Sacramento Housing & Redevelopment Agency

REPORT TO THE REDEVELOPMENT AGENCY of the City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
October 11, 2005

Honorable Chair and Members of the Board:

Subject: Exclusive Right to Negotiate: 700 and 800 blocks of K Street

Location/Council District: Portions of the area between 7th, 8th, 9th and K streets, north of the alley, Central Business District (District 1)

Recommendation:

Adopt a Resolution authorizing the City Manager, acting as the designated authority for the Redevelopment Agency, to execute an ERN with Zeiden Properties, Saca Development, LLC, M.H. Mohanna, and John Lambeth to further develop the terms of a land-assembly and development concept for the 700 and 800 blocks of K Street.

Contact: Michelle Nelson, Senior Project Manager, 808-7223
Presenters: Leslie Fritzsche, Downtown Development Manger
Department: Economic Development
Division: Downtown Development Group
Organization No: 4451

Summary:

On August 16, 2005, the Redevelopment Agency (Agency) concluded the Owner Participation Request for Proposals (RFP) process for the 700/800 blocks of K Street and authorized staff to negotiate with Zeiden Properties for redevelopment of the 700 block, and with John Saca for a portion of the 800 block, of K Street, subject to further negotiation. Each team was required, within the subsequent 45-day period, to participate in City-initiated mediation to facilitate cooperative real estate discussions between the parties. This staff report describes the interim agreements that have been reached by the parties. Staff recommends authorization to execute an ERN between the parties to further define the terms of a land-assembly and development concept.

Committee/Commission Action: None

Background Information:

On August 16, 2005, the Redevelopment Agency (Agency) concluded the Owner Participation Request for Proposals (RFP) process for the 700/800 blocks of K Street and authorized staff to negotiate with Zeiden Properties for redevelopment of the 700 block, and with John Saca for a portion of the 800 block, of K Street, subject to further negotiation.

As required, each party participated in mediation sessions designed to facilitate cooperative real estate discussions. Consultants were hired as mediators to conduct negotiations between the parties and develop a framework for agreement. The consultants met with each team on a number of occasions to establish their respective goals and requirements (please see Exhibit A). The attached ERN (Exhibit B) is an interim agreement between the parties which includes the following:

- A "land swap" concept by which land currently owned by M.H. Mohanna on the 700 block would be exchanged for similar square footage on the 800 block.
- Additional property purchased to assure sufficient square footage to embark on catalytic retail redevelopment
- Agency involvement to use "good faith efforts" to acquire certain properties within the 700 and 800 blocks of K Street.
- A 60-day period to develop a "Land Assembly Agreement" to set forth specifics of land acquisition, transfer, and assembly.

Financial Considerations: None

Environmental Considerations:

The proposed action to authorize exclusive negotiations with the developers to further refine the terms for cooperative real estate negotiation is authorized under CEQA Guidelines Section 15262, planning for possible future action.

Policy Considerations:

The negotiations are anticipated to result in term sheets for land assembly and conceptual development plans that will be consistent with the Amended Merged Downtown Redevelopment Plan, the Five-Year Implementation Plan, and the JKL Charrette development objectives.

Emerging Small Business Development (ESBD): None

Respectfully submitted by:

Wendy S. Saunders
Economic Development Director

Recommendation Approved:

For ROBERT P. THOMAS
City Manager

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RESOLUTION NO.

Adopted by the Redevelopment Agency of the City of Sacramento

Date_____

BACKGROUND

A. On August 16, 2005, the Redevelopment Agency of the City of Sacramento (Agency) adopted Resolution 2005-0620 which concluded the formal Owner Participation Request for Proposal (RFP) process for the 700/800 blocks of K Street and authorized staff to negotiate with Zeiden Properties for redevelopment of the 700 block and with John Saca for a portion of the 800 Block of K Street, subject to further negotiation.

B. A 45-day schedule of negotiations was established, including, participation by development teams in City-initiated mediation to facilitate cooperative real estate discussions between the parties.

C. Discussion among the parties has resulted in an agreement to continue to refine the terms of a land-assembly and development concept for both the 700 and 800 blocks of K Street.

