



**Sacramento
Housing &
Redevelopment
Agency**

**REPORT TO REDEVELOPMENT AGENCY
City of Sacramento**

915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

**Staff Report
March 11, 2008**

Honorable Chair and Members of the Board

Title: Owner Participation Agreement and Conditional Grant Agreement: YWCA Residential Hotel Project

Location/Council District: 1122 17th Street, Council District 1

Recommendation: Adopt a **Redevelopment Agency Resolution** 1) authorizing the transfer of \$2,400,000 from the Downtown Tax Increment Residential Hotel fund and \$600,000 in Mental Health Services Act/Building Hope (MHSA) funds to the YWCA Project; 2) authorizing the Interim Executive Director or her designee to enter an Owner Participation Agreement (OPA) and Conditional Grant Agreement with the YWCA for this project, including a requirement that YWCA make a good faith effort to extend its existing State Housing and Community Development (HCD) loan to a 55 year term; 3) approving, with conditions, release of up to \$190,000 to fund predevelopment costs in advance of construction; and 4) modifying the existing Low/Mod Tax Increment Loan on the property by extending term to 55 years.

Contact: Jim Hare, Assistant Director, Housing Policy and Development, 440-1313,

Presenters: Jim Hare, Assistant Director, Housing Policy and Development

Department: Sacramento Housing and Redevelopment Agency

Description/Analysis:

Issue: The 31-unit YWCA Building, located at 1122 17th Street, is one of ten downtown residential hotels that houses low and very-low income tenants. In March 2006, the Agency approved a budget of \$15 million from Downtown low and moderate income housing funds for preservation of such properties and for new construction of replacement units. This staff recommendation for

rehabilitation of the YWCA includes \$2.4 million of these funds for capital improvements as the building needs extensive work including major infrastructure repairs.

In addition, staff is recommending \$600,000 in MHSA/Building Hope Program funding. MHSA funding will provide rental assistance for tenants in 11 of the 31 units. These 11 units will be reserved for chronically homeless mentally ill tenants. Tenants in these 11 units will be afforded case management services through Turning Point Community Programs (TPCP) as a part of the Full-Service Partnership agreement with Sacramento County Department of Mental Health. A part-time service coordinator will work with non-MHSA tenants in the building.

The YWCA has an existing deferred Agency loan (\$133,000) and an existing deferred State HCD loan (\$165,000). Both loans were entered into in 1985 and will mature in 2015. Staff is recommending that the Agency loan be extended to 55 years and that the YWCA makes a good faith effort to extend the State HCD loan as allowed under recent State legislation.

If approved, the recommended total \$3,000,000 conditional grant would assist with needed renovations to the building and also would preserve and extend the affordability of the YWCA Single Room Occupancy (SRO) units for 55 years. As a result, the owner will be able to continue operating the property as supportive housing.

The recommended approval includes early release of up to \$190,000 from Downtown Tax Increment to fund costs of typical predevelopment activities in advance of construction. This funding will assist with the costs of securing third party studies and reports, architectural drawings, building permits, and related items.

A vicinity map is included as Attachment 1, and a location map is included as Attachment 2. Further background on the project developer and the property in question are included as Attachment 3. A project summary, including a proposed sources and uses of funds, is included as Attachment 4, and a project cash flow pro forma is included as Attachment 5. Finally, a draft Owner Participation Agreement and a Conditional Grant Agreement are included as Exhibits A and B to the Resolution, respectively.

Policy Considerations: The recommended action would implement Agency and City policy goals related to the preservation of residential hotel units. Section 18.20.160 of the City Code (Residential Hotel Ordinance, revised September 2006) requires that the City maintain an inventory of not less than 712 residential hotel or comparable units. The YWCA is one of the properties that comprise the existing inventory. When the \$15 million in Downtown housing

funds was approved for SRO Housing rehabilitation and preservation in March 2006, the stated goal was to produce 200 new SRO units and to preserve 100 SRO units. The 100 unit preservation goal will be exceeded with the approval of the Berry Hotel acquisition and the approval of this request.

This is the fourth project to provide “units through development” under the City and County of Sacramento Ten-Year Plan to End Chronic Homelessness, and it is the first project located in the City of Sacramento. With this project, funding has been awarded to projects providing 150 units for the homeless. The Ten-Year Plan goal is to provide 280 permanent supportive housing units in the first five years of the plan.

Environmental Considerations: The proposed action is exempt from environmental review under California Environmental Quality Act (CEQA) Guideline Section 15301(a) and (d), which exempts rehabilitation of existing facilities where the use remains unchanged with only minor expansion. The National Environmental Policy Act (NEPA) does not apply to this project.

Committee/Commission Action: At its meeting of February 20, 2008, the Sacramento Housing and Redevelopment Commission considered the staff recommendation for this project. The votes were as follows:

AYES: Burruss, Chan, Coriano, Dean, Fowler, Gore, Morgan, Otto, Shah, Stivers

NOES: None

ABSENT: None

Rationale for Recommendation: The recommended financing and project will continue the historical mission of the YWCA, which has provided safe, decent, affordable housing at this location since 1932. As presently financed, the YWCA’s affordability restrictions will expire in 2015. The proposed loan extension and grant financing extends the debt service obligations and affordability restrictions for 55 years on the project. The extension of debt service allows all project cash flow to be directed to operation and maintenance of the property, and to social services for the tenant population.

The recommended project will also preserve and extend the life of a City designated landmark building. The YWCA is housed in a 75-year-old Mediterranean Revival style building designed by the local architect Charles Dean. The project will preserve and protect the architectural values of the building.

Financial Considerations: The Agency’s participation in the project will be funded with \$2,400,000 of Downtown Tax Increment Residential Hotel funds (TI) and \$600,000 from MHSA funds. The recommendation includes early release of up to \$190,000 from Downtown Tax Increment to fund costs of typical predevelopment activities in advance of construction. TI funds are tax-exempt redevelopment bond proceeds and as such may be granted, but not loaned, to projects. If this funding request is approved, it will leave a balance of approximately \$6,600,000 in funds for downtown SRO’s. MHSA funds will also be provided as a grant. The developer will also apply for a \$217,000 forgivable loan through the Federal Home Loan Bank of San Francisco, to fund a total project budget of \$3,217,000.

M/WBE Considerations: Minority and Women’s Business Enterprise requirements will be applied to all activities to the extent required by federal funding.

Respectfully Submitted by: 
LASHELLE DOZIER
Interim Executive Director

Recommendation Approved:

