



**REPORT TO THE
REDEVELOPMENT AGENCY
of the City of Sacramento
www.CityofSacramento.org**

**Consent
March 15, 2011**

**Honorable Chair and
Members of the Board**

Title: APPROVAL OF AMENDMENT TO THE EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT WITH 700 BLOCK INVESTORS, LP FOR THE 700 BLOCK OF K STREET

Location/Council District: South side of the 700 block of K Street, 700-730 K Street (Council District 1)

Recommendation: Adopt a Redevelopment Agency Resolution: authorizing the Executive Director or her designee, on behalf of the Redevelopment Agency, to: 1) execute an Amendment to the Exclusive Right to Negotiate Agreement (ERN) with 700 Block Investors, LP (D&S Development and CFY Development) for the redevelopment of the south half of the 700 block of K Street, 2) enter into a Planning/Predevelopment Loan Agreement with 700 Block Investors, LP to provide a total of \$300,000 for planning expenses associated with the design of the historic renovation and proposed new construction project, 3) amend the 2010 Agency budget to allocate \$300,000 from the Agency's 700/800 K Street Development (630 100 4523) for the Planning/Predevelopment Loan with 700 Block Investors.

Contact: Sheri Smith, Senior Economic Development Manager, 808-7730; Leslie Fritzsche, Downtown Development Manager, 808-5450

Presenters: None

Department: Economic Development Department

Description/Analysis

Issue: On July 13, 2010, the Agency Board selected two development teams to submit proposals for the redevelopment of Agency-owned properties in the 700 and 800 blocks of K and L streets. 700 Block Investors, LP (D&S Development and CFY Development) were selected to submit a proposal for the redevelopment of the south half of the 700 block of K Street (Attachment 1) and 800 Block LLC (David Taylor

Interests, Inc., the CIM Group, and Domus Development) was selected to submit a proposal for the redevelopment of portions of the 800 blocks of K and L streets.

On August 24, 2010, the Agency entered into an ERN with the development team that outlined milestones for the development of the project proposal; if the project proposal that is developed through this process is ultimately found to be acceptable by the Agency, the Agency would consider entering into a Disposition and Development Agreement (DDA) with the development team. The anticipated date for the consideration of the DDA, if the project proceeds, is summer 2011. To date, the development team has met the required milestones and continues to work to develop the proposed project and determine its feasibility, and is seeking Agency underwriting.

Significant resources will be required to ascertain the scope of the project, complete project design and studies, and evaluate its potential feasibility, and financing costs will be incurred while the feasibility and planning studies are being completed. Predevelopment expenses associated with these feasibility and planning studies are expected to amount to over \$600,000. Staff recommends approval of the attached Planning Agreement, which will provide \$300,000 to fund these necessary feasibility and planning activities listed above.

Policy Considerations: Amending the ERN and approving the Planning/Predevelopment Agreement is a critical next step to determining whether the Agency Board should pursue this project proposal, or should seek some other proposal, as part of its plan to further the redevelopment of K Street.

The redevelopment of the 700 block of K Street is consistent with the Merged Downtown Redevelopment Plan and the approved Implementation Plan. Redeveloping the affected parcels, through this or some other future project, would support the Redevelopment Plan goals of eliminating blight, increasing private investment, reusing parcels that are stagnant or improperly utilized, providing for mixed use development including mixed income housing opportunities, and providing uses that will broaden the appeal of downtown.

Environmental Consideration: The proposed actions to amend an ERN agreement and approve a Planning/Predevelopment Agreement, for determining project feasibility and planning, are statutorily exempt under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15262. There is no federal funding or other federal involvement associated with this action; therefore, the National Environmental Policy Act (NEPA) does not apply.

Sustainability Considerations: During the ERN process and negotiations, staff will suggest sustainability elements to be incorporated into the project proposal. The project proposal would be considered to be an infill development, which will provide multiple benefits, including providing mixed income housing options close to jobs, reducing the need to build new development on the urban fringe, increasing the viability of and dependency on alternative modes of transportation, preserving natural resources, and providing for efficient use of land, services and infrastructure.

Investors, LP had the potential to achieve the Agency's redevelopment goals for the 700 Block of K Street. The development team has the experience and qualifications to undertake these projects, should the Agency Board decide to proceed with the project proposal after it is developed and presented to the Agency Board.

The ERN established specific milestones allowing the Agency and the development team to investigate the scope and feasibility of the proposed project prior to determining whether to enter into a Disposition and Development Agreement (DDA). The engineering, structural, architectural work will permit the Agency to plan the scope of the project and determine its feasibility.

Financial Considerations: This report requests a budget amendment to allocate \$300,000 from Agency's 700/800 K Street Development (630 100 4523) for the Planning/Predevelopment Loan with 700 Block Investors for the 700 Block of K Street.

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

Respectfully Submitted by: 
LESLIE FRITZSCHE
Redevelopment Manager

Approved by: 
JAMES R. RINEHART
Economic Development Director

Recommendation Approved:

