REDEVELOPMENT AGENCY RESOLUTION NO. 2008-240/1729

A JOINT RESOLUTION OF THE COUNCIL AND OF THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO APPROVING A DEVELOPMENT AND DISPOSITION AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO AND EDISON PLAZA PARTNERS, LP, A CALIFORNIA LIMITED PARTNERSHIP, EXECUTION OF RELATED DOCUMENTS AND MAKING CERTAIN FINDINGS

WHEREAS, the Redevelopment Agency of the City of Fresno (Agency) is engaged in activities necessary to execute and carry out the redevelopment plan for the Southwest Fresno General Neighborhood Renewal Area, (the "Project Area") adopted by Council Ordinance No. 69-13, on February 14, 1969, and all amendments thereto, consistent with the Agency's Resolution 1661 adopted on June 7, 2005 approving an updated Five-year Implementation Plan for the Merger No. 2 Project Area including the Plan Area (collectively the "Redevelopment Plan"); and

WHEREAS, by its Ordinance No. 69-13 and amendments thereto the Council adopted the Plan finding that the Project Area suffers from significant remaining physical and economic blighting conditions as specified therein, which blighting conditions continue to cause reduced or lack of proper utilization of land in the Project Area and affects the Project Area as a whole to such an extent that it is a serious physical and economic burden on the City that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment; and

Adopted
Approved 9/11/08
Effective

2008-240/1729

WHEREAS, on June 7, 2005, the Agency adopted Resolution No. 1661, approving an updated Five-Year Implementation Plan for the Merger No. 2 Project Area that includes the Project Area (the "Implementation Plan"); and

WHEREAS, an objective of the Implementation Plan is to mitigate blighting deficiencies including, without limitation, returning underdeveloped property to more productive and intensive use, thus improving the physical, environmental and economic conditions, and helping to eliminate blight and prevent its recurrence in the Project Area; and

WHEREAS, in furtherance of the objectives of the California Redevelopment Law (California Health & Safety Code Sections 33000 et seq., hereinafter the Law) and to carry out the Plan, the Agency wants to enter an agreement to convey eight (8) vacant parcels, approximately 6.5 acres within the Project Areas, located at California Avenue and Walnut Street (the "Site") to EDISON PLAZA PARTNERS, LP, a California limited partnership, (the "Developer") for development; and

WHEREAS, the Agency and the Developer propose to enter a Disposition and Development Agreement (the "Agreement") under which (i) the Agency will convey the Site, AS IS, to the Developer, and provide certain Project offsite improvements, (ii) the Developer will parcelize (by Phase) the Site, and construct a mixed use Project anticipated to consist of a County of Fresno One-Stop West Fresno Regional Center including County Library, General and Medical Offices, and Retail mixed use project consisting of buildings and the associated landscaping, parking improvements, on-site developments, and any off-site improvements; and

WHEREAS, the Implementation Plan programs include Project improvements and uses; and

WHEREAS, the proposed Project will encourage and assist in the return of vacant properties in the Project Area to the tax rolls, thus generating additional tax increment for redevelopment purposes; and

WHEREAS, the proposed Project is consistent with the applicable general plan designation, the Redevelopment Plan, all applicable general plan policies, and with the applicable zoning designation, and related zoning regulations; and

WHEREAS, the proposed Project also will cause the development of under-utilized parcels to more intensive and economically viable use; will increase the aesthetics and improve the appearance of the Site and the surrounding area; and will contribute to the economic activity in the Project Area thereby revitalizing the Project Area; and

WHEREAS, Section 33433 of the Law authorizes the Agency, with the majority approval of the Council after public hearing, to agree to convey the Site for redevelopment purposes under the Plan after determining that the disposition will help eliminate blight, that the disposition is consistent with the Implementation Plan and that the consideration for the sale is not less then either fair market value of the Site at its highest and best use under the Plan or the fair reuse value in accordance with the covenants and conditions and development costs authorized by the Agreement; and

WHEREAS, a joint public hearing of the Agency and the Council on the Agreement was duly noticed according to the requirements of Health & Safety Code

Section 33433; and

WHEREAS, a Summary Report, including the proposed Agreement, meeting the requirements of Section 33433 of the Law has been made available for public inspection in accordance with Section 33433; and

WHEREAS, the Council has reviewed the Summary Report, and evaluated other information and testimony concerning the findings required by Section 33433; and

WHEREAS, the purchase price for the Site will not be less than the established fair market value of the Site at its highest and best use under the Plan, all as set forth in the Summary Report; and

WHEREAS, the Agency has assessed this Project under Environmental Assessment No. A-04-17/R-04-42 and certified and filed a findings of a Mitigated Negative Declaration on (pursuant to CEQA Guideline), and the Plan has been environmentally assessed under Program Environmental Impact Report # 10125 for the Merger Project No. 2 by Joint City Council Resolution No. 98-317 and Agency Resolution No. 1498 adopted on October 20, 1998 and has been determined to have or cause no adverse or reportable conditions or effects pursuant to the California Environmental Quality Act ("CEQA"), collectively the "Environmental Findings"; and

WHEREAS, on August 13, 2008 the Housing and Community Development Commission considered and reviewed the Project and the proposed Agreement and voted to recommend that the Council and the Agency approve a joint resolution approving the Agreement and making certain findings; and

WHEREAS, on [September 16, 2008], the Agency and Council held a public hearing and duly considered the Environmental Findings and the Agreement terms and

conditions and evaluated all the information, testimony and evidence presented during the public hearing and believe that the Agency's sale of the Site pursuant thereto is in the best interests of the City and the health, safety, and welfare of its residents, and consistent with the public purposes and provision of applicable sate and local laws and requirements; and

WHEREAS, all actions required by applicable law with respect to the proposed Agreement have been timely and appropriately taken.

NOW, THEREFORE, BE IT RESOLVED by the Council and the Agency of the City of Fresno as follows:

1. Based on the foregoing recitals, oral and written testimony at the joint public hearing and other substantial evidence in the whole record before them, the Council and the Agency find and determine the following:

Finding No. 1.1 The Agency and the City have considered the Project and the Environmental Findings and finds that such are adequate and satisfy the requirements of CEQA and the CEQA Guidelines.

Finding No. 1.2 Selling the Site pursuant to the proposed Agreement will help eliminate blight by causing redevelopment of underutilized property within the Plan and Project Area.

Finding No. 1.3 The Agreement is consistent with the Implementation Plan for the Plan.

Finding No. 1.4 The consideration for the Site is not less that the fair market value of the Site at its highest and best use under the Plan.

Finding No. 1.5 The Agreement will benefit the Project Area.

2. The Agreement in substantially in the form presented to the Agency and the Council, is hereby approved, subject to such additions, deletions and other changes that may be approved by the Agency's Executive Director that are consistent with this resolution, subject to prior approval as to form by the City Attorney's Office as Ex Officio Agency attorney.

3. The Execution Director of the Agency is authorized and directed to execute the Agreement for the Agency and then place an original counterpart thereof with the City Clerk who, as Ex Officio clerk of the Agency is authorized and directed to attest thereto and thereupon record the executed Agreement or a Memorandum of the Agreement in the Official Records of Fresno County.

4. The Executive Director and the Office of City Attorney are authorized to convey the Project Site to the Developer, subject to the purchase price, deed restrictions, and other terms contained in the Development and Disposition Agreement, and to execute the documents necessary for the conveyance including, without limitation, escrow instructions and the deed, that may be necessary to finalize or carry out the intents and purposes of the Agency Board and City Council.

Exhibit "A" - Development and Disposition Agreement

Exhibit "B" - Section 33433 Summary Report.

* * * * * * * * * * * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing resolution/ordinance was adopted by the Council and the Redevelopment Agency of the City of Fresno, at a joint public hearing held on the 16th day of Sep, 200__, and that the same was passed by the following vote.

AYES : Caprioglio, Dages, Duncan, Perea, Sterling
NOES : None
ABSENT : Calhoun, Xiong
ABSTAIN : None

REBECCA E. KLISCH
City Clerk and Ex Officio Clerk
Of the Redevelopment Agency

BY: Rebecca E. Klisch
~~Deputy~~

APPROVED AS TO FORM
JAMES C. SANCHEZ
City Attorney and Ex Officio
Attorney of the Redevelopment
Agency

BY: R 9-16-08
Deputy Coyle

SUMMARY REPORT CONCERNING THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY OF THE CITY OF FRESNO (THE "AGENCY") AND EDISON PLAZA PARTNERS, LP, A CALIFORNIA LIMITED PARTNERSHIP (THE "DEVELOPER")

EDISON PLAZA PARTNERS, LP, a California limited partnership, (the "Developer"), proposes that the Agency convey land to it for its construction of a mixed use development consisting of a County of Fresno One-Stop West Fresno Regional Center including County Library, General and Medical Offices, and Retail mixed use project consisting of buildings and the associated landscaping, parking improvements, on-site developments, and off-site improvements. This summary report has been prepared in compliance with Health and Safety Code Section 33433 of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) (the "Law"). Section 33433 requires an agency, before selling or leasing land for redevelopment that it acquired either directly or indirectly with tax increment money, to hold a public hearing and make available for public inspection and copying at a cost not to exceed the cost of duplication a report that contains the following:

1. A copy of the proposed sale agreement. The agreement, a Disposition and Development Agreement ("D&DA"), is attached and incorporated herein.

