

**REPORT TO
CITY COUNCIL****City of Sacramento**

915 I Street, Sacramento, CA 95814-2671

www.CityofSacramento.org**Sacramento
Housing &
Redevelopment
Agency****STAFF REPORT
January 24, 2006**

Honorable Mayor and
Members of the City Council

Subject: Approval of Greenfair Development ERN and Update on Redevelopment Activities

Location/Council District: Greenfair Property, Broadway and Fairgrounds Drive
(District 5)

Recommendation:

Adopt resolution on page ten authorizing the Sacramento Housing and Redevelopment Agency to enter into an Exclusive Right to Negotiate with the Greenfair Village Partners, LLC.

Contact: Christine Weichert, Interim Director of Development Services, 440-1353
Emily Halcon, Housing Finance Analyst, 440-1399, ext. 1420

Presenter: Emily Halcon, Housing Finance Analyst

Department: Sacramento Housing and Redevelopment Agency

Summary:

This report provides an update on the redevelopment activities at the Greenfair site, including property acquisition, relocation, community interfacing and collaboration with the Homeowner's Association (HOA). In addition, as part of the overall redevelopment strategy, the Sacramento Housing and Redevelopment Agency (Agency), on behalf of the Housing Authority of the City of Sacramento (Authority), issued a Request for Qualifications and selected a qualified development team to design and construct new housing units at the Greenfair site. This report seeks the City's approval of a Exclusive Right to Negotiate (ERN) between the Agency and the selected development team, Greenfair Village Partners, LLC, delineating the roles and responsibilities of both parties

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during the community design process, proceeding the transfer of the land through a Disposition and Development Agreement (DDA).

Committee/Commission Action:

It is anticipated that at its meeting of January 18, 2006, the Sacramento Housing and Redevelopment Commission will adopt a motion recommending approval of the attached resolution. In the event the Commission fails to do so, the Council will be notified prior to its January 24, 2006 meeting.

Background Information:

History of Greenfair

The Greenfair development consists of approximately 30 acres on the north side of Broadway at Fairgrounds Drive. The project was originally developed in the early 1970s under the US Department of Housing and Urban Development (HUD) Operation Breakthrough program which used experimental housing materials and techniques to produce housing for all income levels. The project originally included 192 senior high rise and low rise apartments, 12 family garden apartments, 19 single family detached homes and 184 attached townhome units. Six different builders were involved in the construction of the homes, all of which have had major structural failures except the senior units and the 45 Christiana Western townhome units.

Beginning in 1997, in response to the ongoing failures of the units, HUD began extending purchase offers to all the owners of the non-senior housing except the 45 Christiana Western units. HUD was successful in the acquisition of 152 parcels containing 148 single family units and four three-plex apartment buildings, for a total of 160 residential units. In August of 2004, the Housing Authority of the City of Sacramento entered into a purchase contract with HUD for the 152 vacant lots and buildings. The sale of the land was completed in September 2004. Since that time, the Authority has acquired an additional four units, for a total of 156 parcels. Attachments I, II and III found on pages six through eight are maps showing the vicinity of the Greenfair site in the City of Sacramento, the immediate neighborhood amenities surrounding Greenfair, the site and ownership status, respectively.

On-going Agency Activities

At the direction of the City Council, the Agency, on behalf of the Authority, has been implementing a redevelopment strategy at Greenfair, which includes multiple components. In 2005, the Agency came to the Council three times for various approvals related to the Greenfair redevelopment, including funding commitments, acquisition authority, and approval of a Request for Qualifications (RFQ). Each action gave the Agency authority to move forward on a variety of activities meant to facilitate the redevelopment. The following is an update on four of the major activities currently being administered by the Agency:

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1. Property Acquisition: In February, 2005, the Authority received authorization to purchase the six units not originally purchased by HUD as they come up for sale on the open market. In the spring of 2005, the Authority purchased the two vacant remainder units, 7 Fiesta Court and 687 Fairground Drive. The remaining four units were all occupied by owner occupants and not for sale on the open market, therefore, the Authority subsequently received authorization to make just compensation purchase offers to these owners in August 2005. Since that approval, the Authority has acquired two of the four properties, 289 and 293 Fairgrounds Drive and is actively working with the owners of the other two properties. To ensure the safety of the current residents and security of the Authority properties, the Agency is boarding each home as they are acquired, and will demolish all the standing units upon acquisition of the final two remainder units.
2. Relocation: Along with the just compensation authorization given to the Authority in August 2005, a relocation plan and the expenditure of up to \$425,000 for relocation of the four households in the remainder units was approved. The owners of the two units which were sold to the Authority have both purchased homes elsewhere in the City with their relocation assistance. The other two homeowners have been provided relocation assistance offers and relocation staff is actively working with them to pursue possible housing options.
3. Community Interfacing: After completion of the community visioning process (in May, 2005), the Agency issued a Request for Qualifications to seek a qualified development team to design and build a new residential development on the Greenfair site. The Greenfair Village Partners, LLC (GVP) was chosen by the selection committee, which included two members from the Greenfair and surrounding community. Since their selection, GVP has been meeting informally with stakeholders and community leaders, including representatives of the HOA management firm, representatives of the senior apartments and representatives of the UC Davis Medical Center. They are planning to begin more formal community workshops with both established neighborhood groups (Tahoe Park, Oak Park and Elmhurst) in early 2006 as well as beginning the design workshops for the Greenfair development with all interested community members upon execution of the ERN with SHRA.
4. HOA Board Activities: The Greenfair HOA held their annual membership meeting in November 2005. At that meeting, three new board members were elected to the board for three year terms, accompanying the six other incumbent members. The HOA Board composition includes three representatives of the Greenfair senior apartments, two resident owners from the Christiana-Western town homes and four Agency staff members. In 2006, the HOA Board will be meeting regularly with the GVP regarding the status of the redevelopment, as well as providing regular oversight of the operations and management of the occupied units at Greenfair. Agency staff, as part of the HOA Board, is working within their resources to initiate some immediate improvements for the HOA, including imposition of permitted parking along Fairgrounds Drive and demolition of some defunct and unsafe parking structures on site.