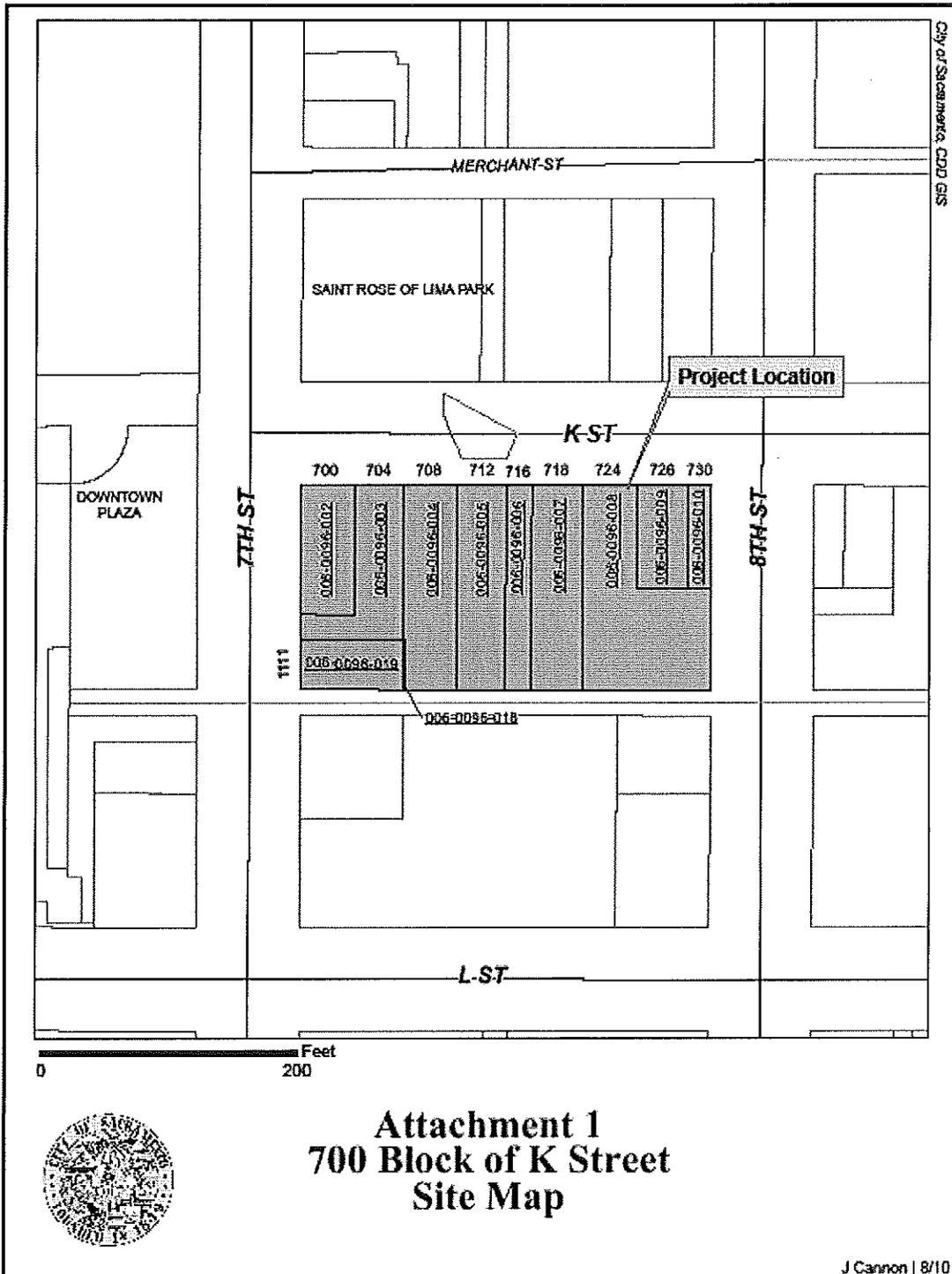

GUS VINA
Interim City Manager

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**Attachment 1
Location Map**



Attachment 2

Background

In October 2004, the Economic Development Department in conjunction with the Mayor's office, hosted the "JKL Corridor Workshop" to establish the vision and strategic direction for the heart of the downtown area. The JKL Corridor Strategy Plan and the Downtown Sacramento Partnership Strategic Action Plan identified these blocks as a key target area for economic development. These plans recommended strategic attention be given to the 700 and 800 blocks of K and L Streets, with specific attention to mixed-use development including ground floor retail, housing, cultural and commercial uses for the following reasons:

- The site connects two regional destinations, the Downtown Plaza and the Convention Center. The 700/800 blocks of K and L Streets both continue to experience high vacancy rates and significant blight.
- The property's footprint is relatively large and could support significant housing, retail and commercial uses.
- Development of the site could provide uses that will assist in the elimination of blight and will bolster current and recently completed investments made in the Downtown area including Westfield Downtown Plaza, the Citizen Hotel, the Cosmopolitan, and three new entertainment venues on the 1000 block of K Street.

The strategic direction for the both 700 and 800 blocks of K and L Streets focused on soliciting proposals that could result in a mixed-use development to include:

- Provision for cultural uses such as live theatre, art galleries, and museums
- Creation of unique commercial uses such as restaurants, mixed specialty retail and entertainment uses
- Development of residential uses to support commercial uses to create a vibrant 24-hour city

Agency Board Action:

On July 13, 2010, the Agency Board selected two development teams as the preferred developers to submit proposals to redevelop the Agency-owned properties on the both 700 and 800 blocks of K and L Streets. D&S Development and CFY Development (700 Block Investors LP) were selected for the south half of the 700 block of K Street and the 800 Block LLC (David Taylor Interests, Inc., CIM Group and Domus Development) for portions of the 800 block between K and L Streets.

On August 24, 2010, the Board approved an Exclusive Right to Negotiate Agreement with the 700 Block Investors, LP. The ERN established specific milestones allowing the Agency and the development team to investigate the scope and feasibility of the proposed project prior to determining whether to enter into a Disposition and Development Agreement (DDA).

The development team has met all of the milestones outlined in the ERN to date. In order to plan and determine the scope and feasibility of the proposed project, financial resources are needed to fund the necessary engineering, structural, and architectural

expenses, as well as the financial expenses associated with the carrying costs while the project proposal is under development. Given current state budget proposals and concerns, the importance of keeping this project moving forward quickly is critical. Allocation of the requested planning funds will assist in further securing the commitment of the development teams to expedite the delivery of a project proposal for consideration by the Agency's Board.



