



**CITY OF HENDERSON
REDEVELOPMENT AGENCY ADVISORY COMMISSION
AGENDA**

**Regular Meeting
Tuesday, September 27, 2011
4:00 p.m.**

**City Hall Annex Conference Room
280 Water Street
Henderson, Nevada 89015**

Notice to persons with special needs: For those requiring special assistance or accommodation at the meeting, please contact 702-267-1515 or the Relay Nevada TTY telephone 7-1-1 at least 72 hours in advance of the meeting.

The Chairman reserves the right to hear agenda items out of order, combine two or more agenda items for consideration, remove an item from the agenda, or delay discussion relating to an item on the agenda at any time. All items are action items unless otherwise noted.

Individuals speaking on an item will be limited to three (3) minutes and spokespersons for a group will be limited to ten (10) minutes.

Electronic agendas can be found at: [HTTP://WWW.CITYOFHENDERSON.COM/](http://www.cityofhenderson.com/)

I. CALL TO ORDER

II. CONFIRMATION OF POSTING AND ROLL CALL

III. ACCEPTANCE OF AGENDA (For Possible Action)

IV. PUBLIC COMMENT

Note: Items discussed under Public Comment cannot be acted upon at this meeting, but may be referred to a future agenda for consideration (NRS 241.020). Individuals speaking on an item will be limited to three (3) minutes and spokespersons for a group will be limited to ten (10) minutes.

V. NEW BUSINESS

1.	MINUTES—CITY OF HENDERSON REDEVELOPMENT AGENCY ADVISORY COMMISSION MEETING OF AUGUST 23, 2011 (For Possible Action)
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Recommend approval of the minutes of the City of Henderson Redevelopment Agency Advisory Commission meeting of August 23, 2011.

2.	ESTABLISHMENT OF AN EMERGENCY BUSINESS ASSISTANCE LOAN PROGRAM(For Possible Action)
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Recommend ratification of the establishment of an Emergency Business Assistance Loan Program with a Program balance of \$50,000.

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3.	RLK INVESTMENTS, LLC LOAN EXTENSION FOR ONE ADDITIONAL YEAR AND REDUCE INTEREST TO THREE PERCENT (3%) (For Possible Action)
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Recommend approval of the loan extension for one additional year to RLK Investments, LLC and reduce the interest rate beginning October 6, 2011 to three percent (3%).

4.	OWNER PARTICIPATION AGREEMENT FOR 27, 31, AND 73 S. WATER STREET—TOWNHOUSE MOTOR LODGE (For Possible Action)
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Recommend approval of the Owner Participation Agreement for 27, 31, and 73 S. Water Street, Townhouse Motor Lodge.

5.	FINANCIAL MANAGEMENT POLICIES (For Possible Action)
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Recommend adoption of Redevelopment Financial Management Policies for: Legislative Issues and Redevelopment Financial Assistance Due Diligence.

6.	PROJECTS UPDATE
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Discuss project updates for the following projects and accept report. Cornerstone Redevelopment Area: Shortfall Note; HOF Financial Properties; Diamond Cornerstone; Ladera Parcels; Loretto Bay. Downtown Redevelopment Area: 323 Water Street; Business Recruitment Marketing Team; City Tower (Southeast corner of Lake Mead Parkway and Water Street); Create Comprehensive Development and Business Recruitment Incentive Packages; Downtown Arts & Culture; Downtown Power Need; Emergency Assistance Loan; Former Parkline Site; Increase Curb Appeal; Targeted Façade Improvement; Lake Mead Crossing; Marketing the Water Street District Team; Marketing To Developers, Business Owners & Consumers; Outreach; Phase III Improvements; Pinnacle Building; Residential Development Team; Social Gathering Space Team; Shurtleff Building (38 S. Water Street); Site A; The Meridian (155 S. Water Street); Townhouse Motor Lodge; Urban Lounge; Water Street District Business Association; Façade Improvement Program. Eastside Redevelopment Area: Bifurcation; Business; Landwell/Cadence; Museum Site-95/Galleria; Wells Park; Façade Improvement Program; Sign Grant Program. Tuscany: OPA; Semi-Annual Payment. Lakemoor Canyon. Administration/All Areas: Bonds; Business License Counts; Homeowner Assistance Program; NDC.

VI. PUBLIC COMMENT

Note: Items discussed under Public Comment cannot be acted upon at this meeting, but may be referred to a future agenda for consideration (NRS 241.020). Individuals speaking on an item will be limited to three (3) minutes and spokespersons for a group will be limited to ten (10) minutes.

VII. DIRECTOR'S/CHAIRMAN'S BUSINESS

VII. SET NEXT MEETING

- October 25, 2011 at 4:00 p.m.

VIII. ADJOURNMENT

Agenda posted prior to 9:00 a.m. on September 21, 2011 at the following locations:

City Hall Annex, 280 Water Street
City Hall, 240 Water Street, 1st Floor Lobbies (2)
Multigenerational Center, 250 S. Green Valley Parkway
Whitney Ranch Recreational Center, 1575 Galleria Drive
Fire Station No. 86, 96 Via Antincendio



RAC

REDEVELOPMENT AGENCY ADVISORY COMMISSION AGENDA ITEM

REGULAR MEETING

SEPTEMBER 27, 2011

RAC-001

SUBJECT	Minutes—City of Henderson Redevelopment Agency Advisory Commission Meeting of August 23, 2011.
PETITIONER	Economic Development/Redevelopment Division of the City Manager's Office
RECOMMENDATION	Recommend Approval

FISCAL IMPACT:

No Impact

Budget funds available

Augmentation required

BACKGROUND / DISCUSSION / ALTERNATIVES:

RECOMMENDED MOTION:

I move to approve the minutes of the City of Henderson Redevelopment Agency Advisory Commission meeting of August 23, 2011.

Supporting Documentation:

Minutes consisting of five (5) pages

**CITY OF HENDERSON REDEVELOPMENT AGENCY
ADVISORY COMMISSION
MINUTES
August 23, 2011**

I. CALL TO ORDER

Chairman Stan Southwick called the Redevelopment Advisory Commission to order at 4:02 p.m. in the Council Chambers Conference Room, City Hall, 240 Water Street, Henderson, Nevada.

II. CONFIRMATION OF POSTING AND ROLL CALL

MaryAnne Cruzado, Recording Secretary, confirmed the meeting had been noticed in accordance with the Open Meeting Law by posting the Agenda three working days prior to the meeting at City Hall, Henderson Convention Center, Green Valley Police Substation, and Fire Station No. 86.

Present: Chairman Stan Southwick
Tom Fay
Tom Foster
Mark McGinty
Richard Serfas
Laura Jane Spina

Excused: David Chavez

Staff: Bob Cooper, Director of Redevelopment/Economic Dev.
MaryAnne Cruzado, Administrative Assistant III
Christine Guerci-Nyhus, Interim City Attorney
Michelle Romero, Redevelopment Manager
Lisa Sich, Special Projects Accountant
April Parra, Minutes Clerk

Guest: Scott Rudy, National Development Council
Gina Hyun, National Development Council

III. ACCEPTANCE OF AGENDA

(Motion) Mr. Foster introduced a motion to accept the agenda as presented. The vote favoring approval was unanimous. Chairman Southwick declared the motion carried.

IV. PUBLIC COMMENT:

There were no comments presented by the public.

V. NEW BUSINESS

1.	MINUTES FOR THE CITY OF HENDERSON REDEVELOPMENT AGENCY ADVISORY COMMISSION MEETING OF JULY 26, 2011 (For Possible Action)
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Recommend approval of the minutes of the City of Henderson Redevelopment Agency Advisory Commission meeting of July 26, 2011.

(Motion) Mr. McGinty introduced a motion to approve the minutes of July 26, 2011, as amended. The vote favoring approval was unanimous. Chairman Southwick declared the motion carried.

2.	NATIONAL DEVELOPMENT COUNCIL PRESENTATION AND REPORT
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Recommend acceptance of the National Development Council's report.

Scott Rudy, National Development Council, gave a presentation. Areas of discussion included: Background Information, Training Programs, and Services Provided.

Responding to Commissioner McGinty's inquiry regarding the review process, Mr. Rudy stated they will obtain business and personal financial statements and tax returns from prospects and will conduct a financial capacity analysis. He noted that site visits are very important to the process.

At the Commission's request, Mr. Rudy explained how the gap analysis takes place.

Responding to a question by Commissioner Foster regarding a follow-up procedure for projects that have not been successful, Mr. Rudy stated there is a step program in place to analyze what went wrong. He noted there is also a lender re-education program available that re-examines the lessons on cash-flow lending.

Commissioner Spina commented that she is concerned that there have only been thirteen visits in a three-year period. Mr. Rudy commented that they conduct visits once a month and have several meetings, both initial and follow-up, during those visits. He noted that the City of Henderson does the outreach and sets up the meetings as it is the City's decision as to which companies they work with.

(Motion) Mr. McGinty introduced a motion recommending acceptance of the National Development Council's report. The vote favoring approval was unanimous. Chairman Southwick declared the motion carried.

3.	FY2011 CARRYOVER OF UNSPENT FUNDS
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Recommend approval of the carryover of unspent 2011 funds to Fiscal Year 2012.

Chairman Southwick and Commissioner Foster abstained from voting on this item due to being under contract with the City of Henderson.

Lisa Sich, Special Projects Accountant, gave a brief presentation on the proposed item and stated staff recommends approval.

There were no questions from the Commission.

(Motion) Ms. Spina introduced a motion recommending approval of the carryover of unspent 2011 funds to Fiscal Year 2012. The vote favoring approval was: Those voting aye: Fay, McGinty, Serfas, and Spina. Those voting nay: None. Those absent: Chavez. Those abstaining: Foster and Southwick. Acting-Chairman Fay declared the motion carried.

4.	FINANCIAL MANAGEMENT POLICIES (For Possible Action)
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Recommend adoption of Redevelopment Financial Management Policies for: Current Funding Basis, Avoidance of Operating Deficit, Periodic Program Review, Purchasing, Interlocal Cooperation in Service Delivery, Statewide Activities, and Signature Authority.

Ms. Sich gave a brief presentation on the proposed item and stated staff recommends approval.

There were no questions from the Commission.

(Motion) Mr. Fay introduced a motion to recommend adoption of Redevelopment Financial Management Policies for: Current Funding Basis, Avoidance of Operating Deficit, Periodic Program Review, Purchasing, Interlocal Cooperation in Service Delivery, Statewide Activities, and Signature Authority. The vote favoring approval was unanimous. Chairman Southwick declared the motion carried.

5.	HOMEOWNER'S ASSISTANCE PROGRAM LOAN MODIFICATION – DANETTER STUDEBAKER
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Recommend approval of Ms. Studebaker's Homeowners' Assistance Loan modification of \$32,461.70 for sixty-seven months reducing her monthly payments to \$300.00.

Ms. Sich gave a presentation on the proposed item and stated staff recommends approval of the loan modification.

Responding to a question by Chairman Southwick regarding the current condition of the property, Ms. Sich said she has not seen the property.

Christine Guerci-Nyhus, Interim City Attorney, stated that the majority of the funds have been used for an interior remodel.

Ms. Sich noted additional areas of improvement.

Responding to Commissioner Foster's question regarding the conditions of the loan repayment prior to the adjustment, Ms. Sich stated that due to an error by the City, her loan was never set up with AMG.

