



**City of Sacramento
City Council
Redevelopment Agency**
915 I Street, Sacramento, CA, 95814
www.CityofSacramento.org

17

Meeting Date: 4/12/2011

Report Type: Public Hearing

Title: (City Council/Redevelopment Agency) Agreement for the Disposition and Development of Agency-owned Land at 1220 North A Street

Report ID: 2011-00362

Location: District 1

Recommendation: Conduct a public hearing as required under Health and Safety Code §§ 33431 and 33433 for the sale of real estate owned by the Redevelopment Agency of the City of Sacramento (“Agency”) located at 1220 North A Street and, upon completion, adopt 1) t a City Resolution: a) approving CEQA findings; b) accepting the statement and findings of the Agency’s 33433 Report; and, c) approving the sale of 1220 North A Street to C&J Warehouse LLC (“Developer”); and 2) adopt a Redevelopment Agency Resolution: a) approving CEQA findings, b) authorizing the Executive Director to convey the land to Developer, c) authorizing the Executive Director to enter into a Disposition and Development Agreement (DDA) and related documents with the Developer, d) authorizing the Executive Director to acquire 1400 North B Street; e) authorizing the Executive Director to expend up to \$30,000 for closing-related costs.

Contact: Rachel Hazlewood, (916) 808-8645, Senior Development Project Manager, Economic Development Department

Presenter: Rachel Hazlewood, (916) 808-8645, Senior Development Project Manager, Economic Development Department

Department: Economic Development Dept

Division:

Dept ID:

Attachments:

- 01-Description/Analysis
- 02-Background
- 03-Resolution
- 04-Exhibit A Legal Description Agency
- 05- General Produce
- 06-DDA - 04-11
- 07-Agency Resolution

Eileen Teichert, City Attorney

Shirley Concolino, City Clerk
Gus Vina, Interim City Manager

Russell Fehr, City Treasurer

08-Exhibit A Legal Description Agency 4.973 acre
09-Legal Description Developer 1.699 acres
10- DDA
11-33433-General Produce

City Attorney Review

Approved as to Form
Michael T. Sparks
4/7/2011 9:24:15 AM

City Treasurer Review

Prior Council Financial Policy Approval or
Outside City Treasurer Scope
Russell Fehr
3/25/2011 11:27:24 AM

Approvals/Acknowledgements

Department Director or Designee: Jim Rinehart - 4/6/2011 9:43:09 AM

Assistant City Manager: Cassandra Jennings - 4/6/2011 6:31:06 PM



Description/Analysis

Issue: This Agency Board and City Council action would approve the sale of a 4.973 acre Agency-owned parcel located at 1220 North A Street (“Agency-owned Property”) to C&J Warehouse LLC (“Developer”), which owns and controls General Produce, a fresh produce distribution business. In exchange, the Agency would acquire the Developer-owned property located at 1400 North B Street and approve an improvement project to the 1220 North A Street property. The improvement project (“Project”) to be completed by Developer will consist of grading, fencing and landscaping the Agency-owned Property as well as constructing a 6,800 square foot refrigerated addition to an existing building. Furthermore, General Produce commits to continuing the operation of its existing facility in the River District for at least an additional 10 years.

The Redevelopment Agency purchased the Agency-owned Property in 1995 with Low and Moderate Income Housing Set-Aside funds for the development of affordable housing; however, it was later determined that due to limited access, the property is unsuitable for residential development. The parcel is mostly landlocked – located to the east of and sloped down from the light rail line on North 12th Street, to the north of the Union Pacific Railroad right of way, to the south of General Produce and the Salvation Army emergency shelter. The only street access to the property is a 40 foot section at the North 14th Street/North A Street intersection.

General Produce has maintained a stable employment and business presence in the River District since 1984. In 1998 the company was seeking to expand its operations and considered relocating outside of Sacramento. In November 1998, in order to retain General Produce in Sacramento, the Redevelopment Agency and City Council approved the disposition of the Agency-owned Property to General Produce allowing the company to expand at its existing location. In exchange, the Agency would acquire a 1.32 acre parcel owned by Developer, which has superior access and is better suited for residential development. However, due to environmental contamination on the Agency-owned Property, the exchange has been delayed.

Policy Considerations: The proposed Project is consistent with the River District Specific Plan and the City's 2030 General Plan. It furthers the River District Redevelopment Plan and Implementation Plan goal to eliminate blight and deterioration and stimulate economic growth. The proposed project will eliminate blight within the River District Redevelopment Area by providing a viable use for a vacant parcel with limited reuse potential by redeveloping it with a job-generating business and providing a suitable site for future development of affordable housing on a vacant, underutilized parcel.

Environmental Considerations: California Environmental Quality Act (CEQA): All proposed actions for the Agency-owned Property are categorically exempt pursuant to CEQA Guidelines Section 15311. All proposed actions for the North B Street property are categorically exempt pursuant to CEQA Guidelines Sections 15301 and 15303.

Sustainability: None at this time.

Commission/Committee Action: None at this time.

Rationale for Recommendation: In November 1998, City Council and the Agency Board approved the sale of the Agency-owned Property as part of a business retention project for General Produce. General Produce has over 200 employees and has been a stable business presence in the River District since 1984. Furthermore, selling the Agency-owned Property to Developer will assist in redeveloping a blighted, vacant parcel and retaining jobs. The acquisition by the Agency of 1400 North B Street will provide a site suitable for the future development of affordable housing. These land transfers were authorized by the City Council and Agency Board in 1998 but were delayed due to environmental remediation efforts. Effectuating these actions now will ensure a stable, job generating business remains in the River District and will provide the Agency with a parcel for the development of affordable housing.

Financial Considerations: The Agency will incur closing and tenant relocation costs estimated to be less than \$30,000. The accompanying report prepared pursuant to Health and Safety Code section 33433 finds that the consideration for the Agency's conveyance of the Property to Developer is not less than the fair reuse value of the Property at the use and with the covenants, conditions, restrictions required by the DDA and the related Regulatory Agreement and Grant Deed.

Emerging Small Business Development (ESBD): None at this time.

Background

The Redevelopment Agency purchased a 10.283 acre parcel located immediately south of North A Street, between North 12th Street and North 16th Street in the River District on July 31, 1995 from Southern Pacific Transportation Company (SP), predecessor to Union Pacific Railroad. The parcel was purchased with the original intent to construct a social services campus including transitional housing, county offices, and an affordable housing project. A Disposition and Development Agreement was executed in December 1999 for a portion of the property, 5.31 acres, which was subsequently developed as Quinn Cottages, a 60 bed transitional housing shelter, and a 64,000 square foot office for the County of Sacramento.

The remaining western 4.97 acre portion of the parcel was planned as an affordable housing project; however that plan was abandoned due to the site's unsuitability for residential development. The parcel is landlocked on three sides: to the north is General Produce, a fresh produce business which has been located at the site since 1984, to the west a slope up to the light rail tracks on North 12th Street, to the south are the UP tracks, and to the east is Quinn Cottages and a 40 foot section of street. This limited access makes the parcel unsuitable for residential development due to City Code Chapter 15.36 requirements, which state that a property must have two exits to be residential.

In November 1998, the Redevelopment Agency and City Council approved the disposition of the Agency-owned Property as part of a business retention and expansion project for the fresh produce distribution facilities of General Produce, which has maintained a stable employment and business presence in an area of the city impacted with numerous social service providers and a large homeless population. Also in November 1998, the Agency Board approved the acquisition of a nearby 1.32 acre property with superior access owned by C&J Warehouse, which owns and controls General Produce, in exchange for the Agency-owned parcel. The C&J Warehouse-owned parcel is more appropriate for residential development as it contains street frontage on all four sides.

Prior to the Agency's purchase of the Site, it was disclosed by SP that both the soil and groundwater were contaminated due to historical activities on site. SP, and then UP, agreed to work to remediate the property within a three-year time frame, however, contamination was more extensive than it was originally believed. It wasn't until November 2008 that the California Department of Toxic Substance Control issued a "No Further Action" letter to the Agency for the soils and a "Covenant to Restrict Use of Property" was recorded requiring ongoing monitoring of groundwater. This environmental issue has delayed the effectuation of the actions approved by the Agency Board and City Council in 1998.

The Disposition and Development Agreement with C&J Warehouse requires that General Produce 1) continue to operate its fresh produce distribution business in the

River District for an additional 10 years; 2) complete an improvement project consisting of clearing, grading and fencing portions of the Agency-owned Property, and construct an addition to the existing warehouse; 3) allow the City access to its land-locked Sump Pump 149 on the North 12th Street side of the parcel; and 4) record a Regulatory Agreement with nondiscrimination and property maintenance requirements.

Closing-related costs are estimated at up to \$30,000 and will include title-related and tenant relocation costs. Funding is available in the River District Redevelopment Project budget to pay these costs.



RESOLUTION NO. _____

ADOPTED BY THE SACRAMENTO CITY COUNCIL

on date of

1220 NORTH A STREET PROJECT: FINDINGS REGARDING SALE OF REDEVELOPMENT AGENCY PROPERTY

BACKGROUND

- A. The Redevelopment Agency of the City of Sacramento (“Agency”) has adopted the River District Redevelopment Plan (“Redevelopment Plan”) and an “Implementation Plan” for the River District Project Area (“Project Area”);
- B. The Agency owns certain real property (“Property”), in the Project area acquired with Project Area low and moderate income housing set-aside tax increment funds, which Property is generally described as 1220 North A Street, and more particularly described in the legal description, attached as Exhibit A;
- C. The Agency and C&J Warehouse, LLC (“Developer”) desire to enter into a Disposition and Development Agreement (“DDA”), which DDA would convey fee interest in the Property, as more specifically described in the DDA, and which would require the improvements within the Property, as further described in the DDA (collectively, “Project”);
- D. In accordance with the California Environmental Quality Act and its implementing regulations, the Project has been determined to be exempt pursuant to sections 15301, 15311, and 15303 of the CEQA Guidelines (Cal. Code of Regulations, tit. 14, 15000 – 15387) as it consists of minor improvements to an existing structure, the addition of minor accessory structures, and the construction of a new commercial structure under 10,000 square feet; and,
- E. A report under Health and Safety Code 33433 has been prepared, filed with the Agency Clerk and duly made available for public review, and, proper notice having been given, a hearing has been held in accordance with Health and Safety Code Sections 33431 and 33433.
- F. The Agency’s sale of the Property will assist in the elimination of blight as provided in the 33433 Report.
- G. The Agency’s sale of the Property and the construction of the Project are consistent with the goals and objectives of the River District Redevelopment Plan and the Implementation Plan, as stated in the DDA.
- H. The consideration for the Agency’s conveyance of the Property to Developer is not less than the fair reuse value of the Property at the use and with the covenants, conditions, restrictions required by the DDA and the related Regulatory Agreement and Grant Deed.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The environmental findings pursuant to the California Environmental Quality Act stated above are hereby approved.
- Section 2. The statements and findings of the Redevelopment Agency's 33433 Report are true and correct and are hereby adopted. The 33433 Report is attached as Exhibit B.
- Section 3. The Agency's sale of 1220 North A Street to C&J Warehouse, LLC pursuant to the DDA is approved. The DDA is attached as Exhibit C.
- Section 4. Exhibits A, B and C are attached and made a part of this Resolution.

Attachments:

- Exhibit A: Legal description
- Exhibit B: 33433 Report
- Exhibit C: Disposition and Development Agreement



June 9, 2009
98-0054

AGENCY-OWNED PROPERTY

DESCRIPTION

AREA A

All that certain real property situate in the City of Sacramento, County of Sacramento, State of California, described as follows:

A portion of the blocks bounded on the North by A Street, the South by B Street, the West by 12th Street and the East by 14th Street in the City of Sacramento, according to the official map thereof, more particularly described as follows:

BEGINNING at the intersection of the East side of 12th Street with the centerline of A Street; thence from said point of beginning and along said centerline of A Street South 70°30'55" East 803.87 feet to the Northerly prolongation of the West line of 14th Street; thence along said prolongation and said West line South 19°36'54" West 322.86 feet; thence North 62°46'44" West 689.78 feet; thence North 70°30'55" West 120.00 feet to a point on the East line of said 12th Street; thence along said East line North 19°34'36" East 230.00 feet to the point of beginning.

Containing 4.973 acres, more or less.

The meridian of this survey is identical to that of that certain Record of Survey filed in Book 47 of Surveys, Page 5, Official Records of said County.



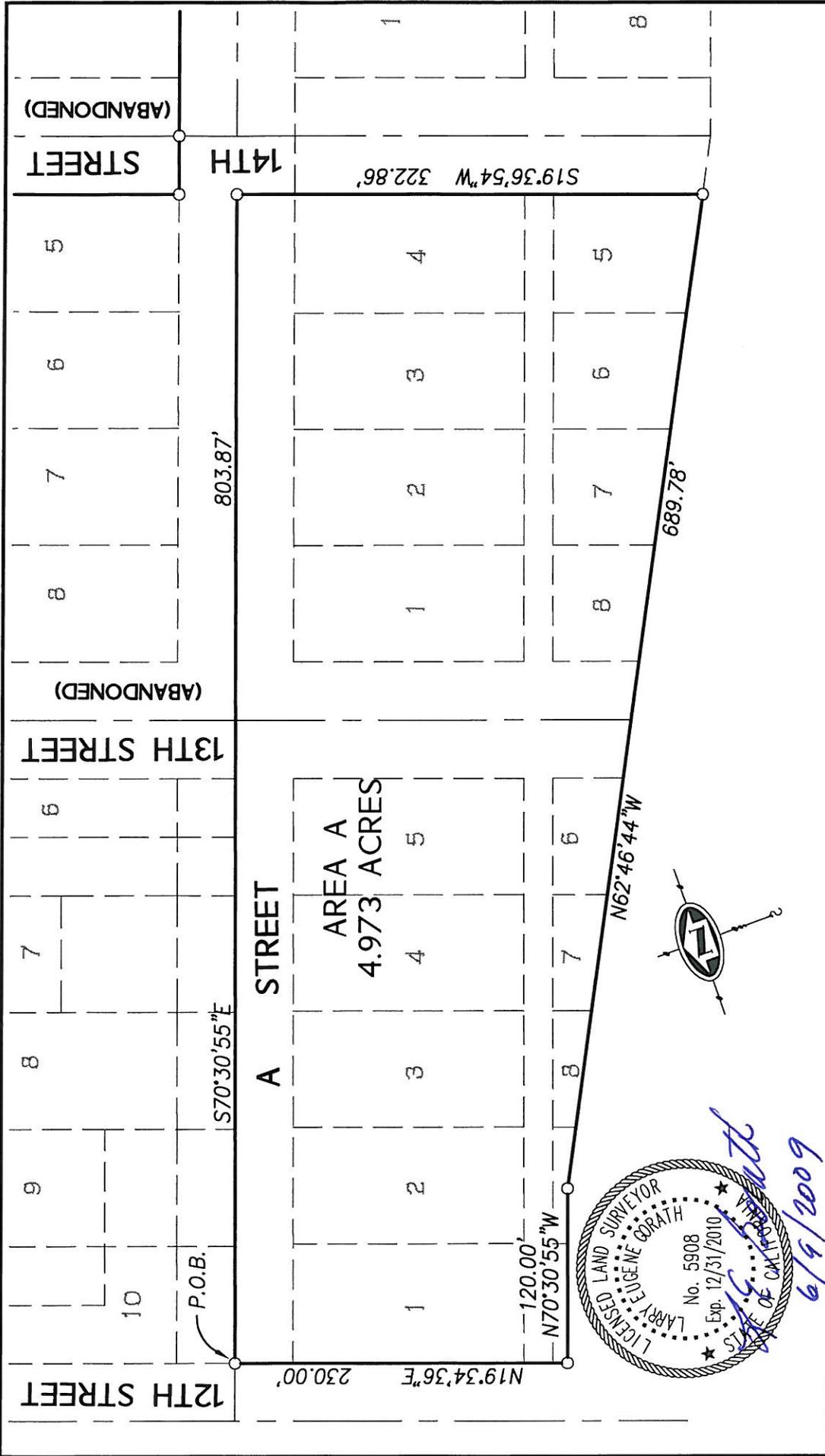


EXHIBIT MAP
SACRAMENTO SOCIAL SERVICES CAMPUS
CITY OF SACRAMENTO
CALIFORNIA

mpt **MORTON & PITALO, INC.**
CIVIL ENGINEERING • PLANNING • SURVEYING
1788 TRIBUTE ROAD • SUITE 200 • SACRAMENTO, CA 95815
PHONE: 916/927-2400 • FAX: 916/567-0120

DRAWN:	ESR	JOB NO:	980054
CHECKED:	MDJ	DATE:	JUNE 2009
SCALE:	1"=100'	SHEET:	1 of 2



[Back to Table
of Contents](#)

**SUMMARY REPORT PURSUANT TO SECTION 33433 OF
THE CALIFORNIA COMMUNITY REDEVELOPMENT LAW**

IN CONNECTION WITH A DISPOSITION AND DEVELOPMENT AGREEMENT

BY AND BETWEEN

**THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
AND
GENERAL PRODUCE**

FOR 1220 NORTH A STREET

MARCH 29, 2011

**SUMMARY REPORT PURSUANT TO SECTION 33433 OF THE CALIFORNIA
COMMUNITY REDEVELOPMENT LAW IN CONNECTION WITH A DISPOSITION
AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE REDEVELOPMENT
AGENCY OF THE CITY OF SACRAMENTO AND GENERAL PRODUCE**

I. INTRODUCTION

The California Health and Safety Code, Section 33433, requires that if a redevelopment agency wishes to sell or lease property to which it holds title and if that property was acquired in whole or in part with property tax increment funds, the agency must first secure approval of the proposed sale or lease agreement and a summary report that describes and contains specific financing elements of the proposed transaction shall be available for public inspection prior to the public hearing. As contained in the Code, the following information shall be included in the summary report:

1. The cost of the agreement to the redevelopment agency, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the agency, plus the expected interest on any loans or bonds to finance the agreement;
2. The estimated value of the interest to be conveyed, determined by the highest and best use permitted under the redevelopment plan;
3. The estimated value of the interest to be conveyed in accordance with the uses, covenants, and development costs required under the proposed agreement with the Agency, i.e. the reuse value of the site;
4. An explanation of why the sale of the site will assist in the elimination of blight, as required by Section 33433; and
5. If the sale price is less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the redevelopment plan, then the agency will provide as part of the summary an explanation of the reasons for the difference.

This report outlines the significant parts of the proposed Disposition and Development Agreement (“Agreement”) by and between the Redevelopment Agency of the City of Sacramento (“Agency) and C&J Warehouse (“Buyer”), whose principals control and operate the business known as General Produce, in connection with the disposition of the Agency’s property located at 1220 A Street in the City of Sacramento (“Site”) to the Buyer. Pursuant to the Agreement, the Buyer will purchase the Site in exchange for a nearby vacant parcel suitable for residential development and complete an improvement project that includes grading, clearing and fencing a portion of the Site as well as expanding its warehouse operations with an addition, located directly to the north of this Site, with a warehouse addition. The purpose of this analysis is to determine the cost of the Agreement to the Agency.

This report is based upon information in the proposed Agreement and is organized into the following six sections:

1. **Summary of the Proposed Agreement** – This section includes a description of the site, the proposed development and the major responsibilities of the Agency and the Buyer.
2. **Cost of the Agreement to the Agency** – This section outlines the cost of the Agreement to the Agency for costs associated with the Agreement between the Buyer and the Agency.
3. **Estimated Value of the Interest to be Conveyed** – This section summarizes the value of the interests to be conveyed to the Buyer.
4. **Consideration Received and Reasons Therefore** – This section describes the consideration to be paid by the Buyer to the Agency. It also contains an analysis of the consideration and the fair market value at the highest and best use consistent with the redevelopment plan for the interests conveyed.
5. **Elimination of Blight** – This section includes an explanation of why the sale of the site will assist in the elimination of blight and the supporting facts and materials.
6. **Conformance with the Five-Year Implementation Plan** – This section describes how the Agreement is in conformance with the Agency's Five-Year Implementation Plan.

II. SUMMARY OF THE PROPOSED AGREEMENT

A. *Description of the Site and Project*

Site/Location

The subject property is located at 1220 A Street in the City of Sacramento and the County of Sacramento. It is located in the River District Redevelopment Project Area. It is a vacant 4.973± acre site currently zoned C-4 SPD, Heavy Commercial Zone Special Planning District – River District. This a commercial zone designed primarily for warehousing, distribution types of activity, and those commercial uses having a minimum of undesirable impacts upon nearby residential areas.

In the 2030 General Plan, the parcel is designated ECLR – Employment Center Low Rise (ECLR). The ECLR classification supports businesses and employment generating uses and is consistent with the surrounding uses. This designation provides for employment generating uses that do not produce loud noises or noxious odors.

The site is more or less level and generally slopes gently to the north. About 0.42 acres at the western edge are severely sloped upward to match the North 12th Street grade causing this area to be unbuildable.

There is also a smaller area of slope at the southeast corner that could be leveled. The railroad right of way property, adjacent on the south, slopes sharply upward to the track bed, which is elevated 12 to 16 feet above the subject property.

The parcel is located between North 12th and North 14th streets, the A Street midline and the Union Pacific Railroad right of way. The only street access to the property is from the 14th Street/A Street intersection. The width of this access is 40 feet. Frontage is poor with little to no street exposure.

Background

The property was purchased by the Redevelopment Agency on July 31, 1995 from Southern Pacific Transportation Company (SP), predecessor to Union Pacific Railroad. The subject parcel was part of a larger 10.283 acre parcel purchased with the original intent to construct a social services campus including transitional housing, county offices, and an affordable housing project. A Disposition and Development Agreement was executed in December 1999 for a portion of the property, 5.31 acres, which was subsequently developed as Quinn Cottages, a 60 bed transitional housing shelter, and a 64,000 square foot office for the County of Sacramento.

The Site's limited access makes it unsuitable for additional residential development due to City Code Chapter 15.36 requirements, which state that a property must have two exits to be residential. In November 1998, the City Council approved the disposition of the subject property as part of a business retention and expansion project for the fresh produce distribution facilities of General Produce, which has been located in the River District since 1984 and has maintained a stable employment and business presence in an area of the city impacted with numerous social service providers and a large homeless population. Also in November 1998, the Agency Board approved the purchase of a nearby 1.32 acre property owned by C&J Warehouse which has superior access in exchange for the Agency-owned parcel. The Buyer-owned parcel contains street frontage on all four sides which is more appropriate for residential development.

Prior to the Agency's purchase of the Site, it was disclosed by SP that both the soil and groundwater were contaminated due to historical activities on site. SP, and then UP, agreed to work to remediate the property within a three-year time frame, however, contamination was more extensive than it was originally believed. It wasn't until November 2008 that the California Department of Toxic Substance Control issued a No Further Action letter to the Agency for the soils and a Covenant to Restrict Use of Property was recorded requiring ongoing monitoring of groundwater.

Buyer

The buyer is C&J Warehouse, which has operated a produce distribution facility known as General Produce for 77 years. It has been in its current location immediately to the north of the subject property, since 1984. The Site will be incorporated into General Produce's existing business operations to allow it to expand and improve efficiency in its operations.

Use of the site by General Produce as a fresh produce distribution facility is consistent with the zoning for the site. The Buyer is qualified to do business in California and its principal office is 1330 North B Street, Sacramento, CA 95811-0605, which is immediately north of the subject property.

Project

The Buyer proposes to grade, clear, and fence portions of the subject property and expand its warehouse operations with an addition. The project will preserve jobs at this site by increasing the capacity of the distribution center and allowing space for additional future expansion of the business. Furthermore, as part of this transaction, the Agency will be acquiring property suitable for the development of affordable housing.

B. Agency Responsibilities

Subject to the specific terms and conditions stated in the Agreement, the Agency's responsibilities under the proposed Agreement are as follows:

1. Delivery of Site. Deliver the subject property in "as is" condition on an agreed upon date with no warranty, express or implied, by the Agency as to physical condition of the Site, including the presence of hazardous materials or hazardous waste. In order to facilitate the remediation of past environmental contamination and to protect human health, a Covenant Restricting Use of the Property has been recorded by the State DTSC.
2. Approval of plans. Agency must approve the proposed improvement project submitted by Buyer.
3. Closing costs. Agency will pay the cost of drawing the grant deed, escrow fees and recording fees, its respective notary fees and any state, county, or city documentary transfer tax.
4. Certificate of Completion. At the completion of the Project and upon written request of the Buyer, the Agency shall furnish the Buyer with a Certificate of Completion for the Project.

C. Buyer Responsibilities

Subject to the specific terms and conditions stated in the Agreement, the Buyer's responsibilities under the proposed Agreement are as follows:

1. Deliver to the Agency the property at 1400 North B Street, the "Egg Warehouse" property, a 1.32 acre vacant parcel.
2. Submit plans for the improvement project to the Agency for approval.
3. Record an Access Agreement for City of Sacramento (City) access to Sump Pump 149, located to the west of the Site.
4. Record a Regulatory Agreement with Nondiscrimination and Property Maintenance requirements.
5. Within two years of the land transfer, the Buyer must complete all required improvements including site clearing, grading and fencing portions of the subject property and completing the addition to the existing warehouse.
6. Obtain required land use and zoning approvals, and comply with the requirements of the California Environmental Quality Act (CEQA).

7. Pay all development and construction costs and fees in a timely manner, including prevailing wages for construction of the Project.
8. Continue operations of General Produce fresh produce distribution facilities within the River District for a minimum of ten years.

III. COST OF THE AGREEMENT TO THE AGENCY

This section presents the total cost of the Agreement to the Agency, as well as the “net cost” of the project after consideration of the project revenues. The net cost can be either an actual cost, when expenditures exceed receipts, or a net gain, when revenues created by implementation of the Agreement exceed expenditures.

A. Estimated Costs to the Agency

The Original Site was purchased by the Agency on July 31, 1995 from Southern Pacific. The subject parcel was part of a larger 10.283 acre parcel purchased with the original intent to construct an affordable housing project. The Agency acquisition cost for the 10.283 acre parcel was \$1,464,378.00, making the subject parcel’s cost \$708,193. The site was purchased with Low- Moderate Income Housing Set-Aside Funds.

For the Agreement, the cost to the Agency is estimated to be:

Original Acquisition Price	\$ 708,193
Commissions	\$ -
Closing Costs	\$ -
Remediation Costs*	\$ 10,378
Financing Costs	\$ -
Improvement Costs (e.g. utilities or foundations added)	\$ -
Other Costs	\$ -
Total	\$ 718,571

*Unreimbursed legal costs related to clean up documentation

B. Estimated Revenues to the Agency

Property

Per the terms of the Agreement, the Agency will receive the 1.32 acre vacant Egg Warehouse property located at 1400 North B Street, valued at \$666,072.

Improvement Project

Within two years of the land transfer, Buyer will undertake and complete an improvement project on the existing warehouse property and the subject property valued at \$535,000. That project includes an addition to the existing warehouse, \$505,000 and grading, clearing and fencing on the subject property, \$30,000.