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

Section 1. The City Manager, acting as the designated authority for the Redevelopment Agency, is authorized to execute the attached ERN with Zeiden Properties, Saca Development, LLC, M.H. Mohanna, and John Lambeth to further develop the terms of a land-assembly and development concept for the 700 and 800 blocks of K Street.

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Exhibit A Agreement for Exclusive Right to Negotiate

Exhibit A

EDGAR & ASSOCIATES

Tax Services
Tax Planning
Accounting Services
Local Government Consultation

MEMORANDUM

TO: Robert P. Thomas
City Manager

FROM: Bill Edgar and Andy Plescia
Special Advisors

DATE: Tuesday September 28, 2005

SUBJECT: Report of the Special Advisors Re: Development Mediation and Negotiation Regarding the 700 & 800 Blocks of K Street

Introduction and Background

As you recall, at the meeting on Tuesday, August 23, 2005, the City Council Ad Hoc Committee met, and reviewed the status of the proposed development of the 700 & 800 Blocks of K Street. Suffice to say all were in agreement that the City Council had ended the RFP process at the City Council meeting on August 16, 2005 and instructed the staff to work with the two developers (Saca and Zeiden) over the next 45 days to determine if an agreeable strategy or conceptual framework for developing both the 700 & 800 blocks of K Street could be achieved. The Ad Hoc Committee asked that the following general objectives be followed:

1. Preserve the historic scale of the 700 block.
2. Continue the destination retail development thereby enhancing what Westfield is trying to accomplish.
3. Provide housing above the retail on the 800 block.
4. Encourage cooperative land assembly.

Our task was clarified to mean that our goal was to develop an agreeable conceptual framework or strategy which all parties could sign, and which would become the basis for a term sheet and later the DDA (Development Disposition Agreement) and/or OPA (Owner Participation Agreement). We indicated that we would be meeting with both development teams separately and attempting to elicit some "common elements" that could provide the beginning of an agreed upon framework for developing the two blocks simultaneously. After some dialogue with the members, we were asked to begin the process of working with the developers in order to determine quickly whether or not an agreement is achievable. Since that time we have met separately and together with both development teams as follows:

833 Parkhaven Way • Sacramento, CA 95831 • Tel: (916) 392-4909 • Fax: (916) 395-0140 • Edgar@EandA.org

1. Tuesday, August 8, 2005 (separate meetings)
2. Tuesday, September 6, 2005 (separate meetings)
3. Monday, September 19, 2005 (joint meeting with both development teams)
4. Monday, September 26, 2005 (joint meeting with both development teams)

In addition to these rather formal meetings we have had numerous phone calls and have exchanged many e-mails to bring us to the point where we are now.

Response from the Development Teams

We began the first meetings with both development teams with a recitation of what we believed was the status of the development process to date and what we believed were the next steps. The points we covered were the same as those set forth above and which were covered with the members of the Ad Hoc Committee. It was clear to us that all parties were in agreement as to where we were and where we needed to go. After much discussion and follow up conversations we believe that the following represents the current general perspective and positions of the respective development teams:

Zeiden Properties:

1. The Zeiden Team views this project as a long term investment and would intend to hold the property as part of their company portfolio. This is consistent with what they do in other urban areas where they have developed projects.
2. Joe Zeiden stated unequivocally that under no circumstances would he or his family consider a joint venture as a development alternative.
3. The Zeiden Team considers 70,000 to 75,000 square feet of retail as the minimum amount of development in order to make a positive change to this section of K Street. At this point, the 700 block has only 48,200 square feet of available retail space which they believe is not sufficient. This is why their proposal included some of the 800 block to bring the total to 86,000 square feet in their April 29th proposal.
4. Joe Zeiden's preferred alternative is to proceed to develop the two blocks as separate projects with the 700 Block being developed by him and the 800 Block being developed by the Saca team.
5. Joe Zeiden indicated that he would only consider developing the 700 block if additional properties adjacent to or near the subject parcels could be provided to him. Here again the total amount of square feet would have to be increased substantially in order for the project to work. He also said that since the economic

risk would be greater with this alternative the public financing investment may have to be increased.