(Motion) Mr. McGinty introduced a motion to recommend approval of Ms. Studebaker's Homeowners' Assistance Loan modification of \$32,461.70 for sixty-seven months reducing her monthly payments to \$300. The vote favoring approval was: Those voting aye: Fay, Foster, McGinty, Serfas, and Southwick. Those voting nay: Spina. Those absent: Chavez. Those abstaining: None. Chairman Southwick declared the motion carried.

7.	PROJECTS UPDATE
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Discuss project updates and accept the report.

Ms. Sich reviewed a memorandum regarding the status of projects as of August 9, 2011.

(Motion) Ms. Spina introduced a motion to accept the report. The vote favoring approval was unanimous. Chairman Southwick declared the motion carried.

V. PUBLIC COMMENT

There were no comments presented by the public.

VI. DIRECTOR'S/CHAIRMAN'S BUSINESS

Ms. Sich noted that financials will be available at the September meeting.

Michelle Romero, Redevelopment Manager, noted that another joint workshop will soon be scheduled.

VII. SET NEXT MEETING

The next meeting was scheduled for September 27, 2011 at 4:00 p.m.

VIII. ADJOURNMENT

There being no further business to be discussed, the meeting was adjourned at 5:09 p.m.

Respectfully submitted,

April Parra,
Minutes Clerk



RAC

REDEVELOPMENT AGENCY ADVISORY COMMISSION AGENDA ITEM

REGULAR MEETING

SEPTEMBER 27, 2011

RAC-002

SUBJECT	Establishment of an Emergency Business Assistance Loan Program
PETITIONER	Economic Development/Redevelopment Division of the City Manager's Office
RECOMMENDATION	Recommend Ratification

FISCAL IMPACT:

No Impact

Budget funds available

Augmentation required

CMTS Number(s): NA

Funding Source, Amount, and Account Number(s) to be charged:

2092-1001-601436-H0100

Program Costs

\$ 50,000

BACKGROUND / DISCUSSION / ALTERNATIVES:

Improvements to Water Street from the north side of Pacific Avenue to Lake Mead Parkway, referred to as Phase III improvements, commenced July 5, 2011 and are scheduled to be completed by September 16, 2011. Improvements to the right-of-way include the removal of existing sidewalk, landscaping, curb, gutter and asphalt and replacement with widened decorative sidewalks, landscape beds, turn-out lanes and traffic lanes. Construction commenced on the east side of Water Street and upon completion of the east side improvements, will change to the west side of Water Street. This strategy to work on one side at a time, while extending the length of the construction time, has ensured that two-way traffic would be possible on Water Street throughout the construction process. In order to reduce the impact on businesses in the affected area, for the most part construction has taken place at night. During the construction process, Redevelopment and Public Works staff have worked with the contractor, Capriati Construction, to ensure access to the businesses during business hours. There was, however, a period from July 25 through July 29 when access to the businesses on the east side of the street was completely cut off while new sidewalks were being poured and to allow cure time. In addition, when the intersection of Water Street and Victory Road was replaced, access to the rear parking lot was impeded, but not completely cut off.

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RECOMMENDED MOTION:

I move to recommend ratification of the establishment of an Emergency Business Assistance Loan Program with a Program balance of \$50,000.
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The week of August 1, 2011, Redevelopment Agency staff was contacted by several business owners with an inquiry to the availability of funding to assist the businesses that have been affected negatively by the construction. Specifically, the business owners stated that construction/blocked or impeded access to their place of business has resulted in the loss of revenue and is jeopardizing the ability of these businesses to remain open. In response to this inquiry, staff immediately started to review budgets to see if money could be pulled from other programs to provide emergency funds in the form of a loan in an effort to avoid the closure of businesses.

Sensitive to the immediacy of the problem, staff offered the program to qualified business owners, beginning August 17, 2011. The elements of the Program are identified in the attached Program Guidelines.

Supporting Documentation:

Emergency Business Assistance Program Guidelines consisting of one (1) page

Emergency Business Assistance Program Guidelines

1. Applications for the Program must be submitted to the Redevelopment Agency between August 17 and September 7, 2011. Information required from each applicant includes a statement with the following information:

During the period July 1-August 15 2010, income for the business was _____.
During the period July 1-August 15 2011, income for the business was _____.
Because of construction, revenues are down _____%.

The application includes a signature section with legal verbiage stating that the applicant is attesting that the statements made in the form are true and accurate.

Backup information required is monthly financials for June, July and August of 2010 and June, July, and August of 2011.

2. The business must be located within the boundary of the Water Street Phase III Improvement Area.
3. Loans are for a maximum of \$5,000 for each business and have a 24 – 48 month term with 0% interest and no pre-payment penalty.
4. The total Program budget is \$50,000 and monies are awarded based on a first come first serve basis.
5. Applicants are required to sign a loan document and Promissory Note.



**REDEVELOPMENT AGENCY ADVISORY COMMISSION
AGENDA ITEM**

REGULAR MEETING

SEPTEMBER 27, 2011

RAC-003

SUBJECT	RLK Investments, LLC Loan Extension for One Additional Year and Reduce Interest to Three Percent (3%)
PETITIONER	Economic Development/Redevelopment Division of the City Manager's Office
RECOMMENDATION	Recommend Approval

FISCAL IMPACT:

No Impact
 Budget funds available
 Augmentation required

BACKGROUND / DISCUSSION / ALTERNATIVES:

On June 21, 2005, the Redevelopment Agency Board approved a Disposition and Development Agreement with RLK Investments, LLC (RLK), to build a 20,000 square foot, three-story building at 155 Water Street. Through the Disposition and Development Agreement (DDA), the Agency facilitated development of the project through a market-rate loan subordinate to mortgage and bank financing in an amount not to exceed \$775,000. The loan amount includes the land purchase at the appraised value, with the remaining balance of the \$775,000 to go toward construction. The original term of the loan was five years, with payment deferred until the loan is completely liquidated through refinancing within the five years, with no pre-payment penalty. The original maturity date of the loan was October 5, 2010. Upon maturity, including interest at 5.74%, the amount due was \$945,472.33.

On July 6, 2010, staff received a letter from RLK requesting: 1) a five-year extension of the loan with the option to pay off the loan earlier, if possible, and 2) the Agency consider discounting the interest or providing some other relief in order to lower the capitalization rate for the current market.

Because of RLK's success working with their primary lender, Sun West Bank, to restructure their first deed of trust to lower debt service payments in line with market rents for the building, and the fact that Sun West reported all payments were current, on October 19, 2010, the RDA Board approved a one-year extension of the loan to October 5, 2011.

On August 30, 2011, staff received a request from RLK for one additional year extension while they work through these tough economic times and that the interest rate be reduced to zero.

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RECOMMENDED MOTION:

I move to recommend approval of the loan extension for one additional year to RLK Investments, LLC and reduce the interest rate beginning October 6, 2011 to three percent (3%).
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RLK continues to contact the lender that took over their first deed of trust, City National; however, discussions thus far have not been successful. Property taxes for the building for the tax year 2012 are \$48,815 (a reduction of \$33,152 from last tax year). As of August 29, 2011, taxes are past due by \$2,498.

The NDC has reviewed the situation and recommends a one-year extension and while a zero interest rate does make some market sense, is recommending interest be reduced to three percent (3%) as a better alternative for the Agency.

Staff is recommending that the loan be extended one additional year, maturing on October 5, 2012 and interest be reduced to three percent (3%) as of October 6, 2011, with all other terms remaining. Upon written request by RLK, the loan status may be reviewed annually for consideration of future extensions.

Supporting Documentation:

Letter dated August 30, 2011 from RLK, Investments LLC consisting of one (1) page
Current and proposed amortization schedules consisting of two (2) pages



Investments, LLC

City Of Henderson Redevelopment

August 30, 2011

240 Water Street

Henderson, NV 89009

Dear Lisa

In regards to the loan agreement with RLK Investments LLC and the City of Henderson Redevelopment. We are proposing the following for the next fiscal Year dated October 2011 till October 2012. We would like to request an extension of our loan for one (1) full year. At the same time we would ask that no more interest accrue on the loan. And that it is placed in suspense for the remainder of the term.

Due to these tough economic times we are struggling with tenant occupancy and struggling with collection of rents. We have been negotiating with the Bank in order to provide us with an interest only term till we can lease the property 100% with current lease rates.

We are diligently working with all tenants and new ones to keep them in place. The closing of the City on Fridays has tremendously impacted the foot traffic on Water Street and the atmosphere surrounding Water Street District.

RLK Investments remains optimistic as to the future of Downtown Henderson and strives always to be an asset to the community.

We look forward to the City's approval of our proposal.

Koko Darakjian

Managing Member

RLK Investments LLC

2010 Haren Drive Henderson, Nevada 89011-4330

(702) 558-4430 * Fax (702) 558-8461

Meridian
 155 S. Water Street
 Henderson, NV 89015
 Original Rate: 5.74%
 Term: 5 Years
 1st Payment Due: Deferred to Maturity
 Principal and interest are deferred until 10/05/10

Payment/ Reduction #	Date	Rate	Loan Amt	P&I Payment	Principal	Interest	Extra Prin	Payment Date	Forgiven/ Grant Amount	Principal and Interest
	10/13/2005		260,000.00	-	-	-	-		-	260,000.00
	10/20/2005		12,975.00	-	-	-	-		-	272,975.00
	11/9/2005		21,650.40	-	-	-	-		-	294,625.40
	12/12/2005		27,504.87	-	-	-	-		-	322,130.27
	1/9/2006		49,047.05	-	-	-	-		-	371,177.32
	2/6/2006		61,610.00	-	-	-	-		-	432,787.32
	2/14/2006		47,924.87	-	-	-	-		-	480,712.19
	3/13/2006		78,434.00	-	-	-	-		-	559,146.19
	4/20/2006		56,014.40	-	-	-	-		-	615,160.59
	5/15/2006		87,465.40	-	-	-	-		-	702,625.99
	6/16/2006		35,057.00	-	-	-	-		-	737,682.99
	6/26/2006		13,763.52	-	-	-	-		-	751,446.51
	9/12/2006		23,553.49	-	-	-	-		-	775,000.00
	10/5/2006		775,000.00	-	-	-	-		-	775,000.00
	6/30/2006	5.74%		-	-	-	-		-	775,000.00
1	10/5/2006	5.74%		-	-	14,828.33	-		-	789,828.33
	6/30/2007	5.74%		-	-	29,656.67	-		-	819,485.00
2	10/5/2007	5.74%		-	-	14,828.33	-		-	834,313.33
	6/30/2008	5.74%		-	-	29,656.67	-		-	863,970.00
3	10/5/2008	5.74%		-	-	14,828.33	-		20,000.00	858,798.33
	6/30/2009	5.74%		-	-	28,891.33	-		-	887,689.67
4	10/5/2009	5.74%		-	-	14,445.67	-		-	902,135.33
	6/30/2010	5.74%		-	-	28,891.33	-		-	931,026.67
5	10/5/2010	5.74%		-	-	14,445.67	-		-	945,472.33
	6/30/2011	5.74%		-	-	14,445.67	-		-	959,918.00
6	10/5/2011	5.74%		-	-	14,445.67	-		-	974,363.67
		Totals	775,000.00	-	-	219,363.67	-		20,000.00	974,363.67