The estimated total value to the Agency is as follows:

Value of Egg Warehouse Property	\$ 666,072
Improvement Project	\$ 535,000
Total	\$ 1,201,072

IV. ESTIMATED VALUE OF THE INTEREST TO BE CONVEYED

The Agency has estimated the value of the interest being conveyed to the Buyer if sold by the Agency at its highest and best use allowed under the Redevelopment Plan. The Site is a landlocked parcel and not suitable for residential development. This Site does not meet City Code Chapter 15.36 requirements, which state that a property must have two exits to be residential. Further it has limited street frontage making it unsuitable for commercial or retail uses. This leaves industrial uses such as that proposed by the Buyer.

The fair reuse value is also a function of the use of the property given the property’s covenants, conditions, and easements as well as the restrictions placed on the property in the Agreement. The Agency is requiring the Buyer to: (1) improve their existing property, (2) improve the subject property and (3) remain in the current location for at least ten years. The Project must occur within two years after conveyance of the site.

To arrive at the fair market value of the properties to be exchanged, the Agency and Buyer commissioned appraisals of the two properties, which appraisals were completed on November 12, 2009 by Bender Rosenthal, Inc. In these appraisals, the subject property was valued at \$1,200,000 and the Egg Warehouse was valued at \$666,072, a difference of \$533,928.

Agency and Buyer have contemplated an exchange of the two properties without monetary compensation. In the Agreement, Buyer has agreed to an improvement program as well as other restrictions which provide the Agency with considerable consideration which compensates for this difference. Below is a list of additional considerations and restrictions placed on the subject property.

Groundwater Monitoring

The State DTSC has recorded a Covenant to Restrict Use of Property against the Site, which requires ongoing groundwater monitoring. The Buyer will assume this responsibility.

Access Agreement

Buyer shall record an Access Agreement for City of Sacramento (City) access to Sump Pump 149, located to the west of the Site. Additionally, an Access Agreement has already been recorded on the subject property for additional access to Sump Pump 149.

Property and other Taxes

The Buyer will be responsible for payment of property and other taxes and fees once the property transfers, which will benefit the various taxing entities.

Regulatory Agreement

Buyer shall record a Regulatory Agreement with Nondiscrimination and Property Maintenance requirements against the subject property.

Ten (10) Year Business Retention

Buyer shall continue its operations of General Produce fresh produce distribution facilities within the River District for at least ten years.

Development of Vacant Property

Buyer shall improve a vacant parcel which is currently an attractive nuisance and undeveloped, landlocked property.

CEQA and Zoning and Land Use Compliance

Buyer shall obtain required land use and zoning approvals, and have complied with the requirements of the California Environmental Quality Act (CEQA).

Prevailing Wages

Buyer shall pay all development and construction costs in a timely manner, including prevailing wages for construction of the Project.

Job Creation

Buyer will be able to expand its current business operations resulting in job growth.

V. CONSIDERATION RECEIVED AND REASONS THEREFORE

The Agency has determined that the highest and best use of the subject property is as an industrial use, such as that proposed by the Buyer. The consideration being given to the Agency is not less than the reuse value. Although the value of the property the Agency will receive in this exchange is less than the appraised value of the subject property, it does not take into account the other considerations, described above, that the Agency receives in this transaction.

The consideration being paid to the Agency is also not less than the consideration that the Agency could receive under the highest and best use with the conditions that an investment be made to reuse the Site, and a business must remain in place for at least ten years.

Furthermore, the property the Agency will obtain in the exchange is superior for the intended use, creating affordable housing. It is not landlocked with only limited street access but has ready access with streets on all four sides.

The Agency has determined that this Project as provided in the Agreement offers the best use for the Site.

VI. ELIMINATION OF BLIGHT

The proposed project as detailed in the Agreement will eliminate blight within the River District Redevelopment Area by providing a viable use for a vacant parcel with limited reuse potential. The proposed project furthers the goals of the River District Redevelopment Area and its Five-Year Implementation Plan, as adopted, by assisting in the elimination of the blighting influences caused by a vacant parcel with limited reuse potential by redeveloping it with a job-generating business, providing fencing to reduce illegal camping and crime, and improving and expanding an existing warehouse operation. Additionally, the Agency will be acquiring a blighted property appropriate for residential development with the intent to redevelop it with an affordable housing project in the future.

The Project will help to eliminate both physical and economic blight and help to meet two of the Agency's original Redevelopment Plan goals: (1) stimulate economic growth; and (2) enhance community facilities within the redevelopment project area. The Project will increase employment, expand a business' operations, create construction jobs and retain full time employment thereafter.

VII. CONFORMANCE WITH FIVE-YEAR IMPLEMENTATION PLAN

The primary Five-Year Implementation Plan program objective for the River District Redevelopment Project area is to eliminate conditions that negatively impact economic development of the community. To that end, the Agency is selling the Site for reuse as additional space for General Produce and General Produce will improve its facility to become more efficient and improve the aesthetics in the area. This will assist in retaining General Produce and the jobs associated with it within the River District area of Sacramento.

Furthermore, the Implementation Plan also establishes a priority objective of stimulating economic growth by encouraging investment in the redevelopment project area. In particular, the Project will enable the retention and expansion of an old established business within the City of Sacramento and transfer a suitable parcel to the Agency for future residential development. The Project conforms to the Implementation Plan and will achieve the goals specifically defined in the implementation plan.

Lastly, the project will further the Implementation Plan goal of creating affordable housing by providing the Agency with a site suitable for future development of residential housing.



NO FEE DOCUMENT:

Entitled to free recording
per Government Code 27383.

When recorded, return to:

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
c/o Economic Development Department
City of Sacramento
915 I Street, Third Floor
Sacramento, CA 95814
Attn: Rachel Hazlewood

DISPOSITION AND DEVELOPMENT AGREEMENT
1220 NORTH A STREET
RIVER DISTRICT REDEVELOPMENT PROJECT AREA

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

C & J WAREHOUSE, LLC

_____, 2011

Disposition and Development Agreement

1220 North A Street
River District

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, and C & J WAREHOUSE, LLC, also called Agency and Developer, respectively, enter into this Disposition and Development Agreement, also called DDA, as of _____ (“Effective Date”). For purposes of this Agreement, the capitalized terms shall have the meanings assigned in Section 15 and as otherwise defined herein.

RECITALS

- A. Developer is the owner of real property located at 1400 North B Street in the City of Sacramento, State of California, more particularly described in the Property Description (the "Developer Property").
- B. Agency is the owner of real property located at 1220 North A Street in the City of Sacramento, State of California, more particularly described in the Property Description (the "Agency Property").
- C. The Agency Property is located in the River District Redevelopment Project Area (the “River District”) and is subject to the redevelopment plan for the River District. Agency originally purchased the blighted Agency Property for affordable housing using low and moderate income housing set aside funds, however, it was later determined by the Agency that due to the fire code, the site was not suitable for this purpose because of limited access and other reasons.
- D. Developer acknowledges that Developer is acquiring this Property from Agency which is a Redevelopment Agency formed and acting under the Community Redevelopment Law (California Health & Safety Code Sections 33000 *et seq.*) and that this document is governed by the Community Redevelopment Law.
- E. On November 10, 1998, in Resolution RA1998-055 and 1998-559, the Redevelopment Agency Board and City Council authorized City staff to negotiate for the transfer of the Agency Property to General Produce and the Developer Property to Agency as a business expansion effort to maintain a stable employment and business presence in an area of the city impacted with numerous social service providers; however, the transfer was delayed due to environmental cleanup required on the Agency Property.
- F. The Developer Property, currently owned by Developer, is also located in the River District and is subject to the redevelopment plan for the River District. The Agency is acquiring the Developer Property from Developer because it is suitable for the future development of affordable housing.

G. This DDA is consistent with, and furthers, the Redevelopment Plan and the "Implementation Plan" adopted for the River District in that it meets the following implementation plan goals: Elimination of blight by developing safe, clean and affordable housing, developing underutilized and vacant parcels, and retaining jobs stimulating economic development.

H. The primary purpose of this DDA is the elimination of the following blighting influences: low values and impaired investment, high vacancy rates and vacant parcels, low property values and low lease rates. In order to accomplish such purpose, the DDA provides that the Agency will transfer the Agency's interests in the Agency Property to Developer upon the express condition that Developer will redevelop the Agency Property for the uses described in this DDA. This DDA is intended to ensure that the Developer will redevelop the Agency Property and that the Developer is not merely speculating in land.

I. Developer desires to acquire the Agency Property for redevelopment and business expansion, and Agency desires to acquire the Developer Property for future affordable housing development, on the terms and conditions in this DDA.

J. Developer's acquisition of the Agency Property shall be accomplished by a "tax deferred" exchange of the Developer Property for the Agency Property pursuant to Section 1031 of the Internal Revenue Code. Agency agrees to fully cooperate with Developer to accomplish this 1031 exchange at no cost to Agency.

K. General Produce Co., Ltd., a California limited partnership ("General Produce") is owned and controlled by the principals of Developer. Since 1984, General Produce has used the cold storage warehouse facilities on the property located at 1330 North "B" Street to operate its wholesale fresh produce business. General Produce needs the Agency Property to enable it to expand and continue its business operations in the River District.

AGREEMENT

NOW THEREFORE, the parties acknowledge that the foregoing Recitals are true and correct, and based upon such Recitals and 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. **PERFORMANCE.** The parties shall perform their obligations at the times and in the manner specified in this DDA. The time for performance is stated in this DDA and in the Schedule of Performances; provided, however that such times shall be extended for periods of Unavoidable Delay.

2. **PROJECT DESCRIPTION.** Agency is entering into this DDA and conveying the Agency Property to Developer solely for the purposes of developing the "Project." The Project shall be the following: The Agency Property will be redeveloped as an extension of the General Produce business including grading, fencing and landscaping, and the warehouse located on the 1330

North "B" Street property is to be expanded. General Produce agrees, subject to specific conditions contained in this DDA, to maintain its business in the River District for a period of not less than ten years from the Effective Date of this DDA.

3. **PURCHASE AND SALE.** This exchange of the Developer Property and the Agency Property are part of a market rate transaction based upon real property appraisals and the additional consideration, below. Agency agrees to convey to and Developer agrees to accept delivery of the Agency Property and Developer agrees to convey to Agency and Agency agrees to accept delivery of the Developer Property as part of a 1031 Exchange subject to the terms and conditions in this DDA and subject to the covenants, conditions and restrictions contained in the Regulatory Agreement to be executed by the Agency and Developer and recorded on the Agency Property upon conveyance of the Agency Property to Developer.

3.1. **ADDITIONAL CONSIDERATION.** In addition to the property exchange, Developer is committing, as additional consideration for the acquisition of the Agency Property, to complete the Project to eliminate blight on the Agency Property and to make that property a useful part of General Produce's fresh produce distribution business. As part of the Project, Developer is also committing to specific capital improvements to redevelop and expand its current facilities at 1330 North "B" Street. Further, Developer is committing to cause General Produce to maintain its principal business operations for a period of at least ten years in and on the subject properties, subject to the terms and conditions stated herein and in the Regulatory Agreement.

3.1.1. **PUMP ACCESS EASEMENT:** The City of Sacramento ("City") owns that certain property identified as Assessor Parcel Number 002-0041-050 (southeast of 12th Street and North B Street), where Sump Pump Number 149 ("Sump No. 149") is located.

a) Agency has granted the City of Sacramento an access easement over certain property identified as Assessor Parcel Numbers 002-0041-073 for purposes of accessing Sump No. 149.

b) Developer has, or will concurrent with the execution of this agreement, grant the City of Sacramento an access easement over certain property identified as Assessor Parcel Numbers 002-0041-063 and 059 for the purposes of accessing Sump No. 149.

c) Developer acknowledges and accepts these access agreements on the parcels, the Agency Property and the 002-0041-063 and 059 parcels, respectively.

3.2. **ESCROW.** Developer and Agency have opened, or within ten (10) days after the Effective Date, shall open, the Escrow account subject to the provisions of the Escrow Instructions. Agency and Developer shall execute and deliver the Escrow Instructions to Title Company within ten (10) days after the Effective Date. Agency and Developer shall share escrow fees and costs equally. Each party shall be responsible for the cost of any title insurance they may elect to purchase.

3.3. **BUSINESS RETENTION AND EXPANSION.** Developer agrees to cause General Produce to use the 1330 North "B" Street Property and the Agency Property (the "Site") as the primary

location of its wholesale fresh produce distribution business for a period of ten (10) years from the Effective Date of this DDA. It is recognized that during the term of this covenant (i) that the wholesale produce business may change and evolve and (ii) that natural circumstances, including but not limited to, weather and disease as well as unforeseen circumstances could impact General Produce's business.

3.3.1. General Produce shall be deemed to be using the Site for its primary place of business if during each of the ten years after the Effective Date, General Produce satisfies the following conditions:

a) Generates (through direct sales, internet sales, technology sales, etc.) fifty one percent (51%) of its gross sales revenues from the Site as evidenced by a written declaration by an officer of General Produce;

b) Employs more than fifty (50) full-time equivalent employees at the Site (including, but not limited to transport, sales and management personnel who report to duty at the Site). In the event that (i) acts of God or circumstances beyond the reasonable control of General Produce or (ii) the wholesale produce business of General Produce evolves, and it becomes impractical or impossible for General Produce to satisfy the conditions set forth in this subsection 3.3.1.b, Agency and Developer shall negotiate in good faith to arrive at a substitute condition for the remainder of the Term that is consistent with the goals and intent of the Regulatory Agreement;

c) In the event of damage or destruction to the Site, General Produce is actually working to restore the Site as General Produce's primary place of business.

3.3.2. The covenants set forth in this Section 3.3 shall terminate in the event of any one of the following:

a) General Produce relocates its primary place of business to elsewhere within the River District and a regulatory agreement is recorded on the new business address for the remaining years of the Regulatory Agreement;

b) In the event of damages or destruction to the Site and General Produce is unable to restore its operations or the Site due to legitimate business reasons.

3.3.3. In the event (i) of the death or disability of either Thomas O. Chan or Daniel W. Chan and, (ii) the remaining owners choose to dissolve the business operations of General Produce because of such death or disability, Developer will use its best efforts to lease, sell or transfer the Property to a business with similar employment and economic impacts consistent with the goals and intent of this DDA;

3.3.4. In the event of a sale of General Produce, Developer shall require a purchaser to agree, in writing, to:

a) Honor the terms and conditions of the Regulatory Agreement and all covenants and conditions therein, for the remainder of the ten (10) year period;

b) Generate (through direct sales, internet sales, technology sales, etc.) gross sales revenue from the site in an amount greater than or equal to fifty one percent (51%) of the gross sales revenues generated by General Produce in the immediate prior calendar year as evidenced by a written declaration by an officer of the company;

c) Employ more than fifty (50) full-time equivalent employees at the Site (including, but not limited to transport, sales and management personnel who report to duty at the Site). In the event that (i) acts of God or circumstances beyond the reasonable control of General Produce or (ii) the wholesale produce business of General Produce evolves, and it becomes impractical or impossible for General Produce to satisfy the conditions set forth in this subsection 3.3.1.b, Agency and Developer shall negotiate in good faith to arrive at a substitute condition for the remainder of the Term that is consistent with the goals and intent of the Regulatory Agreement; and,

d) Abide by the Regulatory Agreement.

3.3.5. Within three (3) months after the end of each calendar year, for ten (10) years after the Effective Date, General Produce shall certify, in writing, its compliance with Section 3.3.1 or the basis for termination of the covenant pursuant to Section 3.3.2.

3.3.6. Upon the expiration of the ten (10) years from the Effective Date, or the termination of the covenants pursuant to Section 3.3.2, above, Agency shall prepare and record with the Official Records of Sacramento County, a certificate of compliance with the Regulatory Agreement certifying that all terms, conditions and restrictions set forth therein are hereby extinguished and of no further force and effect.

3.4. CONDITIONS TO AGENCY'S PERFORMANCE. Agency's obligation to perform under this DDA is subject to all of the following conditions:

3.4.1. Developer has performed all of the obligations that it is required to perform pursuant to this DDA, including without limitation, obtaining all required approvals of the Plans; obtaining all required building permits for Project construction; providing all required budgets, reports and evidence of funding and insurance; and providing required construction contracts.

3.4.2. The closing conditions as defined in the Escrow Instructions are fulfilled as of Close of Escrow.

3.4.3. Developer has executed in a form suitable for recording, the Access Agreement for Sump Pump No. 149 on 1330 North B Street, Sacramento, California.

3.4.4. Developer has executed in a form suitable for recording the Regulatory Agreement.

3.4.5. Developer's representations and warranties in this DDA are true and correct as of the date of this DDA and as of the Close of Escrow.

3.4.6. The DDA is in full force and effect, no default on the part of Developer having occurred under the DDA, and no event having occurred, which, with the giving of notice or the passage of time, will constitute default by Developer under the DDA.

3.5. CONDITIONS TO DEVELOPER'S PERFORMANCE. Developer's obligation to perform under this DDA is subject to satisfaction of all of the following conditions:

3.5.1. Agency has performed all of the obligations that it is required to perform pursuant to this DDA.

3.5.2. The closing conditions as defined in the Escrow Instructions are fulfilled as of Close of Escrow.

3.5.3. Agency's representations and warranties in this DDA are true and correct as of the date of this DDA and as of the Close of Escrow.

3.5.4. The DDA is in full force and effect, no default on the part of Agency having occurred under the DDA, and no event having occurred, which, with the giving of notice or the passage of time, will constitute default by Agency under the DDA.

3.5.5. The Title Conditions are fulfilled as of Close of Escrow.

3.6. GENERAL COVENANTS AND REPRESENTATIONS AND WARRANTIES. The parties make the following covenants, representations and warranties regarding the Property and the Project.

3.6.1. AGENCY'S REPRESENTATIONS AND WARRANTIES. Agency represents and warrants to Developer that as of the date of this DDA and as of the Close of Escrow, the date for which is set forth on the Schedule of Performances, to the knowledge of Agency's legal department, its Executive Director, and its staff with responsibility for development of the Property:

a) The Agency Property was the subject of Hazardous Substance remediation. The California Department of Toxic Substances Control (DTSC) issued a "No Further Action Letter" on November 19, 2008. A covenant restricting certain uses upon the Agency Property (environmental restrictions) on the Former Southern Pacific – Purity Oil Site, 1324 North A Street was recorded on November 4, 2008. The Agency Property is also subject to a requirement to submit annual groundwater testing results to the California Department of Toxic Substance Control.

b) Agency has received no notice, warning, notice of violation, administrative complaint, judicial complaint, or other formal or informal notice alleging that conditions on the Property are in violation of any applicable laws regarding Hazardous Substances, or informing Agency that the Agency Property is subject to any further investigation or inquiry regarding Hazardous Substances on the Property.

c) To the best of Agency's knowledge, there is no pending or threatened litigation, administrative proceeding, or other legal or governmental action with respect to the Agency Property or with respect to Agency that would affect the Agency Property.

d) Agency has reviewed the condition of the Developer Property, including without limitation, the physical condition of the Developer Property (above and below the surface) and issues regarding land use and development of the Developer Property, and if Agency closes Escrow for the acquisition of the Developer Property, Agency shall be deemed to be satisfied that the Developer Property is suitable in all respects for its intended development and uses.

e) This DDA and all other documents delivered for the Close of Escrow have been duly authorized, executed, and delivered by Agency; are binding obligations of Agency; and do not violate the provisions of any agreements to which Agency is a party.

3.6.2. AGENCY'S COVENANTS. Commencing with the full execution of this DDA by both parties and until the Close of Escrow:

a) Agency shall promptly notify Developer of any facts that would cause any of the representations contained in this DDA to be untrue as of the Close of Escrow.

b) Agency shall not permit any liens, encumbrances, or easements to be placed on the Agency Property, other than the approved exceptions named as acceptable in the Escrow Instructions, the Title Conditions, or as identified and approved in this DDA.

c) Agency shall not, without Developer's written consent, enter into any agreement regarding the sale, rental, management, repair, improvement, or any other matter affecting the Agency Property that would be binding on Developer or the Agency Property after the Close of Escrow without the prior written consent of Developer, except as otherwise agreed in this DDA.

d) Agency shall not permit any act of waste or act that would tend to diminish the value of the Agency Property for any reason, other than ordinary wear and tear.

e) Agency shall convey the Agency Property to Developer pursuant to the terms and conditions contained in this DDA.

3.6.3. DEVELOPER'S REPRESENTATIONS AND WARRANTIES. Developer, for itself and its principals, represents and warrants to Agency that as of the date of this DDA and as of the Close of Escrow:

a) Developer has reviewed the condition of the Agency Property, including without limitation, the physical condition of the Agency Property (above and below the surface) and issues regarding land use and development of the Agency Property, and if Developer closes Escrow for the acquisition of the Agency Property, Developer shall be deemed to be satisfied that the Agency Property is suitable in all respects for its intended development and uses.

b) Developer's agreement to close the Escrow for the acquisition of the Agency Property serves as Developer's representation that Developer has obtained all additional information regarding the Agency Property that Developer considers necessary for its due diligence in acquiring the Agency Property.

c) To the best of Developer's knowledge, there is no pending or threatened litigation, administrative proceeding or other legal or governmental action with respect to Developer which would affect its ability to fulfill its obligations under this DDA and acquire the Agency Property or which may constitute a lien against Developer's equity or Developer's interests in the Developer Property, now or in the future.

d) Any information that Developer has delivered to Agency, either directly or through Developer's agents, is, to the best of Developer's knowledge, accurate, and Developer has disclosed all material facts concerning the operation, development, or condition of the Developer Property.

e) Developer has the financial capacity, the equity and the financing necessary to fulfill its obligations under this DDA and acquire the Agency Property. Developer represents that any equity and funding commitments represented by Developer to Agency as available to the Project are unencumbered and that Developer has not represented to any other party that it will use such funds for any purpose other than the Project (and covenants that it will not use them for any other purpose) without prior written Agency consent.

f) This DDA and all other documents delivered for the Close of Escrow have been duly authorized, executed, and delivered by Developer; are binding obligations of Developer; and do not violate the provisions of any agreements to which Developer is a party.

3.6.4. DEVELOPER'S COVENANTS. Commencing with the full execution of this DDA by both parties and until the Close of Escrow:

a) Developer covenants by and for itself and assigns, and all persons claiming under or through it, that it shall not discriminate on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, or rental or in the use or occupancy of the Property hereby conveyed or any part thereof. Developer covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land.

b) Developer shall promptly notify Agency of any facts that would cause any of the representations contained in this DDA to be untrue as of the Close of Escrow.

c) Developer shall not cause any liens, encumbrances, or easements to be placed on the Developer Property prior to Close of Escrow, except as otherwise permitted by this DDA or approved in writing by Agency.

d) Developer shall not cause any act of waste or act that would tend to diminish the value of the Developer Property for any reason, except that caused by ordinary wear and tear.

e) Developer shall complete the development of the Project at Developer's cost and without requesting or receiving additional Agency or City contributions to the Project other than as provided in this DDA.

f) Developer shall comply with all provisions of the Regulatory Agreement, and cause any subsequent purchaser of the property to so comply.

g) Developer shall convey the Developer Property to Agency pursuant to the terms and conditions contained in this DDA.

3.6.5. CLOSE OF ESCROW. The Escrow shall not close, and the Agency Property shall not be conveyed to Developer and the Developer Property shall not be conveyed to Agency unless the preceding conditions have been satisfied together with all other conditions stated in the Escrow Instructions for Close of Escrow. The Escrow shall close on or about the date shown on the Schedule of Performances.

3.7. DAMAGE, DESTRUCTION AND CONDEMNATION BEFORE CLOSE OF ESCROW. If, prior to the Close of Escrow: (a) damage occurs to any portion of the Developer or Agency Property by earthquake, mudslide, fire, release of or exposure to any Hazardous Substances, or any other casualty (other than any damage caused by Developer or Agency or its employees, agents, Contractor or subcontractors) resulting in repairs or remediation costs that will exceed twenty percent (20%) of the appraised value of such property prior to such damage; or (b) any portion of the property is taken by eminent domain or otherwise, or is the subject of a threatened or pending taking action resulting in a twenty percent (20%) or more decrease in the after-taking value of the property Agency shall notify Developer in writing, and Developer shall notice Agency, as the case may be, of the damage, destruction or condemnation. Developer or Agency, as the case may be, may, within fifteen (15) days after such notice, elect to terminate this DDA by written notice to Agency.

3.7.1. If this DDA is to continue in full force and effect after any such damage or destruction to the Agency Property, Agency shall do one of the following:

a) Agency shall pay or assign to Developer any amount due from or paid by any insurance company or any other party as a result of the damage; and the amount of any deductible under Agency's insurance policy; or

b) Agency shall pay to Developer through Escrow the cost of repairing or correcting such damage not covered by insurance, provided, however, that the amount of any payment pursuant to this clause shall not exceed thirty percent (30%) of the Appraised Value. If this DDA is to continue in full force and effect after such damage or destruction, Agency shall pay

any amounts received on account of, and assign to Developer all of Agency's rights regarding, any awards for such taking.

3.7.2. If this DDA is to continue in full force and effect after any such damage or destruction to the Developer Property, Developer shall do one of the following:

a) Developer shall pay or assign to Agency any amount due from or paid by any insurance company or any other party as a result of the damage; and the amount of any deductible under Developer's insurance policy; or

b) Developer shall pay to Agency the cost of repairing or correcting such damage not covered by insurance, provided, however, that the amount of any payment shall not exceed thirty percent (30%) of the Appraised Value. If this DDA is to continue in full force and effect after such damage or destruction, Developer shall pay any amounts received on account of, and assign to Agency all of Developer's rights regarding, any awards for such taking.

4. **NO BROKERS.** Agency warrants that there are no brokers fees or other fees, including finder's fees, due upon Close of Escrow to any party based upon a claim of an agreement or relationship with Agency, and Agency agrees to indemnify and hold Developer harmless from any such claim. Developer warrants that there are no broker's fees or other fees, including finder's fees, due upon Close of Escrow, to any party based upon a claim of an agreement or relationship with Developer, and Developer agrees to indemnify and hold Agency harmless from any such claim.

5. **PREPARATION AND APPROVAL OF PLANS AND RELATED DOCUMENTS.** Agency has approved the Plans concurrently with the approval of this DDA.

5.1. **EXTENT AND CHARACTER OF PLAN REVIEW.** 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 neither a representation nor 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 ensure that the Final Plans conform to the Plans; and (c) to ensure that Agency's purposes are fulfilled and any Agency funds which may be obligated under this DDA are used as intended by the Agency. This DDA is not a land use or planning document. Approval of the Project and Plans under this DDA is only an approval by Agency of the Project design "concept" as presented in this DDA. Such approval by Agency is not and shall not be considered an approval of land use entitlements, structural design of the Project, or the aesthetic design of the Project. Developer shall comply with all applicable land use, planning and design laws, rules and regulations of each governmental agency acting in proper exercise of its respective jurisdiction, including without limitation, departments, staff, boards and commissions of the City.

5.2. **CONCURRENT REVIEW.** Agency agrees that its review of the Final Plans shall occur before or concurrently with City's review of such plans, so as not to delay the commencement and progress of Project development.

