

SECURED PROMISSORY NOTE

_____, 2015

Manhattan Beach, California

1. BORROWER'S PROMISE TO PAY; INITIAL COSTS; DISBURSEMENT

Nadine Nader Kayali and Cuneyt Kayali (collectively, "Borrower") hereby promise to pay Two Million Three Hundred Thousand Dollars (\$2,300,000) or so much thereof as may be disbursed under the terms hereof (the "Principal"), to the order of the CITY OF MANHATTAN BEACH, a municipal corporation ("City") or order; provided, however, that as described in Section 7 below, recourse of the holder of this Secured Promissory Note ("Note Holder") for the obligations of Borrower is limited to the property securing this Secured Promissory Note (the "Note"). The loan evidenced by this Note is hereinafter referred to as the "Loan".

The obligations under this Note are secured by a Deed of Trust and Fixture Filing executed by Borrower and City, as trustor, in favor of Lender, as beneficiary (the "Deed of Trust") dated substantially concurrently herewith encumbering the property more particularly described in said Deed of Trust (the "Home") to be purchased with proceeds of the loan evidenced by this Note. Borrower hereby covenants to occupy the Home as Borrower's principal residence.

Borrower agrees to pay or reimburse City, from the proceeds of the Loan for costs incurred by City for an appraisal of the Home and lender's title insurance for the Deed of Trust (in the amount of \$2,300,000). City shall disburse loan proceeds for such purposes to itself (not through escrow) upon the closing of the purchase of the Home.

City shall disburse the entire principal amount of the Loan into the escrow for the purchase of the Home for application to (i) Borrower's closing costs in connection with Borrower's purchase of the Home (as shown by reasonable evidence delivered to City); (ii) the purchase price for the Home upon closing and (iii) reimbursement of Borrower for any down payment (or "deposit") made by Borrower that is applied to the purchase price of the Home. If requested in writing by Borrower, up to \$345,000 of the Loan shall be held by City (but interest shall accrue thereon from the closing date for the purchase of the Home) and shall be disbursed in increments from time to time after closing to the Borrower after written request of Borrower from time to time (but not more often than twice each calendar month) to pay costs incurred by Borrower within one (1) year after the date of this Note (the "Improvement Deadline") for improvements (excluding a pool) to the Home that comply with all applicable laws, including any improvements necessary to make the Home comply with applicable building code requirements. Borrower shall deliver to City reasonable evidence of the costs paid together with any request for disbursement of any of such funds.

Any portion of such improvement funds remaining undisbursed as of the Improvement Deadline shall be applied to the outstanding principal under this Note, and the monthly payments under Section 2 shall be adjusted based on the new outstanding principal balance.

2. INTEREST RATE

Outstanding principal shall bear interest at the annual rate of .82% for the first calendar year after the date of this Note, and upon each anniversary of the date of this Note, shall be adjusted to the Local Agency Investment Fund Quarterly Apportionment Rate published for the September prior to the adjustment plus .5%. Upon the failure to pay upon the Maturity Date (defined in Section 3A below) or occurrence of an Event of Default (as defined in Section 5B below), the interest rate shall increase by six percent (6%). BORROWER SHOULD CONSULT WITH THEIR TAX ADVISOR(S) REGARDING ANY TAX EFFECTS ON BORROWER OF THE INTEREST RATE.

3. MATURITY DATE; PAYMENTS

A. Maturity Date.

All principal and accrued interest shall become due and payable on the earlier of: (i) Borrower's failure to occupy the Home as their primary residence; or (ii) the date that is one (1) calendar year after the date of this Note, as may be extended by the City Manager in writing by one (1) year at a time for up to a total of two (2) additional calendar years ("Maturity Date"). Notwithstanding the foregoing, if Nadine Kayali's employment by the City concludes for any reason within six (6) months prior to the then-current term described in the preceding clause (ii) (as it may have been extended under said clause), then the Maturity Date shall be extended to the date that is six (6) calendar months after such conclusion of employment.

B. Payments.

1) Monthly payments shall be made in arrears on the last business day of each calendar month.