2. A summary (this Report) which describes and specifies the following:

a. The cost of the D&DA to the Agency. Costs include, for instance, land acquisition costs, clearance costs, relocation costs, costs of any on or off-site improvements that the agency will provide, and interest on any loans or bonds that the agency may use to finance the agreement.

b. The estimated value of the property interest to be conveyed, determined at the highest and best uses permitted under the urban renewal (redevelopment) plan, the Southwest Fresno General Neighborhood Renewal Area Project within the [Merger 2] Project Area ("Merger 2") described in the Plan is referred to herein as the "Project Area".

c. The estimated reuse value of the property interest to be conveyed, determined at the use and with the conditions, covenants, and development costs required by the D&DA. The reuse value is the purchase price the Developer will pay after considering the terms of the D&DA. If the price is less than the fair market value of the property interest, determined at the highest and best use consistent with the Plan, then the Agency must explain the reasons for the difference.

d. An explanation of why the sale of the property will help eliminate blight, with reference to all supporting facts and materials relied on for the explanation.

A. PROPOSED AGREEMENT

The D&DA contains the terms governing the Agency's sale of certain real properties located at California Avenue and Walnut Street collectively, the "Property", consisting of 6.5 acres owned by the Agency. It obligates the Developer to construct a mixed use project consisting of a County of Fresno One-Stop West Fresno Regional Center including County Library, General and Medical Offices, and Retail mixed use project consisting of buildings and the associated landscaping, parking improvements, and on-site developments. The Agency Board/City Council may revise or modify the D&DA terms at the public hearing on the D&DA. This hearing is scheduled September 16, 2008 at 3:00 p.m., in the City Council Chambers, at 2600 Fresno Street, after the Housing and Community Development Commission meets on August 13, 2008 at 5:00 p.m. to review the project and D&DA and prepare recommendations to the Agency/Council.

B. SUMMARY OF THE PROPOSED AGREEMENT

The D&DA covers each development phase, including predisposition, disposition, construction, and post-construction. It requires that certain conditions precedent be satisfied before the Agency is obligated to perform. Here the Agency will be variously obligated to convey the Property. The following summarizes key provisions of the D&DA.

• Site Description. The Property consists of eight (8) parcels located in the Southwest Fresno General Neighborhood Renewal Area.

The eight parcels are located at California Avenue and Walnut Streets. The subject property is square in shape, and contains and estimated six and one-half (6.5) acres. The property is currently vacant and all existing structures/improvements have been demolished. It has [approximately 1100] lineal feet of frontage along California, [approximately 1100] lineal feet of frontage along Plumas, [approximately 550] lineal feet of frontage along Lorena and [approximately 1100] lineal feet of frontage along Walnut. The topography is [level.] Offsite improvements along California include concrete curb, gutter and sidewalk along the street frontage, as well as old-fashioned, pole-mounted street lights. Available public utilities include natural gas and electricity from PG&E, water and sewer from the city of Fresno, and telephone service from SBC. The Property is identified on the Fresno County Assessor's Parcel Maps as Parcels [4771228T, 47712227T, 47712401T, 47712430T, 47712425%, 47712422T, 47712418T and 47712419T.] The property has been zoned C-P Commercial Office by the City of Fresno intended to encourage residential use in conjunction with professional office and commercial land uses.

The Plan and the related five-year Implementation Plan control the Property's redevelopment and land usage. The proposed development of a mixed use project as above is consistent with C-P Commercial Office Zoning.

•Project Description. The Developer proposes to build a County of Fresno One-Stop West Fresno Regional Center including County Library, General and Medical Offices, and Retail mixed use project consisting of buildings and the associated landscaping, parking improvements,

on-site developments, consisting of approximately 70,000 square feet of public, retail and commercial space on the combined parcels to be conveyed hereunder.

•Project amenities will include a One Stop Resource Center, Library, Retail and Commercial office space. There will be 407 surface parking spaces.

•Proposed Property Transaction. The Agency proposes to sell the Property to the Developer, subject to the covenants and conditions of the D&DA. The Agency proposes to sell the Property to the Developer for the appraised value established for each of the parcels subject to the development obligations, a right of reverter, and covenants running with the land, including maintenance and nondiscrimination provisions.

•Agency Obligations Under the D&DA. Under the terms of the proposed D&DA, the Agency's obligations are to sell the Property to the Developer for the fair value of approximately $93,650 per acre and to pay the escrow and title costs. The Developer will pay the Agency through an acquisition escrow in accordance with the terms and conditions as set forth in the D&DA. The Agency will also provide required Project off-sites not to exceed a cost of $1,358,470.

•"AS IS" Sale and Environmental Remediation. The Developer will be accepting the Property in "AS-IS" condition, with all faults, including environmental conditions, if any. After that the Developer will indemnify the Agency, and its related parties against all claims and expenses including, without limitation, legal costs arising from any condition on the Property. An environmental assessment of the Project, satisfying CEQA requirements, has been/will be completed in conjunction with the City Planning and Development Department's processing of the conditional use permit application for the Project. The Developer has inspected the Property, and will have access to the Property for any other investigations that the Developer may deem advisable for due diligence purposes.

•Entitlements. The Developer will pay the full cost of the Project conditional use permit application fee, and will pay any other required entitlement fees to the City Planning and Development Department.

•Assurance of Performance. The D&DA requires the Developer, at its expense, to furnish the Agency with labor, material and performance bonds or other evidence, satisfactory to the Agency's Executive Director, of the Developer's ability to complete the Project.

•Agency Approval of Plans and Drawings. The D&DA gives the Agency discretionary approval over development-related items for the proposed Project. Development-related items include, without limitation, building permits, conditional use permits, site plans, building plans, basic concept drawings, elevation and other drawings showing architectural style, design and features, landscaping plans (prepared by a professional landscape architect), and finish grading plans (prepared by a licensed civil engineer).

•Construction Timing and Right of Reentry. The D&DA requires the Developer to begin and complete construction by specified dates. The D&DA permits the Agency to extend these time

frames for causes beyond the Developer's control, other than causes related to financing and marketing. To assure that the Developer is not acquiring the Property for speculative purposes, the D&DA requires the Developer to complete the Phased Project by the dates specified in the D&DA. If the Developer does not comply with this and other construction covenants, the Agency may reenter and retake title to the Property/portions thereof.

•Compliance with Law. The D&DA requires the Developer to comply with all local, state, and federal laws in developing and constructing the Project, and establishes that the Agency is not responsible for the Developer's failure to comply with the law. This provision applies to the payment of prevailing wages, competitive bidding and other matters.

•Anti-Discrimination. The D&DA contains the anti-discrimination provisions required by state law and sets forth deed restrictions assuring compliance with these provisions in perpetuity.

•Land Use and Ownership Covenants. The D&DA requires the Developer to use the Property for Project purposes and for no other purposes without the Agency's prior written consent, and to use the Property in conformity with all laws including, without limitation, the Plan. Currently, the uses permitted under the Plan are commercial mixed uses. The designation encourages the development of commercial, professional office or mixed use office/commercial uses.

•Maintenance. The D&DA requires the Developer and its successors to maintain retained portions of the Property in first class condition for the life of the Plan. This obligation includes building facades, landscaping, and off-street parking areas. The D&DA permits the Agency to lien the Property to enforce the maintenance obligation.

•Assignment. Until the Developer completes the Project and the Agency records a Release of Construction Covenants, the D&DA prohibits the Developer from assigning, selling, leasing or transferring the Property or its rights/obligations under the D&DA without the prior approval of the Agency. The Agency will consider sale or assignment or other transfers of the Project if the transferee is qualified and enters an assumption agreement acceptable to Agency.

•Lender Protection Clauses. D&DA provisions protect the holder of any security financing interest, give the holder the right to cure any default, but do not obligate the holder to construct the Project. If the holder decides to complete the Project, it must enter an assumption agreement. If the holder fails to complete the Project, the Agency has the right to cure.

•Insurance. The D&DA requires commercial liability, fire, worker's compensation, and builder's risk insurance polices typical of commercial projects.

•Indemnification. The D&DA requires that the Developer indemnify the Agency and all affiliated parties for any claims or damages arising out of the D&DA and the Project, except where the claims or damages result solely from the active negligence or willful misconduct of the Agency. This indemnification covers any act of the Developer and its agents and representatives related to the Project, its design, the physical condition of the Property, its use,

operation, and maintenance, etcetera. Additionally, the D&DA requires each contractor and subcontractor to indemnify Agency and its affiliates.

•Defaults. The D&DA defines events resulting in a default and the circumstances under which the Agency and Developer may terminate the D&DA before and after close of escrow. After the escrow closes and the Developer has title to the Property, the Agency's primary remedy is the right to reenter and assume control of the Property, subject to any security interests permitted under the D&DA.

C. FINANCIAL SUMMARY

Over the last 30 years the City (at times during with City acted as Agency) and the Agency, completed assembly of the Agency owned, unoccupied, vacant property consisting of eight (8) parcels comprising the Property. The Agency will clear and grub and thereupon sell the property to the Developer for the fair market value of $608,725[1]. The Agency also shall design, construct and install required off-site improvements at its sole cost and expense and on a schedule which coordinates with the development of Phase I of the Project. These off-sites (Off-Sites) shall generally consist of standard curbs/curb ramp, gutter, sidewalk, pedestrian walkway, bus bay, streetlight(s)/related undergrounding, driveway approach, traffic signal(s), and median island(s).]

1. Property Acquisition, Relocation and Clearance. The total cost for assembly, relocation and clearance of the property is approximately $1,466,000, variously based on the appraised value and negotiated agreement price with the owners. The City, at times during which the City acted as the Agency, assembled (including relocation and clearance) a portion of the total 6.5 acre property at an historic cost of approximately $836,000. The Agency in its own right assembled, relocated and cleared the balance of the 6.5 acre property at a total cost of approximately $630,000.

2. Public Improvements, On-Site/Off-Site. The Agency is agreeing to construct and be financially responsible for the construction of required public Off-Sites in conjunction with the development of this Project at a cost not to exceed $ 1,358,470.