5.3. **PLANS.** Developer has provided Agency with a scope of the Project, and the Agency has approved the scope of the Project. The Agency has been induced to undertake its obligations under this DDA by Developer's promise to develop the Project in accordance with the Plans, the Scope of Development and the provisions of this DDA.

5.4. **PREPARATION OF FINAL PLANS AND RELATED DOCUMENTS.** Developer shall prepare the Final Plans that 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 this DDA, including without limitation, Plans and the Scope of Development. To the extent that the DDA has insufficient detail or is unclear, the DDA shall be deemed to provide that the Project shall contain high-quality materials, and shall conform to all applicable laws, regulations, zoning, design and usage guidelines. The Final Plans shall be considered to include all changes or corrections approved as provided in this DDA. The Final Plans shall incorporate all related mitigation measures required for compliance with approvals under CEQA and any conditions of City approval of the project, if required, unless otherwise fulfilled. Developer agrees that it will comply with the requirements of the City of Sacramento Design Review/Preservation Board to the extent of its jurisdiction.

5.5. **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 City of Sacramento Economic Development Department, which is staff to the Agency for the River District Redevelopment Project Area at the address for notices and shall have clearly marked on its exterior "URGENT: General Produce Business Retention & Expansion PROJECT PLAN REVIEW" or the equivalent.

5.5.1. **DEEMED APPROVAL.** If duly marked and delivered, the Final Plans or changes to the Final Plans shall be deemed approved unless disapproved in whole or in part, in writing, within thirty (30) days after their proper delivery to Agency.

5.5.2. **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 that the Agency requests to be made. Agency's reasons for disapproval and such Agency-requested changes shall be consistent with this DDA, including without limitation, the Plans, the Final Plans, the Scope of Development and with any items previously approved in accordance with this DDA. If the Agency rejects the proposed Final Plans, Developer shall obtain no rights to develop the Property under this DDA 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.

5.6. **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 disagrees with the required change,

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

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

5.7.1. 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:

a) Material changes in the layout, elevation design, functional utility or square footage.

b) Material changes in use of exterior finishing materials substantially affecting architectural appearance or functional use and operation.

c) Any change that reduces the effectiveness of any mitigation measure required for CEQA approval of the Project.

d) Material changes in site development items for the property that are specified in the Final Plans.

e) Material changes in the type, location, visibility, accessibility, size, design or artist for any artwork shown in the Final Plans or otherwise accepted by the Agency under the Art in Public Places Program.

f) Material changes in quality of project or landscaping materials.

g) Any change in public amenities specified in the Final Plans.

h) Any changes requiring approval of, or any change required by, any city, county or state board, body, commission or officer.

i) Any change that would preclude or materially reduce the ability to use the Project as intended by this DDA.

5.7.2. 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.

6. DEVELOPMENT PROVISIONS. As stated in detail in this Section 6, Developer shall construct and manage the Project according to the requirements established in this DDA, which includes, without limitation, the Scope of Development, the Schedule of Performances and the Plans. Developer shall promptly begin, diligently prosecute and timely complete the construction of the Project. In interpreting the provisions of this DDA, the provisions that specifically enforce the Redevelopment Plan and the applicable provisions of the California Redevelopment Law (commencing at Health and Safety Code Section 33000) shall control.

6.1. NOTICE TO PROCEED. Developer shall not begin work on the Project until the Agency has issued to Developer a written notice to proceed with the work. Agency will issue a notice to proceed after Agency approval of the Final Plans, City's issuance of a building permit for substantially more than the Project foundations, Developer's compliance with all governmental requirements for start of construction, Developer's provision of required policies of insurance, and Developer's provision of proof of construction financing in an amount adequate to begin the Project work.

6.2. CONSTRUCTION CONTRACTS. Developer shall submit to Agency the construction contract or contracts for the Project. Agency's review of the construction contract shall be only for determining its compliance with this DDA. 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 DDA.

6.3. GOVERNMENTAL REVIEW PROCESS. Notwithstanding any other provision of this DDA, 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 DDA, make an initial deposit toward "plan check fees" with the City's Planning Department. In addition, Developer shall, as applicable, take designs before the City's Design Review/Preservation Board, as required, for comment as soon as practicable. Conditions to the project imposed by the City shall be considered obligations of the Developer under this DDA. 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.

6.4. 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 5.7, without Agency approval of such changes as provided in Section 5.7.

6.5. 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. 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. Agency shall cooperate in securing certifications and permits which require consent of the owner of the property. 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.

6.6. PREVAILING WAGES. This DDA is a market rate transaction. Developer and 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. Developer and Contractor have made their own independent determinations of the applicability of prevailing wage laws and have independently implemented such determinations. Developer 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 Developer or Contractor or both of them.

6.7. 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.

6.8. NO DISCRIMINATION DURING CONSTRUCTION. Developer for itself, 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.

6.8.1. EMPLOYMENT. Developer shall not discriminate against any employee or applicant for employment because of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. 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.

6.8.2. 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, religion, creed, sex, marital status, national origin, ancestry, familial status, or disability.

6.8.3. MONITORING PROVISIONS. Developer, Contractor and subcontractors shall comply with the requirements of the Agency for monitoring the anti-discrimination and all applicable labor requirements.

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

6.10. **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 DDA. Purposes for Agency entry may include, without limitation, inspection of all work being performed in connection with the construction of the Project.

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

6.12. **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 DDA, the Agency will furnish the Developer with the Certificate of Completion certifying such completion. The Agency's issuance of the Certificate of Completion shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the DDA with respect to the obligations of the Developer to construct the Project as of the Completion Date specified in the Schedules of Performances, subject to any qualifications or limitations stated in such certification. Agency shall prepare and execute the Certificate of Completion in a form suitable for recording, and shall record it in the Official Records of Sacramento County.

6.12.1. The Certificate of Completion 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. The Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any provision of this DDA that is not related to construction of the Project.

6.12.2. 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 fifteen (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 DDA, 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.

6.13. **CONSTRUCTION PERIOD EXTENSION FEE.** If Developer does not complete the construction of the Project on or before the completion date set forth 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 said completion date, a construction period extension fee of five hundred dollars (\$500.00) for each month or portion thereof by which the completion of construction is delayed beyond said completion date. Such construction period

extension fee 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. 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 such construction period extension fee when due is a material default of this DDA. 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 DDA. Agency shall have the option to terminate, upon ten (10) days prior written notice, Developer's rights to such unpaid construction extension fee and to declare Developer in material default of this DDA. In any event, such construction extension fees shall not be accepted for a time period greater than six (6) months excluding any period of Unavoidable Delay, at which time Developer shall be deemed in material default of this DDA.

6.14. **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.

6.15. **NOTIFICATION OF GENERAL CONTRACTORS, ARCHITECTS AND ENGINEERS.** Developer shall assure notification of the Project contractors, architects and engineers for the Project of the requirements of this DDA. Developer shall include, where applicable, the provisions of this DDA in construction contracts, subcontracts, materials and supplies contracts and services and consulting contracts for the Project, and Developer shall undertake the enforcement of such provisions.

6.16. **PROPERTY CONDITION.** Developer, at Developer's expense, shall conduct any property investigation beyond those provided by Agency under this DDA and which Developer may consider necessary to determine the condition of the property for the development of the project. As between the Agency and Developer, Developer shall be solely responsible for the adequacy of such investigations. Except as provided in this DDA, 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. Agency shall not be responsible for removing any surface or subsurface obstructions, or structures of any kind on or under the property.

6.17. **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 DDA.

6.18. **HAZARDOUS SUBSTANCES.** Agency and Developer acknowledge that there were certain Hazardous Substances on the Agency Property, that these certain Hazardous Substances have been remediated and that the California Department of Toxic Substances Control (DTSC) issued a "No Further Action letter" regarding the remediation and the Agency Property. Agency has provided Developer with this No Further Action letter and the Agency has made all support documents within its possession available to Developer for review. Additionally, a Covenant Restricting Use of Property- Environmental Restrictions was recorded on November 4, 2008.

6.19. DEVELOPER ACCESS TO PROPERTY. Prior to the conveyance of the Agency Property by Agency to Developer, the Agency shall permit representatives of Developer to have access, without charge, to the Agency Property, at all reasonable times for the purpose of obtaining data and making various tests necessary to carry out Developer's obligations under the DDA; provided, however, that unless Developer has made other arrangements with Agency for access, Developer shall not enter the Agency Property except (a) after execution by Developer and Agency of Agency's standard "Permit for Entry" and (b) after Agency Developer has obtained insurance coverage then required by Agency. No work shall be performed on the Agency Property until a "Notice of Nonresponsibility" has been recorded and posted in accordance with applicable laws, assuring that Agency interest in the Agency Property shall not be subject to mechanic's liens related to such work. Developer shall not commence any work on the Agency Property without Agency's written approval of the work to be done, and in any event, Developer shall not commence any work which might be construed as commencement of the work of the Project for establishment of mechanic's lien rights.

7. RELOCATION. Agency is required by law to provide relocation services and make relocation payments to eligible tenants that are displaced as a result of the Project. Developer shall comply fully with all relocation laws that are the obligation of Agency or are otherwise applicable to the Project. Developer's compliance with the relocation requirements as stated in this Section 7 is a material element of this DDA. Developer's failure to comply with the relocation requirements as stated in this Section 7 is an Event of Default, subject to Developer's opportunity to cure in accordance with applicable law.

7.1. RELOCATION COSTS. Unless otherwise stated in this Agreement, any amounts paid by Agency for relocation costs and services shall be paid by Agency under the DDA.

7.2. COOPERATION AND ACCESS. Developer shall cooperate fully with Agency in complying with such relocation laws, including without limitation, providing Agency access to all tenants of the Property, to all books and records related to the tenants of the Property and to all properties offered for temporary or permanent relocation. Prior to taking any action with respect to relocation of tenants, Developer shall meet with Agency to establish reasonable protections for tenants and related reporting requirements for Developer.

8. DEVELOPMENT FINANCING. Except as specifically provided in this DDA, Developer shall be responsible for and shall pay all costs of developing the Project in accordance with this DDA. As a condition precedent to Agency's conveyance of the site to Developer, 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 DDA 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 DDA, no party shall have the right of reimbursement for any funds expended by them for the Project, whether prior to execution of this DDA or otherwise. Agency is not obligated by this DDA or otherwise to make any contribution beyond its obligations stated in this DDA.

8.1. EVIDENCE OF AVAILABLE FUNDS. Developer shall provide Agency with reasonable assurances of Developer's ability to fund the projects as may be requested by Agency. 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, requests for clarification, further evidence or financial reports.

9. INDEMNIFICATION FOR HAZARDOUS SUBSTANCES. Developer shall indemnify, protect and defend Agency, its officers, directors, council members and supervisors, employees, advisory committee members, and agents, and hold them harmless from any and all liability, costs, fees, fines, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to the existence of Hazardous Substances on the Agency Property that were not on the Agency Property prior to Agency's transfer of possession of the Agency Property to Developer or that were related to the removal or discharge of Hazardous Substances by Developer, or its employees, agents or contractors, during Developer's remediation of the Agency Property pursuant to this Section.

Agency shall indemnify, protect and defend Developer, its officers, directors, employees, and agents, and hold them harmless from any and all liability, costs, fees, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to Hazardous Substances discharged on the Agency Property during Agency's ownership of the Agency Property or related to the removal or discharge of Hazardous Substances by Agency or its employees, agents or contractors.

Agency shall indemnify, protect and defend Developer, its officers, directors, employees, members, and agents, and hold them harmless from any and all liability, costs, fees, fines, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to the existence of Hazardous Substances on the Developer Property that were not on the Developer Property prior to Developer's transfer of possession of the Developer Property to Agency or that were related to the removal or discharge of Hazardous Substances by Developer, or its employees, agents or contractors, during Developer's remediation of the Developer Property pursuant to this Section.

Agency shall indemnify, protect and defend Developer, its officers, directors, employees, and agents, and hold them harmless from any and all liability, costs, fees, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to Hazardous Substances discharged on the Agency Property during Agency's ownership of the Agency Property or related to the removal or discharge of Hazardous Substances by Agency or its employees, agents or contractors.

This indemnification provision shall survive the termination of this Agreement.

10. 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 gross negligence or willful misconduct of Agency.

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 gross negligence or willful misconduct of Developer. This indemnification provision shall survive the termination of this Agreement.

11. LIABILITY INSURANCE. With regard to this DDA, the Developer shall obtain and maintain during the life of the Project and require the Contractor and subcontractors for the Project to obtain and maintain for the term of the development of the Project, such insurance as will protect them, respectively, from the following claims which may result from the operations of the Developer, 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 its employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than its 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 DDA.

11.1. LIABILITY INSURANCE POLICY LIMITS. Developer shall obtain all insurance under this Section 11 written with a deductible of not more than ONE HUNDRED THOUSAND DOLLARS (\$100,000) or an amount approved by Agency, and for limits of liability which shall not be less than the following:

11.2. WORKER'S COMPENSATION. Developer shall obtain and maintain worker's compensation coverage shall be written for the statutory limits as required by Article 1 (commencing with Section 3700) of Chapter 4 of Part 1 of Division 4 of the California Labor Code (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.

11.3. COMMERCIAL GENERAL LIABILITY. Developer shall obtain and maintain Commercial General Liability insurance in Insurance Services Office ("ISO") policy form CG 00 01 Commercial General Liability (Occurrence) or better. Such insurance shall have limits of liability, which are not less than \$1,000,000, per occurrence limit; \$5,000,000 general aggregate limit, and \$5,000,000 products and completed operations aggregate limit, all per location of the Project.

11.4. **COMPREHENSIVE AUTOMOBILE LIABILITY.** Developer shall obtain and maintain comprehensive automobile liability coverage for any vehicle used for, or in connection with, the Project (owned, nonowned, hired, leased) having a combined single limit of not less than \$1,000,000.

11.5. **PROPERTY INSURANCE.** For the duration of the Regulatory Agreement, Developer shall obtain and maintain property insurance in ISO policy form CP 10 30 - Building and Personal Property Coverage - Causes of Loss - Special Form, to the full insurable value of the Property with no coinsurance penalty (and with endorsements of Builder's Risk until completion of construction of the Project), Boiler and Machine to the extent necessary to obtain full insurance coverage, and with such other endorsements and in such amounts as the Agency may reasonably require to protect the Project and the Property. In the event of damage to the Project and subject to the requirements of any lender, Developer shall use the proceeds of such insurance to reconstruct the Project and the public improvements.

11.6. **INSURANCE PROVISIONS.** Each policy of insurance required under this DDA shall be obtained from a provider licensed to do business in California and having a current Best's Insurance Guide rating of B++ VII , which rating has been substantially the same or increasing for the last five (5) years, or such other equivalent rating, as may reasonably be approved by Agency's legal counsel. Each policy shall contain the following provisions as applicable, unless otherwise approved by Agency's legal counsel in writing in advance:

11.6.1. **ADDITIONAL INSURED.** Developer shall obtain a policy in ISO form CG 20 33 or better, naming Agency as additional insured under the Commercial General Liability Policy.

11.6.2. **Cancellation:** Developer will provide the Agency 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 Developer's responsibility to notify the Agency 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 Developer shall notify the Agency within forty eight (48) hours of such cancellation or non-renewal.

_____ **Developer's Initials**

11.6.3. Developer is in material breach of this DDA for so long as Developer fails to maintain all of the required insurance. Agency has the right, but not the obligation, to pay any delinquent insurance premiums and any other charges to reinstate or maintain the required insurance policies and coverage. Upon Agency's demand, Developer must immediately reimburse Agency for any and all costs incurred by Agency in so obtaining or maintaining insurance.

11.6.4. **FAILURE TO MAINTAIN.** If Developer fails to obtain or maintain, or cause to be obtained and maintained, any insurance required by this DDA, the Agency shall have the right, but not the obligation, 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. Failure to maintain the insurance required by this Section 10 shall be a default under this DDA (see Section 11.3, below).

11.6.5. **BLANKET COVERAGE.** Developer's obligation to carry insurance as required under this Section 11 may be satisfied by coverage under a "blanket" policy or policies of insurance (as the term is customarily used in the insurance industry).

12. **DEFAULTS AND REMEDIES.** Except as otherwise provided in the DDA, if either party defaults in its obligations under this DDA, 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 DDA, a failure or delay by a party to perform any term or provision of this DDA constitutes a default of this DDA. In the event of default the DDA shall be terminated.

12.1. Upon termination of the DDA by default of Developer, Agency shall retain title and control of Developer's Property as transferred to Agency and Developer shall retain title and control of Agency's Property as transferred to Developer. Developer shall also pay Agency Five hundred thirty three thousand nine hundred twenty eight dollars (\$533,928.00), which sum equates to the difference in the appraised fair market value of the properties, less the dollar amount of completed Project improvements and any credits from escrow.

12.2. After such payment of such funds and termination of the DDA, neither Agency nor Developer shall have any further rights against or liability to the other under the DDA except as expressly set forth in this DDA to the contrary.

12.3. **OTHER RIGHTS AND REMEDIES.** Upon the occurrence of any default not subject to the preceding liquidated damages provision, 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 DDA as allowed under this DDA, at law or in equity.

12.4. **NONLIABILITY OF AGENCY OFFICIALS AND EMPLOYEES.** No member, official or employee of Agency shall be personally liable under this DDA 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 DDA.

12.5. **FEES AND COSTS ARISING FROM DISPUTE.** If an action is commenced between the parties, the Prevailing Party in that action shall be entitled to recover from the nonprevailing party all reasonable attorney fees and costs, witness fees, arbitrator's fees, and court and arbitration costs. "Prevailing Party" shall include without limitation a party who dismisses an

action in exchange for sums allegedly due; 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.

13. ENCUMBRANCE OF PROPERTY AND LENDER PROTECTIONS. Before issuance of a Certificate of Completion, if Developer has obtained Agency’s prior written approval, which approval Agency may withhold in exercise of its reasonable discretion and in consideration of the commercially reasonable protection of its interests under this DDA, the Developer may obtain a Loan and encumber the Agency 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. 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. After issuance of a Certificate of Completion, the Agency shall have no rights of approval regarding financing secured by the Agency 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 DDA in making the Loan and that Agency’s obligations under this DDA are inducements to Lender’s making of the Loan.

13.1. NOTICES. If the Agency gives any notice of default to Developer under this DDA, 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 such 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 Disposition and Development Agreement dated _____ between the Redevelopment Agency of the City of Sacramento and **C & J Warehouse, LLC** (“DDA”). Lender requests, in accordance with the DDA, that if any default notice shall be given to Developer under the DDA, a copy of such default notice shall be given to Lender.

[Lender Name and Address for Notice]

13.2. ASSIGNMENTS AND TRANSFERS OF THE LOAN. Agency shall not be bound to recognize any assignment of Lender’s Loan or related encumbrance of the Agency 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 DDA. Thereafter, such assignee shall be

considered a Lender with respect to the Loan and the related encumbrance on the Agency Property.

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

13.4. LENDER'S OPTION TO CURE DEFAULTS. After any default of Developer's obligations under the DDA, 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 Agency 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 Agency Property in the manner provided in the DDA. Any Lender who properly completes the Project as provided in the DDA shall be entitled, upon written request made to the Agency, to a Certificate of Completion from the Agency in a manner provided in the DDA. 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 DDA 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.

13.5. DEFAULT BY DEVELOPER. In the event of a default by Developer, Agency shall not terminate this DDA unless and until the Agency has given notice to Lender of such default, and Lender has failed to cure such default.

13.5.1. 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 DDA) shall be tolled if and so long as, all of the following are true: (a) Lender has delivered to the Agency, prior to the date on which Agency is entitled to give notice of termination of this DDA, 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; (b) 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; (c) 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 (d) upon receiving possession of the Property, Lender or its designee promptly commences and diligently proceeds to cure such default in accordance with this DDA.

13.5.2. 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.

13.6. FORECLOSURE. Foreclosure of any encumbrance securing the loan of Lender, 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 Developer 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 DDA, provided that such purchaser or transferee expressly assumes each and every obligation of the Developer under this DDA (except for the obligation to pay damages except to the extent of any monies due and unpaid from Developer under this DDA) by assumption agreement satisfactory to the Agency. If any Lender or its designee acquires Developer's right, title and interest under this DDA as a result of a judicial or nonjudicial foreclosure under any power contained in such encumbrance, or any conveyance of the Property from the Developer 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 DDA to an assignee; provided, however, that the assignee or transferee shall thereafter be subject to all of the terms and conditions of this DDA.

13.7. MODIFICATIONS. No modification or amendment to the DDA 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.

13.8. FURTHER ASSURANCES TO LENDERS. Agency and Developer shall in good faith consider making such reasonable modifications to this DDA 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 DDA and provided such modifications, instruments, and agreements serve a material economic purpose.

13.9. 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 DDA is in full force and effect and a binding obligation of the parties; (ii) this DDA has not been amended or modified, or, if so amended, identifying the amendments; and (iii) the requesting party is not in default in the performance of its obligations under this DDA, 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 Agency's designee shall be authorized to execute any such certificate requested by Developer from the Agency.

13.10. 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 DDA 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 DDA, from any of its obligations under the DDA. With respect to this provision, the Developer and the parties signing the DDA 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.

14. DOCUMENT INTERPRETATION. This DDA shall be interpreted in accordance with the following rules.

14.1. ENTIRE DDA; SEVERABILITY. This DDA 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 DDA shall, to any extent, be held invalid or unenforceable, the remainder of this DDA shall not be affected; provided that the intent of the DDA may then be reasonably fulfilled.

14.2. WAIVERS AND AMENDMENTS. All waivers of the provisions of this DDA must be in writing and signed by Agency or Developer, as applicable, and all amendments to this DDA 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.

14.3. CAPTIONS, GENDER AND NUMBER. The section headings, captions and arrangement of this DDA are for the convenience of the parties to this DDA. 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 DDA. The singular form shall include plural, and vice versa, and gender references shall be construed to include all genders.

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

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

14.6. **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 DDA, 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.

14.7. **GOVERNING LAW.** This DDA shall be governed and construed in accordance with California law.

14.8. **NO JOINT VENTURE, PARTNERSHIP, OR OTHER RELATIONSHIP.** Nothing contained in this DDA or in any other document executed in connection with this DDA shall be construed as creating a joint venture or partnership between Agency and Developer. Each Party is acting as an independent entity and not as an agent of the other in any respect. No relationship exists as between Agency and Developer other than that of a governmental entity regulating the development of private property, and the owner of such private property.

14.9. **NO THIRD PARTIES BENEFITED.** This DDA 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 property, benefits or funds at any time on deposit in the Construction Account or the Impound Account, if established.

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

14.11. **OWNERSHIP OF DATA.** If this DDA 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.

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

14.12.1. Addresses for notices are as follows.

a) Agency: Redevelopment Agency of the City of Sacramento, c/o Economic Development Department, City of Sacramento, 915 I Street, 3rd Floor, Sacramento, California 95814, Attention: Rachel Hazlewood.

b) Developer: C & J Warehouse, LLC, P.O. Box 308, Sacramento CA 95812, Attention: Daniel W. Chan.

c) With a required copy to: Stephen K. Marmaduke, Wilke, Fleury, Hoffelt, Gould & Birney, LLP, 400 Capitol Mall, 22nd Floor, Sacramento, CA 95814.

14.12.2. Notices may be delivered by one 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 or facsimile, 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.

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

15. **DEFINITIONS.** The following definitions shall apply for the purposes of this DDA:

15.1. "**ACCESS AGREEMENT.**" The agreement providing the City of Sacramento with access to Sump Pump No. 149 as attached hereto and incorporated herein as **Exhibit 5: Access Agreement.**

15.2. "**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 c/o Economic Development Department, City of Sacramento at 915 I Street, Third Floor, Sacramento, California 95814. Agency as used in this DDA 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.

15.3. "**AGENCY PROPERTY**" is the real property located at 1220 North A Street in the City of Sacramento, State of California, as more particularly described in the Property Description, to be developed under this DDA by Developer.

15.4. "**CERTIFICATE OF COMPLETION**" is the certificate issued by the Agency certifying Developer's completion of the Project and termination of the revestment provisions.

15.5. "**CITY**" is the City of Sacramento in the State of California.

15.6. "**CLOSE OF ESCROW**" is the time for the close of the Escrow as provided in the Escrow Instructions.

15.7. “**CONTRACTOR**” is the contractor or contractors with whom Developer has contracted for the construction of the Project.

15.8. “**COMPLETION DATE**” is the date for completion of construction of the Project to the satisfaction of the Agency, which date shall be not sooner than the issuance of a certificate of occupancy for the entire Project. The Completion Date is stated in the Schedule of Performances.

15.9. “**DDA**” is this Disposition and Development Agreement including the attachments to this DDA consisting of the exhibits named in and attached to this DDA, the Preliminary Plans the Final Plans and any other item expressly incorporated in this DDA, all of which are incorporated in this DDA as if included in full as provisions in the body of this DDA. A default of any of the items incorporated in the DDA by reference is a default of this DDA.

15.10. “**DEVELOPER**” is C & J Warehouse, LLC, limited liability company. The principal office of the Developer is located at P.O. Box 308, Sacramento, CA 95812 . The principal of Developer is Daniel W. Chan.

15.11. “**DEVELOPER PROPERTY**” is the real property located at 1400 North B Street in the City of Sacramento, State of California, more particularly described in the Property Description.

15.12. “**ESCROW**” is the escrow for the transfer of the Property and for all requirements related to the transfer. The Title Company is the holder of the Escrow.

15.13. “**ESCROW INSTRUCTIONS**” are the escrow instructions for the close of the Escrow for this DDA.

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 this DDA. The Final Plans 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 DDA. The Final Plans shall incorporate all applicable mitigation measures which may be required for compliance with approvals under the California Environmental Quality Act (commencing at Public Resources Code Section 21000) and the rules and regulations promulgated under such act. The Final Plans shall specifically include changes or corrections of the Final Plans approved as provided in this DDA. 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 DDA.

15.15. “**GRANT DEED**” is the grant deed for the transfer of the Property to Developer under this DDA. The Grant Deed contains covenants that run with the land, easements and a reverter provision. A sample Grant Deed is attached hereto as **Exhibit 6: Sample Grant Deed**.

15.16. “**HAZARDOUS SUBSTANCES**” as used in this DDA 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 rules and regulations promulgated pursuant to said laws.

15.17. “**LENDER**” shall mean all holders, if any, of any lien or encumbrance as security for a loan on all or any part of the Property which loan is made in accordance with this DDA or otherwise approved by Agency in writing.

15.18. “**PLANS**” are the Cold Storage Enclosure Floor Plan prepared by Gary F. Lyons and Associates dated August 3, 2010 and project description submitted to Agency staff in the “Request for Plan Approval” letter dated _____. Agency has approved the Plans concurrently with the approval of this DDA.

15.19. “**PROJECT**” is the development of the Property as described in this DDA for the uses stated in this DDA. The Project includes all improvements rehabilitated and constructed on the Property in accordance with this DDA.