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Exclusive Right to Negotiate

A selection committee including two community members, City staff and developer representatives chose the Greenfair Village Partners, LLC after an extensive review and interview. GVP will be responsible for the planning, design, construction and sales of the new development, and for all of the community interfacing during this process. GVP is a partnership of three local development firms: Fulcrum Heller, LP (a partnership of Mark Friedman and Michael Heller), New Faze Development, Inc. and USA Properties Fund, Inc., and includes a vast array of development experience, including affordable housing, for-sale detached housing, and urban loft housing.

Upon selection of the Greenfair Village Partners, LLC as the development team to lead the redevelopment of Greenfair, the Agency began negotiations with GVP on the terms and conditions of the relationship between the two entities and their roles and responsibilities in the redevelopment. This relationship is memorialized in an Exclusive Right to Negotiate, included as Exhibit A to the resolution, on pages 10-20. The ERN details the responsibilities of both parties as they relate to preparing a plan for redevelopment of the Authority property, negotiating with the HOA regarding changes to its structure that will be needed for plan implementation, initiating environmental review for the plan, performing community outreach and establishing an appraised value of the property.

The ERN is intended to facilitate the design and planning stages of the project, including the requirements for community participation. Upon completion of a site design and environmental review, the Development and Disposition Agreement (DDA) for transfer of the Authority’s property for implementation of the plan will be submitted to the City Council, acting as the Authority, for approval. Initiation of the project entitlement process will occur prior to the DDA approval to insure City staff review of the plan and to expedite the development schedule.

The preliminary anticipated timeline for community design is as follows:

Time Line	Community Activity
April – June, 2006	Review of Visioning Process and Preferred Alternatives
April – July, 2006	Development of on-going Community Participation Plan
April – June, 2006	Development of M/WBE Outreach Plan
June, 2006 – February, 2007	Design of Individual Project Components and Environmental Review
September, 2006 – July, 2007	Planning, Zoning and Permitting for Individual Project Components

GVP has proposed a complete community participation process which includes community workshops, coffee talks, newsletters, a website, coordination with local businesses and homeownership workshops. Prior to initiation of the formal design component of their outreach plan, GVP and SHRA will review and agree upon the scope and timeline for this portion of the process.

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Financial Considerations:

At this time, no additional funding is being requested for the Greenfair project. To date, \$2,831,000 in City HOME and Housing Trust Funds have been loaned to the Authority for the project to cover acquisition, relocation, demolition and holding costs. The HOME and Housing Trust Fund loans will be repaid with the property sale proceeds. The ERN provides for the costs of the environmental review and property appraisal to be split between the parties. GVP will be responsible for all other planning and community participation costs.

Environmental Considerations:

Once the scope of development for the Greenfair property has been defined, environmental review of the proposed project will be conducted as part of the planning activities.

Policy Considerations:

The actions recommended in the report are consistent with the on-going City and Agency goals for the redevelopment of Greenfair. In the May 31, 2005 staff report authorizing the Agency to release the RFQ for the development site staff indicated that they would return to the City with an authorizing document with the selected developer. The actions recommended in this report allow the Agency to carry out this plan to further the overall redevelopment goals at Greenfair.

M/WBE Considerations:

Minority and Women's Business Enterprise requirements will be applied to all activities to the extent required by Federal funding. In addition, the upcoming activities include preparation of a M/WBE outreach plan.