3. Demolition. There is no currently scheduled demolition, the property is vacant. The Agency will sell the Property "AS IS"

4. Title and Closing Costs. The Agency will pay the escrow fees, recording fees, and documentary stamp taxes, if any, to convey the Property to Developer. The Agency will pay the premium for a CLTA lender's policy of title insurance insuring its deed trust interest in the Property as described in the D&DA. The Agency or the Developer will pay any other escrow-associated costs according to the custom and practice in Fresno County. These costs are estimated at $2,000.

5. Miscellaneous Costs. The Agency will incur miscellaneous administrative costs including legal review and personnel costs.

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[1] Based upon broker's opinion of value, subject to MAI appraiser confirmation.

D. VALUE OF INTEREST TO BE CONVEYED

1. Highest and Best Use. The Plan incorporates as its land use plan, the City's general and specific plans. The highest and best uses permitted under the Plan are would allow development to commercial, professional office or mixed use office/commercial uses as permitted with the City of Fresno C-P Commercial Office zoning designation. The Planning and Development Department of the City of Fresno is reviewing the project development to ensure the proposed development and use is consistent with the City's adopted land use policy.

2. Fair Market Value. The Property is currently vacant. It contains approximately six and one-half (6.5) acres, and is assessed under eight assessor's parcel numbers. In August, 2008, a Broker's Opinion of Value report was prepared by an independent broker, whereunder the Property was valued at $ 93,650 per acre. This valuation is to be confirmed by an MAI appraiser prior to close of escrow.

3. Fair Reuse Value. To determine the reuse value of the Site as conditioned by the D&DA, several factors must be considered. These include the profitability of the Project to the Developer, development costs and the revenues of the Project. This value is unique to the proposed Project and must be based on the expected economic performance of the proposed Project as it is structured in the D&DA. This Project business structure includes conditions, covenants, restrictions, limitations, and constraints placed on the Project through the D&DA which exceed those typically encountered in the unrestricted market.

The Agency proposes to sell the Property to the Developer at the fair value price of $ 608,725[2] for the eight parcels, a value that the Agency has determined is not less than the fair reuse value of the Property. The proposed use is commercial/office-public/retail development that includes the covenants, conditions, restrictions, criteria and development costs authorized or imposed under the D&DA on development and use of the Project and the Property.

Under the D&DA, the Developer will assume developmental risk normally encountered in constructing a similar Project outside the Project Area, and will be bound by the covenants, conditions, and restrictions imposed by the D&DA.

Development risks under the D&DA include the following:

- Sale and assignment restrictions;
- Agency's restrictions on the use of the Property;
- Agency's right to review and approve design;
- All risks associated with an "AS IS" purchase, such as the physical condition of the Property, including any environmental conditions;

[2] Based upon broker's opinion of value, subject to MAI appraiser confirmation.

- Requirements to improve the Property consistent with the D&DA;

- Requirements to complete construction by a certain date;

- Requirements to maintain the Property, subject to the Agency's enforcement through a lien procedure; and

- The Agency's right to reenter and retake the Property on failure to construct within the time limit, a provision that is unique to public agencies under California Redevelopment Law.

E. BLIGHT ALLEVIATION

The Redevelopment Agency of the City of Fresno (Agency) is engaged in activities necessary to execute and carry out the Southwest Fresno General Renewal Area Plan. The Ordinance No. 69-13 adopted on February 14, 1969 adopted finding that the Project Area suffers from significant remaining physical and economic blighting conditions as specified therein. Included in the Plan were findings that (1) the Project Area is a blighted area, the redevelopment of which is necessary to effectuate the public purposes in the California Community Redevelopment Law. The Project area predominantly urbanized was characterized by and suffered from a combination of significant blighting physical and economic conditions, including, among others: buildings that are obsolete and aged; buildings which have inadequate parking; incompatible uses; vacant buildings and lots; lots of irregular form and shape and of inadequate size for property usefulness which are under multiple ownership; depreciated or stagnant property values and impaired low lease rates; a high crime rate; and inadequate public improvements, parking , and ; (2) the combination of blighting conditions were so prevalent and so substantial that they continue to cause a reduction of, or lack of, proper utilization of the Project Area and affects the Project Area as a whole to such an extent that it is a serious physical and economic burden on the City that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

The Property is not currently developed and utilized and has been so for several years. The proposed Project will help alleviate blight by returning the Property to a productive use. The Project will result in the addition of commercial/office-public/retail mixed used development.

F. CONSISTENCY WITH THE PROJECT AREA IMPLEMENTATION PLAN

On June 7, 2005, the Agency adopted Resolution 1661, approving an updated Five-Year Implementation Plan for the Merger No. 2 Project Areas that includes the Southwest Fresno General Renewal Area. The Five-Year Implementation Plan outlines a redevelopment program designed to facilitate reinvestment in the Project Area, and to eliminate physical and economic blighting influences. This includes redeveloping vacant and underutilized properties.

The Project is consistent with the basic programs contained in the Implementation Plan to help alleviate blight within the Southwest Fresno General Renewal Area.

The Edison Plaza Project includes the construction of new professional, office-public and commercial/retail space creating potential for development of other properties in the area.

The Proposed Project will upgrade the existing street scape and provide attractive buildings, on-site landscaping and parking improvements in place of unproductive land. The projects will result in new commercial/office-public/retail mixed used development.

Further, the Project is consistent with the goals and objectives of the Implementation Plan because it will develop underdeveloped property to an intensive use. It will increase the aesthetics and visibility of the Property, thereby revitalizing the Project Area. The Property is underutilized; it has been underutilized for over 30 years. The Project will fill a visual gap in the frontages along California Avenue and Walnuts Streets thus contributing to the visual and economic vitality of the immediate area.

SUMMARY REPORT

This Summary Report has been prepared in compliance with California Health and Safety Code Section 33433. A photocopy of this Report may be obtained from the Agency Secretary or City Clerk by paying the usual photocopy fee regularly charged by the Agency and City.

ATTACHMENTS:

- ☐ Public Hearing Notice
- ☐ Disposition and Development Agreement

DISPOSITION AND DEVELOPMENT AGREEMENT (CALIFORNIA/WALNUT REDEVELOPMENT PROJECT)

by and between

REDEVELOPMENT AGENCY
OF THE CITY OF FRESNO,
a Public Body, Corporate and Politic

and

Edison Plaza Partners, L.P.,
A California Limited Partnership

Southwest Fresno Neighborhood General Renewal Area (GNRA)
Urban Renewal Plan

(6.5 Acre Mixed Use Project)

ATTACHMENTS

Exhibit "A"	Site Map
Exhibit "A-1"	Legal Description
Exhibit "B"	Scope of Development/Project Budget
Exhibit "C"	Development Schedule
Exhibit "D"	Grant Deed
Exhibit "E"	Release of Construction Covenants/Certificate of Completion
Exhibit "F"	Basic Design

DISPOSITION AND DEVELOPMENT AGREEMENT

This Disposition and Development Agreement ("DDA" or "Agreement") is entered as of the Effective Date (defined below), between the REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, a public body corporate and politic (the "Agency"), and EDISON PLAZA PARTNERS, LP, a California limited partnership (the "Developer").

RECITALS:

The parties enter this Agreement based on the following facts, understandings, and intentions:

A. Pursuant to authority granted under the Community Redevelopment Law of California (Health & Safety Code Sections 33000 *et. seq.*) (the "Law" or "CRL"), the Agency has the responsibility to implement the redevelopment plan for Southwest Fresno Neighborhood General Renewal Area, adopted by Ordinance No. 69-13, on February 14, 1969, and all amendments thereto, consistent with the Agency's Resolution No. 1559 adopted on December 14, 1999 approving an updated Five-year Implementation Plan for the [Merger No. Two Project Areas including the Plan Area (collectively the "Redevelopment Plan").

B. The Redevelopment Plan affects the development and use of the real property in the City of Fresno, Fresno County, California, as more particularly described in the Redevelopment Plan (the "Project Area").

C. The Agency owns certain unoccupied unimproved real property more particularly described and depicted in the attached Exhibit "A" (Site Map) and "A-1" (legal description), incorporated herein (collectively the "Property") and containing approximately 6.5 acres.

D. The Developer, variously in consideration of Agency satisfying Project CEQA requirements, proposes to purchase the Property from the Agency at fair market value and variously utilizing private funding as provided herein, develop and maintain a mixed use development anticipated to include a County of Fresno One-Stop West Fresno Regional Center including County Library, General and Medical Offices, and Retail as more fully described in the Scope of Development, attached as Exhibit "B" (collectively the "Project").

E. The Property and associated on-site improvements are collectively referred to in this Agreement as the "Improvements" or the "Project," all of which will directly benefit the Property and the Project Area, cannot otherwise be reasonably paid for or financed, and are necessary to eliminate blight and consistent with the Agency's Implementation Plan.

F. On August 13, 2008, at a noticed public hearing, the City of Fresno Housing and Community Development Commission ("HCDC") considered the Project, this

Agreement and the related Cal. H&S Code Section 33433 Report ("Section 33433 Report"), and made its recommendation.

G. On August 26, 2008 the Redevelopment Agency Board (the "Board") and the City Council, considered the Project and this Agreement at a noticed public hearing, after making the Section 33433 report available for public review, as required by Law.

H. The Agency has assessed this Project under Environmental Assessment No. A-04-17/R-04-42 and certified and filed a findings of a Mitigated Negative Declaration on (pursuant to CEQA Guideline). The Redevelopment Plan has been environmentally assessed under Program Environmental Impact Report # 10125 for the Merger Project No. 2 by Joint City Council Resolution No. 98-317 and Agency Resolution No. 1498 adopted on October 20, 1998 and has been determined to have or cause no adverse or reportable condition or effects pursuant to CEQA. The Board and the Council adopted the environmental assessment at the public hearing.