15.20. “**PROJECT AREA**” is the River District Area, as defined in the Redevelopment Plan.

15.21. “**PROPERTY DESCRIPTION**” is the legal description of the various parcels of real property affected by this DDA. The Property Description is attached as **Exhibit 1: Property Description**.

15.22. “**PURCHASE PRICE**” is the purchase price for the Property as set out in Section 3.

15.23. “**REDEVELOPMENT PLAN**” is the redevelopment plan for the Project Area (as it may be amended from time to time)

15.24. “**REGULATORY AGREEMENT**” is the agreement, which sets out the certain provisions of this DDA that shall survive the completion of the Project. The Regulatory Agreement is attached hereto and incorporated herein as **Exhibit 4: Regulatory Agreement**.

15.25. “**SCHEDULE OF PERFORMANCES**” is the schedule that establishes the dates by which obligations of the parties under this DDA must be performed and on which conditions must be satisfied. The Schedule of Performances is attached as **Exhibit 2: Schedule of Performances**.

15.26. “**SCOPE OF DEVELOPMENT**” is the detailed description of the construction parameters for the Project. The Scope of Development is attached as **Exhibit 3: Scope of Development**.

15.27. “**TITLE COMPANY**” is _____. Title Company is the insurer of title under this DDA and the Escrow holder. The Title Company address is _____.

15.28. "TITLE CONDITIONS" means excepting _____,
_____ and _____ of this Preliminary Title Report issued by Title
Company, dated _____, Order No. _____.

15.29. "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, 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 the parties shall be extended for the period of the enforced delay, as determined by the Agency, provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after it 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 DDA in Sacramento, California, on the following dates, effective as of the date first written above.

DEVELOPER: C & J WAREHOUSE, LLC

**AGENCY: THE REDEVELOPMENT AGENCY
OF THE CITY OF SACRAMENTO**

By: _____
Daniel W. Chan
Member and Manager

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

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Developer Counsel

Agency Counsel

EXHIBIT 1

Property Description

Agency Property

All that certain real property situate in the City of Sacramento, County of Sacramento, State of California, described as follows:

A portion of the blocks bounded on the North by A Street, the South by B Street, the West by 12th Street and the East by 14th Street in the City of Sacramento, according to the official map thereof, more particularly described as follows:

BEGINNING at the intersection of the East side of 12th Street with the centerline of A Street; thence from said point of beginning and along said centerline of A Street South 70°30'55" East 803.87 feet to the Northerly prolongation of the West line of 14th Street; thence along said prolongation and said West line South 19°36'54" West 322.86 feet; thence North 62°46'44" West 689.78 feet; thence North 70°30'55" West 120.00 feet to a point on the East line of said 12th Street; thence along said East line North 19°34'36" East 230.00 feet to the point of beginning.

Containing 4.973 acres, more or less.

The meridian of this survey is identical to that of that certain Record of Survey filed in Book 47 of Surveys, Page 5, Official Records of said County.



**Property Description
(cont.)**

Developer Property

All that certain real property situate in the City of Sacramento, County of Sacramento, State of California, described as follows:

A portion of the blocks bounded on the North by North B Street, the south by A Street, the West by 13th Street and the East by 15th Street in the City of Sacramento, according to the official map thereof, more particularly described as follows:

BEGINNING at the intersection of the West line of 14th Street and the South line of North B Street; thence from said point of beginning and along said South line South 70°32'09" East 40.00 feet; thence continuing along said South line South 70°31'01" East 176.59 feet; thence leaving said South line South 19°27'12" West 324.69 feet; thence along the arc of a curve to the right, concave Northwesterly, having a radius of 26.20 feet and being subtended by a chord bearing South 47°54'08" West 19.09 feet to a point on the North line of said A Street; thence along said North line North 70°29'38" West 168.24 feet; thence continuing along said North line North 70°30'55" West 40.00 feet to a point on said West line of 14th Street; thence along said West line North 19°34'41" East 341.40 feet to the point of beginning.

Containing 1.699 acres, more or less.

The meridian of this survey is identical to that of that certain Record of Survey filed in Book 47 of Surveys, Page 5, Official Records of said County.

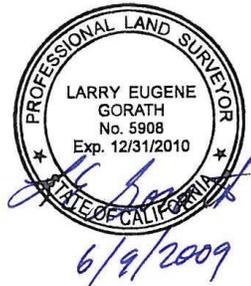


EXHIBIT 2

Schedule of Performances

Construction of items listed in the Scope of Development shall be completed by December 31, 2013

EXHIBIT 3

Scope of Development

New room addition for warehouse at 1330 North B Street	\$505,000
Grading, clearing and fencing on land at 1220 North A Street	<u>30,000</u>
TOTAL	\$535,000

EXHIBIT 4

Regulatory Agreement

NO FEE DOCUMENT:

Entitled to free recording
per Government Code 27383

When recorded, return to:

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY
801 12th Street
Sacramento, CA 95814

And copy to:

Economic Development Department
City of Sacramento
915 I Street, Third Floor
Sacramento, CA 95814
Attn: Rachel Hazlewood

**REGULATORY AGREEMENT
FOR NON-RESIDENTIAL DEVELOPMENT
INCLUDING COVENANTS, CONDITIONS AND RESTRICTIONS RUNNING WITH THE LAND**

PROJECT NAME:	C & J WAREHOUSE, LLC
PROJECT ADDRESS:	1220 North A Street, Sacramento, CA
EFFECTIVE DATE:	
APN:	002-0041-073

NOTICE: THIS REGULATORY AGREEMENT IMPOSES COVENANTS, CONDITIONS AND RESTRICTION ON THE PROPERTY WHICH STAY WITH THE PROPERTY FOR MANY YEARS, INCLUDING RESTRICTIONS ON THE USE AND MAINTENANCE OF THE PROPERTY.

ARTICLE I TERMS AND DEFINITIONS.

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS ACKNOWLEDGED, AGENCY AND OWNER HAVE ENTERED THIS REGULATORY AGREEMENT AS OF THE EFFECTIVE DATE.

- 1. GENERAL.** This Regulatory Agreement includes the Exhibits listed below, which are attached to and incorporated in this Regulatory Agreement by this reference.
- 2. DEFINITIONS.** The capitalized terms in this Regulatory Agreement shall have the meanings assigned in the following definitions table and in the body of the Regulatory Agreement. (Terms being defined are indicated by quotation marks.)

TERM	DEFINITION
“Effective Date”	This Regulatory Agreement shall be effective as of the following date:
“Agency”	Redevelopment Agency of the City of Sacramento
	The Agency is a public body, corporate and politic.
“Owner” and “Developer”	C & J Warehouse, LLC, a California limited liability company

"Agency Address"	Agency's business address is c/o Economic Development, 915 I Street, 3rd Floor, Sacramento, California 95814	
"Owner Address"	Owner's business address is as follows:	P.O. Box 308, Sacramento, CA 95812
"Jurisdiction"	City of Sacramento	
"Property"	That certain real property which is subject to this Regulatory Agreement as further described in the legal description, attached as Exhibit 1 – Legal Description of the Property.	
"Funding Requirements"	In consideration of the, the Agency has purchased the covenants, conditions and restrictions contained in the Regulatory Agreement.	
"Term"	The Term of each of the respective covenants, conditions and restrictions contained in this Regulatory Agreement is the term stated in the, this Regulatory Agreement and in the absence of such provision, the term of the Redevelopment Plan.	
"Special Provisions"	<p>Business Retention and Expansion. Owner agrees to cause General Produce Co., Ltd. ("General Produce") to use the 1330 North "B" Street Property and the Agency Property (the "Site") as the primary location of its wholesale fresh produce distribution business for a period of ten (10) years from _____, 2011, (the Effective Date of the DDA). It is recognized that during the term of this covenant (i) that the wholesale produce business may change and evolve and (ii) that natural circumstances, including, but not limited to weather and disease as well as unforeseen circumstances could impact General Produce's business.</p> <p>1. General Produce shall be deemed to be using the Site for its primary place of business if during each of the ten years after the Effective Date, General Produce satisfies the following conditions:</p> <p style="padding-left: 40px;">Generates (through direct sales, internet sales, technology sales, etc.) fifty one percent (51%) of its gross sales revenues from the site as evidenced by a written declaration by an officer of General Produce;</p> <p style="padding-left: 40px;">Employs more than fifty (50) full-time equivalent employees at the Site (including, but not limited to transport, sales and management personnel who report to duty at the Site). In the event that (i) acts of God or circumstances beyond the reasonable control of General Produce or (ii) the wholesale produce business of General Produce evolves, and it becomes impractical or impossible for General Produce to satisfy the conditions set forth in this provision, Agency and Developer shall negotiate in good faith to arrive at a substitute condition for the remainder of the Term that is consistent with the goals and intent of the Regulatory Agreement; and</p> <p style="padding-left: 40px;">In the event of damage or destruction to the Site, General Produce is actually working to restore the Site as General Produce's primary place of business.</p> <p>2. The covenants set forth in this Regulatory Agreement shall terminate in the event of any one of the following:</p> <p style="padding-left: 40px;">General Produce relocates its primary place of business to elsewhere within the River District and a regulatory agreement is recorded on the new business address for the remaining years of the Regulatory Agreement;</p> <p style="padding-left: 40px;">In the event of damages or destruction to the site and General Produce is unable to restore its operations or the Site due to legitimate business reasons.</p> <p>3. In the event (i) of the death or disability of either Thomas O. Chan or Daniel W. Chan and, (ii) the remaining owners choose to dissolve the business operations of General Produce because of such death or disability, heirs or successors in interest will use their best efforts to sell, transfer or lease the Property to a business with similar employment and economic impacts consistent with the goals and intent of the Regulatory Agreement.</p>	

	<p>4. In the event of a sale of General Produce, Developer shall require a purchaser to agree, in writing, to:</p> <p>Honor the terms and conditions of the Regulatory Agreement and all covenants and conditions therein, for the remainder of the ten (10) year period;</p> <p>Generate (through direct sales, internet sales, technology sales, etc.) gross sales revenue from the site in an amount greater than or equal to fifty one percent (51%) of the gross sales revenues generated by General Produce in the immediate prior calendar year as evidenced by a written declaration by an officer of the company;</p> <p>Employ more than fifty (50) full-time equivalent employees at the Site (including, but not limited to transport, sales and management personnel who report to duty at the Site). In the event that (i) acts of God or circumstances beyond the reasonable control of General Produce or (ii) the wholesale produce business of General Produce evolves, and it becomes impractical or impossible for General Produce to satisfy the conditions set forth in this provision, Agency and Developer shall negotiate in good faith to arrive at a substitute condition for the remainder of the Term that is consistent with the goals and intent of the Regulatory Agreement; and</p> <p>Abide by this Regulatory Agreement.</p> <p>5. In the event of Termination pursuant to Section 2 above, Agency shall retain title and control of Developer's Property as transferred to Agency and Developer shall retain title and control of Agency's Property as transferred to Developer. Developer shall also pay Agency Five hundred thirty three thousand nine hundred twenty eight dollars (\$533,928.00), which sum equates to the difference in the appraised fair market value of the properties, less the value of completed Project improvements and any credits from escrow.</p>
<p>"Approved Use"</p>	<p>Owner shall assure that the property is used only for the following Approved Uses: Sale, distribution, packing, and marketing of wholesale produce and compatible products and related lines of business, and other legally permissible business uses that are compatible with the River District Plan and not Disapproved Uses.</p>
<p>"Disapproved Uses"</p>	<p>Owner shall assure that the property is not used, in whole or in part, for any of the following Disapproved Uses: Liquor store/bar; Adult store/film; ; Video arcade/pool hall; Dancing; Service stations; Hazardous materials; Tattoo and or piercing establishment; pawn shop; Check cashing or paycheck advance business; Passive activity (switching station); and Nuisances.</p>

6. **REPRESENTATIONS.** Agency has provided good and valuable consideration. The funds used by Agency for the Project are funds from public funding sources administered by Agency and their use is subject to certain requirements some of which are embodied in this Regulatory Agreement. This Regulatory Agreement represents a portion of a larger transaction, and is an inextricable part of the larger transaction. Therefore, Agency has undertaken its obligations conditioned upon Owner's agreement, for itself and its successors and assigns, to comply with all provisions of this Regulatory Agreement. Owner has had full opportunity to make itself independently familiar with such limitations and restrictions, and Owner accepts them and agrees to comply fully with them.

7. **COVENANTS.** Owner makes the following covenants. Unless Owner has received the prior written consent of Agency otherwise, Owner shall fully comply with each and every covenant. Except as otherwise stated in this Regulatory Agreement, the following covenants shall have a term that is the same as the longest term specified in the Funding Requirements.

Owner shall use and shall permit others to use the Property only for the Approved Uses, and with the Redevelopment Plan for the Project Area.

a. Owner shall not use and shall not permit others to use the Property for any of the Disapproved Uses.

b. Owner shall assure full compliance with the Special Provisions, if any.

c. Owner shall maintain the Property and the building improvements, grounds and equipment of the Property in good repair and condition and in compliance with all applicable standards and local code requirements. Owner shall maintain the Property in good condition and shall keep the Property reasonably free from graffiti and unrepaired vandalism and from accumulation of abandoned property, inoperable vehicles, unenclosed storage, debris, and waste materials. In the event of a casualty loss, Owner shall cause the restoration or replacement of the Property, in a timely manner and provided that such restoration or replacement is then economically feasible.

d. Owner shall not cause and shall not permit discrimination on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, or rental or in the use or occupancy of the Property. Owner covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. This covenant against discrimination shall continue in perpetuity.

e. Owner shall assure compliance with the federal Personal Responsibility and Work Opportunity Act (Public Law 104-193, commonly known as the Welfare Reform Act) prohibiting the Agency funding of federal, state or local benefits to persons who are not citizens or qualified aliens as defined in the act.

8. RESTRICTION ON SALES AND LEASES. Owner is prohibited from selling or leasing the Property unless and until the buyer or lessee has executed and the parties have recorded an acknowledgment and acceptance of this Regulatory Agreement. In any event, any and all successors in interest to the Property are subject to this Regulatory Agreement.

9. NATURE OF COVENANTS. The provisions contained in this Regulatory Agreement are covenants which subject and burden the Property, as covenants running with the land. It is intended and agreed that the agreements and covenants provided in the Agreement shall be covenants running with the land and equitable servitudes on the land and that they shall, in any event, and without regard to technical classifications or designation, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Agency, the Agency's successors and assigns, any other governmental entity acting within its authority and any successor in interest to Agency's interest under this Regulatory Agreement against the Owner, its successors and assigns and every successor in interest to all or any part of the Property.

10. TERM. The term of this Regulatory Agreement shall commence on _____ (the Effective Date of the DDA) and continue for ten (10) years from the Effective Date, at which time the terms and conditions of the Regulatory Agreement, including, but not limited to, all covenants running with the land and equitable servitudes, shall terminate.

11. RECORDKEEPING AND REPORTING. Upon written request of Agency, Owner shall promptly provide any additional information or documentation to verify Owner's compliance with the provisions of this Regulatory Agreement. At the written request of the Agency, Owner shall, within a reasonable time following receipt of such request, furnish reports and shall give specific answers to questions regarding the income, assets, liabilities, contracts, operations, and condition of the property and their compliance with the Funding Agreement and this Regulatory Agreement.

12. AUDIT AND INSPECTION. The Property and all related equipment, buildings, plans, offices, books, contracts, records, documents and other related items shall at all times be maintained in reasonable condition for audit and shall be subject to examination by the Agency or its agents during reasonable hours solely for the purpose of reviewing Owner's compliance with this Regulatory Agreement. The books and accounts of the operations of the Property and of the Property shall be kept in accordance with generally accepted accounting principles.

13. CHANGES WITHOUT CONSENT OF TENANTS, LESSEES, OR OTHERS. Only Agency and its successors and assigns, and Owner and its successors and assigns (subject to the reasonable approval of Owner's lender) shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in this Agreement. Such changes or termination shall not require the consent of any easement holder, licensee, other mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Property.

14. DEFAULT. Upon a breach of any of the provisions of this Regulatory Agreement by Owner, the Agency may give written notice of such breach to Owner by registered or certified mail. To the extent reasonable under the circumstance, in the event of any breach, the Agency and Owner shall reasonably endeavor to identify a remedy for such breach by conference and conciliation. If such violation is not corrected to the satisfaction of Agency within thirty (30) days after the date such notice is mailed or within such further time as the Agency may reasonably determine is necessary to correct the breach, and without further notice to Owner, the Agency may declare a default under the Agreement, effective on the date of such declaration of default, and upon such default the Agency may apply to any court for specific performance of this Regulatory Agreement, for an injunction against any violation of the Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Regulatory Agreement, for money damages or for such other relief as may be appropriate.

a. Agency may institute or prosecute in its own name, any suit Agency may consider advisable in order to compel performance of any obligation of any owner to develop and maintain the subject property in conformity with this Regulatory Agreement and to remedy any default of this Regulatory Agreement. Agency may also seek a decree requiring removal of any improvements constructed on the Property which improvements are designed for uses not permitted under this Regulatory Agreement and which improvements are suitable only for uses not permitted under this Regulatory Agreement.

b. The remedies of the Agency under this Regulatory Agreement are cumulative. The exercise of one or more of such remedies, including, without limitation, remedies under the Funding Agreement shall not be deemed an election of remedies and shall not preclude the exercise by the Agency of any one or more of its other remedies.

15. BINDING SUCCESSORS IN INTEREST. This Regulatory Agreement shall bind and the benefits shall inure to the Owner, its successors in interest and assigns, and to the Agency and its successors for the term of this Regulatory Agreement.

16. CONTRADICTORY AGREEMENTS. Owner warrants that he has not, and will not, execute any other agreement with provisions in contradiction or opposition to the provisions of this Regulatory Agreement, and that, in any event, the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations stated and supersede any other requirements in conflict with this Regulatory Agreement.

17. ATTORNEYS' FEES. If the services of any attorney are required by any party to secure the performance of this Regulatory Agreement or otherwise upon the breach or default of another party, or if any judicial remedy or mediation is necessary to enforce or interpret any provision of this Regulatory Agreement or the rights and duties of any person in relation to this Regulatory Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses as determined by the court or arbitrator, in addition to any other relief to which such party may be entitled. The prevailing party shall mean the party receiving an award in arbitration or a judgment in its favor, unless the award or judgment is less favorable than the best settlement offered in writing in a reasonable manner by the other party, in which case the prevailing party is the party making such settlement offer.

18. SEVERABILITY. If any term or provision of this Regulatory Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Regulatory Agreement shall not be affected; provided that the intent of the Regulatory Agreement may then be reasonably fulfilled. In any event, the term or provisions shall be deemed to be invalid only as to the entity and circumstance for which it was held to be invalid.

19. NO WAIVER. No waiver by the Agency of any breach of or default under this Regulatory Agreement shall be deemed to be a waiver of any other or subsequent breach or default.

20. **NOTICES.** Written notices and other written communications by and between the parties shall be addressed to the Owner at the Owner Address and to the Agency at the Agency Address or such other address as each respective party has designated by written notice to the other party.

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

OWNER: C & J WAREHOUSE, LLC

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Daniel W. Chan
Member and Manager

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

Date: _____

Approved as to form:

Agency Counsel

EXHIBIT 5

Access Agreement

RECORDING REQUESTED BY
AND FOR THE BENEFIT OF
CITY OF SACRAMENTO
NO FEE DOCUMENT
Govt Code 6103

WHEN RECORDED MAIL TO
CITY OF SACRAMENTO
Real Estate Services Section
5730 24th Street, Building 4
Sacramento, California 95822



NO TRANSFER TAX DUE per R&T Code 11922
Grantee is a Government Agency

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT FOR ACCESS SUMP NO. 149

WHEREAS, the City of Sacramento ("City") owns that certain property identified as Assessor Parcel Number 002-0041-050 (southeast of 12th Street and North B Street), where Sump Pump Number 149 ("Sump No. 149") is located; and

WHEREAS, City desires to obtain the right of access across the property located on that certain property identified as Assessor Parcel Numbers 002-0041-063 and 059 (lying along North B Street), which is owned by C & J Warehouse, LLC, a limited liability company ("C & J Warehouse") for purposes of inspection, maintenance, modification, and site improvements of Sump No. 149; and

WHEREAS, C & J Warehouse is willing to grant City access over its property for the purposes of accessing Sump No. 149, subject to City's agreement to the following terms and conditions.

NOW, THEREFORE, based on the foregoing recitals, the mutual promises and covenants of the parties, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and C & J Warehouse agree as follows:

C & J Warehouse ("Grantor") hereby grant(s) to the City of Sacramento, a municipal corporation ("Grantee"), a non-exclusive easement for access on, over, and across all that real property (the "Property") situated in the City of Sacramento, County of Sacramento, State of California, described as follows:

SEE ATTACHED LEGAL DESCRIPTION MARKED EXHIBIT „A“ AND DIAGRAMED IN THE CORRESPONDING PLAT MAP ATTACHED AS EXHIBIT „B“ WHICH ARE MADE A PART HEREOF.

1. Grantee's rights of access are limited to use of driveways, parking lots and other paved or unpaved portions of the Property. Grantor is not obligated to undertake any improvement of the Property or to modify its use of the Property to make it suitable for Grantee to exercise its access rights hereunder.

2. Grantor may hereafter make improvements or changes to the Property or to its use of the Property which may inhibit or prevent Grantee from exercising its access rights hereunder without any penalty or liability to Grantee. In the event such improvements or changes prevent Grantee from using the Property for the purposes set out herein, Grantor may extinguish Grantee's access rights and Grantee agrees to quitclaim its interest in the Property to Grantor upon such occurrence and receipt of Grantor's written request for reconveyance.
3. Grantee shall indemnify, defend and hold harmless Grantor and its officers, employees, agents and lessees from and against any and all liabilities, penalties, losses, damages, costs, expenses (including reasonable attorneys' fees), causes of action, claims, or judgments ("Claims"), whether brought by or suffered by Grantor or a third party, that arise by reason of any death, bodily injury, personal injury, or property damage arising from Grantee's or Grantee's officers", employees" and agents" exercise of the access rights granted hereunder, but excluding Claims arising from the sole negligence or willful misconduct of Grantor, its officers, employees, agents or lessees.
4. The rights and obligations set out herein shall be binding on the successors and assigns of Grantor and Grantee.

GRANTOR:

By: _____
Print Name: _____
Title: _____

Dated: _____

CITY:

By: _____
Print Name: _____
Title: _____

Dated: _____

EXHIBIT 6

Sample Grant Deed

NO FEE DOCUMENT:

Entitled to free recording
per Government Code 27383.

Recording Requested by the

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
c/o City of Sacramento
Economic Development Department
915 I Street, 3rd Floor
Sacramento, California 95814
Attention: Rachel Hazlewood

GRANT DEED

(WITH REVESTMENT PROVISIONS, COVENANTS, RESTRICTIONS AND RESERVATIONS)

For valuable consideration, receipt of which is hereby acknowledged,

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, a public body, corporate and politic, of the State of California (the "Grantor"), acting to carry out the Redevelopment Plan, (the "Redevelopment Plan"), for the Redevelopment Project known as the River District Redevelopment Project Area, the ("Project"), under the Community Redevelopment Law of California, hereby grants to C & J Warehouse, LLC, a California limited liability company (the "Grantee"), the real property, (the "Property"), described in Exhibit 1 which is attached to, and incorporated in this Deed by this reference, subject to the covenants, restrictions and reservations set forth below which covenants, restrictions and reservations shall inure to the benefit of, and bind, each and every successor, assign or successor in interest of the parties, including any heirs, executors, administrators, transferees or any other person or entity claiming through the parties.

The Property is conveyed in accordance with, and subject to, (i) the River District Redevelopment Plan which was adopted by the City Council of the City and duly recorded in the Office of the County Recorder of Sacramento County, California; and (ii) the Disposition and Development Agreement (the "Disposition and Development Agreement") entered into by and between Grantor and Grantee on _____, 2011 and duly recorded in the office of the County Recorder of Sacramento County, California; and that Regulatory Agreement entered into by and between Grantor and Grantee or _____, 2011 and duly recorded in the office of the County Recorder of Sacramento County, California.

1. DISPOSITION AND DEVELOPMENT AGREEMENT.

1.1. The Disposition and Development Agreement provides for Grantee to complete a Project, as defined therein.

1.2. The Disposition and Development Agreement contains covenants and conditions relating to the Project that are incorporated herein and shall be covenants running with the land and equitable servitudes.

1.3. Upon completion of the Project provided for in the Disposition and Development Agreement, Grantor shall prepare and record in the Office of the County Recorder of Sacramento a "Notice of Completion." Upon the delivery and recording of this Notice of Completion (i) Grantee's responsibilities for the Project under the Disposition and Development Agreement shall have been fully met, (ii) all further obligations of Grantee for the

Project shall terminate and (iii) all covenants running with the land and equitable servitudes created by the Disposition and Development Agreement shall terminate.

2. REGULATORY AGREEMENT.

2.1. The Regulatory Agreement provides for Grantee to continue certain business operations, on the Property, among other things, for a period of ten (10) years from compliance.

2.2. The Regulatory Agreement contains covenants and conditions relating to the Property that are incorporated herein and shall be covenants running with the land and equitable servitudes

2.3. Upon the termination of the Regulatory Agreement, Grantee shall prepare and record in the Office of the County Recorder of Sacramento a "Certificate of Compliance." Upon the deliver and recording of this Certificate of Compliance, Grantee's responsibilities under the Regulatory Agreement (i) shall have been fully met and all further obligations of Grantee under this Regulatory Agreement shall terminate and, (ii) all covenants running with the land and equitable servitudes created by this Regulatory Agreement shall terminate..

3. The Grantee covenants and agrees that: there shall be no discrimination against or segregation of any person on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, or rental or in the use or occupancy of the Property hereby conveyed or any part thereof. Grantee covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land.

4. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust made in good faith and for value; provided, however, that any subsequent owner of the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

5. The Grantor certifies that Grantor has complied with all conditions precedent to the valid execution and delivery of this Deed required on its part and that all things necessary to constitute this Deed and its valid, binding and legal agreement on the terms and conditions and for the purposes set forth herein have been done and performed and have happened, and that the execution and delivery of this Deed on its part have been and are in all respects authorized in accordance with law. The Grantee similarly certifies with reference to its execution and delivery of this Deed.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Grantor and the Grantee have caused this instrument to be executed on their behalf by their respective and duly authorized officers, on the following dates, effective as of _____, 2011.

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

John Dangberg, Assistant City Manager
As Designated Signatory

Date: _____

APPROVED: _____
Agency Counsel

Grantee hereby accepts, concurs in and agrees to all the covenants, conditions, easements, reservations and restrictions set forth in this Grant Deed.