6. The Zeiden Team also believes that we should focus on the K Street frontage now and that the others issues such as the nuisance alleys, the problems related to the bus terminal and the SRO's would be solved later as K Street is developed.
7. The Zeiden Team believes that no additional parking is required for the 700 block since no additional square footage is being added or developed.

Saca Development:

1. We spent considerable time reviewing the Saca Development submittal regarding the identification of the development team, the key negotiator and the provision of evidence that the key negotiator has the authority to negotiate. Generally, it's probably fair to say that John Saca has the authority to plan the property and seek entitlements. However, he does not have the authority to finance, to construct anything, or to sell the property. Our non-legal reading of the document revealed that no property or money would be contributed to the LLC until the deal is approved by everyone and the financing is in place. John Saca told us that if the deal moves forward, he will ask John Lambeth and Mr. Mohanna to sign a legally binding document that they agree to the deal.
2. John Saca told us that Mo Mohanna was not interested in selling his property. Apparently, Mr. Mohanna wants an equivalent value and square feet of land from the deal and wants to participate in the development of the area.
3. John Saca believes that an exchange of land is doable so long as Mr. Mohanna is provided with an equivalent value and square feet of land.
4. Similar to Joe Zeiden, John Saca's preferred alternative is to proceed to develop the two blocks as separate stand alone projects with the 800 Block being developed by him and the 700 Block being developed by Zeiden team.
5. John Saca said that in order to provide for the exchange of equivalent square feet and value of land and to develop the project that he envisions for the 800 Block the developable site would have to be increased. The proposed portion of the 800 block would need to be expanded to create a large enough development site to accommodate the project that he is planning.
6. The Saca team also believes that the other issues such as the nuisance alleys, the problems associated with the bus terminal and the SRO's must be addressed by the City Council concurrently as we develop these two Blocks.

Development Approach

Based upon the development teams' response to date, we believe that the best approach to move the negotiations forward is for the Agency, Zeiden Properties, Inc. Saca Development, John Lambeth and Mo Mohanna to enter into an "Exclusive Right to Negotiate" document (ERN) for land acquisition, transfer and assembly. The intent of the ERN is to set forth the obligations of the parties related to the negotiations for acquisition, transfer and assembly of

property, and the timetable for the obligations to be completed.

After the ERN is signed, the Agency will use its "good faith efforts" to attempt to acquire certain properties owned by others within the 700 and 800 blocks of K Street as well as certain other properties adjacent to or near the subject parcels. The intended outcome would be to create developable sites through land acquisition, transfer and assembly for both development teams to proceed separately to build out the 700 & 800 blocks of K Street.

Subsequent to the signing of the ERN, it would be our expectation that the Agency would pursue negotiations with Zeiden Properties and Saca Development in order to produce a detailed "Land Assembly Agreement" which would then be approved by the City Council. Assuming approval by the City Council, the Agency would then proceed to enter into separate Exclusive Right to Negotiate agreements with Zeiden Properties and Saca Development related to negotiations for the respective DDAs and/or OPAs.

Selected Development Alternative

As indicated above, after much discussion and conversation, the preferred development alternative by both development teams is now to develop both the 700 and 800 Blocks of K Street separately with the 700 Block being developed by the Zeiden team and the 800 Block by the Saca team. However, it is important to note that this was not initially the preferred option of either the City Council or the development teams.

Initially, it was the desire of each developer to pursue the development of both the 700 & 800 blocks exclusively. However, since the City Council had already decided on August 16th that we should try and work with both developers to reach an agreeable solution, this alternative was rejected. Similarly, although the City Council wanted us to explore the possibility of a joint venture between the two developers, this alternative was also discarded because both developers strongly rejected this approach. Therefore, we believe that the only development alternative that might work for all concerned is to proceed with two separate projects covering both blocks. We did, however, explore two other options, and for your information and review have included all three development alternatives in Exhibit No. 1. All three of these development alternatives were discussed in detail with the respective development teams. Suffice to say, Alternative No. 1: Separate Projects is the preferred development alternative that we are now pursuing.

Status of the ERN (Exclusive Right to Negotiate)

The attorneys for both development teams and the Agency's attorneys have been negotiating the details of a proposed ERN for the last two weeks. At this point Zeiden Properties and the Saca Team have executed the ERN. We have included a copy of the executed ERN for your review and information in Exhibit No. 2 of this memorandum.