I. This Agreement is in the best interests of, and will materially contribute to, Redevelopment Plan implementation. Further, the Project does the following: (a) will have a positive influence in the Project Area, and surrounding environs; (b) is in the vital and best interests of the Agency, and the health, safety, and welfare of Project Area residents; (c) complies with applicable federal, state, and local laws and requirements; (d) will help eliminate blight by putting underutilized land to economically viable use, alleviating depreciated and stagnant property values and impaired investments, and reducing the number of excessive vacant lots in an area developed for urban use; and (e) will apply funds solely within the Project Area except to the extent otherwise provided herein and allowed by Law.

J. The Agency Board has determined that the consideration that the Developer is providing to the Agency for the Property meets the requirements of Health and Safety Code Section 33433.

AGREEMENT

1. DEFINITIONS. Besides definitions contained elsewhere in this Agreement, the following definitions will govern the construction, meaning, application and interpretation of the defined terms, as used in this Agreement.

   1.1 "ADA" means the Americans with Disabilities Act of 1990.

   1.2 "Agency" means the Redevelopment Agency of the City of Fresno, a public body, corporate and politic, organized and existing under the Law, and any assignee of or successor to its rights, powers and responsibilities.

1.3 "Agreement" means this Disposition and Development Agreement between the Agency and the Developer.

1.4 "Budget" means the "Budget and Financial Plan" for the project including financing and related costs, included within Exhibit "B" attached hereto and incorporated herein.

1.5 "Certificate of Completion" means that Release of Construction Covenants and Certificate of Completion issued in the form attached as Exhibit "E" to Developer by Agency evidencing completion of the Project, or applicable portion thereof, for purposes of this Agreement.

1.6 "City" means the City of Fresno, a municipal corporation, having its offices at 2600 Fresno Street, Fresno, California 93721-3605, and operating through its Council and its various departments. The City is an entity distinct and separate from the Agency and is not a party to this Agreement and will have no rights or obligations hereunder.

1.7 "Closing" "Close" or "Close of Escrow" means the closing of the escrow in which the Agency conveys the Property to the Developer, as evidenced by a recorded Grant Deed.

1.8 "Day," whether or not capitalized, means a calendar day, unless otherwise stated.

1.9 "Default" means a party's failure timely to perform any action or covenant required by this Agreement following notice and opportunity to cure.

1.10 "Developer" means Edison Plaza Partners, LP, a California limited partnership.

1.11 "Effective Date" means the date that the Agency signs this Agreement, after the Developer signs it, and the Board approves it following a public hearing.

1.12 "Environmental Laws" means any federal, state, or local law, statute, ordinance or regulation concerning environmental regulation, contamination or cleanup of any Hazardous Materials including, without limitation, any state or federal lien or "super lien" law, any environmental cleanup statute or regulation, or any governmentally required permit, approval, authorization, license, variance or permission.

1.13 "Escrow" means the escrow opened with the Escrow Holder to convey the Property to Developer.

1.14 "Escrow Holder" means Fidelity National Title Company or another title company or officer satisfactory to both parties.

1.15 "Executive Director" or "Director" means the Executive Director of the Agency.

1.16 "Financing Plan" means, for each Project Phase (a) copies of binding contractual loan commitments subject to reasonable and customary conditions that Developer has accepted in writing, from qualified public and/or private lender/funding sources for construction, financing, providing sufficient funds, when combined with Developer equity, for Developer to complete the development of the Phase, (b) a pro forma construction Budget in the form attached hereto as Exhibit "B" , and (c) evidence of any required cash equity .

1.17 "Grant Deed" means the grant deed including restrictions therein, substantially in the form of Exhibit "D", by which the Agency conveys the Property to the Developer. The Grant Deed will contain all conditions, covenants, and restrictions required by the Law, other applicable laws and regulations, the Redevelopment Plan, and this Agreement.

1.18 "Hazardous Materials" means any substance, material, or waste, which is or becomes regulated by any local governmental authority, the State of California, or the United States Government including, without limitation, any material or substance, which is: (a) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117, or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code; (b) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code; (c) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code; (d) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code; (e) petroleum; (f) friable asbestos; (g) polychlorinated byphenyls; (h) listed under Article 9 or defined as "hazardous" or "extremely hazardous" under Article 11 of Title 22, California Administrative Code; (i) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317); (j) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.; or (k) defined as "hazardous substances" pursuant to Section of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §9601, et seq.).

1.19 "Improvements" means the Project.

1.20 "Law" means the Community Redevelopment Law of the State (California Health and Safety Code Sections 33000 et seq.).

1.21 "Material Change" means a change, modification, revision or alteration to this Agreement including Exhibits thereto and/or the Project, including basic design, the design development drawings, the Budget the Financing Plan, or to other documents or plans, that substantially deviates from those previously approved by the Agency. With respect to the Financing Plan, a material change shall not include any refinancing of the property in which the principal balance does not exceed the principal balance of any conventional financing approved in the Financing Plan.

1.22 "Off-Site Improvements" means the off-site public improvements required by the City as a condition of approval of the Project to be designed, constructed and installed by the Agency at its sole cost as provided herein.

1.23 "Outside Date" means the last date on which the parties are willing to Close the Escrow, subject to extension by mutual written agreement of the parties, which date is March 1, 2009.

1.24 "Performance Schedule" means the schedule included in Exhibit "C," setting forth the dates and times by which the parties must accomplish certain obligations under this Agreement. The parties may revise the Performance Schedule from time to time on mutual written agreement of Developer and Agency.

1.25 "Phase" or "Phase of Development" means a phase of development of the Project as described in the Scope of Development (Exhibit "B").

1.26 "Project" means the Phase I-III (as specified herein) development that Developer is to complete, maintain and operate on the Property, as more particularly described in the Scope of Development, attached as Exhibit "B." The Project includes, without limitation, development of the Property with a mixed use development anticipated to include a County of Fresno One-Stop West Fresno Regional Center, general and medical offices, retail and associated landscaping, parking improvements, and on-site improvements.

1.27 "Property" means the eight (8) parcels of real property described in Exhibit "A" subdivided by Developer so that each Phase is as to a legally severable portion of the Property.

1.28 "Purchase Price" means the purchase price to be paid by the Developer for conveyance of the Property as set forth in Section 2.1

1.29 "Security Financing Interest" means a security interest, which Developer grants in the Property, in accordance with the terms of Article 5 of this Agreement.

2. CONVEYANCE OF THE PROPERTY. The Agency will convey the Property to Developer for the purchase price and on the conditions set forth herein.

2.1 Purchase Price. Developer will purchase the Property from the Agency, for a purchase price ("Purchase Price") equal to the fair market value of the Property as determined pursuant to this Section 2.1. The Developer shall pay the Purchase Price upon the Close of Escrow.

Not later than thirty (30) days following the execution of this Agreement, the Agency shall cause the Property to be appraised by real property broker, confirmed by MAI appraiser approved by the Agency and the Developer (the "Appraiser"). The cost of the appraisal shall be borne by the Agency. Any written instructions or assumptions given the Appraiser shall be approved by the Agency and the Developer. The Purchase Price shall be the fair market value of the Property as determined by a broker's opinion confirmed by MAI appraiser. If the Purchase Price exceeds [$2.50 per gross square foot] the Developer may terminate this Agreement upon written notice to the Agency.

2.2 Escrow. Within 15 days after the Effective Date of this Agreement, the Agency and Developer will open the Escrow with the Escrow Holder, and deposit a signed copy of this Agreement as their initial joint escrow instructions. The Agency and the Developer will sign any supplemental escrow instructions, consistent with this Agreement, that the Escrow Holder or either party hereto deems necessary or appropriate. This Agreement will control any inconsistency that may exist between this Agreement and the supplemental escrow instructions. The parties authorize the Escrow Holder to act under the escrow instructions and, after the Escrow Holder accepts the instructions in writing, it will carry out its duties as Escrow Holder under this Agreement.

2.3 Conditions precedent to Closing Escrow. The following are conditions precedent to the Agency's obligations to close the Escrow and convey the Property to the Developer and the Developer's obligation to purchase and accept conveyance of the Property from the Agency. These conditions must be satisfied by the time stated or, if no time is stated, then by the Outside Date set for the Closing.

2.3.1 Agency Conditions. The Closing is subject to the fulfillment of each of the conditions precedent described below, which are solely for the benefit of the Agency and which shall be fulfilled consistent with the Exhibit C Performance Schedule, or waived prior to close of escrow:

A. Insurance. Developer has delivered to the Agency, and the Agency has approved the form and content of, certificates of insurance for all insurance that this Agreement requires Developer to obtain and maintain prior to commencement of each Phase of construction,

B. Contract with General Contractor. Developer shall submit to Agency a copy of a signed contract between Developer and a general contractor ("General Contractor") for construction of Phase I of the Project, with written evidence that General Contractor is a general contractor, licensed under California law to perform all its duties under the contract.

C. Receipt for Permits. Developer shall submit copies of receipts showing that Developer has paid for and pulled all necessary construction permits from the City's Development Department for Phase I of development, and Agency shall review and approve such permits as consistent with the Redevelopment Plan and this Agreement.

D. Notice of Accepting Property Condition. Developer has given written notice to the Agency that it has inspected the Property and accepts the Property in AS IS condition. If the Developer, after its inspection of the Property and review of any environmental reports, disapproves the Property's environmental or other condition, and the Agency is either unwilling or unable to cure the condition to which the Developer objects, then the Developer or the Agency may terminate this Agreement by written notice to the other party and without liability for breach or otherwise.