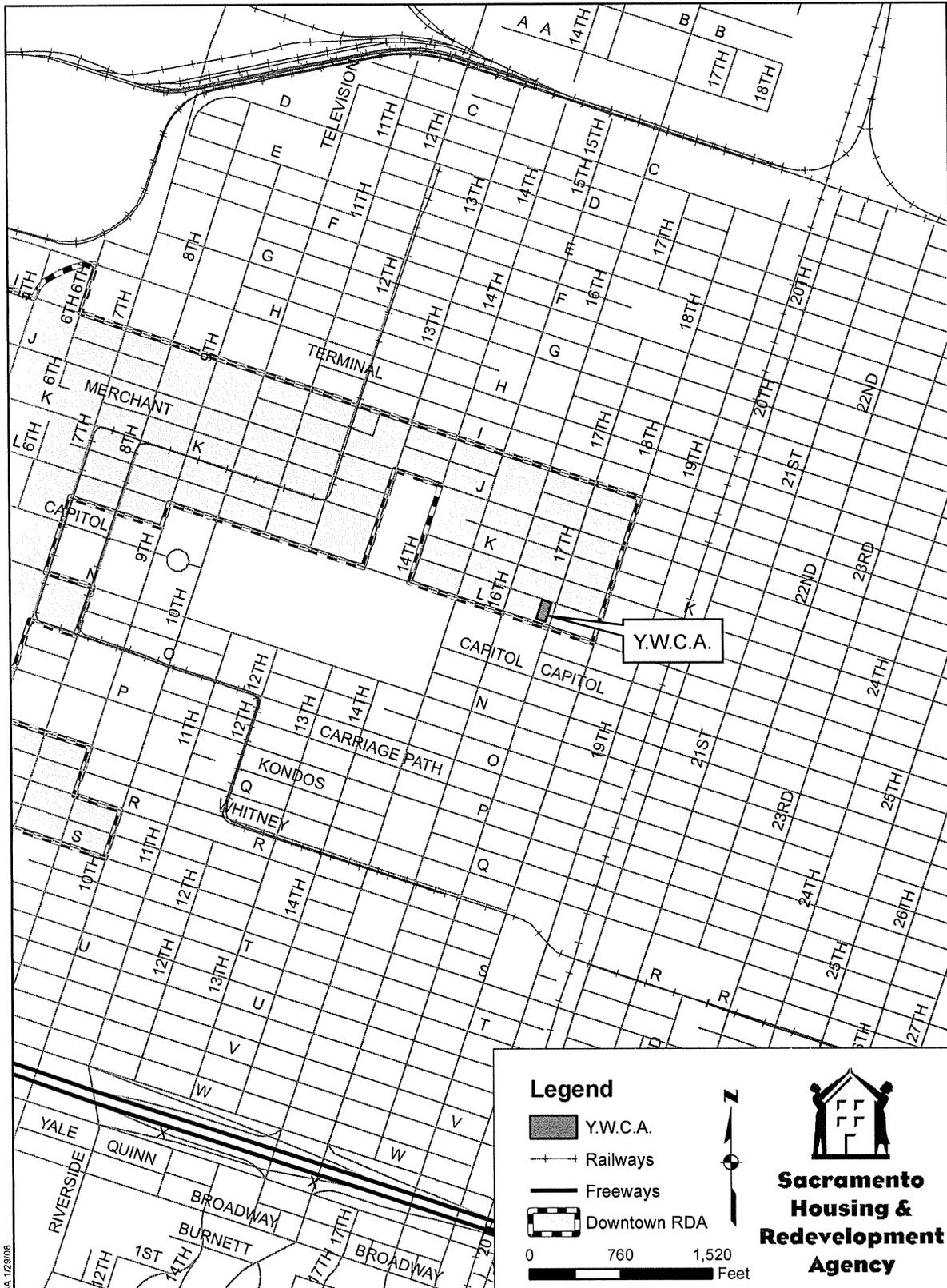

RAY KERRIDGE
City Manager

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Y.W.C.A. Vicinity Map

Attachment 1



Legend

-  Y.W.C.A.
-  Railways
-  Freeways
-  Downtown RDA

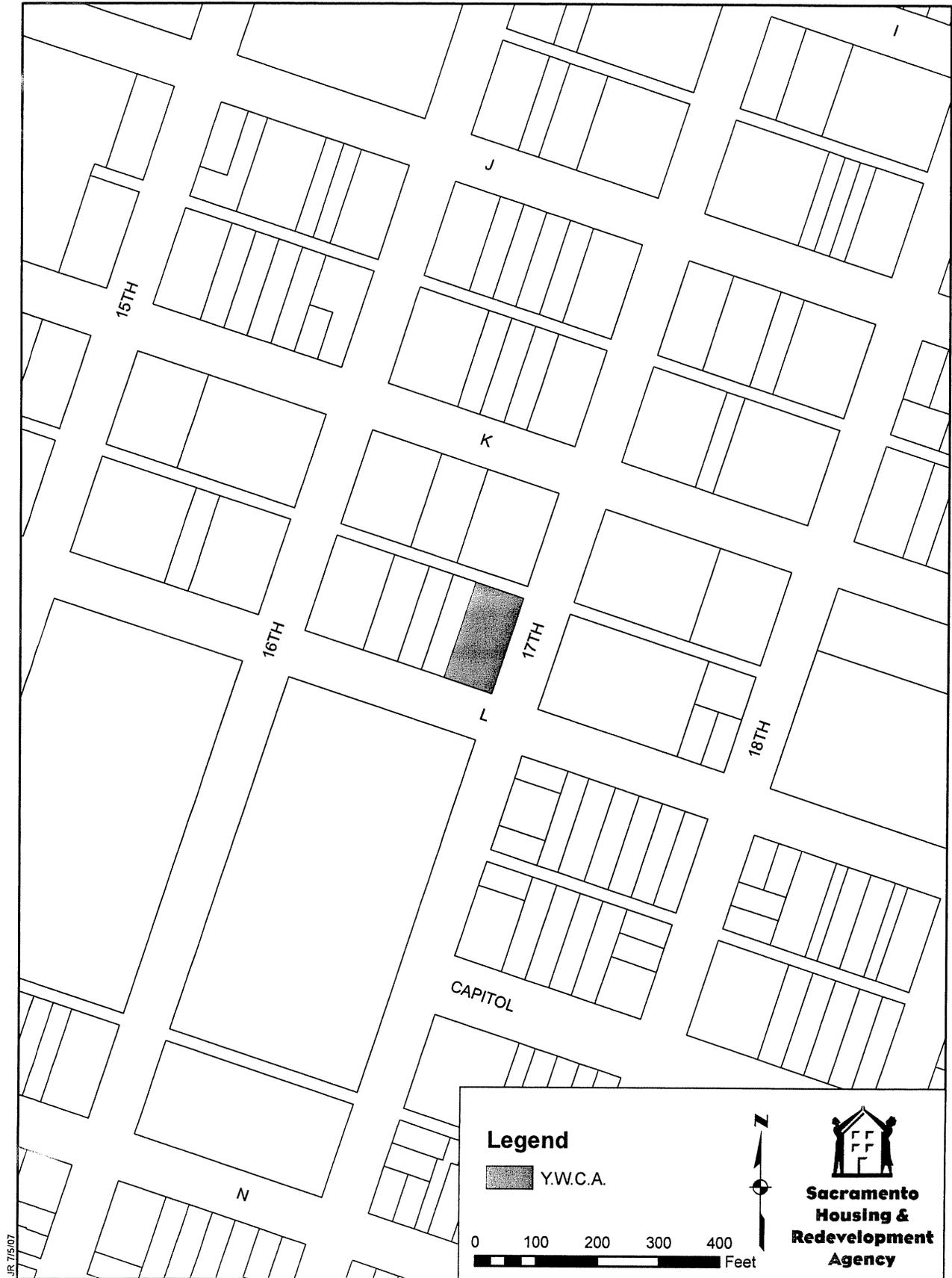


**Sacramento
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0 760 1,520
Feet

BA 1/25/08

Y.W.C.A. Location Map



JR 7/5/07

Background Information – Y.W.C.A.

Incorporated in 1891, YWCA Sacramento was the first YWCA in California. The YWCA has provided affordable, safe, and decent housing since their current location at 1122 17th Street opened in 1932. The Sacramento YWCA remains true to its long tradition of social activism and service to the community, offering an Encore Breast Cancer Awareness Program, affordable housing and an array of classes and services.

At the September 2006 annual meeting of the YWCA of Sacramento, a vote was taken by the general membership to dissolve and turn over assets to the financially stronger YWCA of Contra Costa County and form a new entity, the YWCA of Contra Costa County/Sacramento. The board of directors of the new entity includes two members from Sacramento.

The Sacramento YWCA undertook its last major renovation in 1985. To finance the rehabilitation work, the YWCA entered into a loan agreement with the State Department of Housing and Community Development (\$165,000) and a Low/Mod Tax Increment loan with the Agency (\$133,000). The notes and accrued interest are due in the year 2015. Legislation was recently approved in the California Senate (SB707) that would allow State HCD, with borrower approval, to extend the term of the HCD loan up to an additional 55 years. The new loan agreement would more closely mirror current State HCD Multifamily Housing Program requirements.

Description of Development: The YWCA Apartments consists of a single three-story building with a partial basement. The 76 year old building was designed by local architect Charles Dean in the Mediterranean Revival style. Landmark designation by the City of Sacramento will require any work performed to be approved by the City's Historical Commission, in addition to the Building Department.

The exterior walls are full brick with deteriorating paint; all other portions of the structure are wood-framed. There is a combination of Spanish tile and built-up roofing, most of which is in poor condition, with evidence of leaks. The building is heated by a central steam boiler with radiators throughout. Only portions of the second and third floors are air conditioned. The building includes thirty-one Single Room Occupancy (SRO) units, a manager's unit, community spaces, common kitchen, common toilet facilities, and support offices. Additionally, the main floor also includes large rooms available for community use. Other than a small courtyard area on the southwestern corner of the site, the building occupies the entire site. There is no on-site parking.

The building needs extensive work including major infrastructure repairs. Exterior work to be performed includes the roof repair, gutter & downspout repair, painting exterior walls, providing landscaping in the courtyard, repairing windows, and building a new enclosed access to the building elevator making it handicap accessible. Interior work includes painting and carpeting the lobbies and corridors. One of the common rooms on the second floor will be converted to a common dining room. Work in tenant apartments will include painting walls and ceilings, installing new flooring, installing additional electrical circuits, installing new vanities, laminating countertops, sinks, and built-in dressers. The heating system, air conditioning, electrical system, hot water tank, smoke detectors, and replacement of all galvanized pipe will be addressed in the rehabilitation work. A new elevator cab will also be installed which will meet accessibility standards.

Initial plans submitted in anticipation of the rehabilitation project show that the total number of units will remain the same. However, one unit will be relocated from the ground floor to the second floor.

As proposed, the project will not cause permanent displacement of existing tenants. Temporary relocation will be required during the course of the anticipated construction. Should it be determined that any tenant would be permanently displaced as a result of the project, then a full relocation plan will be prepared and brought forward for governing board review and approval.

Developer: The YWCA of Contra Costa County was incorporated in 1945. The YWCA of Sacramento was incorporated in 1891. The newly combined organization has a total of fifty-five staff persons serving seven sites including downtown Sacramento. Programs offered include child care programs, mental health case management, women empowerment programs including the ENCOREplus Breast Cancer program in Sacramento, parenting classes, workshops and support groups, and residential housing in the Sacramento facility.

Property Management: The YWCA SRO development in Sacramento has been and will continue to be managed by the YWCA. The organization has three staff persons responsible for property management and related services. Management staff prides itself in the sense of community that they have been able to establish at the residential facility while working with tenants who are dealing with numerous personal issues.

Agency staff has reviewed the management plan, including daily operations, leasing procedures, maintenance, and eviction procedures, and has found that the proposed management company meets the Agency's requirements for property management.

Social Services Plan: Many of the tenants at the YWCA have experienced homelessness as a result of disabilities such as mental illness, substance abuse and dependency, and chronic physical health problems. The tenant population is further disadvantaged by a lack of skills and education, and lack of family and other support networks. Supportive services must be provided to enable tenants to remain housed and to avoid incarceration and/or hospitalization.

The YWCA of Contra Costa/Sacramento outreach plan and services for residents will include ongoing collaboration with all Sacramento County referral sources. The YWCA Rental/Social Services Manager will meet on a regular basis with supportive staff from other agencies and work with case managers from other social agencies who are serving specific residents. The YWCA will also provide space for the managers to meet with residents on the site to discuss concerns and assist residents with further services. All residents will be provided with a full range of culturally appropriate supportive services that will meet their physical, mental, social, emotional, and spiritual needs on a weekly basis. To support residents in achieving greater self-determination, all residents will be encouraged to develop an individualized supportive service plan and will be assisted in connecting with services that they can access independently and which will support them in their goals of maintaining stable living and improving the quality of life.

The YWCA will work with many social service agencies, especially Turning Point and/or El Hogar, to ensure that all residents' needs are being met with the ultimate goal being to provide a positive experience for the residents and ensure the residents can maintain their residence at the YWCA.

Support services staff at the YWCA Sacramento site will include the Facility/Program Director, Rental/Social Services Manager, Residential Manager and Master's of Family Therapy (MFT) Therapist Intern. The above staff work both full and part time for the program and all of the staff are on the site weekly and, in many cases, work with the residents daily.

Project Financing: The developer has proposed to finance the YWCA project with Affordable Housing Program (AHP) funds from the Federal Home Loan Bank of San Francisco, and Agency grants from Downtown Tax Increment Residential Hotel fund and MHSA/Building Hope Program funds. A project summary, including a proposed sources and uses of funds, is included as Attachment 4. A cash flow pro forma is included as Attachment 5.

Low-income Set-aside Requirements: As a condition of receiving the benefits of below-market rate grants, redevelopment law requires that project units be set aside for targeted income groups. All of the SRO units in this project will be regulated at the Extremely Low-Income (30% AMI) level by one or more funding sources. The one-bedroom manager's unit will be regulated at the Low-Income level (60% AMI). The following chart summarizes the proposed affordability restrictions as required for the Agency's loan.

30% AMI or below	60% AMI or below	TOTAL
31	1	32

The project's affordability restrictions will be specified in a regulatory agreement between the Agency and the developer. With the rehabilitation, the Agency would extend the regulatory term for 55 years.

Y.W.C.A.

Address	1122 17th Street, Sacramento, CA 95814		
Number of Units	32		
Year Built	1932		
Acreage	.30 acres		
Affordability	31 units at or below 30% of median income 1 unit at or below 60% of median income		
Unit Mix and Net Rents	Net Rents		
	(30% AMI)		(60% AMI)
SRO unit	31 units @ \$291		0 units
1 Bedroom / 1 Bath	0 units		1 unit @ \$588
Square Footage			
SRO	31 SRO units at 2,914 Sq. Ft.		
Managers Apartment	1 manager's unit at 278 Sq. Ft.		
Community Spaces	1,936 Sq. Ft.		
Total	23,948 Sq. Ft.		
Resident Facilities	The second floor has two common rooms, a dining room and a kitchen. The third floor has a common living room.		
Permanent Sources	<i>Total</i>	<i>Per Unit</i>	<i>Per Square Foot</i>
SHRA TI	\$ 2,400,000	\$ 75,000	\$ 100.22
MHSA	\$ 600,000	\$ 18,750	\$ 25.05
FHLB AHP Program	\$ 217,000	\$ 6,781	\$ 9.06
TOTAL SOURCES	\$ 3,217,000	\$ 100,531	\$ 134.33
Permanent Uses			
Rehabilitation	\$ 1,807,486	\$ 56,484	\$ 75.48
Rehabilitation Soft Costs	\$ 444,654	\$ 13,895	\$ 18.57
Developer Fee	\$ 50,000	\$ 1,563	\$ 2.09
Operating Reserves	\$ 600,000	\$ 18,750	\$ 25.05
Replacement Reserves	\$ 22,000	\$ 688	\$ 0.92
Rent Up Reserve	\$ 27,000	\$ 844	\$ 1.13
Construction Contingency	\$ 265,860	\$ 8,308	\$ 11.10
TOTAL USES	\$ 3,217,000	\$ 100,531	\$ 134.33
Management / Operations			
Proposed Developer:		YWCA	
Property Management Company:		YWCA	
Operations Budget:	\$145,263	\$4,539	
Replacement Reserves:	\$22,000	\$688	

RESOLUTION NO. 2008 - _____

Adopted by the Redevelopment Agency of the City of Sacramento

on date of

THE YWCA: APPROVAL OF OWNER PARTICIPATION AGREEMENT CONTAINING TERMS AND CONDITIONS FOR A GRANT OF UP TO \$3,000,000, AND RELATED DOCUMENTS WITH THE YWCA OF CONTRA COSTA COUNTY/SACRAMENTO, A CALIFORNIA NON-PROFIT CORPORATION; RELATED BUDGET AMENDMENT

BACKGROUND

- A. The YWCA of Contra Costa County/Sacramento has applied under the Agency's Request for Applications for Efficiency Apartment Housing to assist its rehabilitation of the YWCA Building, an existing downtown residential hotel.
- B. The YWCA of Contra Costa County/Sacramento will undertake a substantial rehabilitation project and operate the YWCA Building as supportive housing.
- C. In 1985, the Redevelopment Agency originated a loan (Low/Mod Tax Increment Loan Number 2490004) in the amount of \$133,000 to assist in rehabilitation of 32 SRO units at the YWCA. The borrower has had difficulty making payments on the loan. Extension of Loan Number 2490004 for up to 55 years will facilitate the substantial rehabilitation and operation of the YWCA Building as permanent supportive housing.
- D. In 1985, State HCD originated a loan in the amount of \$165,000 to assist in rehabilitation of 32 SRO units at the YWCA. The borrower has had difficulty making payments on the loan. Extension of the State HCD loan for up to 55 years will facilitate the substantial rehabilitation and operation of the YWCA Building as permanent supportive housing.
- E. To compensate for costs incurred to plan for the rehabilitation, the YWCA of Contra Costa County/Sacramento has requested an advance of up to \$190,000 prior to construction.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO RESOLVES AS FOLLOWS:

- Section 1. It is determined that the action proposed by this resolution is the operation, repair, and minor alteration of an existing facility with negligible expansion beyond the current use, and is therefore exempt from environmental review under the California Environmental Quality Act Guidelines Section 15301. The National Environmental Protection Act does not apply.