RESOLUTION NO. 2011-

**ADOPTED BY THE REDEVELOPMENT AGENCY
OF THE CITY OF SACRAMENTO**

**APPROVAL OF AMENDMENT TO THE EXCLUSIVE RIGHT TO NEGOTIATE
AGREEMENT, PLANNING/PREDEVELOPMENT LOAN AGREEMENT WITH 700
BLOCK INVESTORS, LP AND AUTHORIZING ALLOCATION OF FUNDS FOR
PLANNING/PREDEVELOPMENT EXPENSES**

BACKGROUND

- A. The Redevelopment Agency of the City of Sacramento (Agency) has adopted the Merged Downtown Sacramento Redevelopment Plan (Redevelopment Plan) and an Implementation Plan for the Merged Downtown Sacramento Redevelopment Project Area (Project Area).
- B. Portions of the 700 and 800 blocks of K Street are identified in the Amended Merged Downtown Sacramento Redevelopment Plan and Implementation Plan as having continuing blight conditions characterized by vacant parcels, deteriorating buildings, uneconomic land uses and unsafe sidewalks.
- C. In 2004, the JKL Corridor Workshop identified the 700/800 blocks of K and L streets as a critical location for revitalization of K Street, with a focus on mixed-use development including ground floor retail, housing, cultural and commercial uses envisioned on this property to eliminate blight, stimulate economic growth and provide for a range of housing types.
- D. In December 2009, the Agency, represented by the Economic Development Department, issued a Request for Qualifications (RFQ) soliciting statements of qualifications and concept proposals for the development of a mixed-use project in the heart of downtown on the K Street Mall including properties on the southern half of the 700 blocks of K Street and portions of the 800 blocks of K and L streets. Four responses were received in February 2010.
- E. On July 13, 2010, the Agency Board selected D&S Development and CFY Development as the development team to prepare a proposal for the redevelopment of Agency-owned properties on the south side of the 700 block of K Street and the 800 K Street Block LLC and 8th and L Partners, LP (David Taylor Interests, Inc., CIM Group, and Domus Development) as the development team to prepare a proposal for redevelopment of the Agency-owned properties in the 800 blocks of K and L Streets.
- F. On August 24, 2010, the Agency Board approved an Exclusive Right to Negotiate with 700 Block Investors, LP to prepare a proposal for redevelopment of the 700 block of K Street.
- G. The Agency wishes to amend the ERN to facilitate the utilization of planning/predevelopment funds for the proposed project consistent with

Community Redevelopment Law set forth in Health and Safety Code section 33020.

- H. Planning/predevelopment Funds are needed to pay for development of a project scope and proposal, and to conduct fees and studies to determine the feasibility and viability of the proposal, before the Agency Board can consider underwriting and feasibility.
- I. The activity recommended in this resolution consists of feasibility and planning studies. It is, therefore, statutorily exempt under the California Environmental Quality Act (CEQA) Guidelines Section 15262.

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

- Section 1. The above statements, including but not limited to the environmental statement, are found to be true and correct.
- Section 2. The Agency budget is amended to allocate \$300,000 in Downtown Tax increment funds from Agency's 700/800 K Street Development (630 100 4523) for a Planning/Predevelopment Loan with the 700 Block Investors, LP for the 700 Block of K Street.
- Section 3. The Executive Director, or her designee, is authorized to execute the attached First Amendment to the Agreement for Exclusive Right to Negotiate with 700 Block Investors, LP (D&S Development and CFY Development).
- Section 4. The Executive Director, or her designee, is authorized to execute a Planning/Predevelopment Loan Agreement, in substantially the same form as that which is attached, with 700 Block Investors, LP (D&S Development and CFY Development) and any related documents that may be deemed necessary or advisable to carry out or comply with the terms and intent of this Resolution.



**FIRST AMENDMENT TO
AGREEMENT FOR EXCLUSIVE RIGHT TO NEGOTIATE
FOR CERTAIN PROPERTIES ON THE 700-BLOCK OF K STREET**

IN CONSIDERATION OF THEIR MUTUAL OBLIGATIONS, the Redevelopment Agency of the City of Sacramento (“Agency”) and 700 Block Investors LP, (“Developer”) enter into this “Amendment” and amend the Exclusive Right to Negotiate as executed between the parties and dated August 24, 2010 (“ERN”), as follows:

1. Section 5 (c) shall be added and read – Agency shall execute a Planning/Predevelopment Agreement in an amount of \$300,000 on or before March 22, 2011 to fund planning activities and studies as defined in said agreement.
2. No rights, obligations or defaults of the parties under the ERN are waived by this Amendment, except as expressly stated in this Amendment.
3. All other terms of the ERN shall remain the same and in full force and effect.

Executed in Sacramento, California as of March ____, 2011.

DEVELOPER : 700 Block Investors LLC

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Bay Miry, Member
As Designated Signatory

By: _____
John Dangberg, Assistant City Manager,
As Designated Signatory

Approved as to form:

Agency Counsel



**PLANNING/PREDEVELOPMENT LOAN AGREEMENT
700-730 K STREET, SACRAMENTO**

IN CONSIDERATION of their mutual promises, the parties agree as follows:

1. **LOAN.** The Lender is making the Loan pursuant to the terms and conditions of this Loan Agreement. Lender and Borrower have entered this Loan Agreement as of the Effective Date.
2. **DEFINITIONS TABLES.** The capitalized terms in this Loan Agreement shall have the meanings assigned in the following Definitions Tables and in Section 3 Definitions. Terms being defined are indicated by quotation marks. If an item in the Definitions Table is marked "None", "Not Applicable", "N/A" or equivalent or is left blank, that defined term is not applicable to this Loan or the referenced item is not required or is not included in this Loan as the context may indicate.

A. "LOAN INFORMATION" The general loan provisions of the Loan:		
"EFFECTIVE DATE"	March , 2011	Being the date as of which this Loan Agreement shall be effective.
"LENDER"	The following public agency that is making the Loan, and whose legal status and address are:	
Name	Redevelopment Agency of the City of Sacramento	
Legal Status	A public body, corporate and politic	
Principal Address	801 12 th Street, Sacramento CA 95814	
"BORROWER"	The borrower of the Loan funds whose name, legal status and address are:	
Name	700 K Street, LP	
Legal Status	California Limited Partnership	
Principal Address	1329 H Street, Sacramento, California 95814, Attention: Bay Miry	
"LOAN"	The Loan made by this Loan Agreement.	
"LOAN COMMITMENT"	Lender's loan commitment, made by letter dated as of	n/a
"LOAN PROGRAM"	Lender's Loan Program, commonly known as	Merged Downtown Project Area Tax Increment
"LOAN AMOUNT"	Three Hundred Thousand Dollars and No Cents (\$300,000.00)	
"INTEREST RATE"	The interest rate is 0% per year, simple interest.	
"PAYMENT START DATE"	Principal and interest to be deferred as per the Payment Schedule, below.	
"MATURITY DATE"	Principal and Interest shall be paid in full on December 31, 2011 except as provided in "Special Terms"	
"PAYMENT SCHEDULE"	Principal and Interest are deferred until Maturity Date	
"BORROWER EQUITY"	\$150,000	Borrower must demonstrate a minimum expenditure of \$150,000 towards the planning/predevelopment activities contemplated in this Agreement including those funds required as the ERN deposit.
	NONE REQUIRED	Which is Borrower's non-cash contribution to the Project Proposal (such as deferred Developer fees).