C & J Warehouse, LLC

By: _____
Daniel W. Chan, Managing Member

Date: _____

[ACKNOWLEDGMENTS]



Back to Table
of Contents

RESOLUTION NO. 2011_____

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

on date of

1220 NORTH A STREET PROJECT: CEQA AND PROJECT APPROVAL, AND AUTHORIZATION FOR EXECUTION OF A DISPOSITION AND DEVELOPMENT AGREEMENT WITH C&J WAREHOUSE, LLC REGARDING 1220 NORTH A STREET AND THE AGENCY ACQUISITION OF 1400 NORTH B STREET; RELATED AUTHORIZATIONS

BACKGROUND

- A. The Redevelopment Agency of the City of Sacramento (“Agency”) has adopted the River District Redevelopment Plan (“Redevelopment Plan”) and an “Implementation Plan” for the River District Project Area (“Project Area”);
- B. The Agency owns certain real property (“Agency Property”), in the Project area and acquired with Project Area low and moderate income housing set-aside tax increment funds, located at 1220 North A Street, and more particularly described in the legal description, attached as Exhibit A;
- C. The Agency originally purchased the Agency Property for affordable housing, however, it was later determined by the Agency that due to the fire code, the site was not suitable for this purpose because of limited access and other reasons;
- D. C&J Warehouse, LLC (“Developer”), which owns and controls General Produce, owns certain real property (“Developer Property”), located at 1400 North B Street in the Project area and more particularly described in the legal description, attached as Exhibit B, which is suitable for the future development of affordable housing.
- E. On November 10, 1998, in Resolution RA1998-055 and 1998-559, the Redevelopment Agency Board and City Council authorized City staff to negotiate for the transfer of the Agency Property to General Produce and the Developer Property to Agency as a business expansion effort to maintain a stable employment and business presence in the River District Redevelopment Area; however, the transfer was delayed due to environmental cleanup required on the Agency Property.
- F. Developer desires to acquire the Agency Property for redevelopment and business expansion, and Agency desires to acquire the Developer Property for future affordable housing development.

- G. The Agency and Developer desire to enter into a Disposition and Development Agreement (“DDA”), a copy of which accompanies this resolution as Exhibit C and is on file with the Agency Clerk, which DDA would convey 1220 North A Street fee interest in the Property, as more specifically described in the DDA, and which would require the improvements within the Property, as further described in the DDA (collectively, “Project”);
- H. Closing-related costs are estimated at up to \$30,000 to pay for title, tenant relocation and other closing related costs.
- I. In accordance with the California Environmental Quality Act and its implementing regulations, the Project has been determined to be exempt pursuant to CEQA Guidelines sections 15301, 15311, and 15303 as it consists of minor improvements to an existing structure, the addition of minor accessory structures, and the construction of a new commercial structure under 10,000 square feet.
- J. A report under Health and Safety Code 33433 has been prepared, filed with the Agency Clerk and duly made available for public review, a copy of which report (“33433 Report”) is attached to and incorporated in this resolution by this reference and as Exhibit D to this resolution, and, proper notice having been given, a hearing has been held in accordance with Health and Safety Code Sections 33431 and 33433.

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

- Section 1. The environmental findings pursuant to the California Environmental Quality Act as stated above, are hereby approved and certified.
- Section 2. The project is in compliance with the River District Redevelopment Implementation Plan redevelopment programs, “1400 North B Street Redevelopment” and “General Produce Land Sale.”
- Section 3. The statements and findings of the 33433 Report are true and correct and are hereby adopted. The Project will assist in the elimination of blight as stated in the 33433 Report. The Project is consistent with the goals and objectives of the Redevelopment Plan and the Implementation Plan. A goal of the Redevelopment Plan, as stated in the Implementation Plan is the elimination of blight by developing safe, clean and affordable housing, developing underutilized and vacant parcels, and retaining jobs stimulating economic development. The DDA shall be deemed an implementing document approved in furtherance of the Redevelopment Plan, the Implementation Plan for the Project Area and all applicable land use plan, studies, and strategies.
- Section 4. The consideration for the Agency’s conveyance of the Property to Developer is not less than the fair reuse value of the Property at the use

and with the covenants, conditions, restrictions required by the DDA and the related Regulatory Agreement and Grant Deed.

Section 5. The Agency budget is amended to allocate \$30,000 in River District Tax Increment funds from Agency's Predevelopment Services budget (630 136 4001) to pay for closing-related costs.

Section 6. The DDA is approved and the Executive Director, or her designee, is authorized to execute the DDA and any related documents that may be deemed necessary or advisable with the Developer and to take such actions, execute such instruments, and amend the budget as may be necessary to effectuate and implement this resolution and the DDA.

Attachments:

- Exhibit A: Agency-owned Property
- Exhibit B: Developer-owned Property
- Exhibit C: Disposition and Development Agreement
- Exhibit D: 33433 Report



JUNE 9, 2009
98-0054

AGENCY-OWNED PROPERTY

DESCRIPTION

AREA A

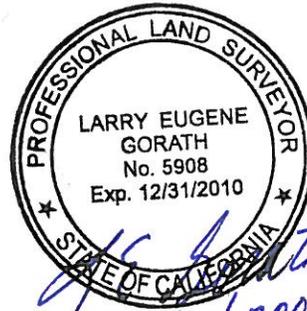
All that certain real property situate in the City of Sacramento, County of Sacramento, State of California, described as follows:

A portion of the blocks bounded on the North by A Street, the South by B Street, the West by 12th Street and the East by 14th Street in the City of Sacramento, according to the official map thereof, more particularly described as follows:

BEGINNING at the intersection of the East side of 12th Street with the centerline of A Street; thence from said point of beginning and along said centerline of A Street South 70°30'55" East 803.87 feet to the Northerly prolongation of the West line of 14th Street; thence along said prolongation and said West line South 19°36'54" West 322.86 feet; thence North 62°46'44" West 689.78 feet; thence North 70°30'55" West 120.00 feet to a point on the East line of said 12th Street; thence along said East line North 19°34'36" East 230.00 feet to the point of beginning.

Containing 4.973 acres, more or less.

The meridian of this survey is identical to that of that certain Record of Survey filed in Book 47 of Surveys, Page 5, Official Records of said County.



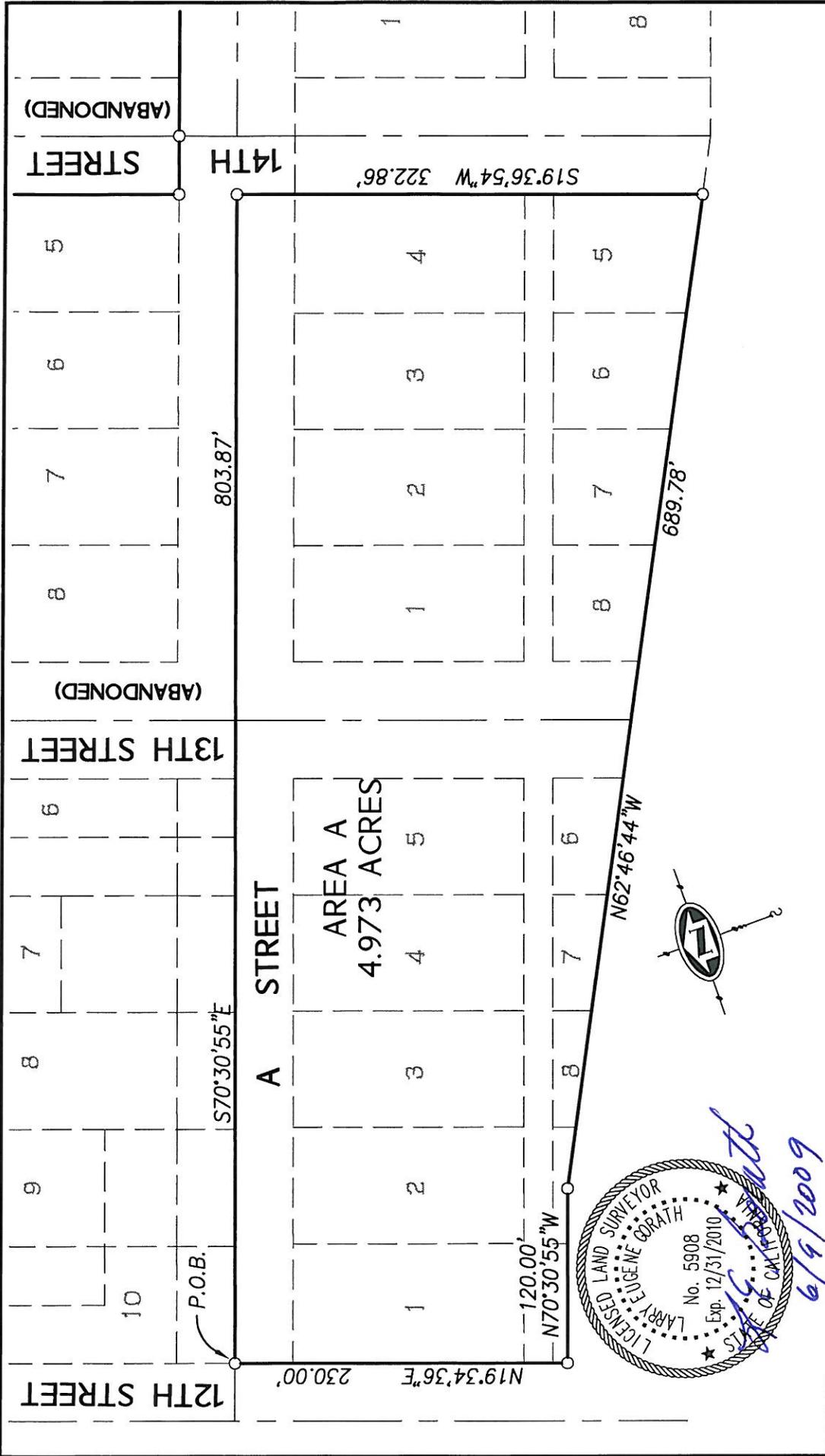


EXHIBIT MAP
SACRAMENTO SOCIAL SERVICES CAMPUS
CITY OF SACRAMENTO
CALIFORNIA

mmp **MORTON & PITALO, INC.**
CIVIL ENGINEERING • PLANNING • SURVEYING
1788 TRIBUTE ROAD • SUITE 200 • SACRAMENTO, CA 95815
PHONE: 916/927-2400 • FAX: 916/567-0120

DRAWN:	ESR	JOB NO:	980054
CHECKED:	MDJ	DATE:	JUNE 2009
SCALE:	1"=100'	SHEET:	1 of 2



June 9, 2009
98-0054

DEVELOPER-OWNED PROPERTY

DESCRIPTION

AREA B

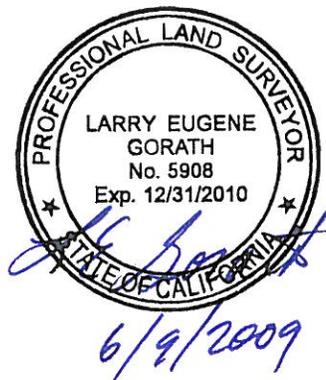
All that certain real property situate in the City of Sacramento, County of Sacramento, State of California, described as follows:

A portion of the blocks bounded on the North by North B Street, the south by A Street, the West by 13th Street and the East by 15th Street in the City of Sacramento, according to the official map thereof, more particularly described as follows:

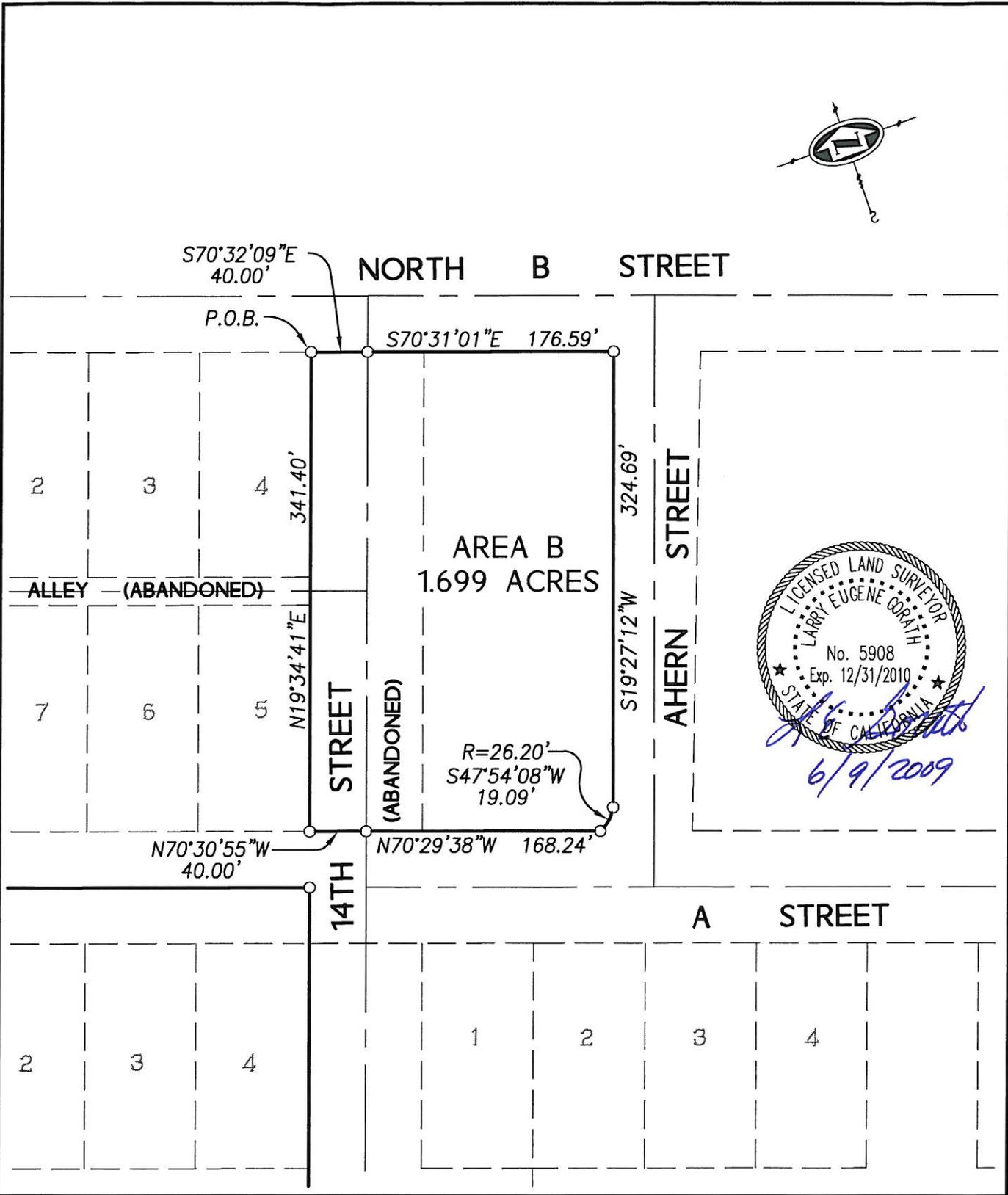
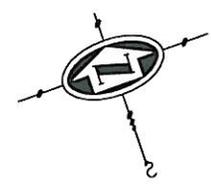
BEGINNING at the intersection of the West line of 14th Street and the South line of North B Street; thence from said point of beginning and along said South line South 70°32'09" East 40.00 feet; thence continuing along said South line South 70°31'01" East 176.59 feet; thence leaving said South line South 19°27'12" West 324.69 feet; thence along the arc of a curve to the right, concave Northwesterly, having a radius of 26.20 feet and being subtended by a chord bearing South 47°54'08" West 19.09 feet to a point on the North line of said A Street; thence along said North line North 70°29'38" West 168.24 feet; thence continuing along said North line North 70°30'55" West 40.00 feet to a point on said West line of 14th Street; thence along said West line North 19°34'41" East 341.40 feet to the point of beginning.

Containing 1.699 acres, more or less.

The meridian of this survey is identical to that of that certain Record of Survey filed in Book 47 of Surveys, Page 5, Official Records of said County.



Dwg: X:\MISC\LARRY\DWG\980054-EX3.DWG | Saved: 06-09-09 08:29am | Plotted: 06-09-09 08:32am | LGORATH



mmp **MORTON & PITALO, INC.**
 CIVIL ENGINEERING • PLANNING • SURVEYING
 1788 TRIBUTE ROAD • SUITE 200 • SACRAMENTO, CA 95815
 PHONE: 916/927-2400 • FAX: 916/567-0120

DRAWN:	ESR	JOB NO:	980054
CHECKED:	MDJ	DATE:	JUNE 2009
SCALE:	1"=100'	SHEET:	2 of 2

EXHIBIT MAP

SACRAMENTO SOCIAL SERVICES CAMPUS

CITY OF SACRAMENTO CALIFORNIA



NO FEE DOCUMENT:

Entitled to free recording
per Government Code 27383.

When recorded, return to:

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
c/o Economic Development Department
City of Sacramento
915 I Street, Third Floor
Sacramento, CA 95814
Attn: Rachel Hazlewood

DISPOSITION AND DEVELOPMENT AGREEMENT
1220 NORTH A STREET
RIVER DISTRICT REDEVELOPMENT PROJECT AREA

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

C & J WAREHOUSE, LLC

_____, 2011

Disposition and Development Agreement

1220 North A Street
River District

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, and C & J WAREHOUSE, LLC, also called Agency and Developer, respectively, enter into this Disposition and Development Agreement, also called DDA, as of _____ (“Effective Date”). For purposes of this Agreement, the capitalized terms shall have the meanings assigned in Section 15 and as otherwise defined herein.

RECITALS

- A. Developer is the owner of real property located at 1400 North B Street in the City of Sacramento, State of California, more particularly described in the Property Description (the "Developer Property").
- B. Agency is the owner of real property located at 1220 North A Street in the City of Sacramento, State of California, more particularly described in the Property Description (the "Agency Property").
- C. The Agency Property is located in the River District Redevelopment Project Area (the “River District”) and is subject to the redevelopment plan for the River District. Agency originally purchased the blighted Agency Property for affordable housing using low and moderate income housing set aside funds, however, it was later determined by the Agency that due to the fire code, the site was not suitable for this purpose because of limited access and other reasons.
- D. Developer acknowledges that Developer is acquiring this Property from Agency which is a Redevelopment Agency formed and acting under the Community Redevelopment Law (California Health & Safety Code Sections 33000 *et seq.*) and that this document is governed by the Community Redevelopment Law.
- E. On November 10, 1998, in Resolution RA1998-055 and 1998-559, the Redevelopment Agency Board and City Council authorized City staff to negotiate for the transfer of the Agency Property to General Produce and the Developer Property to Agency as a business expansion effort to maintain a stable employment and business presence in an area of the city impacted with numerous social service providers; however, the transfer was delayed due to environmental cleanup required on the Agency Property.
- F. The Developer Property, currently owned by Developer, is also located in the River District and is subject to the redevelopment plan for the River District. The Agency is acquiring the Developer Property from Developer because it is suitable for the future development of affordable housing.

G. This DDA is consistent with, and furthers, the Redevelopment Plan and the "Implementation Plan" adopted for the River District in that it meets the following implementation plan goals: Elimination of blight by developing safe, clean and affordable housing, developing underutilized and vacant parcels, and retaining jobs stimulating economic development.

H. The primary purpose of this DDA is the elimination of the following blighting influences: low values and impaired investment, high vacancy rates and vacant parcels, low property values and low lease rates. In order to accomplish such purpose, the DDA provides that the Agency will transfer the Agency's interests in the Agency Property to Developer upon the express condition that Developer will redevelop the Agency Property for the uses described in this DDA. This DDA is intended to ensure that the Developer will redevelop the Agency Property and that the Developer is not merely speculating in land.

I. Developer desires to acquire the Agency Property for redevelopment and business expansion, and Agency desires to acquire the Developer Property for future affordable housing development, on the terms and conditions in this DDA.

J. Developer's acquisition of the Agency Property shall be accomplished by a "tax deferred" exchange of the Developer Property for the Agency Property pursuant to Section 1031 of the Internal Revenue Code. Agency agrees to fully cooperate with Developer to accomplish this 1031 exchange at no cost to Agency.

K. General Produce Co., Ltd., a California limited partnership ("General Produce") is owned and controlled by the principals of Developer. Since 1984, General Produce has used the cold storage warehouse facilities on the property located at 1330 North "B" Street to operate its wholesale fresh produce business. General Produce needs the Agency Property to enable it to expand and continue its business operations in the River District.

AGREEMENT

NOW THEREFORE, the parties acknowledge that the foregoing Recitals are true and correct, and based upon such Recitals and 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. **PERFORMANCE.** The parties shall perform their obligations at the times and in the manner specified in this DDA. The time for performance is stated in this DDA and in the Schedule of Performances; provided, however that such times shall be extended for periods of Unavoidable Delay.

2. **PROJECT DESCRIPTION.** Agency is entering into this DDA and conveying the Agency Property to Developer solely for the purposes of developing the "Project." The Project shall be the following: The Agency Property will be redeveloped as an extension of the General Produce business including grading, fencing and landscaping, and the warehouse located on the 1330

North "B" Street property is to be expanded. General Produce agrees, subject to specific conditions contained in this DDA, to maintain its business in the River District for a period of not less than ten years from the Effective Date of this DDA.

3. **PURCHASE AND SALE.** This exchange of the Developer Property and the Agency Property are part of a market rate transaction based upon real property appraisals and the additional consideration, below. Agency agrees to convey to and Developer agrees to accept delivery of the Agency Property and Developer agrees to convey to Agency and Agency agrees to accept delivery of the Developer Property as part of a 1031 Exchange subject to the terms and conditions in this DDA and subject to the covenants, conditions and restrictions contained in the Regulatory Agreement to be executed by the Agency and Developer and recorded on the Agency Property upon conveyance of the Agency Property to Developer.

3.1. **ADDITIONAL CONSIDERATION.** In addition to the property exchange, Developer is committing, as additional consideration for the acquisition of the Agency Property, to complete the Project to eliminate blight on the Agency Property and to make that property a useful part of General Produce's fresh produce distribution business. As part of the Project, Developer is also committing to specific capital improvements to redevelop and expand its current facilities at 1330 North "B" Street. Further, Developer is committing to cause General Produce to maintain its principal business operations for a period of at least ten years in and on the subject properties, subject to the terms and conditions stated herein and in the Regulatory Agreement.

3.1.1. **PUMP ACCESS EASEMENT:** The City of Sacramento ("City") owns that certain property identified as Assessor Parcel Number 002-0041-050 (southeast of 12th Street and North B Street), where Sump Pump Number 149 ("Sump No. 149") is located.

a) Agency has granted the City of Sacramento an access easement over certain property identified as Assessor Parcel Numbers 002-0041-073 for purposes of accessing Sump No. 149.

b) Developer has, or will concurrent with the execution of this agreement, grant the City of Sacramento an access easement over certain property identified as Assessor Parcel Numbers 002-0041-063 and 059 for the purposes of accessing Sump No. 149.

c) Developer acknowledges and accepts these access agreements on the parcels, the Agency Property and the 002-0041-063 and 059 parcels, respectively.

3.2. **ESCROW.** Developer and Agency have opened, or within ten (10) days after the Effective Date, shall open, the Escrow account subject to the provisions of the Escrow Instructions. Agency and Developer shall execute and deliver the Escrow Instructions to Title Company within ten (10) days after the Effective Date. Agency and Developer shall share escrow fees and costs equally. Each party shall be responsible for the cost of any title insurance they may elect to purchase.

3.3. **BUSINESS RETENTION AND EXPANSION.** Developer agrees to cause General Produce to use the 1330 North "B" Street Property and the Agency Property (the "Site") as the primary

location of its wholesale fresh produce distribution business for a period of ten (10) years from the Effective Date of this DDA. It is recognized that during the term of this covenant (i) that the wholesale produce business may change and evolve and (ii) that natural circumstances, including but not limited to, weather and disease as well as unforeseen circumstances could impact General Produce's business.

3.3.1. General Produce shall be deemed to be using the Site for its primary place of business if during each of the ten years after the Effective Date, General Produce satisfies the following conditions:

a) Generates (through direct sales, internet sales, technology sales, etc.) fifty one percent (51%) of its gross sales revenues from the Site as evidenced by a written declaration by an officer of General Produce;

b) Employs more than fifty (50) full-time equivalent employees at the Site (including, but not limited to transport, sales and management personnel who report to duty at the Site). In the event that (i) acts of God or circumstances beyond the reasonable control of General Produce or (ii) the wholesale produce business of General Produce evolves, and it becomes impractical or impossible for General Produce to satisfy the conditions set forth in this subsection 3.3.1.b, Agency and Developer shall negotiate in good faith to arrive at a substitute condition for the remainder of the Term that is consistent with the goals and intent of the Regulatory Agreement;

c) In the event of damage or destruction to the Site, General Produce is actually working to restore the Site as General Produce's primary place of business.

3.3.2. The covenants set forth in this Section 3.3 shall terminate in the event of any one of the following:

a) General Produce relocates its primary place of business to elsewhere within the River District and a regulatory agreement is recorded on the new business address for the remaining years of the Regulatory Agreement;

b) In the event of damages or destruction to the Site and General Produce is unable to restore its operations or the Site due to legitimate business reasons.

3.3.3. In the event (i) of the death or disability of either Thomas O. Chan or Daniel W. Chan and, (ii) the remaining owners choose to dissolve the business operations of General Produce because of such death or disability, Developer will use its best efforts to lease, sell or transfer the Property to a business with similar employment and economic impacts consistent with the goals and intent of this DDA;

3.3.4. In the event of a sale of General Produce, Developer shall require a purchaser to agree, in writing, to:

a) Honor the terms and conditions of the Regulatory Agreement and all covenants and conditions therein, for the remainder of the ten (10) year period;

b) Generate (through direct sales, internet sales, technology sales, etc.) gross sales revenue from the site in an amount greater than or equal to fifty one percent (51%) of the gross sales revenues generated by General Produce in the immediate prior calendar year as evidenced by a written declaration by an officer of the company;

c) Employ more than fifty (50) full-time equivalent employees at the Site (including, but not limited to transport, sales and management personnel who report to duty at the Site). In the event that (i) acts of God or circumstances beyond the reasonable control of General Produce or (ii) the wholesale produce business of General Produce evolves, and it becomes impractical or impossible for General Produce to satisfy the conditions set forth in this subsection 3.3.1.b, Agency and Developer shall negotiate in good faith to arrive at a substitute condition for the remainder of the Term that is consistent with the goals and intent of the Regulatory Agreement; and,

d) Abide by the Regulatory Agreement.

3.3.5. Within three (3) months after the end of each calendar year, for ten (10) years after the Effective Date, General Produce shall certify, in writing, its compliance with Section 3.3.1 or the basis for termination of the covenant pursuant to Section 3.3.2.

3.3.6. Upon the expiration of the ten (10) years from the Effective Date, or the termination of the covenants pursuant to Section 3.3.2, above, Agency shall prepare and record with the Official Records of Sacramento County, a certificate of compliance with the Regulatory Agreement certifying that all terms, conditions and restrictions set forth therein are hereby extinguished and of no further force and effect.

3.4. CONDITIONS TO AGENCY'S PERFORMANCE. Agency's obligation to perform under this DDA is subject to all of the following conditions:

3.4.1. Developer has performed all of the obligations that it is required to perform pursuant to this DDA, including without limitation, obtaining all required approvals of the Plans; obtaining all required building permits for Project construction; providing all required budgets, reports and evidence of funding and insurance; and providing required construction contracts.