- Section 2. On condition that the YWCA of Contra Costa County/Sacramento enter into an Owner Participation Agreement (Exhibit A) for the rehabilitation and operation of the property as an affordable supportive housing project, the Agency is authorized to amend Low/Mod Tax Increment Loan number 2490004 to coincide with a new Agency regulatory agreement and extend the term to 55 years.

- Section 3. The Agency Budget is amended to transfer \$2,400,000 from the Merged Downtown Tax Increment Residential Hotel Fund ("TI Funds"), and \$600,000 from the Mental Health Services Act fund to the YWCA Project ("Project").

- Section 4. The Owner Participation Agreement, attached to and incorporated in this resolution by this reference, for financing the YWCA project is approved and the Interim Executive Director is authorized to execute and transmit the Agreement to YWCA of Contra Costa County/Sacramento. The Agreement is conditional on the YWCA making a good faith effort to extend the term of the State HCD loan to 55 years.

- Section 5. Subject to the satisfaction of conditions in the Owner Participation Agreement, the Interim Executive Director is authorized to prepare and execute all other documents reasonably required for making the \$3,000,000 grant to YWCA of Contra Costa County/Sacramento to fund the rehabilitation of the YWCA Building, including the Conditional Grant Agreement (Exhibit B), the Deed of Trust, and the Regulatory Agreement.

- Section 6. The Interim Executive Director is authorized to release up to \$190,000 from the grant funds to fund YWCA of Contra Costa County/Sacramento costs of predevelopment activities in advance of construction.

- Section 7. The Interim Executive Director is authorized to enter into and execute other documents and perform other actions necessary to fulfill the intent of the staff report that accompanies this resolution, in accordance with their respective terms, all as approved by Agency Counsel.

Section 8. The Interim Executive Director is authorized to make technical amendments to said agreements and documents with approval of Agency Counsel, which amendments are in accordance with the Owner Participation Agreement, with Agency policy, with this resolution, with good legal practices for making of such a grant.

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Exhibit A – Draft Owner Participation Agreement

Exhibit B – Conditional Grant Agreement

Owner Participation Agreement

USING FUNDS FROM PROJECT AREA TAX INCREMENT AND OTHER:

Redevelopment Agency of the City of Sacramento

Merged Downtown Sacramento Redevelopment Project Area

YWCA

1122 17th Street, Sacramento, CA 95814

Owner Participation Agreement

PROJECT AREA TAX INCREMENT AND OTHER:

Redevelopment Agency of the City of Sacramento

Merged Downtown Sacramento Redevelopment Project Area

YWCA

1122 17th Street, Sacramento, CA 95814

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, and YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF CONTRA COSTA COUNTY/SACRAMENTO also called Agency and Developer, respectively, enter into this Owner Participation Agreement, also called OPA, as of ***Effective Date***. For purposes of this Agreement, the capitalized terms shall have the meanings assigned in Section 15.

RECITALS

A. Developer is the owner of real property located at 1122 17th Street, Sacramento, CA 95814, in the City of Sacramento, California, more particularly described in attached Exhibit 1: Legal Description, which is incorporated into this OPA by this reference. The Property is located in the Merged Downtown Sacramento Redevelopment Project Redevelopment Project Area and is subject to the Project Area's Redevelopment Plan.

B. This OPA is made in accordance with provisions of the Redevelopment Plan for participation by property owners in redevelopment of the project area (adopted in accordance with California Health & Safety Code Section 33339).

C. The Agency is participating in this OPA because this OPA is consistent with, and furthers, the Redevelopment Plan and the Implementation Plan. Specifically and without limitation, the Agency has determined that the Project will increase and improve supply of low- or moderate-income housing in the community and will eliminate the following blighting influences: Deficient buildings. The Agency has also determined that the Project will meet the following goals of the current "Implementation Plan" adopted for the Project Area: improve the community's supply of low income housing, rehabilitate obsolete, aged and deteriorated building types and preserve residential hotel units.

D. In order to accomplish such Agency goals and purposes, the OPA provides that the Developer will redevelop the Property in the manner and for the uses described in this OPA. Therefore, Developer desires to develop the Property, and Agency desires to assist development of the Property, on the terms and conditions in this OPA.

AGREEMENT

NOW THEREFORE, in consideration of the following mutual covenants, obligations and agreements and for other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. **AGENCY FUNDING.** Agency is providing funding to the Project under the Agreement for development of the Project as described in Section 2. As a condition of Agency's obligation to provide the Agency Funding and in consideration of the Agency Funding, Agency is purchasing from Developer, and Developer is selling to Agency, an operating covenant to assure the operation of the Project as described in Section 2, as well as other obligations and restrictions, including without limitation, use restrictions and restrictions on amounts that can be charged on sale or rental of the Property, as evidenced by the Regulatory Agreement.

2. **PROJECT DESCRIPTION.** The Project being assisted with the Agency Funding is the following: Rehabilitation of the existing YWCA residential hotel located at 1122 17th Street in Sacramento, CA. The rehabilitated building will contain 31 single resident occupancy units and 1 one bedroom unit with rents regulated at the following levels of affordability: 1 one bedroom unit at low income; 20 SRO units at very low income; and 11 SRO units at extremely low income.

3. **PREPARATION AND APPROVAL OF PLANS AND RELATED DOCUMENTS.** This OPA is a financing document of the Agency and not a land use or planning document. Approval of the Project under this OPA by the Agency is not and shall not be considered an approval of land use entitlements or structural design of the Project, or the aesthetic design of the Project except as an approval by the Agency of the Project design concept as presented in this OPA. Developer shall comply with all applicable land use, planning and design laws, rules and regulations of each governmental agency acting in proper exercise of their respective jurisdictions, including without limitation, departments, staff, boards and commissions of the City. The Agency shall have the right, but not the obligation, to review Plans to assure their conformity with the provisions of this OPA and approvals given under this OPA. Based upon such review the Agency shall have the right to approve or reject the Plans for reasonable cause. Agency's right of review includes, without limitation, the right to review architectural and engineering plans and specifications, off-site plans and specifications, and landscaping designs and specifications. Agency's approval of Plans is not an assurance of their adequacy or correctness. Agency has reserved approval rights solely (a) to assure that the Plans further the Redevelopment Plan; (b) to assure that the Final Plans conform to the Preliminary Plans; and (c) to assure that any Agency funds which may be obligated under this OPA are used as intended by the Agency.
 - 3.1. **CONCURRENT REVIEW.** Agency agrees that its review of the Final Plans shall occur prior to or concurrently with City's review of such plans, so as not to delay the commencement and progress of Project development. Agency agrees that its review of the Final Plans is strictly limited to making a determination that the Final Plans conform to the architectural designs (but not the detailed schematics, if any) presented in the Plans, the Scope of Development, the uses permitted on the Property and the Redevelopment Plan.

3.2. PRELIMINARY PLANS. Developer has provided Agency with Preliminary Plans, and the Agency has approved the Preliminary Plans concurrently with this OPA. The Agency has been induced to undertake its obligations under this OPA by Developer's promise to develop the Project in accordance with the Plans, the Scope of Development and the provisions of this OPA.

3.3. PREPARATION OF FINAL PLANS AND RELATED DOCUMENTS. Developer shall prepare the Final Plans which shall include all construction plans, drawings, specifications and other documents necessary to obtain all required building permits for the construction of the Project. Developer shall submit the Final Plans to the Agency for Agency's review. The Final Plans shall conform in all material respects to the Preliminary Plans and the Scope of Development. To the extent that the Preliminary Plans and Scope of Development have insufficient detail or are unclear, the Preliminary Plans shall be deemed to provide that the Project shall contain high-quality materials, and shall conform to all applicable zoning, design and usage guidelines. The Final Plans shall be considered to include all changes or corrections approved as provided in this OPA. The Final Plans shall incorporate all related mitigation measures required for compliance with CEQA approvals, as stated in the Mitigation Monitoring Plan. Developer agrees that it will comply with the requirements of the Design Review Board to the extent of its jurisdiction.

3.4. DELIVERY. Developer shall deliver the Final Plans or changes to the Final Plans for Agency review as soon as available. Said delivery shall be made to the office of the Downtown Enterprise Department, which is staff to the Agency for the Project Area and shall have clearly marked on its exterior "URGENT: YWCA Residential Hotel PROJECT PLAN REVIEW" or the equivalent.

3.4.1. DEEMED APPROVAL. The Final Plans or changes to the Final Plans shall be deemed approved unless disapproved in whole or in part, in writing, within fifteen (15) days after their proper delivery to Agency.

3.4.2. AGENCY DISAPPROVAL. If Agency disapproves, in whole or in part, the Final Plans or any change to the Final Plans, Agency shall state, specifically and in writing, at the time of disapproval, the reasons for disapproval and the changes which the Agency requests to be made. Agency's reasons for disapproval and such Agency-requested changes shall be consistent with the Preliminary Plans, the Approved Final Plans, the Scope of Development and with any items previously approved under this Section. If the Agency rejects the proposed Final Plans, Developer shall obtain no rights to develop the Property under this OPA and Agency shall have no obligations regarding the Project until such time as Developer has modified the proposed Final Plans and received the Agency's approval of the Final Plans as modified.

3.5. GOVERNMENTAL CHANGES. If any revisions or corrections of the Final Plans shall be required by any government official, agency, department or bureau in exercise of its proper jurisdiction, the Developer shall inform the Agency. If Agency and Developer concur in writing with the required change, Developer shall incorporate the change and it shall be deemed approved by Agency. If Agency or Developer reasonably disagree with the required change,

they shall reasonably cooperate with the agency requiring the change in efforts to develop a mutually acceptable alternative.

3.6. APPROVAL OF SUBSTANTIAL CHANGES TO FINAL PLAN. If the Developer desires to make any substantial changes in the Final Plans as approved by the Agency, the Developer shall submit such proposed changes, in writing, to the Agency for its approval. The Final Plans shall be construed to include any changes approved in the same manner as for approval of the original Final Plans. The Agency shall approve or disapprove the proposed change as soon as practicable. Nothing in this Section shall be construed to relieve Developer of its obligations under all applicable laws regarding such changes.

