Sacramento Housing & Redevelopment Agency

REPORT TO REDEVELOPMENT AGENCY
City of Sacramento
915 I Street, Sacramento, CA 95814-2671
www.CityofSacramento.org

Consent
December 4, 2007

Honorable Chair and Members of the Board

Title: Regent Development, Inc.

Location/Council District: 3400 Stockton Boulevard and 4601 10th Avenue, Oak Park Redevelopment Area/Council District 5

Recommendation: Adopt a **Redevelopment Agency Resolution** authorizing the Executive Director or her designee to execute an amendment to the Disposition and Development Agreement with Regent Development, Inc. for development of the vacant parcel .

Contact: Lisa Bates, Deputy Executive Director, 440-1330, Christine Weichert, Assistant Director, Housing and Community Development, 440-1353

Department: Sacramento Housing and Redevelopment Agency

Description/Analysis

Issue: In 2003, Regent Development Inc. (Regent) approached the Sacramento Housing and Redevelopment Agency (Agency) and requested an Exclusive Right to Negotiate (ERN) to develop a mixed used building (Project) on the Agency-owned site. At the time, Regent had just completed a County Primary Care facility at the corner of Broadway and Stockton Boulevard and wanted to continue to develop Stockton Boulevard.

Regent and the Agency agreed that the land should be sold at fair market value, which would be established by an independent appraisal. Unfortunately the land was acquired by the Agency with tax exempt bond funds, which can only be granted, not sold. Regent explored ways to proceed with the project while still keeping their commitment to pay for the land. The result was a Disposition and Development Agreement (DDA) between Regent and the Community Pride Project (CPP). CPP, a mutual benefit non-profit organization formed by the Stockton Boulevard Partnership (SPB), would receive the land from the Agency

and then sell the property at fair market value to Regent. CPP would reinvest the sale proceeds in the community.

On September 30, 2005, the Agency transferred the land to CPP at no cost. CPP then sold the property to Regent for approximately $195,000. The Schedule of Performances in the DDA required that the Project be substantially completed by July 15, 2007.

The Project consisted of a mixed use development of approximately 100,000 square feet with ground floor retail, one floor of office space and the two floors dedicated to residential market rate lofts. Unfortunately, demand for the residential lofts has decreased significantly since Regent began this process. Regent has been researching alternatives to the residential lofts to make the project financially feasible and is working to negotiate a long-term lease agreement with University of California Davis (UC Davis) to utilize the residential portion for student housing. Regent has requested an amendment to the DDA enabling them to continue negotiations with UC Davis. They anticipate completing the negotiations by the end of the year and new site plans being completed approximately four months later, with a revised project completion date of November 2009.

Regent has agreed to a new Schedule of Performances, which is contingent upon Regent reaching an agreement with UC Davis by December 31, 2007. If an agreement can not be reached, Regent will be out of compliance with both the original DDA and the DDA Amendment and will be asked to sell the land back to the Agency. The proposed Schedule of Performances is as follows:

	Deadline
1. Reach Long-term Lease Agreement for Residential Units	December 31, 2007
2. Completion of Construction Documents	April 30, 2007
3. City Approval of Plans & Issue Building Permit	August 31, 2008
4. Construction Financing Secured	July 31, 2008
5. Construction Start	October 31, 2008
6. Building Shell Complete	May 31, 2009
7. Complete Construction	November 30, 2009

Policy Considerations: The recommended action is consistent with the following goals of the Oak Park Redevelopment Plan: 1) Creation of additional employment opportunities for Project Area residents; and 2) Maximize private participation and investment in the redevelopment effort.

Environmental Considerations: The project was previously reviewed under the California Environmental Quality Act (CEQA). An Initial Study and Mitigated Negative Declaration were approved on August 23, 2005. The National Environmental Policy Act (NEPA) does not apply.

Committee/Commission Action: *Oak Park Redevelopment Advisory Committee (RAC):* At its meeting on October 10, 2007, the RAC voted unanimously to support staff's recommendation for this item. The votes were as follows:

AYES: Davis, Hilbert, Lackey, Meng, Redmond, Taylor, Thomas

NOES: None

ABSENT: Curry-Evans, Kivel, Johnson, Mercado

Sacramento Housing and Redevelopment Commission: At its meeting on November 7, 2007, the Sacramento Housing and Redevelopment Commission considered the staff recommendation for this item. The votes were as follows:

AYES: Burrus, Chan, Coriano, Dean, Gore, Hoag, Otto, Piatkowski

NOES: None

ABSENT: Fowler, Shah, Stivers

Rationale for Recommendation: The project is designed to achieve the goals of the Oak Park Redevelopment Plan. Since the project is being built on a vacant site, it will assist in the elimination of blight. Additional benefits are that the development will include a return of the site to the tax rolls and create a considerable increase in tax increment revenues. The completed project would provide needed retail/commercial outlets and employment opportunities for project residents and for the community.

Financial Considerations: No funding is being requested at this time. If approved and executed, the proposed DDA Amendment would obligate the Developer to move this project forward.

December 4, 2007

Amendment to the Disposition and Development Agreement with Regent Development, Inc.

M/WBE Considerations: The items discussed in this report have no M/WBE impact; therefore, M/WBE considerations do not apply.

Respectfully Submitted by:

ANNE M. MOORE
Executive Director

Recommendation Approved:

for RAY KERRIDGE
City Manager

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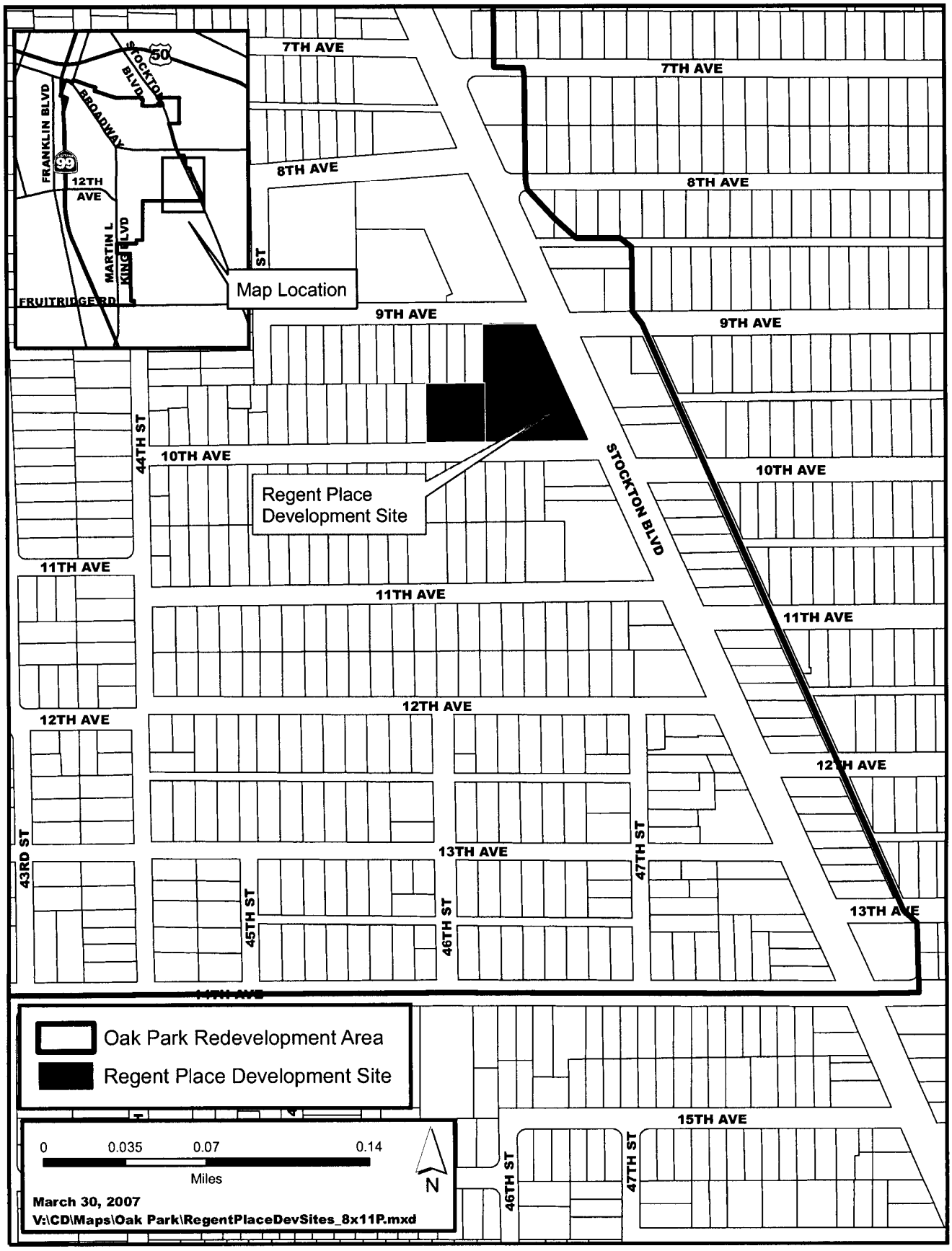
Sacramento Housing & Redevelopment Agency

Regent Place Development Site
Oak Park Redevelopment Area



RESOLUTION NO. 2007 - ____

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF

APPROVAL OF AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH REGENT DEVELOPMENT, INC. FOR DEVELOPMENT OF THE REGENT PLACE PROJECT IN THE OAK PARK REDEVELOPMENT PROJECT AREA

BACKGROUND

A. The Redevelopment Agency of the City of Sacramento ("Agency") has adopted the Oak Park Redevelopment Plan ("Redevelopment Plan") and an Implementation Plan for Oak Park Project Area ("Project Area").

B. Agency and Regent Development, Inc. ("Developer") have entered into a Disposition and Development Agreement ("DDA") conveying the Property to Developer for construction of a mixed-use project; as more specifically described in the DDA, and which would require the improvements within the Property, as further described in the DDA (collectively, "Project").

C. The Developer has encountered delays to the Project and asked for an extension to the Exhibit 4, Section 3, the Schedule of Performances.

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

Section 1. The amendment to the Disposition and Development Agreement, a copy of which is attached as Exhibit 1, is approved and the Executive Director is authorized to execute the amendment, and to perform other actions as necessary to implement the terms of the DDA.

NO FEE DOCUMENT:
Entitled to free recording
per Government Code 6103.
When recorded, return to:
SACRAMENTO HOUSING AND
REDEVELOPMENT AGENCY
630 "I" Street
Sacramento, CA 95814
Attention: Portfolio Management

FIRST AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT AND TO THE REGULATORY AGREEMENT FOR MIXED USE DEVELOPMENT INCLUDING COVENANTS, CONDITIONS AND RESTRICTIONS RUNNING WITH THE LAND, RECORDED AS REQUIRED THEREBY

REGENT PLACE PROJECT
OAK PARK NEIGHBORHOOD REDEVELOPMENT PROJECT AREA

AS OF THE EFFECTIVE DATE, AND IN CONSIDERATION OF THEIR MUTUAL OBLIGATIONS, REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, the "Agency", and Regent Place, LLC, the "Developer", enter into this "Amendment" and amend the "Disposition and Development Agreement", as follows.

1. **RECITALS.** Developer and Agency have entered into the Disposition and Development Agreement for the conveyance of the Property to Developer for redevelopment of the Property in accordance with the terms of said agreement. As a result of market conditions and failure to obtain third-party leasing concessions originally contemplated, Developer has failed to timely commence and complete construction as contemplated by the Disposition and Development Agreement. Agency is willing to extend time for Developer to complete such obligations, but with strict adherence to the new Schedule of Performances attached.

2. **DEFINITIONS.** Terms in quotation marks above and capitalized terms below are defined terms and shall have the meanings so ascribed to them in the table below. The statements set out in this Section regarding the Disposition and Development Agreement are true and correct.

A. GENERAL		
"Effective Date"	The Effective Date is the effective date of this Amendment, which is the following.	December 5, 2007
"Agency"	Redevelopment Agency of the City of Sacramento, a political body, corporate and politic, whose address is 630 I Street, Sacramento, California 95814	
"Developer"	Regent Development, Inc., a California Corporation, whose address is 798 University Avenue, Sacramento, California 95825. Developer is the assignee of the original maker of the Disposition and Development Agreement, Original Developer.	
"Original Developer	Community Pride Project, a California 501(C)(3) Mutual Benefit Nonprofit Corporation, which has assigned the Disposition and Development Agreement to Developer.	

B. DISPOSITION AND DEVELOPMENT AGREEMENT		
"Disposition and Development Agreement"	Disposition and Development Agreement is the agreement for the Original Principal Amount made by and between Agency and Developer as of the following date and having the following title:	Date: July 15, 2005
"Regulatory Agreement"	Regulatory Agreement is the regulatory agreement containing covenants, conditions, restrictions and regulations, executed by Developer in favor of Agency, required as a condition of the Disposition and Development	Date: July 15, 2005

	Agreement, dated as of the following date and recorded against the Property in the Office of the County Recorder of Sacramento County on the recording date, and series and document number as follows.	Recording Date: Series Number: Document Number:
"Property"	The Property is that certain real property which is subject to the Disposition and Development Agreement and which is located at 3400 Stockton Boulevard and 4601 10th Avenue in Sacramento, California, as more particularly described in the **Exhibit 1 Legal Description** that is attached to this Amendment and incorporated in it by this reference.	

AMENDMENTS AND CHANGES	
"Disposition and Development Agreement Changes"	The Disposition and Development Agreement is amended to replace the Schedule of Performances attached to the Disposition and Development Agreement with the Schedule of Performances attached as **Exhibit 2 Schedule of Performances**, attached to this Amendment and incorporated in this amendment by this reference.
"Regulatory Agreement Changes"	The Term of the Regulatory Agreement is the term of the Redevelopment Plan as defined in the Disposition and Development Agreement, as it may be amended from time to time, but in any event not to exceed thirty (30) years.

1. **DISPOSITION AND DEVELOPMENT AGREEMENT CHANGES.** The Disposition and Development Agreement is amended to make the changes indicated in the Disposition and Development Agreement Changes, as defined above.

2. **REGULATORY AGREEMENT CHANGES.** The Regulatory Agreement is amended to make the changes indicated in the Regulatory Agreement Changes, as defined above.

3. **GENERAL PROVISIONS.**

a. No rights, obligations, or defaults of the parties are waived by this Amendment, except as expressly stated in this Amendment.

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

Executed on _____, in Sacramento, California.

DEVELOPER
Regent Development, Inc.
A California Corporation

By:

_____
Darrell Petray
President
Authorized Signatory

AGENCY
Redevelopment Agency of the City of Sacramento

By:

_____
Anne M. Moore
Executive Director

Approved as to form:

_____
Agency Counsel

[ACKNOWLEDGMENTS]

EXHIBIT 1

LEGAL DESCRIPTION

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

Parcel No. 1:

All of Lots 27,28, and 29 as shown on the "Plat of Tresch Tract", recorded in Book 13 of Maps, Map No. 58, and Lots 7818, 7819, 7820, 7821 and 7822 as shown on the "Plat of H.J. Goethe Company's Subdivision No. 78" recorded in Book 7 of Maps, Map No. 18 records of County of Sacramento Official Records, and more particularly described in Parcel 1 in that certain Certificate of Compliance for Lot Merger recorded December 23, 2003 in Book 20031223, Page 1325 of Official Records.

Parcel No. 2:

All of Lots 7815, 7816, 7817 as shown on the "Plat of H.J. Goethe Company's Subdivision No. 78", recorded in Book 7 of Maps, Map No. 18 of the County of Sacramento Official Records, and more particularly described as Parcel 1in that Certificate of Compliance for Lot Merger recorded December 23, 2003 in Book 20031223, Page 1324 of Official Records.