Respectfully Submitted by: 
ANNE M. MOORE
Executive Director

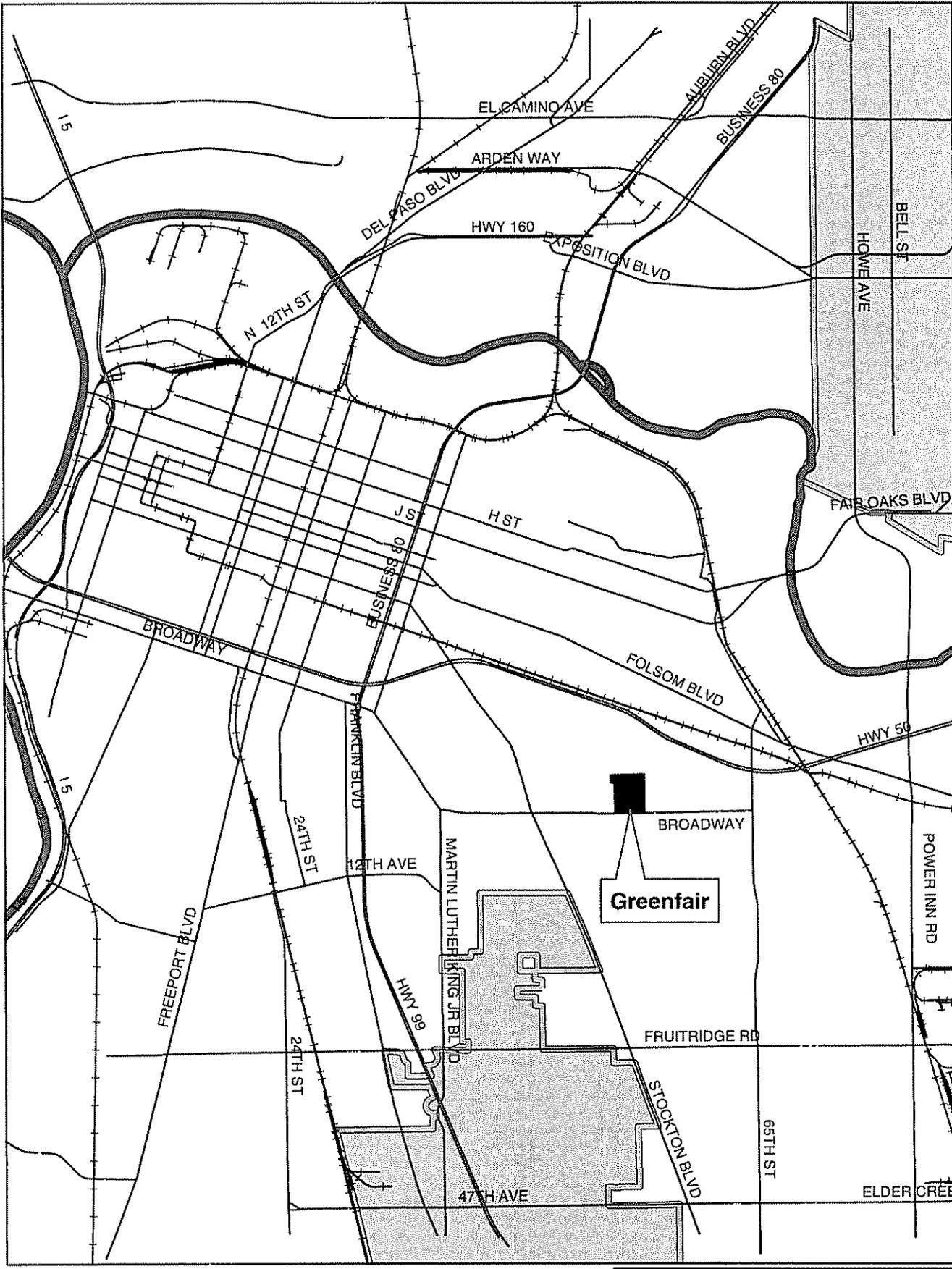
Recommendation Approved:


RAY KERRIDGE
Interim City Manager

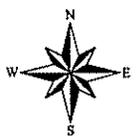
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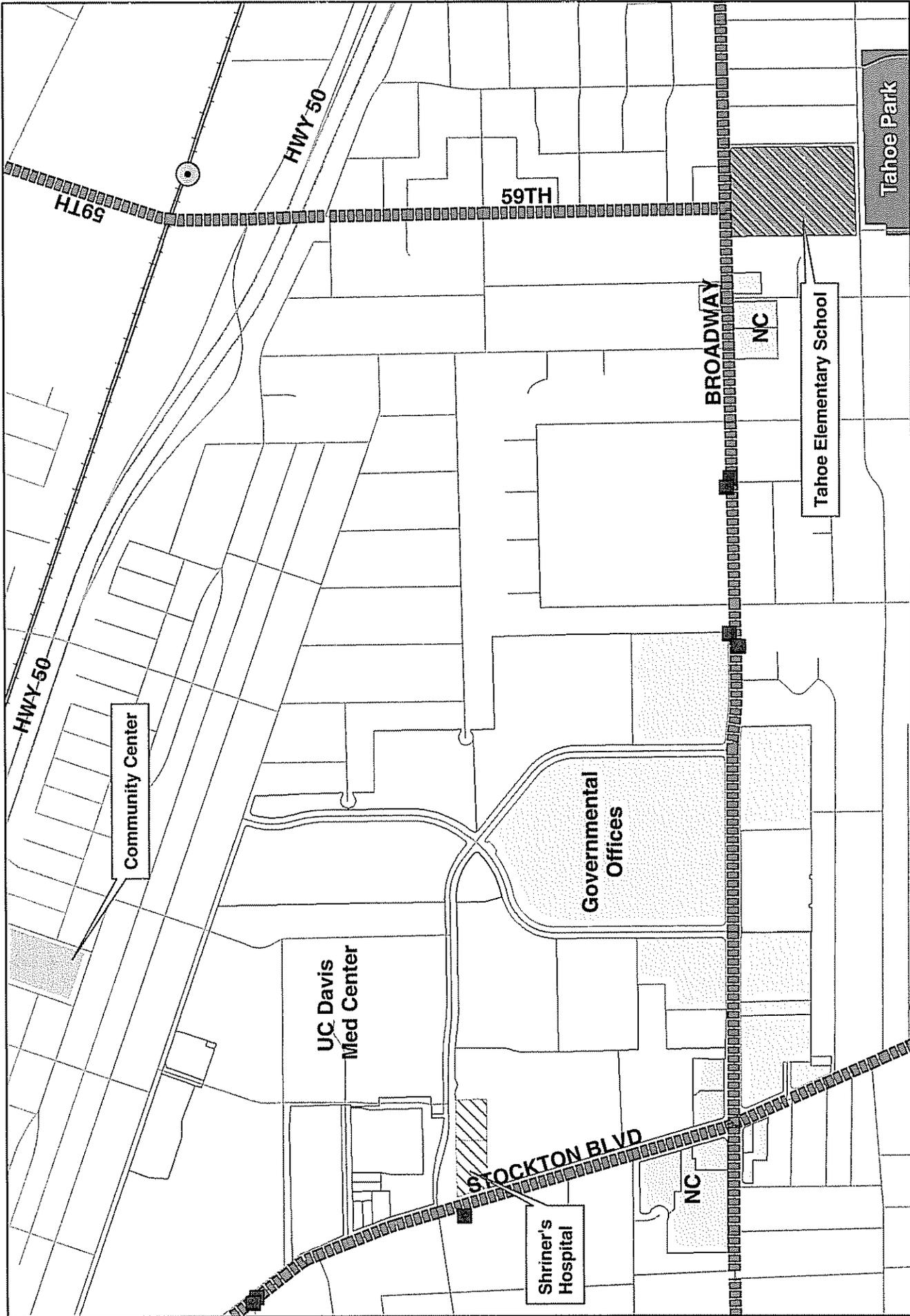