3.6.1. SUBSTANTIAL CHANGE. A substantial change in the Final Plans shall include, without limitation, the following changes, excluding those items generally considered to be tenant improvements. For purposes of this Section 3.6.1, material change” is a change that is material to the Agency in accomplishing its purposes under this OPA.

- a) Material changes in the layout, elevation design, square footage.
- b) Material changes in use of exterior finishing materials substantially affecting architectural appearance or functional use and operation.
- c) Material changes in site development items for the Property that are specified in the Final Plans.
- d) Any changes requiring approval of any city, county or state board, body, commission or officer, or any change required by any city, county or state board, body, commission or officer.
- e) Any change which would preclude or materially reduce the ability to use the Project as intended by this OPA.

3.6.2. MISREPRESENTATION. If the Agency’s approval of the Final Plans is reasonably based upon a material misrepresentation to Agency by Developer or by anyone on Developer’s behalf, the Agency may, within a reasonable time after discovery of the misrepresentation, take any action permitted by law with regard to any such misrepresentation, notwithstanding Agency’s prior approval, including without limitation, rescission of the approval or such other equitable remedies as may then be appropriate to such rescission.

4. DEVELOPMENT PROVISIONS. As stated in detail in this Section 4, Developer shall construct and manage the Project according to the requirements established in this OPA, which includes, without limitation, the Scope of Development, the Schedule of Performance and the Plans. Developer shall promptly begin, diligently prosecute and timely complete the construction of the Project. In interpreting the provisions of this OPA, the provisions which specifically enforce the Redevelopment Plan and the applicable provisions of the California Redevelopment Law [commencing at Health and Safety Code Section 33000] shall control.

4.1. CONSTRUCTION CONTRACTS. Developer shall submit to Agency the Construction Contract for the Project. Agency's review of the Construction Contract shall be only for determining its compliance with this OPA. If the cost of construction of the Project or any part of the Project exceeds the costs projected by Developer, Developer shall, nevertheless, bear the responsibility to complete, at Developer's cost, the construction of the Project in accordance with this OPA.

4.2. GOVERNMENTAL REVIEW PROCESS. Notwithstanding any other provision of this OPA, Developer is subject to all building, planning, design and other plan review requirements that are otherwise applicable to the project, including without limitation those of the City of Sacramento. To assure proper review by the City, Developer shall, within thirty (30) days of the date of this OPA, make an initial deposit toward "plan check fees" with the City's Planning Department. In addition, Developer shall, as applicable, take designs before the Design Review/Preservation Board or its appropriate subcommittee for comment as soon as practicable. Conditions to the project imposed by the City shall be considered obligations of the Developer under this OPA. If a dispute with City staff arises regarding such City conditions, Developer shall accept the decision of the City's Planning Commission interpreting, imposing and enforcing such City conditions, subject to any applicable appeals process of the Planning Commission.

4.3. SUBSTANTIAL CHANGES. Developer covenants and agrees that Developer shall not make or permit to be made any construction of the Project which incorporates a substantial change in the Final Plans, as described in Section 3.6, without Agency approval of such changes as provided in Section 3.6.

4.4. LOCAL, STATE AND FEDERAL LAWS. The Developer shall assure that the construction of the Project is carried out in conformity with all applicable laws and regulations, including all applicable federal and state labor standards. Developer acknowledges and agrees that all wage and hour laws and other labor laws as applicable, including without limitation prevailing wage requirements, are the sole responsibility of Developer and Developer's contractors and subcontractors. Developer and its contractors and subcontractors have undertaken to ascertain the applicability of such laws prior to preparation of the final Project budget and have included the costs arising from such laws in the final Project budget. Developer shall keep, or cause to be kept, all records and make all payments, of any kind, that may be required for compliance with said laws and regulations. Before commencement of construction or development of any buildings, structures or other work of improvement upon the Property, Developer shall at its own expense secure any and all certifications and permits which may be required by any governmental agency having jurisdiction over such construction, development or work. Developer shall permit only persons or entities which are duly licensed in the State of California, County of Sacramento and City of Sacramento, as applicable, to perform work on or for the Project.

4.5. PREVAILING WAGES. The California Department of Industrial Relations has undertaken the aggressive and expansive enforcement of prevailing wage laws for redevelopment projects. The Agency has advised, and the Developer acknowledges, that the Project is subject to the payment of prevailing wages under the laws of the State of California. Developer has had the

opportunity to meet with Developer's legal counsel and to request a determination from the Department of Industrial Relations regarding the applicability of prevailing wage requirements to this Project. Developer has made its independent determination of the applicability of prevailing wage laws and has independently implemented such determination. Developer, therefore, indemnifies, holds harmless and defends the Agency from all additional wages, benefits, fees, penalties, fines, legal fees, court costs, arbitration costs, and other costs arising from Developer's determinations and actions related to prevailing wage obligations for the work of this OPA.

4.6. PUBLIC SAFETY PROTECTIONS. Developer shall assure that all necessary steps are taken (including the erection of fences, barricades and warning devices) to protect private contractors and their employees and the public from the risk of injury arising out of the condition of the Property or Developer's activities in connection with the Property, including without limitation, fire, or the failure, collapse or deterioration of any improvements or buildings.

4.7. NONDISCRIMINATION IN CONTRACTING AND EMPLOYMENT. Developer for itself, Manager, the General Contractor and their respective successors and assigns, agrees that the following provisions shall apply to, and be contained in all contracts and sub-contracts for the construction of the Project.

4.7.1. EMPLOYMENT. Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, creed or national origin. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, or national origin. Such action shall include, but not limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Agency setting forth the provisions of this nondiscrimination clause.

4.7.2. ADVERTISING. Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, or national origin.

4.8. PUBLIC IMPROVEMENTS. Developer shall, at Developer's expense as a Project cost, undertake and complete any modification, construction, relocation or improvement of public facilities, improvements and utilities for the development of the Property.

4.9. AGENCY ACCESS TO THE PROPERTY. Developer shall permit Agency representatives access, without charge, to the entire Property at any time and for any purpose which Agency reasonably considers necessary to carry out its obligations and protect its interests under the OPA. Purposes for Agency entry may include, without limitation, inspection of all work being performed in connection with the construction of the Project.

4.10. **PROJECT SIGN.** If Developer places a sign on the Property during construction stating the names of the Project participants, it shall also name "Sacramento Housing and Redevelopment Agency" as a participant in the Project. The Agency name on the sign shall be in letters not less than size of letters used to name any of the other participants.

4.11. **CERTIFICATE OF COMPLETION.** After the Agency has determined that Developer has completed the construction of the Project in accordance with the Final Plans and Developer's obligations under this OPA, the Agency will furnish the Developer with a "Certificate of Completion" certifying such completion. Such certification shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the OPA with respect to the obligations of the Developer to construct the Project as of the Completion Date, subject to any qualifications or limitations stated in such certification. Agency shall prepare and execute each Certificate of Completion in a form suitable for recording in the Official Records of Sacramento County.

4.11.1. Such certification and such determination shall not constitute evidence of compliance with any governmental requirements regarding the Project other than those of Agency or satisfaction of any obligation of the Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance all or any part of the Project. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of any provision of this OPA that is not related to construction of the Project.

4.11.2. If the Agency fails to provide a Certificate of Completion within fifteen (15) days after written request by Developer, the Agency shall, within an additional (15) days after a second written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Project in accordance with the provisions of the OPA, or is otherwise in default, and what measure or acts it will be necessary, in the opinion of the Agency, for the Developer to take or perform in order to obtain such certification.

4.12. **CONSTRUCTION PERIOD EXTENSION FEE.** If Developer does not complete the construction of the Project on or before the Completion Date stated in the Schedule of Performances, Developer shall pay to Agency, monthly, in advance, on the first day of each month beginning the calendar month following the Completion Date, a construction period extension fee of Twenty-Five Dollars and No Cents Dollars (\$25.00) for each day by which the completion of construction is delayed beyond said completion date. Construction Period Extension Fees due for days of delay occurring prior to the first payment date shall be paid in arrears at the time of the first payment under this Section 1. The number of days used in computation of the Construction Period Extension Fee shall be reduced by the number of days of Unavoidable Delay. Failure to pay Construction Period Extension Fees when due is a material default of this OPA. Any unearned portion of an advance payment of any such extension fee shall be refunded by the Agency within thirty (30) days of completion of construction, or of termination of the OPA. Agency shall have the option to terminate, upon ten (10) days prior written notice, Developer's rights to unpaid Construction Extension Fees and to declare Developer in material default of this OPA. In any event, Construction Extension Fees shall not

be accepted for a time period greater than six months, at which time Developer shall be deemed in material default of this OPA.

4.13. **REPORTS.** During the period of construction, the Developer shall submit to the Agency a written report of the progress of the work as and when reasonably requested by the Agency, but not more often than once each month.

4.14. **NOTIFICATION OF GENERAL CONTRACTORS, ARCHITECTS AND ENGINEERS.** Developer shall assure that the respective parties through the Project Documents have the responsibility of notifying the Project contractors, architects and engineers for the Project of the requirements of this OPA. Developer shall include, where applicable, the provisions of this OPA in construction contracts and subcontracts for the Project, and Developer shall undertake the enforcement of such provisions.

4.15. **PROPERTY CONDITION.** Except as provided in this OPA, if the condition of the Property is not in all respects entirely suitable for the use or uses to which the Property will be put, it is the sole responsibility and obligation of the Developer to take such reasonable actions as may be necessary to place the condition of the Property in a condition which is entirely suitable for its development in accordance with the construction plans and drawings approved by Agency.

4.16. **ZONING OF THE PROPERTY.** Agency exercises no authority with regard to zoning of the Property. Developer shall assure that zoning of the Property at the time of development shall be such as to permit the development and construction, use, operation and maintenance of the Project in accordance with the provisions of this OPA.

4.17. **NO WORK PRIOR TO CLOSE OF ESCROW.** Prior to Close of Escrow, Developer shall not commence any work or take any action that might be construed as commencement of the work of the Project for establishment of mechanic's lien rights.

5. **ADDITIONAL PROJECT PROVISIONS.** Upon Developer's execution of this OPA, Agency shall amend the existing Agency loan number 2490004 to Developer dated June 19, 1985 ("Agency Loan"). The original principal is \$133,000 with 3% simple interest. Accumulated deferred interest as of Date is estimated to be \$27,900. Principal and interest through Date is approximately \$160,900. Principal and interest are currently due on June 19, 2015. Agency shall amend the Agency Loan to extend the date on which principal and interest are due to **[INSERT DATE]**.

5.1. Developer shall make a good faith effort to obtain an extension of the loan from the California State Department of Housing and Community Development to Developer dated June 24, 1986 in the amount of ONE HUNDRED SIXTY FIVE THOUSAND DOLLARS (\$165,000) and secured by a Deed of Trust recorded at Book 850626, Page 185 of Sacramento County Official Records ("HCD Loan"). Developer shall make a good faith effort to obtain an extension of the term of the HCD Loan of fifty-five (55) years pursuant to Health and Safety Code section 50515.2. Developer shall make a good faith effort to obtain the HCD Loan extension by June 30, 2009.

6. DEVELOPMENT FINANCING. Developer shall be responsible for and shall pay all costs of developing the Project except as otherwise provided in this OPA. As a condition precedent to Agency's obligation to provide the Agency Funding, Developer shall provide the Agency with a complete and firm Project budget including all proposed sources and uses of funds, all "hard" and "soft" costs and contingencies and reflecting, as possible, firm bids or accepted contracts and with evidence of sufficient funds to meet all budget requirements. To the extent that funds specified in this OPA for the Project are insufficient to fully fund the Project, the Developer shall provide evidence, satisfactory to the Agency, of the additional required construction and permanent financing. Except as expressly provided in this OPA, no party shall have the right of reimbursement for any funds expended by them for the Project. Agency is not obligated by this OPA or otherwise to make any contribution beyond its obligations stated in this OPA.