<p>“SPECIAL TERMS”</p>	<p>This Planning/predevelopment loan is being made in conjunction with an amendment to an Exclusive Right to Negotiate by and between the Redevelopment Agency of the City of Sacramento and 700 K Street, LP (the “ERN”).</p> <p>The loan will be forgiven if the Project Proposal ultimately developed is found to be acceptable to the Agency governing board and the Agency decides to execute a Disposition and Development Agreement between the Redevelopment Agency of the City of Sacramento and 700 K Street, LP to proceed with the Project as proposed in the project proposal.</p> <p>In the event that the ERN expires or otherwise terminates without a Disposition and Development Agreement between the Redevelopment Agency of the City of Sacramento and 700 K Street, LP, the work product, including reports, drawings and plans, paid for with the proceeds of this Planning/Planning/predevelopment Loan shall be provided to and then owned by the Lender. In this event, upon and assignment of all the work product created pursuant to this Agreement to the Lender, the Borrower’s obligations under this Planning/Planning/predevelopment Loan Agreement shall be satisfied and the Loan shall be deemed paid in full.</p>
<p>“PROJECT”</p>	<p>Which is the Project to be developed on the Property with the Loan funds, described as:</p> <p>Planning/Planning/predevelopment activities to further assist the Agency, the Developer and investors in feasibility and underwriting activities including, but not limited to, design development and architectural fees for the retail and housing to be proposed at 700 – 730 K Street in Sacramento and the initial planning, geotechnical, archeological, historical, utility scoping, and other required studies, as well as planning fees.</p>

B. “COLLATERAL” The Collateral securing repayment of the Loan, which Collateral consists of the following:

<p>“PROPERTY”</p>	<p>The following described real property, which is security for the Loan and the site of the Project:</p>	
<p>Address</p>	<p>None</p>	
<p>Assessor’s Parcel Number</p>		
<p>“Legal Description”</p>		
<p>Borrower’s Title Interest</p>		
<p>“ADDITIONAL COLLATERAL”</p>	<p>The Additional Collateral securing repayment of the Loan is any additional security required by Lender under this Loan Agreement, including without limitation the following items, if any</p>	
<p>“PERSONAL PROPERTY”</p>	<p>Borrower’s interest in the following personal property, tangible and intangible, and all other such property listed as security in this Loan Agreement:</p>	<p>Materials and supplies for these planning/predevelopment activities</p>
<p>OTHER ADDITIONAL COLLATERAL</p>	<p>Borrower’s interest in the following property:</p>	<p>None</p>

C. “ESCROW INFORMATION”:

<p>“Title Company” and “Escrow Agent”</p>	<p>n/a</p>	<p>Which is the title company that will issue the Title Policy and that will act as Escrow Agent for the Escrow.</p>
<p>“Escrow”</p>	<p>n/a</p>	
<p>“Closing Date”</p>	<p>n/a</p>	<p>Which is the date for close of the Escrow, as it may be extended.</p>

D. “List of Exhibits” (THE FOLLOWING ARE ATTACHED AND INCORPORATED IN THIS LOAN AGREEMENT):

<p>EXHIBIT</p>	<p>DEFINED TERM</p>
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Exhibit 1: Legal Description	"Legal Description"
Exhibit 2: Promissory Note	"Promissory Note"
Exhibit 3: n/a	
Exhibit 4: n/a	

E. "Approval Documents" BORROWER SHALL SUBMIT THE FOLLOWING DOCUMENTS FOR LENDER APPROVAL:

"Budget" for the Project
Architectural Agreement for the Project
Copies of Contracts for all consultants retained by Borrower to perform these planning/predevelopment activities
Borrower's Organizational Documents, such as partnership agreements or articles and by-laws

F. "Assigned Documents" BORROWER SHALL ASSIGN THE FOLLOWING DOCUMENTS TO LENDER:

Work product created under the following agreements: Design, Engineering, Architectural, Planning, Geotechnical, Historical, Archeological and other required contracts.
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G. "Construction Information":

"Completion Date"	December 31, 2011	Which is the date on or before which the Completion of the Project must occur.	
"General Contractor"	n/a	Which is the general contractor for construction of the Project.	
"Retention"	The following percentage of each disbursement made for construction work, in aggregate not to exceed the following percentage of the Loan Amount, which shall be retained by Lender for disbursement with the final disbursement of the Loan:	Percentage of disbursement:	No Percent (0%); this project is not a construction Project. It entails only planning and feasibility studies.
		Percentage of Loan:	No Percent (0%)

H. "Special Provisions" THE FOLLOWING SPECIAL PROVISIONS SHALL BE IN ADDITION TO THE PROVISIONS OF THIS LOAN AGREEMENT:

1. The Loan proceeds are for planning/predevelopment costs including to such items as architectural fees, engineering fees, geotechnical reports, archeological reports, planning studies.
2. Borrower, or any consultant, agent, contractor, subcontractor or other person will not enter or go upon Lender's buildings or property which may be the subject of the planning/predevelopment activities hereunder without first obtaining an executed Entry Permit from Lender for such purpose.

3. **DEFINITIONS.** As used in this Loan Agreement, the following terms shall have the following meanings:

3.1. "Budget" is the budget approved by Lender for the development of the Project.

3.2. "Completion of the Project" means that in Lender's reasonable judgment the Project has been completed and all costs of design, architectural, engineering and other planning/predevelopment activities identified in this Agreement have been paid.

3.3. "Event of Default" is breach of or default in a party's obligations under this Loan Agreement, the Note and any other instrument which is incorporated in this Loan Agreement or which otherwise secures the repayment of the Loan and a failure to cure that breach following written notice and expiration of all applicable grace periods.