Meridian

155 S. Water Street

Henderson, NV 89015

Original Rate: 5.74%

Term: 5 Years

1st Payment Due: Deferred to Maturity

Principal and interest are deferred until 10/05/10

Payment/ Reduction #	Date	Rate	Loan Amt	P&J Payment	Principal	Interest	Extra Prin	Payment Date	Forgiven/ Grant Amount	Principal and Interest
	10/13/2005		260,000.00	-	-	-	-		-	260,000.00
	10/20/2005		12,975.00	-	-	-	-		-	272,975.00
	11/9/2005		21,650.40	-	-	-	-		-	294,625.40
	12/12/2005		27,504.87	-	-	-	-		-	322,130.27
	1/9/2006		49,047.05	-	-	-	-		-	371,177.32
	2/6/2006		61,610.00	-	-	-	-		-	432,787.32
	2/14/2006		47,924.87	-	-	-	-		-	480,712.19
	3/13/2006		78,434.00	-	-	-	-		-	559,146.19
	4/20/2006		56,014.40	-	-	-	-		-	615,160.59
	5/15/2006		87,465.40	-	-	-	-		-	702,625.99
	6/16/2006		35,057.00	-	-	-	-		-	737,682.99
	6/26/2006		13,763.52	-	-	-	-		-	751,446.51
	9/12/2006		23,553.49	-	-	-	-		-	775,000.00
	10/5/2006		775,000.00	-	-	-	-		-	775,000.00
	6/30/2006	5.74%		-	-	-	-		-	775,000.00
1	10/5/2006	5.74%		-	-	14,828.33	-		-	789,828.33
	6/30/2007	5.74%		-	-	29,656.67	-		-	819,485.00
2	10/5/2007	5.74%		-	-	14,828.33	-		-	834,313.33
	6/30/2008	5.74%		-	-	29,656.67	-		-	863,970.00
3	10/5/2008	5.74%		-	-	14,828.33	-		20,000.00	858,798.33
	6/30/2009	5.74%		-	-	28,891.33	-		-	887,689.67
4	10/5/2009	5.74%		-	-	14,445.67	-		-	902,135.33
	6/30/2010	5.74%		-	-	28,891.33	-		-	931,026.67
5	10/5/2010	3.00%		-	-	7,550.00	-		-	938,576.67
	6/30/2011	3.00%		-	-	7,550.00	-		-	946,126.67
6	10/5/2011	3.00%		-	-	7,550.00	-		-	953,676.67
	6/30/2012	3.00%		-	-	7,550.00	-		-	961,226.67
7	10/5/2012	3.00%		-	-	7,550.00	-		-	968,776.67
		Totals	775,000.00	-	-	213,776.67	-		20,000.00	968,776.67



RAC

REDEVELOPMENT AGENCY ADVISORY COMMISSION AGENDA ITEM

REGULAR MEETING

SEPTEMBER 27, 2011

RAC-004

SUBJECT	Owner Participation Agreement for 27, 31, and 73 S. Water Street— Townhouse Motor Lodge.
PETITIONER	Economic Development/Redevelopment Division of the City Manager's Office
RECOMMENDATION	Recommend Approval

FISCAL IMPACT:

No Impact

Budget funds available

Augmentation required

2092-1001-601436-H0084

\$93,940

BACKGROUND / DISCUSSION / ALTERNATIVES:

In July of 2011, the officers of Townhouse Motor Lodge Inc. (Townhouse) provided the plans for the renovation and rehabilitation of 27, 31, and 73 S. Water Street for re-use as a 21-room, boutique motel with other commercial uses.

Townhouse requested financial assistance in the amount of \$213,000 from the Redevelopment Agency for gap financing for construction improvements. Their request, along with the developer assistance packet, was submitted to the National Development Council (NDC) for review and recommendation.

After a review of the project to verify per NRS 279.486 that funds from no other sources were available, and considering the budget reductions as a result of lower assessed values within Clark County, staff is recommending that the Agency enter into an Owner Participation Agreement with Townhouse to provide a grant of \$93,940 upon the Certificate of Completion for the project.

Approval of this request will result in improvement and reactivation of a formerly blighted property, and will add approximately 12 new jobs to the Downtown Redevelopment Area.

RECOMMENDED MOTION:

I move to recommend approval of the Owner Participation Agreement for 27, 31, and 73 S. Water Street, Townhouse Motor Lodge.

Supporting Documentation:

- Letter of request consisting of one (1) page
- Owner Participation Agreement consisting of thirty (30) pages
- Grant Award Agreement consisting of four (4) pages

TOWNHOUSE MOTOR LODGE, INC.

43 S. Water Street Henderson, NV 89015 (702) 338-1760

To: Lisa Sich

Special Projects Accountant

City of Henderson - Economic and Redevelopment Division of the City Manager's Office

Re: Townhouse Motor Lodge grant proposal

Dear Lisa Sich,

On behalf of the Townhouse Motor Lodge, we would like staff to move forward with the recommendation of a grant in the amount of \$93,940.00.

Thank you for your assistance with our project.

Sincerely,



Richard Vincent

Director, Townhouse Motor Lodge, Inc.

cc: Luke Vincent

President, Townhouse Motor Lodge

OWNER PARTICIPATION AGREEMENT

by and between

HENDERSON REDEVELOPMENT AGENCY

and

THE TOWNHOUSE MOTOR LODGE, INC.

THIS OWNER PARTICIPATION AGREEMENT ("**Agreement**") dated the _____ of October, 2011 ("**Effective Date**") is entered into by and between the CITY OF HENDERSON REDEVELOPMENT AGENCY, a public body corporate and politic ("**Agency**") and THE TOWNHOUSE MOTOR LODGE, INC., a Nevada domestic corporation ("**Participant**"). Agency and Participant are hereinafter collectively referred to as the "**Parties.**" Capitalized terms used herein shall have the definitions set forth in Article I or as otherwise set forth herein.

RECITALS

A. The purpose of this Agreement is to effectuate the Redevelopment Plan for the Downtown Project Area (the "**Project Area**") by providing for the redevelopment of the Property. Completion of the Project and the Improvements pursuant to the terms and conditions hereof is in the best interests of the City of Henderson ("**City**") and Agency and the health, safety and welfare of the residents and the taxpayers of the Project Area and the City, and is in accord with the public purposes and provisions of applicable state and local laws.

B. A material inducement to Agency to enter into this Agreement is the agreement by Participant to develop the Property and the Improvements within the periods of time specified herein and in accordance with the provisions hereof, and the Agency would be unwilling to enter into this Agreement in the absence of an enforceable commitment by Participant to complete the Project and the Improvements in accordance with such provisions and within such time periods.

C. Construction of the Improvements and completion of the Project will assist in the elimination of blight in the Project Area, provide additional jobs, improve safety in the Project Area and substantially improve the economic and physical conditions in the Project Area in accordance with the purposes and goals of the Redevelopment Plan.

D. The Agency has determined that this Agreement fulfills the requirements of Nevada Redevelopment Law and the Agency's rules governing participation by property owners, and that this Agreement, including without limitation, the provisions hereof relating to construction of the Improvements and development of the Property are consistent with the provisions of the Redevelopment Plan and each of its applicable elements.

E. Participant is the owner in fee or has the contractual right to obtain fee ownership of the Property, which is located within the Project Area.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

ARTICLE I: DEFINITIONS.

Section 1. Definitions.

1.1 **“Agency”** means the Henderson Redevelopment Agency, a public body corporate and politic.

1.2 **“City”** means the City of Henderson, Nevada a municipal corporation.

1.3 **“Certificate of Completion”** is defined in Section 3.5 hereof.

1.4 **“Redevelopment Law”** means Nevada Revised Statutes, Chapter 279.

1.5 **“Conditions of Approval”** means those conditions of approval for the Project adopted by City.

1.6 **“Construction Plans”** is defined in Section 3.2 hereof.

1.7 Reserved.

1.8 **“Effective Date”** means the date first written above, which shall be the date upon which this Agreement is approved by the Agency.

1.9 **“Environmental Law”** means any federal, state or local statute, ordinance, rule, regulation, order, consent decree, judgment or common law doctrine, and provisions and conditions of permits, licenses and other operating authorizations regulating, or relating to or imposing liability or standards of conduct concerning (i) pollution or protection of the environment, including natural resources; (ii) exposure of persons, including employees and agents, to Hazardous Materials or other products, raw materials, chemicals or other substances; (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances or Hazardous Materials from industrial or commercial activities; or (iv) regulation of the manufacture, use or introduction into commerce of chemical substances, including without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal.

1.10 **“Hazardous Materials”** means any substance, material or waste which is or becomes regulated by any local, state, or federal authority, agency, or governmental body, including any material or substance which is: (1) defined as a “hazardous waste,” “hazardous material,” “hazardous substance,” “extremely hazardous waste,” “restricted hazardous waste,” “pollutant,” or any other terms comparable to the foregoing terms under any provision of Nevada law or federal law; (2) petroleum; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive materials; (6) determined by Nevada, federal or local governmental authority to be capable of posing a risk of injury to health, safety or property; (7) designated as “hazardous substances” pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317); (8) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901, *et seq.* (42 U.S.C. §6903); or (9) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601, *et seq.*, as the foregoing statutes and regulations now exist or may hereafter be amended.

1.11 Reserved.

1.12 **“Improvements”** means the renovation and rehabilitation of 27, 31, and 73 S. Water Street.

1.13 Reserved.

1.14 **“Participant”** means TOWNHOUSE MOTOR LODGE, Inc., a Nevada domestic corporation, and its successors and assigns as approved and permitted pursuant to Article V hereof. The term “Participant” as used herein shall not include City or Agency should either become Participant’s successor, assignee or transferee of the Property, the Project, or any portion thereof.

1.15 **“Project”** means the development of the Property and the design, development and installation of the Improvements as described in Section 2.2 hereof and the Conditions of Approval.

1.16 **“Property”** means the real property more particularly described in Exhibit A attached hereto.

1.17 **“Project Area”** means the Redevelopment Project Area established by the Redevelopment Plan.

1.18 Reserved.

1.19 **“Redevelopment Plan”** means the Redevelopment Plan for the Henderson Downtown Project Area adopted by the Agency and the City by

Ordinance No. 1618 on October 4, 1995, and as amended on January 5, 2004 by Ordinance No. 2243 and on January 3, 2006 by Ordinance No. 2426 and as the same may hereafter be amended from time to time.

1.20 **“Schedule of Development”** means the timing for the completion of construction of the Project as set forth in Section 2.4 and Exhibit B.

ARTICLE II: DEVELOPMENT OF THE PROPERTY

Section 2.1 The Property.

Participant hereby represents, warrants and covenants that it has fee title or the unconditional right and option to acquire the Property and that it is or shall become the fee owner of the Property within thirty (30) days following the Effective Date. If Participant does not become the fee owner of the entire Property within such time, Agency shall have the right to terminate this Agreement upon written notice to Participant.

Section 2.2 Scope of Development.

The Project consists of a two-story, 6,750 square foot blighted building on three parcels located at 27, 31, and 73 S. Water Street that will be improved as a 21-room boutique motel and for other commercial uses.

Section 2.3 Approval Process.