6.1. EVIDENCE OF AVAILABLE FUNDS. Unless otherwise approved by the Agency, Developer's evidence of available funds must include only the following: (a) Developer equity (as provided in Section 6.3), (b) firm and binding loan commitments (as provided in Section 6.2) from each Lender, in form and content acceptable to Agency, and (c) Agency contribution, if any, as specified in this OPA. Within ten (10) days after Agency's request, Developer shall provide all additional information requested by the Agency for evaluation of the actual availability of funds included in such evidence, including without limitation, request for clarification, further evidence or audited financial reports.

6.2. COMMITMENT AND LOAN REQUIREMENTS. As a material obligation under this OPA, Developer shall assure that the loan documents for the Project are consistent with the Lender's commitment approved by the Agency and comply, in all respects, with this OPA. The Agency may reject a loan commitment unless such commitments : (a) are subject only to Lender's reasonable conditions of title and Developer's execution of standard loan documents (copies of which have been previously provided to and approved by the Agency); (b) contain only usual, customary, and commercially reasonable loan terms; (c) continue in effect until a time when subject financing is reasonably expected to be required; and (d) for construction financing, provide for a Agency Funding term not less than that specified in the Schedule of Performances for completion of construction and any additional time necessary to fulfill all conditions precedent to funding of permanent financing. The Agency may also reject any commitment if it is based upon sources and uses of Project funds that are different from those approved by Agency for the Project. The Agency may also reject any commitment that requires changes to the Project which conflict with this OPA, that require amendment of this OPA or that require the Agency to enter into agreements with any Lender, guarantor, equity partner or any other third-party.

6.3. EVIDENCE OF DEVELOPER EQUITY. Unless otherwise agreed in writing by the Agency, Developer may provide evidence of equity by any one or more of the following actions: (a) a deposit of the required equity in a joint account with the Agency, which funds shall be released only upon the joint signatures of the Agency and the Developer; (b) delivery to Agency of an unconditional, irrevocable letter of credit in the amount of the required equity, in form and content as provided by the Agency, which letter of credit shall provide that the Agency may draw to fulfill any Developer obligation related to the development of the Project and necessary to assure its timely & proper completion; and (c) Developer shall provide financial statements

prepared by a certified public accountant which show liquid assets available to the Project (and not subject to other existing or contingent claims) in the amount of One Hundred and Fifty Percent (150%) the amount of the required equity. Developer shall not provide evidence of equity that includes funds not available at the commencement of construction or that claims as equity any funds to be generated by development of the Project, including without limitation, anticipated Developer profit or fees or Developer contribution of services to the Project. The Agency may reject any submitted evidence of equity if the Agency has any reason to believe that such funds may not be available to the Project.

7. **USE COVENANTS.** Developer shall own and manage the Property in accordance with the provisions of this OPA.

7.1. **NONDISCRIMINATION.** Developer covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through it, that it shall not discriminate on the basis of race, color, ancestry, religion, creed, sex, marital status, or national origin in the sale, lease or rental or in the use or occupancy of the Property and the Project.

7.2. **REGULATORY AGREEMENT.** Developer covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through it, that the Property shall be used strictly in accordance with the provisions of the Regulatory Agreement.

8. **INDEMNIFICATION.** Developer shall indemnify, protect, defend and hold harmless Agency, its officers, directors, commission members, employees, advisory committee members, and agents from any and all liability from bodily injury, death and property damage caused by or resulting from the acts or omissions of Developer, its officers, employees, agents or independent contractors and for any and all costs incurred by Agency in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Developer.

Agency shall indemnify, protect, defend and hold Developer harmless from any and all liability from bodily injury, death and property damage caused by or resulting from the acts or omissions of Agency, its officers, commission members, employees, advisory committee members or agents and for any and all costs incurred by Developer in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Agency.

This indemnification provision shall survive the termination of this agreement.

9. **INDEMNIFICATION FOR HAZARDOUS SUBSTANCES.** Developer shall indemnify, protect and defend Agency, its respective officers, directors, commission members, employees, advisory committee members, and agents, and hold them harmless from any and all liability, costs, fees, penalties and claims related to (a) the removal, discharge or release of Hazardous Substances on the Property after Developer has taken possession of the Property or (b) the existence of Hazardous Substances on the Property, which were not on the Property prior to Developer's taking possession of the Property.

10. LIABILITY INSURANCE. With regard to this OPA, the Developer shall obtain and maintain, and require the contractor and subcontractors for the Project to obtain and maintain such insurance as will protect them, respectively, from the following claims which may result from the operations of the Developer, any contractor, subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable: (a) claims under workers' compensation benefit acts; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of his employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees; (d) claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Developer, or (2) by any other person; claims for damages, other than to the construction itself, because of injury to or destruction of tangible property, including resulting loss of use; (e) claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle; and (f) claims for contractual liability arising from the Developer's obligations under this OPA.

10.1. LIABILITY INSURANCE POLICY LIMITS. Developer shall assure that the insurance required by this Section shall be written with a deductible of not more than TWENTY-FIVE THOUSAND DOLLARS (\$25,000).

10.2. WORKER'S COMPENSATION. Worker's compensation coverage shall be written for the statutory limits as required by the California Labor Code (commencing with Section 3700, as it may, from time to time, be amended) and having an employer's liability of not less than \$1,000,000 or statutory limits, whichever are greater.

10.3. COMPREHENSIVE GENERAL LIABILITY. Commercial general liability coverage shall include premises-operations, independent contractor's protective, products and completed operation (for four years), broad form property damage, and contractual liability coverage (or such other substantially similar coverage as may approved by Agency Counsel). Such insurance shall have limits of liability which are not less than \$2,000,000, each occurrence, for bodily injury coverage; \$2,000,000 aggregate, for products and completed operations coverage; \$1,000,000 each occurrence for property damage coverage, single limit and aggregate; and which is the same as the foregoing coverages.

10.4. COMPREHENSIVE AUTOMOBILE LIABILITY. Comprehensive automobile liability coverage for any vehicle used for, or in connection with, the Project (owned, nonowned, hired, leased) having limits of liability which are not less than \$1,000,000.

10.5. FIRE, HAZARD AND EXTENDED COVERAGE INSURANCE. For the duration of the OPA, Developer shall obtain and maintain fire and hazard insurance to the full insurable value of the Property with endorsements of extended coverage, vandalism, and malicious mischief, and with such other endorsements and in such amounts as the Agency may reasonably require to protect the Project. In the event of damage to the Project and subject to the requirements of Lender, Developer shall use the proceeds of such insurance to reconstruct the Project and the public improvements.

10.6. INSURANCE PROVISIONS. Each policy of insurance required under this OPA shall be obtained from a provider licensed to do business in California and having a current Best's Insurance Guide rating, or such other equivalent rating, as may reasonably be approved by Agency's legal counsel. Each policy shall contain the following provisions as applicable:

10.6.1. ADDITIONAL INSURED. During the term of construction, Agency shall be additional insured on all insurance policies, except the fire and hazard insurance and the worker's compensation policy, unless otherwise approved by Agency's legal counsel in writing.

10.6.2. SINGLE PROJECT INSURANCE. It is the intent of the parties that the Project have available all the specified insurance coverages. Developer shall not provide insurance coverages that are considered in aggregate with other Projects which Developer or its contractor might have concurrently under construction. The Agency may at its discretion permit an aggregate policy if and only if Developer or the respective contractor has fully disclosed to Agency other projects which will or may be considered in aggregate with the Project, and thereafter, Developer shall immediately inform Agency of the change in or addition to any such projects. Nevertheless, Agency may, at any time require that the insurance coverage be provided solely for the Project.

10.6.3. CANCELLATION. Each policy shall bear an endorsement precluding cancellation or termination of the policy or reduction in coverage unless the Agency has been given written notice of such intended action at least thirty (30) days prior to its effective date.

10.6.4. FAILURE TO MAINTAIN. If Developer fails to obtain or maintain, or cause to be obtained and maintained, any insurance required by this OPA, the Agency shall have the right to purchase the insurance on Developer's behalf, and Developer shall promptly reimburse the full cost of such insurance to the Agency. If Developer fails to reimburse the Agency for insurance, the amount of unpaid reimbursement shall bear interest, at the maximum rate permissible under the law, until paid.

10.6.5. BLANKET COVERAGE. Developer's obligation to carry insurance as required under this Section 10 may be satisfied by coverage under a "blanket" policy or policies of insurance (as the term is customarily used in the insurance industry); provided, however, that the Agency shall nevertheless be named as an additional insured under such blanket policy or policies to the extent required by this Section, the coverage afforded the Agency will not be reduced or diminished thereby, and all of the other requirements of this Section 10 with respect to such insurance shall otherwise be satisfied by such blanket policy.

11. DEFAULTS AND REMEDIES. Except as otherwise provided in the OPA, if either party defaults in its obligations under this OPA, the defaulting party shall immediately commence and diligently proceed to cure the default within thirty (30) days after written notice of default from the other party or, if reasonable, such longer time as is reasonably necessary to remedy such default if such default cannot reasonably be cured within thirty (30) days for reasons beyond the control of the defaulting party, provided that the defaulting party shall promptly begin and diligently pursue such cure to completion). If the defaulting party does not promptly begin and diligently cure the default within a reasonable time, the other party may institute proceedings to cure the default, including without limitation, proceedings to compel specific performance by the

defaulting party. Subject to any extension of time permitted by this OPA, a failure or delay by a party to perform any term or provision of this OPA constitutes a default of this OPA. As a condition precedent to termination of the OPA under this Section, each party shall first tender the return of all property or funds received from or on behalf of the other party, other than funds properly retained as liquidated damages. After such return of property and funds and termination of the OPA, neither Agency nor Developer shall have any further rights against or liability to the other under the OPA except as expressly set forth in this OPA to the contrary.

11.1. LIQUIDATED DAMAGES. IF DEVELOPER FAILS TO COMPLETE THE PROJECT AS PROVIDED IN THIS AGREEMENT BY REASON OF ANY DEFAULT OF DEVELOPER, AGENCY MAY PROCEED AGAINST DEVELOPER UPON ANY CLAIM OR REMEDY THAT AGENCY MAY HAVE IN LAW OR EQUITY; PROVIDED, HOWEVER, THAT, BY INITIALING THIS SECTION 11, DEVELOPER AND AGENCY AGREE THAT IN EVENT OF DEFAULT BY DEVELOPER, (A) IT WOULD BE IMPRACTICAL OR EXTREMELY DIFFICULT TO FIX ACTUAL DAMAGES; AN AMOUNT EQUAL TO TEN THOUSAND DOLLARS (\$10,000) SHALL CONSTITUTE LIQUIDATED DAMAGES PAYABLE TO AGENCY; (B) THE PAYMENT OF THE LIQUIDATED DAMAGES TO AGENCY SHALL CONSTITUTE THE EXCLUSIVE REMEDY OF AGENCY FOR DEVELOPER'S FAILURE TO COMPLETE THE PROJECT; AND (C) PAYMENT OF THOSE SUMS TO AGENCY AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT INSTEAD, IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO AGENCY PURSUANT TO SECTIONS 1671, 1676 AND 1677 OF THE CALIFORNIA CIVIL CODE.

_____ Developer's Initials
_____ Agency's Initials

11.2. OTHER RIGHTS AND REMEDIES. Upon the occurrence of any default by Developer subject to the liquidated damages provision, Agency's sole remedy therefor shall be as liquidated damages. Upon the occurrence of any default by any party other than subject to liquidated damages, and the expiration of any applicable notice and cure period without a cure having occurred within the specified cure period, the non-defaulting party shall have the right to institute such actions as it may deem desirable to remedy a default of this OPA as allowed under this OPA, at law or in equity.