3.4. "General Contractor" means the general contractor named by Borrower in his application or supporting documents as the general contractor to do the Project, or any other general contractor so designated by Borrower and approved in writing in advance by Lender.

3.5. "Governmental Authority" means the United States of America, the State of California, the County of Sacramento, the City of Sacramento or any other political subdivision, agency, department, commission, board, bureau, or instrumentality of any of them.

3.6. "Governmental Requirement" means any law, ordinance, order, rule, regulation, plan, ruling, determination or requirement of a Governmental Authority.

3.7. "Loan" is the loan from Lender to Borrower made pursuant to this Loan Agreement.

3.8. "Loan Agreement" means this Planning/Predevelopment Loan Agreement and the all Exhibits attached to this Loan Agreement (which are incorporated in this Loan Agreement by this reference) and the Loan Documents which are not otherwise included in this definition.

3.9. "Loan Documents" means the Note, this Loan Agreement, the Security Documents, and all other documents (including guaranties, if any) evidencing, securing, or relating to the Loan.

3.10. "Loan Maturity Date" means the date on which the entire unpaid balance of the Loan, including principal and interest, is due and payable.

3.11. "Loan Proceeds" means funds disbursed by Lender on account of the Loan and pursuant to this Loan Agreement.

3.12. "Plans and Specifications" means the final set of architectural, structural, mechanical, electrical, grading, sewer, water, street, and utility plans and specifications for the Project, including all supplements, amendments, and modifications.

3.13. "Potential Default" means an event that would constitute an Event of Default but for any requirement of notice to be given or period of grace or time to elapse.

3.14. "Project" means the Planning/predevelopment work contemplated herein including but not limited to activities to further assist the Agency, the Developer and investors in feasibility and underwriting activities including, but not limited to, design development and architectural fees for the development of a project proposal for retail and housing to be proposed at 700 - 730 K Street in Sacramento and the initial planning, geotechnical, archeological, historical, utility scoping, and other required studies, as well as planning fees.

4. BORROWER'S REPRESENTATIONS AND WARRANTIES. As a material inducement to Lender to enter into this Loan Agreement and to make the Loan to Borrower, Borrower unconditionally, and each signatory who signs on its behalf, to the extent of their actual knowledge, represents and warrants to Lender, as of the date hereof, as follows:

4.1. **LEGAL ORGANIZATION.** To the extent any of the parties that constitutes Borrower is any entity, then that entity is duly formed and validly exists in the form stated in Section A, above, is qualified to do business in California, and has full power to consummate the transactions contemplated.

4.2. **BORROWER'S POWERS.** Borrower has full authority to execute this Loan Agreement, the Note, and all of the other Loan Documents, to undertake and consummate the contemplated transactions, and to pay, perform, and observe all of the conditions, covenants, agreements, and obligations.

4.3. **BINDING OBLIGATION.** This Loan Agreement, the Note, and each of the other Loan Documents constitutes a legal and binding obligation of, and is valid and enforceable against, each party other than Lender, in accordance with the terms of each, except as such enforceability may be limited by applicable bankruptcy,

insolvency, reorganization, arrangement, moratorium or other similar laws from time to time in effect which affect the rights of creditors generally or by limitations upon the availability of equitable remedies.

4.4. **LITIGATION.** There are no actions, suits, or proceedings pending or, to the best knowledge of Borrower, threatened against or affecting Borrower, the Property, or any part of it, or involving the validity or enforceability of the priority of the lien, or the validity or enforceability of any of the other Loan Documents, at law or in equity, or before or by any Governmental Authority. Borrower is not in default with respect to any order, writ, injunction, decree, or demand of any court or other Governmental Authority.

4.5. **NO OTHER BREACH.** The consummation of the transactions covered by this Loan Agreement and the payment and performance of all of the obligations in the Loan Documents will not result in any breach of, or constitute a default under, any mortgage, deed of trust, lease, contract, loan or credit agreement, corporate charter, bylaws, partnership agreement, trust agreement, or other instrument to which the Borrower or any of its general partners is a party or by which it or they or the Property may be bound or affected.

4.6. **NO DEFAULT.** There is no Event of Default or Potential Default on the part of Borrower.

4.7. **ACCURACY.** All applications, financial statements, reports, documents, instruments, information, and forms of evidence delivered to Lender concerning the Loan or required by this Loan Agreement or any of the other Loan Documents are accurate, correct, and sufficiently complete to give Lender true and accurate knowledge of their subject matter, and do not contain any untrue statement of a material fact or omit any material fact necessary to make them not misleading.

5. **LOAN.** Lender agrees to lend to Borrower, and Borrower agrees to borrow from Lender, an amount not to exceed the Loan Amount, to finance the development of the Project Proposal and for other purposes as specified in the Scope of Development, subject to the terms, conditions, representations, warranties, and covenants in this Loan Agreement.

5.1. **PRINCIPAL AMOUNT.** The principal amount of the Loan shall be the actual disbursements of the Lender on account of the Project, not to exceed the amounts stated in the Budget (as the Budget may be adjusted by written approval of Lender). In any event, the principal amount of the Loan shall not exceed the Loan Amount.

5.2. **USE OF LOAN FUNDS.** Loan funds shall be used solely for the purposes described in Section 2.H.1 hereof. No Loan funds shall be used for any costs, except as provided in the Budget.

5.3. **LOAN TERMS.** The Loan is made pursuant to the Loan Program and is subject to the laws, rules and regulations of the Loan Program. Lender agrees to disburse the Loan Proceeds in the manner and subject to the limitations stated in this Loan Agreement. Interest, at the Interest Rate, shall accrue on each disbursement of Loan Proceeds commencing on the date on which each such disbursement is made. Repayment of the loan shall be made, in payments of principal and interest, in lawful tender of the United States, in accordance with the Payment Schedule.

5.4. **COMMISSIONS.** Lender is not responsible, by this Loan Agreement or otherwise, to pay commissions, management fees or finders fees in relation to this Agreement.