Greenfair Vicinity Map



Legend

Greenfair Site	Rivers
City Of Sacramento	Railways
County of Sacramento	



Legend

- Light Rail Stops
- Bus Route
- Light Rail
- Major Bus Stops
- NC = Neighborhood Commercial



Greenfair Area Map



Map of Greenfair



Legend			
	Senior Garden Apartments		SHRA Owned Vacant Buildings
	HOA Owned Land		Senior High Rise
	Christiana Western Townhomes		SHRA Owned Vacant Land
	Greenfair HOA Community Room		Remainder Units

RESOLUTION NO. 2006- _____

Adopted by the Sacramento City Council

GREENFAIR PROJECT: AUTHORIZING THE SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY TO ENTER INTO AN EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT WITH GREENFAIR VILLAGE PARTNERS, LLC

BACKGROUND

- A. In August 2004, the Housing Authority of the City of Sacramento ("Authority") purchased 152 vacant buildings and parcels from the US Department of Housing and Urban Development at the former Greenfair site, which it intends to transfer to a qualified development team as a part of a larger redevelopment strategy.
- B. In August 2004, February 2005 and August 2005, the Sacramento Housing and Redevelopment Agency provided loan funds to the Housing Authority of the City of Sacramento to carry out the redevelopment strategy at Greenfair.
- C. Since August of 2004, the Sacramento Housing and Redevelopment Agency has been acting on behalf of the Housing Authority of the City of Sacramento in all activities related to the redevelopment of Greenfair.
- D. In May 2005, the City Council of the City of Sacramento approved the release of a Request for Qualifications by the Sacramento Housing and Redevelopment Agency to select a development team to purchase, design and develop a new housing development on the former Greenfair site.

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

Section 1. After due consideration of the facts presented, the findings, including the environmental findings regarding this action, as stated in the staff report, are approved.

Section 2. The Sacramento Housing and Redevelopment Agency is authorized to enter into the attached Exclusive Right to Negotiate Agreement with the Greenfair Village Partners, LLC to commence planning the redevelopment of the Greenfair site and negotiating the terms for the sale of Housing Authority of the City of Sacramento's property.

**EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT
FOR REDEVELOPMENT OF GREENFAIR**

The **SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY** ("Agency") and **GREENFAIR VILLAGE PARTNERS, LLC** ("Developer"), individually referred to as "Party" and collectively referred to as "Parties," have entered into this Exclusive Right to Negotiate Agreement for Redevelopment of Greenfair ("Agreement") as of _____, ("Effective Date") upon the follow terms:

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

a. The Housing Authority of the City of Sacramento ("Authority") owns 160 lots, and is in the process of acquiring an additional two lots within the area known as Greenfair ("Greenfair Property"). Greenfair is located on approximately 30 acres on the north side of Broadway at Fairgrounds Drive in the City of Sacramento. The Authority acquired the Greenfair Property and has paid the Greenfair homeowners association fees, property maintenance and related costs with a HOME and Housing Trust Fund loan issued by the Agency.

b. In addition to the Authority's Greenfair Property, the Greenfair site also contains 45 attached townhomes referred to as the Christiana Western complex and 192 senior apartment units located within a high rise structure and eight low rise garden apartment buildings. The Greenfair site also includes a community facility, open space, and interior roads and parking areas that are owned by the Greenfair Homeowners Association. Greenfair is located within the Tahoe Park neighborhood, lies adjacent to the Oak Park neighborhood, and is within close proximity to the UC Davis Medical Center complex.

c. In 2005, the Agency, on behalf of the Authority, commenced a community visioning process for redevelopment of the Authority's Greenfair Property and issued a Request for Qualifications dated June 3, 2005 ("RFQ"). The approximate location and size of the Authority's Greenfair Property is set out in the RFQ, which is incorporated herein by this reference as if set forth in full. The RFQ was issued to secure a development team to work in cooperation with the Agency to undertake the planning, engineering, and environmental studies, community participation efforts, and revising the Greenfair Homeowners Association governing documents; all of which are required for preparation of the Greenfair Redevelopment Plan that would encompass the entire Greenfair site. The RFQ provided that it is the Agency desire to redevelop the Greenfair Property by constructing between 200 and 400 new residential units designed as homeownership residential project for mixed incomes households, with at least 20% of the units affordable to low income households. In addition to the new homeownership units, the RFQ provided the possibility for senior rental complex on a portion of the site immediately adjacent to the existing senior tower and fronting Broadway.

d. The Developer has been selected by the Agency as the master developer for preparing the Greenfair Redevelopment Plan based on its Qualifications Submission dated August 5, 2005 ("Qualifications Statement"), which is incorporated herein by this reference as if set forth in full. The RFQ and Qualifications Statement set out the parameters for undertaking development of the Greenfair Property. The purpose of this Agreement is to further define each Party's duties and obligations for preparation of the Greenfair Redevelopment Plan.

e. Once the Greenfair Redevelopment Plan has been completed by the Developer and approved by the Agency, the Parties envision that the Authority will sell to the Developer the Greenfair Property at its fair market value to allow for implementation of the Greenfair Redevelopment Plan, and so that the Authority can repay the Agency HOME and Housing Trust Fund loan with the sales proceeds. The Authority is authorized to sell its surplus property to the Developer at market value for the development of housing, a portion of which will qualify as low income housing, subject to the findings and provisions set out in Health and Safety Code Section 34315.7. The Developer's Qualifications Statement provides the initial basis for negotiation of the sale of the Greenfair Property. The Parties desire to investigate the feasibility of development of the Greenfair Property, prepare the Greenfair Redevelopment Plan, and negotiate the terms of a Disposition and Development Agreement ("DDA") for transfer and development of the Greenfair Property during the term of this Agreement. It is the intent of the Authority and the Agency to sell the Greenfair Property to the Developer for a residential project if the Developer fulfills its obligations under this Agreement.

f. The development of the Greenfair Property and the implementation of the Greenfair Redevelopment Plan, as well as the fulfillment generally of the obligations under this Agreement are for the purpose of community improvement and welfare, for the benefit of the existing Greenfair residents and the surrounding neighborhoods, and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements under which this development is to be undertaken.