11.3. NONLIABILITY OF AGENCY OFFICIALS AND EMPLOYEES. No member, official or employee of Agency shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by Agency or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this OPA.

11.4. ATTORNEY'S FEES AND RELATED. If an action is commenced between the parties, the prevailing party in that action shall be entitled to recover from the non-prevailing party all reasonable attorney fees and costs, witness fees, arbitrator's fees, and court and arbitration costs. "prevailing party" shall include without limitation, the party who receives performance from the other party for an alleged breach of contract or a desired remedy where the performance is substantially equal to the relief sought in an action; the party who receives any award for relief through arbitration; or the party determined to be the prevailing party by a court of law. In any event, the prevailing party shall mean the party receiving a judgment, ruling or award that is more favorable than the last firm offer of settlement made by such party. Any award of damages

following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

12. ENCUMBRANCE OF PROPERTY AND LENDER PROTECTIONS. Before issuance of a Certificate of Completion, the Developer may, upon written Agency approval, obtain a Loan and encumber the Property as security for the Loan, provided either that the proceeds of the Loan are used solely for construction of the Project improvements upon usual and customary and commercially reasonable terms or that the Loan is permanent project financing made upon usual and customary and commercially reasonable terms. After issuance of a Certificate of Completion, the Agency shall have no rights of approval regarding financing secured by the Property. As a condition to Agency's approval of a Loan, Developer shall provide the Agency with a conformed copy of all documents related to the Loan. Agency acknowledges that a Lender will rely upon this OPA in making the Loan and that Agency's obligations under this OPA are inducements to Lender's making of the Loan. Agency acknowledges that a Lender will rely upon this OPA in making the Loan and that Agency's obligations under this OPA are inducements to Lender's making of the Loan.

12.1. NOTICES. If the Agency gives any notice of default to Developer under this OPA, the Agency shall contemporaneously give a copy of such notice to each Lender who has requested such notice in the following form of request for notice at the address stated in the request for notice. Any such default notice that is not so delivered to Lender shall not be effective or binding with regard to Lender or otherwise affect Lender, but failure to deliver such default notice to Lender shall not affect its validity with respect to Developer. Lender shall use the following form for requesting notice:

[Date]

The undersigned, whose address for notices is stated immediately below its signature, does hereby certify that it is the Lender as such term is defined in that certain Owner Participation Agreement dated _____ between the Redevelopment Agency of the City of Sacramento and **Young Women's Christian Association of Contra Costa County/Sacramento** ("OPA"). Lender requests, in accordance with Section 21.1 of the OPA, that if any default notice shall be given to Developer under the OPA, a copy of such default notice shall be given to Lender.

[Lender Name and Address for Notice]

12.2. ASSIGNMENTS AND TRANSFERS OF THE LOAN. Agency shall not be bound to recognize any assignment of the Loan or related encumbrance of the Property unless and until Lender has given Agency written notice of the name and address of the assignee (and if more than one person is an assignee, the designated name and address for notices) and such assignee qualifies as a Lender under this OPA. Thereafter, such assignee shall be considered a Lender with respect to the Loan and the related encumbrance on the Property.

12.3. LENDER NOT OBLIGATED TO CONSTRUCT. Notwithstanding any of the provisions of the OPA, Lender shall not be obligated by the provisions of the OPA to construct or complete the Project. Nothing in this Section or any other provision of the OPA shall be construed to permit

or authorize Lender to devote the Property to any uses, or to construct any improvements on the Property, other than those uses or improvements provided or permitted in the OPA.

12.4. LENDER'S OPTION TO CURE DEFAULTS. After any default of Developer's obligations under the OPA, each Lender shall have the right, at its option, to cure or remedy such default, within the time for cure allowed to Developer, and to add the cost of such cure to the debt and the lien secured by the Property. The Agency shall accept such performance as if it had been performed by Developer; provided, however, that such Lender shall not be subrogated to the rights of the Agency by undertaking such performance. If the breach or default relates to construction of the Project, however, Lender shall not undertake or continue the construction of the Project (beyond the extent necessary to conserve or protect Project or construction already made) unless Lender assumes, in writing satisfactory to the Agency, Developer's obligations to complete the Project on the Property in the manner provided in the OPA. Any Lender who properly completes the Project as provided in the OPA shall be entitled, upon written request made to the Agency, to Certificate of Completion from the Agency in a manner provided in the OPA. Such certification shall mean that any remedies or rights with respect to the Property that the Agency may have because of Developer's failure to cure any default with respect to the construction of the Project on other parts of the Property, or because of any other default of the OPA by the Developer shall not apply to the part of the Property to which such Certification relates. Nothing in this Section shall be deemed to limit, modify or release any claim or remedy that the Agency may have against the Developer for such default.

12.5. DEFAULT BY DEVELOPER. In the event of a default by Developer, Agency shall not terminate this OPA unless and until the Agency has given notice to Lender of such default, as provided in this Section 21.5 and Lender has failed to cure such default as provided in Section 21.5 provided, however that if such default cannot practicably be cured by the Lender without taking possession of the Property, then the Schedule of Performances (and, therefore, the Agency's right to terminate this OPA) shall be tolled if and so long as:

12.5.1. Lender has delivered to the Agency, prior to the date on which Agency is entitled to give notice of termination of this OPA, a written instrument satisfactory to Agency in which Lender or its designee unconditionally agrees that it will commence the cure of such default immediately upon Lender or its designee taking possession of the Property and will thereafter diligently pursue such cure to completion; provided, however, that neither the Lender nor its designee shall be obligated to pay damages to the Agency on account of such default, except to the extent of any monies due and unpaid from Developer.

12.5.2. Lender or its designee has rights to obtain possession of the Property (including possession by receiver) through foreclosure, deed in lieu of foreclosure or otherwise, and Lender or its designee promptly commences and diligently proceeds to obtain possession of the Property, and if Lender is prevented by court action or by any statutory stay from prosecuting foreclosure proceedings, that Lender is diligently seeking relief from such action or stay; and

12.5.3. Upon receiving possession of the Property, Lender or its designee promptly commences and diligently proceeds to cure such default.

12.5.4. From and after the cure of such Developer default, Lender or its designee is not required to obtain possession or to continue in possession of the Property. Nothing in this Section shall preclude the Agency from exercising any of its rights or remedies with respect to Developer during any period of such forbearance.

12.6. FORECLOSURE. Foreclosure of any encumbrance securing the Loan, or any sale under such encumbrance, whether by judicial proceedings or by virtue of any power contained in such encumbrance, or any conveyance of the Property from the Owner to the Lender or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature of foreclosure, shall not require the consent of the Agency. Upon such foreclosure, sale or conveyance, the Agency shall recognize the resulting purchaser or other transferee as the Developer under this OPA, provided that such purchaser or transferee expressly assumes each and every obligation of the Developer under this OPA (except for the obligation to pay damages except to the extent of any monies due and unpaid from Developer under this OPA) by assumption agreement satisfactory to the Agency. If any Lender or its designee acquires Developer's right, title and interest under this OPA as a result of a judicial or nonjudicial foreclosure under any power contained in such encumbrance, or any conveyance of the Property from the Owner to the Lender or its designee through, or in lieu of, foreclosure or other appropriate proceedings in the nature of foreclosure, such Lender or its designee shall have the right to assign or transfer Developer's right, title and interest under this OPA to an assignee; provided, however, that the assignee or transferee shall thereafter be subject to all of the terms and conditions of this OPA.

12.7. MODIFICATIONS. No modification or amendment to the OPA which materially and adversely affects the Lender's interest in the Property shall be valid and effective unless the Lender's written consent to such modification or amendment has first been obtained, which consent shall not be unreasonably withheld.

12.8. FURTHER ASSURANCES TO LENDERS. Agency and Developer shall in good faith consider making such reasonable modifications to this OPA and executing such further instruments and agreements between them as a Lender may reasonably request, provided such modifications, instruments and agreements do not materially, adversely affect any party's expectations or benefit, rights or obligations under this OPA and provided such modifications, instruments, and agreements serve a material economic purpose.

12.9. ESTOPPEL CERTIFICATE. Any party may, at any time, request in writing of any other party to certify in writing that, to the knowledge of the certifying party, (i) this OPA is in full force and effect and a binding obligation of the parties; (ii) this OPA 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 OPA, or, if in default, describing the nature and extent of any such defaults. A party receiving such a request shall execute and return such certificate to the requesting party, or give a detailed written response explaining why it will not do so, within ten (10) days following its receipt. The City Manager (as Agency's designee) shall be authorized to execute any such certificate requested by Developer from the Agency.

12.10. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER. In reliance on the financial capability and experience of Developer, substantial public financing and other public aids have

been made available by law and by the federal and local governments to make development of the Property possible. Developer shall not, prior to issuance of a Certificate of Completion, assign Developer's interests or obligations under this OPA or undertake any act or transaction resulting in a significant change in the interests of the principals of Developer or the degree of their control of Developer without the prior written consent of Agency. The transfer or assignment, pursuant to this Section, requires the transferee or assignee to execute and deliver to Agency a valid, binding, written assumption of all obligations of Developer. Such a transfer as permitted in this Section shall not relieve Developer, or any other party bound in any way by the OPA, from any of its obligations under the OPA. With respect to this provision, the Developer and the parties signing the OPA on behalf of the Developer represent that they have the authority of all of Developer's principals to agree to and bind them to this provision.

13. DOCUMENT INTERPRETATION. This OPA shall be interpreted in accordance with the following rules.

13.1. INTEGRATED DOCUMENTS; SEVERABILITY. This OPA and the documents incorporated in this OPA are to be considered as one document and default of any of them shall be considered a default of all of them. This OPA including the incorporated documents integrates all of the terms and conditions related or incidental to its subject matter, and supersedes all negotiations or previous agreements between the parties with respect to its subject matter. If any term or provision of this OPA shall, to any extent, be held invalid or unenforceable, the remainder of this OPA shall remain in full force and effect, and, the invalid or unenforceable provision shall be valid and enforceable as to any other person or circumstance.

13.2. CONFLICTING PROVISIONS. If conflicts are discovered in provisions of this OPA and such incorporated documents, this OPA shall control with regard to plan review and construction terms, the Funding Agreement shall control with regard to funding terms and the Regulatory Agreement shall control with regard to affordability restrictions. In any event, the conflicts shall be construed so as to meet the intent of this OPA.

13.3. WAIVERS AND AMENDMENTS. All waivers of the provisions of this OPA must be in writing and signed by Agency or Developer, as applicable, and all amendments to this OPA must be in writing and signed by Agency and Developer. Any delay by Agency in asserting any rights under this Section shall not operate as a waiver of such rights or to deprive Agency of or limit such rights in any way. Any waiver in fact made by Agency with respect to any specific default by Developer under this Section shall not be considered as a waiver of the rights of Agency with respect to any other defaults by Developer under this Section or with respect to the particular default except to the extent specifically waived in writing.

13.4. CAPTIONS, GENDER AND NUMBER. The section headings, captions and arrangement of this OPA are for the convenience of the parties to this OPA. The section headings, captions and arrangement of this instrument do not in any way affect, limit, amplify or modify the terms and provisions of this OPA. The singular form shall include plural, and vice versa, and gender references shall be construed to include all genders.

13.5. **DRAFTER.** This OPA shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared it. Unless otherwise indicated, all references to sections are to this OPA. All exhibits referred to in this OPA are attached to it and incorporated in it by this reference.