5.5. **CONTRACTORS AND CONTRACTS.** Upon Lender's request, Borrower will furnish to Lender correct lists of all contractors, subcontractors and material suppliers employed in connection with the Project, specifying their addresses, their respective portion of the Project and their respective Project cost. Lender may contact directly each contractor, subcontractor, and material supplier to verify the facts disclosed by the list or for any other purpose related to the Loan. All contracts let by Borrower or its contractors relating to the Project will require them to disclose to Lender information sufficient to make such verification. This Loan Agreement does not authorize any construction activities and is not anticipated to involve significant material suppliers.

5.6. **PROTECTION AGAINST LIEN CLAIMS.** Borrower shall promptly and fully discharge all claims for labor, materials and services in connection with the Project. Should Developer at its own volition decide to spend more than the reimbursable amount under this agreement then Developer shall ensure that no liens or encumbrances are placed upon the Property as a result of Developer's activities. Borrower shall take all other reasonable steps to protect against the assertion of lien claims against the Property. Within ten (10) days after the filing of any claim of lien against the Property, Borrower shall record a surety bond in the office of the Recorder of the County where the

Property is located in an amount sufficient to release the claim of lien or deliver to Lender any other assurance as may be acceptable to Lender as evidenced by Lender's written acceptance of such assurance. This Loan Agreement does not authorize any construction activities and is not anticipated to trigger any lien claims.

5.6.1. In any event, Borrower is not required to pay, prior to adjudication, any claims for labor, materials, or services that Borrower, in good faith, reasonably disputes, and that Borrower, at its own expense, is currently and diligently contesting in the proper forum, provided that Borrower has filed the surety bond or given Lender such other assurance as Lender accepts in writing.

6. **PREVAILING WAGES.** Lender advises Borrower that the Project is subject to the payment of prevailing wages under California law. Borrower shall inform its consultants and contractors and shall require them to inform all subcontractors and materialmen furnishing goods or services to the Project of Lender's determination of the applicability of California prevailing wage requirements. Borrower has 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. Borrower has made its own independent determinations of the applicability of prevailing wage laws and have independently implemented such determinations. Borrower indemnifies, holds harmless and defends the Lender 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 Borrower.

7. **LOAN DISBURSEMENT PROCEDURES.** These planning/predevelopment loan proceeds shall be disbursed following Borrower's execution of the Loan Agreement for eligible work. If payment is due under the terms of this Agreement, Lender will make such payment upon receipt and approval of original invoices for completed work. Lender retains the right to approve or disapprove invoices for payment upon Borrower's reasonable determination whether the invoiced work was performed in accordance with this Agreement. If Borrower presents proper invoices together with evidence, satisfactory to Lender, that Borrower has paid the invoices, Lender shall disburse funds directly to Borrower. If Borrower presents invoices not yet paid by Developer, any payment to be made by Lender shall be paid jointly to Borrower and the service provider.

7.1. **CONDITIONS PRECEDENT TO EACH LOAN DISBURSEMENT.** The obligation of Lender to make any disbursements under this Loan Agreement shall be subject to the following conditions precedent:

7.1.1. No Event of Default or Potential Default of Borrower has occurred and is continuing.

7.1.2. The representations and warranties in the Loan Documents are correct as of the date of the requested disbursement.

7.1.3. Borrower has paid Lender all commitment, loan, and other fees then due, and Borrower has submitted to Lender all documents, records, statements, certificates, reports, and other materials and information then reasonably required to be submitted to Lender for approval under this Loan Agreement.

7.1.4. Borrower has delivered to Lender all funds, documents, instruments, policies, evidence of satisfaction of conditions, and other materials then due or otherwise requested by Lender under the Loan Documents.

8. **DEFAULT.**

8.1. **EVENTS OF DEFAULT.** At the option of Lender, each of the following events will constitute an Event of Default, subject to applicable cure rights, if any:

8.1.1. Subject to Borrower's legal rights to contest a governmental requirement, Borrower's failure to comply with any governmental requirements, unless within thirty (30) days after written notice of such failure by Lender or the respective governmental entity or after any action has been commenced to enforce such requirement, Borrower has cured such failure (or, if such failure cannot be cured within 30 days, if Borrower fails to commence its cure within said 30 days and diligently prosecute the same thereafter).

8.1.2. Making of any unauthorized payment from Loan Proceeds or other funds of Lender.

9. REMEDIES.

9.1. **OPTION TO ACT.** On the occurrence of any Event of Default, in addition to its other rights in this Loan Agreement or in any of the other Loan Documents, at law, or in equity, Lender may, without prior demand, exercise any one or more of the following rights and remedies:

9.1.1. Terminate its obligation to make disbursements.

9.1.2. Declare the Note and all other sums owing to Lender with respect to the other Loan Documents immediately due.

9.1.3. Make any disbursements after the happening of any one or more of the Events of Default, without waiving its right to demand payment of the Note and all other sums owing to Lender with respect to the other Loan Documents or any other rights or remedies and without liability to make any other or further disbursements, regardless of Lender's previous exercise of any rights and remedies.

9.1.4. Proceed as authorized at law or in equity with respect to the Event of Default, and in connection with that, remain entitled to exercise all other rights and remedies described in this Loan Agreement.

9.1.5. Recover its funds expended in exercising or enforcing any of its rights or remedies under any of the Loan Documents, together with interest at the maximum amount allowed by law from the date the funds were spent until repaid.

9.2. **RIGHTS CUMULATIVE, NO WAIVER.** All of Lender's rights and remedies provided in this Loan Agreement or in any of the other Loan Documents are cumulative and may be exercised by Lender at any time. Lender's exercise of any right or remedy will not constitute a cure of any Event of Default unless all sums then due to Lender under the Loan Documents are repaid and Borrower has cured all other Events of Default. No waiver will be implied from Lender's failure to take, or delay in taking, any action concerning any Event of Default or from any previous waiver of any similar or unrelated Event of Default. Any waiver under any of the Loan Documents must be in writing and will be limited to its specific terms.

9.3. **DISCLAIMER.** Whether Lender elects to employ any of the remedies available to it in connection with an Event of Default, Lender will not be liable to construct, complete, or protect the Project; to pay any expense in connection with the exercise of any remedy; or to perform any other obligation of Borrower.