APN No: 014-0222-067-0000
014-0222-068-0000

EXHIBIT 2

SCHEDULE OF PERFORMANCES

Attachment 3

SCHEDULE OF PERFORMANCES
(as amended)

ITEM	TASK	DATE FOR COMPLETION
1	Agency to convey property to Developer.	Sept. 30, 2005
2	Developer to obtain long term lease for residential portion of the project from a master tenant.*	Dec. 31, 2007
3	Developer to complete plans and specifications and submitted them to City for approval of all construction contemplated by the Disposition and Development Agreement	April 30, 2008
4	Developer to obtain City approval of said plans and specifications	Aug. 31, 2008
5	Developer to obtain unconditional commitment to construction financing for all of the Project	July 31, 2008
6	Developer to start Project construction, beyond grading, excavation and site preparation.	Oct. 31, 2008
7	Developer to complete shell of Project improvements.	May 31, 2009
8	Developer to complete all Project construction.	Nov. 31, 2009

***NOTE:** If Developer does not complete Task No. 2 by December 31, 2007, the Agency will request that they Developer reconvey the land for the original purchase price of the property.

NO FEE DOCUMENT:
Entitled to free recording
per Government Code 6103.
When recorded, return to:
SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY
630 "I" Street
Sacramento, CA 95814

ALLIANCE TITLE COMPANY
hereby certifies this is a true and correct
copy of the original RECORDED 9/30/05
under RECORDER'S SERIAL NO. 05200509 30
P834

Authorized Signature

DISPOSITION AND DEVELOPMENT AGREEMENT
REGENT PLACE
OAK PARK NEIGHBORHOOD REDEVELOPMENT PROJECT AREA

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

COMMUNITY PRIDE PROJECT, A CALIFORNIA NONPROFIT MUTUAL BENEFIT CORPORATION

August 23, 2005

DISPOSITION AND DEVELOPMENT AGREEMENT

Regent Place
Oak Park Neighborhood Redevelopment Project Area

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, and Community Pride Project, a CALIFORNIA 501(C)(3) MUTUAL BENEFIT NONPROFIT CORPORATION also called Agency and Developer, respectively, enter into this Disposition and Development Agreement, also called DDA, as of July 15th, 2005. [For purposes of this Agreement, the capitalized terms shall have the meanings assigned in Section 12.]

RECITALS

A. Agency is the owner of real property located at 3400 Stockton Boulevard and 4601 10th Avenue in the City of Sacramento, State of California, more particularly described in the Property Description.

B. The Property is located in the Oak Park Neighborhood Redevelopment Project Area and is subject to the redevelopment plan for the Project Area. Further, Developer acknowledges that Developer is purchasing the 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. This DDA is consistent with, and furthers, the Redevelopment Plan and the "Implementation Plan" adopted for the Project Area in that it meets the following implementation plan goals: elimination of blighting conditions and foster economic development of the project area, including creation of jobs and improving the business climate.

C. The primary purpose of this DDA is the elimination of the following blighting influences: low values, impaired investment, and vacant parcels. In order to accomplish such purpose, the DDA provides that the Agency will transfer the Agency's interests in the Property to Developer, upon the express condition that Developer will transfer the Property to a development entity which new entity shall fully assume Developer's rights and obligations under this DDA and redevelop the Property as provided in this DDA. This DDA is intended to assure that the Developer will cause the redevelopment of the Property and that the Developer is not merely speculating in land.

D. Developer desires to assure the development of the Property, and Agency desires to sell the Property for development, on the terms and conditions in this DDA. Agency acknowledges that Developer intends to assign this DDA and transfer the rights under the DDA to Regent Development, Inc., a California corporation (hereinafter "Regent"), in accordance with the terms of this DDA.

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 Property to Developer for contribution to Developer solely for the purposes of developing the Project. The Project shall be the following: a four-story, mixed-use commercial building, including first floor retail space, second and third floor office space, fourth floor residential space, and underground parking for the office and residential uses; provided, however, that Developer may request of Agency an amendment to the Regulatory Agreement to allow the first floor retail space to be converted to office uses if Developer provides evidence that Developer has used its best efforts to obtain retail tenants and that interested retail tenants cannot be found, and if Agency reasonably determines that no interested retail tenants are available or will be available in the then foreseeable future, Agency will agree to such amendment.

3. **PURCHASE AND SALE**. Agency agrees to sell and Developer agrees to purchase the Property subject to the terms and conditions in this DDA.

3.1. **PURCHASE PRICE**. The Purchase Price for the Property shall be One Dollar ($1) and shall be payable prior to the conveyance of the Property to Developer as a condition precedent to its conveyance. Developer shall have the right to assign all rights under this DDA, including without limitation, the right to acquire the Property, to Regent, subject to all terms of this DDA, and Regent may act on behalf of Developer to fulfill the conditions precedent to Developer's purchase of the Property from the Agency and to take all other actions required of Developer prior to conveyance of the Property to Developer under this DDA. Such sale of the Property by Developer to Regent shall have no force and effect unless and until Regent executes an assignment of this DDA, which shall bind and subject Regent to all of the rights and obligations of Developer under this DDA.

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.

3.3. **CONTINGENCY PERIOD**. Commencing on the date of this DDA and continuing for one (1) year thereafter, Developer shall have the opportunity to transfer Property back to the Agency pursuant to Section 4.20.3 below. It is understood and acknowledged by the Parties hereto, that

the exact nature, extent of and cost to remediate the soil cannot be fully ascertained until such soil has been excavated. Therefore, the Contingency Period shall continue through excavation and in any event no longer than one (1) year following the date of this DDA. No later than one (1) year following the date of this DDA, Developer shall inform Agency in writing if Developer wishes to reconvey the Property on the terms and conditions set forth in Section 4.20.3. Developer may undertake, at Developer's expense, an inspection of the property, by itself or its designee, which may include a review of the physical condition of the Property, including but not limited to information relating to the inspection and testing of soils, environmental factors, Hazardous Substances, if any, and archeological reports, engineering data, regulations, ordinances, and laws affecting the Property.

3.3.1. The Contingency Period shall not be tolled or extended for any reason, except by written extension signed by the Agency.

3.3.2. Within five (5) days following the full execution of this DDA by both parties, Agency shall make available to Developer copies of all documents known to Agency staff working directly on the Project. Such staff shall exercise due diligence in seeking such documents within the Agency.

3.3.3. If, during the Contingency Period, Developer determines, in its sole and absolute discretion that it does not approve of the Property Developer may elect to rescind this DDA prior to the termination of the Contingency Period by giving written notice to Agency and tendering to Agency any Agency property then in Developer's possession. If Developer fails to give such notice, as and when due, Developer shall be deemed satisfied with the results of its due diligence inquiry and the condition of the Property and shall have no further right to terminate the DDA on the basis of the condition of the Property.

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 building permits sufficient to commence Project construction; providing all required budgets, reports, evidence of insurance and evidence of funding sufficient for construction; and providing required construction contracts. Agency acknowledges that Developer or its assignee has already provided an Agency-approved budget and evidence of funding sufficient to meet the requirements of this Section. If Developer provides a different budget to any other entity prior to the conveyance of the Property to Developer, Developer shall, as a condition to conveyance of the Property, deliver a copy of such other budget to the Agency for approval.

3.4.2. Developer has entered into an agreement, acceptable to Agency, pursuant to which Developer shall assign the DDA and the right to acquire the Property, for a payment of One Hundred Ninety-five Thousand Dollars ($195,000), to Regent, subject to written assumption, approved by Agency, by which the assignee assumes all of Developer's rights and obligations under this DDA.

3.4.3. Developer has reimbursed the Agency for all third-party costs incurred by the Agency in fulfilling the requirements of CEQA review and compliance for the Project.

3.4.4. Developer has submitted proof to Agency of construction financing in an amount adequate to begin the Project work and Agency confirms that no further proof of financing is required.

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

3.4.6. 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.

3.4.7. 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 and to Close Escrow 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. Agency has received a letter(s) from the County of Sacramento and any other applicable governmental agencies with jurisdiction stating that no further hazardous materials remediation is currently required on the Property and that the Property is safe for residential, retail and office uses.

3.5.5. 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.

3.5.6. The Property shall be free and clear of all liens, easements, encumbrances, mortgages, deeds of trust, clouds and conditions, rights of occupancy or possession, except those approved in writing by Developer.

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:

3.6.1.1. 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 and underground storage tanks, or informing Agency that the Property is subject to investigation or inquiry regarding Hazardous Substances and underground storage tanks on the Property.

3.6.1.2. Agency has caused both Phase I and Phase II environmental studies to be performed for the Property and to be updated current with this DDA. Agency has provided Developer, or its designee, with a copy of all of said studies and their updates and Developer agrees that as to this study Developer acquires no rights against the Agency. Agency hereby assigns to Developer any and all rights Agency has against the individuals or firms who prepared the study in the event such studies are subsequently determined to be incorrect, incomplete or otherwise defective or negligently prepared in some manner.

3.6.1.3. 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 Property or with respect to Agency that would affect the Property.

3.6.1.4. 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:

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

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

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

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

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

3.6.3. **DEVELOPER'S REPRESENTATIONS AND WARRANTIES.** In anticipation of the assignment of the DDA to Regent, Developer is making no representations and warranties, but as a condition of assignment of the DDA to Regent and assumption of the rights and obligations of this DDA, Regent represents and warrants to Agency that as of the date of Regent's assumption of this DDA, and as a condition of Regent's assumption of this DDA:

3.6.3.1. Regent has reviewed the condition of the Property, including without limitation, physical condition of the Property (above and below the surface) and issues regarding land use and development of the Property, is satisfied that the Property is suitable in all respects for its intended development and uses, as it is and without addition of other parcels.

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

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

3.6.3.4. Any information that Regent has delivered to Agency, either directly or through Regent's agents, is, to the best of Regent's actual knowledge, accurate, and Regent has disclosed all material facts concerning Regent's intended operation and development of the Property.

3.6.3.5. Regent has the financial capacity, the equity and the financing necessary to fulfill its obligations under this DDA and acquire the Property. Regent represents that any equity and funding commitments represented by Regent to Agency as available to the Project are unencumbered and that Regent 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.

3.6.3.6. This DDA and all other documents delivered for the Close of Escrow have been duly authorized, executed, and delivered by Regent; are binding obligations of Regent; and do not violate the provisions of any agreements to which Regent 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:

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

3.6.4.2. 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.

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

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

3.6.4.5. Developer shall complete the development of the Project at Developer's cost and without requesting or receiving any Agency or City contributions to the Project.

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

3.6.5. **CLOSE OF ESCROW.** The Escrow shall not close, and the Property shall not be conveyed to Developer 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.

3.6.6. **DAMAGE, DESTRUCTION AND CONDEMNATION BEFORE CLOSE OF ESCROW.** Prior to the Close of Escrow, (a) if damage occurs to any portion of the 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 its employees, agents, Contractor or subcontractors) resulting in repairs or remediation costs that will exceed Fifty Thousand Dollars ($50,000) or (b) if 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 ten percent (10%) or more decrease in the after-taking value of the Property, Agency shall notify Developer and Regent in writing of the damage, destruction or condemnation , and Developer may, within fifteen (15) days after such notice, elect to terminate this DDA by written notice to Agency. If this DDA is to continue in full force and effect after any such damage or destruction, 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 If this DDA is to continue in full force and effect after such condemnation action, 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. **COMMISSIONS.** Agency is not responsible, by this DDA or otherwise, to pay commissions on this transaction or any related transaction.

3.8. **PREPARATION AND APPROVAL OF PLANS AND RELATED DOCUMENTS.** The Agency has reviewed the Plans to assure their conformity with the provisions of this DDA and hereby approves of the Plans presented to Agency dated July 30, 2004, which plans were prepared by Ekistics Design Studio. The Agency has been induced to undertake its obligations under this DDA by Developer's promise to cause the development of the Project in accordance with the Plans, the Scope of Development and the provisions of this DDA.

3.8.1. **GOVERNMENTAL CHANGES.** If any revisions or corrections of the 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.

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

3.8.2.1. **SUBSTANTIAL CHANGE.** A substantial change in the Plans shall include, without limitation, the following changes, excluding those items generally considered to be tenant improvements:

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

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

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

4) Material changes in site development items for the Property that are specified in the Plans.

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

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

7) Any change in public amenities specified in the Plans.

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

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

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

4. **DEVELOPMENT PROVISIONS.** As stated in detail in this Section 4, Developer shall construct and manage the Project according to the requirements established in this 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.

4.1. **PROJECT COMMENCEMENT.** Developer shall not enter the Property, except with an entry permit granted by the Agency, or begin work on the Project until the Agency has conveyed the Property to Developer and Developer is in full compliance with all governmental requirements for start of construction.

4.2. **CONSTRUCTION CONTRACTS.** Developer shall submit to Agency the construction contract or contracts for the Project, provided, however, that Developer may redact and omit the financial terms and provisions of the construction contract, excepting the contract amount. Agency's review of the construction contract shall be limited to determining the construction contract's compliance with this DDA.

4.3. **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 has submitted plans to the City's Planning Department. In addition, Developer shall, as applicable, take designs before the City's Design Review/Preservation Board or its appropriate subcommittee for comment as soon as practicable. Conditions to the Project imposed by the City shall be considered obligations of the

Developer under this 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.

4.4. **ART IN PUBLIC PLACES.** The Project is subject to the Art in Public Places Program. Developer shall comply fully with the Art in Public Places Program, and pursuant to such policy, Developer shall expend, for the acquisition and installation of Aesthetic Improvements, not less than two percent (2%) of the construction contract price for the Project.

4.5. **PAYMENT BOND.** As a condition precedent to beginning construction of the Project, the Developer shall provide the Agency a copy of a payment bond obtained by Developer or Contractor in favor of the Developer as a named obligee, in form and amount as approved by the Agency securing payment of all labor and material suppliers and subcontractors for the work as stated in the construction contract for the Project. The bond shall be written with a surety listed as acceptable to the federal government on its most recent list of sureties. Developer shall assure compliance with all requirements of the surety. Developer shall permit no changes in the work to be performed by the Contractor and shall make no advance payments to the Contractor without prior written notice to the surety and the Agency, if such change or payment could release the surety of its obligations under the bond.

4.6. **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 Plans, without Agency approval of such changes.

4.7. **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.

4.8. **PREVAILING WAGES.** The parties acknowledge that the Project may be subject to the payment of prevailing wages. Developer has had the opportunity to meet with Developer's legal counsel and to request a ruling on the matter before the appropriate governmental body. Developer has made its independent determination of the applicability of prevailing wage laws and has independently implemented such determination. 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 Developer's determinations and actions related to prevailing wage obligations for the work of this DDA.

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

4.10. **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.

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

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

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

4.11. **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.

4.12. **AGENCY ACCESS TO THE PROPERTY.** Developer shall permit Agency representatives reasonable access, without charge, to the entire Property during normal business hours 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. Agency representatives shall comply with all reasonable safety precautions required by Developer and the Contractor.

4.13. **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.

4.14. **CERTIFICATE OF COMPLETION.** After the Agency has determined that Developer has completed the construction of the Project in accordance with the 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, 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 in the Official Records of Sacramento County.

4.14.1. 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.

4.14.2. If the Agency fails to provide a Certificate of Completion within fifteen (15) days after written request by Developer, the Agency shall, within an additional (15) days after a second written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Project in accordance with the provisions of the 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.