13.6. **MERGER.** All of the terms, provisions, representations, warranties, and covenants of the parties under this OPA shall survive the Close of Escrow and shall not be merged in the Grant Deed or other documents.

13.7. **TIME FOR PERFORMANCE.** In determining time for performance, it shall be construed that Agency and Developer shall each do the actions required of them, promptly and when specified in this OPA, and that each action specified in the Schedule of Performances shall be performed by the responsible party on or before the date scheduled for its completion.

13.8. **GOVERNING LAW.** This OPA shall be governed and construed in accordance with California law.

13.9. **INSPECTION OF BOOKS AND RECORDS.** Agency has the right, at all reasonable times, to inspect the books and records of Developer regarding the Property as reasonably necessary to carry out its purposes under this OPA.

13.10. **OWNERSHIP OF DATA.** If this OPA is terminated, for any reason, prior to the completion of the Project, Developer shall deliver to Agency any and all data acquired for development of the Property. Agency shall have full ownership and rights to use such data.

13.11. **SUCCESSORS.** This OPA shall inure to the benefit of and shall be binding upon the parties to this OPA and their respective heirs, successors, and assigns.

14. **NOTICES.** All notices to be given under this OPA shall be in writing and sent to the following addresses by one or more of the following methods:

14.1. Addresses for notices are as follows:

14.1.1. Agency: Redevelopment Agency of the City of Sacramento, 630 I Street, Sacramento, California 95814, Attention: Alan J. Saunders.

14.1.2. Developer: Young Women's Christian Association of Contra Costa County/Sacramento, 1320 Arnold Avenue, #170, Martinez, CA 94553; Attention: Nancy J. Atkinson.

14.2. Notices may be delivered by one of the following methods:

14.2.1. Certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) business days after deposit, postage prepaid in the United States Mail;

14.2.2. A nationally recognized overnight courier, by priority overnight service, in which case notice shall be deemed delivered one (1) business day after deposit with that courier;

14.2.3. Hand delivery with signed receipt for delivery from a person at the place of business of the receiving party and authorized to accept delivery for the receiving party, in which case notice shall be deemed delivered upon receipt, or

14.2.4. Telecopy, if a copy of the notice is also sent the same day by United States Certified Mail, in which case notice shall be deemed delivered one (1) business day after transmittal by telecopier, provided that a transmission report is automatically generated by the telecopier reflecting the accurate transmission of the notices to receiving party at the "Fax Number" given in the Escrow Attachment or to such other address as Developer or Agency may respectively designate by written notice to the other.

15. DEFINITIONS.

15.1. "Agency" is the Redevelopment Agency of the City of Sacramento. The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Community Redevelopment Law of the State of California. The principal office of the Agency is located at 630 I Street, Sacramento, California 95814. Agency as used in this OPA includes the Redevelopment Agency of the City of Sacramento and any assignee of or successor to its rights, powers, and responsibilities. The Sacramento Housing and Redevelopment Agency is a joint powers agency which provides staffing for the operation of the Agency.

15.2. "Agency Funding" is the funding provided by the Agency under this OPA to Developer for the Project.

15.3. "Agency Funding Agreement" is the Conditional Grant Agreement.

15.4. "Certificate of Completion" is the certificate issued by the Agency certifying Developer's completion of the construction of the Project.

15.5. "CEQA" is the California Environmental Quality Act (commencing at Public Resources Code Section 21000), together with all rules and regulations promulgated under the statutes.

15.6. "City" is the City of Sacramento, a political subdivision of the State of California.

15.7. "Community Redevelopment Law" is the law governing redevelopment in the State of California and is found commencing at Health and Safety Code Section 33000.

15.8. "Completion Date" is the date on or before which Developer must complete the construction of the Project. The Complete Date for the Project is October 1, 2008.

15.9. “Construction Extension Fee” is the fee payable by Developer for each day by which the completion of construction is delayed beyond the date for completion of construction.

15.10. “Contractor” is the general contractor or contractors with whom Developer has contracted for the construction of the Project.

15.11. “Developer” is Young Women's Christian Association of Contra Costa County/Sacramento, a nonprofit corporation. Notwithstanding any other provision of this OPA, Developer may assign this OPA to a single asset entity in which Developer has a substantial interest and is the managing member, the general partner or the controlling shareholder and chief operations officer; provided (i) that the entity form and organizational documents have been approved by Agency Counsel, (ii) that the new entity has agreed in writing to be bound by all the provisions of this OPA and all agreements related to this OPA, and (iii) that the entity has been approved in writing, in advance, by the Agency’s Executive Director. The principal office of the Developer is located at 1320 Arnold Avenue, #170, Martinez, CA 94553.

15.12. “Escrow” is the escrow for the transactions contemplated by this OPA.

15.13. “Escrow Instructions” means the escrow instructions for the close of the Escrow.

15.14. “Final Plans” are the full and final plans, drawings and specifications for the Project as described in, and approved by the Agency under, Section 1, which shall include all construction plans, drawings, specifications and other documents required to obtain all required building permits for the construction of the Project. The Final Plans may refer, as the context may indicate, to partial Final Plans prepared and submitted in accordance with this OPA. The Final Plans shall incorporate any related mitigation measures that may be required for compliance with CEQA. The Final Plans shall specifically include changes or corrections of the Final Plans approved as provided in this OPA. The Final Plans shall include all landscaping, on- and off-site work and artwork related to the Project. Except as approved by the Agency, the Final Plans shall conform in all material respects to all provisions of this OPA, including without limitation, the Preliminary Plans and the Scope of Development.

15.15. “Hazardous Substances” as used in this OPA shall include, without limitation, to, all substances, wastes and materials designated or defined as hazardous or toxic pursuant to any of the following statutes, as they may be amended or superseded, from time to time: the Clean Water Act (33 U.S.C.1321 et. seq.); the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.); the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101); the Environmental Protection Agency list of hazardous materials (40 CFR Part 302) and California Health and Safety Code Sections 25115, 25117, 25122.7, 25140 (Hazardous Waste Control Law), 25316 (Carpenter-Presley-Tanner Hazardous Substances Account Act), 25501 (Hazardous Materials Release Response Final Plans and Inventory) and 25281 (Underground Storage of Hazardous Substances); all applicable local regulations; and all regulations and promulgations pursuant to said laws.

15.16. “Legal Description” is the legal description of the various parcels of real property affected by this OPA. The Legal Description is attached as **Exhibit 1 Legal Description**.

15.17. “Lender” shall include all holders of any lien or encumbrance as security for a loan on all or any part of the Property. Each lender shall be a federal or state chartered financial institution, a pension fund, an insurance company or such other lender which Agency may approve in writing in advance, which approval Agency may withhold in exercise of its reasonable discretion and in consideration of the commercially reasonable protection of its interests under this OPA.

15.18. “Loan” is the loan or loans obtained from third parties for the construction or permanent financing, or both, of the Project.

15.19. “OPA” is this Owner Participation Agreement between Agency and Developer, including all documents incorporated in this OPA by reference.

15.20. “Rescission of Regulatory Agreement” is the document that may be recorded upon the happening of certain events to remove the regulatory restriction related to the funding source.

15.21. “Preliminary Plans” are the Project designs prepared by the Project architect, David Anders, dated January 2, 2007, a portion of which (consisting of various elevations) is attached as **Exhibit 2 Preliminary Plans**. Agency has approved the Preliminary Plans concurrently with the approval of this OPA.

15.22. “Plans” shall mean either or both Preliminary Plans and Final Plans as the context may indicate.

15.23. “Project” is all of the work to be accomplished under this OPA.

15.24. “Project Area” is the Merged Downtown Sacramento Redevelopment Project Area, as defined the Redevelopment Plan.

15.25. “Redevelopment Plan” is the redevelopment plan for the Project Area (as it may be amended from time to time) as adopted by the City Council of the City on June 17, 1986, by City Ordinance Nos. 86-064, 86-065, 86-066 and 86-067, Fourth Series. A copy of the Redevelopment Plan as initially adopted was recorded on July 29, 1986, in the Official Records of the County of Sacramento, in Book 86-07-29, beginning at pages 1633, 1738, 1690 and 1787, respectively.

15.26. “Regulatory Agreement” is the agreement containing covenants, conditions and restrictions, including without limitation, use restrictions that run with the Property as a condition of Agency Funding.

15.27. “Schedule of Performances” is the schedule that establishes the dates by which obligations of the parties under this OPA must be performed and conditions of the OPA must be satisfied. The Schedule of Performances is attached as **Exhibit 3: Schedule of Performances**.

15.28. "Scope of Development" is the detailed description of the work to be done under this OPA for the Project. The Scope of Development attached as **Exhibit 4: Scope of Development**.

15.29. "Property" is that real property to be developed under this OPA, as more particularly described in the Legal Description. The Property includes all improvements contained within the Property.

15.30. "Unavoidable Delay" is a delay in the performance by a party of any obligation which delay is unforeseeable and beyond the control of such party and without its fault or negligence. Unavoidable Delay shall include acts of God, acts of the public enemy, acts of the Federal Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, a general moratorium on financing for projects of the same type, and unusually severe weather (as for example, floods, tornadoes, or hurricanes) or delays of subcontractors due to such causes. In the event of the occurrence of any such enforced delay, the time or times for performance of such obligations of Agency and Developer shall be extended for the period of the enforced delay, as determined by Agency, provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after Developer has or should have knowledge of any such enforced delay, have first notified the other party, in writing, of the delay and its cause, and requested an extension for the period of the enforced delay.

THE PARTIES HAVE EXECUTED THIS OPA in Sacramento, California as of the date first written above.

DEVELOPER :
YOUNG WOMEN'S CHRISTIAN
ASSOCIATION OF CONTRA COSTA
COUNTY/SACRAMENTO

By: _____
Nancy J. Atkinson
Executive Director

Approved as to form:

Developer Counsel

AGENCY: THE REDEVELOPMENT AGENCY
OF THE CITY OF SACRAMENTO

By: _____
LaShelle Dozier, Interim Executive
Director

Approved as to form:

Agency Counsel

CONDITIONAL GRANT AGREEMENT
[Secured by Deed of Trust]

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, a public body, corporate and politic, ("Grantor"), whose address is 630 I Street, Sacramento, California conditionally grants to the YWCA of Contra Costa County/Sacramento, a nonprofit corporation, ("Grantee"), with its principal office at 1320 Arnold Avenue #170, Martinez, CA 94553, the principal amount ("Conditional Grant") of TWO MILLION FOUR HUNDRED SIXTEEN THOUSAND THREE HUNDRED NINETY-THREE DOLLARS (\$2,416,393), or so much as may be actually advanced under this agreement ("Grant Agreement") and the Owner Participation Agreement between Grantor and Grantee, dated [OPA Date] ("OPA"). Grantor shall grant an additional amount of SIX HUNDRED THOUSAND DOLLARS (\$600,000) in Mental Health Services Act funds ("MHSA funds") upon the issuance of a certificate of completion for the Project.

This Grant is secured by a deed of trust ("Deed of Trust") on the real property ("Site") described in the attached "Legal Description" incorporated in this Grant Agreement by this reference. This Conditional Grant is subject to the terms and conditions of the OPA and to the terms and conditions stated below.

The Conditional Grant shall become unconditional upon Agency's issuance of a certificate of completion to Developer certifying completion of the rehabilitation project and compliance with all requirements of the OPA and this Grant Agreement, provided that all conditions have then been met and Grantee is not then in default of the OPA or this Grant Agreement. Grantee's obligations regarding repayment of the amount of the Conditional Grant shall cease when the Conditional Grant becomes unconditional. Grantee shall repay the grant if Grantee is in default of any of the following covenants and conditions and has not immediately commenced and diligently cured such default.