In addition to the normal recitals and the outline of the development approach and the land assembly concept, the agreement contains a rather short term (60 days) for the completion of

all of the obligations of the parties to the agreement. We believe that this is the proper approach and will contribute to moving the redevelopment of these two Blocks along efficiently and expeditiously.

Legal Issues

The legal issues, of course, are being monitored by the Agency's attorneys, but the single issue that concerned us when we reviewed this project was the issue of whether the Agency could participate in a tax free Section 1031 exchange. We have now been provided a preliminary legal opinion that it is permissible for the Agency to participate in an exchange. The legal opinion from Perry Israel from Orrick's office has been attached for your review. He is recommending, however, that the Agency use a "qualified intermediary" rather than actually purchasing the property and swapping it for the targeted property. He points out that the IRS regularly approves the use of "qualified intermediaries" so that it would probably not be necessary to obtain a private letter ruling on the transaction. In our opinion this would definitely speed up the actual land assembly. In addition, he stated that since the Agency would not be on the direct chain of title for the property because we would have retained a "qualified intermediary", it would mitigate our risk from property owner liability claims resulting from toxics or other hazards on the property.

Financial Issues

Although we have not begun negotiations for the land assembly for this project, we have done some preliminary work by up-dating the appraisals and establishing a budget for the project. At this point we have advised your staff that the Agency should budget from $15 million to $20 million to complete this project. A detailed analysis has been done and can be provided to you if you want to see it.

Other Issues

The only issues that remain for the Ad Hoc and the City Council at this point are whether the Agency should proceed now on some of the tasks that we know need to be accomplished in order to save time; or, whether we should wait until we are further along in the 60 day period of time that is contained in the ERN. These tasks would include taking initial steps related to the potential acquisition of certain properties that might be required for this project as well as beginning the CEQA process related to the potential land acquisition, transfer and assembly actions.

Conclusions and Recommendations

Conclusions

Although a great amount of work remains to be done, we do believe that enough progress has been made to proceed to the next stage. We have concluded the following:

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1. The respective development teams have agreed to pursue separate projects for the 700 – 800 Blocks of K Street. They have signed the ERN (Exclusive Right to Negotiate) document which sets forth their respective obligations during the next 60 days regarding the conceptual land acquisition, assembly and development plan that has emerged from our discussions.
2. The major legal hurdle regarding the authority and ability of the Agency to participate in a tax free Section 1031 exchange has been resolved.
3. The very preliminary financial analysis that has been completed shows that the land assembly is generally feasible subject to the negotiations among the various property owners. We have concluded that an Agency budget of between $15 million and $20 million should be established for this project.

Recommendations

Based upon the progress that has been made thus far, we recommend the following:

1. The City Council acting as the City Redevelopment Agency approve the ERN (Exclusive Right to Negotiate) document which has been signed by the respective development teams.
2. The City Council acting as the City Redevelopment Agency authorize the Agency staff to begin the acquisition of the properties that we know will be a part of the conceptual plan that has been developed to date within the legal parameters provided by the Agency's Counsel.
3. The City Council acting as the City Redevelopment Agency authorize the Agency staff to begin the CEQA process related to the potential land acquisitions, transfer and assembly.

Exhibit B

AGREEMENT FOR EXCLUSIVE RIGHT TO NEGOTIATE
700/800 Block of K Street

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO ("Agency"), a public body, corporate and politic, whose address is 1030 15th Street, Suite 250, Sacramento, California 95814, Saca Development, LLC, a California limited liability company ("Saca"), M.H. Mohanna, an individual, ("Mohanna") and John Lambeth, an individual, ("Lambeth"), an unincorporated association (collectively, "Saca Team") whose address is 77 Cadillac Drive, Suite 150, Sacramento, California, and ZEIDEN PROPERTIES, ("Zeiden"), LLC, a California limited liability company whose address is 1855 West 139th Street, Gardena, California, have entered into this Agreement for Exclusive Right to Negotiate ("Agreement") as of _____, 2005, ("Effective Date") upon the follow terms:

1. RECITALS. This Agreement is based upon the following recitals, facts and understandings of the Parties:

1.1. Agency desires to have redeveloped certain real property ("Property") located in the City of Sacramento, County of Sacramento, State of California, being all or a portion of the blocks between 7th, 9th, K streets and the east-west alley between K and L Streets. The Property is within the Merged Downtown Sacramento Redevelopment Project Area ("Project Area"). More specifically, the Property consists of the properties referenced as the "700 Block", being generally the area bounded by 7th, 8th, and K Streets and the alley between K and L Streets, and the "800 Block" being generally the area bounded by 8th, 9th, and K Streets and the alley between K and L Streets and located west of the parcel known as 818 K Street. Saca Team and Zeiden have ownership or control of several parcels within the Property boundaries, each owning or controlling properties within the 700 Block and the 800 Block.

1.2. The contemplated redevelopment of the Property is consistent with the Merged Downtown Sacramento Redevelopment Plan ("Redevelopment Plan") and its implementing documents, and has been identified by the Agency as important to the furtherance of the Project Area and the elimination of blighting conditions in the Project Area.

1.3. The Agency issued an Owner Participation Request for Proposals for the development of the Property on January 25, 2005. Zeiden and members of the Saca Team submitted proposals which were reviewed by the Agency. Neither proposal was selected by the Agency. The Agency adopted Resolution No. 2005-0620 on August 16, 2005, which concluded the formal Request for Proposal process for redevelopment of the Property, and established a process for negotiations with the Saca Team and Zeiden regarding potential development of said properties, including, among other items, mediation between Saca Team and Zeiden for the purpose of facilitating discussions regarding cooperative development of said properties.

1.4. Zeiden has complied with Agency Resolution No. 2005-0620 dated August 16, 2005, with regard to the participation in said mediation process.

1.5. Saca Team has complied with Agency Resolution No. 2005-0620 dated August 16, 2005, with regard to the participation in said mediation process, identification of the

development team, and submission of a binding agreement evidencing authority of a key negotiator to act on behalf of the Saca Team.

1.6. The parties desire to proceed with further cooperative negotiations with the intent to reach agreement regarding the approach to land assembly and redevelopment of the Property.

2. EXCLUSIVE RIGHT TO NEGOTIATE. Agency grants to Saca Team and Zeiden, by this Agreement, an exclusive right to further negotiate the terms of a "Land Assembly Concept", as defined in Section 3.1 below, and a "Development Concept", as defined in Section 3.2 below, Upon successful conclusion of such negotiations, it is intended that the Agency will enter into separate Exclusive Negotiation Agreements for negotiation of separate Disposition and Development Agreements with Saca Team and Zeiden, respectively, to implement the terms of the "Business Terms Sheet" as defined in Section 3.4 below. Such Exclusive Negotiation Agreements will be generally in the form of this Agreement and will reflect the negotiated terms of the Land Assembly Concept and the Development Concept and the respective rights and obligations of the parties thereunder.

2.1. OBLIGATION TO NEGOTIATE. For the term of this Agreement, the parties will negotiate reasonably, diligently, fully, and in good faith in accordance with, and regarding all of, the terms of the following "Negotiation Framework", with the intent to achieve said goal.

2.2. LIMITS OF THIS AGREEMENT. The purpose of this agreement is the development of the Business Terms Sheet and Land Assembly Agreement for use in further negotiation among the Agency, with Saca Team and Zeiden, for the development of the Property, as it may be expanded in negotiations. None of the parties is obligated, by this Agreement or otherwise, to enter into any further negotiations or any agreements related to the Property or its development. This Agreement does not convey or grant any rights in any property or to develop any property, any vested rights, any entitlements or approvals, or any rights to financial assistance, or to any other right unless it is clearly and specifically stated in this Agreement.

3. NEGOTIATION FRAMEWORK. The parties will negotiate to further refine the terms of the following Negotiation Framework.

3.1. LAND ASSEMBLY CONCEPT. Parcels will be assembled as follows for redevelopment according to the Development Concept. The terms and conditions of this transfer shall be set forth in a separate Land Assembly Agreement between the Saca Team, Zeiden, and the Agency.