10. **NOT AN APPROVAL OF A REDEVELOPMENT PROJECT.** Lenders loan proceeds for design development and architectural fees for the retail and housing to be proposed at 700 – 730 K Street in Sacramento and the initial planning, geotechnical, archeological, historical, utility scoping, and other required studies 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 proposed project and are provided for the Lender's use and assistance in underwriting and determining the scope and feasibility of the project proposal. Lender does not by this Agreement, make any approvals, warranties or representations in any manner as to the work or work product that will be performed or produced pursuant to the planning/predevelopment activities funded by the proceeds under this Agreement, nor does Lender make any commitment to proceeding with the Project Proposal.

11. **INDEMNIFICATION.** Borrower, its employees, officers and agents, shall protect, defend, indemnify and hold harmless the Lender from liability for any injury, death or property damage arising from or connected with their work or work product by any of them. Borrower is liable to and shall reimburse Lender for all costs, expenses and losses in consequence of any claims, demands and causes of action which may be made or brought against it arising out of such use, including without limitation attorney's fees, witness fees, expert fees and investigation fees and costs arising out of and related to the Planning/predevelopment activities contemplated in this Agreement.

12. **INSURANCE.** With regard to this Loan Agreement, the Borrower shall obtain and maintain or cause to be obtained and maintained by its subcontractors and consultants for the entire term of the Loan all insurances as follows:

12.1. The required insurance coverage is the following: (i) One Million Dollars (\$1,000,000) or more of comprehensive general liability coverage including, without limitation, coverage for contractual liability, public liability and property damage and having a deductible of

Twenty-five Thousand Dollars (\$25,000) or less; and (ii) statutory limits or more of workers compensation coverage for all employees of Borrowers and all others doing work pursuant to this Agreement

12.2. Cancellation: Borrower will provide the Lender with the cancellation clause and/or any amendatory endorsements that modify or change the policy cancellation clause of the insurance policies in force. It is the Borrower's responsibility to notify the Lender of any notice of cancellation, non-renewal or non-payment of premium in accordance with your policy provisions. In the event insurance is cancelled or not renewed, the Borrower shall notify the Lender within forty eight (48) hours of such cancellation or non-renewal.

____ Borrower's Initials

12.3. Borrower shall cause the "Redevelopment Agency of the City of Sacramento" to be an additional insured upon such policy or policies of insurance.

13. MISCELLANEOUS.

13.1. NO WAIVER. No failure or delay on the part of Lender in exercising any right or remedy under the Loan Documents will operate as a waiver nor will Lender be estopped to exercise any right or remedy at any future time because of any such failure or delay. No express waiver will affect any matter other than the matter expressly waived and that waiver will be operative only for the time and to the extent stated. Waivers of any covenant, term, or condition in this Loan Agreement will not be construed to waive any subsequent breach of the same covenant, term, or condition.

13.2. NO THIRD PARTIES BENEFITED. This Loan Agreement is made and entered into for the sole protection and benefit of the parties and their permitted successors and assigns, and no other Person will have any right of action or any rights to any loan funds.

13.3. NOTICES. Borrower irrevocably appoints Lender as its agent (the agency being coupled with an interest) to file for record any notices of completion, cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interests under this Loan Agreement or under the Loan Documents.

13.3.1. METHOD. All notices to be given under this Loan Agreement shall be in writing and sent to the addresses stated above for the respective recipient by one or more of the following methods.

a. 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;

b. 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;

c. 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

d. 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 Borrower or Lender may respectively designate by written notice to the other.

13.4. ACTIONS. Lender will have the right to commence, appear in, or defend any action or proceeding purporting to affect the rights, duties, or liabilities of the parties, or the disbursement of any funds under this Loan Agreement. In connection with that, Lender may incur and pay costs and expenses, including, without limitation, reasonable attorney fees. Borrower agrees to pay to Lender on demand all these expenses, and Lender is authorized to disburse funds from the Construction Account for that purpose. This Section does not apply to actions or proceedings between the parties.

13.5. **ASSIGNMENT.** Borrower shall not assign this Loan Agreement or any interest it may have in the monies due or, except as otherwise provided, convey or encumber the Property without the prior written consent of Lender to a party other than a general partner or managing member of Borrower or a single asset entity wholly owned and controlled by Borrower or a general partner or managing member of Borrower. Lender may at any time assign the Loan Documents to any affiliate of Lender and the assignee will assume the obligations of Lender, and Lender will have no further obligation of any nature. In that case, the provisions of this Loan Agreement will continue to apply to the Loan, and the assignee will be substituted in the place and stead of Lender, with all rights, obligations, and remedies of Lender, including, without limitation, the right to further assign the Loan Documents. In addition, Lender may at any time assign a participation in the Loan to any other party, provided that Lender continues to be primarily obligated under this Loan Agreement.

13.6. **PREPAYMENT.** Borrower may prepay the Loan only on and subject to the terms and conditions in the Note. Borrower shall have no rights to receive, and under no circumstances will Borrower receive repayment of any fees previously paid to Lender.

13.7. **BORROWER'S RESPONSIBILITIES.** Borrower shall inspect, review, supervise, and assure the high quality, adequacy, and suitability of: (i) the Plans and Specifications, and (ii) architects, contractors, subcontractors, and material suppliers employed or used in the Project, and the workmanship of and the materials used by all of them. Borrower will, at Borrower's expense, defend, indemnify, save, and hold Lender harmless against all claims, demands, losses, expenses, damages (general, punitive, or otherwise), and causes of action (whether legal or equitable) asserted by any Person arising out of the use of the proceeds of the Loan. Borrower will pay Lender on demand all claims, judgments, damages, losses, or expenses (including attorney fees and expenses) incurred by Lender as a result of any legal action arising out of the use of the proceeds of the Loan. The provisions of this Section will survive the termination of this Loan Agreement and the repayment of the Loan.