Participant acknowledges and agrees that execution of this Agreement by Agency does not constitute approval for the purpose of the issuance of building permits for the construction of the Project, does not limit in any manner the discretion of City in such approval process, and does not relieve Participant from the obligation to obtain all necessary approvals and permits for the construction of the Project, including without limitation, the approval of architectural plans, the issuance of any certificates regarding historic resources required in connection with the Project, and the issuance of building permits.

Participant shall be solely responsible for, and shall promptly pay when due, all customary and reasonable fees and charges of City in connection with obtaining building permits and other approvals for the Project, including without limitation, those related to the processing and consideration of amendments, if any, to the current entitlements, any related approvals and permits, architectural review, historic review, and any subsequent approvals for the Project or the development of the Property.

Participant covenants that it shall: (i) prior to issuance of building permits for the Project, obtain all necessary permits and approvals which may be required by Agency, City, or any other governmental agency having jurisdiction over the construction of the Project or the development of the Property, (ii) comply with all Conditions of Approval and other conditions which may be imposed by City in connection with the grant of permits or approvals for the Project, and (iii) not commence any construction of the Project prior to issuance of building permits.

Section 2.4 Time for Construction.

Within 90 days of receiving approval of the Construction Plans, Participant shall promptly begin construction of the Improvements and shall diligently prosecute to completion. Participant shall complete all Improvements necessary to receive its Certificate of Occupancy for the Project within eighteen (18) months of beginning construction, excluding time periods when the design, construction or development of the Improvements is unavoidably delayed by disruptions caused by labor disputes, acts of God, wars, fires, floods, epidemics, quarantine restrictions, freight embargoes, or other circumstances clearly beyond Participant's control; provided, however, that said date may be extended by Agency upon timely written request by Participant.

Section 2.5 Cost of Construction.

Except for the Agency's financial participation as defined herein, all costs of (i) site preparation, demolition, designing, rehabilitation, developing and constructing the Project, and (ii) compliance with the Conditions of Approval and any other requirements imposed in connection with any subsequent approvals for the development of the Project shall be borne solely by Participant and shall not be an obligation of the Agency or City.

Section 2.6 Reserved.

Section 2.7 Rights of Access.

In addition to those rights of access to and across the Property to which the Agency and City may be entitled by law, employees or agents of the Agency or City shall have the right of access to the Property without charge or fee, at anytime, to inspect the work being performed at the Property. The Agency or City shall give the Participant notice of its intent to so enter a reasonable period of time in advance of such entry (except in the case of an emergency, in which case notice shall not be required). In exercising its right of entry, the Agency shall use its best efforts to minimize interference with the operations or other activities of the Participant.

Section 2.8 Compliance with Laws.

Participant shall carry out the construction of the Project in conformity with all applicable local, state and federal laws and regulations, including all applicable local, state and federal occupational, safety, health and labor standards.

ARTICLE III: CONSTRUCTION OF PROJECT AND IMPROVEMENTS

Section 3.1 Construction Pursuant to Plans.

Unless modified by operation of Section 3.2, all construction of the Project and the Improvements shall be done in accordance with the Construction Plans, the Conditions of Approval, and any other plans or development approvals issued by the Agency or City with respect to the Project or the development of the Property.

Section 3.2 Construction Plans.

As used herein "**Construction Plans**" mean all construction documents upon which Participant shall rely in building the Project, including but not limited to those related to landscaping, parking, and public areas, and including final architectural drawings, landscaping, exterior lighting and signage plans and specifications, descriptions of materials to be used, final elevations, and building plans and specifications. The Construction Plans shall be based upon the plans or development approvals issued by the Agency or City with respect to the Project or the development of the Property, and shall not materially deviate therefrom without the express written consent of Agency and City.

Section 3.3 Change in Construction Plans.

If Participant desires to make any material change in the approved Construction Plans, Participant shall submit the proposed change in writing to the Agency and City for their written approval, which approval shall not be unreasonably withheld or delayed. If the Construction Plans, as modified by any proposed change, conform to the requirements of this Agreement and any plans or development approvals issued by Agency or City after the Effective Date, Agency and City, as applicable, shall approve the change by notifying Participant in writing. Unless such proposed change is approved by Agency or City within thirty (30) days, it shall be deemed rejected. If rejected, the previously approved Construction Plans shall continue to remain in full force and effect.

Any change in the Construction Plans required in order to comply with applicable codes shall be deemed approved, so long as such change does not substantially

nor materially change the architecture, design, function, use, or amenities of the Project as shown on the latest approved Construction Plans.

Section 3.4 Progress of Construction.

Participant shall commence the construction of the Project pursuant to the Schedule of Development. During construction of the Project, Participant shall submit to the Agency from time to time, within ten (10) days following the Agency's request there for, but not more frequently than monthly, a written report of the progress of the construction when and as requested by the Agency. The report shall be in such form and detail as to inform the Agency fully of the status of construction.

Until construction of the Project has been completed, Participant authorizes the Agency to have full access to all building inspection reports and other information at the City to assist the Agency in reviewing the actual progress of construction. Participant shall allow the Agency to review construction documents and records maintained by Participant in the ordinary course of the construction as may be reasonably requested by the Agency.

Section 3.5 Certificate of Completion for Project.

Promptly after completion of construction of the Project and the Improvements in accordance with the provisions of this Agreement and upon issuance of a Certificate of Occupancy by the City and written request of Participant, the Agency will provide an instrument ("**Certificate of Completion**") so certifying, provided that, at the time such certificate is issued, all components of the Project have been completed. Such Certificate of Completion shall be conclusive determination that Participant has satisfied its obligations regarding the development of the Property.

The Certificate of Completion shall be in such form as will enable it to be recorded among the official records of Clark County, Nevada, as attached hereto as Exhibit C. The Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligation of Participant to any holder of a deed of trust or mortgage securing money loaned to finance the Project or any part thereof and shall not be deemed a notice of completion under the Nevada Revised Statutes.

Section 3.6 Implementation of Mitigation Measures and Conditions of Approval.

In carrying out the construction of the Project, it shall be the sole responsibility of Participant to implement, at its sole cost and expense, all Conditions of Approval.

Participant acknowledges that additional conditions of approval or mitigation and monitoring measures may be imposed as part of subsequent project approvals by the Agency or City and agrees that such additional conditions of approval and/or mitigation and monitoring measures shall govern development of the Property and shall be implemented by Participant.

Section 3.7 Equal Opportunity.

During the construction of the Project, Participant shall not discriminate on the basis of race, color, religion, creed, sex, marital status, ancestry or national origin in the hiring, firing, promoting or demoting of any person engaged in the construction work and shall direct its contractors and subcontractors to refrain from discrimination on such basis.

Section 3.8 Prevailing Wage Requirements.

If applicable, Participant and its subcontractors and agents, shall comply with Nevada Revised Statutes Section 338.010 *et seq.* and regulations adopted pursuant thereto ("**Prevailing Wage Laws**") and shall be responsible for carrying out the requirements of such provisions.

Participant shall, and hereby agrees to, unconditionally indemnify, reimburse, defend, protect and hold harmless Agency, City and their respective elective and appointive boards, commissions, officers, agents, attorneys, consultants and employees, and their respective successors and assigns, from and against any and all claims, demands, suits and actions at law or in equity, and losses, liabilities, expenses, penalties, fines, orders, judgments, injunctive or other relief, and costs and damages of every kind, nature and description (including but not limited to attorneys' fees and court costs, with counsel reasonably acceptable to Agency and City), and administrative, enforcement or judicial proceedings, whether known or unknown, and which directly or indirectly, in whole or in part, are caused by, arise from, or relate to, or are alleged to be caused by, arise from, or relate to, the payment or requirement of payment of prevailing wages or the requirement of competitive bidding in the construction of the Project, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Agency, City or Participant related to this Agreement with respect to the payment or requirement of payment of prevailing wages or the requirement of competitive bidding, whether or not any insurance policies shall have been determined to be applicable to any such claims, demands, suits, actions, losses, liabilities, expenses, penalties, fines, orders, judgments, injunctive or other relief, costs, damages, or administrative, enforcement or judicial proceedings. It is further agreed that Agency and City do not, and shall not, waive any rights against Participant which they may have by

reason of this indemnity and hold harmless agreement because of the acceptance by Agency or City, or Participant's deposit with Agency of any of the insurance policies described in this Agreement.

ARTICLE IV: USE OF THE PROPERTY

Section 4.1 Uses.

Participant covenants and agrees that Participant shall comply with all provisions of the Redevelopment Plan and shall use the Property solely for purposes authorized in this Agreement, the Redevelopment Plan, the Master Plan and the Conditions of Approval. Participant shall comply with all mitigation measures set forth in the Conditions of Approval.

Section 4.2 Obligation to Refrain from Discrimination.

Participant shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, or any portion thereof, on the basis of race, color, religion, creed, sex, marital status, ancestry, or national origin of any person. Participant covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the conditions that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, religion, creed, sex, marital status, ancestry, or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the Property, or any portion thereof, nor shall Participant or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein transferred. The foregoing provisions shall run with the land, be binding upon any subcontracting parties, successors, assigns and other transferees under this Agreement and shall remain in effect in perpetuity.

All deeds, leases or contracts for the sale, lease, sublease, or other transfer of the Property, or any portion thereof made or entered into by Participant, its successors or assigns, shall contain therein the following language:

A. In Deeds:

"The grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through it, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, creed, sex, marital status, ancestry, or national origin in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property

herein conveyed, nor shall the grantee or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenants shall run with the land."

B. In Leases:

"The lessee herein covenants by and for itself and its successors and assigns, and all persons claiming under or through it, and this lease is made and accepted upon and subject to the conditions that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, religion, creed, sex, marital status, ancestry, or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein leased nor shall the lessee or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein leased."

C. In Contracts:

"The contractor herein covenants by and for itself and its successors and assigns, and all persons claiming under or through it, and this contract is made and accepted upon and subject to the conditions that there shall be no discrimination against or segregation of any person or of a group of persons on account of race, color, religion, creed, sex, marital status, ancestry, or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the property herein transferred nor shall the contractor or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the property herein transferred. The foregoing provisions shall be binding upon any subcontracting Parties, successors, assigns and other transferees under the contract."

Section 4.3 Effect and Duration of Covenants.

Except as may be otherwise provided in this Agreement, all of the terms, covenants, agreements or conditions set forth in this Agreement shall remain in effect until the termination of the Redevelopment Plan, except for the provisions of Sections 3.8, 4.2, 8.1, 10.1 which shall continue to remain effective notwithstanding the termination of this Agreement or the Redevelopment Plan.

ARTICLE V: CHANGES IN PARTICIPANT

Section 5.1 Changes Only Pursuant to this Agreement.

The qualifications, experience, financial capacity and expertise of Participant are of particular concern to the Agency. It is because of these qualifications, experience, financial capacity and expertise that the Agency has entered into this Agreement. No voluntary or involuntary successor, assignee or transferee of Participant shall acquire any rights or powers under this Agreement, except as expressly provided herein.

Section 5.2 Transfer by Participant.

Prior to the issuance by Agency of the Certificate of Completion, Participant shall not voluntarily or involuntarily make or attempt any total or partial sale, transfer, conveyance, assignment or lease ("**Transfer**") of the whole or any part of the Property, the Improvements, or this Agreement, without the prior written approval of Agency. This prohibition shall not be deemed to prevent the granting of temporary easements or permits to facilitate the development, conveyance or dedication of the Property.