3.1.1. 700 BLOCK AND EXPANDED 700 BLOCK. Pending the parties' satisfying all to be negotiated conditions precedent, the assembly of property within the 700 Block and the Expanded 700 Block will be accomplished as follows for disposition under a valid, binding, and enforceable Disposition and Development Agreement ("Zeiden DDA") with Zeiden which requires its development in accordance with the Development Concept:

a. Saca Team will transfer interest in the parcels controlled by Saca Team to either (i) the Agency, contingent upon its transfer to Zeiden pursuant to the Zeiden DDA or (ii) to Zeiden, as the parties determine is most satisfactory.

b. The Agency will use its best efforts to acquire parcels not owned by Saca Team or Zeiden which are necessary for development, under the Development Concept. As part of its best efforts, the Agency is not obligated to pay more than the "fair market value" of said parcels as established by appraisal by a qualified appraiser. In any event, the Agency is not obligated by this Agreement or otherwise to exercise its power of eminent domain to acquire property to fulfill the Development Concept.

c. The Agency will transfer all parcels owned or acquired by Agency within the 700 Block and Expanded 700 Block to Zeiden for development under the Zeiden DDA.

d. Agency will transfer the properties within the 700 Block and Expanded 700 Block to Zeiden at a price which is the "Fair Reuse Value" determined in accordance with Health and Safety Code Section 33433, and including a reasonable return on investment. Zeiden will comply, as applicable, with all requirements under Labor Code Section 1720, which Section is primarily concerned with the payment of prevailing wages.

3.1.2. 800 BLOCK AND EXPANDED 800 BLOCK. Pending the parties' satisfying all to be negotiated conditions precedent, the assembly of property within the 800 Block and Expanded 800 Block will be accomplished as follows for disposition under a valid, binding, and enforceable Disposition and Development Agreement ("Saca DDA") with Saca Team which requires its development in accordance with the Development Concept:

a. Zeiden will transfer interest in the parcels controlled by Zeiden to either (i) the Agency, contingent upon its transfer to Saca Team pursuant to the Saca DDA or (ii) to Saca Team, as the parties determine is most satisfactory.

b. The Agency will use its best efforts to acquire parcels not owned by Saca Team or Zeiden which are necessary for development, under the Development Concept. As part of its best efforts, the Agency is not obligated to pay more than the "fair market value" of said parcels as established by appraisal by a qualified appraiser. In any event, the Agency is not obligated by this Agreement or otherwise to exercise or even consider the use of its power of eminent domain to acquire property to fulfill the Development Concept.]

c. The Agency will transfer all parcels owned or acquired by Agency within the 800 Block and Expanded 800 Block to Saca Team for development under the Saca DDA.

d. Agency will transfer the properties within the 800 Block and Expanded 800 Block to Saca Team at a price which is the "Fair Reuse Value" determined in accordance with Health and Safety Code Section 33433, and including a reasonable return on investment. Saca Team will comply, as applicable, with all requirements under Labor Code Section 1720, which Section is primarily concerned with the payment of prevailing wages.

3.2. VALUATION. It is the intent of the parties that the foregoing exchange of parcels is accomplished so as to assure each of the parties approximately equal square footage exchanged and equivalent value transferred and received giving due consideration to the affect of the terms of the disposition and development agreement(s) on the value of the transferred parcels. Agency shall reasonably cooperate in any Section 1031 or similar like-kind exchange for Saca Team or Zeiden Team.

3.3. DEVELOPMENT CONCEPT. The properties within the 700 Block/Expanded 700 Block and 800 Block/Expanded 800 Block will be developed in accordance with the following Development Concept.

3.3.1 Zeiden will develop primarily retail frontage designed to attract strong retail tenants along the 700 block of K Street. The project will be in conformance with the Downtown Redevelopment Plan, the 5-year Implementation Plan and consistent with the development objectives of the JKL Charrette to focus on significant, regionally unique destination retail while maintaining the historic scale and nature of the K Street storefronts. Zeiden will include housing on the second floor of the buildings, where feasible.

