender and the Subordinate Lender may have a compensable interest in the Collateral with respect to a condemnation award (an "Award") with respect to a taking by eminent domain of any portion of the Collateral, the parties hereto agree as follows:

(i) The Senior Lender shall have the exclusive right to settle, compromise or appeal, and collect and receive any such Awards, provided, however, in the event that the proceeds of such Award are reasonably anticipated to be in excess of \$120,000.00 Subordinate Lender shall have the right to jointly participate with Senior Lender in adjusting and negotiating such Award.

(ii) So long as the Loan or any portion thereof remains outstanding, all Awards paid with respect to the taking of the Collateral or any portion thereof shall be paid to and held by Senior Lender.

(iii) Senior Lender agrees that all Awards received by Senior Lender with respect to the Collateral shall be applied to repayment of the Loan or disbursed to Borrower to reconstruct the Collateral in accordance with the terms of the Senior Loan Documents. In the event such proceeds are applied to repay the Loan, Senior Lender shall deliver to Subordinate Lender any excess proceeds remaining after repayment of the Loan in full to be disbursed by Subordinate Lender in accordance with the terms of the Subordinate Loan Documents.

11. Subordinate Lender Estoppel. Within fifteen (15) business days after request by the Senior Lender, the Subordinate Lender shall furnish the Senior Lender with a statement, duly acknowledged and certified, setting forth the original principal amount of the Subordinate Loan, the unpaid principal balance thereof, all accrued and unpaid interest and any other sums due and owing thereunder, the rate of interest, the monthly payments and whether there exist any defaults under the Subordinate Loan Documents.

12. Bankruptcy.

(a) In any case commenced by or against the Borrower or a member of Borrower under Chapter 11 of the Bankruptcy Code or any similar provision thereof or any similar federal or state statute (a "Reorganization Proceeding"), if the fair market value of the Collateral, as determined by Senior Lender in its reasonable discretion, is not greater than one hundred fifteen percent (115%) of the outstanding principal balance of the Loan, the Senior Lender shall have the exclusive right to exercise any voting rights in respect of the Senior Loan Documents and the Subordinate Loan Documents, and the Subordinate Lender shall have the exclusive right to exercise any voting rights in respect of its claims against the Borrower or the member of the Borrower, except that without the consent of the Senior Lender, the Subordinate Lender shall not have the right to vote affirmatively in favor of any plan of reorganization unless the Senior Lender grants its permission thereto or the Senior Lender votes to accept such plan. If the fair market value of the Collateral, as determined by Senior Lender in its reasonable discretion, is greater than one hundred one hundred fifteen percent (115%) of the outstanding principal balance of the Loan, then Subordinate Lender shall retain the right to exercise its voting rights in respect of the Subordinate Loan Documents and its claims against the Borrower and such votes shall not require the approval of the Senior Lender, unless any such vote would be for approval of a plan of reorganization that would impair the Loan or result in a change in the terms of repayment of the Loan from the terms set forth in the Senior Loan Documents.

(b) In any Reorganization Proceeding with respect to the Borrower or any member of the Borrower, the Subordinate Lender shall file a proof of claim in respect of its claims against the Borrower or any member of the Borrower and shall send to the Senior Lender a copy thereof together with evidence of the filing with the appropriate court or other authority. If objection is made to the allowance of any claim of the Subordinate Lender, the Senior Lender shall have the right to fully participate in such proceedings.

(c) To the extent any payment under the Senior Loan Documents (whether by or on behalf of the Borrower, as proceeds of security or enforcement of any right of setoff or otherwise) is declared to be fraudulent or preferential, set aside or required to be paid to a trustee, receiver or other similar party under any bankruptcy, insolvency, receivership or similar law, then if such payment is recovered by, or paid over to, such trustee, receiver or other similar party, the Loan or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding as if such payment had not occurred.

13. Representations, Warranties and Agreements. The Senior Lender and the Subordinate Lender hereby respectively represent and warrant that each: (a) is duly authorized to enter into this Agreement; and (b) upon the execution and delivery of this Agreement, this Agreement shall be its legal obligation, enforceable against each of them in accordance with its terms.