2) Monthly payments shall be based on an amortization schedule of thirty (30) years such that payments will be in an amount sufficient to fully amortize principal and pay all interest over thirty (30) years in equal monthly amounts assuming the entire principal was disbursed on the date of this Note. The payment amount during the first year shall be \$7,209.08. Upon a change in the interest rate, the monthly payment shall be appropriately adjusted, and City shall notify Borrower of the new payment amount.

3) Each payment will be applied to principal and interest. Payments by Borrower will be made to the City at Manhattan Beach City Hall.

4. BORROWER'S RIGHT TO PREPAY

Payments of all or any portion of the Principal may be made at any time before they are due (a "Prepayment") without additional charge. Borrower will notify the Note Holder in writing of any Prepayment, but may not designate a payment as a Prepayment if any payments then due under this Note are past due.

The Note Holder will use Prepayments to reduce the amount of Principal owed under this Note, and Borrower may elect in writing at the time a Prepayment is made to re-

amortize the Loan over the then-remaining term of this Note. Unless Borrower makes such election, there will be no changes in the due date or in the amount of the monthly payment (unless the Note Holder expressly agrees in writing to such changes).

5. BORROWER'S FAILURE TO PAY AS REQUIRED

A. Late Charge for Overdue Payments.

Subject to Note Holder's compliance with California Civil Code Section 2954.5, as amended or restated from time to time, if the Note Holder has not received the full amount of any payment due under Section 3(B)(ii) within ten (10) calendar days after the date it is due, the Note Holder may require the Borrower or City (as applicable) to pay a late charge to the Note Holder. The amount of the charge will be three percent (3%) of the overdue payment of principal and interest, and the late charge must be paid within ten (10) days after written demand.

B. Events of Default.

If there is a failure to comply with the Note or the deed of trust securing this Note, and such default is not cured within ten (10) days after written notice from City (an "Event of Default"), then City may demand that Borrower pay all outstanding principal and accrued interest. Failure to pay accrued interest and outstanding principal on the Maturity Date shall also be an Event of Default. Upon the occurrence of an Event of Default, City may exercise its rights and remedies at law and in equity, including, without limitation, nonjudicial foreclosure.

C. No Waiver By Note Holder.

Even if, at a time when there is an Event of Default, Note Holder does not require payment immediately in full as described above, Note Holder will still have the right to require a full payment at a later time.

D. Payment of Note Holder's Costs and Expenses.

If Note Holder has required payment immediately in full as described above, Note Holder will have the right to be paid by Borrower for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law (*i.e.*, Borrower shall be responsible for collection costs with respect to collection from Borrower). Those expenses include, for example, attorneys' fees actually incurred by the City in connection with enforcing this Note.

6. GIVING OF NOTICES

All notices, requests, demands and other communication given or required to be given hereunder shall be in writing and personally delivered, sent by first class certified mail, postage prepaid, return receipt requested, or sent overnight by a nationally recognized courier service such as Federal Express, addressed to the parties as follows:

To City: City Clerk
 City of Manhattan Beach

1400 Highland Avenue
Manhattan Beach, California 90266

To Borrower: At the most recent address for Nadine Kayali on file in her personnel file held by City's Human Resources Department

Delivery of any notice or other communication hereunder shall be deemed made on the date of actual delivery thereof to the address of the addressee, if personally delivered, and on the date indicated in the return receipt or courier's records as the date of delivery or as the date of first attempted delivery, if sent by certified mail or courier service. Any party may change its address for purposes of this Section by giving notice to the other party as herein provided.

7. SECURED NONRECOURSE LOAN

Notwithstanding anything to the contrary in this Note, the Deed of Trust or any other document relating to the Loan, Note Holder's recourse for repayment of the sums owed under this Note or under the Deed of Trust or any other document relating to the Loan shall be limited to the collateral described in the Deed of Trust and in no event shall the Note Holder seek or obtain a deficiency judgment against the Borrower.

8. WAIVERS

Borrower and any other person who has obligations under this Note hereby waive the rights of "presentment" and "notice of dishonor". "Presentment" means the right to require Note Holder to demand payment of amounts due. "Notice of dishonor" means the right to require Note Holder to give notice to other persons that amounts due have not been paid.

Nadine Nader Kayali

Cuneyt Kayali

CITY OF MANHATTAN BEACH

By: _____
Mark Danaj,
City Manager

APPROVED AS TO FORM:

Quinn M. Barrow,
City Attorney