4.15. **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 Twenty-Five Dollars and No Cents ($ 25.00) for each day 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. In the event of an uncured default by Developer, 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

months excluding any period of Unavoidable Delay, at which time Developer shall be deemed in material default of this DDA.

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

4.17. **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.

4.18. **PROPERTY CONDITION.** As between the Agency and Developer, Developer is solely responsible for the adequacy of investigations conducted or allowed during the Contingency Period.

4.18.1. Except as provided in this DDA, if the condition of the Property (with the exception of Hazardous Substances and underground storage tanks) 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. Except as provided in this DDA, Agency shall not be responsible for removing any surface or subsurface obstructions, or structures of any kind on or under the Property.

4.18.2. Developer is solely responsible for the development, at Developer's cost, of all improvements, services, and amenities required or desired for the Project, including without limitation, the routing or relocation of any and all utility lines within and serving the Property. Developer acknowledges that the Property may have inadequate water service to satisfy Fire Department requirements for the Project. Developer is solely responsible, at Developer's cost, to assure that adequate water service is available to the Property.

4.19. **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.

4.20. **HAZARDOUS SUBSTANCES.** Agency and Developer, for itself and its successors in interest, acknowledge the existence of Hazardous Substances on the Property, to the extent characterized by Phase I and Phase II Hazardous Materials Investigation reports, obtained by Agency and delivered to Developer and Regent.

4.20.1 Developer has agreed to mitigate the Hazardous Substances as set forth below to the extent necessary to complete development of the Project in conformance with all applicable laws. If the Contingency Period has terminated without Developer's rescission of this DDA, Developer shall, thereafter, be solely responsible to obtain such Hazardous Substances assessments as Developer deems reasonably necessary to assure the development of the Project in accordance with all applicable laws, rules and regulations; and shall be solely responsible to remediate any Hazardous Substances later discharged on the Property, as and to the extent required by any federal, state or local agency having jurisdiction regarding Hazardous Substances standards or remediation and as may be necessary to avoid incurring liability or further liability under any federal, State and local law or regulation.

4.20.2 Notwithstanding the preceding subsection 4.20.1, Agency agrees that Developer, or Regent as the Developer's assignee, will be responsible for the excavation, removal and disposal of the soil identified as contaminated in said Hazardous Materials investigation reports, on behalf of and in the name of the Agency. Agency specifically agrees that all contaminated soils removed and disposed of from the Property shall be and remain at all times in the ownership of Agency and that the Agency will be shown as the owner of such contaminated soils on all manifests, reports, and other documents connected with the excavation, transport and disposal of said soils, whether occurring before or after the Close of Escrow for the Property. Said contaminated soils excavation, removal and disposal shall be performed in accordance with all applicable laws. If Regent determines that the cost to excavate, remove and dispose of the contaminated soils will exceed Fifty Thousand Dollars ($50,000) based on actual expenses as evidenced by invoices or contracts, Agency agrees that Regent may either:

(a) Elect to terminate this DDA by written notice given to Agency within fifteen (15) days after determination and in any event, no later than one (1) year after the date of this DDA, that the cost of removal and disposal of the contaminated soils will exceed the sum of Fifty Thousand Dollars ($50,000), if such a determination is made prior to the Close of Escrow for the Property; or

(b) If the determination of excess cost is made after the Close of Escrow, Regent shall have the right to transfer ownership of the Property back to Agency by deed, and Agency hereby covenants and agrees to accept such a deed and ownership of the Property.

4.20.3 In the event of a termination of this DDA or a transfer of ownership of the Property back to Agency pursuant to Subsection 4.20.2, Agency agrees to the following as it relates to contaminated soil located within the underground parking garage excavation area: Regent shall refill so much of the excavation at the Property as was performed prior to the date of termination or transfer, as applicable, with clean fill and Agency hereby covenants and agrees to reimburse Regent for the cost of a hazardous materials certified crew to excavate the contaminated soil in the garage area, removal and disposal of the contaminated soils, as well as the cost to refill the excavation with clean fill, up to a maximum amount of Fifty Thousand Dollars ($50,000). Said amount shall be based upon actual, direct costs as documented by invoices or contracts. Upon completion of such fill and the reimbursement of costs to Regent, this DDA shall terminate without further action, excepting only as to items which by their

express terms survive termination. A soils management plan is attached to this DDA as **Exhibit 7, Soils Management Plan,** however, such Soils Management Plan shall not be construed to limit or restrict the extent of the excavation, removal and disposal of the contaminated soils at the Property.

4.20.4 In the event this DDA is terminated or the ownership of the Property is transferred back to Agency pursuant to the foregoing provisions of Subsection 4.20.2 (a) or (b), Agency covenants and agrees to indemnify, defend (with legal counsel reasonably approved by Developer and Regent) and hold harmless Developer and Regent, and their officers, directors, employees, shareholders and agents from any and all loss, damage, claim, liability, expense, fine, penalty, cost, lien, action, award, arbitration, litigation or judgment (including, without limitation attorneys' fees and defense costs) incurred for any personal injury, property damage, costs of remediation of any Hazardous Substances or contaminated soils at the Property (including, without limitation, the cost of consultants and contractors to prepare and implement a remediation plan), or other loss or damage of any kind arising from, resulting from, or in any way related to the storage, disposal or release of Hazardous Substances or contaminated soils at the Property, to the extent such storage, disposal or release did not result from the negligence or intentional misconduct of Developer or Regent.

4.20.5 All of the foregoing provisions of Sections 4.20.2 through 4.20.4 shall survive the Close of Escrow and the recordation of a deed to Regent for the Property or an earlier termination of this DDA.

4.21. **DEVELOPER ACCESS TO PROPERTY.** During the Contingency Period, the Agency shall permit representatives of Developer and its assignee to have access, without charge, to the 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 Developer and its assignee shall not enter the Property except (a) after execution by Developer and Agency of Agency's standard "Permit for Entry" and (b) after Developer or Regent has obtained insurance coverage then required by Agency. No work shall be performed on the Property until a "Notice of Nonresponsibility" has been recorded and posted in accordance with applicable laws, assuring that Agency interest in the Property shall not be subject to mechanic's liens related to such work. Developer or Regent shall not commence any work on the Property without Agency's written approval of the work to be done, and in any event, Developer and Regent shall not commence any work which might be construed as commencement of the work of the Project for establishment of mechanic's lien rights.

5. **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. Developer and Regent have provided 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 provided 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 or Regent shall provide evidence, reasonably 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 to the Project. Developer shall submit to Agency all budgets prepared by Developer and submitted to any Project lender or equity participant.

5.1. **EVIDENCE OF AVAILABLE FUNDS.** Agency acknowledges that Developer and Regent have provided it with evidence of available funds, as required in the preceding section Developer shall promptly inform Agency of any changes to the budget and proposed financing, together with sufficient information to determine if sufficient funds remain available for the development of the Project.

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

5.3. **EVIDENCE OF DEVELOPER EQUITY.** Unless otherwise agreed in writing by the Agency and Developer, Developer shall not provide evidence of additional equity.

6. **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 Property that were not on the Property prior to Agency's transfer of possession of the 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 Property pursuant to this Section, except to the extent as provided otherwise in Sections 4.20.1 through 4.20.5, inclusive.

6.1.1. 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 Property during or prior to Agency's ownership of the Property or related to the removal or discharge of Hazardous Substances by Agency or its employees, agents or contractors.

6.1.2 This indemnification provision shall survive the termination of this DDA.

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

7.1.1. Agency shall indemnify, protect, defend and hold Developer, its officers, directors, shareholders, employees and agents 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 and its officers, directors, shareholders, employees and agents in defending against such liability claims, including attorney's fees, except for injury, death or property damage caused by the negligent act or willful misconduct of Developer.

7.1.2. This mutual indemnification provision shall survive the termination of this Agreement.

8. **LIABILITY INSURANCE.** With regard to this DDA, the Developer shall obtain and maintain for the life of the Regulatory Agreements, 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.

8.1. **LIABILITY INSURANCE POLICY LIMITS.** Developer shall obtain all insurance under this Section 8 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:

8.2. **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.

8.3. **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; $2,000,000 general aggregate limit, all per location of the Project. Developer shall require the Contractor to carry $2,000,000 products and completed operations aggregate limit on the Contractor's commercial general liability insurance policy and name the Agency as an additional insured thereon.

8.4. **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.

8.5. **PROPERTY INSURANCE.** For the duration of the Regulatory Agreements, 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 Lender, Developer shall use the proceeds of such insurance to reconstruct the Project and the public improvements.

8.6. **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:

8.6.1. **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.

8.6.2. **SINGLE PROJECT INSURANCE.** It is the intent of the parties that the Project have available all the specified insurance coverages. Developer shall not provide insurance coverages that are considered in aggregate with other Projects which Developer or its Contractor might

have concurrently under construction. The Agency may at its discretion permit an aggregate policy if and only if Developer or the respective Contractor or subcontractor has fully disclosed to Agency other projects which will or may be considered in aggregate with the Project, and thereafter, Developer shall immediately inform Agency of the change in or addition to any such projects. Nevertheless, Agency may, at any time require that the insurance coverage be provided solely for the Project.

8.6.3. **CERTIFIED POLICY COPY**. Developer shall provide Agency with a certified copy of each required policy of insurance. Pending delivery of the certified policy, Developer shall provide Agency with a Certificate of Insurance for each policy on the applicable ACCORD form. The ACCORD form shall not substitute for the policy. ACCORD 25-S "Certificate of Liability Insurance" shall be used for liability insurance deleting the sentence in the top right-hand block immediately below the title (commencing "This certificate is issued as a matter of information . . .) and in the bottom right-hand box above the authorized representative signature, deleting the words "endeavor to" and "but failure to do so shall impose not obligation or liability of any kind upon the insurer, its agents or representatives."

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

8.6.5. **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 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.

8.6.6. **BLANKET COVERAGE**. Developer's obligation to carry insurance as required under this Section 8 may be satisfied by coverage under a "blanket" policy or policies of insurance (as the term is customarily used in the insurance industry); provided, however, that the Agency shall nevertheless be named as an additional insured under such blanket policy or policies to the extent required by this Section, the coverage afforded the Agency will not be reduced or diminished thereby, and all of the other requirements of this Section 8 with respect to such insurance shall otherwise be satisfied by such blanket policy.

9. **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. As a condition precedent to termination of the DDA under this Section, each party shall first tender the return of all property or funds received from or on behalf of the other party, other than funds properly retained as liquidated damages. After such return of property and funds and termination of the 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.

9.1. **REVESTING TITLE IN AGENCY.** Notwithstanding any other provisions of this DDA and in addition to any other rights and remedies of the Agency, after conveyance of any part of the Property to Developer and prior to issuance of the Certificate of Completion, if Developer defaults in its obligations related to the Project development, abandons or unreasonably suspends Project construction work, permits any unauthorized encumbrance or lien (including tax liens) and fails to discharge any such unauthorized lien or encumbrance, or permits any transfer of all or any part of the Property, then the Agency shall have, for a period of one year following the Completion Date, the right to re-enter and take possession of the Property, or any part of the Property conveyed to Developer, and to terminate and revest in the Agency the estate so conveyed. It is the intent of this DDA, that the conveyance of the Property to Developer shall be made upon, and that the Grant Deed shall contain, a condition subsequent to the effect that in the event of any default, failure, violation, or other action or inaction by the Developer specified in this Section, failure on the part of Developer to remedy, end, or abrogate such default, failure, violation, or other action or inaction, within the period and in the manner stated in the DDA, the Agency at its option may declare a termination in favor of the Agency of the title, and of all the rights and interest in the Property conveyed by the Grant Deed to Developer, and that such title and all rights and interests of Developer, and any assigns or successors in interest to and in the Property, shall revert to the Agency. Such condition subsequent and any such revesting of title in the Agency shall always be subject to and limited by the lien or security interest authorized by the DDA, and any rights or interests provided in the DDA for the protection of the Lenders; and shall not apply to individual parts or parcels of the Property on which the Project have been completed in accordance with the DDA and for which a Certificate of Completion issued as provided in the DDA. Such condition subsequent shall conform to the provisions of Civil Code Sections 885.010 through 885.070.

9.1.1. **RESALE OF REACQUIRED PROPERTY.** Upon the revesting of title of the Property in the Agency, Agency shall use its best efforts to resell the Property within two years and in such manner as the Agency shall find feasible and consistent with the objectives of the Redevelopment Plan and the Community Redevelopment Law, to a qualified and responsible party, as determined by the Agency, who will assume the obligation of completing the Project or such other improvements in their stead as shall be satisfactory to the Agency. Upon such resale of the Property, the resale proceeds (after repayment of any liens and encumbrances which have previously been approved by Agency in writing) shall be applied as follows:

9.1.2. **DEVELOPER REIMBURSEMENT.** Said proceeds shall be paid first to Developer to reimburse Developer in an amount not to exceed (1) the sum of the purchase price paid by Developer for the Property and the cash actually expended by it in actual construction of any of

the Project (including without limitation fees and expenses paid to any governmental agency on account of the Project, mitigation or development fees, the costs and expenses of all third-party architects, engineers, or similar design professionals, hard and soft costs of construction expended in construction of the Project, and Lender's interest, loan fees and other fees and charges on account of the Loan), less (2) any gains or income withdrawn or made by it from the DDA or the Property and any amounts, including interest on loans, then due from Developer to Agency.

9.1.3. **BALANCE TO AGENCY.** Any balance remaining after such reimbursements shall be retained by the Agency.

9.2. **RIGHTS AND REMEDIES.** Upon the occurrence of any default 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.

9.3. **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.

9.4. **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.

10. **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 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 Property. In situations where the Agency's approval of a Loan is required, 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.

10.1. **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 8/23/05 between the Redevelopment Agency of the City of Sacramento and Community Pride Project, a California nonprofit mutual benefit corporation ("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]

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

10.3. **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.

10.4. **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 Property. The Agency shall accept such performance as if it had been performed by Developer; provided, however, that such Lender shall not be subrogated to the rights of the Agency by undertaking such performance. If the breach or default relates to construction of the Project, however, Lender shall not undertake or continue the construction of the Project (beyond the extent necessary to conserve or protect Project or construction already made) unless Lender assumes, in writing satisfactory to the Agency, Developer's obligations to complete the Project on the Property in the manner provided in the 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.

10.5. **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.

10.5.1. 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.

10.5.2. 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.

10.6. **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.

10.7. **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.

10.8. **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.

10.9. **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.

10.10. **PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER.** In reliance on the financial capability and experience of Developer and Regent, 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. 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. Notwithstanding anything to the contrary contained in the foregoing, the Agency acknowledges, consents and agrees that Developer may assign this DDA to Regent without the Agency's written consent and that upon Regent's assumption of all obligations of the Developer, the Developer shall be relieved from all of its obligations under this DDA.

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

11.1. **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.

11.2. **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.

11.3. **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 the plural, and vice versa, and gender references shall be construed to include all genders.

11.4. **DRAFTER.** This DDA shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have 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.

11.5. **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.

11.6. **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.

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

11.8. **INSPECTION OF BOOKS AND RECORDS.** Agency has the right, at all reasonable times, to inspect the books and records of Developer regarding the rental of the first floor of the Property as reasonably necessary to determine the efforts of Developer or its assignee to obtain retail tenants.

11.9. **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.

11.10. **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:

11.10.1. Addresses for notices are as follows:

11.10.1.1. Agency: Redevelopment Agency of the City of Sacramento, 630 I Street, Sacramento, California 95814, Attention: Michelle Perez.

11.10.1.2. Developer: Community Pride Project, a California 501 (C)(3) non-profit mutual benefit corporation, 5625 Stockton Boulevard, Sacramento, CA 95824, Attention: Richard Greene.