3.3.2 Saca Team will develop a mixed-use residential project with retail frontage on the 800 Block (along K and 8th Streets). The project will be in conformance with the Downtown Redevelopment Plan, the 5-year Implementation Plan and consistent with the development objectives of the JKL Charrette. The ground floor retail space will be designed to have a size and configuration to attract strong urban retail tenants consistent with a retail tenanting strategy/merchandising plan that will complement the proposed Zeiden tenanting mix.).

3.3.3 PROJECT DESCRIPTION FOR ENVIRONMENTAL REVIEW. As soon as reasonably possible during the term of this Agreement, the parties will refine the description of the development to be done under the Development Concept to a level sufficient for review under the California Environmental Quality Act ("CEQA").ENTITLEMENTS. All parties acknowledge and agree that all development work which may arise from this Agreement will be subject to and conditioned upon successful completion of all applicable governmental review, including without limitation, CEQA, land use, planning, design, and building review.

3.3.4 Entitlements. All parties acknowledge and agree that all development work which may arise from this Agreement will be subject to and conditioned upon successful completion of all applicable governmental review, including without limitation, CEQA, land use, planning, design, and building review.

3.4 FINANCIAL ASSISTANCE. No financial assistance for development of the Property has been offered to any party by this Agreement or otherwise. Agency financial assistance may be considered in future negotiations with the other parties to this agreement after entering into the separate Exclusive Negotiation Agreements as provided in Section 2.

3.5 BUSINESS TERM SHEETS AND LAND ASSEMBLY AGREEMENT Upon completion of negotiations and prior to the expiration of the term of this Agreement, the parties for the 700 Block and the parties for the 800 Block shall each execute a "Business Terms Sheet" and "Land Assembly Agreement" which shall contain an acknowledgement of all the terms as agreed by the

respective parties for the development of the Properties and all added parcels, including without limitation, the terms related to the Land Assembly Concept and the Development Concept.

4. ACCESS TO PROPERTY. During the term of this Agreement, Saca Team, Zeiden will provide to the other parties access to all areas within the Property that is within their ownership and control, to the extent of their authority to do so. Agency may, at its sole discretion, use such access to develop such Phase I and Phase II environmental assessments as the Agency may deem necessary. Any party desiring entry onto the property of another shall execute agreements essentially similar to the Agency's standard use permit agreement.

5. APPRAISALS. The Agency will within ten (10) days of the execution of this Agreement obtain a qualified real estate appraiser or appraisers to obtain, as soon as reasonably possible, appraisals of the parcels within the Property and the additional parcels within the Expanded 700 Block and the Expanded 800 Block. If the Agency has current appraisals on any of the parcels prepared by a qualified appraiser, the Agency may obtain updates on such appraisals instead of full appraisals. The Agency will provide to Saca Team and Zeiden summaries of the appraisals containing such information as would be provided to owners in an eminent domain proceeding. The parties will use such appraisals to determine values of acquisitions, transfers, and exchanges under the Land Assembly Concept to extent that such acquisitions, transfers, and exchanges happen under or are pursuant this Agreement.

6. ENVIRONMENTAL SITE ASSESSMENTS. The Agency will within ten (10) days of the execution of this Agreement obtain a qualified environmental company to obtain, as soon as reasonably possible, Phase I environmental site assessments of the parcels within the Property and the additional parcels within the Expanded 700 Block and the Expanded 800 Block. The Agency may, at its sole discretion, also obtain Phase II environmental site assessments of any such parcels.

7. INFORMATION, STUDIES, ASSESSMENTS, AND REPORTS. The Agency will reasonably provide information within its possession to Saca Team and Zeiden to assist in the negotiations under this agreement. If this Agreement is terminated without execution of a Business Term Sheet, upon Agency request, Saca Team and Zeiden shall each provide to the Agency copies of all studies, assessment, and reports prepared for any portion of the proposed development of the Property as expanded.

8. NO COMMISSIONS. The Agency is not obligated by this Agreement, or otherwise, to pay commissions or brokerage fees or any similar or related fee or charge to any party on account of this Agreement or on account of any action taken pursuant to this Agreement. Agency understands that Mr. Mohanna, as seller, may have separate agreements regarding commissions, which do not affect or pertain to the Agency. Saca Team agrees to hold the Agency and Zeiden harmless from and to defend the Agency and Zeiden against any claim for any such commission, fee, or charge or any other costs related thereto arising from any action or omission of Saca Team, its officers, agents, or employees. Zeiden agrees to hold the Agency and Saca Team harmless from and to defend the Agency and Saca Team against any claim for any such commission, fee, or charge or any other costs related thereto arising from any action or omission of Zeiden, its principals, officers, agents, or employees.