14. Termination. This Agreement is a continuing agreement, and, unless the Senior Lender has consented in writing to its earlier termination, this Agreement shall remain in full force and effect in all respects until the earlier of (a) such time as the Loan has been fully, finally and indefeasibly paid in cash, and all of the financing arrangements and commitments between

the Borrower and the Senior Lender have been terminated, and the Senior Lender has released or terminated its lien on and security interest in its collateral, or (b) such time as the Subordinate Loan has been fully paid and the Subordinate Lender has released or terminated its lien on and security interest in its collateral so long as the Subordinate Lender has not accepted any unscheduled payments or prepayments of any portion of the Subordinate Loan without the prior written consent of the Senior Lender.

15. Construction. Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, the singular includes the plural, the part includes the whole, "including" is not limiting, and "or" has the inclusive meaning represented by the phrase "and/or". The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Section references are to this Agreement unless otherwise specified.

16. Modifications in Writing. No amendment, modification, supplement, termination, consent, or waiver of or to any provision of this Agreement nor any consent to any departure therefrom shall in any event be effective unless the same shall be in writing and signed by or on behalf of both the Senior Lender and the Subordinate Lender. Any waiver of any provision of this Agreement, or any consent to any departure from the terms of any provisions of this Agreement, shall be effective only in the specific instance and for the specific purpose for which given.

17. Waivers: Failure or Delay. No failure or delay on the part of the Senior Lender or the Subordinate Lender in the exercise of any power, right, remedy, or privilege under this Agreement shall impair such power, right, remedy, or privilege or shall operate as a waiver thereof; nor shall any single or partial exercise of any such power, right, or privilege preclude any other or further exercise of any other power, right, or privilege. The waiver of any such right, power, remedy, or privilege with respect to particular facts and circumstances shall not be deemed to be a waiver with respect to other facts and circumstances.

18. Notices and Communications. All notices hereunder shall be deemed to have been duly given if mailed by United States registered or certified mail, with return receipt requested, postage prepaid, to the parties at the following addresses (or at such other addresses as shall be given in writing by any party to the others), and shall be deemed complete upon any such mailing:

If to Subordinate Lender: City of Oakland
250 Frank Ogawa Plaza, Second Floor
Oakland, California 94612
Attention: Office of Neighborhood Investment

with a copy to: Oakland City Attorney
c/o Oakland City Attorney's office
One Frank Ogawa Plaza, Sixth Floor
Oakland, California 94612

If to Borrower: Rotunda Partners II, LLC
300 Frank H. Ogawa Plaza - Suite 340
Oakland, California 94612
Attention: Mark A. Moss

If to Senior Lender: Nationwide Life Insurance Company
One Nationwide Plaza, Fifth Floor
Columbus, Ohio 43215
Attention: Real Estate Investments

19. Headings. Section headings used in this Agreement are for convenience of reference only and shall not constitute a part of this Agreement for any purpose or affect the construction of this Agreement.

20. Conflict. In the event of any conflict between the provisions of this Agreement and the provisions of the Subordinate Lender Loan Documents, the provision of this Agreement shall prevail.

21. Execution in Counterparts; Reproduction. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, taken together, shall constitute but one and the same Agreement. This Agreement shall become effective upon the execution and delivery of a counterpart hereof by each of the parties hereto.

22. Severability of Provisions. Any provision of this Agreement which is illegal, invalid, prohibited, or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such illegality, invalidity, prohibition, or unenforceability without invalidating or impairing the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

23. Complete Agreement. This Agreement is intended by the parties as a final expression of their agreement and is intended as a complete statement of the terms and conditions of their agreement. This Agreement shall not be modified except in a writing signed by the party to be charged, and may not be modified by conduct or oral agreements.

24. Successors and Assigns. This Agreement is binding upon and inures to the benefit of the successors and assigns of the Subordinate Lender and the Senior Lender. The Subordinate Lender and the Senior Lender each expressly reserves its right to transfer or assign its claims, in whole or in part, together with its rights hereunder, provided that, prior to transferring or assigning any interest in its indebtedness to any person or entity, the Senior Lender and the Subordinate Lender shall disclose to such person or entity the existence and contents of this Agreement, and shall provide to such person or entity a complete and legible copy hereof. No assignment by the Subordinate Lender of the Subordinate Lender Loans shall be effective unless and until the Subordinate Lender has delivered to the Senior Lender written

notice thereof together with an assignment and assumption by the assignee of the Subordinate Lender's obligations hereunder, in form and content reasonably satisfactory to the Senior Lender.

