October 16, 2013

Michael E. Johnson
Fillmore Development Commercial, LLC
c/o UrbanCore
457 10th Street
San Francisco, CA 94103

Re: Notice of Default under the Loan Agreement entered into as of August 29, 2005, by and between the City and County of San Francisco ("City") and Fillmore Development Commercial, LLC ("Borrower"), as amended by the First Amendment to Loan Agreement and Promissory Note dated as of December 8, 2010 (the "Loan Agreement"), for a loan in the original principal amount of Five Million Five Hundred Thousand Dollars (the "Loan")

Dear Mr. Johnson:

The City, acting through the Mayor's Office of Housing and Community Development ("MOHCD") provided a $5.5 million construction loan to Fillmore Development Commercial, LLC for the construction of the Fillmore Heritage Center Project (the "Project"). The Loan is secured by the leasehold estate pursuant to the Borrower's ground lease with the Successor Agency to the Redevelopment Agency of the City and County of San Francisco. The Loan is fully amortized at an interest rate of 6.54 percent with monthly payments due through August 2025. To fund this loan, MOHCD borrowed $5.5 million from the U.S. Department of Housing and Urban Development ("HUD") in the form of a securitized Section 108 loan. Section 108 loans are backed by the City's federal Community Development Block Grant ("CDBG") fund allocation.

Since the Loan began, the Borrower has missed scheduled loan repayments at various points in time. In August 2010, Borrower was 8 months in arrears on its original Loan, owing $360,150 in missed payments. At the time, MOHCD agreed to a work-out plan, rather than foreclose on the ground lease, whereby MOHCD amended the original loan and agreed to a longer repayment schedule. In separating the delinquent amount in a first amendment to the loan, MOHCD agreed to no longer consider the loan delinquent and forgo collecting any late fees or penalties unless Borrower missed subsequent payments. The repayment of the delinquent amount was structured with payments of $5,500 per month through August 2013, with the balance of the delinquent amount due as a balloon payment in August 2013. To date, borrower has only made nine of thirty-six payments due under this first amendment and has not made the balloon payment. MOHCD agreed to this work-out plan in good faith in recognition of a
challenging economic climate and was led to believe that the Project’s tenants had gotten behind on their rent payments. Subsequent information has shown that the tenants were making timely rent payments but that Borrower got behind in passing along those revenues to service the debt. Furthermore, SN Fillmore, as a subordinate lender, was repaid from Yoshi’s rental income, ahead of MOHCD in violation of MOHCD’s agreement with the Borrower.

Over the last twenty-three months, MOHCD has engaged in negotiations with Borrower related to the Borrower’s inability to make timely loan payments due to obligations owed the City Tax Collector and due to Yoshi’s bankruptcy proceedings. Throughout these negotiations, the Borrower has not been able to submit a timely repayment plan for the loan amount past due nor for unpaid Unsecured Personal Property taxes owed the City. As of October 16, 2013, Borrower is $1,414,715 delinquent on the Loan.

Borrower’s failure to pay amounts due under the Loan results in a direct loss of CDBG funds that the City’s nonprofit community relies on to serve low-income communities. The City has an obligation to protect and garner its CDBG funds for this critical work. At a time when the City is facing significant demands for its CDBG program, this office is faced with setting aside additional CDBG funds to repay HUD while the Loan default remains uncured. Accordingly, if Borrower is not able to cure the payment default plus subsequent missed payments, accrued interest and loan fees totaling $1,414,715 before November 16, 2013, we intend to exercise available remedies, including foreclosure on the leasehold deed of trust. We write this letter without waiving any rights.

Sincerely,

Olson Lee
Director

cc: Tiffany Bohee, Executive Director, Office of Community Investment and Infrastructure, Successor Agency to the San Francisco Redevelopment Agency
Heidi Gewertz, City Attorney’s Office