3.4.2. The closing conditions as defined in the Escrow Instructions are fulfilled as of Close of Escrow.

3.4.3. Developer has executed in a form suitable for recording, the Access Agreement for Sump Pump No. 149 on 1330 North B Street, Sacramento, California.

3.4.4. Developer has executed in a form suitable for recording the Regulatory Agreement.

3.4.5. Developer's representations and warranties in this DDA are true and correct as of the date of this DDA and as of the Close of Escrow.

3.4.6. The DDA is in full force and effect, no default on the part of Developer having occurred under the DDA, and no event having occurred, which, with the giving of notice or the passage of time, will constitute default by Developer under the DDA.

3.5. CONDITIONS TO DEVELOPER'S PERFORMANCE. Developer's obligation to perform under this DDA is subject to satisfaction of all of the following conditions:

3.5.1. Agency has performed all of the obligations that it is required to perform pursuant to this DDA.

3.5.2. The closing conditions as defined in the Escrow Instructions are fulfilled as of Close of Escrow.

3.5.3. Agency's representations and warranties in this DDA are true and correct as of the date of this DDA and as of the Close of Escrow.

3.5.4. The DDA is in full force and effect, no default on the part of Agency having occurred under the DDA, and no event having occurred, which, with the giving of notice or the passage of time, will constitute default by Agency under the DDA.

3.5.5. The Title Conditions are fulfilled as of Close of Escrow.

3.6. GENERAL COVENANTS AND REPRESENTATIONS AND WARRANTIES. The parties make the following covenants, representations and warranties regarding the Property and the Project.

3.6.1. AGENCY'S REPRESENTATIONS AND WARRANTIES. Agency represents and warrants to Developer that as of the date of this DDA and as of the Close of Escrow, the date for which is set forth on the Schedule of Performances, to the knowledge of Agency's legal department, its Executive Director, and its staff with responsibility for development of the Property:

a) The Agency Property was the subject of Hazardous Substance remediation. The California Department of Toxic Substances Control (DTSC) issued a "No Further Action Letter" on November 19, 2008. A covenant restricting certain uses upon the Agency Property (environmental restrictions) on the Former Southern Pacific – Purity Oil Site, 1324 North A Street was recorded on November 4, 2008. The Agency Property is also subject to a requirement to submit annual groundwater testing results to the California Department of Toxic Substance Control.

b) Agency has received no notice, warning, notice of violation, administrative complaint, judicial complaint, or other formal or informal notice alleging that conditions on the Property are in violation of any applicable laws regarding Hazardous Substances, or informing Agency that the Agency Property is subject to any further investigation or inquiry regarding Hazardous Substances on the Property.

c) To the best of Agency's knowledge, there is no pending or threatened litigation, administrative proceeding, or other legal or governmental action with respect to the Agency Property or with respect to Agency that would affect the Agency Property.

d) Agency has reviewed the condition of the Developer Property, including without limitation, the physical condition of the Developer Property (above and below the surface) and issues regarding land use and development of the Developer Property, and if Agency closes Escrow for the acquisition of the Developer Property, Agency shall be deemed to be satisfied that the Developer Property is suitable in all respects for its intended development and uses.

e) This DDA and all other documents delivered for the Close of Escrow have been duly authorized, executed, and delivered by Agency; are binding obligations of Agency; and do not violate the provisions of any agreements to which Agency is a party.

3.6.2. AGENCY'S COVENANTS. Commencing with the full execution of this DDA by both parties and until the Close of Escrow:

a) Agency shall promptly notify Developer of any facts that would cause any of the representations contained in this DDA to be untrue as of the Close of Escrow.

b) Agency shall not permit any liens, encumbrances, or easements to be placed on the Agency Property, other than the approved exceptions named as acceptable in the Escrow Instructions, the Title Conditions, or as identified and approved in this DDA.

c) Agency shall not, without Developer's written consent, enter into any agreement regarding the sale, rental, management, repair, improvement, or any other matter affecting the Agency Property that would be binding on Developer or the Agency Property after the Close of Escrow without the prior written consent of Developer, except as otherwise agreed in this DDA.

d) Agency shall not permit any act of waste or act that would tend to diminish the value of the Agency Property for any reason, other than ordinary wear and tear.

e) Agency shall convey the Agency Property to Developer pursuant to the terms and conditions contained in this DDA.

3.6.3. DEVELOPER'S REPRESENTATIONS AND WARRANTIES. Developer, for itself and its principals, represents and warrants to Agency that as of the date of this DDA and as of the Close of Escrow:

a) Developer has reviewed the condition of the Agency Property, including without limitation, the physical condition of the Agency Property (above and below the surface) and issues regarding land use and development of the Agency Property, and if Developer closes Escrow for the acquisition of the Agency Property, Developer shall be deemed to be satisfied that the Agency Property is suitable in all respects for its intended development and uses.

b) Developer's agreement to close the Escrow for the acquisition of the Agency Property serves as Developer's representation that Developer has obtained all additional information regarding the Agency Property that Developer considers necessary for its due diligence in acquiring the Agency Property.

c) To the best of Developer's knowledge, there is no pending or threatened litigation, administrative proceeding or other legal or governmental action with respect to Developer which would affect its ability to fulfill its obligations under this DDA and acquire the Agency Property or which may constitute a lien against Developer's equity or Developer's interests in the Developer Property, now or in the future.

d) Any information that Developer has delivered to Agency, either directly or through Developer's agents, is, to the best of Developer's knowledge, accurate, and Developer has disclosed all material facts concerning the operation, development, or condition of the Developer Property.

e) Developer has the financial capacity, the equity and the financing necessary to fulfill its obligations under this DDA and acquire the Agency Property. Developer represents that any equity and funding commitments represented by Developer to Agency as available to the Project are unencumbered and that Developer has not represented to any other party that it will use such funds for any purpose other than the Project (and covenants that it will not use them for any other purpose) without prior written Agency consent.

f) This DDA and all other documents delivered for the Close of Escrow have been duly authorized, executed, and delivered by Developer; are binding obligations of Developer; and do not violate the provisions of any agreements to which Developer is a party.

3.6.4. DEVELOPER'S COVENANTS. Commencing with the full execution of this DDA by both parties and until the Close of Escrow:

a) Developer covenants by and for itself and assigns, and all persons claiming under or through it, that it shall not discriminate on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, or rental or in the use or occupancy of the Property hereby conveyed or any part thereof. Developer covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land.

b) Developer shall promptly notify Agency of any facts that would cause any of the representations contained in this DDA to be untrue as of the Close of Escrow.

c) Developer shall not cause any liens, encumbrances, or easements to be placed on the Developer Property prior to Close of Escrow, except as otherwise permitted by this DDA or approved in writing by Agency.

d) Developer shall not cause any act of waste or act that would tend to diminish the value of the Developer Property for any reason, except that caused by ordinary wear and tear.

e) Developer shall complete the development of the Project at Developer's cost and without requesting or receiving additional Agency or City contributions to the Project other than as provided in this DDA.

f) Developer shall comply with all provisions of the Regulatory Agreement, and cause any subsequent purchaser of the property to so comply.

g) Developer shall convey the Developer Property to Agency pursuant to the terms and conditions contained in this DDA.

3.6.5. CLOSE OF ESCROW. The Escrow shall not close, and the Agency Property shall not be conveyed to Developer and the Developer Property shall not be conveyed to Agency unless the preceding conditions have been satisfied together with all other conditions stated in the Escrow Instructions for Close of Escrow. The Escrow shall close on or about the date shown on the Schedule of Performances.

3.7. DAMAGE, DESTRUCTION AND CONDEMNATION BEFORE CLOSE OF ESCROW. If, prior to the Close of Escrow: (a) damage occurs to any portion of the Developer or Agency Property by earthquake, mudslide, fire, release of or exposure to any Hazardous Substances, or any other casualty (other than any damage caused by Developer or Agency or its employees, agents, Contractor or subcontractors) resulting in repairs or remediation costs that will exceed twenty percent (20%) of the appraised value of such property prior to such damage; or (b) any portion of the property is taken by eminent domain or otherwise, or is the subject of a threatened or pending taking action resulting in a twenty percent (20%) or more decrease in the after-taking value of the property Agency shall notify Developer in writing, and Developer shall notice Agency, as the case may be, of the damage, destruction or condemnation. Developer or Agency, as the case may be, may, within fifteen (15) days after such notice, elect to terminate this DDA by written notice to Agency.

3.7.1. If this DDA is to continue in full force and effect after any such damage or destruction to the Agency Property, Agency shall do one of the following:

a) Agency shall pay or assign to Developer any amount due from or paid by any insurance company or any other party as a result of the damage; and the amount of any deductible under Agency's insurance policy; or

b) Agency shall pay to Developer through Escrow the cost of repairing or correcting such damage not covered by insurance, provided, however, that the amount of any payment pursuant to this clause shall not exceed thirty percent (30%) of the Appraised Value. If this DDA is to continue in full force and effect after such damage or destruction, Agency shall pay

any amounts received on account of, and assign to Developer all of Agency's rights regarding, any awards for such taking.

3.7.2. If this DDA is to continue in full force and effect after any such damage or destruction to the Developer Property, Developer shall do one of the following:

a) Developer shall pay or assign to Agency any amount due from or paid by any insurance company or any other party as a result of the damage; and the amount of any deductible under Developer's insurance policy; or

b) Developer shall pay to Agency the cost of repairing or correcting such damage not covered by insurance, provided, however, that the amount of any payment shall not exceed thirty percent (30%) of the Appraised Value. If this DDA is to continue in full force and effect after such damage or destruction, Developer shall pay any amounts received on account of, and assign to Agency all of Developer's rights regarding, any awards for such taking.

4. **NO BROKERS.** Agency warrants that there are no brokers fees or other fees, including finder's fees, due upon Close of Escrow to any party based upon a claim of an agreement or relationship with Agency, and Agency agrees to indemnify and hold Developer harmless from any such claim. Developer warrants that there are no broker's fees or other fees, including finder's fees, due upon Close of Escrow, to any party based upon a claim of an agreement or relationship with Developer, and Developer agrees to indemnify and hold Agency harmless from any such claim.

5. **PREPARATION AND APPROVAL OF PLANS AND RELATED DOCUMENTS.** Agency has approved the Plans concurrently with the approval of this DDA.

5.1. **EXTENT AND CHARACTER OF PLAN REVIEW.** 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 neither a representation nor 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 ensure that the Final Plans conform to the Plans; and (c) to ensure that Agency's purposes are fulfilled and any Agency funds which may be obligated under this DDA are used as intended by the Agency. This DDA is not a land use or planning document. Approval of the Project and Plans under this DDA is only an approval by Agency of the Project design "concept" as presented in this DDA. Such approval by Agency is not and shall not be considered an approval of land use entitlements, structural design of the Project, or the aesthetic design of the Project. Developer shall comply with all applicable land use, planning and design laws, rules and regulations of each governmental agency acting in proper exercise of its respective jurisdiction, including without limitation, departments, staff, boards and commissions of the City.

5.2. **CONCURRENT REVIEW.** Agency agrees that its review of the Final Plans shall occur before or concurrently with City's review of such plans, so as not to delay the commencement and progress of Project development.

5.3. **PLANS.** Developer has provided Agency with a scope of the Project, and the Agency has approved the scope of the Project. The Agency has been induced to undertake its obligations under this DDA by Developer's promise to develop the Project in accordance with the Plans, the Scope of Development and the provisions of this DDA.

5.4. **PREPARATION OF FINAL PLANS AND RELATED DOCUMENTS.** Developer shall prepare the Final Plans that 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 this DDA, including without limitation, Plans and the Scope of Development. To the extent that the DDA has insufficient detail or is unclear, the DDA shall be deemed to provide that the Project shall contain high-quality materials, and shall conform to all applicable laws, regulations, zoning, design and usage guidelines. The Final Plans shall be considered to include all changes or corrections approved as provided in this DDA. The Final Plans shall incorporate all related mitigation measures required for compliance with approvals under CEQA and any conditions of City approval of the project, if required, unless otherwise fulfilled. Developer agrees that it will comply with the requirements of the City of Sacramento Design Review/Preservation Board to the extent of its jurisdiction.

5.5. **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 City of Sacramento Economic Development Department, which is staff to the Agency for the River District Redevelopment Project Area at the address for notices and shall have clearly marked on its exterior "URGENT: General Produce Business Retention & Expansion PROJECT PLAN REVIEW" or the equivalent.

5.5.1. **DEEMED APPROVAL.** If duly marked and delivered, the Final Plans or changes to the Final Plans shall be deemed approved unless disapproved in whole or in part, in writing, within thirty (30) days after their proper delivery to Agency.

5.5.2. **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 that the Agency requests to be made. Agency's reasons for disapproval and such Agency-requested changes shall be consistent with this DDA, including without limitation, the Plans, the Final Plans, the Scope of Development and with any items previously approved in accordance with this DDA. If the Agency rejects the proposed Final Plans, Developer shall obtain no rights to develop the Property under this DDA 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.

5.6. **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 disagrees with the required change,

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

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

5.7.1. 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:

- a) Material changes in the layout, elevation design, functional utility or square footage.
- b) Material changes in use of exterior finishing materials substantially affecting architectural appearance or functional use and operation.
- c) Any change that reduces the effectiveness of any mitigation measure required for CEQA approval of the Project.
- d) Material changes in site development items for the property that are specified in the Final Plans.
- e) Material changes in the type, location, visibility, accessibility, size, design or artist for any artwork shown in the Final Plans or otherwise accepted by the Agency under the Art in Public Places Program.
- f) Material changes in quality of project or landscaping materials.
- g) Any change in public amenities specified in the Final Plans.
- h) Any changes requiring approval of, or any change required by, any city, county or state board, body, commission or officer.
- i) Any change that would preclude or materially reduce the ability to use the Project as intended by this DDA.

5.7.2. 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.

6. DEVELOPMENT PROVISIONS. As stated in detail in this Section 6, Developer shall construct and manage the Project according to the requirements established in this DDA, which includes, without limitation, the Scope of Development, the Schedule of Performances and the Plans. Developer shall promptly begin, diligently prosecute and timely complete the construction of the Project. In interpreting the provisions of this DDA, the provisions that specifically enforce the Redevelopment Plan and the applicable provisions of the California Redevelopment Law (commencing at Health and Safety Code Section 33000) shall control.

6.1. NOTICE TO PROCEED. Developer shall not begin work on the Project until the Agency has issued to Developer a written notice to proceed with the work. Agency will issue a notice to proceed after Agency approval of the Final Plans, City's issuance of a building permit for substantially more than the Project foundations, Developer's compliance with all governmental requirements for start of construction, Developer's provision of required policies of insurance, and Developer's provision of proof of construction financing in an amount adequate to begin the Project work.

6.2. CONSTRUCTION CONTRACTS. Developer shall submit to Agency the construction contract or contracts for the Project. Agency's review of the construction contract shall be only for determining its compliance with this DDA. 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 DDA.

6.3. GOVERNMENTAL REVIEW PROCESS. Notwithstanding any other provision of this DDA, 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 DDA, make an initial deposit toward "plan check fees" with the City's Planning Department. In addition, Developer shall, as applicable, take designs before the City's Design Review/Preservation Board, as required, for comment as soon as practicable. Conditions to the project imposed by the City shall be considered obligations of the Developer under this DDA. 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.

6.4. 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 5.7, without Agency approval of such changes as provided in Section 5.7.

6.5. 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. 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. Agency shall cooperate in securing certifications and permits which require consent of the owner of the property. 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.

6.6. PREVAILING WAGES. This DDA is a market rate transaction. Developer and 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. Developer and Contractor have made their own independent determinations of the applicability of prevailing wage laws and have independently implemented such determinations. Developer 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 Developer or Contractor or both of them.

6.7. 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.

6.8. NO DISCRIMINATION DURING CONSTRUCTION. Developer for itself, 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.

6.8.1. EMPLOYMENT. Developer shall not discriminate against any employee or applicant for employment because of sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. The Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, race, color, religion, ancestry, national origin, disability, medical condition, marital status, or sexual orientation. 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.

6.8.2. 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, religion, creed, sex, marital status, national origin, ancestry, familial status, or disability.

6.8.3. MONITORING PROVISIONS. Developer, Contractor and subcontractors shall comply with the requirements of the Agency for monitoring the anti-discrimination and all applicable labor requirements.

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

6.10. **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 DDA. Purposes for Agency entry may include, without limitation, inspection of all work being performed in connection with the construction of the Project.

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

6.12. **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 DDA, the Agency will furnish the Developer with the Certificate of Completion certifying such completion. The Agency's issuance of the Certificate of Completion shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the DDA with respect to the obligations of the Developer to construct the Project as of the Completion Date specified in the Schedules of Performances, subject to any qualifications or limitations stated in such certification. Agency shall prepare and execute the Certificate of Completion in a form suitable for recording, and shall record it in the Official Records of Sacramento County.

6.12.1. The Certificate of Completion 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. The Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any provision of this DDA that is not related to construction of the Project.

6.12.2. 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 fifteen (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 DDA, 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.

6.13. **CONSTRUCTION PERIOD EXTENSION FEE.** If Developer does not complete the construction of the Project on or before the completion date set forth 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 said completion date, a construction period extension fee of five hundred dollars (\$500.00) for each month or portion thereof by which the completion of construction is delayed beyond said completion date. Such construction period

extension fee 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. 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 such construction period extension fee when due is a material default of this DDA. 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 DDA. Agency shall have the option to terminate, upon ten (10) days prior written notice, Developer's rights to such unpaid construction extension fee and to declare Developer in material default of this DDA. In any event, such construction extension fees shall not be accepted for a time period greater than six (6) months excluding any period of Unavoidable Delay, at which time Developer shall be deemed in material default of this DDA.

6.14. **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.

6.15. **NOTIFICATION OF GENERAL CONTRACTORS, ARCHITECTS AND ENGINEERS.** Developer shall assure notification of the Project contractors, architects and engineers for the Project of the requirements of this DDA. Developer shall include, where applicable, the provisions of this DDA in construction contracts, subcontracts, materials and supplies contracts and services and consulting contracts for the Project, and Developer shall undertake the enforcement of such provisions.

6.16. **PROPERTY CONDITION.** Developer, at Developer's expense, shall conduct any property investigation beyond those provided by Agency under this DDA and which Developer may consider necessary to determine the condition of the property for the development of the project. As between the Agency and Developer, Developer shall be solely responsible for the adequacy of such investigations. Except as provided in this DDA, 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. Agency shall not be responsible for removing any surface or subsurface obstructions, or structures of any kind on or under the property.

6.17. **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 DDA.

6.18. **HAZARDOUS SUBSTANCES.** Agency and Developer acknowledge that there were certain Hazardous Substances on the Agency Property, that these certain Hazardous Substances have been remediated and that the California Department of Toxic Substances Control (DTSC) issued a "No Further Action letter" regarding the remediation and the Agency Property. Agency has provided Developer with this No Further Action letter and the Agency has made all support documents within its possession available to Developer for review. Additionally, a Covenant Restricting Use of Property- Environmental Restrictions was recorded on November 4, 2008.

6.19. DEVELOPER ACCESS TO PROPERTY. Prior to the conveyance of the Agency Property by Agency to Developer, the Agency shall permit representatives of Developer to have access, without charge, to the Agency Property, at all reasonable times for the purpose of obtaining data and making various tests necessary to carry out Developer's obligations under the DDA; provided, however, that unless Developer has made other arrangements with Agency for access, Developer shall not enter the Agency Property except (a) after execution by Developer and Agency of Agency's standard "Permit for Entry" and (b) after Agency Developer has obtained insurance coverage then required by Agency. No work shall be performed on the Agency Property until a "Notice of Nonresponsibility" has been recorded and posted in accordance with applicable laws, assuring that Agency interest in the Agency Property shall not be subject to mechanic's liens related to such work. Developer shall not commence any work on the Agency Property without Agency's written approval of the work to be done, and in any event, Developer shall not commence any work which might be construed as commencement of the work of the Project for establishment of mechanic's lien rights.

7. RELOCATION. Agency is required by law to provide relocation services and make relocation payments to eligible tenants that are displaced as a result of the Project. Developer shall comply fully with all relocation laws that are the obligation of Agency or are otherwise applicable to the Project. Developer's compliance with the relocation requirements as stated in this Section 7 is a material element of this DDA. Developer's failure to comply with the relocation requirements as stated in this Section 7 is an Event of Default, subject to Developer's opportunity to cure in accordance with applicable law.

7.1. RELOCATION COSTS. Unless otherwise stated in this Agreement, any amounts paid by Agency for relocation costs and services shall be paid by Agency under the DDA.

7.2. COOPERATION AND ACCESS. Developer shall cooperate fully with Agency in complying with such relocation laws, including without limitation, providing Agency access to all tenants of the Property, to all books and records related to the tenants of the Property and to all properties offered for temporary or permanent relocation. Prior to taking any action with respect to relocation of tenants, Developer shall meet with Agency to establish reasonable protections for tenants and related reporting requirements for Developer.

8. DEVELOPMENT FINANCING. Except as specifically provided in this DDA, Developer shall be responsible for and shall pay all costs of developing the Project in accordance with this DDA. As a condition precedent to Agency's conveyance of the site to Developer, 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 DDA 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 DDA, no party shall have the right of reimbursement for any funds expended by them for the Project, whether prior to execution of this DDA or otherwise. Agency is not obligated by this DDA or otherwise to make any contribution beyond its obligations stated in this DDA.

8.1. EVIDENCE OF AVAILABLE FUNDS. Developer shall provide Agency with reasonable assurances of Developer's ability to fund the projects as may be requested by Agency. 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, requests for clarification, further evidence or financial reports.

9. INDEMNIFICATION FOR HAZARDOUS SUBSTANCES. Developer shall indemnify, protect and defend Agency, its officers, directors, council members and supervisors, employees, advisory committee members, and agents, and hold them harmless from any and all liability, costs, fees, fines, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to the existence of Hazardous Substances on the Agency Property that were not on the Agency Property prior to Agency's transfer of possession of the Agency Property to Developer or that were related to the removal or discharge of Hazardous Substances by Developer, or its employees, agents or contractors, during Developer's remediation of the Agency Property pursuant to this Section.

Agency shall indemnify, protect and defend Developer, its officers, directors, employees, and agents, and hold them harmless from any and all liability, costs, fees, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to Hazardous Substances discharged on the Agency Property during Agency's ownership of the Agency Property or related to the removal or discharge of Hazardous Substances by Agency or its employees, agents or contractors.

Agency shall indemnify, protect and defend Developer, its officers, directors, employees, members, and agents, and hold them harmless from any and all liability, costs, fees, fines, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to the existence of Hazardous Substances on the Developer Property that were not on the Developer Property prior to Developer's transfer of possession of the Developer Property to Agency or that were related to the removal or discharge of Hazardous Substances by Developer, or its employees, agents or contractors, during Developer's remediation of the Developer Property pursuant to this Section.

Agency shall indemnify, protect and defend Developer, its officers, directors, employees, and agents, and hold them harmless from any and all liability, costs, fees, penalties and claims (including without limitation court, mediation or arbitration costs, attorneys' fees, witnesses' fees, and investigation fees) related to Hazardous Substances discharged on the Agency Property during Agency's ownership of the Agency Property or related to the removal or discharge of Hazardous Substances by Agency or its employees, agents or contractors.

This indemnification provision shall survive the termination of this Agreement.

10. 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 gross negligence or willful misconduct of Agency.

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 gross negligence or willful misconduct of Developer. This indemnification provision shall survive the termination of this Agreement.

11. LIABILITY INSURANCE. With regard to this DDA, the Developer shall obtain and maintain during the life of the Project and require the Contractor and subcontractors for the Project to obtain and maintain for the term of the development of the Project, such insurance as will protect them, respectively, from the following claims which may result from the operations of the Developer, 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 its employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than its 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 DDA.

11.1. LIABILITY INSURANCE POLICY LIMITS. Developer shall obtain all insurance under this Section 11 written with a deductible of not more than ONE HUNDRED THOUSAND DOLLARS (\$100,000) or an amount approved by Agency, and for limits of liability which shall not be less than the following:

11.2. WORKER'S COMPENSATION. Developer shall obtain and maintain worker's compensation coverage shall be written for the statutory limits as required by Article 1 (commencing with Section 3700) of Chapter 4 of Part 1 of Division 4 of the California Labor Code (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.

11.3. COMMERCIAL GENERAL LIABILITY. Developer shall obtain and maintain Commercial General Liability insurance in Insurance Services Office ("ISO") policy form CG 00 01 Commercial General Liability (Occurrence) or better. Such insurance shall have limits of liability, which are not less than \$1,000,000, per occurrence limit; \$5,000,000 general aggregate limit, and \$5,000,000 products and completed operations aggregate limit, all per location of the Project.

11.4. **COMPREHENSIVE AUTOMOBILE LIABILITY.** Developer shall obtain and maintain comprehensive automobile liability coverage for any vehicle used for, or in connection with, the Project (owned, nonowned, hired, leased) having a combined single limit of not less than \$1,000,000.

11.5. **PROPERTY INSURANCE.** For the duration of the Regulatory Agreement, Developer shall obtain and maintain property insurance in ISO policy form CP 10 30 - Building and Personal Property Coverage - Causes of Loss - Special Form, to the full insurable value of the Property with no coinsurance penalty (and with endorsements of Builder's Risk until completion of construction of the Project), Boiler and Machine to the extent necessary to obtain full insurance coverage, and with such other endorsements and in such amounts as the Agency may reasonably require to protect the Project and the Property. In the event of damage to the Project and subject to the requirements of any lender, Developer shall use the proceeds of such insurance to reconstruct the Project and the public improvements.

11.6. **INSURANCE PROVISIONS.** Each policy of insurance required under this DDA shall be obtained from a provider licensed to do business in California and having a current Best's Insurance Guide rating of B++ VII , which rating has been substantially the same or increasing for the last five (5) years, or such other equivalent rating, as may reasonably be approved by Agency's legal counsel. Each policy shall contain the following provisions as applicable, unless otherwise approved by Agency's legal counsel in writing in advance:

11.6.1. **ADDITIONAL INSURED.** Developer shall obtain a policy in ISO form CG 20 33 or better, naming Agency as additional insured under the Commercial General Liability Policy.

11.6.2. **Cancellation:** Developer will provide the Agency 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 Developer's responsibility to notify the Agency 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 Developer shall notify the Agency within forty eight (48) hours of such cancellation or non-renewal.

_____ **Developer's Initials**

11.6.3. Developer is in material breach of this DDA for so long as Developer fails to maintain all of the required insurance. Agency has the right, but not the obligation, to pay any delinquent insurance premiums and any other charges to reinstate or maintain the required insurance policies and coverage. Upon Agency's demand, Developer must immediately reimburse Agency for any and all costs incurred by Agency in so obtaining or maintaining insurance.

11.6.4. **FAILURE TO MAINTAIN.** If Developer fails to obtain or maintain, or cause to be obtained and maintained, any insurance required by this DDA, the Agency shall have the right, but not the obligation, 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. Failure to maintain the insurance required by this Section 10 shall be a default under this DDA (see Section 11.3, below).