25. Attorneys' Fees and Disbursements. In the event of any dispute concerning the meaning or interpretation of this Agreement that results in litigation, or in the event of any litigation by a party to enforce the provisions hereof, the prevailing party shall be entitled to recover from the nonprevailing party its reasonable attorneys' fees and disbursements, and any actual court costs incurred.

26. Governing Law. This Agreement will be construed in accordance with and governed by the law of the State of California.

WAIVER OF JURY TRIAL. SENIOR LENDER AND THE SUBORDINATE LENDER EACH HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (A) ARISING UNDER THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR (B) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES WITH RESPECT TO THIS AGREEMENT OR ANY OTHER INSTRUMENT, DOCUMENTS OR AGREEMENT EXECUTED OR DELIVERED BY THEM IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE AND SENIOR LENDER AND THE SUBORDINATE LENDER, EACH HEREBY AGREES AND CONSENTS THAT ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT JURY, AND THAT AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION MAY BE FILED WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT BY EACH PARTY HERETO TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

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IN WITNESS WHEREOF, the undersigned have entered into this Subordination Agreement as of the date first set forth above, intending to be legally bound hereby.

SENIOR LENDER:

NATIONWIDE LIFE INSURANCE
COMPANY, an Ohio corporation

By: 

Name:

TODD A. HARROP

Title:

INVESTMENT LEADER
REAL ESTATE INVESTMENTS
AUTHORIZED SIGNATORY

STATE OF OHIO)

) ss.

COUNTY OF FRANKLIN)

On June 20, 2012, before me, Debra L. Horvath, a Notary Public in and for the State of California, personally appeared Todd A. Harrop, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the within instrument in his/her authorized capacity and that by his/her signature on the within instrument, the person or entity upon behalf of which he/she acted executed the within instrument.

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

WITNESS my hand and official seal.

Signature

Debra L. Horvath

(Seal)



DEBRA L. HORVATH
NOTARY PUBLIC, STATE OF OHIO
MY COMMISSION EXPIRES
7/17/13

[SIGNATURES CONTINUE ON NEXT PAGE]

SUBORDINATE LENDER:

CITY OF OAKLAND,
a municipal corporation

By: *Scott P. Johnson*
Name: SCOTT P. JOHNSON
Title: ASSISTANT CITY ADMINISTRATOR

APPROVED AS TO FORM AND LEGALITY

[Signature]
CITY ATTORNEY

STATE OF CALIFORNIA)
)
COUNTY OF ALAMEDA) ss.

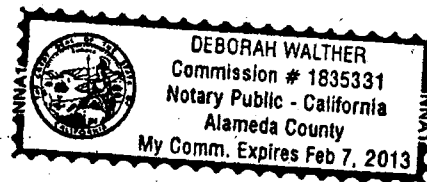
On June 25, 2012, before me, Deborah Walther, a Notary Public in and for the State of California, personally appeared Scott P. Johnson who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the within instrument in his/her authorized capacity and that by his/her signature on the within instrument, the person or entity upon behalf of which he/she acted executed the within instrument.

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

WITNESS my hand and official seal.

Signature

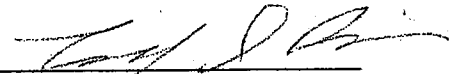
Deborah Walther (Seal)

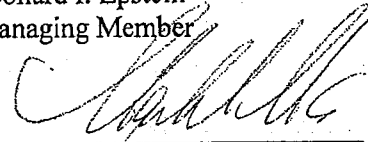


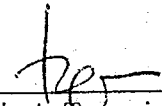
[SIGNATURES CONTINUE ON NEXT PAGE]

BORROWER:

ROTUNDA PARTNERS II, LLC,
a California limited liability company

By: 
Leonard I. Epstein
Managing Member

By: 
Mark A. Moss
Managing Member

By: 
Phillip A. Fagami
Managing Member

[ACKNOWLEDGMENTS FOLLOW ON NEXT PAGE]

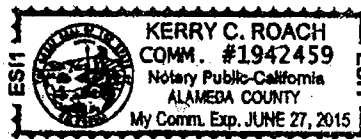
STATE OF CALIFORNIA)
) ss.
COUNTY OF Alameda)

On June 25, 2012, before me, Kerry C. Roach, a Notary Public in and for the State of California, personally appeared Leonard I. Epstein, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the within instrument in his/her authorized capacity and that by his/her signature on the within instrument, the person or entity upon behalf of which he/she acted executed the within instrument.