11.10.1.3. Regent: Regent Development, Inc., 798 University Avenue, Sacramento, California 95825, Attention: Darrell Petray.

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

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

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

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

11.10.2.4. 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.

11.11. **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.

11.12. **Transaction Structure**. The format, terms and structure of the transaction contemplated in this DDA have been thoroughly reviewed and approved by legal counsel for

Agency. In the event the format, terms or structure of the transaction contemplated by this DDA shall be held, to any extent, by a court of competent jurisdiction to be invalid or unenforceable, Agency shall not seek to hold Developer and Regent responsible in any manner for such invalidity or unenforceability.

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

12.1. "Agency" is the Redevelopment Agency of the City of Sacramento. The Agency is a public body, corporate and politic, exercising governmental functions and powers, and organized and existing under the Community Redevelopment Law of the State of California. The principal office of the Agency is located at 630 I Street, Sacramento, California 95814. Agency as used in this 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.

12.2. "Art in Public Places Program" is the commonly used name for the program implementing Agency's Aesthetic Improvement Policy. Aesthetic Improvement Policy is Agency's policy for the creation and display of artwork in public areas. The policy was adopted by Agency Resolution Number 2865, October 16, 1979. The policy as implemented is known as the Art in Public Places Program.

12.3. "Certificate of Completion" is the certificate issued by the Agency certifying Developer's completion of the Project and termination of the revestment provisions.

12.4. "City" is the City of Sacramento in the State of California.

12.5. "Close of Escrow" is the time for the close of the Escrow as provided in the Escrow Instructions.

12.6. "Contingency Period" is the due diligence period allowed to Developer, as further described in Section 3.3.

12.7. "Contractor" is the contractor or contractors with whom Developer has contracted for the construction of the Project.

12.8. "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.

12.9. "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.

12.10. "Developer" is Community Pride Project, a California 501(C)(3) non-profit mutual benefit corporation. The principal office of the Developer is located at 5625 Stockton Boulevard, Sacramento, CA 95824 or its assignee as defined in Recital (D) and section 3.6.3.

12.11. "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.

12.12. "Escrow Instructions" are the escrow instructions for the close of the Escrow for this DDA, a copy of which are attached as **Exhibit 6: Escrow Instructions**.

12.13. "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 Plans include all construction plans, drawings, specifications and other documents required to obtain all required building permits for the construction of the Project. The Plans may refer, as the context may indicate, to partial Plans prepared and submitted in accordance with this DDA The 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 Plans shall specifically include changes or corrections of the Plans approved as provided in this DDA. The Plans shall include all landscaping, on- and off-site work and artwork related to the Project. Except as approved by the Agency, the Plans shall conform in all material respects to all provisions of this DDA.

12.14. "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 copy of the Grant Deed is attached as **Exhibit 2: Grant Deed**.

12.15. "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 Substances 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 Substances 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.

12.16. "Lender" shall mean all holders 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.

12.17. "Plans" are the Project designs and elevations, prepared by the Project architect Ekistics Design Studio and dated July 30, 2004, a portion of which (consisting of various elevations) is attached to the staff report for approval of this DDA. Agency has approved the Plans concurrently with the approval of this DDA.

12.18. "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.

12.19. "Project Area" is the Oak Park Neighborhood Area, as defined in the Redevelopment Plan.

13. "Property" is the real property to be developed under this DDA by Developer, as more particularly described in the Property Description. The Property includes all improvements contained within the Property.

13.1. "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**.

13.2. "Purchase Price" is the purchase price for the Property as set out in Section 3.

13.3. "Redevelopment Plan" is the redevelopment plan for the Project Area (as it may be amended from time to time).

13.4. "Regent" is Regent Development, Inc, a California corporation. The principal office of Regent is located at 798 University Avenue, Sacramento, California 95825. The President of Regent is Darrell G. Petray.

13.5. "Regulatory Agreement" a copy of which is attached as **Exhibit 3: Regulatory Agreement**, is the agreement, which sets out the certain provisions of this DDA that shall survive the completion of the Project.

13.6. "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 4: Schedule of Performances**.

13.7. "Scope of Development" is the detailed description of the construction parameters for the Project. The Scope of Development is attached as **Exhibit 5: Scope of Development**.

13.8. "Title Company" is Alliance Title Company. Title Company is the insurer of title under this DDA and the Escrow holder. The Title Company address is 2250 Douglas Boulevard, Suite 220, Roseville, California 95661, Attn: Melinda Bennett, Escrow Officer.

13.9. "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 terrorism, war, riot, acts of the Federal Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, energy shortages, energy rationing, labor or materials shortages, freight embargoes, a general moratorium on financing for projects of the same type, and unusually severe weather (as for example, floods, tornadoes, or hurricanes) or delays of subcontractors due to such causes. In the event of the occurrence of any such enforced delay, the time or times for performance of such obligations of the Agency and Developer 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 Developer has or should have knowledge of any such enforced delay, have first notified the other party, in writing, of the delay and its cause, and requested an extension for the period of the enforced delay.

THE PARTIES HAVE EXECUTED THIS DDA in Sacramento, California, on the following dates, effective as of the date first written above.

DEVELOPER : COMMUNITY PRIDE PROJECT, A CALIFORNIA 501(C)(3) NON-PROFIT MUTUAL BENEFIT CORPORATION

By: _____
Richard Greene, Executive Director

Date: 7.15.2005

AGENCY: THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Anne M. Moore, Executive Director

Date: 8-24-05

Approved as to form:
_____
Agency Counsel

State of California

County of Sacramento

On July 15, 2005 (Date) before me, April L. Peno, Notary Public (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared Richard Greene (Name(s) of Signer(s))

☐ ~~personally known to me~~
☒ proved to me on the basis of satisfactory evidence

to be the person~~(s)~~ whose name~~(s)~~ is~~/are~~ subscribed to the within instrument and acknowledged to me that he~~/she/they~~ executed the same in his~~/her/their~~ authorized capacity~~(ies)~~, and that by his~~/her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

APRIL L. PENO
Commission # 1493789
Notary Public - California
Sacramento County
My Comm. Expires Jul 3, 2008

WITNESS my hand and official seal.

April L. Peno
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title of Document: Disposition & Development Agreement

Document Date: July 15, 2005 Number of Pages: 33

Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: Richard Greene

☐ Individual
X Corporate Officer — Title~~(s)~~:
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer is Representing: Self

RIGHT THUMBPRINT OF SIGNER

State of California

County of Sacramento

On August 24, 2005 (Date) before me, D. Omijie (Name and Title of Officer (e.g., "Jane Doe, Notary Public"))

personally appeared ANNE M. MOORE (Name(s) of Signer(s))

☒ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person~~(s)~~ whose name~~(s)~~ is~~/are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity~~(ies)~~, and that by ~~his~~/her/their signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

D. OMIJIE
COMM. # 1480820
NOTARY PUBLIC - CALIFORNIA
SACRAMENTO COUNTY
My Comm. Expires April 6, 2008
TMC1

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to per-sons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title of Document: DISPOSITION AND DEVELOPMENT AGREEMENT

Document Date: August 23, 2005 Number of Pages: 67

Signer(s) Other Than Named Above: N/A

Capacity~~(ies)~~ Claimed by Signer~~(s)~~

Signer's Name: ANNE M. MOORE

☐ Individual
X Corporate Officer — Title(s): Executive Director
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other:

Signer is Representing: Sacramento Housing and Redevelopment Agency

RIGHT THUMBPRINT OF SIGNER

EXHIBIT 1

Property Description

LEGAL DESCRIPTION

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

Parcel No. 1:

All of Lots 27, 28 and 29 as shown on the "Plat of Tresch Tract", recorded in Book 14 of Maps, Map No. 58, and Lots 7818, 7819, 7820, 7821 and 7822 as shown on the "Plat of H. J. Goethe Company's Subdivision No. 78" recorded in Book 7 of Maps, Map No. 18 records of County of Sacramento Official Records, and more particularly described as Parcel 1 in that certain Certificate of Compliance for Lot Merger recorded December 23, 2003 in Book 20031223, Page 1325 of Official Records.

Parcel No. 2:

All of Lots 7815, 7816, 7817 as shown on the "Plat of H. J. Goethe Company's Subdivision No. 78", recorded in Book 7 of Maps, Map No. 18 of the County of Sacramento Official Records, and more particularly described as Parcel 1 in that certain Certificate of Compliance for Lot Merger recorded December 23, 2003 in Book 20031223, Page 1324 of Official Records.

APN No: 014-0222-067-0000
014-0222-068-0000

EXHIBIT 2

Grant Deed

NO FEE DOCUMENT:
Entitled to free recording
per Government Code 6103.
Recording Requested by the
SACRAMENTO HOUSING AND
REDEVELOPMENT AGENCY
630 "I" Street
Sacramento, California 95814
Attention: Legal Department
MAIL TAX STATEMENTS TO;
_____
_____

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 Oak Park Redevelopment Project Area, the ("Project"), under the Community Redevelopment Law of California, hereby grants to _____ (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 Oak Park Redevelopment Project 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 _____.

1. The Grantee covenants and agrees that the Property shall be devoted only to the uses specified in the applicable provisions of the Redevelopment Plan for the Project (including all Redevelopment Plan amendments, except amendments from which Grantee may be exempt by the doctrine of vested rights), this Deed and any and all instruments recorded pursuant to the Disposition and Development Agreement, including such Agreement, duly recorded by Grantor and affecting the Property. The Property is conveyed to Grantee at a purchase price (the "Purchase Price") determined in accordance with the uses permitted. Therefore, Grantee hereby covenants and agrees that the Grantee, and its successors and assigns shall develop, use, and maintain the Property in accordance with the Regulatory Agreement for the Property between Grantor and Grantee, dated as of the same date as this Grant Deed, and recorded immediately after recordation of this Grant Deed. Grantee acknowledges and agrees that the Property shall be subject to the Regulatory Agreement between Grantor and Grantee, recorded on the Property promptly following recordation of this Grant Deed.

1.1. As provided in the Disposition and Development Agreement, Grantee shall promptly commence and complete development of the Property in accordance with plans and specifications approved by Grantor.

Construction of improvements and development of the Property (the "Improvements") required by the Disposition and Development Agreement shall commence and be prosecuted diligently to completion at the time specified in, and subject to the terms of, the Disposition and Development Agreement.

1.2. Grantee shall maintain the Improvements and any other improvements on the Property in good condition and order, shall keep the Property free from accumulation of debris and waste materials and shall permit no action or inaction on the Property such that the Property detracts from the surrounding neighborhood in any substantial manner.

1.3. All obligations imposed upon Grantee herein shall bind any and all successors of Grantee; provided, however, that upon sale or conveyance of the Project, the party selling or conveying shall be relieved of any such obligation to the extent that such obligation arises after the date of sale or conveyance.

2. Grantee covenants and agrees that prior to recordation of any Certificate of Completion for the Property:

2.1. The Grantor shall have the additional right, at its option, to re-enter and take possession of the Property and all improvements on the Property and to terminate and revest the Property in the Grantor if the Grantee or its successors in interest shall, in accordance with and subject to the terms of the Disposition and Development Agreement (including terms regarding repayments to Grantee):

2.1.1. Fail to commence or complete the construction of the Improvements when required by the Disposition and Development Agreement and after sixty (60) days' written notice from the Grantor of Grantee's failure to timely commence or complete construction, provided that the Grantee shall not have obtained an extension or postponement to which Grantee may be entitled or that Grantee or Grantee's lender for the Project have commenced and are diligently proceeding to cure such default; or

2.1.2. Abandon or substantially suspend construction of the Improvements for more than sixty (60) days after written notice from the Grantor to continue such construction, provided that Grantor shall not have obtained an extension or postponement to which Grantee may be entitled or that Grantee or Grantee's lender for the Project have commenced and are diligently proceeding to cure such default; or

2.1.3. Transfer, or suffer any involuntary transfer, of all or any part of, or interest in, the Property, in violation of the Disposition and Development Agreement or this Grant Deed.

2.2. The right to re-enter, repossess, terminate and revest shall be subject to and be limited by and shall not defeat, render invalid, or limit:

2.2.1. Any mortgage or deed of trust permitted by the Disposition and Development Agreement or this Deed and duly approved by the Grantor; or

2.2.2. Any rights or interests provided for the protection of the holders of such mortgages or deed of trust.

2.3. The right to re-enter, repossess, terminate and revest with respect to the Property shall terminate when the Certificate of Completion has been recorded by the Grantor.

3. The Grantee covenants and agrees that:

3.1. There shall be no discrimination against or segregation of any person on the basis of race, color, creed, religion, sex, marital status, ancestry or national origin 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 itself, its 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.

All advertising (including signs) for sale and/or rental of the whole or any part of the residential units at the Property shall include the legend "Equal Opportunity Houser" in type or lettering of easily legible size and design.

The word "Project" or "Development" may be substituted for the word "Houser" where circumstances require such substitution.

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. All covenants contained in this Deed shall be covenants running with the land and equitable servitudes thereon. The covenants contained in Section 2 of this Deed shall terminate upon issuance of a Certificate of Completion for the Property. Every covenant contained in this Deed not previously terminated shall terminate on expiration of the Redevelopment Plan, except that the covenants against discrimination contained in Section 3 of this Grant Deed shall remain in perpetuity.

6. All covenants without regard to technical classification or designation shall be binding for the benefit of the Grantor, its successors and assigns, the City of Sacramento, California, any successor in interest to the Property, the owner of any other land (or of any interest in such land) in the Project which is subject to the land use requirements and restrictions of the Redevelopment Plan, and the covenants against discrimination contained in Section 3 shall be binding for the benefit of the Grantor, the City of Sacramento and the United States of America and such covenants shall run in favor of the Grantor, the City of Sacramento and the United States of America, for the entire period during which such covenants shall be in force and effect, without regard to whether the Grantor and the City of Sacramento, is or remains an owner of any land or interest therein to which such covenants relate. The Grantor, in the event of any breach of any such covenant, and the City of Sacramento (and the United States of America, in the event of any such breach of the covenants in Section 3), shall have the right to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other property proceedings to enforce the curing of such breach against Grantee, its successors to and assigns of the Property or any part or interest in the Property, any subcontracting party or parties or other transferees under the Disposition and Development Agreement, and any party in possession or occupancy of all or any part of the Property.

7. Both before and after issuance of a Certificate of Completion, the Grantor and Grantee and their successors and assigns only shall have the right to mutually consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, easements, or other restrictions contained in this Deed or to subject the Property to additional covenants, easements, or other restrictions, and Grantor and Grantee may do so without the consent of any tenant, lessee, easement holder, licensee, or any other such person or entity having any interest less than a fee in the Property. Amendments to the Redevelopment Plan applying to other property in the Project shall not require the consent of Grantee by virtue of this Deed.

8. The covenants contained in this Deed shall not be construed as conditions which might result in forfeiture of title, except for the covenants and conditions contained in Section 2 of this Grant Deed.

9. Promptly after the substantial completion of the Improvements in accordance with the provisions of the construction plans approved pursuant to the Disposition and Development Agreement and fulfillment of the related obligations of the Grantee under the Disposition and Development Agreement, the Grantor shall furnish the Grantee with an appropriate instrument (the "Certificate of Completion") certifying such completion and stating that the Certificate of Completion shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the Disposition and Development Agreement and in this Deed obligating the Grantee with respect to the construction of the Improvements and the dates for beginning and completion thereof.

