

## SECOND AMENDMENT TO GROUND LEASE

THIS SECOND AMENDMENT TO GROUND LEASE ("Second Amendment") is entered into this 15<sup>th</sup> day of March, 2000, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE (hereinafter called "Landlord"), a public body, corporate and politic, established and operating pursuant to the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000, et seq.), and JAPANTOWN DEVELOPMENT, L.P. (hereinafter called "Tenant"), a California limited partnership.

### RECITALS

A. Landlord and Tenant entered into that certain Ground Lease dated as of August 3, 1997 (the "Original Ground Lease") and that certain First Amendment to Ground Lease dated as of August 13, 1997 (the "First Amendment"). (The Original Ground Lease and the First Amendment shall be hereinafter referred to collectively as the "Lease".) (Unless otherwise indicated, all capitalized terms used in this Second Amendment shall have the same meaning as those set forth in the Lease.)

B. Concurrently herewith the parties have entered into that certain Third Amendment to the DDA in order to provide that the Landlord shall advance to the Tenant for Project costs the "Agency Unused Remediation Funds" (as defined in the Third Amendment to the DDA) and to provide that such Agency Unused Remediation Funds shall increase Landlord's Improvement Assistance to the Project and shall be repaid to Landlord in the same manner as the parties have provided for repayment of Landlord's Improvement Assistance.

C. The parties desire to amend the Lease to reflect the increase in Landlord's Improvement Assistance and to provide for the repayment to Landlord of such funds.

### AGREEMENT

NOW, THEREFORE, Landlord and Tenant agree as follows:

1. Section 207.1 of the Lease is hereby deleted in its entirety and the following is substituted therefor:

"2. [\$207.1] Participation Rent.

Subject to Section 207.2a. below, Tenant covenants and agrees to pay for each calendar year beginning on

the Commencement Date, in the manner and at the time provided herein, as Participation Rent to Landlord, without notice, demand, abatement, deduction or offsets, the following sums:

a. One hundred percent (100%) of Distributable Cash Flow (as hereinafter defined), up to an amount equal to a three and five-tenths percent (3.5%) return on the then outstanding balance of the Landlord's Improvement Assistance (as hereinafter defined);

b. After payment of those sums described in Subsection a. above, fifty percent (50%) of the remaining Distributable Cash Flow, until such time as Landlord's Improvement Assistance has been repaid to Landlord in full; all payments to Landlord from time to time pursuant to this Subsection b. shall reduce the outstanding balance of Landlord's Improvement Assistance; and

c. After payment in full of those sums described in Subsections a. and b. above and throughout the remaining term of this Lease, thirty percent (30%) of the Distributable Cash Flow.

d. For purposes of this Lease, "Improvement Assistance" means the sum of (1) One Million Five Hundred Fifty-Seven Thousand Seventy-Five and No/100 Dollars (\$1,557,075.00), being the amount of funding paid by Landlord to Tenant under that certain Third Amended and Restated Pre-Development Agreement and Exclusive Negotiations Agreement dated August 22, 1996 (the "Pre-Development Agreement"); and (2) Three Hundred Fifty Thousand Dollars (\$350,000.00), being the amount of demolition funding paid by Landlord to Tenant for the demolition of structures and other improvements on the Property in preparation for the construction of the Project pursuant to the DDA; and (3) up to Three Hundred Forty-Six Thousand Eight Hundred Nine Dollars (\$346,809.00), being the amount funded by Landlord pursuant to the DDA for the construction of the Community Center; and (4) up to Six Hundred Seventy-Seven Thousand Three Hundred Twenty-Nine Dollars (\$677,329.00), being the amount funded by Landlord pursuant to the DDA for the foundations, excavations and platforms in preparation for construction of the Project; and (5) up to Three Hundred Seventy-Two Thousand Dollars (\$372,000.00), being the amount funded by Landlord pursuant to the DDA for construction of off-site improvements; and (6) up to One Million Two Hundred Fifty-Five Thousand Six Hundred Twenty Dollars (\$1,255,620.00), being the

amount funded by Landlord pursuant to the DDA for construction of retail shells; and (7) up to Two Million Nine Hundred Eighty Thousand Two Hundred Eighty-Five Dollars (\$2,980,285), being the amount funded by Landlord pursuant to the DDA for construction of the Affordable Rental Units; and (8) the amount of Agency Unused Remediation Funds advanced to Tenant by Landlord pursuant to the Third Amendment to the DDA for Project costs; and (9) including with regard to all sums described in clauses (1) through (8) inclusive, accrued and compounded interest thereon at the interest rate of two percent (2%) per year, compounded annually, and commencing to accrue in each case on the date when such sums were disbursed by Landlord, except that interest shall not begin to accrue with regard to the sums described in clauses (1) and (2) until the date of the first disbursement by Landlord of any sums described in clauses (3), (4), (5), (6), (7) and (8) inclusive."

2. In the event of a conflict between the terms and provisions of this Second Amendment and the terms and provisions of the Lease, the terms and provisions of this Second Amendment shall control. In all other respects, the Lease shall remain unchanged and in full force and effect.

3. This Second Amendment may be signed in counterparts, all copies of which, when taken together, shall comprise one fully-executed document.

4. The effective date of this Second Amendment is the date of final execution of this Second Amendment by both parties hereto, as first hereinabove set forth.

IN WITNESS WHEREOF, Landlord and Tenant have executed this  
Second Amendment as of the date first hereinabove written.

LANDLORD:

REDEVELOPMENT AGENCY  
OF THE CITY OF SAN JOSE

APPROVED AS TO FORM:

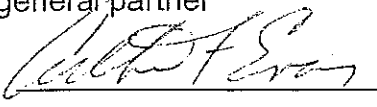
  
\_\_\_\_\_  
Chief Deputy General Counsel

  
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Susan F. Shick  
Executive Director

TENANT:

JAPANTOWN DEVELOPMENT, L.P.,  
a California limited partnership

By A.F. Evans Company, Inc.,  
a California corporation,  
its general partner

By:   
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