2. IDENTITY OF PARTIES. The legal identities of the parties to this Agreement and their addresses are as follows:

a. Developer is Greenfair Village Partners, LLC, a limited liability company organized and doing business in the State of California. The Developer is comprised of three entities: Fulcrum Heller, LP, New Faze Development, Inc, and USA Properties Fund, Inc. The Managing Member of the Developer is New Faze Development, Inc., and its Vice President, Marty Tuttle, is authorized to act on behalf of the Developer for all matters related to this Agreement. However, the Agency agrees to provide copies of all of its written communications to Mike Heller of Fulcrum Heller, LP and to John Dangberg of USA Properties Fund, Inc.

b. Agency is the Sacramento Housing and Redevelopment Agency, a public body, corporate and politic, organized under California law and functioning within the jurisdiction of the City of Sacramento. The principal office of Agency for purposes of this Agreement is located at 630 I Street, Sacramento, California 95814. The Executive

Director of the Agency is authorized to act on behalf of the Agency for all matter related to this Agreement.

c. Notices to any party shall be personally delivered or sent by first class mail to its principal office address. Notices to Agency shall be clearly marked "Attention: Greenfair". The Developer's address is Greenfair Village Partners, LLC, c/o New Faze Development, Inc., 1825 Del Paso Blvd., Sacramento CA 95815. The Agency's address is Sacramento Housing and Redevelopment Agency, 630 I Street, Sacramento CA 95814.

3. EXCLUSIVE NEGOTIATION. During the term of this Agreement, the Parties shall negotiate exclusively with each other, and in good faith, regarding the preparation of the Greenfair Redevelopment Plan and the sale of the Greenfair Property. The Parties acknowledge and agree that neither Party is obligated by this Agreement or otherwise to sell or purchase the Greenfair Property, or to undertake development of the Greenfair Redevelopment Plan, and that no Party has a cause of action against the other arising under this Agreement for failure to approve or undertake the obligations as set forth herein, except as provided in Section 14.

4. NO PROJECT APPROVAL. The Parties agree and acknowledge that there has been no commitment by either Party regarding the components of the Greenfair Redevelopment Plan nor the price for sale of the Greenfair Property. The Parties are entering into this Agreement to establish the process and procedures for preparing the Greenfair Redevelopment Plan, determining the fair market value of the Greenfair Property, allocating the work tasks among each Party, and setting the schedule for completing such tasks, and submittal of the final documents to the governing bodies for their approval or denial.

5. TERM. This Agreement shall be effective as of the Effective Date, and shall terminate upon the earlier of completion of all obligations or twelve (12) months after the Effective Date, unless extended by written agreement of the Parties. Notwithstanding the foregoing, this Agreement may be terminated by for convenience by mutual agreement of both Parties, and shall terminate upon the execution of a Disposition and Development Agreement (DDA) or similar agreement between the Parties that sets forth the terms for the sale of the Greenfair Property and implementation of the Greenfair Redevelopment Plan.

6. LEGISLATIVE ACTION. Agency and Developer acknowledge that the Agency must exercise its independent legislative authority in making any and all findings and determinations required of them by law concerning the sale of the Greenfair Property and implementation of the Greenfair Redevelopment Plan (collectively "Project"). This Agreement does not restrict the legislative authority of the Agency and its constituent entities in any manner, whatsoever, and does not obligate the Agency or its constituent entities to enter into the DDA or to take any course of action with respect to the Project.

a. Except as expressly stated in this Agreement, if this Agreement terminates prior to or without execution of a DDA, each Party shall bear its own costs related to implementation of this Agreement.

b. Developer acknowledges that Agency and the City of Sacramento (City) are separate legal entities, and that the entitlements necessary for implementation of the Greenfair Redevelopment Plan are subject to independent review by the City in the proper exercise of its jurisdiction, including without limitation, review and approval by the City Council, City Planning Commission, Design Review/Preservation Board and Planning and Building Departments. If the any entitlement that is required for approval and implementation of the Greenfair Redevelopment Plan is disapproved by final action of the governing bodies of the Agency or the City, as a result of CEQA review or otherwise as may be required in this Agreement or by law, this Agreement shall terminate as of the date of such disapproval.