After recordation of the Certificate of Completion for the Project, no restriction or covenant set forth in the Agreement shall affect or prohibit a Transfer except as provided in this Article V, and no Agency approval shall be needed for a Transfer of the Property or right under this Agreement, or any portions thereof. Notwithstanding anything set forth in this Section, Participant agrees that it shall comply with the Conditions of Approval and any applicable mitigation and monitoring measures in the operation of any business on the Property.

If Participant proposes a Transfer, the proposed transferee shall have the qualifications and financial resources necessary and adequate as may be reasonably determined by Agency to fulfill the obligations undertaken in this Agreement by Participant. Participant shall submit to Agency for review all instruments and other legal documents proposed to effect any such Transfer along with documentation demonstrating that the proposed successor, assignee or transferee has such qualifications and financial resources, including but not limited to financial statements of the proposed successor, assignee or transferee.

Approval of a Transfer by Agency must be in writing. No proposed successor, assignee or transferee shall become a Participant under this Agreement without such written approval by Agency. Unless a proposed Transfer is approved by Agency in writing within thirty (30) days of receipt of written request by Participant, it shall be deemed rejected. Agency retains final discretionary approval of each proposed Transfer; provided however, Agency shall not

unreasonably withhold approval of the Transfer if the proposed successor, assignee or transferee has the qualifications and financial resources necessary and adequate, as reasonably determined by Agency, to fulfill the terms, conditions, covenants and obligations undertaken in this Agreement by Participant with respect to the property proposed to be transferred.

All Agency costs, including but not limited to attorneys' fees, in reviewing instruments and other legal documents proposed to effect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee or transferee shall be reimbursed by Participant within ten (10) days following Agency's delivery to Participant of a detailed invoice for such costs.

Section 5.3 Transferee Subject to All Conditions of Agreement.

Any transferee of the Property, or portion thereof shall be subject to all of the Conditions of Approval and covenants and restrictions of this Agreement applicable to such property. Any such transfer shall be by instrument in writing satisfactory to Agency and in form recordable among the official records of Clark County, and any such transferee shall expressly assume all of the obligations of Participant under this Agreement and all related agreements pertaining to the property so transferred and shall agree to be subject to all of the conditions and restrictions to which Participant is subject.

Section 5.4 Exception to Prohibition Against Transfer.

Participant may at any time, without limitation, and without the necessity of approval from Agency, make a transfer of the Property or any part thereof, or interest therein, or rights and obligations under this Agreement, or portion thereof, to: (i) a subsidiary, affiliate, parent or other entity which controls, is controlled by, or is under common control with Participant, or (ii) a successor or successors to Participant by merger, consolidation, non-bankruptcy reorganization, or government action, provided that the liabilities of Participant are assumed by the entity surviving or created by such merger, consolidation, reorganization or action.

ARTICLE VI: SECURITY FINANCING AND RIGHTS OF HOLDERS

Section 6.1 No Encumbrances Except for Development Purposes.

Notwithstanding any other provision of this Agreement, mortgages and deeds of trust, or any other reasonable method of security (including assignment of leases or ground leases to a lender as security for a loan), are permitted to be placed upon the Property or the Improvements before the Certificate of Completion has

been issued by Agency, but only for the purpose of securing loans or funds to be used by Participant for the development and construction of the Improvements and any other expenditures reasonably necessary and appropriate to develop the Property under this Agreement. Participant shall promptly notify Agency of any mortgage, deed of trust, sale and lease-back or other financing, conveyance, encumbrance or lien that has been or will be created or attached to the Property or the Improvements. The words "mortgage" and "deed of trust" as used herein include all other appropriate modes of financing real estate acquisition, construction, and land development.

Section 6.2 Holder Not Obligated to Construct.

The holder of any mortgage, deed of trust or other security interest authorized by this Agreement is not obligated to construct or complete any of the Improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to permit or authorize any such holder to devote the Property or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

Section 6.3 Notice of Default and Right to Cure.

Whenever Agency pursuant to its rights set forth in this Agreement delivers any notice or demand to Participant with respect to the commencement, completion, or cessation in the construction of the Improvements, Agency shall at the same time deliver to each holder of record of any mortgage, deed of trust or other security interest authorized by this Agreement a copy of such notice or demand. Each such holder shall (insofar as the rights of Agency are concerned) have the right, but not the obligation, at its option, within ninety (90) days after the receipt of the notice, to cure or remedy any such default or breach and to add the cost thereof to the security interest debt and the lien on its security interest. A holder who chooses to exercise its right to cure or remedy a default or breach shall first notify Agency of its intent to exercise such right prior to commencing to cure or remedy such default or breach. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Improvements (beyond the extent necessary to conserve or protect such Improvements or construction already made) without first having expressly assumed in writing Participant's obligations to Agency relating to such Improvements under this Agreement. The holder in that event must agree to complete, in the manner provided in this Agreement, the Improvements and submit evidence reasonably satisfactory to Agency that it has the development capability on staff or retainer and financial capacity necessary to perform such obligations. Any such holder properly completing such Improvements pursuant to this paragraph shall assume all rights and obligations

of Participant under this Agreement and shall be entitled, upon written request made to Agency, to a Certificate of Completion from Agency.

Section 6.4 Failure of Holder to Complete Improvements.

In any case where, six (6) months after default by Participant in completion of construction of the Improvements under this Agreement, the holder of record of any mortgage, deed of trust or other security interest creating a lien or encumbrance upon the Property or the Improvements, having first exercised its option to construct, has not proceeded diligently with construction, Agency shall be afforded those rights against such holder which it would otherwise have against Participant under this Agreement.

Section 6.5 Right of Agency to Terminate if Default By Participant of a Mortgage.

In the event of a default or breach by Participant of a mortgage, deed of trust or other security instrument prior to issuance of the Certificate of Completion for the Improvements, and the holder has not exercised its option to complete the Improvements, Agency may terminate this Agreement by writing.

Section 6.6 Holder to be Notified.

Participant, for itself, its successors and assigns hereby warrants and agrees that each term contained herein dealing with security financing and rights of holders shall be either inserted into the relevant deed of trust or mortgage or acknowledged by the holder prior to its coming into any security right or interest in the Property or the Improvements.

Section 6.7 Modifications to Agreement.

Agency shall not unreasonably withhold its consent to modifications of this Agreement requested by Participant's lender or lenders provided such modifications do not alter Agency's substantive rights and obligations under this Agreement.

Section 6.8 Estoppel Certificates.

Either Party shall, at any time, and from time to time, within thirty (30) days after receipt of written notice from the other Party, execute and deliver to such Party a written statement certifying that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties (if such be the case), (ii) this Agreement has not been amended or modified either orally or in writing, or if so amended, identifying the amendments, and (iii) the

requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, describing the nature and amount of any such defaults.

ARTICLE VII: AGENCY'S FINANCIAL PARTICIPATION

Agency shall provide Participant with grant funds up to but not exceeding Ninety Three Thousand Nine Hundred Forty Dollars (\$93,940.00) ("**Agency Participation**") within thirty (30) days of issuance of Certificate of Completion for reimbursement of costs related to the renovation and rehabilitation of the property subject to the terms of the Grant Award Agreement attached as Exhibit D hereof.

ARTICLE VIII: ENVIRONMENTAL MATTERS

Section 8.1 Hazardous Materials Remediation.

Participant shall not hold Agency or City responsible for the cost of any soil, groundwater or other environmental remediation or other response activities for any Hazardous Materials existing or occurring on the Property, or any portion thereof, or any land conveyed to Participant by Agency pursuant to this Agreement, and Participant shall be solely responsible for all actions and costs associated with any soil, groundwater or other environmental remediation or other response activities required for the development of the Project, the Property, or any portion thereof. Upon receipt of any notice regarding the presence, release or discharge of Hazardous Materials in, on or under the Property, or any portion thereof, Participant (as long as Participant owns the property which is the subject of such notice) shall, and hereby agrees to, timely initiate and diligently pursue and complete all appropriate response, remediation and removal actions for the presence, release or discharge of such Hazardous Materials within such deadlines as specified by applicable Environmental Laws. The provisions of this section and Section 8.2 are not applicable to any real property owned and retained by the City upon which the public Improvements are constructed.

Section 8.2 Indemnification.

Participant shall, and hereby agrees to, unconditionally indemnify, reimburse, defend, protect and hold harmless Agency and City and their elected and appointed boards, commissions, officers, agents, attorneys, consultants and employees, and all of their respective successors and assigns, from and against any and all claims, demands, suits and actions at law or in equity, and losses, liabilities, expenses, penalties, fines, orders, judgments, injunctive or other relief (whether known or unknown and whether based on personal injury, property

damage, or contamination of, or adverse effects upon, the environment or natural resources), and costs and damages of every kind, nature and description (including but not limited to attorneys' fees and court costs, with counsel reasonably acceptable to Agency and City) and any expenses associated with the investigation, assessment, monitoring, response, removal, treatment, abatement or remediation of Hazardous Materials, and administrative, enforcement or judicial proceedings and which directly or indirectly, in whole or in part, are caused by, arise from, or relate to, or are alleged to be caused by, arise from, or relate to, the presence, release or discharge, or alleged presence, release or discharge, of any Hazardous Materials in, on or under the Property, or any portion thereof, or any land conveyed by Agency to Participant pursuant to this Agreement, or the failure to comply with any Environmental Laws, whether or not any insurance policies shall have been determined to be applicable to any such claims, demands, suits, actions, losses, liabilities, expenses, penalties, fines, orders, judgments, injunctive or other relief, costs, damages, or administrative, enforcement or judicial proceedings. It is further agreed that Agency and City do not, and shall not, waive any rights against Participant which they may have by reason of this indemnity and hold harmless agreement because of the acceptance by Agency, or the deposit with Agency by Participant, of any of the insurance policies described in this Agreement.

ARTICLE IX: DEFAULTS, REMEDIES AND TERMINATION

Section 9.1 Participant's Default.

The following events shall constitute an event of default ("**Event of Default**") on the part of Participant.

A. If Participant shall fail to keep, observe or perform any of its covenants, duties or obligations under this Agreement and such default shall continue for a period of thirty (30) days after written notice thereof from Agency to Participant, or in the case of a default which cannot with due diligence be cured within thirty (30) days, Participant fails to promptly begin and diligently proceed to cure such default promptly after such notice;

B. The making by Participant of an assignment for the benefit of creditors, or filing by Participant of a petition in bankruptcy or of reorganization under any bankruptcy or insolvency law;

C. The appointment of a receiver or trustee of the property of Participant which appointment is not vacated or stayed within ninety (90) days after such appointment; or

D. The filing of a petition in bankruptcy against Participant or for its reorganization under any bankruptcy or insolvency law which is not dismissed or stayed within ninety (90) days after such filing.

E. The default under the Loan Agreement for the Agency's financial participation.

Section 9.2 Agency's Remedies in the Event of Default.

If an Event of Default on the part of Participant shall occur and be continuing beyond any applicable cure period, then Agency shall have the following rights and remedies in addition to other rights available to it under law or this Agreement.

A. Termination. Agency shall have the right to terminate this Agreement. If Agency makes such election, Agency shall give written notice to Participant and to any mortgagee entitled to such notice, specifying the Event of Default and stating that this Agreement shall expire and terminate on the date specified in such notice, which shall be at least thirty (30) days after the giving of such notice, and upon the date specified in such notice, this Agreement and all rights of Participant under this Agreement shall expire and terminate.