The Certificate of Completion shall be in a form acceptable for recordation in the proper office for the recordation of deeds and other instruments pertaining to the Property. If the Grantor shall refuse or fail to provide the Certificate of Completion, the Grantor shall, within fifteen (15) days after written request by the Grantee provide the Grantee with a written statement, indicating in what respects the Grantee has failed to duly complete said Improvements and what measures or acts will be necessary, in the opinion of the Grantor, for the Grantee to take or perform in order to obtain such certification.

10. 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.

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 _____, _____.

REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

_____
Anne Moore
Executive Director

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.

GRANTEE

a_____-

_____
By:

Date: _____

[ACKNOWLEDGMENTS]

County of Sacramento
State of California
ss.

On _____ before me, _____
Date — Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Anne Moore, Executive Director of Redevelopment Agency of the City of Sacramento
Name(s) of Signer(s)

☐ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Signature of Notary Public

County of Sacramento
State of California
ss.

On _____ before me, _____
Date — Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared _____
Name(s) of Signer(s)

☐ personally known to me
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

_____
Signature of Notary Public

EXHIBIT "1"

That certain real property situated in the City of Sacramento, County of Sacramento, California, described as follows:

EXHIBIT 3

Regulatory Agreement

NO FEE DOCUMENT:
Entitled to free recording
per Government Code 6103.
When recorded, return to:
SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY
630 "I" Street
Sacramento, CA 95814

REGULATORY AGREEMENT
FOR MIXED USE DEVELOPMENT
INCLUDING COVENANTS, CONDITIONS AND RESTRICTIONS RUNNING WITH THE LAND

PROJECT NAME:	Regent Place
PROJECT ADDRESS:	3400 Stockton Boulevard and 4601 10th Avenue

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

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, all of 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 below. Terms being defined are indicated by quotation marks. The Agency is providing the Agency Assistance pursuant to the terms and conditions of the Funding Agreement.

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"	
"Agency Address"	Agency's business address is 630 I Street, Sacramento, California 95814
"Owner Address"	Owner's business address is as follows:
"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**.
"Disposition and Development Agreement"	The Agency is conveying fee title to the Property to Developer, subject to the terms of the DDA, dated as follows Dated:
"Agency Assistance "	Agency has contributed the land to the Project in exchange for the development of the Project as provided in the DDA
"Funding Requirements"	The Funding Restrictions are the legal restrictions on the use of the funds that Agency has used to acquire the Property, which are applicable to and restrict the Property. The funding having consisted solely of tax increment funds, the Funding Requirements are contained entirely in the body of this Regulatory Agreement and no other Funding Requirements are attached.
"Term"	The Term of each of the respective covenants, conditions and restrictions contained in this Regulatory Agreement is the term stated in the DDA.
"Special Provisions"	There are no Special Provisions for this Regulatory Agreement.

"Approved Use"	Owner shall assure that the property is used in conformance with the Redevelopment Plan for the Oak Park Redevelopment Project and only for the following Approved Uses:
	Mixed-use with ground floor retail and above-ground floor office and residential uses; provided, however, that the ground-floor retail use may be converted to office uses if approved by the Agency in accordance with the terms of the DDA, which approval shall be in writing and duly recorded.
"Disapproved Uses"	Owner shall assure that the property is not used, in whole or in part, for any of the following Disapproved Uses:
	establishment deriving more than fifty percent (50%) of it gross revenues from the sale of alcoholic beverages; establishment deriving more than five percent (5%) of its gross revenues from the sale of adult -oriented materials, as for example adult videos and sexual devices, whether for sale or rent or for use offsite or onsite; arcade for video games, pool or billiards or other such gaming activities, except as incidental to a permitted activity; venue for music concerts; venue for dancing; manufacturing facility; facility for repair of any appliances, vehicles or other products; vehicle sales, parts supply or service business; service station for the sale of oil, gasoline and vehicle-related products; facility using, storing, manufacturing or treating hazardous materials; facility for public storage or for warehousing; facility for the housing of passive electronic components such as digital switching units; and establishments creating nuisances or other activities that unreasonably intrude on the peaceful enjoyment of their property by nearby tenants and property owners, including without limitation strong odors, loud noises, bright or flashing lights, loiterers, trash and garbage, and unhealthful or dangerous situations

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

OWNER :

By: _____

Date: _____

Approved as to form: _____
Developer Counsel

AGENCY: THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Anne M. Moore, Executive Director

Date: _____

Approved as to form: _____
Agency Counsel

Regulatory Agreement - Article II General Provisions

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1. **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.

2. **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. Owner shall use and shall permit others to use the Property only for the Approved Uses and in accordance 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 the basis of race, color, ancestry, religion, creed, sex, marital status, or national origin in the sale, lease, or rental or in the use or occupancy of the Property. Owner covenants by and for itself, its 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 such act.

2. **RESTRICTION ON SALES AND LEASES.** Developer 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.

3. **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.

4. **SUPERSEDING EXISTING COVENANTS, CONDITIONS, & RESTRICTIONS.** This Regulatory Agreement shall supersede any covenants, conditions and restrictions that have been previously recorded by, or on behalf of, the Agency against the Property.

5. **TERM.** The term of this Regulatory Agreement shall commence on the Effective Date and continue until the expiration of the Redevelopment Plan unless otherwise stated.

6. **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 DDA and this Regulatory Agreement.

7. **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 inspection and shall be subject to inspection 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.

8. **INDEMNITY FOR OWNER'S FAILURE TO MEET LEGAL REQUIREMENTS.** Owner shall indemnify and hold Agency, its officers, directors, and employees harmless from any and all liability arising from Owner's failure to comply with the covenants, conditions and restrictions contained in this Regulatory Agreement and its failure to comply with all other laws, rules, regulations and restrictions related to the use of any Agency funds. Without limitation, such indemnity shall include repayment to the Agency of the costs of funds and the value of lost opportunities resulting from the required repayment by Agency to the funding source of funds improperly used.

9. **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.

10. **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 reasonable 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: (a) take any action then available under the DDA for a default under the DDA and (b) 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. The injury to the Agency arising from a default under any of the terms in this Regulatory Agreement would be irreparable, and the amount of damage would be difficult to ascertain.

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.

11. **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.

12. **CONTRADICTORY AGREEMENTS.** Owner warrants that it 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.

13. **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, in addition to any other relief to which such party may be entitled. Any award of damages following judicial remedy or arbitration as a result of this Regulatory Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law. 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.

14. **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.

15. **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.

16. **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.

EXHIBIT 4

Schedule of Performances

1. In accordance with the DDA, the Developer shall submit a full set of plans and specifications to the Agency for their approval prior to their submission to the City of Sacramento for construction approvals and a building permit.

2. Developer shall submit a complete application for all necessary construction approvals and building permits for the entire Project within six (6) months from the date of this DDA.

3. Developer shall complete construction of the building shell and all accompanying site improvements (parking, landscaping, utility service amenities, etc.) within two years from the date of this DDA.

4. The Close of Escrow for the transfer of title to the Property from Agency to Developer shall take place on or before September 30, 2005; provided, however, that if the Close of Escrow has not taken place by September 30, 2005, then the DDA shall be terminated and neither party shall have any further obligation to the other thereunder.

EXHIBIT 5

Scope of Development

The Project is the development of a four-story, mixed-use commercial building, including first floor retail space, second and third floor office space, fourth floor residential space, and underground parking. The building shall be constructed in accordance with the Plans as defined in the DDA. The Project shall comply with all applicable zoning and planning entitlements.

EXHIBIT 6

Escrow Instructions

JOINT ESCROW INSTRUCTIONS
FOR DISPOSITION AND DEVELOPMENT OF REAL PROPERTY

"Effective Date"	

Agency and Developer execute these Escrow Instructions as of the Effective Date. This document, including attachments and any amendments and additions, shall constitute the joint escrow instructions of Agency and Developer for the transfer of the Property from Agency to Developer.

ARTICLE I. GENERAL TERMS.

1. **GENERAL.** These Escrow Instructions, in addition to items listed below, include Article II Instructions, which is attached to and incorporated in these Escrow Instructions by this reference.

2. **DEFINITIONS.** The capitalized terms in these Escrow Instructions shall have the meanings assigned in Article I General Terms and as defined in Article II Instructions. Terms being defined are indicated by quotation marks. Any capitalized terms not otherwise defined in these Escrow Instructions shall have the meanings ascribed to such terms in the Transaction Document.

"Title Company"	Alliance Title Company			
	Address:	2250 Douglas Blvd., Suite 220, Roseville, California 95661.		
"Escrow" with Title Company	**Escrow Number:**	12358261-MJB	**Attention:**	Melinda Bennett, Escrow Officer
"Agency"	Redevelopment Agency of the City of Sacramento			
	Address:	630 I Street, Sacramento, CA 95814		
	Attention:	Michele Perez		
"Developer"				
	Address:			
	Attention:			
"Closing Date"	No later than September 30, 2005			
"Property"	**Address:**	3400 Stockton Boulevard and 4601 10th Avenue	**APN:**	014-0222-067 and 014-0222-068
"Transaction Document"	The document that details the obligations of the parties for the contemplated transaction:			
	Disposition and Development Agreement		**Dated:**	
Description of the transaction	The Agency is selling the Property to the Developer for redevelopment in accordance with the terms of the DDA.			

"Recorded Documents"- The following documents are to be recorded in the order listed (top being first in priority). Copies of the Recorded documents are attached.	**Documents:**	**Marked for return to:**
	Disposition and Development Agreement, Assignment and Assumption Agreement, Release Agreement, Regulatory Agreement and Grant Deed	All to Agency except Assignment and Assumption Agreement and Release Agreement which shall be returned to Community Pride Project and Grant Deed which are marked for return to Developer.
"Agency Items"		
"Developer Items"		

"Special Provisions":
• For Regulatory Agreement - CLTA 124.1
• Escrow fees paid as usual and customary in the County of Sacramento.

"Agency Title Policy" in the form of an ALTA Agency's Policy insuring that the following are valid liens against the property:	**Documents:**			**Coverage amount:**	
	Regulatory Agreement				
"Developer Title Policy" insuring fee title in Developer.	**Type of Policy:**			**Coverage amount (purchase price):**	
	CLTA standard owner's policy			$467,500	
The title policies shall be subject only to the following "Conditions of Title":	Items		Of Title Company's Preliminary Report for the Escrow:	**Dated:**	
				Number:	

THE PARTIES HAVE EXECUTED THESE ESCROW INSTRUCTIONS in Sacramento, California as of the Effective Date.

DEVELOPER:

By: _____

AGENCY:
REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Anne Moore, Executive Director

ARTICLE II. INSTRUCTIONS

1. **CLOSING DATE.** Escrow shall close on or before the Closing Date as it may be changed from time to time by written agreement of Developer and Agency.

2. **CONDITIONS TO CLOSE OF ESCROW.** "Close of Escrow" means the fulfillment of the Escrow terms and conclusion of the Escrow, including, without limitation, the execution of unexecuted documents, the recordation of documents specified for recording, the issuance of title insurance policies, the payment of fees and the delivery of funds and documents as directed in the escrow instructions for the Escrow. The Close of Escrow shall occur on the Closing Date The following are conditions to the Close of Escrow:

2.1.1. The conditions precedent to performance stated in the Transaction Document and Recorded Documents are satisfied as of the Closing Date.

2.1.2. Simultaneously with the Close of Escrow, Title Company shall issue the Agency Title Insurance to Agency (at Developer's cost) in the amount stated. The Agency Title Insurance shall include all usual and customary endorsements and any endorsements and other commitments as Agency may reasonably require. The Agency Title Insurance shall show the Recorded Documents marked for return to Agency as valid liens against the Property in favor of the Agency, subject only to the Conditions of Title, and securing, as applicable, Developer's performance of it obligations.

2.1.3. Simultaneously with the Close of Escrow, Title Company shall issue the Developer Title Insurance to Agency (at Agency's cost) in the amount stated. The Developer Title Insurance shall include all usual and customary endorsements and any endorsements and other commitments as Developer may reasonably require. The Developer Title Insurance shall insure Developer's fee simple title to the Property subject only to the Conditions of Title.

2.1.4. Prior to the Closing Date, the parties shall duly execute (in Escrow or prior to deposit in Escrow) each such document and shall execute those to be recorded in a manner suitable for recording.

2.1.5. On or before the Closing Date, Agency shall also deposit with Title Company the Developer Items and any funds then to be disbursed under these Instructions, but not less than closing costs, fees and charges required for Close of Escrow.

2.1.6. On or before the Close of Escrow, Developer shall also deposit with Title Company the Agency Items and Developer's share of closing costs and fees.

2.1.7. Title Company is satisfied that all required funds have been deposited in Title Company's account for the Escrow, have cleared the originating bank and are available for transfer by Title Company's check or wire transfer to the appropriate party.

2.2. **UPON CLOSE OF ESCROW.** The Close of Escrow shall take place on the Closing Date. On the Closing Date, Title Company shall complete the Close of Escrow as follows and in the following order (unless otherwise stated, all recorded documents are recorded with the Sacramento County Recorder):

2.2.1. Assure fulfillment of the Special Provisions;

2.2.2. Obtain full execution of all unexecuted documents;

2.2.3. Date all undated documents as of the Closing Date;

2.2.4. Record the Recorded Documents in the priority listed;

2.2.5. Determine all closing costs and fees; including without limitation, all charges, fees, taxes and title insurance premiums payable as provided in Article I of these Instructions on Close of Escrow and any other fees and charges approved for payment from Escrow by both parties and deduct such fees from the funds deposited by Agency and Developer in Escrow;

2.2.6. Deliver the Agency Items to Agency and the Developer Items to Developer; and

2.2.7. Prepare and deliver to Developer and Agency, respectively, signed originals of all documents included for delivery to either party and not delivered for recording, one signed original of Title Company's closing statement showing all receipts and disbursements of the Escrow, and one conformed copy of each of the recorded documents.

2.3. **INABILITY TO CLOSE.** If Title Company is unable to simultaneously perform all of the preceding instructions, Title Company shall notify Developer and Agency, and upon each of their directions return to each party all documents, items and funds deposited in Escrow by such party (less fees and expenses incurred by the respective party) and bill the respective parties for any unpaid fees and expenses incurred in Escrow. If Escrow fails to close on the Closing Date because Developer has not complied with Developer's obligations under these Instructions, then Developer shall pay the costs incurred through Escrow to the date the Escrow is terminated, including the cost of any preliminary title report and any cancellation fees or other costs of this Escrow. If Escrow fails to close on or before the Closing Date because Agency has not complied with Agency's obligations under these Instructions, such costs shall be paid by Agency. If Escrow fails to close on or before the Closing Date for any other reason, such costs shall be divided equally between the parties.

2.4. **COMMISSIONS.** Agency is not responsible, by these Instructions or otherwise, to pay commissions in relation to this transaction.

/ / / / / / / /

ACCEPTANCE OF ESCROW INSTRUCTIONS

Your acceptance of this escrow shall create a contractual obligation by you with Agency and Developer for complete compliance with these instructions. Agency and Developer reserve the right to jointly revoke this escrow at any time upon their payment to you of your fees and reimbursement to you of your expenses in accordance with the terms of these escrow instructions. Your obligations as Escrow Holder under these escrow instructions shall be subject to the following provisions:

You are not responsible as to the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited in this escrow nor as to the authority or rights of any person executing such instrument. Except as otherwise provided in these escrow instructions, your duties as Escrow Holder are limited to the proper handling of monies and the proper safekeeping of instruments and other items received by you as Escrow Holder, and for the performance of your obligations as specifically provided under these escrow instructions. You are responsible for the sufficiency of any instruments or documents prepared by you for this escrow.

Developer agrees to indemnify and hold you harmless from damages incurred as a result of your good faith and diligent performance of your duties under these escrow instructions.