7. CEQA REVIEW. In accordance with the California Environmental Quality Act ("CEQA"), Agency as lead agency shall prepare the environmental documentation and consider the environmental effects of the Project prior to considering action to approve the proposed DDA. One of the purposes of this Agreement is to define the Project to be evaluated pursuant to CEQA. The scope of the environmental documentation shall be defined in consultation with the Developer and the City, and the costs of preparing the environmental documentation shall be split equally between the Parties.

a. The Agency will make a good faith effort to insure that the scope of the environmental documentation encompasses the requirements of the City to support approval of the entitlements required by the City for implementation of the Project without the need for preparation of subsequent environmental documentation. However, this Agreement does not limit the City's independent right to require additional information and preparation of subsequent environmental documentation as part of the City's entitlement process.

b. The Parties have agreed to the selection of an environmental consultant to prepare a Phase I Environmental Site Assessment (ESA) study, which is a technical study that is needed to support the CEQA environmental documentation. It is the expectation of the Parties that the Greenfair Property is not presenting affected by toxic or hazardous material contamination, but this study will verify if that presumption is correct. The Parties have agreed to split the costs of this Phase I study, which will be prepared on behalf of both Parties. If a subsequent Phase II ESA is required to undertake soil and/or groundwater testing, the Parties must agree on the scope of work and price of such subsequent studies prepared under this Agreement.

c. Nothing in this Agreement shall be construed to limit the application of CEQA to the Project or to changes in the Project or to control the actions of Agency in meeting its respective CEQA obligations. In fulfilling its obligations under CEQA, the Agency shall act independently and without regard to its respective obligations under this Agreement. Agency shall not be liable, in any respect, to Developer or any third party beneficiary of this Agreement for its action or inaction in fulfilling its CEQA obligations.

d. Agency will not consider the approval of the Project unless and until it has fully reviewed and considered the environmental impacts of the Project in accordance with CEQA. After CEQA review, Agency is not, and shall not be considered to be, obligated by this Agreement, or otherwise, to approve a DDA or any other agreement. After CEQA review, Agency is not obligated, by this Agreement or otherwise, to adopt findings of overriding considerations for the approval of the Project or take any other action in support of the Project. After CEQA review, Agency is not precluded, by this Agreement or otherwise, from rejecting the Project or from imposing mitigation measures as a condition of Project approval, which measures mitigate or avoid direct or indirect environmental effects of the Project.

e. Upon Agency request, Developer shall supply data and information both to determine the impact of the Project on the environment and to assist in the preparation of the environmental documents for the Project.

8. PREPARATION OF THE GREENFAIR REDEVELOPMENT PLAN. The Developer shall be solely responsible for the costs required for preparation of the Greenfair Redevelopment Plan ("Plan"), except as provided herein. The Developer shall act as the lead in preparing the Plan, which shall be developed in coordination with the Agency and City staff. The Plan shall be consistent with the Conceptual Project Design as set forth in the Qualifications Statement, unless the Parties mutually agree to changes in the scope or content of the Conceptual Project Design. The consultants to be engaged by the Developer for preparation of the Greenfair Redevelopment Plan are set out in the Qualifications Statement and any change to that list of firms or their scope of work is subject to the prior approval of Agency. Ownership of the plans, reports or other documents prepared by or for the Developer at its sole cost shall remain the property of the Developer notwithstanding that copies of such plans, reports and documents have been provided to the Agency or other public agencies. If this Agreement is terminated for convenience or for default, Agency shall have no right to use the plans, reports or other documents that are owned by the Developer and marked as proprietary, and shall return copies of said materials to the Developer.

a. **COMMUNITY OUTREACH.** The Developer shall undertake a community participation program that includes consultation with the Greenfair Homeowners Association, the Oak Park, Elmhurst and Tahoe Park Neighborhood Associations, the UC Davis Medical Center, and other stakeholders during the preparation of the Plan. The community participation program will be fully developed by the Developer no later than June, 2006 and will be subject to Agency approval. The community participation plan will include activities such as (but not limited to) "coffee talks" with neighborhood groups during the early design and planning process, bi-monthly newsletters, a project website (www.greenfairvillage.com) updated at least bi-monthly, and at least two tours during the four phases of the project (design, planning, construction and sales). The Developers will coordinate and conduct at least three design and/or planning meetings with the community, including representatives from the surrounding neighborhood groups. The Developers will attend regularly scheduled Greenfair Homeowners Association Meetings at least once a quarter during the planning and development

stages of the project. In addition, meetings will be coordinated with local employers and M/WBE outreach activities will be conducted to engage the business community and at least two homeownership workshops will be held for potential Greenfair Village residents.

b. **HOA RESTRUCTURING.** The Plan shall include a proposal for restructuring of the Greenfair Homeowners Association (HOA) as described in the Qualifications Statement and as needed for implementation of the Plan. The Agency will provide specialized legal services by Sproul Trost LLP to consult with the Developer's legal counsel in devising the procedures and defining the documents that will be necessary for the restructuring. The amount of legal services to be provided by the Agency is limited to the amount remaining under the Agency's existing contract with Sproul Trost LLP. The Agency, in its sole discretion, may amend that contract to provide additional consulting services to the extent that the Agency decides such action would be in the Agency's best interest. The Developer shall be solely responsible for preparing the necessary restructuring documents, consulting with the HOA, and taking all other actions related to the HOA as may be needed for implementing the Plan.

c. **RIGHT OF ENTRY.** The Agency, on behalf of the Authority, grants to the Developer under this Agreement a revocable and non-exclusive permit to enter the Greenfair Property ("Property") and to undertake the studies needed for preparation of the Plan, including, without limitation, soil and groundwater sampling and testing, surveying, and visual inspections. The Developer shall provide the Agency with at least ten (10) days prior notice before conducting any work on the Property, and such notice shall describe the scope and schedule for such work. The Developer shall also provide the same notice to the HOA manager in order to apprise the Greenfair residents of the schedule when consultants and other workers may be present at the Property. To the extent that the Developer requires access to the common area at Greenfair to undertake preparation of the Plan, the Developer shall obtain the prior approval of the HOA or its manager, as applicable. The following provisions apply to the permit to enter the Property:

- i) Developer and its consultants, employees and agents have or will inspect the Property prior to commencement of any activities authorized under this Agreement and represent to the Agency that: (a) they are aware of or will make themselves aware of any dangerous conditions on the Property, whether or not readily discoverable, (b) they accept the Property in its present condition, (c) they will make the Property safe for any activity under their care and control on the Property, and (d) Agency is not and shall not be obligated to make Property safe or suitable for use by the Developer or for anyone on the Property at the invitation of Developer, or otherwise to prepare the Property or access to the Property in any manner whatsoever. Entry by Developer and its consultants, employees, agents and invitees onto the Property under this Agreement shall be deemed an acknowledgement by Developer that all dangerous places and defects upon the Property are known to Developer, and Developer shall make the Property safe for all persons entering the Property under this Agreement at Developer's request, invitation, or direction.