B. Injunction. Agency shall have the right to seek to restrain, by injunction, the commission of or attempted or threatened commission of an Event of Default and to obtain a judgment or order specifically compelling performance of any such term or provision of this Agreement without, in either case, being required to prove or establish that Agency does not have an adequate remedy at law. Participant hereby waives the requirement of any such proof and acknowledges that Agency would not have an adequate remedy at law for Participant's commission of an Event of Default hereunder if such Event of Default was voluntary on the part of Participant and could be prevented or remedied by injunctive relief or specific performance.

C. Damages. Agency shall be entitled to proceed against Participant for all direct damages, costs and expenses arising from Participant's commission of an Event of Default hereunder and to recover all such direct damages, costs and expenses, including reasonable attorneys' fees.

Section 9.3 Agency's Default.

The following events shall constitute an event of default on the part of Agency ("**Event of Agency Default**"):

If Agency shall fail to keep, observe or perform any of its covenants, duties or obligations under this Agreement and such default shall continue for a period of thirty (30) days after written notice thereof from Participant to Agency, or in the case of a default which cannot with due diligence be cured within thirty (30) days, Agency fails to promptly begin and diligently proceed to cure such default promptly after such notice.

Section 9.4 Participant's Remedies in the Event of Agency Default.

If an Event of Agency Default shall occur and be continuing beyond any applicable cure period, then Participant shall have the following rights and remedies in addition to other rights available to it under law or this Agreement.

A. Participant shall have the right to restrain, by injunction, the commission of or attempted or threatened commission of an Event of Agency Default and to obtain a judgment or order specifically compelling performance of any such term or provision of this Agreement without, in either case, being required to prove or establish that Participant does not have an adequate remedy at law. Agency hereby waives the requirement of any such proof and acknowledges that Participant would not have an adequate remedy at law for Agency's commission of an Event of Agency Default hereunder if such Event of Agency Default was voluntary on the part of Agency and could be prevented or remedied by injunctive relief or specific performance.

B. Notwithstanding anything to the contrary contained herein, in no event shall damages be awarded against City or Agency upon the occurrence of an Event of Agency Default or upon termination of this Agreement.

Section 9.5 Rights and Remedies are Cumulative.

Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different time, of any other rights or remedies for the same or any other default by the other Party.

Section 9.6 Inaction Not a Waiver of Default.

Failure or delay by either Party in asserting any of its rights and remedies as to any default shall not operate as a waiver of such default or of any such rights or remedies, nor deprive either such Party of its rights to institute and maintain any action or proceeding which it may deem necessary to protect, assert or enforce any such rights or remedies in the same or any subsequent default.

Section 9.7 Excuse for Nonperformance.

Participant and Agency shall be excused from performing any obligation or undertaking provided in this Agreement, except any obligation to pay any sum of money under the applicable provisions hereof, in the event and for so long as the performance of any such obligation is prevented or delayed, retarded or hindered by act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, failure of transportation, strikes, lockouts, action of labor unions, condemnation, requisition, laws, orders of governmental, civil, military or naval authority, or any other cause, whether similar or dissimilar to the foregoing, not within the control of the Party claiming the extension of time to perform. The Party claiming such extension shall send written notice of the claimed extension to the other Party within thirty (30) days following the commencement of the cause entitling the Party to the extension.

ARTICLE X: INDEMNITY AND INSURANCE

Section 10.1 Hold Harmless.

Participant hereby shall indemnify, hold harmless and defend Agency and City, their respective elected and appointed boards, commissions, officers, agents and employees (collectively, "**Indemnified Parties**") from and against any or all losses, expenses, claims, suits, demands, costs (including attorneys' fees and expenses of litigation), damages and liabilities of every kind (collectively, "**Claims**"), including without limitation, Claims arising in connection with any personal injury, death or property damage, which may arise directly or indirectly as a result of any action or inaction, error, negligent or wrongful act or omission, breach of warranty, willful misconduct or fraudulent misrepresentation of Participant's or Participant's contractors, subcontractors, agents or employees in connection with the construction, improvement, operation or maintenance of the Project, the public Improvements, or any part thereof. Participant shall defend Agency, City, and their elected and appointed boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damages caused, or alleged to have been caused, by reason of Participant's performance of its rights and obligations under this Agreement.

Section 10.2 Liability and Workers Compensation Insurance.

A. Participant shall maintain in force during the construction of the Project and through the issuance of the Certificate of Completion, comprehensive general liability and property damage insurance, including personal injury,

contractual, and owned and non-owned automobile insurance with such coverage and limits as may be reasonably requested by Agency and City from time to time, but in no event for less than the sum of three million dollars (\$3,000,000) per occurrence combined single limit. During the term of this Agreement, Participant shall maintain Worker's Compensation insurance for all persons employed by Participant for work at the Project site. Participant shall require each contractor and subcontractor similarly to provide Worker's Compensation insurance for its respective employees. Participant agrees to indemnify the City and the Agency for any damage resulting from Participant's failure to maintain or require any such insurance.

B. Liability insurance policies shall name Agency and City as additional insureds. An endorsement shall be provided which states the coverage is primary insurance and that no other insurance held by Agency or City will be called upon to contribute to a loss under this coverage.

C. Participant shall furnish to the Agency duplicate originals or certificates evidencing such insurance coverage or coverages prior to commencement of construction (or any work related thereto) on the Property, but in no event later than thirty (30) days after the Effective Date, and such certificate(s) shall provide that such insurance coverage will not be canceled or reduced without at least thirty (30) days' prior written notice to Agency.

D. If such coverage is canceled or reduced, Participant shall, within fifteen (15) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with Agency and City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, Agency or City may, without further notice and at its option, procure such insurance coverage at Participant's expense, and Participant shall promptly reimburse Agency or City for such expense upon receipt of billing from Agency or City.

E. The insurance policies specified in this Section shall be provided by a reputable company or companies, licensed to do business in Nevada.

ARTICLE XI: GENERAL PROVISIONS

Section 11.1 Notices.

Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their

respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by:

(i) personal delivery, in which case notice is effective upon delivery;

(ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt;

(iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;

(iv) facsimile transmission, in which case notice shall be deemed delivered upon transmittal, provided that (a) a duplicate copy of the notice is promptly delivered by first-class or certified mail or by overnight delivery, or (b) a transmission report is generated reflecting the accurate transmission thereof. Any notice given by facsimile shall be considered to have been received on the next business day if it is received after 5:00 p.m. recipient's time or on a non-business day.

AGENCY: Henderson Redevelopment Agency
240 Water Street
PO Box 95050
Henderson, NV 89009-5050
Attn: Redevelopment Manager

PARTICIPANT: THE TOWNHOUSE MOTOR LODGE, INC.
Theodore Vincent
540 E. Fairway Road
Henderson, NV 89015

Section 11.2 Conflicts of Interest.

No member, official or employee of the Agency shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to this Agreement which is prohibited by law.

Section 11.3 Warranty Against Payment of Consideration for Agreement.

Participant warrants that it has not paid or given, and will not pay or give, to any third party, any money or other consideration for obtaining this Agreement, other

than normal costs of conducting business and costs of professional services such as architects, engineers and attorneys.

Section 11.4 Nonliability of Agency and City Officials.

No member, official or employee of the Agency or City shall personally be liable to Participant, or any assignee or successor of Participant, in the event of any default or breach by the Agency or for any amount which may become due to Participant or its successors or on any obligation under the terms of this Agreement.

Section 11.5. Parties Not Co-Venturers; No Third-Party Beneficiaries.

No provision of the Agreement nor any act of the City or the Agency shall be deemed or construed to establish the Parties as partners, co-venturers, or principal and agent with one another or to create any relationship of third-party beneficiary.

Section 11.6 Litigation.

In the event of any dispute between the Parties hereto arising out of this Agreement the non-prevailing party agrees to pay to the prevailing party all sums paid or incurred by the prevailing party as reasonable costs and expenses and incurred in the legal proceedings, including but not limited to reasonable attorneys' fees.

Section 11.7 Severability.

If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability. If as a result of any final judgment this Agreement or any other required approvals under this Agreement are determined to be invalid, the Parties agree to cooperate to amend this Agreement and other necessary documents in order to accomplish the basic purposes and intent of this Agreement.

Section 11.8 Counterparts; Entire Agreement; Captions.

This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall be deemed to be one agreement. This Agreement, together with all Exhibits attached hereto, constitutes the entire

agreement of the Parties with respect to the subject matter hereof and supersedes all prior negotiations or agreements between the Parties with respect thereto. The captions of the sections and articles of this Agreement are for convenience only and are not intended to affect the interpretation or construction of the provisions hereof.

Section 11.9 Amendments; Waivers.

This Agreement may be amended only by a written instrument executed by the Parties. No waiver of any provision of this Agreement shall constitute or be deemed a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless it is executed in writing by the Party making the waiver.

Section 11.10 Governing Law; Venue.

The laws of the State of Nevada shall govern the interpretation and enforcement of this Agreement. Any action to enforce or interpret this Agreement shall be filed in the District Court of Clark County, Nevada.

Section 11.11 Exhibits.

Exhibits A through D attached hereto are incorporated herein by this reference.

Section 11.12 Recordation; Further Assurances.

Agency is authorized to record this Agreement and any amendments thereto in the official records of Clark County, Nevada. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as may be reasonably necessary to carry out the intent of this Agreement.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement as of the day and year first above written.

CITY OF HENDERSON
REDEVELOPMENT AGENCY

By: Mark T. Calhoun, P.E.
Its: Executive Director

ATTEST:

By: Sabrina Mercadante, CMC
Its: Agency Secretary

APPROVED AS TO FORM:

By: Christine Guerci-Nyhus
Its: Interim General Counsel

LODGE, INC.

PARTICIPANT
THETOWNHOUSE MOTOR

By: Theodore Vincent
Its: President

Exhibit A
Legal Description

APNs: 179-18-611-054, 179-18-611-055 and 179-18-611-056

179-18-611-054

A portion of the Northeast Quarter (NE 1/4) of Section 18, Township 22 South, Range 63 East, M.D.M., City of Henderson, Clark County, Nevada, described as follows: Lot 67 of Block 1 as shown on Henderson Townsite recorded in Book 3, Page 42 of Plats, Clark County, Nevada.

179-18-611-055

A portion of the Northeast Quarter (NE 1/4) of Section 18, Township 22 South, Range 63 East, M.D.M., City of Henderson, Clark County, Nevada, described as follows: Lot 68 of Block 1 as shown on Henderson Townsite recorded in Book 3, Page 42 of Plats, Clark County, Nevada.

179-18-611-056

A portion of the Northeast Quarter (NE 1/4) of Section 18, Township 22 South, Range 63 East, M.D.M., City of Henderson, Clark County, Nevada, described as follows: Lots 69,70 and 71 in Block 1 as shown on Henderson Townsite recorded in Book 3, Page 42 of Plats, Clark County, Nevada.