9. CEQA REVIEW. In accordance with the California Environmental Quality Act ("CEQA"), Agency as lead agency will prepare the environmental documentation and consider the environmental effects of the Project prior to considering action to approve any proposed DDA.

a. Agency shall initially bear the costs of CEQA review, which shall thereafter be allocated in accordance with negotiations with the other parties after entering into the separate Exclusive Negotiation Agreements as provided in Section 2.

b. Nothing in this Agreement will be construed to limit the application of CEQA to the development of the Property or to control the actions of Agency in meeting its respective CEQA obligations. In fulfilling its obligations under CEQA, the Agency will act independently and without regard to its respective obligations under this Agreement. Agency will not be liable, in any respect, to any of the other parties or any third party beneficiary of this Agreement for their action or inaction in fulfilling their respective CEQA obligations.

c. Agency is not, and will not be considered to be, obligated by this Agreement, or otherwise, to approve any agreement, unless and until it has fully reviewed and considered the environmental impacts of the proposed project in accordance with CEQA. After CEQA review, Agency is not obligated, by this Agreement or otherwise, to take any action in support of the proposed project. After CEQA review, Agency is not precluded, by this Agreement or otherwise, from rejecting the proposed project or from imposing mitigation measures as a condition of project approval, which measures mitigate or avoid direct or indirect environmental effects of the proposed project.

d. Upon Agency request, each of the other parties will supply readily available data and information both to determine the impact of the development on the environment and to assist in the preparation of the environmental documents for the proposed project.

10. TERM. This Agreement will be effective as of the Effective Date and will terminate upon the earlier of completion of all obligations or sixty (60) days after the Effective Date unless extended by written agreement signed by all of the Parties.

11. COSTS. Each party will bear its own costs related to this Agreement and any predevelopment costs related to development of the Property incurred during the term of this Agreement, including but not limited to costs for planning, architectural, engineering and legal services.

12. ASSIGNMENT. This Agreement is not assignable by either party in whole or in part without the prior written consent of the other parties.

13. APPLICABLE LAW; VENUE. This Agreement will be construed in accordance with the law of the State of California, and venue for any action under this Agreement will be in Sacramento County, California.

14. ATTORNEYS' FEES. In the event of any dispute between the parties, whether or not such dispute results in litigation, the prevailing party will be reimbursed by the other party for all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees, witness and expert fees and investigation costs. A party receiving an award after arbitration or an order or judgment after hearing or trial will not be considered a prevailing party if such award, order or judgment is not substantially greater than the other party's offer of settlement made in advance of the arbitration, hearing or trial.

15. NOTICES. Notices to any party will be personally delivered or sent by first class mail to its principal office address as indicated above. Notices to Agency will be clearly marked "Attention: Economic Development Department (700/800 Block Development)". A copy of all notices to Agency will be mailed or delivered to 630 I Street, Sacramento, CA 95814 and marked "Attention: Legal Department (700/800 Block Development)".

16. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute but one and the same instrument.

17. FACSIMILE SIGNATURE. A facsimile signature shall be as satisfactory as an original signature so long as the original signature is provided within forty-eight (48) hours of the facsimile.

[Signature Follows]
EXECUTED as of the date first written above, in Sacramento, California.

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO
By:_____
Robert P. Thomas, City Manager
Designated Signatory

Approved as to form:

_____
Agency Counsel

SACA TEAM:

Approved as to form:
Michael A. Kvarme

By:_____
Counsel

ZEIDEN:
ZEIDEN PROPERTIES, LLC
By: _____
Joe Zeiden, Member
Authorized Signatory
Approved as to form:
Richard Hyde

By:_____
Zeiden Counsel

By:_____
John Saca, President
Saca Development, LLC

By:_____
John Lambeth
Urban Innovation Partners, LLC

By:_____
M.H. Mohanna

By: _____
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