- ii) The Developer assumes full liability for any injury to such persons or their property while on the Property. Agency does not assume, by this Agreement or otherwise, any responsibility for, or to protect against, any loss, damage, theft or vandalism of any property or material which Developer or its consultants, employees, agents and invitees may place upon the Property. The Developer and its consultants, employees and agents shall comply with, and shall assure the compliance of invitees with, all laws, statutes, ordinances and regulations that are applicable to any of its activities upon the Property, including and without limitation to, obtaining all approvals, permits and licenses required for such activities.
- iii) Developer and its employees, officers and agents shall protect, defend, indemnify and hold harmless the Agency and the Authority from liability for any injury, death or property damage arising from or connected with the use of the Property by any of them or their consultants and invitees. Developer is liable to and shall reimburse Agency or Authority, as applicable, for all costs, expenses and losses in consequence of any claims, demands and causes of action which may be made or brought against it arising out of such use, including without limitation attorney's fees, witness fees, expert fees and investigation fees and costs.
- iv) Throughout the time period that Developer has access to the Property under this Agreement, or otherwise, Developer shall obtain and maintain the following insurance coverage from insurance providers licensed to do business in California and having an industry rating that is reasonably acceptable to Agency: (a) One Million Dollars (\$1,000,000) or more of comprehensive general liability coverage including, without limitation, coverage for contractual liability, public liability and property damage and having a deductible of Twenty-five Thousand Dollars (\$25,000) or less; and (b) statutory limits or more of workers compensation coverage for all employees of Developer. Developer is required to insure that all of its consultants and all others authorized by the Developer to doing any work on the Property maintain workers compensation coverage as required by law. The Developer shall cause the policies to name the Agency and Authority as an additional insureds and to provide the Agency with thirty (30) days prior notice of cancellation. Failure to obtain and maintain the insurance as required immediately terminates all rights of Developer to enter the Property under this Agreement.

d. **LETTER OF AGENCY.** The Agency, on behalf of the Authority, will provide Developer with a Letter of Agency, in the form required by the City, and execute as owner all necessary City forms to allow for submittal of an application to commence processing of the entitlements as may be necessary for implementation of the Greenfair Redevelopment Plan. The filing of the application prior to the Agency's approval of the Plan and the DDA may be needed in order to engage the City to assist in scoping of the environmental documentation and to begin preparation of the City reports and studies

as may be required prior to approval of said entitlements by the City. The Agency's issuance of a Letter of Agency and execution of the City forms is conditioned on the following provisions:

- i) Developer shall be prohibited from obtaining final approval of the entitlements, recording any lot line adjustments, or filing any final subdivision maps affecting the Property until: (a) the Agency has formally certified the environmental documentation, (b) approved the Plan, (c) the Agency and Developer have executed the DDA, (d) the HOA restructuring as required to implement the Plan has been approved, and (e) title to the Property has been transferred to the Developer.
- ii) Developer assumes all liability for all costs and expenses associated with seeking City entitlements, which includes, without limitation, application and planning fees, preparing architectural and engineering plans, and preparing or paying for all other reports and studies as may be required by the City (collectively "City Costs").

9. PROPERTY APPRAISAL. The Parties anticipate that the fair market value of the Greenfair Property shall be determined based on the current lot configuration and zoning of the Property, which will be the applicable permitted use of the Property by the City at the time the Property is sold to the Developer under the terms of the DDA, and adjustments in price may be made by the appraiser for the costs of any infrastructure improvements, soil remediation, and other expenses that would have to be incurred to repair and make the Property suitable for such development. The selection of the appraiser and scope of the appraisal shall be mutually agreed by the Parties and the costs of the appraisal shall be split equally.

10. COSTS. It is the intent of the Parties to equally share the costs of the CEQA environmental documentation and the appraisal studies, and that each Party would be responsible for their respective staff costs and any third party costs that are not otherwise specified in this Agreement. The scope and price for any work the costs of which are to be shared by the Parties must be approved by each Party, and each Party shall be entitled to a copy of such study. Notwithstanding any provision herein to the contrary, either Party may undertake whatever studies it so desires that are to be paid solely by that Party without the prior approval of the other Party. In the event that Developer and Agency are unable to agree on the scope of the Greenfair Redevelopment Plan, the sales price for the Property, or the terms of the DDA; Agency shall not be liable to Developer for reimbursement of any City Costs or other any other costs incurred by the Developer under this Agreement, notwithstanding that Agency or a subsequent developer selected by Agency may rely on the studies and plans prepared and paid for by Developer for future development of the same or a similar project on all or part of the Property.

11. SCHEDULE OF PERFORMANCES. The Parties shall perform the following stated obligations at the times specified in the following schedule ("Schedule of Performances"):

Responsible Party	Action	Due Date
Developer and Agency	Meet and confer concerning progress of the preparation of the Greenfair Redevelopment Plan, establishing the fair market value of the Property, defining the tasks and schedule for implementation of the Plan, and negotiating the terms of the DDA. Submit progress reports as applicable at each meeting.	At least once each month during the term of this Agreement, commencing not later than twenty (20) days of the Effective Date.
Developer	Submit information as requested by Agency and City staff for review of the Plan, for preparation of the environmental documentation, and for presentations to community groups and Agency or City governing bodies.	Within ten (10) days of request, or as deemed reasonable by the Parties.
Agency	Retain an appraiser to meet with the Parties and commence preparation of the Property appraisal.	Within thirty (30) days after the Effective Date.
Agency	Issue a Request for Proposals, select a consultant, define the scope of work and price, and commence preparation of the environmental document.	Within sixty (60) days after the scope of the Greenfair Redevelopment Plan is conceptually approved for purposes of defining the "project" and possible project alternatives as required under CEQA.