13.8. **NONLIABILITY FOR NEGLIGENCE, LOSS, OR DAMAGE.** Borrower acknowledges, understands, and agrees as follows:

13.8.1. The relationship between Borrower and Lender is, and will at all times remain, solely that of borrower and lender, and Lender neither undertakes nor assumes any responsibility for or duty to Borrower to select, review, inspect, supervise, pass judgment on, or inform Borrower of the quality, adequacy, or suitability of the Project work, except as to matters which are within the intent and purpose for which Lender has made the Loan.

13.8.2. Lender owes no duty of care to protect Borrower against negligent, faulty, inadequate, or defective plans, reports or analyses produced or created pursuant to Agreement.

13.8.3. Lender will not be responsible or liable to Borrower for any loss or damage of any kind to person or property whether suffered by Borrower or any other Person or group of Persons or for negligent, faulty, inadequate, or defective drawings, plans, specifications or other Planning/predevelopment work as contemplated by this Agreement. Borrower will hold Lender harmless from any liability, loss, or damage for these things.

13.9. **CONTROLLING LAW; VENUE.** The Loan Documents will be governed by and construed in accordance with California law. The venue for any legal action or proceeding will be in the County of Sacramento, California.

13.10. **CONSENTS AND APPROVALS.** All consents and approvals by Lender required or permitted by any provision of this Loan Agreement will be in writing. Lender's consent to or approval of any act by Borrower requiring further consent or approval will not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act.

13.11. **SURVIVAL OF WARRANTIES AND COVENANTS.** The warranties, representations, conditions, covenants, and agreements in this Loan Agreement and in the other Loan Documents will survive the making of the Loan and the execution and delivery of the Note and will continue in full force until the Indebtedness has been paid in full or has been forgiven in accordance with the Special Terms, above. Nothing in this Section is intended to limit any other provision of the Loan Documents that by their stated terms survive the repayment of the Indebtedness, Forgiveness, or the termination of any Loan Document.

13.12. **NO REPRESENTATIONS BY LENDER.** By accepting or approving anything required to be observed, performed, or fulfilled, or to be given to Lender pursuant to this Loan Agreement or pursuant to the Loan Documents, including, but not limited to, any officer's certificate, balance sheet, statement of income and expense,

or other Financial Statement, survey, appraisal, or insurance policy, Lender will not be deemed to have warranted or represented the sufficiency, legality, effectiveness, or legal effect of it or of any particular term, provision, or condition of it, and any acceptance or approval will not be or constitute any warranty or representation by Lender.

13.13. **AMENDMENT.** The Loan Documents and the terms of each of them may not be modified, waived, discharged, or terminated except by a written instrument signed by all parties hereto.

13.14. **TERMINATION.** Except as otherwise provided in the Loan Documents, all rights and obligations under this Loan Agreement will terminate except as to any accrued obligations effective on the payment of all Indebtedness owing by Borrower to Lender.

13.15. **COUNTERPARTS.** The Loan Documents may be executed in any number of counterparts and by different parties in separate counterparts, each of which when executed and delivered will be deemed an original and all of which counterparts taken together will constitute one and the same instrument.

13.16. **SEVERABILITY.** If any term, provision, covenant, or condition or any application is held by a court of competent jurisdiction to be invalid, void, or unenforceable, all terms, provisions, covenants, and conditions and all applications not held invalid, void, or unenforceable will continue in full force and will in no way be affected, impaired, or invalidated.

13.17. **CAPTIONS.** All Article and Section headings in the Loan Documents are inserted for convenience of reference only and do not constitute a part of the Loan Documents for any other purpose.

13.18. **INDEMNITY.** Borrower agrees to defend, indemnify, and hold Lender harmless from all losses, damages, liabilities, claims, actions, judgments, costs, and reasonable attorney fees that Lender may reasonably incur as a direct or indirect consequence of the making of the Loan, Borrower's failure to perform any obligations as and when required by this Loan Agreement or any of the other Loan Documents, the failure at any time of any of Borrower's representations or warranties to be true and correct, or any act or omission by Borrower, any contractor, subcontractor, engineer, architect, or other Person with respect to the Property, the Project, or any portion of them. Borrower will pay immediately on Lender's demand any amounts owing under this indemnity, together with interest at the maximum rate permitted by law from the date Lender makes a payment or incurs a loss. Borrower's duty to indemnify Lender will survive the release and cancellation of the Note.

13.19. **FURTHER ASSURANCES.** At Lender's request and at Borrower's expense, Borrower will execute, acknowledge, and deliver all other instruments and perform all other acts necessary, desirable, or proper to carry out the purposes of the Loan Documents or to perfect and preserve any liens created by the Loan Documents.

13.20. **DISCLOSURE OF INFORMATION.** If Lender elects to sell the Loan, Lender may forward to the buyer of the Loan all documents and information related to the Loan in Lender's possession, including without limitation all Financial Statements, whether furnished by Borrower or otherwise.

13.21. **LENDER'S AGENTS.** Lender may designate agents or independent contractors to exercise any of Lender's rights under the Loan Documents. Any reference to Lender in any of the Loan Documents will include Lender's employees, agents, and independent contractors.

13.22. **INTEGRATION AND INTERPRETATION.** The Loan Documents contain or expressly incorporate by reference the entire agreement between Lender and Borrower with respect to the covered matters and supersede all prior negotiations. Any reference to the Property or Project in any of the Loan Documents will include all or any portion of them. Any reference to the Loan Documents themselves in any of the Loan Documents will include all amendments, renewals, or extensions approved by Lender.

13.23. **NUMBER, IDENTITY AND GENDER.** When the context and construction so require, all words used in the singular will be deemed to have been used in the plural and vice versa. Person means any natural person, corporation, firm, partnership, association, trust, government, governmental agency, or any other entity, whether acting in an individual, fiduciary, or other capacity. When the context and construction so require, all words which indicate a gender will be deemed to have been used to indicate the gender as indicated by the context.

Agreement: 700 block of K Street: 700-730 K Street

March 8, 2011

THE PARTIES HAVE EXECUTED THIS LOAN AGREEMENT in Sacramento, California as of the Effective Date.

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF
SACRAMENTO

Approved as to form:

By: _____
John Dangberg, Assistant City Manager
As Designated Signatory

Agency Counsel

DEVELOPER: 700 Block, LP

By: _____
Cyrus Youssefi, Member
As Designated Signatory