E. Financing Plan Approved and Fully Funded. The Financing Plan shall have been approved by the Agency and fully funded for Phase I of the Project. The Developer and, as necessary, the lender(s) will have signed the loan documents. The documents will include, without limitation and as applicable, loan agreement(s), promissory note(s), the trust deed(s), any other security instruments.

F. No Default. Developer is not in default of this Agreement and all representations and warranties of Developer contained herein are true and correct in all material respects.

G. Design Approvals. The Developer will have obtained the Agency's approval of the design development drawings.

H. Land Use Approvals. The Developer will have received all land use approvals and permits required by this Agreement for Phase I of the Project.

I. Developer Partnership Documentation. The Developer shall have submitted and the AGENCY shall have accepted a copy of Developer's limited partnership agreement including the identity and contact information for all the general partners, principals and venturers therein/thereunder. Upon Agency acceptance, any material change shall require prior notice to and acceptance by the Agency Executive Director.

2.3.2 Developer Conditions. The Closing is subject to the fulfillment or waiver by the Developer of each of the conditions precedent described below, which are solely for the benefit of the Developer and which shall be fulfilled consistent with the Exhibit C Performance Schedule, or waived prior to close of escrow:

A. Condition of Title. Developer has approved the condition of title to the Property pursuant to this paragraph A. Agency shall obtain a preliminary title report and transmit a copy to Developer not later than fifteen (15) days following the Effective Date. Developer shall notify Agency in writing within fifteen (15) days after receipt of a copy of the preliminary title report whether it approves the condition of title. Developer's failure to give such notice within fifteen (15) days will be deemed approval of the condition of title. If Developer notifies Agency that it disapproves any title exception, the Agency may, but is not obligated to, remove that title exception within fifteen (15) days after receipt of Developer's written notice. If the Agency cannot or does not elect to remove any disapproved title exception or give assurance of removal satisfactory to Developer within that period, Developer will have ten (10) business days after the expiration of such fifteen (15) day period to either give Agency written notice that Developer elects to purchase the Property subject to the disapproved title exceptions or to terminate this Agreement.

B. Financing. Developer shall have obtained financing commitments sufficient, in combination with Developer's equity, to finance development of Phase I of the Project.

C. Entitlements. Developer shall have obtained all approvals and permits necessary to develop Phase I of the Project from

governmental agencies having jurisdiction over development of the Property.

D. Inspection. Developer shall have approved the condition of the Property in its sole discretion. Prior to the Closing, the Agency shall, at its sole cost and expense, retain an environmental consultant and any other necessary consultants to investigate the presence on the Property of any Hazardous Materials, including, without limitation, a Phase I environmental site assessment and/or Phase II environmental site assessment investigation, as reasonably required. Agency will promptly provide Developer with a copy of any reports, data, test results or other information pertaining to the condition of the Property and the presence of any Hazardous Materials. The Agency shall provide full written disclosure of any known and reportable environmental conditions upon the Property. Neither the Agency nor the Developer has actual knowledge of, and has not received any notice or communication from, any environmental agency having jurisdiction over the Property of, the presence of Hazardous Materials in, on, or under the Property, or any portion of it. Except as specifically set forth herein, "actual knowledge," as used this subparagraph, will not impose a duty of investigation, and will be limited to the actual knowledge of the employees and agents of the Agency and Developer who have directly participated in the preparation of this Agreement. Except for any reports to be prepared by Agency as expressly set forth above, on or before the Closing, Developer shall have prepared, obtained, reviewed (or shall have chosen not to have prepared, obtained or reviewed) and approved, among other things, all reports of investigations of the Property, including such soil, geological, engineering and environmental tests and reports and other inspections of the Property as Developer shall deem necessary in order to determine whether the Property is suitable for Developer's intended use, as well as investigated (or chosen not to have investigated) all zoning requirements, federal, state and local laws, ordinances, rules, regulations, permits, licenses, approvals and orders applicable to the Property. Pursuant to and subject to the requirements of Section 2.13 of this Agreement, Developer may enter onto the Property for the purpose of conducting its inspection of the Property.

E. The Agency shall not be in default of any provision of this Agreement and all representations and warranties of Agency contained herein are true and correct in all material respects.

F. There shall be no litigation pending with respect to this Agreement, any land use, zoning, development or building permits or entitlements for the development contemplated by this Agreement

or encumbering title to the Property, the outcome of which could materially interfere with the development of the Property as set forth herein.

G. That certain lease by and between Developer and the County of Fresno, dated June 17, 2008, pursuant to which the County of Fresno has leased approximately 29,037 square feet of space in Phase I of the Project for use as a "Human Services Building", is in full force and effect.

H. That certain lease by and between Developer and the County of Fresno, dated June 17, 2008, pursuant to which the County of Fresno has leased approximately 9,222 square feet of space in Phase I of the Project for use as a "Public Library", is in full force and effect.

2.3.3 Termination for Failure of Condition. In the event there is a failure of one or more conditions described in Sections 2.3.1 or 2.3.2 that are not waived, the party for whose benefit the condition is established may terminate this Agreement by written notice to the other party prior to the Closing, in which event this Agreement shall terminate and no party shall have any further rights or liability to the other under this Agreement.

2.4 Escrow and Title Costs. The Developer and Agency shall each pay 50% of escrow fees, recording fees, and documentary stamp taxes, if any, to convey the Property to Developer. The Agency shall pay the portion of the premium for a CLTA policy of title insurance with coverage not exceeding the Purchase Price, insuring the title to the Property as described herein. The Developer shall pay the portion of the premium for an ALTA owner's policy of title insurance or any special endorsements required by Developer. Any other costs associated with the Escrow shall be paid by the Agency or the Developer according to the custom and practice in Fresno County, as declared by Escrow Holder.

2.5 Prorations. The Escrow Holder will prorate all ad valorem taxes and assessments, if any, as of Closing, between the Agency and the Developer. If the then-current taxes and assessments are not ascertainable, the Escrow Agent will apportion the taxes and assessments based on the most recent statement of taxes and assessments. Escrow Holder will adjust the proration, if necessary, within 30 days after the actual taxes and assessments are available. Developer will be solely responsible for ad valorem taxes or assessments on the Property, or any taxes on this Agreement or any rights hereunder, which may be levied, assessed or imposed for any period after the Closing.

2.6 Form of Deed. The Agency will convey the Property to the Developer by a Grant Deed, substantially in the form attached as Exhibit "D." The conveyance and Developer's title will be subject to the Redevelopment Plan and to all conditions, covenants, restrictions and requirements set forth in this Agreement and the Grant Deed.

2.7 Nonmerger. Prior to the issuance of a Certificate of Completion, the provisions of this Agreement will not merge with the Grant Deed. The Grant Deed will not affect, impair or limit the provisions, covenants, conditions or agreements of this Agreement.

2.8 Possession. The Agency will deliver exclusive possession of the Property to Developer at or immediately following the Closing.

2.9 Sale "AS IS" - no warranties. The Agency will convey the Property "AS IS," with all faults, including, without limitation, the conditions disclosed in any toxics reports delivered to Developer, any conditions disclosed in the files of the regulators such as, but not limited to, the Fresno County Health Department, and the Regional Water Quality Control Board, any environmental or other physical conditions on or under the Property, buried debris or structures, and soil compaction, presence of Hazardous Materials or the condition of the soil, its geology, the presence of known or unknown seismic faults, and the suitability of the Property for the development purposes intended hereunder.

2.10 Close of Escrow. The Escrow will close within 30 days after the parties' satisfy all the conditions precedent to Closing as set forth in this Agreement, but not later than the "Outside Date," unless the parties mutually agree to extend the time for Closing.

2.11 Authority of Escrow Holder. The parties authorize the Escrow Holder to, and the Escrow Holder will do the following:

A. Title policy premium. Pay and charge the Agency and Developer, respectively, for the title insurance premiums described in Section 2.3.2.A of this Agreement.

B. Pay fees. Pay and charge the Developer and the Agency equal 50% share of the escrow fees and closing costs, excluding any costs to correct title exceptions or cure property conditions. The Agency and Developer must agree in a separate writing or instructions to the Escrow Holder to the allocation of costs to cure title exceptions or property conditions.

C. Record Grant Deed and disburse funds. Disburse funds from the Purchase Price, and record and deliver the Grant Deed to the

appropriate party when the conditions precedent to Closing are satisfied or waived.

D. Actions to fulfill obligations. Take any other actions necessary to fulfill its obligations under this Agreement.

E. FIRPTA, and more. Direct the parties to deliver any instrument, or to perform any act, necessary to comply with FIRPTA or any similar state act and regulation promulgated thereunder. Agency will sign a Certificate of Non-foreign Status, or a Certification of Compliance with Real Estate Reporting Requirement of the 1986 Tax Reform Act as the Escrow Holder may require.

F. Closing and other statements. Prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including, without limitation, an IRS 1099-S form, and be responsible for withholding taxes, if the law so requires.

G. Closing Statements. Escrow Holder will forward to both Developer and Agency a separate accounting of all funds received and disbursed for each party, and copies of all signed and recorded documents deposited into Escrow, with the recording and filing date and information endorsed thereon.

H. Termination without Close. If the Escrow is not in condition to close by the Outside Date, then any party that is not in default of this Agreement, may demand the return of money or property and terminate this Agreement and the Escrow. If either party makes a written demand for return of documents or properties, this Agreement will not terminate until five days after Escrow Holder has delivered copies of the demand to the other party at the respective addresses shown in this Agreement. If the other party objects within the five-day period, the parties authorize the Escrow Holder to hold all papers and documents until instructed by a court of competent jurisdiction or by mutual written instructions of the parties. Termination of this Agreement will be without prejudice to whatever legal rights either party may have against the other arising from this Agreement. If no party demands that the Escrow terminate, the Escrow Holder will proceed to Closing as soon as possible.