Upon your acceptance of these escrow instructions return the executed counterparts of these escrow instructions to Agency and Developer, respectively.

Escrow Holder acknowledges receipt of the foregoing escrow instructions and agrees to act as Escrow Holder and to comply with the terms and conditions of said escrow instructions.

Dated: _____

TITLE COMPANY

ALLIANCE TITLE COMPANY

By: _____

Name: Melinda Bennett

Title: Escrow Officer
Its authorized agent and signatory

EXHIBIT 7

Soils Management Plan

EEI

Expertise . . Service . .*Solutions*.

April 15, 2005

Laura (Marshall) McLean
Sacramento County Environmental Management Division
8475 Jackson Road, Suite 230
Sacramento, CA 95826

Subject: **Soil Management Plan (SMP)** - SHRA Property
3400 and 3406 Stockton Boulevard, Sacramento, California
LOP Site No. G010

Dear Laura:

EEI has been retained by the Sacramento Housing and Redevelopment Agency (SHRA) to prepare and submit this *Soil Management Plan (SMP)*, which provides general guidance for worker health and safety, and the management of petroleum hydrocarbon impacted soils, for the proposed Regent Place mixed-use development project. The proposed project includes plans for a subgrade parking structure, the construction of which will require the excavation and removal of gasoline and diesel-impacted soils near the southwest corner of 9th Avenue and Stockton Boulevard. This plan addresses proper management and handling of these soils during construciton.

SITE DESCRIPTION

The site is located in a mixed residential/commercial neighborhood, on Stockton Boulevard in the City of Sacramento, California (**Site Location Map, Figure 1**). The site is bounded by commercial/residential property to the south; by residential properties to the west; by 9th Avenue and a UC Davis Medical Center Facility to the north; and by Stockton Boulevard and commercial properties the east.

The site is comprised of two lots, identified by assessor's parcel numbers 014-0222-028 and 014-0222-029, and encompasses approximately 20,000 square feet. The site is currently vacant. Prior to December 2001, the site was developed including two buildings and paved parking areas. Based on historical records, the site has been developed since at least the late 1930's.

PROJECT BACKGROUND

In March and April 2000, EEI conducted a Phase I Environmental Site Assessment (ESA) on the subject properties located at 3400 and 3406 Stockton Boulevard. The property consists of two contiguous lots, encompassing approximately 20,000 square feet, and is currently vacant. It had previously included two buildings and paved parking areas, occupied by two automotive repair shops and a furniture storage facility. Based on historical records reviewed during the ESA, the site had been developed since at least the late 1930's. The properties had been used as service station/auto repair facilities since the 1950's, but ceased operation as a service station in the late 1960's.

Based on the findings of the ESA, EEI has conducted a number of soil and ground investigation at the subject property. The purpose was to verify whether soil/groundwater beneath the site had been impacted with petroleum hydrocarbons or chemicals related to former gasoline service station and vehicle repair facilities located on the subject property. A total of seventeen soil borings, three threnchs, and one groundwater monitoring wells have been installed and number of soil and groundwater samples collected for laboratory analysis (**Site Plan, Figure 2**).

Groundwater is present beneath the site at a depths ranging from approximately 35 to 40 feet below ground surface. Based on the results of laboratory analytical data, soil beneath the property is impacted with elevated concentrations of gasoline, diesel, and related constituents, including lead, benzene, toluene, ethylbenzene, and xylenes **(Table 1)**. It is estimated that approximately 850 cubic yards of impacted soil (i.e., greater than 100 mg/kg TPH-Gasoline) are present beneath the property. The impacted soil appears to be concentrated at depths of between 5 and 30 feet bgs, over an estimated area of approximately 1,100 square feet. Concentrations of gasoline range from 120 to 2,200 milligrams per kilogram (mg/kg) Total Petroleum Hydrocarbons as gasoline (TPH-G). Concentrations of diesel range from 20 to 870 mg.kg, Total Petroleum Hydrocarbon as Diesel (TPH-D). Benzene has only been detected in one sample, at a depth of 5 feet bgs, at a concentration of 1.4 mg/kg. Groundwater beneath the property is impacted with low levels of 1, 2-dichloroethane, a gasoline additive formerly used in leaded gasoline **(Table 2)**.

SOIL MANAGEMENT PLAN

Proposed site improvements, which consists of excavating and stockpiling soils, installing subsurface utilities, and constructing a subgrade parking and commercial/residential structures, will be conducted in areas previously identified as petroleum hydrocarbon impacted soils.

Mandatory Agency Notification

The Sacramento County Environmental Management Division (SCEMD) shall be notified a minimum of 48 hours prior to excavation in the areas identified as containing contaminated soil, as indicated in **Figure 2**. The SCEMD must be on site for the collection of any confirmation soil samples. In addition, the SCEMD shall be notified within 24 hours if soil contamination is encountered in any areas of the site not identified in **Figure 2**. The contact for SCEMD is Laura McLean (916) 875-8467.

General Worker Health and Safety

The Standard Guide for Risk-Based Corrective Action Applied to Petroleum Release Sites (RBCA, ASTM E1739-95) provides guidance for risk-based soil screening levels in Table x2.1 Example Tier 1 Risk-Based Screening Level (RBSL) Look-up Table. For the commercial receptor scenarios involving soil volatilization to outdoor air, soil-vapor intrusion from soil into buildings, surficial soil ingestion/dermal contact, and soil-leachate to protect groundwater ingestion, the reported concentrations of toluene, ethylbenzene, and xylenes at the property are all well below the published RBSL's (i.e., by at least one or more orders of magnitude).

The reported concentration of benzene previously reported at SB1-5' (1.4 mg/kg) is below the RBSL's for soil-vapor intrusion from soil into buildings, surficial soil ingestion/dermal contact, and soil-leachate to protect groundwater ingestion. It does exceed the RBSL for soil volatilization to outdoor air (0.45 mg/kg). Therefore, petroleum hydrocarbon constituents, such as benzene vapors, may pose a potential health risk to onsite workers. However, standard construction practices and a worker awareness program should alleviate potential concerns.

Respiratory protection during proposed site improvements is not anticipated. However, work practices such as performing proposed site improvements in the upwind position, dust/vapor suppression using water misting, and conducting regular air monitoring for hydrocarbons vapor, should be observed whenever possible. Where impractical, the site safety officer (SSO), or designated alternate, should be consulted to identify acceptable alternatives.

If conditions are encountered which may potentially result in prolonged worker exposure to hydrocarbons vapors, or if workers report any discomfort (i.e., Dizziness, Headache, Nausea) Level C respiratory protection utilizing NIOSH-approved half-face air purifying respirators (APR) with volatile organic or combination high-efficiency particulate (HEPA)/volatile organic cartridges may be required during excavation activities. Consequently,

contingency planning necessitates that NIOSH-approved half-face APR fitted with VOC or HEPA/VOC combination cartridges be kept onsite during the course of the proposed site improvements. Any worker who may be required to wear an air purifying respirator must have been medically cleared for respirator use and must have received proper training.

TABLE 1 - PHYSICAL CHARACTERISTICS OF SUSPECTED CONTAMINANTS

CHEMICAL NAME	Carcinogen	PEL	STEL	TWA	Vapor Pressure[1] (H_2O =14.7mm)	Boiling Point[1] (H2O= 212°F)	Exposure Pathways	IDLH
Diesel No. 2	Suspected	400 PPM **	none listed	none listed	1mm	350°F	Inh, Abs, Ing, Con	none listed
Unleaded Gasoline (Fresh)	YES	300 PPM **	500 PPM	none listed	38-300 mm	102°F	Inh, Abs, Ing, Con	none listed
Lead ***	No	0.05 mg/m³	none listed	0.1 mg/m³	NA	3164 °F	Inh, Ing, Con	100 mg/m³

PEL = Permissible Exposure Limit
STEL = Short Term Exposure Limit
TWA - Time Weighted Average
IDLH = Imminent Danger to Life and Health
**** = OSHA recommended value, cited in NIOSH or other reference**
***** = Developmental Toxin**

Petroleum Hydrocarbon Impacted Soils

Petroleum hydrocarbon impacted soils were previously reported at in subsurface soils in the area of proposed construction. During excavation of the proposed development area, excavated material that visually displays petroleum hydrocarbon impacted soils (i.e., discoloration and/or staining), should be flagged and controlled during the excavation process.

Visually impacted soils should be stockpiled on poly sheeting (i.e., visqueen) to segregate contaminated soils from clean soils. Vapor and dust from excavation and stockpiling activities should be controlled utilizing one or more the following: water misting; covering with poly sheeting; backfilling of off-gassing excavations; locating stockpiles away from and/or downwind of onsite workers and public receptors; reducing the pace of project site activities and/or halting activities altogether.

Flagged (impacted) areas should be excavated separately from main excavation activities. Flagged (impacted) areas should be mapped on a field map, and field mapping information should be transferred to electronic/CAD maps on a project based time frame as excavation activities progress.

Confirmation soil samples should be collected from stockpiled soil and excavation limits, and properly documented as excavation proceeds. Final excavation confirmation sampling should be conducted at a rate of at least one (1) soil sample per 100 square feet of exposed sidewall and/or excavation floor.

Soil samples may be collected, depending on the presence of known or suspected contaminants. Soil samples should be collected from the bucket of the excavation equipment using hand grab sampling methodology utilizing glass sample jars and/or stainless steel sleeves, and a stainless steel trowel as required. If drive samples are necessary/required, a drive sampler equipped with brass, stainless steel, or acetate liners should be utilized. If glass jars are utilized, samples should be compacted within the sample jar to remove any head space. Soil samples should be custody sealed, labeled with a number unique to the sample, placed in a cooler chilled to 4-degrees Celsius, and logged under proper chain-of-custody (COC) protocol for transportation to a California-state certified laboratory. A mobile laboratory may be utilized to analyze soil samples during the excavation confirmation process, depending upon the nature of the contaminant and/or the scheduling needs of the project.

Stockpile Management

Excavated soils that appear to be visually impacted by petroleum hydrocarbon impacted soils should be stockpiled on poly sheeting. Stockpiled soils should generally be staged in fifty (50) cubic yard (cy) or smaller quantities to allow accurate segregation. Three composite samples should be collected from each stockpile for initial screening purposes. These composite samples should be submitted to a California-state certified laboratory for analysis, as determined by the requirements of the selected disposal facility.

Laboratory analytical Program

The following section is a suggested laboratory analytical program for testing/screening soils impacted by chemicals of concern. This is a suggested laboratory analytical program, and may be altered and/or disqualified depending on contaminant characterization, quantity, regulatory agency directives, or disposal facility requirements.

- All soil samples collected from excavation bottom and sidewall should be analyzed using: EPA Test Method 8015M (Total Petroleum Hydrocarbons) for the presence of gasoline and diesel, EPA Test Method 8021B for the presence of benzene, toluene, ethylbnzene, and xylenes, and EPA Test Method 6010/7421 for Total Lead.

- Stockpiled soils to be transported, and disposed of at a certified recycling and/or waste facility should be analyzed using EPA Test Method 8015M (Total Petroleum Hydrocarbons), EPA Test Method 8260B (volatile organic compounds) and Title 22 Metals.

If you have any questions or comments, please contact me at (805) 987-8728.

Sincerely,

EEI

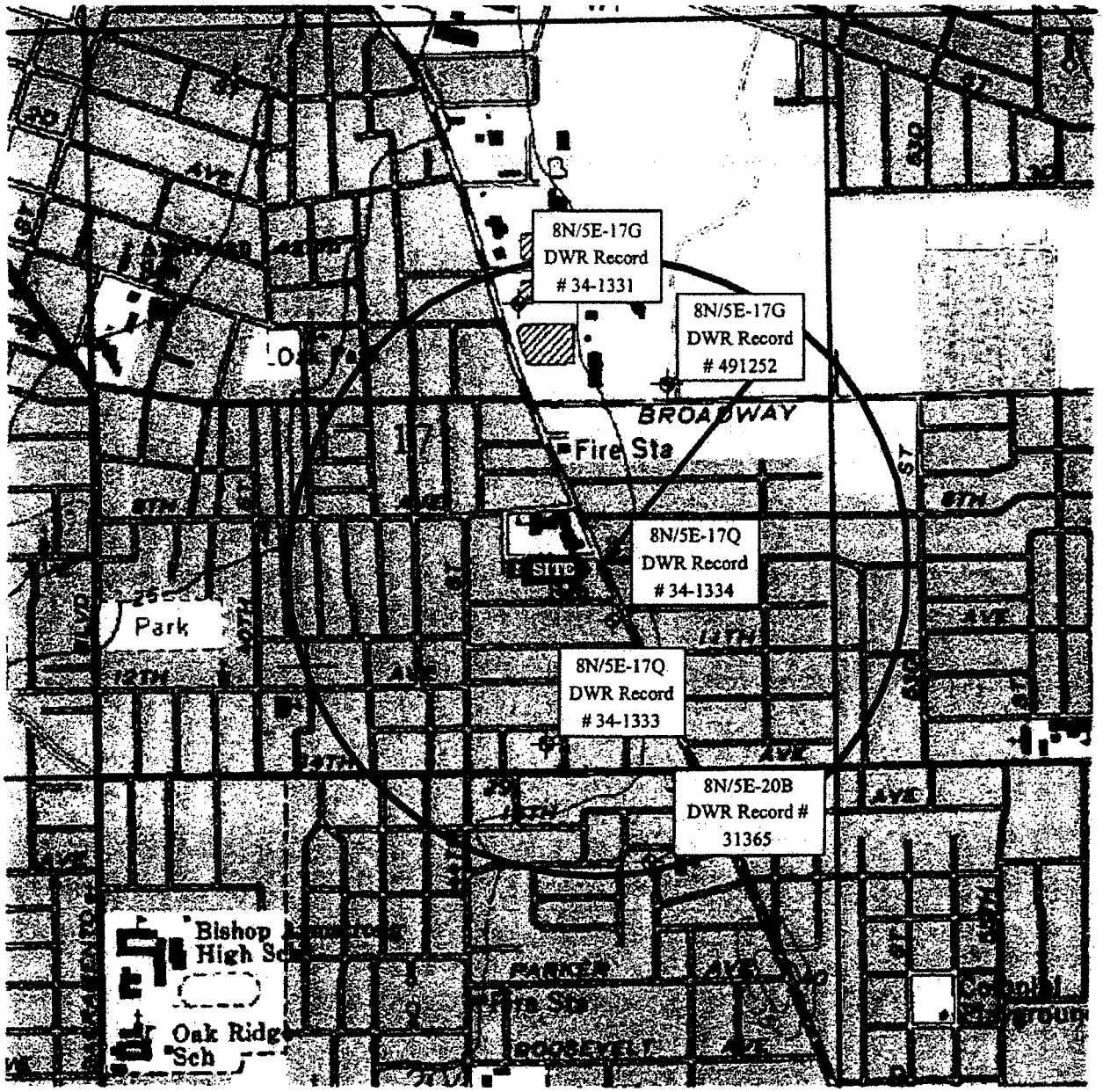
Bernard A. Sentianin, CPG, RG, REA
Principal Geologist

REGISTERED GEOLOGIST
BERNARD A. SENTIANIN
No. 5530
STATE OF CALIFORNIA

Enclosures:

Figure 1 - Site Location Map
Figure 2 - Site Plan
Table 1 - Analytical Results of Soil Samples
Table 2 - Analytical Results of Groundwater Samples

cc: Craig Locke - SHRA
Gail Ervin - GEC



KEY
Water Well Location (w/ DWR Number)