11.6.5. **BLANKET COVERAGE.** Developer's obligation to carry insurance as required under this Section 11 may be satisfied by coverage under a "blanket" policy or policies of insurance (as the term is customarily used in the insurance industry).

12. **DEFAULTS AND REMEDIES.** Except as otherwise provided in the DDA, if either party defaults in its obligations under this DDA, 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 DDA, a failure or delay by a party to perform any term or provision of this DDA constitutes a default of this DDA. In the event of default the DDA shall be terminated.

12.1. Upon termination of the DDA by default of Developer, Agency shall retain title and control of Developer's Property as transferred to Agency and Developer shall retain title and control of Agency's Property as transferred to Developer. Developer shall also pay Agency Five hundred thirty three thousand nine hundred twenty eight dollars (\$533,928.00), which sum equates to the difference in the appraised fair market value of the properties, less the dollar amount of completed Project improvements and any credits from escrow.

12.2. After such payment of such funds and termination of the DDA, neither Agency nor Developer shall have any further rights against or liability to the other under the DDA except as expressly set forth in this DDA to the contrary.

12.3. **OTHER RIGHTS AND REMEDIES.** Upon the occurrence of any default not subject to the preceding liquidated damages provision, 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 DDA as allowed under this DDA, at law or in equity.

12.4. **NONLIABILITY OF AGENCY OFFICIALS AND EMPLOYEES.** No member, official or employee of Agency shall be personally liable under this DDA 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 DDA.

12.5. **FEES AND COSTS ARISING FROM DISPUTE.** If an action is commenced between the parties, the Prevailing Party in that action shall be entitled to recover from the nonprevailing party all reasonable attorney fees and costs, witness fees, arbitrator's fees, and court and arbitration costs. "Prevailing Party" shall include without limitation a party who dismisses an

action in exchange for sums allegedly due; 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.

13. ENCUMBRANCE OF PROPERTY AND LENDER PROTECTIONS. Before issuance of a Certificate of Completion, if Developer has obtained Agency’s prior written approval, which approval Agency may withhold in exercise of its reasonable discretion and in consideration of the commercially reasonable protection of its interests under this DDA, the Developer may obtain a Loan and encumber the Agency 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. 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. After issuance of a Certificate of Completion, the Agency shall have no rights of approval regarding financing secured by the Agency 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 DDA in making the Loan and that Agency’s obligations under this DDA are inducements to Lender’s making of the Loan.

13.1. NOTICES. If the Agency gives any notice of default to Developer under this DDA, 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 such 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 Disposition and Development Agreement dated _____ between the Redevelopment Agency of the City of Sacramento and **C & J Warehouse, LLC** (“DDA”). Lender requests, in accordance with the DDA, that if any default notice shall be given to Developer under the DDA, a copy of such default notice shall be given to Lender.

[Lender Name and Address for Notice]

13.2. ASSIGNMENTS AND TRANSFERS OF THE LOAN. Agency shall not be bound to recognize any assignment of Lender’s Loan or related encumbrance of the Agency 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 DDA. Thereafter, such assignee shall be

considered a Lender with respect to the Loan and the related encumbrance on the Agency Property.

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

13.4. LENDER'S OPTION TO CURE DEFAULTS. After any default of Developer's obligations under the DDA, 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 Agency 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 Agency Property in the manner provided in the DDA. Any Lender who properly completes the Project as provided in the DDA shall be entitled, upon written request made to the Agency, to a Certificate of Completion from the Agency in a manner provided in the DDA. 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 DDA 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.

13.5. DEFAULT BY DEVELOPER. In the event of a default by Developer, Agency shall not terminate this DDA unless and until the Agency has given notice to Lender of such default, and Lender has failed to cure such default.

13.5.1. 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 DDA) shall be tolled if and so long as, all of the following are true: (a) Lender has delivered to the Agency, prior to the date on which Agency is entitled to give notice of termination of this DDA, 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; (b) 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; (c) 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 (d) upon receiving possession of the Property, Lender or its designee promptly commences and diligently proceeds to cure such default in accordance with this DDA.

13.5.2. 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.

13.6. FORECLOSURE. Foreclosure of any encumbrance securing the loan of Lender, 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 Developer 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 DDA, provided that such purchaser or transferee expressly assumes each and every obligation of the Developer under this DDA (except for the obligation to pay damages except to the extent of any monies due and unpaid from Developer under this DDA) by assumption agreement satisfactory to the Agency. If any Lender or its designee acquires Developer's right, title and interest under this DDA as a result of a judicial or nonjudicial foreclosure under any power contained in such encumbrance, or any conveyance of the Property from the Developer 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 DDA to an assignee; provided, however, that the assignee or transferee shall thereafter be subject to all of the terms and conditions of this DDA.

13.7. MODIFICATIONS. No modification or amendment to the DDA 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.

13.8. FURTHER ASSURANCES TO LENDERS. Agency and Developer shall in good faith consider making such reasonable modifications to this DDA 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 DDA and provided such modifications, instruments, and agreements serve a material economic purpose.

13.9. 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 DDA is in full force and effect and a binding obligation of the parties; (ii) this DDA has not been amended or modified, or, if so amended, identifying the amendments; and (iii) the requesting party is not in default in the performance of its obligations under this DDA, 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 Agency's designee shall be authorized to execute any such certificate requested by Developer from the Agency.

13.10. 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 DDA 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 DDA, from any of its obligations under the DDA. With respect to this provision, the Developer and the parties signing the DDA 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.

14. DOCUMENT INTERPRETATION. This DDA shall be interpreted in accordance with the following rules.

14.1. ENTIRE DDA; SEVERABILITY. This DDA 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 DDA shall, to any extent, be held invalid or unenforceable, the remainder of this DDA shall not be affected; provided that the intent of the DDA may then be reasonably fulfilled.

14.2. WAIVERS AND AMENDMENTS. All waivers of the provisions of this DDA must be in writing and signed by Agency or Developer, as applicable, and all amendments to this DDA 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.

14.3. CAPTIONS, GENDER AND NUMBER. The section headings, captions and arrangement of this DDA are for the convenience of the parties to this DDA. 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 DDA. The singular form shall include plural, and vice versa, and gender references shall be construed to include all genders.

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

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

14.6. **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 DDA, 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.

14.7. **GOVERNING LAW.** This DDA shall be governed and construed in accordance with California law.

14.8. **NO JOINT VENTURE, PARTNERSHIP, OR OTHER RELATIONSHIP.** Nothing contained in this DDA or in any other document executed in connection with this DDA shall be construed as creating a joint venture or partnership between Agency and Developer. Each Party is acting as an independent entity and not as an agent of the other in any respect. No relationship exists as between Agency and Developer other than that of a governmental entity regulating the development of private property, and the owner of such private property.

14.9. **NO THIRD PARTIES BENEFITED.** This DDA 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 property, benefits or funds at any time on deposit in the Construction Account or the Impound Account, if established.

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

14.11. **OWNERSHIP OF DATA.** If this DDA 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.

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

14.12.1. Addresses for notices are as follows.

a) Agency: Redevelopment Agency of the City of Sacramento, c/o Economic Development Department, City of Sacramento, 915 I Street, 3rd Floor, Sacramento, California 95814, Attention: Rachel Hazlewood.

b) Developer: C & J Warehouse, LLC, P.O. Box 308, Sacramento CA 95812, Attention: Daniel W. Chan.

c) With a required copy to: Stephen K. Marmaduke, Wilke, Fleury, Hoffelt, Gould & Birney, LLP, 400 Capitol Mall, 22nd Floor, Sacramento, CA 95814.

14.12.2. Notices may be delivered by one 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 or facsimile, 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.

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

15. **DEFINITIONS.** The following definitions shall apply for the purposes of this DDA:

15.1. "**ACCESS AGREEMENT.**" The agreement providing the City of Sacramento with access to Sump Pump No. 149 as attached hereto and incorporated herein as **Exhibit 5: Access Agreement.**

15.2. "**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 c/o Economic Development Department, City of Sacramento at 915 I Street, Third Floor, Sacramento, California 95814. Agency as used in this DDA 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.

15.3. "**AGENCY PROPERTY**" is the real property located at 1220 North A Street in the City of Sacramento, State of California, as more particularly described in the Property Description, to be developed under this DDA by Developer.

15.4. "**CERTIFICATE OF COMPLETION**" is the certificate issued by the Agency certifying Developer's completion of the Project and termination of the revestment provisions.

15.5. "**CITY**" is the City of Sacramento in the State of California.

15.6. "**CLOSE OF ESCROW**" is the time for the close of the Escrow as provided in the Escrow Instructions.

15.7. “**CONTRACTOR**” is the contractor or contractors with whom Developer has contracted for the construction of the Project.

15.8. “**COMPLETION DATE**” is the date for completion of construction of the Project to the satisfaction of the Agency, which date shall be not sooner than the issuance of a certificate of occupancy for the entire Project. The Completion Date is stated in the Schedule of Performances.

15.9. “**DDA**” is this Disposition and Development Agreement including the attachments to this DDA consisting of the exhibits named in and attached to this DDA, the Preliminary Plans the Final Plans and any other item expressly incorporated in this DDA, all of which are incorporated in this DDA as if included in full as provisions in the body of this DDA. A default of any of the items incorporated in the DDA by reference is a default of this DDA.

15.10. “**DEVELOPER**” is C & J Warehouse, LLC, limited liability company. The principal office of the Developer is located at P.O. Box 308, Sacramento, CA 95812 . The principal of Developer is Daniel W. Chan.

15.11. “**DEVELOPER PROPERTY**” is the real property located at 1400 North B Street in the City of Sacramento, State of California, more particularly described in the Property Description.

15.12. “**ESCROW**” is the escrow for the transfer of the Property and for all requirements related to the transfer. The Title Company is the holder of the Escrow.

15.13. “**ESCROW INSTRUCTIONS**” are the escrow instructions for the close of the Escrow for this DDA.

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 this DDA. The Final Plans 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 DDA. The Final Plans shall incorporate all applicable mitigation measures which may be required for compliance with approvals under the California Environmental Quality Act (commencing at Public Resources Code Section 21000) and the rules and regulations promulgated under such act. The Final Plans shall specifically include changes or corrections of the Final Plans approved as provided in this DDA. 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 DDA.

15.15. “**GRANT DEED**” is the grant deed for the transfer of the Property to Developer under this DDA. The Grant Deed contains covenants that run with the land, easements and a reverter provision. A sample Grant Deed is attached hereto as **Exhibit 6: Sample Grant Deed**.

15.16. “**HAZARDOUS SUBSTANCES**” as used in this DDA 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 rules and regulations promulgated pursuant to said laws.

15.17. “**LENDER**” shall mean all holders, if any, of any lien or encumbrance as security for a loan on all or any part of the Property which loan is made in accordance with this DDA or otherwise approved by Agency in writing.

15.18. “**PLANS**” are the Cold Storage Enclosure Floor Plan prepared by Gary F. Lyons and Associates dated August 3, 2010 and project description submitted to Agency staff in the “Request for Plan Approval” letter dated _____. Agency has approved the Plans concurrently with the approval of this DDA.

15.19. “**PROJECT**” is the development of the Property as described in this DDA for the uses stated in this DDA. The Project includes all improvements rehabilitated and constructed on the Property in accordance with this DDA.

15.20. “**PROJECT AREA**” is the River District Area, as defined in the Redevelopment Plan.

15.21. “**PROPERTY DESCRIPTION**” is the legal description of the various parcels of real property affected by this DDA. The Property Description is attached as **Exhibit 1: Property Description**.

15.22. “**PURCHASE PRICE**” is the purchase price for the Property as set out in Section 3.

15.23. “**REDEVELOPMENT PLAN**” is the redevelopment plan for the Project Area (as it may be amended from time to time)

15.24. “**REGULATORY AGREEMENT**” is the agreement, which sets out the certain provisions of this DDA that shall survive the completion of the Project. The Regulatory Agreement is attached hereto and incorporated herein as **Exhibit 4: Regulatory Agreement**.

15.25. “**SCHEDULE OF PERFORMANCES**” is the schedule that establishes the dates by which obligations of the parties under this DDA must be performed and on which conditions must be satisfied. The Schedule of Performances is attached as **Exhibit 2: Schedule of Performances**.

15.26. “**SCOPE OF DEVELOPMENT**” is the detailed description of the construction parameters for the Project. The Scope of Development is attached as **Exhibit 3: Scope of Development**.

15.27. “**TITLE COMPANY**” is _____. Title Company is the insurer of title under this DDA and the Escrow holder. The Title Company address is _____.

15.28. "TITLE CONDITIONS" means excepting _____,
_____ and _____ of this Preliminary Title Report issued by Title
Company, dated _____, Order No. _____.

15.29. "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, 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 the parties shall be extended for the period of the enforced delay, as determined by the Agency, provided that the party seeking the benefit of the provisions of this Section shall, within thirty (30) days after it 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 DDA in Sacramento, California, on the following dates, effective as of the date first written above.

DEVELOPER: C & J WAREHOUSE, LLC

**AGENCY: THE REDEVELOPMENT AGENCY
OF THE CITY OF SACRAMENTO**

By: _____
Daniel W. Chan
Member and Manager

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

Date: _____

Date: _____

Approved as to form:

Approved as to form:

Developer Counsel

Agency Counsel

EXHIBIT 1

Property Description

Agency Property

All that certain real property situate in the City of Sacramento, County of Sacramento, State of California, described as follows:

A portion of the blocks bounded on the North by A Street, the South by B Street, the West by 12th Street and the East by 14th Street in the City of Sacramento, according to the official map thereof, more particularly described as follows:

BEGINNING at the intersection of the East side of 12th Street with the centerline of A Street; thence from said point of beginning and along said centerline of A Street South 70°30'55" East 803.87 feet to the Northerly prolongation of the West line of 14th Street; thence along said prolongation and said West line South 19°36'54" West 322.86 feet; thence North 62°46'44" West 689.78 feet; thence North 70°30'55" West 120.00 feet to a point on the East line of said 12th Street; thence along said East line North 19°34'36" East 230.00 feet to the point of beginning.

Containing 4.973 acres, more or less.

The meridian of this survey is identical to that of that certain Record of Survey filed in Book 47 of Surveys, Page 5, Official Records of said County.



**Property Description
(cont.)**

Developer Property

All that certain real property situate in the City of Sacramento, County of Sacramento, State of California, described as follows:

A portion of the blocks bounded on the North by North B Street, the south by A Street, the West by 13th Street and the East by 15th Street in the City of Sacramento, according to the official map thereof, more particularly described as follows:

BEGINNING at the intersection of the West line of 14th Street and the South line of North B Street; thence from said point of beginning and along said South line South 70°32'09" East 40.00 feet; thence continuing along said South line South 70°31'01" East 176.59 feet; thence leaving said South line South 19°27'12" West 324.69 feet; thence along the arc of a curve to the right, concave Northwesterly, having a radius of 26.20 feet and being subtended by a chord bearing South 47°54'08" West 19.09 feet to a point on the North line of said A Street; thence along said North line North 70°29'38" West 168.24 feet; thence continuing along said North line North 70°30'55" West 40.00 feet to a point on said West line of 14th Street; thence along said West line North 19°34'41" East 341.40 feet to the point of beginning.

Containing 1.699 acres, more or less.

The meridian of this survey is identical to that of that certain Record of Survey filed in Book 47 of Surveys, Page 5, Official Records of said County.

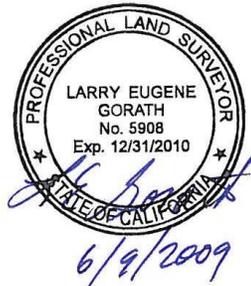


EXHIBIT 2

Schedule of Performances

Construction of items listed in the Scope of Development shall be completed by December 31, 2013

EXHIBIT 3

Scope of Development

New room addition for warehouse at 1330 North B Street	\$505,000
Grading, clearing and fencing on land at 1220 North A Street	<u>30,000</u>
TOTAL	\$535,000

EXHIBIT 4

Regulatory Agreement

NO FEE DOCUMENT:

Entitled to free recording
per Government Code 27383

When recorded, return to:

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY
801 12th Street
Sacramento, CA 95814

And copy to:

Economic Development Department
City of Sacramento
915 I Street, Third Floor
Sacramento, CA 95814
Attn: Rachel Hazlewood

**REGULATORY AGREEMENT
FOR NON-RESIDENTIAL DEVELOPMENT
INCLUDING COVENANTS, CONDITIONS AND RESTRICTIONS RUNNING WITH THE LAND**

PROJECT NAME:	C & J WAREHOUSE, LLC
PROJECT ADDRESS:	1220 North A Street, Sacramento, CA
EFFECTIVE DATE:	
APN:	002-0041-073

NOTICE: THIS REGULATORY AGREEMENT IMPOSES COVENANTS, CONDITIONS AND RESTRICTION ON THE PROPERTY WHICH STAY WITH THE PROPERTY FOR MANY YEARS, INCLUDING RESTRICTIONS ON THE USE AND MAINTENANCE OF THE PROPERTY.

ARTICLE I TERMS AND DEFINITIONS.

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT OF WHICH IS ACKNOWLEDGED, AGENCY AND OWNER HAVE ENTERED THIS REGULATORY AGREEMENT AS OF THE EFFECTIVE DATE.

- 1. GENERAL.** This Regulatory Agreement includes the Exhibits listed below, which are attached to and incorporated in this Regulatory Agreement by this reference.
- 2. DEFINITIONS.** The capitalized terms in this Regulatory Agreement shall have the meanings assigned in the following definitions table and in the body of the Regulatory Agreement. (Terms being defined are indicated by quotation marks.)

TERM	DEFINITION
“Effective Date”	This Regulatory Agreement shall be effective as of the following date:
“Agency”	Redevelopment Agency of the City of Sacramento
	The Agency is a public body, corporate and politic.
“Owner” and “Developer”	C & J Warehouse, LLC, a California limited liability company

"Agency Address"	Agency's business address is c/o Economic Development, 915 I Street, 3rd Floor, Sacramento, California 95814	
"Owner Address"	Owner's business address is as follows:	P.O. Box 308, Sacramento, CA 95812
"Jurisdiction"	City of Sacramento	
"Property"	That certain real property which is subject to this Regulatory Agreement as further described in the legal description, attached as Exhibit 1 – Legal Description of the Property.	
"Funding Requirements"	In consideration of the, the Agency has purchased the covenants, conditions and restrictions contained in the Regulatory Agreement.	
"Term"	The Term of each of the respective covenants, conditions and restrictions contained in this Regulatory Agreement is the term stated in the, this Regulatory Agreement and in the absence of such provision, the term of the Redevelopment Plan.	
"Special Provisions"	<p>Business Retention and Expansion. Owner agrees to cause General Produce Co., Ltd. ("General Produce") to use the 1330 North "B" Street Property and the Agency Property (the "Site") as the primary location of its wholesale fresh produce distribution business for a period of ten (10) years from _____, 2011, (the Effective Date of the DDA). It is recognized that during the term of this covenant (i) that the wholesale produce business may change and evolve and (ii) that natural circumstances, including, but not limited to weather and disease as well as unforeseen circumstances could impact General Produce's business.</p> <p>1. General Produce shall be deemed to be using the Site for its primary place of business if during each of the ten years after the Effective Date, General Produce satisfies the following conditions:</p> <p style="padding-left: 40px;">Generates (through direct sales, internet sales, technology sales, etc.) fifty one percent (51%) of its gross sales revenues from the site as evidenced by a written declaration by an officer of General Produce;</p> <p style="padding-left: 40px;">Employs more than fifty (50) full-time equivalent employees at the Site (including, but not limited to transport, sales and management personnel who report to duty at the Site). In the event that (i) acts of God or circumstances beyond the reasonable control of General Produce or (ii) the wholesale produce business of General Produce evolves, and it becomes impractical or impossible for General Produce to satisfy the conditions set forth in this provision, Agency and Developer shall negotiate in good faith to arrive at a substitute condition for the remainder of the Term that is consistent with the goals and intent of the Regulatory Agreement; and</p> <p style="padding-left: 40px;">In the event of damage or destruction to the Site, General Produce is actually working to restore the Site as General Produce's primary place of business.</p> <p>2. The covenants set forth in this Regulatory Agreement shall terminate in the event of any one of the following:</p> <p style="padding-left: 40px;">General Produce relocates its primary place of business to elsewhere within the River District and a regulatory agreement is recorded on the new business address for the remaining years of the Regulatory Agreement;</p> <p style="padding-left: 40px;">In the event of damages or destruction to the site and General Produce is unable to restore its operations or the Site due to legitimate business reasons.</p> <p>3. In the event (i) of the death or disability of either Thomas O. Chan or Daniel W. Chan and, (ii) the remaining owners choose to dissolve the business operations of General Produce because of such death or disability, heirs or successors in interest will use their best efforts to sell, transfer or lease the Property to a business with similar employment and economic impacts consistent with the goals and intent of the Regulatory Agreement.</p>	

	<p>4. In the event of a sale of General Produce, Developer shall require a purchaser to agree, in writing, to:</p> <p>Honor the terms and conditions of the Regulatory Agreement and all covenants and conditions therein, for the remainder of the ten (10) year period;</p> <p>Generate (through direct sales, internet sales, technology sales, etc.) gross sales revenue from the site in an amount greater than or equal to fifty one percent (51%) of the gross sales revenues generated by General Produce in the immediate prior calendar year as evidenced by a written declaration by an officer of the company;</p> <p>Employ more than fifty (50) full-time equivalent employees at the Site (including, but not limited to transport, sales and management personnel who report to duty at the Site). In the event that (i) acts of God or circumstances beyond the reasonable control of General Produce or (ii) the wholesale produce business of General Produce evolves, and it becomes impractical or impossible for General Produce to satisfy the conditions set forth in this provision, Agency and Developer shall negotiate in good faith to arrive at a substitute condition for the remainder of the Term that is consistent with the goals and intent of the Regulatory Agreement; and</p> <p>Abide by this Regulatory Agreement.</p> <p>5. In the event of Termination pursuant to Section 2 above, Agency shall retain title and control of Developer's Property as transferred to Agency and Developer shall retain title and control of Agency's Property as transferred to Developer. Developer shall also pay Agency Five hundred thirty three thousand nine hundred twenty eight dollars (\$533,928.00), which sum equates to the difference in the appraised fair market value of the properties, less the value of completed Project improvements and any credits from escrow.</p>
"Approved Use"	<p>Owner shall assure that the property is used only for the following Approved Uses:</p> <p>Sale, distribution, packing, and marketing of wholesale produce and compatible products and related lines of business, and other legally permissible business uses that are compatible with the River District Plan and not Disapproved Uses.</p>
"Disapproved Uses"	<p>Owner shall assure that the property is not used, in whole or in part, for any of the following Disapproved Uses:</p> <p>Liquor store/bar; Adult store/film; ; Video arcade/pool hall; Dancing; Service stations; Hazardous materials; Tattoo and or piercing establishment; pawn shop; Check cashing or paycheck advance business; Passive activity (switching station); and Nuisances.</p>

6. **REPRESENTATIONS.** Agency has provided good and valuable consideration. The funds used by Agency for the Project are funds from public funding sources administered by Agency and their use is subject to certain requirements some of which are embodied in this Regulatory Agreement. This Regulatory Agreement represents a portion of a larger transaction, and is an inextricable part of the larger transaction. Therefore, Agency has undertaken its obligations conditioned upon Owner's agreement, for itself and its successors and assigns, to comply with all provisions of this Regulatory Agreement. Owner has had full opportunity to make itself independently familiar with such limitations and restrictions, and Owner accepts them and agrees to comply fully with them.

7. **COVENANTS.** Owner makes the following covenants. Unless Owner has received the prior written consent of Agency otherwise, Owner shall fully comply with each and every covenant. Except as otherwise stated in this Regulatory Agreement, the following covenants shall have a term that is the same as the longest term specified in the Funding Requirements.

Owner shall use and shall permit others to use the Property only for the Approved Uses, and with the Redevelopment Plan for the Project Area.

a. Owner shall not use and shall not permit others to use the Property for any of the Disapproved Uses.

b. Owner shall assure full compliance with the Special Provisions, if any.

c. Owner shall maintain the Property and the building improvements, grounds and equipment of the Property in good repair and condition and in compliance with all applicable standards and local code requirements. Owner shall maintain the Property in good condition and shall keep the Property reasonably free from graffiti and unrepaired vandalism and from accumulation of abandoned property, inoperable vehicles, unenclosed storage, debris, and waste materials. In the event of a casualty loss, Owner shall cause the restoration or replacement of the Property, in a timely manner and provided that such restoration or replacement is then economically feasible.

d. Owner shall not cause and shall not permit discrimination on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, or rental or in the use or occupancy of the Property. Owner covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. This covenant against discrimination shall continue in perpetuity.

e. Owner shall assure compliance with the federal Personal Responsibility and Work Opportunity Act (Public Law 104-193, commonly known as the Welfare Reform Act) prohibiting the Agency funding of federal, state or local benefits to persons who are not citizens or qualified aliens as defined in the act.

8. RESTRICTION ON SALES AND LEASES. Owner is prohibited from selling or leasing the Property unless and until the buyer or lessee has executed and the parties have recorded an acknowledgment and acceptance of this Regulatory Agreement. In any event, any and all successors in interest to the Property are subject to this Regulatory Agreement.

9. NATURE OF COVENANTS. The provisions contained in this Regulatory Agreement are covenants which subject and burden the Property, as covenants running with the land. It is intended and agreed that the agreements and covenants provided in the Agreement shall be covenants running with the land and equitable servitudes on the land and that they shall, in any event, and without regard to technical classifications or designation, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the Agency, the Agency's successors and assigns, any other governmental entity acting within its authority and any successor in interest to Agency's interest under this Regulatory Agreement against the Owner, its successors and assigns and every successor in interest to all or any part of the Property.

10. TERM. The term of this Regulatory Agreement shall commence on _____ (the Effective Date of the DDA) and continue for ten (10) years from the Effective Date, at which time the terms and conditions of the Regulatory Agreement, including, but not limited to, all covenants running with the land and equitable servitudes, shall terminate.

11. RECORDKEEPING AND REPORTING. Upon written request of Agency, Owner shall promptly provide any additional information or documentation to verify Owner's compliance with the provisions of this Regulatory Agreement. At the written request of the Agency, Owner shall, within a reasonable time following receipt of such request, furnish reports and shall give specific answers to questions regarding the income, assets, liabilities, contracts, operations, and condition of the property and their compliance with the Funding Agreement and this Regulatory Agreement.

12. AUDIT AND INSPECTION. The Property and all related equipment, buildings, plans, offices, books, contracts, records, documents and other related items shall at all times be maintained in reasonable condition for audit and shall be subject to examination by the Agency or its agents during reasonable hours solely for the purpose of reviewing Owner's compliance with this Regulatory Agreement. The books and accounts of the operations of the Property and of the Property shall be kept in accordance with generally accepted accounting principles.