2.12 Executive Director's authority to sign instructions and documents. The Executive Director is authorized to execute any supplemental escrow instructions for the Agency that are not a Material Change hereto. The Executive Director may make minor modifications, not constituting a Material Change, to this Agreement, Exhibits and the

documents referenced herein, to effect the opening and Closing of the Escrow.

2.13 Access Prior to Conveyance. Prior to the conveyance of title from the Agency; representatives of the Developer shall have the right of access to the Property at all reasonable times for the purpose of obtaining data and making surveys tests necessary to carry out this Agreement. The Developer shall hold the Agency harmless for any injury or damages arising out of any activity pursuant to this Section. The Developer shall have access to all data and information on the Property available to the Agency, but without warranty or representation by the Agency as to the completeness, correctness or validity of such data and information.

Any preliminary work undertaken on the Property by the Developer prior to conveyance of title thereto shall be done only after written consent of the Agency, satisfaction of any Agency imposed conditions including without limitation evidence of reasonably required insurance coverage(s), all at the sole expense of the Developer. The Developer shall save and protect the Agency against any claims resulting from such preliminary work, access or use of the Property. Copies of data, surveys and tests obtained or made by the Developer on the Property shall be filed with the Agency. Any preliminary work by the Developer shall be undertaken only after securing any necessary permits from the appropriate governmental agencies.

3. PROJECT DEVELOPMENT.

3.1 Basic Design. Developer has submitted a general or basic concept drawing to Agency, which Agency has approved, and a copy of which is attached as Exhibit "F" (the "Basic Design"). Developer will complete the Improvements on the Property, according to the Basic Design, and the plans, drawings, and documents that Developer submits to Agency. Developer shall carry out construction of the Project including the Improvements in accordance with all applicable local, state and federal laws, codes, ordinances and regulations, including without limitation all applicable state and federal labor standards.

3.2 Audit. Developer will cooperate fully with Agency and the State in connection with any interim or final audit relating to the Project that may be performed. Developer will maintain accurate and current books and records for the Project using generally accepted accounting principles. Developer agrees to maintain books, records and documents for not less than four (4) years after completion of the Project. For purposes of this section, "books, records and documents" include, without limitation, plans, drawings, specifications, ledgers, journals, statements, contracts/

agreements, funding information, purchase orders, invoices, loan documents, computer printouts, correspondence, memoranda and electronically stored versions of the foregoing.

3.3 Private Development Project. The Developer will complete the Project as described in the Scope of Development using contractors licensed to do business in California. Developer shall diligently pursue completion of each Phase of the Project according to the Exhibit C Performance Schedule, final construction plans approved by the Agency (to the extent required by the Redevelopment Plan), all permits and approvals approved or issued by the City, subject to any approved modifications. Except as may be expressly provided herein, Developer shall not begin construction or perform any other work on the Property until after the Closing.

3.4 Developer responsible for all development related fees, charges, and permits. Developer will pay all permit and permit processing costs, all fees and charges relating to the Project.

3.5 Approval of Material Changes. Any Material Change to matters to be approved by the Agency shall be submitted to the Agency for written approval.

3.6 City and other governmental approvals. Developer shall apply for, and diligently pursue until obtained, any City or other governmental permits or approvals necessary to complete the Project. The Council or Agency Board approval, and the Agency's execution, of this Agreement does not limit the City's discretion in the permit and approval process necessary to complete the Project. Discretionary approvals include, without limitation, the City's review and approval of final construction plans and specifications.

3.7 Discretionary governmental actions. Certain planning, land use, zoning and other permits and public actions required for the Project are discretionary governmental actions. These include, without limitation, the approval of this Agreement. Nothing in this Agreement obligates the Agency, the City, or any other governmental entity to grant final approval of any matter described herein. Such actions are legislative, quasi-judicial, or otherwise discretionary in nature. The Agency and the City cannot and do not commit to approve any matter. Neither the Agency nor the City shall be liable, in law or equity, to the Developer or any of its executors, administrators, transferees, successors-in-interest or assigns for any failure of any governmental entity to grant approval on any matter subject to discretionary approval.

3.8 Time for completion of the project. The Agency will convey the Property to the Developer for redevelopment purposes pursuant to the Redevelopment Plan and the Law, and not for speculation in real estate. Therefore, the Developer will begin construction by the date provided in the Performance Schedule, and will diligently complete the Project according to the Performance Schedule, or by any other date as the parties may agree in a written extension signed by the parties and, subject to any extension of time provided for in Section 3.9.

3.9 Extension of time for completion. In addition to the specific provisions of this Agreement, performance by any party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; acts of another party; acts or the failure to act of any public or governmental agency or entity (except that acts or the failure to act of the Agency shall not excuse performance by the Agency) or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. An extension of time for any such cause shall only be for the period of the enforced delay, which period shall commence to run from the time of the commencement of the cause. If, however, notice by the party claiming such extension is sent to the other parties more than thirty (30) days after the commencement of the cause, the period shall commence to run only thirty (30) days prior to the giving of such notice. Times of performance under this Agreement may also be extended in writing by the Agency and the Developer. The Agency Executive Director, on behalf of the Agency may grant extension(s) which cumulatively do not exceed one hundred eighty (180) days, any additional extension shall require Agency Board approval.

3.10 Certificate of Completion. After Developer has satisfactorily completed each Phase of the Project according to this Agreement, Developer may ask the Agency to record a Release of Construction Covenants and Certificate of Completion, substantially in the form attached as Exhibit "E." Subject to the satisfaction of the conditions to its issuance (see next subsection), the Agency shall provide an instrument certifying Developer's completion of such Phase by preparing and recording the Release of Construction Covenants and Certificate of Completion. This release, when recorded, will evidence the Agency's conclusive determination that Developer has satisfied the construction covenants in this Agreement as to the

completed Phase. The release will not be evidence that Developer has complied with or satisfied any obligation to any person holding a deed of trust or Security Financing Interest. The release shall not terminate Developer's indemnification or other obligations, which by their nature are intended to survive Project completion. After the release is recorded in the Official Records of Fresno County, any party then owning or after that purchasing, leasing, or otherwise acquiring any interest in the applicable portion of the Property shall not (because of such ownership, purchase, lease, or acquisition) incur any obligation or liability under this Agreement regarding the construction requirements or Project development of the completed Phase.

3.11 Conditions to issuing the Certificate(s) of Completion. The following are all conditions precedent to the Agency issuing the Certificate of Completion for each Phase of the Project, and each submission will be in a form and substance satisfactory to the Executive Director:

A. Evidence that all mechanics' liens or material men's liens and claims recorded against the Property and Project improvements have been unconditionally and finally released or, if not released, sufficiently bonded against as required by law.

B. Evidence that the aggregate liens and claims against the Property do not exceed the permitted Security Financing Interests approved in the Financing Plan.

C. Evidence that, at the time of permanent financing, the Property of each Phase is subject to liens/encumbrances only as to real property and improvements thereon, i.e., upon the close of permanent financing the Property for a Phase shall not be subject to liens/encumbrances for real property or improvements to Property of another Phase. This requirement is intended to avoid impairment of Agency's Phased Property reverter rights.

3.12 Liens and Stop Notices. If a claim of lien or bonded stop notice is recorded against the Property or any Project improvements, the Developer, within 91 days after that, or within five days after the Agency's demand, whichever last occurs, will do the following:

A. Pay and discharge the same; or

B. Effect the release of it by recording and delivering to the Agency a surety's release bond in sufficient form and amount, or otherwise; or

C. Give the Agency other assurance that the Agency, in its sole discretion, deems satisfactory to protect the Agency from the effect of the lien, claim or bonded stop notice.

3.13 Defects in plans. The Agency will not be responsible to the Developer or to third parties for any of the following: (a) defects in the design of the Project improvements, or (b) any structural or other defects in any work that Developer, or its agents, employees or contractors do according to the approved plans and specifications, or (c) any delays caused by any other governmental review and approval processes. The Developer will hold harmless, indemnify, and defend the Agency, and its officers, employees, agents and representatives from any claims, suits for damages to property or injuries to persons arising out of or relating to defects in the design including, without limitation, the violation of any laws, and for defects in any work Developer or its representatives, employees, or agents does according to any Agency-reviewed and approved design or drawings or other construction items.

3.14 Utilities. Developer is responsible, at its sole cost and expense, to determine the location of any utilities on the Property and to negotiate with the utility companies for and to relocate the utilities, if any, as necessary to complete the Project.

3.15 Access. Until the Agency issues the Certificate of Completion, and solely to assure compliance with this Agreement, Agency representatives may access the Property, during normal construction hours, free of any charge or fee, provided that the representatives comply with all safety rules and defend, indemnify and hold harmless Develop and Developer's contractors and subcontractors of and from any injury or damage occurring in connection with or as a result of such access. Other than during emergencies, the Agency representatives shall notify Developer at least 24 hours before accessing the Property. This provision shall not be construed as limiting the City's rights, under all applicable law, ordinances, and regulations, to carry out code enforcement and to administratively inspect the Property.

3.16 Hiring preferences to Project Area residents. A fundamental purpose of redevelopment is to expand the employment opportunities for jobless, underemployed, and low-income persons. The Developer, through its construction contractor, shall give all lawful preference for employment to those qualified individuals, if available, residing within the Project Area governed by the Redevelopment Plan.

3.17 ADA/Barriers to the Disabled. The Project shall comply with all applicable federal, state and local accessibility requirements.