SOURCES: CALIFORNIA DEPARTMENT OF WATER RESOURCES AND USGS 7.5' TOPOGRAPHIC MAP SACRAMENTO EAST, CALIFORNIA 1994

N

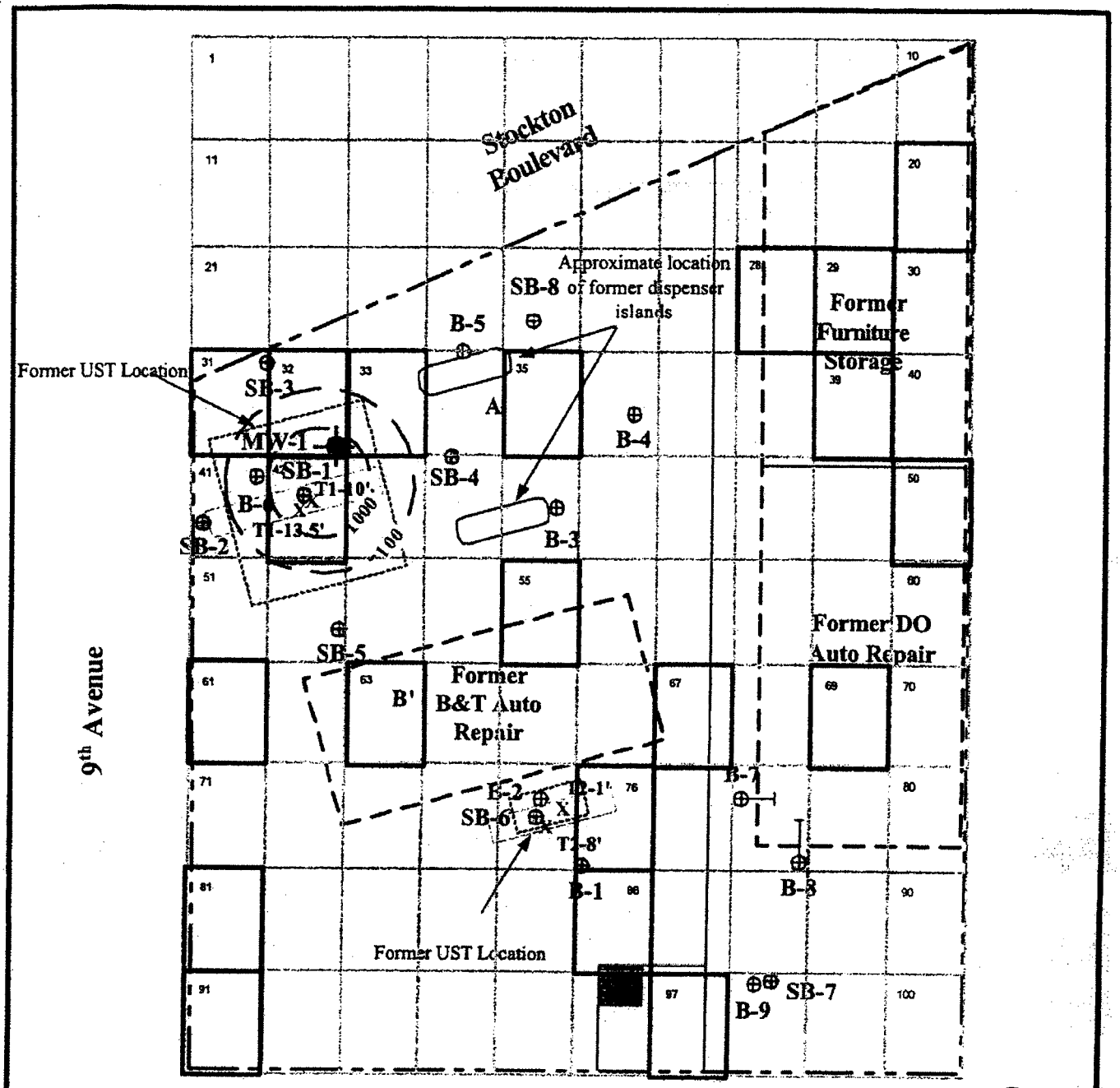
APPROXIMATE SCALE: 1" =1200'

0 600ft 1200ft 2400FT

SITE LOCATION MAP
SHRA PROPERTY
3400 &3406 Stockton Boulevard
Sacramento, California

EEI

FIGURE 1



KEY

X - Soil Sample Location

⊕ - Soil Boring Location

- Monitoring Well Location

100 - TPH-Gas Isopleth (mg/kg) 10-20 feet bgs

97 - Existing Soil Lead Sample Grid Location

SCALE: 1" = 25'

0 15 25 50ft

N

SITE PLAN
SHRA PROPERTY
3400 & 3406 Stockton Boulevard
Sacramento, California

EEI

FIGURE 2

TABLE 1
Analytical Results of Soil Samples(reported in mg/kg)

Sample ID	TPH	TPH-D	TPH-G	TPH-MO	VOC's	MTBE	B	T	E	X	RCRA Metals					CAM Metals	Total Lead	STLC Pb (mg/l)
											Ar	Cd	Cr	Pb	Se			
B1-10'	NT	NT	<0.1	NT	NT	<0.01	<0.005	<0.005	<0.005	<0.005	NT	NT	NT	8	NT	NT	NT	NT
B2-1'	2,500	NT	NT	NT	0.034 [1]	NT	NT	NT	NT	NT	<5	<1	30	180	<5	NT	NT	3.3
B2-6'	1,700	NT	NT	NT	0.078 [1]	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT
B3-2'	NT	NT	<0.1	NT	NT	<0.01	<.005	<.005	<.005	<.005	NT	NT	NT	12	NT	NT	NT	NT
B4-11'	NT	NT	<0.1	NT	NT	<0.01	<.005	<.005	<.005	<.005	NT	NT	NT	7	NT	NT	NT	NT
B5-2'	NT	NT	<0.1	NT	NT	<0.01	<.005	<.005	<.005	<.005	NT	NT	NT	11	NT	NT	NT	NT
B6-2'	NT	NT	<0.1	NT	NT	<0.01	<.005	<.005	<.005	<.005	NT	NT	NT	12	NT	NT	NT	NT
B6-5'	NT	NT	<0.1	NT	NT	<0.01	<.005	<.005	<.005	<.005	NT	NT	NT	16	NT	NT	NT	NT
B7-4'	<30	NT	NT	NT	<5-50	NT	NT	NT	NT	NT	NT	NT	NT	10	NT	NT	NT	NT
B8-3'	<10	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	41	NT	NT	NT	NT
B9-6"	1,300	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	NT	230	NT	NT	NT	7.9
MW1-15'	NT	200	1,100	NT	NT	NT	<0.5	3.9	9.4	22	NT	NT	NT	NT	NT	NT	NT	NT
MW1-30'	NT	55	640	NT	NT	NT	<0.5	0.58	6.3	11	NT	NT	NT	NT	NT	NT	NT	NT
MW1-45'	NT	<1	<1	NT	NT	NT	<0.5	<0.5	<0.5	<0.5	NT	NT	NT	NT	NT	NT	NT	NT
MW1-60'	NT	<1	<1	NT	NT	NT	<0.5	<0.5	<0.5	<0.5	NT	NT	NT	NT	NT	NT	NT	NT
SB1-5'	NT	870	1,500	NT	NT	<0.5	1.4	0.91	2.7	5.9	NT	NT	NT	NT	NT	NT	4.99	NT
SB1-10'	NT	665	2,200	NT	NT	<0.5	<0.5	2.4	22	61	NT	NT	NT	NT	NT	NT	5.32	NT
SB1-20'	NT	498	1,100	NT	NT	<0.5	<0.5	0.52	6.9	16	NT	NT	NT	NT	NT	NT	NT	NT

[1] = Total Xylenes; [2] = 1,3,5-Trimethylbenzene; [3] = Naphthalene; [4] = Chloroform; [5] = Hexachlorobutadiene;
TPH = Total Petroleum Hydrocarbons - Full Range; TPH-D = Total Petroleum Hydrocarbons as Diesel; TPH-G = Total Petroleum Hydrocarbons as Gasoline; TPH-MO = Total Petroleum Hydrocarbons as Motor Oil; VOC's = Halogenated and Aromatic Volatile Organic Compounds; MTBE = Methyl tert-Butyl Ether; PAH's = Polynuclear Aromatic Hydrocarbons; B = Benzene; T = Toluene;
E = Ethylbenzene; X = Total Xylenes; Ar = Arsenic; Cd = Cadmium; Cr = Chromium; Pb = Lead; Se = Selenium; CAM Metals = Title 22 CCR Metals; STLC Pb = Soluble Lead (Title 22 CCR);
ND = Not Detected; NP = Not Present in concentrations exceeding EPA Region 9 PRG's; NT = Not Tested

TABLE 1
Analytical Results of Soil Samples(reported in mg/kg)

Sample ID	TPH	TPH-D	TPH-G	TPH-MO	VOC's	MTBE	B	T	E	X	RCRA Metals					CAM Metals	Total Lead	STLC Pb (mg/l)
											Ar	Cd	Cr	Pb	Se			
SB1-30'	NT	30	500	NT	NT	<0.5	<0.5	<0.5	2.9	10	NT	NT	NT	NT	NT	NT	NT	NT
SB1-40'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	0.014	NT	NT	NT	NT	NT	NT	NT	NT
SB1-45'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB2-10'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	7.08	NT
SB2-20'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB2-30'	NT	<1	1.1	NT	NT	<.005	<.005	<.005	<.005	0.011	NT	NT	NT	NT	NT	NT	NT	NT
SB2-40'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB3-10'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	4.08	NT
SB3-20'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB3-30'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB3-40'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB4-10'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	4.34	NT
SB4-20'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB4-30'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB4-40'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB5-10'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	4.12	NT
SB5-20'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB5-30'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	<.005	NT	NT	NT	NT	NT	NT	NT	NT
SB5-40'	NT	<1	<1	NT	NT	<.005	<.005	<.005	<.005	0.009	NT	NT	NT	NT	NT	NT	4.70	NT

[1] = Total Xylenes; [2] = 1,3,5-Trimethylbenzene; [3] = Naphthalene; [4] = Chloroform; [5] = Hexachlorobutadiene;
TPH = Total Petroleum Hydrocarbons - Full Range; TPH-D = Total Petroleum Hydrocarbons as Diesel; TPH-G = Total Petroleum Hydrocarbons as Gasoline; TPH-MO = Total Petroleum Hydrocarbons as Motor Oil; VOC's = Halogenated and Aromatic Volatile Organic Compounds; MTBE = Methyl tert-Butyl Ether; PAH's = Polynuclear Aromatic Hydrocarbons; B = Benzene; T = Toluene; E = Ethylbenzene; X = Total Xylenes; Ar = Arsenic; Cd = Cadmium; Cr = Chromium; Pb = Lead; Se = Selenium; CAM Metals = Title 22 CCR Metals; STLC Pb = Soluble Lead (Title 22 CCR);
ND = Not Detected; NP = Not Present in concentrations exceeding EPA Region 9 PRG's; NT = Not Tested

TABLE 1
Analytical Results of Soil Samples(reported in mg/kg)

Sample ID	TPH	TPH-D	TPH-G	TPH-MO	VOC's	MTBE	B	T	E	X	RCRA Metals					CAM Metals	Total Lead	STLC Pb (mg/l)
											Ar	Cd	Cr	Pb	Se			
SB6-5'	NT	<1	<1	400	0.003 [2] 0.007 [3]	NT	<0.002	<0.002	<0.002	0.035	NT	NT	NT	NT	NT	NT	10.8	NT
SB6-10'	NT	<1	<1	<10	<0.002	NT	<0.002	<0.002	<0.002	<0.002	NT	NT	NT	NT	NT	NT	3.99	NT
SB6-15'	NT	<1	<1	<10	<0.002	NT	<0.002	<0.002	<0.002	<0.002	NT	NT	NT	NT	NT	NT	2.74	NT
SB7-5'	NT	<1	<1	170	<0.002	NT	<0.002	<0.002	<0.002	<0.002	NT	NT	NT	NT	NT	NT	12.8	NT
SB7-10'	NT	<1	<1	<10	<0.002	NT	<0.002	<0.002	<0.002	<0.002	NT	NT	NT	NT	NT	NT	3.53	NT
SB7-15'	NT	<1	<1	<10	<0.002	NT	<0.002	<0.002	<0.002	<0.002	NT	NT	NT	NT	NT	NT	1.69	NT
T1-10'	NT	20	120	NT	NT	NT	<0.5	<0.5	0.32	1.1	NT	NT	NT	NT	NT	NT	3.4	NT
T1-13.5'	NT	185	1,500	NT	NT	NT	<0.5	8	11	28	NT	NT	NT	NT	NT	NT	6.9	NT
T2-1'	NT	121	NT	NT	<0.002	NT	<0.5	<0.5	<0.5	<0.5	NT	NT	NT	NT	NT	NP	46	NT
T2-8'	NT	<1	NT	NT	0.002 [4] 0.003 [5]	NT	<0.5	<0.5	<0.5	0.002	NT	NT	NT	NT	NT	NT	NT	NT

[1] = Total Xylenes; [2] = 1,3,5-Trimethylbenzene; [3] = Naphthalene; [4] = Chloroform; [5] = Hexachlorobutadiene;
TPH = Total Petroleum Hydrocarbons - Full Range; TPH-D = Total Petroleum Hydrocarbons as Diesel; TPH-G = Total Petroleum Hydrocarbons as Gasoline; TPH-MO = Total Petroleum Hydrocarbons as Motor Oil; VOC's = Halogenated and Aromatic Volatile Organic Compounds; MTBE = Methyl tert-Butyl Ether; PAH's = Polynuclear Aromatic Hydrocarbons; B = Benzene; T = Toluene;
E = Ethylbenzene; X = Total Xylenes; Ar = Arsenic; Cd = Cadmium; Cr = Chromium; Pb = Lead; Se = Selenium; CAM Metals = Title 22 CCR Metals; STLC Pb = Soluble Lead (Title 22 CCR); ND = Not Detected;
NP = Not Present in concentrations exceeding EPA Region 9 PRG's; NT = Not Tested

TABLE 2
Analytical Results of Groundwater Samples (reported in ug/l)

Sample ID	Date	Depth to Water (Feet)	TPH-G	B	T	E	X	MTBE	VOC's
SB1W1	6/12/02	-43	680	<2.0	<2.0	10	29	<2.0	All constituents ND, except: Acetone – 9.5 2-Butanone – 4.3 1,2-Dichloroethane – 16 2-Hexane – 3.8 Isopropylbenzene – 7.1 n-Propylbenzene – 4.6 1,3,5-Trimethylbenzene – 12 tert-Butylbenzene – 4.4 1,2,4-Trimethylbenzene – 35 sec-Butylbenzene – 5.9 4-Isopropyltoluene – 4 Naphthalene – 15
MW1-1112	11/12/02	37.46	190	<2.0	<2.0	2.3	5.0	<2.0	All constituents ND, except: 1,2,4-Trimethylbenzene – 2.6
MW1-0305	3/5/03	36.76	<50	<2.0	<2.0	<2.0	<2.0	<2.0	All constituents ND, except: 1,2-Dichloroethane – 2.6
MW1-0514	5/14/03	36.52	NT	<2.0	<2.0	<2.0	<2.0	<5.0	All constituents ND except: 1,2-Dichloroethane – 2.3
MW1-1010	10/10/03	37.16	<2.0	<2.0	<2.0	<2.0	<2.0	<2.0	All constituents ND (i.e., <2.0 - <10)
MW1-1004 (No-purge)	10/18/04	37.32	NT	<0.5	<0.5	<0.5	<1.0	<0.5	All constituents ND (i.e., <0.5 - <10) except: 1,2-Dichloroethane – 1.5
MW1-1021 (Lo-Purge)	10/21/04	37.30	NT	<0.5	<0.5	<0.5	<1.0	<0.5	All constituents ND (i.e., <0.5 - <10) except: Chloroform-1.3 1,2-Dichloroethane – 1.9
SB8-W (Downgradient)	10/18/04	NA	NT	<0.5	<0.5	<0.5	<1.0	<0.5	All constituents ND (i.e., <0.5 - <10) except: 1,2-Dichloroethane – 5.1