Exhibit B
Schedule of Development

DATE

- | | |
|--|---|
| 1. <u>Execution of Agreement by Agency.</u>
The Agency shall hold a public hearing to authorize the execution of this Agreement by the Agency, and if so authorized, shall execute and deliver this Agreement to the Participant. | Within 14 days of public hearing on October 18, 2011. |
| 2. <u>Submission – Certificate of Insurance.</u>
The Participant shall furnish to Agency duplicate originals or appropriate certificates of bodily injury and property damage insurance policies. (<u>Section 10.2</u>) | 3 days prior to commencement of construction. |
| 3. <u>Commencement of Construction.</u> The Participant shall begin construction on the Project. | Within 90 days after receipt of approved Construction Plans. |
| 4. <u>Completion of Construction of Participant's Improvements.</u> Participant shall complete construction of the Improvements to be constructed on the Property. (<u>Section 2.4</u>) | Within 18 months after commencement thereof by participant. |
| 5. <u>Issuance – Final Certificate of Completion.</u> The Agency shall furnish the Participant with the final Certificate of Completion. (<u>Section 3.5</u>) | Within 14 days after written request by the Participant after issuance by the City of a Certificate of Occupancy. |
| 6. <u>Issuance of Funds.</u> | Within 30 days of issuance of Certificate of Completion. |

Exhibit C
Certificate of Completion

CERTIFICATE OF COMPLETION

THIS CERTIFICATE OF COMPLETION (the "**Certificate**") is made as of this ____ day of _____, 2012 by the **HENDERSON REDEVELOPMENT AGENCY**, a public body corporate and politic (the "**Agency**"), in favor of **THE TOWNHOUSE MOTOR LODGE, INC.**, a Nevada domestic corporation (the "**Participant**"), as of the date set forth below.

RECITALS

A. The Agency and the Participant have entered into that certain Owners Participation Agreement (the "**OPA**") dated the _____ 2011, concerning the redevelopment of certain real property situated in the City of Henderson, Nevada as more fully described in Exhibit C-1 attached hereto and made a part hereof.

B. As referenced in Section 3.5 of the OPA, the Agency is required to furnish the Participant or its successors with a Certificate of Completion upon completion of construction of the Improvements (as defined in Section 1.12 of the OPA), which release is required to be in such form as to permit it to be recorded in the Recorder's office of Clark County. This Certificate is conclusive determination of satisfactory completion of the construction and development required by the OPA.

C. The Agency has conclusively determined that such construction and development has been satisfactorily completed.

NOW, THEREFORE, the Agency hereby certifies as follows:

1. The improvements to be constructed by the Participant have been fully and satisfactorily completed in conformance with the OPA. Any operating requirements and all use, maintenance or nondiscrimination covenants contained in the OPA shall remain in effect and enforceable according to their terms.

2. Nothing contained in this instrument shall modify in any other way any other provisions of the OPA.

SIGNATURES ON NEXT PAGE

IN WITNESS WHEREOF, the Agency has executed this Certificate as of the date set forth above.

CITY OF HENDERSON
REDEVELOPMENT AGENCY,
a public body corporate and politic

By: Mark T. Calhoun, P.E.
Its: Executive Director

APPROVED AS TO FORM:

By: Christine Guerri-Nyhus
Its: Interim General Counsel

ATTEST:

By: Sabrina Mercadante, CMC
Its: Agency Secretary

Exhibit C-1
Legal Description

APNs: 179-18-611-054, 179-18-611-055 and 179-18-611-056

179-18-611-054

A portion of the Northeast Quarter (NE 1/4) of Section 18, Township 22 South, Range 63 East, M.D.M., City of Henderson, Clark County, Nevada, described as follows: Lot 67 of Block 1 as shown on Henderson Townsite recorded in Book 3, Page 42 of Plats, Clark County, Nevada.

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179-18-611-056

A portion of the Northeast Quarter (NE 1/4) of Section 18, Township 22 South, Range 63 East, M.D.M., City of Henderson, Clark County, Nevada, described as follows: Lots 69, 70 and 71 in Block 1 as shown on Henderson Townsite recorded in Book 3, Page 42 of Plats, Clark County, Nevada.

GRANT AWARD AGREEMENT

This Tenant Improvement Grant Award Agreement ("Agreement"), dated as of _____, 2011 ("Effective Date") by and between **THE TOWNHOUSE MOTOR LODGE, INC., a Nevada limited liability company** ("Grantee") and the **CITY OF HENDERSON REDEVELOPMENT AGENCY** ("Agency"). Grantee and Agency are collectively referred to herein as the "Parties."

RECITALS

A. Agency is a Community Redevelopment Agency formed, existing and exercising its powers pursuant to the provisions of the Community Redevelopment Law, Nevada Revised Statute Sections 279.382 et seq. ("Community Redevelopment Law").

B. On October 4, 1995, the City Council of the City of Henderson (the "City") adopted Ordinance No. 1618 (as subsequently amended on January 5, 2004 by Ordinance No. 2243 and on January 3, 2006 by Ordinance No. 2426), adopting the Redevelopment Plan for the Downtown Redevelopment Project Area (the "Redevelopment Plan").

C. The Agency is responsible for the implementation of the Redevelopment Plan in the Downtown Redevelopment Project Area ("Project Area").

D. Grantee has requested, and Agency has agreed to provide, a grant in up to but not exceeding Ninety Three Thousand Nine Hundred Forty Dollars (\$93,940.00) ("Grant") pursuant to the terms and conditions of an Owner Participation Agreement ("OPA").

E. The Agency has determined that the provision of a grant to Grantee pursuant to the terms of this Grant Award Agreement is consistent with the Redevelopment Plan and is in the interest of the health, safety and welfare of the residents of the Project Area and the City.

NOW, THEREFORE, Agency and Grantee agree as follows:

1. Grant Terms.

1.1 Grant Application. Grantee acknowledges that the Grant is subject to the terms set forth in the OPA.

1.2 Grant Purpose. Agency agrees to make the Grant to Grantee solely for the purpose for the renovation and rehabilitation of 27, 31, and 73 S. Water Street as a 21-room boutique motel and other commercial uses.

1.3 Grant Amount. Agency agrees to provide to Grantee, subject to the terms of this Agreement, a Grant not to exceed Ninety Three Thousand Nine Hundred Forty Dollars (\$93,940.00).

2. Conditions Precedent to Agency's Obligation to Disburse. The obligation of Agency to fund the Grant and disburse the proceeds thereof is conditioned upon the receipt by Agency of the following:

2.1 Grant Documents. The executed Grant Documents, acknowledged where appropriate, duly executed by Grantee;

2.2 Other Documents. Copies of such other documents related to the operations of the Business as Agency may reasonably request;

2.3. Completion of Improvements. Design, bidding, construction and completion of the improvements by Grantee in accordance with the OPA; and

2.4 Inspection of Improvements. Agency shall inspect all completed improvements, review all invoices for all improvements together with lien releases for all material and labor prior to disbursement. Disbursement is contingent upon Agency approval. Documents submitted must be in a form acceptable to Agency.

3. Representations and Warranties. To induce Agency to enter into this Agreement, Grantee hereby makes the following representations and warranties, which shall survive the execution and performance of this Agreement and the other Grant Documents, and continue until all obligations to Agency hereunder and thereunder have been satisfied in full:

3.1 Legal Status. Grantee has the authority to enter this Agreement, and to obtain and secure the Grant.

3.2 Validity and Authorization. All information provided to the Agency by the Grantee is true and correct and there have been no material changes from the date of application to the date of execution of the Grant Agreement.

4.0 Use of Funds. Grantee agrees to use the proceeds of the Grant solely for the purpose set forth in the OPA.

5.0 Maintenance of Improvements. Grantee will maintain, preserve and protect the improvements in good order and condition, subject to wear and tear in the ordinary course of business. Failure to maintain the improvements will result in the Grantee being rendered ineligible to participate in any other programs offered by the Agency.

6.0 Maintenance Inspection. The Agency reserves its rights to inspect the improvements and determine, in its sole discretion, if the improvements have been maintained in good condition. If the Agency determines that the improvements have not been satisfactorily maintained, the Agency shall notify the Grantee, in writing of any deficiencies. The Grantee agrees to cure any such deficiencies within thirty (30) days.

7.0 Notices. All notices, requests and demands given to, or made upon, any party to this Agreement shall be deemed to have been given or made when properly deposited in the U.S. mail and addressed as follows:

Grantee: THE TOWNHOUSE MOTOR LODGE, INC.
Theodore Vincent
540 E. Fairway Road
Henderson, NV 89015

Agency: City of Henderson Redevelopment Agency
240 Water Street, P.O. Box 95050
Henderson, NV 89009

Signatures on following page.

IN WITNESS WHEREOF, the parties above-mentioned have entered into this Agreement the day and year first above mentioned.

GRANTEE	AGENCY
THE TOWNHOUSE MOTOR LODGE, INC.	CITY OF HENDERSON REDEVELOPMENT AGENCY
THEODORE VINCENT President	<hr/> MARK T. CALHOUN, P.E. Executive Director Approved as to form: <hr/> CHRISTINE GUERCI-NYHUS Interim General Counsel

STATE OF NEVADA)
) ss.
 COUNTY OF CLARK)

I, _____, a Notary Public in and for Clark County, in the State of Nevada, do hereby certify that _____ appeared before me this day in person and acknowledged that he signed, sealed and delivered this instrument as his free and voluntary act for the use and purposes herein set forth.

Given under my hand and official seal this ____ day of _____, 2011.

 Notary Public

My Commission Expires: _____



RAC

REDEVELOPMENT AGENCY ADVISORY COMMISSION AGENDA ITEM

REGULAR MEETING

SEPTEMBER 27, 2011

RAC-005

SUBJECT	Financial Management Policies
PETITIONER	Economic Development/Redevelopment Division of the City Manager's Office
RECOMMENDATION	Recommend Adoption

FISCAL IMPACT:

No Impact
 Budget funds available
 Augmentation required

BACKGROUND / DISCUSSION / ALTERNATIVES:

It is prudent of the Redevelopment Agency to adopt sound financial management policies. Historically, Agency staff has followed many of the financial policies of the City of Henderson. Recognizing that the Agency is governed by NRS 279 and engages in financial transactions unique to a Redevelopment Agency, staff is preparing financial management policy statements for review and adoption by the Redevelopment Agency Board. Staff began preparing policies for adoption in July 2011 and it is envisioned that over a period of several months, staff will complete a comprehensive compilation of policy statements. From time to time, the Governmental Accounting Standards Board (GASB), Nevada Revised Statutes, and best practices in the industry change. As these changes occur, the financial management policy statements will be reviewed and may require revision. Any proposed revisions will be brought before the Redevelopment Agency Board for review and adoption.

Staff is recommending adoption of the following financial management policy statements:

1. *Legislative Issues*
2. *Redevelopment Financial Assistance Due Diligence.*

RECOMMENDED MOTION:

I move to recommend adoption of Redevelopment Financial Management Policies for: Legislative Issues and Redevelopment Financial Assistance Due Diligence.

Supporting Documentation:

Redevelopment Financial Management Policy Statements consisting of six (6) pages

CITY OF HENDERSON REDEVELOPMENT AGENCY



**FINANCIAL MANAGEMENT
POLICY STATEMENTS**

ADOPTED: AUGUST 16, 2011
REVISED:

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03 – Budget Reporting3

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1200/ACCOUNTING, AUDITING AND FINANCIAL REPORTING

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**CITY OF HENDERSON REDEVELOPMENT AGENCY
FINANCIAL MANAGEMENT POLICY**

POLICY NUMBER: 300-06

CATEGORY: EXPENDITURES

SUBJECT: **Redevelopment Financial Assistance Due Diligence**

SCOPE

All City of Henderson Redevelopment Employees; Redevelopment Residents; Developers within redevelopment project areas.