3.18 Books and Records. Developer shall make available for examination at Developer's place of business and at reasonable intervals and during normal business hours, all books, accounts, reports, files and other papers or property with respect to all matters covered by this Agreement, and shall permit Agency to audit, examine and make excerpts or transcripts from such records. Agency may audit any conditions relating to this Agreement at Agency's expense, unless such audit shows a materially significant discrepancy in information reported by Developer to Agency in which case Developer shall bear the cost of such audit. Developer shall also reasonably cooperate with and assist the Agency in Agency's compliance with any applicable audit requirements of the California Redevelopment Law including California Health and Safety Code Sections 33080 and 33080.1. This section shall survive for a period of four (4) years after the issuance of a certificate of occupancy for each Phase of development of the Project.

3.19 Annual Proof of Insurance. Annually, beginning with commencement of construction of each Phase of development, and continuing until the issuance of a Certificate of Completion for the Phase, Developer shall submit proof of insurance as required by this Agreement.

3.20 Taxes and assessments. The Developer will pay before delinquency all ad valorem real estate taxes and assessments on the Property, subject to the Developer's right to contest any taxes or assessments in good faith. The Developer will remove any levy or attachment on the Property or any part of it, or assure the satisfaction of the levy or attachment within a reasonable time. Except as to property in public use and subject to the following sentence, Developer and those tenants/others holding or using the Property under Developer by lease or otherwise, shall not apply for or take advantage of or otherwise enable any exemption from property/possessory taxes. Except as to that certain Public Library Lease entered between the Developer and the County of Fresno referenced in Section 2.3.2 H of this Agreement, the Developer shall not allow a use, transfer or sale of the Property/portion thereof, whether prior to or following completion of the improvements hereunder, to an entity that is exempt from property/possessory tax and/or which would allow a removal from the tax roll, absent prior notice to and written consent of the Agency Executive Director.

3.21 Compliance with laws. In performing its obligations hereunder, Developer shall comply with all applicable laws, regulations, and rules of the governmental agencies having jurisdiction including, without limitation, applicable federal and state labor standards and environmental laws and regulations. Developer, not the Agency, is

responsible for determining applicability of and compliance with all local, state, and federal laws including, without limitation, the California Labor Code, Public Contract Code, Public Resources Code, Health & Safety Code, Government Code, the City Charter, and Fresno Municipal Code. The Agency makes no representations regarding the applicability of any such laws to this Agreement, the Project, or the parties' respective rights or obligations hereunder including, without limitation, payment of prevailing wages, competitive bidding, subcontractor listing, or other matters. Agency shall not be liable or responsible, in law or equity, to any person for Developer's failure to comply with any such laws, whether the Agency knew or should have known of the need for Developer to comply, or whether the Agency failed to notify Developer of the need to comply.

3.22 Nondiscrimination. In its performance of this Agreement, Developer covenants by and for itself and its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of any person, including contractors, subcontractors, bidders and vendors, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Developer or any person claiming under or through him or her, establish or permit any proactive or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Property.

3.23 Off-Site Improvements. The Agency shall design, construct and install the Off-Site Improvements at its sole cost and expense and on a schedule which coordinates with the development of Phase I of the Project

4. INDEMNITY; INSURANCE.

4.1 Indemnity. Each party shall indemnify, hold harmless and defend the other and their respective officers, officials, employees, agents and volunteers from any loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability including, without limitation, personal injury, death at any time and property damage) incurred by any such indemnitee or any other person, and from any claims, demands and actions in law or equity (including attorneys' fees and litigation expenses), arising directly or indirectly out of the respective performance or failure to perform this

Agreement by the indemnifying party or its contractors, subcontractors, agents and employees.

As to the Developer's indemnity obligations to the Agency, this indemnity shall also cover, without limitation the following: (i) any act, error or omission of the Developer or any of its officers, employees, contractors, subcontractors, invitees, agents or representatives in connection with this Agreement, the Project or the Property; (ii) any inspection or use of the Property, the Project by the Developer or any of its officers, employees, contractors, subcontractors, invitees, agents or representatives, successors or assigns; (iii) the design, construction, operation or maintenance of the Project, or (iv) failure of the Developer or any of its officers, employees, contractors, subcontractors, invitees, agents or representatives to comply with any Federal, State or local law, code, ordinance or regulation applicable to this Agreement or the Project.

This section shall survive termination or expiration of this Agreement and the recordation of the Grant Deed.

4.2 Insurance. As to each Phase and until a Certificate of Completion is recorded in the Official Records of Fresno County, the Developer shall pay for and maintain, or cause to be paid and maintained, in effect all insurance policies required hereunder with insurance companies either (i) admitted by the California Insurance Commissioner to do business in the State of California and rated not less than "A-VII" in Best's Insurance Rating Guide; or (ii) authorized by the Agency. The following policies of insurance are required, and Developer will deliver proof of these policies/the actual policies, before the Closing and thereafter upon the reasonable request of the Agency:

Commercial General Liability insurance that shall include contractual, products and completed operations coverages, bodily injury and property damage liability insurance with combined single limits of not less than $1,000,000 per occurrence.

Commercial Automobile Liability insurance, if any, endorsed for "any auto" with combined single limits of liability of not less than $1,000,000 per occurrence.

Workers' Compensation insurance as required under the California Labor Code.

Builders Risk insurance sufficient to cover 100 percent of the replacement value of all improvements made on the Property including, without limitation, terms of labor and materials in place or to be used as part of the permanent construction (including, without limitation, surplus

miscellaneous materials and supplies incidental to the work, and scaffolding, staging, towers, forms and equipment not owned or rented by the Developer, the cost of which is not included in the cost of work).

A. The above described policies of insurance shall be endorsed to provide an unrestricted 30-day written notice in favor of the Agency, of policy cancellation, change or reduction of coverage, except the Workers' Compensation policy that shall provide a 10-day written notice of such cancellation, change or reduction of coverage. If any policy is due to expire during the term of this Agreement, the Developer shall provide a new certificate evidencing policy renewal not less than 15 days before the expiration date of the policy. When an insurer, broker, or agent issues a notice of cancellation, change or reduction in coverage, the Developer shall immediately obtain and file a certified copy of a new or renewal policy and certificates for such policy with the Agency.

B. The General Liability and Automobile Liability insurance policies shall be written on an occurrence form and shall name the Agency, its officers, officials, agents, employees and volunteers as an additional insured. Each policy shall be endorsed so that Developer's insurance is primary and no contribution is required of the Agency. The Developer shall furnish the Agency with copies of the actual policies upon the request of the Agency's Executive Director, or the Director's designee, which obligation shall survive termination/expiration of this Agreement.

C. If the Developer fails to maintain the required insurance in full force and effect, Developer shall immediately discontinue all work under this Agreement until the Agency receives notice that the required insurance has been restored to full effect and that the premiums for the insurance have been paid for a period satisfactory to Agency. Developer's failure to maintain any required insurance shall be sufficient cause for the Agency to terminate this Agreement.

D. If the Developer subcontracts all or any portion of the work under this Agreement, the Developer shall require each subcontractor to provide insurance protection in favor of the Developer and the Agency, its officers, officials, employees, agents and volunteers according to the terms of each of the preceding paragraphs, except that the subcontractors' certificates and endorsements shall be on file with the Developer and Agency before the subcontractor begins any work.

E. Insurance for Project design work. The Developer shall require its architect to maintain for its Project design work professional liability

insurance (errors and omissions) with a limit of not less than $1,000,000 per occurrence.

F. If claims made forms are used for any Professional Liability Coverage, either (i) the policy shall be endorsed to provide not less than a five-year discovery period, or (ii) the coverage shall be maintained for a minimum of five years after the Release of Construction Covenants is recorded. The requirements of this section relating to such coverage shall survive termination or expiration of this Agreement.

5. SECURITY FINANCING INTERESTS AND RIGHTS OF HOLDERS.

5.1 Prohibition Against Transfer of Site, the Buildings or Structured Thereon and Assignment of Agreement. After conveyance of title and prior to the issuance by the Agency of a Certificate of Completion for a completed Phase of development, the Developer shall not, except as expressly permitted by this Agreement, sell, transfer, convey, assign or lease the whole or any part of the Property or the buildings or improvements thereon without the prior written approval of the Agency. This prohibition shall not apply subsequent to the issuance of a Certificate of Completion for a completed Phase of development except as otherwise provided in this Agreement. This prohibition shall not be deemed to prevent the granting of easements or permits to facilitate the development of the Property or to prohibit or restrict the leasing of any part or parts of a building or structure when said improvements are completed.

5.1.1 Permitted Transfers. Notwithstanding the foregoing, the following events ("Permitted Transfers") shall not be deemed a transfer for the purposes of requiring the Agency's consent:

A. Creation of Security Financing Interests

B. A sale, conveyance, or transfer of the Property at foreclosure (or a deed in lieu of foreclosure) resulting from a Security Financing Interest;

C. The conveyance or dedication of parts of the Property to the City or the Agency, or the grant of easements or permits solely to facilitate the development of the Property before the Certificate of Completion is recorded;

D. Sale or rental of Project units/space in accordance with this Agreement.

E. Sale or assignment to an entity controlled by or in common control with Developer .

F. Assignments resulting from the death or mental or physical incapacity of an individual.

G. Assignments in trust for the benefit of a partner's spouse, children, grandchildren or other family members.

5.1.2 Approval or consent of Agency. When a request for transfer or assignment is submitted to the Agency for consideration, approval will be conditioned, without limitation, on the following:

A. Financial strength and business experience. The proposed transferee will demonstrate to the Agency's reasonable satisfaction that the proposed transferee has sufficient financial strength and the business experience in planning, financing, development, ownership, and operation of similar projects to complete the Project, or portion thereof, competently.

B. Assumption agreement. Any transferee, by recordable instrument acceptable to the Agency, shall expressly assume all the unfulfilled or ongoing obligations of the Developer under this Agreement, and agree to be subject to all the conditions and restrictions to which the Developer is subject with respect to the Property or applicable portion thereof.