TPH-G = Total Petroleum Hydrocarbons as Gasoline; B = Benzene; T = Toluene; E = Ethylbenzene; X = Total Xylenes
MTBE = Methyl-tert-butyl-ether; VOC = Volatile Organic Compounds; ND = Not Detected, NT = Not Tested

TABLE 3
Analytical Results of Soil Samples - Total Lead

Sample ID	Total Lead (mg/kg)	DI WET Lead (mg/l)
20-1'	22	NT
28-1'	21	NT
29-1'	25	NT
31-1'	38	NT
32-1'	32	NT
33-1'	28	NT
35-1'	79	NT
39-1'	11	NT
42-1'	16	NT
50-1'	21	NT
55-1'	42	NT
61-1'	170	NT
63-1'	52	NT
67-1'	38	NT
69-1'	17	NT
76-1'	37	NT
81-1'	170	NT
86-1'	630	<0.05
91-1'	44	NT
97-1'	460	NT

ND = Not Detected, NT = Not Tested
Complete laboratory reports and chain-of-custody documentation are enclosed

RECORDING REQUESTED BY:

Alliance Title 12358261MJB

AFTER RECORDING MAIL TO:
Community Pride Project
5625 Stockton Blvd.
Sacramento, CA 95824

Attachment 4

ALLIANCE TITLE COMPANY
hereby certifies this is a true and correct
copy of the original RECORDED 9/30/05
under RECORDER'S SERIAL NO B20050970
P836

Authorized Signature

TITLE OF DOCUMENT

Release Agreement

RELEASE AGREEMENT

This Release Agreement (hereinafter "Agreement") is entered into effective the date set forth below, by and between COMMUNITY PRIDE PROJECT, A CALIFORNIA NONPROFIT CORPORATION ("CPP"), and REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO ("Agency"), who agree as follows:

1) Background

a. In this Agreement, the term "the Contract" refers to that certain Disposition and Development Agreement between CPP as Developer and Agency dated August 23, 2005 * relating to property located in the Oak Park neighborhood of Sacramento, California and more specifically described in the Contract. Capitalized but undefined terms used in this Agreement shall have the meaning given them in the Contract.

b. CPP has assigned its interest in the Contract in an Assignment dated 9-29-05 * to Regent Development, Inc. to be consummated prior to the close of escrow and settlement of the Property.

* Recording concurrently herewith

c. Agency has agreed to release CPP, on consummation of the sale of the Property to the Assignee, from any and all claims, known and unknown, as provided in this Agreement.

2) Release. Subject to and conditioned on the close of escrow and settlement of the Property, Agency hereby releases and discharges CPP, and its respective agents, servants, employees, attorneys, heirs, successors in interest and assigns, of and from all claims, demands, actions and causes of action, known or unknown, which may now exist, or hereafter accrue by reason of any acts, transactions or omissions occurring prior to the date this agreement is executed which are in any way related to the Contract or the Property, and regarding the source of funds received under the Contract or otherwise, regardless of whether said claims are known or unknown. Agency further waives all rights under or by virtue of Section 1542 of the California Civil Code, which provides as follows:

> "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

3) Representation; No Inducement. Each of the parties to this Agreement hereby warrants, represents, and certifies (a) that the contents of this Agreement have been completely and carefully read by each of their authorized undersigned representatives, (b) that each of them has been separately represented by counsel and each of them is satisfied with such representation, (c) that each of their counsel has advised them of, and they each fully understand, the legal consequences of this Agreement, and (d) that no other person (whether a party to this agreement or not) has made any threats, promises, or representations of any kind whatsoever to induce the execution hereof, other than the performance of the terms and provisions hereof.

4) Counterparts. This Agreement may be executed in counterparts, and all counterparts so executed shall constitute one Agreement which shall be binding on all parties hereto, notwithstanding the fact that all of the parties are not signatories to the original or the same counterpart. Each party to this agreement may execute a separate signature page, and the Agreement may consist of multiple signature pages. This Agreement is effective only when signed by all parties.

5) Further Assurances. Each of the parties to this Agreement, and each of their agents and employees, shall cooperate with each other party to this Agreement, and shall take all actions which may be necessary or appropriate to carry out the purposes of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date indicated opposite their respective signatures.

DATED: Sept. 29, 2005

DEVELOPER :
COMMUNITY PRIDE PROJECT, A CALIFORNIA NONPROFIT CORPORATION

By: _____
Its: Richard Greene, Executive Director

Date: 9-29-05

AGENCY:
THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____
Anne M. Moore, Executive Director

Date: Sept 9, 2005

Approved as to form:

_____
Agency Counsel

STATE OF CALIFORNIA
COUNTY OF SACRAMENTO } S.S.

On 9/29/05 before me,

M. Bennett

a Notary Public in and for said County and State, personally appeared

Richard Greene

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), acted, executed the instrument.

M. BENNETT
COMMISSION #1362511
NOTARY PUBLIC - CALIFORNIA
SACRAMENTO COUNTY
MY COMM. EXPIRES JUL 24, 2006

(This area for official notorial seal)

WITNESS my hand and official seal.

Signature

STATE OF CALIFORNIA
COUNTY OF Sacramento } s.s.

On 9-9-2005 before me,

M. Bennett

a Notary Public in and for said County and State, personally appeared

Anne M. Moore

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

M. BENNETT
COMMISSION #1362511
NOTARY PUBLIC – CALIFORNIA
SACRAMENTO COUNTY
MY COMM. EXPIRES JUL 24, 2006

(This area for official notorial seal)

WITNESS my hand and official seal.

Signature

RECORDING REQUESTED BY:

Alliance Title 12358261MJB

AFTER RECORDING MAIL TO:
Community Pride Project
5625 Stockton Blvd.
Sacramento, CA 95824

Attachment 4

ALLIANCE TITLE COMPANY
hereby certifies this is a true and correct
copy of the original RECORDED 9/30/05
under RECORDER'S SERIAL NO B3005 0930
P 835

Authorized Signature

TITLE OF DOCUMENT

Assignment and Assuption of Disposition and Development Agreement and Consent by Redevelopment Agency of the City of Sacramento

ASSIGNMENT AND ASSUMPTION OF DISPOSITION AND DEVELOPMENT AGREEMENT AND CONSENT BY REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

THE COMMUNITY PRIDE PROJECT, A CALIFORNIA NONPROFIT MUTUAL BENEFIT CORPORATION, ("CPP") and REGENT DEVELOPMENT, INC, A CALIFORNIA CORPORATION ("Assignee") agree as follows:

ARTICLE 1. GENERAL.

1.01. The Contract. In this Agreement, the term the "Contract" refers to that certain Disposition and Development Agreement between CPP as Developer and Redevelopment Agency of the City of Sacramento as Agency ("Agency") dated August 23, 2005. *

* Recording concurrently herewith

1.02. CPP Representations. CPP represents that **Exhibit A** attached hereto is a true and correct copy of the Contract; that the Contract has not been modified or amended; that the Contract will not be modified or amended during the term of this Agreement without the written consent of Assignee, not to be unreasonably withheld or delayed; that CPP is the owner of the Developer's rights under the Contract; and that the Contract is in full force and effect. Except for the foregoing representations, CPP makes no representations concerning the Contract, and CPP makes no representations whatsoever concerning the property which is the subject of the Contract.

1.03. Release by Assignee. Except for liability arising out of breach by CPP of a representation made in Section 1.02, above, Assignee hereby waives, releases, and discharges any claim it has, might have had, or may have against CPP with respect to: (i) any provision of the Contract; (ii) any condition of the Property, whether such condition is patent or latent; (iii) Assignee's ability or inability to obtain or maintain building permits, either temporary or final certificates of occupancy, or other licenses and/or certificates of compliance for the Property; (iv) the actual or potential income or profits to be derived from the Property; (v) the real estate taxes now or hereafter payable on the Property; (vi) the compliance with federal, state or local statutory or common law, ordinance or regulation pertaining to the existence or release of hazardous substances from or at the Property or the environmental condition of the Property, including, but not limited to, claims arising under the Comprehensive Environmental Response Compensation Liability Act ("CERCLA"), 42 U.S.C. Sections 9601 et seq., California Health and Safety Code Sections 25100 et seq. or any other federal, state and local environmental laws; (vii) any inaccuracy, incompleteness or deficiency in any information concerning the Contract or the Property received by Assignee directly or indirectly from CPP, and Assignee disclaims any reliance upon any such information; (viii) any other state of facts which exist with respect to the Contract or the Property; and (ix)CPP's indemnification under the Contract. Assignee hereby agrees, represents and warrants that the matters released herein are not limited to matters which are known or disclosed, and Assignee hereby waives any and all rights and benefits that Assignee now has, or in the future may have conferred upon it, by virtue of the provisions of federal, state or local laws, rules or regulations, including but not limited to the benefits of California Civil Code Section 1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

The releases set forth in this Section 1.03 shall survive the termination of this Agreement or the consummation of the assignment, and shall not be deemed to have merged into any of the documents executed or delivered at such consummation. To the extent required to be operative, the disclaimers or warranties contained herein are "conspicuous" disclaimers for purposes of any applicable law, rule, regulation or order.

1.04. Purpose. The purpose of this Agreement is to provide for the assignment by CPP to Assignee of the rights of the Developer under the Contract, and for the assumption by Assignee of the obligations of Developer under the Contract.

1.05. Effective Date. This Agreement shall become effective when both Assignee and CPP are in possession of a fully signed duplicate original hereof. However, the consummation of the assignment and assumption shall occur later as provided in this Agreement.

ARTICLE 2. ASSIGNMENT AND ASSUMPTION.

2.01. Assignment and Assumption. Upon the terms and conditions stated in this Agreement, CPP shall assign to Assignee the rights of the Developer under the Contract, and Assignee shall assume the rights and obligations, including benefits and indemnifications, of Developer under the Contract. The assignment shall be consummated contemporaneously with the Close of Escrow under the Contract for the transfer of title to the Property, and the deed to be given by Agency shall designate Assignee rather than CPP as grantee.

2.02. Price for Assignment. In addition to assuming obligations under the Contract and the related agreements, Assignee shall pay to CPP the sum of One Hundred Ninety-Five Thousand Dollars ($195,000) (the "Assignment Price"). The Assignment Price shall be paid into an escrow account opened by CPP and Assignee with the Title Company as defined in Section 13.8 of the Contract. Delivery of the Assignment Price into the escrow account shall be made no later than one (1) business day prior to the date scheduled for Agency's transfer of ownership of the Property to Assignee. CPP and Assignee shall provide escrow instructions to Title Company with instructions for the release of the Assignment Price to CPP only upon the completion of Assignee's excavation and disposal of the contaminated soils at the Property as contemplated by Section 4.20 of the Contract.

2.03. Termination of Assignment Agreement. CPP and Assignee acknowledge the existence of Hazardous Substances (as defined in Section 12.15 of the Contract) in the soils of the Property to the extent characterized and described by Phase I and Phase II Hazardous Materials Investigation Reports delivered by Agency to CPP and Assignee. By the terms of Section 4.20 of the Contract, Assignee has the right to terminate the Contract and transfer ownership of the Property back to Agency should Assignee determine that the cost to excavate and dispose of the contaminated soils at the Property would exceed the sum of Fifty Thousand Dollars ($50,000). In the event Assignee exercises its right to terminate the Contract and reconvey the Property to Agency pursuant to Section 4.20 of the Contract, CPP and Assignee agree that any such termination shall likewise be effective to terminate this Assignment and

Assumption Agreement. In the event of such a termination, CPP and Assignee shall have no further obligations to each other hereunder and Assignee shall have no obligation to pay CPP the Assignment Price or any other sum as consideration for this Agreement, the escrow for the payment of the Assignment Price shall be terminated and the Assignment Price shall be returned to Assignee.

2.04. Assignee's Right to Modify, Amend or Terminate Contract. At all times following the date of execution of this Assignment and Assumption Agreement by CPP and Assignee, Assignee shall have the right and authority to negotiate with the Redevelopment Agency of the City of Sacramento for any modification, amendment or termination of the Contract that Assignee deems advisable, in Assignee's sole and absolute discretion, and there shall be no requirement to obtain CPP's consent to any such modification, amendment or termination. In the event Assignee does not approve of the Property during the Contingency Period provided under the Contract, CPP agrees that it will terminate the Contract upon Assignee's request and that this Assignment and Assumption Agreement shall likewise be concurrently terminated and the parties shall have no further obligation to each other hereunder.

ARTICLE 3. MISCELLANEOUS.

3.01. Amendments. This Agreement may be modified or amended only by an express writing signed by the parties.

3.02. Attorneys' Fees. In the event of litigation arising out of this Agreement or any alleged breach of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees.

3.03. Time of Essence. Time is of the essence of this Agreement and of the escrow provided for herein.

3.04. Integration. This Agreement contains the entire agreement of the parties hereto and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements or understandings, oral or written, relating to the subject matter which are not fully expressed herein.

3.05. Additional Documents. From time to time prior to and after the consummation of the assignment, each party shall execute and deliver such documents as may be reasonably requested by the other party to carry out the purpose and intent of this Agreement.

3.06. Dependency and Survival of Provisions. The respective warranties, representations, covenants, agreements, obligations and undertakings of each party hereunder shall be construed as dependent upon and given in consideration of those of the other party, and shall survive the close of escrow.

3.07 Counterparts. This Agreement may be executed in counterparts, and all counterparts so executed shall constitute one Agreement which shall be binding on all parties hereto, notwithstanding the fact that all of the parties are not signatories to the original or the

same counterpart. Each party to this Agreement may execute a separate signature page, and the Agreement may consist of multiple signature pages. This Agreement is effective only when signed by all parties.

3.08 Invalidity. The format, terms and structure of the transaction contemplated by this Assignment and Assumption Agreement have been thoroughly reviewed and approved by legal counsel for CPP. In the event any term or provision of this Assignment and Assumption Agreement shall, to any extent, be held by a court of competent jurisdiction to be invalid or unenforceable, CPP shall not hold Regent liable in any manner and shall not pursue any claim for damages or other relief against Regent arising out of a determination of such invalidity or unenforceability.

3.09 Exhibit List.

A Disposition and Development Agreement between Developer and Agency

DEVELOPER:

COMMUNITY PRIDE PROJECT, A CALIFORNIA NONPROFIT MUTUAL BENEFIT CORPORATION

By: _____

Its: Richard Greene, Executive Director

Date: 9-29-05

ASSIGNEE:

REGENT DEVELOPMENT, INC.

A CALIFORNIA CORPORATION

By: _____

Darrell G. Petray

Its: President

Date: 9-20-05

CONSENT AND ACKNOWLEDGEMENT

Agency hereby consents to the foregoing assignment. Agency acknowledges (i) CPP has made no investigation of the Property and makes no representations whatsoever regarding the condition, status, or use for which Assignee intends the Property and (ii) CPP has not completed any work, obligations or requirements as Developer under the Contract.

DATED: Sept. 9, 2005

AGENCY:

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: _____

Anne M. Moore, Executive Director

Date: Sept. 9, 2005

Approved as to form:

_____

Agency Counsel