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

WITNESS my hand and official seal.

Signature [Signature] (Seal)



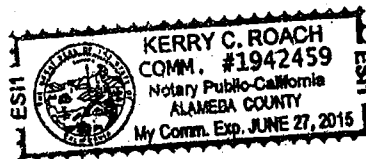
STATE OF CALIFORNIA)
) ss.
COUNTY OF Alameda)

On June 25, 2012, before me, Kerry C. Roach, a Notary Public in and for the State of California, personally appeared Mark A. Moss, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the within instrument in his/her authorized capacity and that by his/her signature on the within instrument, the person or entity upon behalf of which he/she acted executed the within instrument.

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

WITNESS my hand and official seal.

Signature [Signature] (Seal)



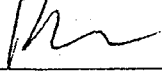
[ACKNOWLEDGMENTS CONTINUE ON NEXT PAGE]

STATE OF CALIFORNIA)
) ss.
COUNTY OF Alameda)

On June 25, 2012, before me, Kerry C. Roach, a Notary Public in and for the State of California, personally appeared **Philip A. Tagami**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the within instrument in his/her authorized capacity and that by his/her signature on the within instrument, the person or entity upon behalf of which he/she acted executed the within instrument.

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

WITNESS my hand and official seal.

Signature  (Seal)

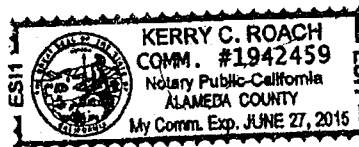


Exhibit "A"

Legal Description

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF OAKLAND,
COUNTY OF ALAMEDA, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

Parcel One:

Beginning at a point in the western line of Broadway, formerly Telegraph Avenue, distant thereon 100 feet southerly from the southern line of 16th Street; running thence southerly along the western line of Broadway 130 feet; thence north $78^{\circ} 48'$ west, 103.95 feet; thence south $75^{\circ} 36'$ west, 102.44 feet to the eastern line of San Pablo Avenue; thence northerly along said eastern line of San Pablo Avenue, 130 feet; thence north $75^{\circ} 33'$ east, 90 feet; thence north $14^{\circ} 24'$ west, 5.72 feet; thence north $11^{\circ} 11'$ east, 112.89 feet to the southern line of 16th Street; thence along the southern line of 16th Street, south $78^{\circ} 48'$ east, 74 feet; thence south $11^{\circ} 12'$ west, 100 feet; thence south $78^{\circ} 48'$ east, 100 feet to the point of beginning.

Parcel Two:

Beginning at a point on the western line of Broadway, formerly Telegraph Avenue, distant thereon 230 feet southerly from the point of intersection thereof with the southern line of 16th Street; thence south $11^{\circ} 12'$ west along said western line of Broadway, 20 feet; thence north $78^{\circ} 48'$ west, 99.41 feet; thence south $75^{\circ} 36'$ west, 97.90 feet to a point on the eastern line of San Pablo Avenue, distant thereon 315.00 feet southerly from the point of intersection thereof with the southern line of 16th Street; thence north $14^{\circ} 24'$ west along said line of San Pablo Avenue, 20 feet; thence north $75^{\circ} 36'$ east, 102.44 feet; thence south $78^{\circ} 48'$ east, 103.95 feet to the point of beginning.

Excepting therefrom, the interest taken by the City of Oakland in the Condemnation Proceedings and in the Superior Court of the State of California, in and for the County of Alameda, entitled City of Oakland, vs. San Pablo Co., et al., Case #74496, a certified copy of Final Judgment was recorded September 23, 1924, in Book 803, Official Records at Page 245, being an interest in a parcel of uniform width of 18 feet extending from the west line of Broadway to the eastern line of San Pablo Avenue.

Parcel Three:

Beginning at the point of intersection of the western line of Telegraph Avenue with the southern line of 16th Street; running thence southerly along said line of Telegraph Avenue, 100 feet; thence at right angles westerly 100 feet; thence at right angles northerly 100 feet to the southern line of 16th street; and thence easterly along said last named line 100 feet to the point of beginning.

Being Lots 1, 2, 3 and 4 in Block "A", as said Lots and Block are shown on the "Map of Survey made for G. C. Potter, March 28, 1877, by T. J. Arnold, C.E.", etc., filed April 23, 1877, in the Office of the County Recorder of Alameda County, Map Book 2, Page 14.

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