PURPOSE

To establish guidelines for completing due diligence of redevelopment projects where developers are requesting redevelopment financial assistance that is not through an approved Redevelopment Agency Program.

GUIDELINES

1. The Developer initially meets with staff person to determine basic details of the proposed project. Developer will be given the standard "development packet" and will return at a future date with all required information. The information contained in the "development packet" will depend on the project to be considered and may include, but is not limited to the "due diligence materials":
 - Qualifications of the developer
 - Developer personal and business financial capacity to complete the project: financial statements and tax returns
 - Business plan
 - Employment plan
 - Market feasibility study
 - Financing plan including sources and uses of funds and letter of intent from lender or investor(s)
 - Past performance on similar projects
 - Letters of Intent and Agreements related to the project
 - Guaranty agreements and equity commitments
 - Operating agreements
 - Franchise agreements
 - Environmental evaluations
 - Traffic impact studies
 - Soils and drainage studies
 - Public resources studies: police, fire, medical, sanitation, water, sewer and transportation
 - Endangered species studies

- Archeological studies
 - Wetlands and flood plain studies
 - Quantity of water rights required for the project and availability
 - Construction schedule and costs
 - Anticipated LEED certifications
 - “Buy America” requirements, if any, to be included in the construction contracts
 - An “as completed” project appraisal
 - Any other documentation that the Agency or its consultants may request
2. At the next Redevelopment staff meeting, staff will discuss pros and cons of the project based on the information submitted in the packet and determine whether or not it should move forward. During this meeting, the project details will be presented and staff will discuss who can best handle the project as lead and who will be back-up, based on workload and expertise. The Redevelopment Manager will assign the project after the discussion.
 3. Once staff has determined that the project is conceptually feasible and before any kind of a commitment for assistance is made, staff will determine if a tax increment analysis and/or cash flow analysis is required. If so, the Agency and Developer may enter into a Memorandum of Understanding whereby the Agency will select a consultant from a qualified list to complete the tax increment analysis and manage the consultant, but the developer reimburses the Agency for these costs or the developer may be required to make a deposit with the Agency for facilitating the payments. The tax increment analysis will be shared with the Developer and may require the Developer to provide additional information.
 4. The entire development proposal, along with the tax increment analysis and/or cash flow analysis, if required, will be sent by the lead staff person to the Agency’s Financial Consultant for an independent analysis and recommendation as well as the Agency’s lead finance staff.
 5. Because NRS 279.486 1. (b) requires that “No other reasonable means of financing those buildings, facilities, structures or other improvements are available,” staff and the Financial Consultant shall review all other funding sources available for the project prior to determining that a financial gap exists that can only be made whole through redevelopment financial assistance.
 6. Once the Financial Consultant has reviewed and suggested changes have been discussed and incorporated, the project lead and back-up will set up a meeting with Finance, City Attorney’s Office (CAO), Division Manager or Department Director, and the Redevelopment Manager to discuss the concept plan and any assistance requests and whether or not the Agency staff will recommend support of the project. This group will give the green light (or not) to proceed with the approval process for the project.
 7. Next, the project lead will set up Agency Board briefings to present the project concept.
 8. The lead staff person will contact CAO to begin work on the appropriate agreements (Owner Participation Agreement, Disposition and Development Agreement, Memorandum of Understanding, etc.). CAO will be presented proposed deal points to be included in the document. After the project lead has thoroughly reviewed the agreement for deal points, consistency, benchmarks, etc., the document may proceed through the approval process.

9. Timelines and benchmarks established by the agreement will be added to the master project list by the project manager so that staff is aware of what deadlines need to be met.
10. Staff will complete Redevelopment Advisory Committee and Redevelopment Agency Board agenda items related to the project and their staff recommendation that will include the requirements of NRS 279.486 2:
 - a. Whether the buildings, facilities, structures or other improvements are likely to:
 - i. Encourage the creation of new businesses or other appropriate development;
 - ii. Create jobs or other business opportunities for nearby residents;
 - iii. Increase local revenues from desirable sources;
 - iv. Increase levels of human activity in the redevelopment area of the immediate neighborhood in which the redevelopment area is located;
 - v. Possess attributes that are unique, either as to type of use or level of quality and design;
 - vi. Require for their construction, installation or operation the use of qualified and trained labor; and
 - vii. Demonstrate greater social or financial benefits to the community than would a similar set of buildings, facilities, structures or other improvements not paid for by the Agency.

HISTORY

Redevelopment Agency Board Adopted: (Insert Date of Adoption Here)

**CITY OF HENDERSON REDEVELOPMENT AGENCY
FINANCIAL MANAGEMENT POLICY**

POLICY NUMBER: 800-02

CATEGORY: INTERGOVERNMENTAL RELATIONS

SUBJECT: **Legislative Initiatives**

SCOPE

All City of Henderson Redevelopment Employees; Redevelopment Residents

PURPOSE

To coordinate efforts with other governmental agencies (City of Henderson, Clark County School District, Regional Transportation Commission, etc.) to achieve common policy objectives, share the cost of providing government services on an equitable basis, and support favorable legislation at the state and federal levels.

GUIDELINES

The Agency shall cooperate with other jurisdictions and carefully and diligently review proposed state and/or federal legislation/regulations providing feedback to the City of Henderson's Intergovernmental Relations team (IGR) that is in the best interest of the Agency. The Agency shall cooperate with other jurisdictions to actively support legislative initiatives that provide additional funds for priority redevelopment programs or provide additional flexibility to more effectively provide financial assistance.

The Agency shall also work closely with the IGR to review and comment on proposed legislation. The Agency shall provide staff to serve on the City of Henderson's Ambassador team.

HISTORY

Redevelopment Agency Board Adopted: (Insert Date of Adoption Here)



RAC

REDEVELOPMENT AGENCY ADVISORY COMMISSION AGENDA ITEM

REGULAR MEETING

SEPTEMBER 27, 2011

RAC-006

SUBJECT	Projects Update
PETITIONER	Economic Development/Redevelopment Division of the City Manager's Office
RECOMMENDATION	Recommend Acceptance

FISCAL IMPACT:

No Impact Budget funds available Augmentation required

BACKGROUND / DISCUSSION / ALTERNATIVES:

This is an update provided to the Redevelopment Agency Advisory Commission of new and ongoing projects and business activity within the four redevelopment areas.

RECOMMENDED MOTION:

I move to accept report.

Supporting Documentation:

Memorandum consisting of three (3) pages



Memorandum

TO: Redevelopment Agency Advisory Commission
FROM: Michelle Romero, Redevelopment Manager
SUBJECT: Projects Update

Following are new or ongoing redevelopment projects, as compiled by staff, in our Redevelopment Areas and their status as of September 13, 2011:

I. CORNERSTONE REDEVELOPMENT AREA

- Shortfall Note
- HOF Financial Properties

Projects

- Diamond Cornerstone
- Ladera Parcels
- Loretto Bay

II. DOWNTOWN REDEVELOPMENT AREA

Projects

- 323 Water Street
- Business Recruitment Marketing Team
- City Tower (Southeast corner of Lake Mead Parkway and Water Street)
- Create Comprehensive Development and Business Recruitment Incentive Packages
 - Downtown Investment Strategy (DTIS):
 - A neighborhood meeting was held on August 31, with approximately 50 residents in attendance. Presentations were given by Police and Neighborhood Services, resident questions were answered, and residents completed preference surveys on housing and recreational amenity options.
- Downtown Arts & Culture
- Downtown Power Need
- Emergency Assistance Loan: The Emergency Business Assistance Loan Program deadline for application was September 7. One business applied prior to the deadline and will be heard at the September Loan Committee meeting.
- Former Parkline Site: Demolition has begun on the site.
- Increase Curb Appeal
- Targeted Façade Improvement
 - Staff has received the Façade Improvement application for 19 Water Street from the building owner. The item will be heard at the September Loan Committee meeting.
- Lake Mead Crossing
- Marketing the Water Street District Team

- Marketing To Developers, Business Owners & Consumers
- Outreach:
- Phase III Improvements: Except for the new light poles, which are on back order, and some minor punch list items, the Phase III improvements are complete and Water Street is now open.
- Pinnacle Building
- Residential Development Team
- Social Gathering Space Team
- Shurtleff Building (38 S. Water Street)
- Site A
- The Meridian (155 S. Water Street):
 - Received a formal letter from Meridian requesting a one-year extension of their Note and a reduction of the interest rate for this extension period to zero. Staff and the NDC reviewed the request and are recommending that the RAC/RDA approve the one-year extension and a reduction of interest from 5.74% to 3% to be consistent with other programs.
- Townhouse Motor Lodge:
 - Staff received a formal letter from Townhouse owners that they want to move forward with their request of a grant. The item will be on the September RAC and October RDA agendas. Staff also met with the Developer to discuss the Tenant Improvement Grant. They want their current tenant, Barber Shop, and future tenant for the urban lounge to be aware of the grant and utilize it.
- Urban Lounge: This use will be part of the larger Code update that was heard at the September 15 Planning Commission.
- Water Street District Business Association:
 - Sew Busy closed last week. The Fire Department was forced to have the building close after repeated failed attempts to get the building owner to cooperate. Staff is working with the owner of Sew Busy to find an alternative location.
 - A meeting is scheduled for RDA and Real Estate staff to meet with a proposed new tenant for the first floor of the Pinnacle building to discuss lease terms. If the new use is approved by Council in October, the tenant plans to open an Urban Lounge/Cantina in the space.
 - Staff is working with the new owner of the business formally known as One55 Water Street. This new business owner, who plans to open a bakery/restaurant with catering, purchased the business through First Choice Business Brokers, also a Water Street District Business. The new owner will be applying for a sign grant and anticipates opening this month. The owner has had the catering business for a long time and has an existing customer base.

Programs

- Façade Improvement Program

III. EASTSIDE REDEVELOPMENT AREA

Projects

- Bifurcation:
 - A draft adoption schedule has been created.
 - Staff verified with the County that in order for tax increment to be split per the bifurcation, the bifurcation process, including recordation, would have to be accomplished by March 15, 2012 to be effective July 1, 2012. That timeline is not feasible with the various NRS required hearings so the bifurcation, if approved, will go on the following year's tax rolls.
- Business

- Landwell/Cadence
- Museum Site-95/Galleria
- Wells Park:
 - The remaining portion of the wall behind the Boys and Girls club is being finished and will be ready for the wrought iron to be installed. The pads for the gazebo and two picnic pavilions, horse shoe pits, exercise track, and more sidewalks have been poured on the east end of the project.
 - The majority of the sidewalks throughout the park have been completed. The new light poles are being installed around the exercise track. The contractor will begin working on the walls and pad for the skate boarding area and the new play structure for 2-5 year olds.

Programs

- Façade Improvement Program
- Sign Grant Program

IV. TUSCANY REDEVELOPMENT AREA

- OPA
- Semi-Annual Payment: Staff has started preparing the semi-annual payment to Commerce. The wire to Commerce will be made on October 1.

V. LAKEMOOR CANYON

VI. ADMINISTRATION / ALL AREAS

- Bonds
- Business License Counts
- Homeowner Assistance Program: Staff continues to execute agreements and follow up on defaults. Four default letters were mailed in August.
- NDC