12. **AGREEMENT EXTENSION.** Upon written request of Developer, Agency shall reasonably consider an extension of the initial term of this Agreement if Developer has acted diligently and in good faith in performing its obligations under this Agreement and if there is a reasonable likelihood that the Parties can negotiate a mutually acceptable DDA if the Agreement term was extended.

13. **DEPOSIT FEE.** Developer shall be required to deliver to Agency funds in the amount of one half of the cost of the appraisal study, environmental documentation, and any other studies the costs of which are to be shared by the Parties (collectively "Deposit"), and said sum shall be due prior to the Agency's execution of a contract with the selected consultant for each study. Agency may only expend the Deposit solely for payment of third party fees, costs and expenses for those predevelopment activities incurred by Agency and approved by Developer. If the actual expenditure exceeds the anticipated amount, the Parties shall meet and confer with respect to the budget for such costs, and Agency is not obligated to continue with completion of that study until Developer has deposited such additional funds as may reasonably be needed to pay such remaining third party costs. If the Agency terminates this Agreement for its

convenience or fails to approve a proposed DDA that has been negotiated under this Agreement, which is duly before it for consideration and which has been executed by the Developer, Agency will refund to Developer the Deposit remaining after payment of such third party costs incurred to the date of the notice of termination or the hearing regarding approval of the DDA, as applicable.

14. **DEFAULTS.** Either of the Agency or the Developer shall be in default of this Agreement if it: (i) fails to fulfill its obligations when due, which failure is not caused by the other Party, (ii) does not negotiate the fair market value of the Property or the terms of the DDA in good faith and upon the terms stated in this Agreement, (iii) does not reasonably cooperate with the other in fulfilling the other's obligations under this Agreement, or (iv) refuses to execute the DDA when negotiations are completed and deposit any funds then required of it for the DDA (except if the Agency has disapproved the Project after public hearing in exercise of its legislative authority or in accordance with CEQA in exercise of its independent review).

a. Written notice specifying the basis for default shall be provided to the defaulting Party, and that Party shall have thirty (30) days or such longer period as is reasonably required to cure the default. Should the defaulting Party fail to cure the default within the specified period, the non-defaulting Party may terminate this Agreement by written notice to the defaulting Party, and may pursue equitable remedies available to it for such default. Should the Agency be in default, the Developer is entitled to the unencumbered remainder of the Deposit, if any. In the event of such a default by Developer, Agency may retain the Deposit and may terminate the Agreement.

b. After termination of this Agreement for default of Developer, Developer shall have no rights under this Agreement to participate in the development of the Project, and the Agency shall have the absolute right to pursue development of the Project, in any manner it deems appropriate.

c. The remedies contained in this Section 14 are the sole exclusive remedies for default of this Agreement, and neither Party may claim, as a result of a default of this Agreement, any damages, whether monetary, non-monetary, contingent, consequential or otherwise.

15. **DISPOSITION AND DEVELOPMENT AGREEMENT.** In addition to the other provisions stated in this Agreement, the DDA will address, without limitation, the following provisions: (a) use covenants to run with the land; (b) payment and performance bonding and other completion assurances; (c) insurance and indemnities, including hazardous materials indemnities; (d) M/WBE outreach program; (e) anti-discrimination provisions; (f) performance assurances such as a deposit; (g) limitation on transfers of the Property prior to completion of implementation of the Plan; (h) compliance with CEQA mitigation; (i) Authority's rights to revest the Property upon Developer default; and (j) extension fees for delay in construction and liquidated damages; (k) Agency's rights to cure defaults, assume loans and complete construction; (l) delayed transfer of title to the Property until entitlements and construction financing is secured; and (m) loan guarantees and additional securities.

16. **ASSIGNMENT.** This Agreement is not assignable by either Party in whole or in part without the prior written consent of the other Party.

17. **APPLICABLE LAW; VENUE; DISPUTE RESOLUTION.** This Agreement shall be construed in accordance with the law of the State of California, and venue for any action under this Agreement shall be in Sacramento County, California. The Parties agree to first attempt to resolve any dispute or claim in law or equity arising under this Agreement by means of conciliation or mediation, and thereafter to appoint a referee under Code of Civil Procedure Section 638 or submit the matter to arbitration. The method for dispute resolution in lieu of litigation, the right to conduct discovery, and whether the decision shall be final and binding and subject to appeal shall be based on the mutual agreement of the Parties, which are obligated to negotiate said terms in good faith. If the Parties are unable to come to an agreement on an alternative dispute resolution process, then either Party may file a civil action for default of this Agreement.

18. **ATTORNEYS' FEES.** In the event of any court action between the Parties arising from this Agreement, the prevailing party shall 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 trial shall not be considered a prevailing party if such award is not substantially greater than the other Party's offer of settlement made in advance of the trial.

Executed as of the date first written above, in Sacramento, California.

DEVELOPER: GREENFAIR VILLAGE PARTNERS, LLC

AGENCY: SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

By: New Faze Development, Inc.,
its Managing Member

By: _____
Martin Tuttle, Vice President

By: _____
Anne M. Moore, Executive Director

Approved as to form:

Approved as to form:

By: _____
Counsel for Developer

By: _____
Agency Counsel