13. CHANGES WITHOUT CONSENT OF TENANTS, LESSEES, OR OTHERS. Only Agency and its successors and assigns, and Owner and its successors and assigns (subject to the reasonable approval of Owner's lender) shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in this Agreement. Such changes or termination shall not require the consent of any easement holder, licensee, other mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Property.

14. DEFAULT. Upon a breach of any of the provisions of this Regulatory Agreement by Owner, the Agency may give written notice of such breach to Owner by registered or certified mail. To the extent reasonable under the circumstance, in the event of any breach, the Agency and Owner shall reasonably endeavor to identify a remedy for such breach by conference and conciliation. If such violation is not corrected to the satisfaction of Agency within thirty (30) days after the date such notice is mailed or within such further time as the Agency may reasonably determine is necessary to correct the breach, and without further notice to Owner, the Agency may declare a default under the Agreement, effective on the date of such declaration of default, and upon such default the Agency may apply to any court for specific performance of this Regulatory Agreement, for an injunction against any violation of the Agreement, for the appointment of a receiver to take over and operate the Property in accordance with the terms of this Regulatory Agreement, for money damages or for such other relief as may be appropriate.

a. Agency may institute or prosecute in its own name, any suit Agency may consider advisable in order to compel performance of any obligation of any owner to develop and maintain the subject property in conformity with this Regulatory Agreement and to remedy any default of this Regulatory Agreement. Agency may also seek a decree requiring removal of any improvements constructed on the Property which improvements are designed for uses not permitted under this Regulatory Agreement and which improvements are suitable only for uses not permitted under this Regulatory Agreement.

b. The remedies of the Agency under this Regulatory Agreement are cumulative. The exercise of one or more of such remedies, including, without limitation, remedies under the Funding Agreement shall not be deemed an election of remedies and shall not preclude the exercise by the Agency of any one or more of its other remedies.

15. BINDING SUCCESSORS IN INTEREST. This Regulatory Agreement shall bind and the benefits shall inure to the Owner, its successors in interest and assigns, and to the Agency and its successors for the term of this Regulatory Agreement.

16. CONTRADICTION AGREEMENTS. Owner warrants that he has not, and will not, execute any other agreement with provisions in contradiction or opposition to the provisions of this Regulatory Agreement, and that, in any event, the requirements of this Regulatory Agreement are paramount and controlling as to the rights and obligations stated and supersede any other requirements in conflict with this Regulatory Agreement.

17. ATTORNEYS' FEES. If the services of any attorney are required by any party to secure the performance of this Regulatory Agreement or otherwise upon the breach or default of another party, or if any judicial remedy or mediation is necessary to enforce or interpret any provision of this Regulatory Agreement or the rights and duties of any person in relation to this Regulatory Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses as determined by the court or arbitrator, in addition to any other relief to which such party may be entitled. The prevailing party shall mean the party receiving an award in arbitration or a judgment in its favor, unless the award or judgment is less favorable than the best settlement offered in writing in a reasonable manner by the other party, in which case the prevailing party is the party making such settlement offer.

18. SEVERABILITY. If any term or provision of this Regulatory Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Regulatory Agreement shall not be affected; provided that the intent of the Regulatory Agreement may then be reasonably fulfilled. In any event, the term or provisions shall be deemed to be invalid only as to the entity and circumstance for which it was held to be invalid.

19. NO WAIVER. No waiver by the Agency of any breach of or default under this Regulatory Agreement shall be deemed to be a waiver of any other or subsequent breach or default.

20. **NOTICES.** Written notices and other written communications by and between the parties shall be addressed to the Owner at the Owner Address and to the Agency at the Agency Address or such other address as each respective party has designated by written notice to the other party.

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

OWNER: C & J WAREHOUSE, LLC

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Daniel W. Chan
Member and Manager

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

Date: _____

Approved as to form:

Agency Counsel

EXHIBIT 5

Access Agreement

RECORDING REQUESTED BY
AND FOR THE BENEFIT OF
CITY OF SACRAMENTO
NO FEE DOCUMENT
Govt Code 6103

WHEN RECORDED MAIL TO
CITY OF SACRAMENTO
Real Estate Services Section
5730 24th Street, Building 4
Sacramento, California 95822



NO TRANSFER TAX DUE per R&T Code 11922
Grantee is a Government Agency

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EASEMENT FOR ACCESS SUMP NO. 149

WHEREAS, the City of Sacramento ("City") owns that certain property identified as Assessor Parcel Number 002-0041-050 (southeast of 12th Street and North B Street), where Sump Pump Number 149 ("Sump No. 149") is located; and

WHEREAS, City desires to obtain the right of access across the property located on that certain property identified as Assessor Parcel Numbers 002-0041-063 and 059 (lying along North B Street), which is owned by C & J Warehouse, LLC, a limited liability company ("C & J Warehouse") for purposes of inspection, maintenance, modification, and site improvements of Sump No. 149; and

WHEREAS, C & J Warehouse is willing to grant City access over its property for the purposes of accessing Sump No. 149, subject to City's agreement to the following terms and conditions.

NOW, THEREFORE, based on the foregoing recitals, the mutual promises and covenants of the parties, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and C & J Warehouse agree as follows:

C & J Warehouse ("Grantor") hereby grant(s) to the City of Sacramento, a municipal corporation ("Grantee"), a non-exclusive easement for access on, over, and across all that real property (the "Property") situated in the City of Sacramento, County of Sacramento, State of California, described as follows:

SEE ATTACHED LEGAL DESCRIPTION MARKED EXHIBIT „A“ AND DIAGRAMED IN THE CORRESPONDING PLAT MAP ATTACHED AS EXHIBIT „B“ WHICH ARE MADE A PART HEREOF.

1. Grantee's rights of access are limited to use of driveways, parking lots and other paved or unpaved portions of the Property. Grantor is not obligated to undertake any improvement of the Property or to modify its use of the Property to make it suitable for Grantee to exercise its access rights hereunder.

2. Grantor may hereafter make improvements or changes to the Property or to its use of the Property which may inhibit or prevent Grantee from exercising its access rights hereunder without any penalty or liability to Grantee. In the event such improvements or changes prevent Grantee from using the Property for the purposes set out herein, Grantor may extinguish Grantee's access rights and Grantee agrees to quitclaim its interest in the Property to Grantor upon such occurrence and receipt of Grantor's written request for reconveyance.
3. Grantee shall indemnify, defend and hold harmless Grantor and its officers, employees, agents and lessees from and against any and all liabilities, penalties, losses, damages, costs, expenses (including reasonable attorneys' fees), causes of action, claims, or judgments ("Claims"), whether brought by or suffered by Grantor or a third party, that arise by reason of any death, bodily injury, personal injury, or property damage arising from Grantee's or Grantee's officers", employees" and agents" exercise of the access rights granted hereunder, but excluding Claims arising from the sole negligence or willful misconduct of Grantor, its officers, employees, agents or lessees.
4. The rights and obligations set out herein shall be binding on the successors and assigns of Grantor and Grantee.

GRANTOR:

By: _____
Print Name: _____
Title: _____

Dated: _____

CITY:

By: _____
Print Name: _____
Title: _____

Dated: _____

EXHIBIT 6

Sample Grant Deed

NO FEE DOCUMENT:

Entitled to free recording
per Government Code 27383.

Recording Requested by the

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
c/o City of Sacramento
Economic Development Department
915 I Street, 3rd Floor
Sacramento, California 95814
Attention: Rachel Hazlewood

GRANT DEED

(WITH REVESTMENT PROVISIONS, COVENANTS, RESTRICTIONS AND RESERVATIONS)

For valuable consideration, receipt of which is hereby acknowledged,

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, a public body, corporate and politic, of the State of California (the "Grantor"), acting to carry out the Redevelopment Plan, (the "Redevelopment Plan"), for the Redevelopment Project known as the River District Redevelopment Project Area, the ("Project"), under the Community Redevelopment Law of California, hereby grants to C & J Warehouse, LLC, a California limited liability company (the "Grantee"), the real property, (the "Property"), described in Exhibit 1 which is attached to, and incorporated in this Deed by this reference, subject to the covenants, restrictions and reservations set forth below which covenants, restrictions and reservations shall inure to the benefit of, and bind, each and every successor, assign or successor in interest of the parties, including any heirs, executors, administrators, transferees or any other person or entity claiming through the parties.

The Property is conveyed in accordance with, and subject to, (i) the River District Redevelopment Plan which was adopted by the City Council of the City and duly recorded in the Office of the County Recorder of Sacramento County, California; and (ii) the Disposition and Development Agreement (the "Disposition and Development Agreement") entered into by and between Grantor and Grantee on _____, 2011 and duly recorded in the office of the County Recorder of Sacramento County, California; and that Regulatory Agreement entered into by and between Grantor and Grantee or _____, 2011 and duly recorded in the office of the County Recorder of Sacramento County, California.

1. DISPOSITION AND DEVELOPMENT AGREEMENT.

1.1. The Disposition and Development Agreement provides for Grantee to complete a Project, as defined therein.

1.2. The Disposition and Development Agreement contains covenants and conditions relating to the Project that are incorporated herein and shall be covenants running with the land and equitable servitudes.

1.3. Upon completion of the Project provided for in the Disposition and Development Agreement, Grantor shall prepare and record in the Office of the County Recorder of Sacramento a "Notice of Completion." Upon the delivery and recording of this Notice of Completion (i) Grantee's responsibilities for the Project under the Disposition and Development Agreement shall have been fully met, (ii) all further obligations of Grantee for the

Project shall terminate and (iii) all covenants running with the land and equitable servitudes created by the Disposition and Development Agreement shall terminate.

2. REGULATORY AGREEMENT.

2.1. The Regulatory Agreement provides for Grantee to continue certain business operations, on the Property, among other things, for a period of ten (10) years from compliance.

2.2. The Regulatory Agreement contains covenants and conditions relating to the Property that are incorporated herein and shall be covenants running with the land and equitable servitudes

2.3. Upon the termination of the Regulatory Agreement, Grantee shall prepare and record in the Office of the County Recorder of Sacramento a "Certificate of Compliance." Upon the deliver and recording of this Certificate of Compliance, Grantee's responsibilities under the Regulatory Agreement (i) shall have been fully met and all further obligations of Grantee under this Regulatory Agreement shall terminate and, (ii) all covenants running with the land and equitable servitudes created by this Regulatory Agreement shall terminate..

3. The Grantee covenants and agrees that: there shall be no discrimination against or segregation of any person on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, or rental or in the use or occupancy of the Property hereby conveyed or any part thereof. Grantee covenants by and for himself, his heirs, executors, administrators, and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property. The foregoing covenants shall run with the land.

4. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust made in good faith and for value; provided, however, that any subsequent owner of the Property shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

5. The Grantor certifies that Grantor has complied with all conditions precedent to the valid execution and delivery of this Deed required on its part and that all things necessary to constitute this Deed and its valid, binding and legal agreement on the terms and conditions and for the purposes set forth herein have been done and performed and have happened, and that the execution and delivery of this Deed on its part have been and are in all respects authorized in accordance with law. The Grantee similarly certifies with reference to its execution and delivery of this Deed.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Grantor and the Grantee have caused this instrument to be executed on their behalf by their respective and duly authorized officers, on the following dates, effective as of _____, 2011.

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

John Dangberg, Assistant City Manager
As Designated Signatory

Date: _____

APPROVED: _____
Agency Counsel

Grantee hereby accepts, concurs in and agrees to all the covenants, conditions, easements, reservations and restrictions set forth in this Grant Deed.

C & J Warehouse, LLC

By: _____
Daniel W. Chan, Managing Member

Date: _____

[ACKNOWLEDGMENTS]



[Back to Table
of Contents](#)

**SUMMARY REPORT PURSUANT TO SECTION 33433 OF
THE CALIFORNIA COMMUNITY REDEVELOPMENT LAW
IN CONNECTION WITH A DISPOSITION AND DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
AND
GENERAL PRODUCE
FOR 1220 NORTH A STREET**

MARCH 29, 2011

SUMMARY REPORT PURSUANT TO SECTION 33433 OF THE CALIFORNIA COMMUNITY REDEVELOPMENT LAW IN CONNECTION WITH A DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO AND GENERAL PRODUCE

I. INTRODUCTION

The California Health and Safety Code, Section 33433, requires that if a redevelopment agency wishes to sell or lease property to which it holds title and if that property was acquired in whole or in part with property tax increment funds, the agency must first secure approval of the proposed sale or lease agreement and a summary report that describes and contains specific financing elements of the proposed transaction shall be available for public inspection prior to the public hearing. As contained in the Code, the following information shall be included in the summary report:

1. The cost of the agreement to the redevelopment agency, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the agency, plus the expected interest on any loans or bonds to finance the agreement;
2. The estimated value of the interest to be conveyed, determined by the highest and best use permitted under the redevelopment plan;
3. The estimated value of the interest to be conveyed in accordance with the uses, covenants, and development costs required under the proposed agreement with the Agency, i.e. the reuse value of the site;
4. An explanation of why the sale of the site will assist in the elimination of blight, as required by Section 33433; and
5. If the sale price is less than the fair market value of the interest to be conveyed, determined at the highest and best use consistent with the redevelopment plan, then the agency will provide as part of the summary an explanation of the reasons for the difference.

This report outlines the significant parts of the proposed Disposition and Development Agreement (“Agreement”) by and between the Redevelopment Agency of the City of Sacramento (“Agency) and C&J Warehouse (“Buyer”), whose principals control and operate the business known as General Produce, in connection with the disposition of the Agency’s property located at 1220 A Street in the City of Sacramento (“Site”) to the Buyer. Pursuant to the Agreement, the Buyer will purchase the Site in exchange for a nearby vacant parcel suitable for residential development and complete an improvement project that includes grading, clearing and fencing a portion of the Site as well as expanding its warehouse operations with an addition, located directly to the north of this Site, with a warehouse addition. The purpose of this analysis is to determine the cost of the Agreement to the Agency.

This report is based upon information in the proposed Agreement and is organized into the following six sections:

1. **Summary of the Proposed Agreement** – This section includes a description of the site, the proposed development and the major responsibilities of the Agency and the Buyer.
2. **Cost of the Agreement to the Agency** – This section outlines the cost of the Agreement to the Agency for costs associated with the Agreement between the Buyer and the Agency.
3. **Estimated Value of the Interest to be Conveyed** – This section summarizes the value of the interests to be conveyed to the Buyer.
4. **Consideration Received and Reasons Therefore** – This section describes the consideration to be paid by the Buyer to the Agency. It also contains an analysis of the consideration and the fair market value at the highest and best use consistent with the redevelopment plan for the interests conveyed.
5. **Elimination of Blight** – This section includes an explanation of why the sale of the site will assist in the elimination of blight and the supporting facts and materials.
6. **Conformance with the Five-Year Implementation Plan** – This section describes how the Agreement is in conformance with the Agency's Five-Year Implementation Plan.

II. SUMMARY OF THE PROPOSED AGREEMENT

A. *Description of the Site and Project*

Site/Location

The subject property is located at 1220 A Street in the City of Sacramento and the County of Sacramento. It is located in the River District Redevelopment Project Area. It is a vacant 4.973± acre site currently zoned C-4 SPD, Heavy Commercial Zone Special Planning District – River District. This a commercial zone designed primarily for warehousing, distribution types of activity, and those commercial uses having a minimum of undesirable impacts upon nearby residential areas.

In the 2030 General Plan, the parcel is designated ECLR – Employment Center Low Rise (ECLR). The ECLR classification supports businesses and employment generating uses and is consistent with the surrounding uses. This designation provides for employment generating uses that do not produce loud noises or noxious odors.

The site is more or less level and generally slopes gently to the north. About 0.42 acres at the western edge are severely sloped upward to match the North 12th Street grade causing this area to be unbuildable.

There is also a smaller area of slope at the southeast corner that could be leveled. The railroad right of way property, adjacent on the south, slopes sharply upward to the track bed, which is elevated 12 to 16 feet above the subject property.

The parcel is located between North 12th and North 14th streets, the A Street midline and the Union Pacific Railroad right of way. The only street access to the property is from the 14th Street/A Street intersection. The width of this access is 40 feet. Frontage is poor with little to no street exposure.

Background

The property was purchased by the Redevelopment Agency on July 31, 1995 from Southern Pacific Transportation Company (SP), predecessor to Union Pacific Railroad. The subject parcel was part of a larger 10.283 acre parcel purchased with the original intent to construct a social services campus including transitional housing, county offices, and an affordable housing project. A Disposition and Development Agreement was executed in December 1999 for a portion of the property, 5.31 acres, which was subsequently developed as Quinn Cottages, a 60 bed transitional housing shelter, and a 64,000 square foot office for the County of Sacramento.

The Site's limited access makes it unsuitable for additional residential development due to City Code Chapter 15.36 requirements, which state that a property must have two exits to be residential. In November 1998, the City Council approved the disposition of the subject property as part of a business retention and expansion project for the fresh produce distribution facilities of General Produce, which has been located in the River District since 1984 and has maintained a stable employment and business presence in an area of the city impacted with numerous social service providers and a large homeless population. Also in November 1998, the Agency Board approved the purchase of a nearby 1.32 acre property owned by C&J Warehouse which has superior access in exchange for the Agency-owned parcel. The Buyer-owned parcel contains street frontage on all four sides which is more appropriate for residential development.

Prior to the Agency's purchase of the Site, it was disclosed by SP that both the soil and groundwater were contaminated due to historical activities on site. SP, and then UP, agreed to work to remediate the property within a three-year time frame, however, contamination was more extensive than it was originally believed. It wasn't until November 2008 that the California Department of Toxic Substance Control issued a No Further Action letter to the Agency for the soils and a Covenant to Restrict Use of Property was recorded requiring ongoing monitoring of groundwater.

Buyer

The buyer is C&J Warehouse, which has operated a produce distribution facility known as General Produce for 77 years. It has been in its current location immediately to the north of the subject property, since 1984. The Site will be incorporated into General Produce's existing business operations to allow it to expand and improve efficiency in its operations.

Use of the site by General Produce as a fresh produce distribution facility is consistent with the zoning for the site. The Buyer is qualified to do business in California and its principal office is 1330 North B Street, Sacramento, CA 95811-0605, which is immediately north of the subject property.

Project

The Buyer proposes to grade, clear, and fence portions of the subject property and expand its warehouse operations with an addition. The project will preserve jobs at this site by increasing the capacity of the distribution center and allowing space for additional future expansion of the business. Furthermore, as part of this transaction, the Agency will be acquiring property suitable for the development of affordable housing.

B. Agency Responsibilities

Subject to the specific terms and conditions stated in the Agreement, the Agency's responsibilities under the proposed Agreement are as follows:

1. Delivery of Site. Deliver the subject property in "as is" condition on an agreed upon date with no warranty, express or implied, by the Agency as to physical condition of the Site, including the presence of hazardous materials or hazardous waste. In order to facilitate the remediation of past environmental contamination and to protect human health, a Covenant Restricting Use of the Property has been recorded by the State DTSC.
2. Approval of plans. Agency must approve the proposed improvement project submitted by Buyer.
3. Closing costs. Agency will pay the cost of drawing the grant deed, escrow fees and recording fees, its respective notary fees and any state, county, or city documentary transfer tax.
4. Certificate of Completion. At the completion of the Project and upon written request of the Buyer, the Agency shall furnish the Buyer with a Certificate of Completion for the Project.

C. Buyer Responsibilities

Subject to the specific terms and conditions stated in the Agreement, the Buyer's responsibilities under the proposed Agreement are as follows:

1. Deliver to the Agency the property at 1400 North B Street, the "Egg Warehouse" property, a 1.32 acre vacant parcel.
2. Submit plans for the improvement project to the Agency for approval.
3. Record an Access Agreement for City of Sacramento (City) access to Sump Pump 149, located to the west of the Site.
4. Record a Regulatory Agreement with Nondiscrimination and Property Maintenance requirements.
5. Within two years of the land transfer, the Buyer must complete all required improvements including site clearing, grading and fencing portions of the subject property and completing the addition to the existing warehouse.
6. Obtain required land use and zoning approvals, and comply with the requirements of the California Environmental Quality Act (CEQA).

7. Pay all development and construction costs and fees in a timely manner, including prevailing wages for construction of the Project.
8. Continue operations of General Produce fresh produce distribution facilities within the River District for a minimum of ten years.

III. COST OF THE AGREEMENT TO THE AGENCY

This section presents the total cost of the Agreement to the Agency, as well as the “net cost” of the project after consideration of the project revenues. The net cost can be either an actual cost, when expenditures exceed receipts, or a net gain, when revenues created by implementation of the Agreement exceed expenditures.

A. Estimated Costs to the Agency

The Original Site was purchased by the Agency on July 31, 1995 from Southern Pacific. The subject parcel was part of a larger 10.283 acre parcel purchased with the original intent to construct an affordable housing project. The Agency acquisition cost for the 10.283 acre parcel was \$1,464,378.00, making the subject parcel’s cost \$708,193. The site was purchased with Low- Moderate Income Housing Set-Aside Funds.

For the Agreement, the cost to the Agency is estimated to be:

Original Acquisition Price	\$ 708,193
Commissions	\$ -
Closing Costs	\$ -
Remediation Costs*	\$ 10,378
Financing Costs	\$ -
Improvement Costs (e.g. utilities or foundations added)	\$ -
Other Costs	\$ -
Total	\$ 718,571

*Unreimbursed legal costs related to clean up documentation

B. Estimated Revenues to the Agency

Property

Per the terms of the Agreement, the Agency will receive the 1.32 acre vacant Egg Warehouse property located at 1400 North B Street, valued at \$666,072.

Improvement Project

Within two years of the land transfer, Buyer will undertake and complete an improvement project on the existing warehouse property and the subject property valued at \$535,000. That project includes an addition to the existing warehouse, \$505,000 and grading, clearing and fencing on the subject property, \$30,000.

The estimated total value to the Agency is as follows:

Value of Egg Warehouse Property	\$ 666,072
Improvement Project	\$ 535,000
Total	\$ 1,201,072

IV. ESTIMATED VALUE OF THE INTEREST TO BE CONVEYED

The Agency has estimated the value of the interest being conveyed to the Buyer if sold by the Agency at its highest and best use allowed under the Redevelopment Plan. The Site is a landlocked parcel and not suitable for residential development. This Site does not meet City Code Chapter 15.36 requirements, which state that a property must have two exits to be residential. Further it has limited street frontage making it unsuitable for commercial or retail uses. This leaves industrial uses such as that proposed by the Buyer.

The fair reuse value is also a function of the use of the property given the property’s covenants, conditions, and easements as well as the restrictions placed on the property in the Agreement. The Agency is requiring the Buyer to: (1) improve their existing property, (2) improve the subject property and (3) remain in the current location for at least ten years. The Project must occur within two years after conveyance of the site.

To arrive at the fair market value of the properties to be exchanged, the Agency and Buyer commissioned appraisals of the two properties, which appraisals were completed on November 12, 2009 by Bender Rosenthal, Inc. In these appraisals, the subject property was valued at \$1,200,000 and the Egg Warehouse was valued at \$666,072, a difference of \$533,928.

Agency and Buyer have contemplated an exchange of the two properties without monetary compensation. In the Agreement, Buyer has agreed to an improvement program as well as other restrictions which provide the Agency with considerable consideration which compensates for this difference. Below is a list of additional considerations and restrictions placed on the subject property.

Groundwater Monitoring

The State DTSC has recorded a Covenant to Restrict Use of Property against the Site, which requires ongoing groundwater monitoring. The Buyer will assume this responsibility.

Access Agreement

Buyer shall record an Access Agreement for City of Sacramento (City) access to Sump Pump 149, located to the west of the Site. Additionally, an Access Agreement has already been recorded on the subject property for additional access to Sump Pump 149.

Property and other Taxes

The Buyer will be responsible for payment of property and other taxes and fees once the property transfers, which will benefit the various taxing entities.

Regulatory Agreement

Buyer shall record a Regulatory Agreement with Nondiscrimination and Property Maintenance requirements against the subject property.

Ten (10) Year Business Retention

Buyer shall continue its operations of General Produce fresh produce distribution facilities within the River District for at least ten years.

Development of Vacant Property

Buyer shall improve a vacant parcel which is currently an attractive nuisance and undeveloped, landlocked property.

CEQA and Zoning and Land Use Compliance

Buyer shall obtain required land use and zoning approvals, and have complied with the requirements of the California Environmental Quality Act (CEQA).

Prevailing Wages

Buyer shall pay all development and construction costs in a timely manner, including prevailing wages for construction of the Project.

Job Creation

Buyer will be able to expand its current business operations resulting in job growth.

V. CONSIDERATION RECEIVED AND REASONS THEREFORE

The Agency has determined that the highest and best use of the subject property is as an industrial use, such as that proposed by the Buyer. The consideration being given to the Agency is not less than the reuse value. Although the value of the property the Agency will receive in this exchange is less than the appraised value of the subject property, it does not take into account the other considerations, described above, that the Agency receives in this transaction.

The consideration being paid to the Agency is also not less than the consideration that the Agency could receive under the highest and best use with the conditions that an investment be made to reuse the Site, and a business must remain in place for at least ten years.

Furthermore, the property the Agency will obtain in the exchange is superior for the intended use, creating affordable housing. It is not landlocked with only limited street access but has ready access with streets on all four sides.

The Agency has determined that this Project as provided in the Agreement offers the best use for the Site.

VI. ELIMINATION OF BLIGHT

The proposed project as detailed in the Agreement will eliminate blight within the River District Redevelopment Area by providing a viable use for a vacant parcel with limited reuse potential. The proposed project furthers the goals of the River District Redevelopment Area and its Five-Year Implementation Plan, as adopted, by assisting in the elimination of the blighting influences caused by a vacant parcel with limited reuse potential by redeveloping it with a job-generating business, providing fencing to reduce illegal camping and crime, and improving and expanding an existing warehouse operation. Additionally, the Agency will be acquiring a blighted property appropriate for residential development with the intent to redevelop it with an affordable housing project in the future.

The Project will help to eliminate both physical and economic blight and help to meet two of the Agency's original Redevelopment Plan goals: (1) stimulate economic growth; and (2) enhance community facilities within the redevelopment project area. The Project will increase employment, expand a business' operations, create construction jobs and retain full time employment thereafter.

VII. CONFORMANCE WITH FIVE-YEAR IMPLEMENTATION PLAN

The primary Five-Year Implementation Plan program objective for the River District Redevelopment Project area is to eliminate conditions that negatively impact economic development of the community. To that end, the Agency is selling the Site for reuse as additional space for General Produce and General Produce will improve its facility to become more efficient and improve the aesthetics in the area. This will assist in retaining General Produce and the jobs associated with it within the River District area of Sacramento.

Furthermore, the Implementation Plan also establishes a priority objective of stimulating economic growth by encouraging investment in the redevelopment project area. In particular, the Project will enable the retention and expansion of an old established business within the City of Sacramento and transfer a suitable parcel to the Agency for future residential development. The Project conforms to the Implementation Plan and will achieve the goals specifically defined in the implementation plan.

Lastly, the project will further the Implementation Plan goal of creating affordable housing by providing the Agency with a site suitable for future development of residential housing.