1. **GRANT PURPOSE AND USE OF FUNDS.** The Agency is making this Conditional Grant for the public benefits derived from the use of the proceeds in the following project ("Project"): Rehabilitation of the existing YWCA residential hotel located at 1122 17th Street in Sacramento, CA. The rehabilitated building will contain 31 single resident occupancy units and 1 one bedroom unit with rents regulated at the following level of affordability: 31 units at 30% area median income, and 1 unit at 60% area median income. The proceeds of the Conditional Grant shall be used solely for the Project.

2. **DISBURSEMENT.** The proceeds of this Conditional Grant shall be disbursed upon execution by each party and delivery to the other party of this Grant Agreement and subject to the following conditions and procedures:

a) **CONDITIONS TO DISBURSEMENT.** Agency shall not be obligated to disburse any of the Conditional Grant proceeds, with the exception of the predevelopment costs described in Section 3, unless and until all of the conditions are met with respect to each such disbursement:

- i) The proceeds of the Conditional Grant are used solely for the following: predevelopment activities and rehabilitation and related activities.
- ii) Grantee is not and shall not be in default of the OPA, subject to the rights of Grantee to cure such default as provided in the OPA.
- iii) Grantee is not in default of any provision of this Conditional Grant, subject to the rights of Grantee to cure such default.
- iv) Grantee has obtained additional funding for the Project in the amount of \$217,000 from the Federal Home Loan Bank Affordable Housing Program for rehabilitation and related activities.

v) Grantee has fully complied with the following disbursement procedures.

b) **DISBURSEMENT PROCEDURES.** Agency shall disburse the Conditional Grant proceeds according to the following procedures:

i) Grantee has made written demand for disbursement stating the amount requested and the intended use of the proceeds to be disbursed.

ii) Grantee has provided receipts for expenditures that qualify for use of the Conditional Grant proceeds.

iii) Grantee has provided evidence of approved construction plans, drawings and specifications that comply with this Grant Agreement and of necessary building permits from governmental entities having jurisdiction of the Project.

iv) Agency has determined that the work, for which disbursement is requested, has been satisfactorily completed.

v) No mechanics liens have been filed or recorded on the Property.

vi) Agency shall disburse the actual cost of the work represented in the disbursement request by Grantee, reduced by the cost of work included in the request and not satisfactorily completed and by the amount of the Retention to be withheld. Agency shall retain ten percent (10%) of each disbursement made for construction work, in aggregate not to exceed ten percent (10%) of the Loan Amount, which shall be retained by Agency for disbursement with the final disbursement of the Grant. Predevelopment costs are not subject to the withholding as Retention.

3. **PREDEVELOPMENT COSTS.** Agency shall grant to Grantee ONE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS (\$190,000) at closing of escrow to fund costs of typical predevelopment activities in advance of construction. Grantee may use such funding to assist with securing third party studies and reports, architectural drawings, building permits, and related items.

4. **MENTAL HEALTH SERVICES ACT FUNDS.** Upon Agency's issuance of a certificate of completion to Developer certifying completion of the Project and provided that Grantee is not then in default of the OPA or this Grant Agreement, Agency shall grant an additional SIX HUNDRED THOUSAND DOLLARS (\$600,000) in MHSA funds to Grantee for use as capitalized operating costs for the Project.

5. **PREVAILING WAGES.** Unless stated otherwise above, Agency advises Grantee that the Project is subject to the payment of prevailing wages under California law. Grantee shall inform the General Contractor and shall require the General Contractor to inform all subcontractors and materialmen furnishing goods or services to the Project of Agency's determination of the applicability of California prevailing wage requirements. Grantee and General Contractor have had the opportunity to meet with their respective legal counsel and to request a determination of the matter before the California Department of Industrial Relations and any other appropriate governmental bodies. Grantee and General Contractor have made their own independent determinations of the applicability of prevailing wage laws and have independently implemented such determinations. Grantee indemnifies, holds harmless and defends the Agency from all additional wages, benefits, fees, penalties, fines, legal fees, court costs, arbitration costs, and other costs arising from the improper application of California prevailing wage laws to the Project by Grantee or General Contractor or both of them.

DEFAULT OF OPA. Grantee shall not default in any material provision of the OPA, subject to the rights of Grantee to cure such default as provided in the OPA.

6. **NO SALE OR EXCESS REFINANCING.** Grantee shall not, without Agency's written consent, (a) sell or transfer all or any portion of the Site or (b) refinance the Site for an amount greater than One Hundred Percent (100%) of the independently appraised, fair market value of the Site reduced by the amount of this Conditional Grant remaining unpaid. Notwithstanding the prior sentence, Agency shall not withhold consent to sell to an otherwise financially qualified buyer who assumes Grantee's obligations under this Conditional Grant and accepts the terms of this Conditional Grant.

7. **LOW INCOME TENANTS AND HOUSING CHOICE VOUCHER TENANTS.** Grantee shall not permit discrimination against tenants because of their status as low-income tenants or as tenants receiving "HCV" rental assistance or any other assistance from the U.S. Department of Housing and Urban Development or from any other federal, state or local program of housing or income assistance.

8. **MAINTAIN LOANS** Grantee shall comply with the provisions of all loans secured by the Site and shall promptly and timely cure any default in said loans.

9. **ADEQUATE RESERVES.** Grantee shall maintain, or cause to be maintained, adequate capital, operational and regular and deferred maintenance reserves for the Project in accordance with ordinary and usual business practices of a prudent property owner. Funds in said reserve accounts shall be used solely for the designated purposes unless such use has first been approved in writing by Agency.

10. **NO NUISANCE.** Grantee shall permit no activity on the Site that may be construed to be a nuisance to any tenant on the Site, to any adjacent tenants or property owners or to the general public. In the event that such a nuisance is occurring on the Site, Grantee shall take immediate action to stop such nuisance and to prevent future occurrences of such nuisance.

11. **OCCUPANCY.** Grantee shall not permit the occupancy of any residential unit on the Site to exceed the occupancy limits established by the U.S. Department of Housing and Urban Development for subsidized housing units.

12. **PROJECT MAINTENANCE.** Grantee shall assure that the following maintenance and use provisions for the Site shall be enforced:

a) **BUILDING UPKEEP.** Grantee shall keep the exterior appearance of all buildings and structures in a clean and attractive condition. Grantee shall perform refinishing of surfaces immediately when observed to be needed due to damage or deterioration.

b) **BUILDING UPKEEP.** Grantee shall keep the exterior appearance of all buildings and structures in a clean and attractive condition. Grantee shall perform refinishing of surfaces immediately when observed to be needed due to damage or deterioration and maintain all grounds and landscaped areas within the Site and those adjacent to the Site, which the Grantee may control or otherwise maintain, in a condition consistent with first-quality landscape care. Grantee shall assure that shrubs and trees are to be properly and consistently pruned and that all landscaped areas are kept free of weeds, undesirable plants and trash.

c) **GROUNDS UPKEEP.** Grantee shall maintain all grounds and landscaped areas within the Site and those adjacent to the Site, which the Grantee may control or otherwise maintain, in a condition consistent with first-quality landscape care. Grantee shall assure that shrubs and trees are to be properly and consistently pruned and that all landscaped areas are kept free of weeds, undesirable plants and trash.

d) **TRASH STORAGE.** Grantee shall assure that all trash, including lawn, shrub and tree cuttings are placed in a screened enclosure when stored for pickup and that collected trash of any kind is not allowed to stand outside of an enclosure for more than eight (8) hours.

e) **STORAGE** Grantee shall assure that no painting, repairing or storage of personal property is permitted in any open parking area, balcony area, or common area or any other area visible to the public.

f) **STORAGE AND REPAIRS.** Grantee shall assure that no painting, repairing or storage of personal property is permitted in any open parking area, balcony area, or common area or any other area visible to the public.

13. **SIGNS.** Grantee shall not install or permit the installation or use of any sign on the Site which creates a hazard by protruding, overhanging, blinking, flashing, exhibiting animation or other dangerous conditions. Grantee shall not install or permit the installation or use of any billboards, pennants, bunting or similar devices for advertising or commercial display which are not in accordance with all applicable ordinances, regulations and codes. All nonconforming signs shall be removed within the time specified by the organization have jurisdiction over the sign or by the Agency.

14. **INDEMNITY.** Grantee indemnifies, and will hold harmless and defend, the Agency, its officers, directors, commissioners, employees and agents against all claims, demands, penalties, judgments, awards, orders, expenses and liabilities related to the Property, Grantee's activities on the Property or arising from Grantees rights and obligations under this Grant Agreement. Such liabilities include without limitation, strict liability in tort or liability resulting from a finding that Agency or Grantee are engaged in a joint venture or partnership. Such expenses include without limitation, court costs, arbitration or mediation fees, witness fees, investigator fees and attorney's fees, whether or not litigation is commenced. The indemnity provisions of this Section 14 shall survive the termination of this Grant Agreement, whatever the reason for such termination.

15. **ATTORNEY'S FEES AND COSTS.** If a party institutes any action (including without limitation, arbitration, mediation, motions, hearings, suits and appeals) to enforce a provision of this Grant Agreement, the prevailing party shall be entitled to recover from the non-prevailing party its fees, costs and expenses in connection with such action, including without limitation, the prevailing party's expert witness fees, investigator fees and attorney's fees. Payment of such fees shall include payment for such services whether provided by employees of the prevailing party or independent providers. Prevailing party shall mean the party who obtains a more favorable result than that offered by it in settlement of the issues, or in the absence of such settlement offer, the party obtaining a favorable result.

16. **NOT ASSIGNABLE.** Grantee shall have no right to, and shall not, assign this Conditional Grant, whether directly, by operation of law, or otherwise.

17. **BOOKS AND RECORDS.** Grantee shall maintain such books and records related to the operation of the Project as are considered reasonable and necessary under generally accepted accounting principals and shall permit Agency to view said books and records at any time during regular business hours.

18. **INTERPRETATION.** This Grant Agreement incorporates the Deed of Trust and the OPA in this document by this reference. This Grant Agreement integrates all of the terms and conditions related or incidental to its subject matter, and supersedes all negotiations or previous agreements between the parties with respect to its subject matter. As the context may indicate, the singular and plural forms each include the other and gender references include all other genders. If any provision of this Grant Agreement is held invalid for any reason, the other provisions shall be given full force and effect to the extent that the purpose and intent of this Conditional Grant can then be met.

19. **WAIVERS AND AMENDMENTS.** All waivers of the provisions of this Grant Agreement must be in writing and duly executed by the waiving party. All amendments to this Grant Agreement must be in writing and duly executed by the Agency and the Developer.

20. **CUMULATIVE RIGHTS AND REMEDIES.** No right, power or remedy given to Agency by the terms of this Grant Agreement or the OPA is intended to be exclusive of any other right, power or remedy, and each such right, power or remedy will be cumulative and in addition to every other right, power or remedy given to the Agency by the terms of any instrument, by any statute or otherwise.

21. **NONLIABILITY OF AGENCY OFFICIALS AND EMPLOYEES.** No member, official or employee of the Agency shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Agency or for any obligations under the terms of this Grant Agreement.

22. **NOTICES AND DEMANDS.** A notice, demand or other communication under this Grant Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail postage or prepaid, return receipt requested, or delivered personally or by national courier service, delivery charges prepaid, to the address set out above, or at such other address for the receiving party as has been duly noticed under this Section

EXECUTED AT SACRAMENTO, CALIFORNIA, as of the date first written above.

GRANTEE:
YWCA OF CONTRA COSTA COUNTY/SACRAMENTO

By: _____
Nancy J. Atkinson
Executive Director

Grantor:
**Redevelopment Agency of the City Of
Sacramento**

By: _____
LaShelle Dozier
Interim Executive Director

Agency Counsel approval as to form