C. Transfer documents. The Developer or its successors shall submit all documents, proposed to effect any the transfer or assignment, to the Agency for review and approval.

D. Other information. Developer or its successors shall deliver all information to the Agency that the Agency may reasonably request to enable it to evaluate the proposed transfer or assignment. Agency shall approve, conditionally approve, or disapprove a request for assignment within 15 days after receiving the request and all supporting documentation.

E. Developer's release. The Agency's approval of any transfer, assignment, or sale will not relieve the Developer or any successor from any unfulfilled or ongoing obligations of Developer under this Agreement with respect to any portion of the Property not transferred. The provisions of this subsection are intended to discourage land speculation, and these provisions shall be liberally interpreted to accomplish that end.

5.2 Security Financing; Rights of Holders.

5.2.1 No Encumbrances Except Mortgages, Deeds of Trust, A Sales and Leases-Back or Other Financing for Development. Notwithstanding Section 5.1 of this Agreement, mortgages, deeds of trust, sales and

leases-back or any other form of conveyance required for any reasonable method of financing are permitted before issuance of a Certificate of Completion but only for the purpose of securing loans of funds to be used for financing the acquisition of the Property, the construction of improvements on the Property and any other expenditures necessary and appropriate to develop the Property under this Agreement. The Developer shall promptly notify the Agency of any mortgage, deed of trust, sale and lease-back or other financing conveyance, encumbrance or lien that has been created or attached thereto prior to completion of the construction of the improvements on the Property whether by voluntary act of the Developer or otherwise. The words "mortgage" and "deed of trust," as used herein, include all other appropriate modes of financing real estate acquisition, construction and land development.

5.2.2 Holder Not Obligated to Construct Improvements. The holder of any mortgage, deed of trust or other security interest authorized by this Agreement shall in no way be obligated by the provisions of this Agreement to construct or complete the improvements or to guarantee such construction or completion, nor, or shall any covenant or any other provision in the grant deed for the Property be construed so to obligate such holder. Nothing in this Agreement shall be deemed to construe, permit or authorize any such holder to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Agreement.

5.2.3 Notice of Default to Mortgage, Deed of Trust or Other Security Interest Holders; Right to Cure. Whenever the Agency shall deliver any notice or demand to the Developer with respect to any breach or default by the Developer in completion of construction of the improvements, the Agency shall at the same time deliver a copy of such notice or demand to each holder of record of any mortgage, deed of trust or other security interest authorized by this Agreement who has previously made a written request to the Agency therefor default of the Developer under this Section 5.2.3. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the improvements (beyond the extent necessary to conserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations to the Agency by written agreement reasonably satisfactory to the Agency. The holder in that event must agree to complete, in the manner provided in this Agreement, the improvements to which the lien or title of such holder relates and submit evidence reasonably satisfactory to the Agency that it has the qualifications and financial responsibility necessary to perform such obligations. Any such holder properly completing such improvements shall be entitled, upon written request made to the Agency, to a Certificate of Completion from the Agency.

5.2.4 Failure of Holder to Complete Improvements. In any case where, six (6) months after default by the Developer in completion of construction of improvements under this Agreement, the holder of any mortgage, deed of trust or other security interest creating a lien or encumbrance upon the Property has not exercised the option to construct, or if it has exercised the option and has not proceeded diligently with construction, the Agency may purchase the mortgage, deed of trust or other security interest by payment to the holder of the amount of the unpaid debt, plus any accrued and unpaid interest. If the ownership of the Property has vested in the holder, the Agency, if it so desires, shall be entitled to a conveyance of the Property from the holder to the Agency upon payment to the holder of an amount equal to the sum of the following:

A. The unpaid mortgage, deed of trust or other security interest debt at the time title became vested in the holder (less all appropriate credits, including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

B. All expenses with respect to foreclosure;

C. The net expenses, if any (exclusive of general overhead), incurred by the holder as a direct result of the subsequent management of the Site;

D. The costs of any authorized improvements made by such holder; and

E. An amount equivalent to the interest that would have accrued on the aggregate of such amounts had all such amounts become part of the mortgage or deed of trust debt and such debt had continued in existence to the date of payment by the Agency.

5.2.5 Right of Agency to Cure Mortgage, Deed of Trust or Other Security Interest Default. In the event of a default or breach by the Developer a mortgage, deed of trust or other security interest with respect to the Property prior to the completion of development, and the holder has not exercised its option to complete the development, the Agency may cure the default prior to completion of any foreclosure. In such event, the Agency shall be entitled to reimbursement from the Developer of all costs and expenses incurred by the Agency in curing the default. The Agency shall also be entitled to a lien upon the Property to the extent of such costs and disbursements. Any such lien shall be subject to mortgages, deeds of trust or other security interests executed for the sole purpose of obtaining funds to purchase and develop the Property as authorized herein.

6. REPRESENTATIONS AND WARRANTIES.

6.1 Developer Representations and Warranties.

A. Representations and Warranties of Developer. Developer and each person executing this Agreement for Developer represents and warrants that:

1. Developer is a California limited partnership duly organized and existing under the laws of the State of California, in good standing, and authorized to do business in the State of California, County of Fresno, and City of Fresno.

2. Developer has all requisite power and authority to carry out its business as now and hereafter conducted and to enter and perform its obligations under this Agreement.

3. By proper action the Developer has authorized the person or persons signing this Agreement for Developer to execute and deliver this Agreement and to legally bind the Developer to its terms and conditions.

4. Developer's execution and performance of this Agreement does not violate any provision of any other agreement to which Developer is a party.

5. Except as may be specifically set forth in this Agreement, no approvals or consents not heretofore obtained by Developer are necessary to Developer's execution of this Agreement, or Developer's performance of the obligations under this Agreement.

6. This Agreement is valid, binding, and enforceable against Developer in accordance with its terms.

6.2 Agency Representations and Warranties.

A. Representations and Warranties of Agency. Agency and each person executing this Agreement for Agency represents and warrants that:

1. Agency is a community redevelopment agency organized and existing under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.).

2. Agency has all requisite power and authority to carry out its business as now and hereafter conducted and to enter and perform its obligations under this Agreement.

3. By proper action, Agency has authorized the person or persons signing this Agreement for Agency to execute and deliver this Agreement and to legally bind Agency to its terms and conditions.

4. Agency's execution and performance of this Agreement does not violate any provision of any other agreement to which Agency is a party.

5. Except as may be specifically set forth in this Agreement, no approvals or consents not heretofore obtained by Agency are necessary to Agency's execution of this Agreement, or Agency's performance of the obligations under this Agreement.

6. This Agreement is valid, binding and enforceable against Agency in accordance with its terms.

7. DEFAULT, REMEDIES AND TERMINATION.

7.1 Default. Failure or delay by either party to perform any term of this Agreement shall be a default under this Agreement if not cured within the time set forth herein. Any failure or delay by a party in asserting any right or remedy will not constitute a waiver, and will not deprive the party of its right to institute and maintain any action or proceeding necessary to protect or enforce any right or remedy.

7.2 Legal actions. A party may institute a legal action to cure, correct, or remedy any default, to recover damages for any default, or to obtain any other remedy consistent with the purposes of this Agreement. Such legal action shall be brought in the Fresno County Courts, or the Fresno Division of the Federal District Court for the Eastern District of California. Service of process shall be made on the Agency by personal service on the Executive Director or in any other manner permitted by law. Service of process shall be made on the Developer, or in any other manner permitted by law, whether service is made in or out of California.

7.3 Rights and remedies are cumulative. Except as may be expressly stated otherwise in this Agreement, the rights and remedies of the parties are cumulative. The exercise by either party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or a different time, of any other rights or remedies for the same default or any other default. In addition to the specific rights and remedies herein, the parties may resort to any other rights or remedies available at law or in equity including, without limitation, specific performance.

7.4 Notice and cure periods. If either party fails to perform under any provision of this Agreement including documents incorporated herein, the non-defaulting party shall serve written notice of the default on the defaulting party, describing the default, and the actions necessary to cure the default. A defaulting party will have 30 days from the date of the notice to cure the breach or failure unless a different time period is provided in this Agreement in which case the latter shall apply. If the default is not susceptible to cure within the 30 days, the defaulting party shall begin to cure the default within 30 days and after that diligently prosecute the cure to completion. Failure of the defaulting party to cure within these times shall entitle the non-defaulting party to enforce any right or remedy provided in this Agreement, at law, or in equity. This provision is not intended to modify or extend any other notice or cure period specifically provided for in this Agreement. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default.

7.5 Right of re-entry (Power of Termination) and Reverter. The Agency may reenter and take possession of the Property, or part of it, and all improvements on it, terminate the estate conveyed to Developer by the Grant Deed, and revest the estate in the Agency if, after the Closing, but before recording a Certificate of Completion, any of the following occurs:

A. Developer does not begin and complete construction of the Project within the time specified in the Performance Schedule or this Agreement; or,

B. Developer abandons or substantially suspends construction of the Project for 30 days after the Agency gives written notice of the abandonment or suspension; or,

C. Developer assigns or transfers, or suffers an involuntary transfer of, any rights or obligations under this Agreement, or in the Property, in violation of the assignment provision of this Agreement.

7.6 Effect on security holders. Such right to reenter, repossess, terminate and revest shall be subject to, limited by, and shall not defeat, render invalid, or limit: (i) any Security Financing Interest permitted by this Agreement; or (ii) any provision of this Agreement protecting the holder's Security Financing Interest.

7.7 Recognition of Agency right. The Grant Deed, and any subsequent deed for an approved Property transfer or conveyance shall contain appropriate provisions to give effect to the Agency's right to reenter and take possession of the Property, or any part of it, and all

improvements thereon, and to terminate the estate conveyed to the Developer, and revest it in the Agency.

7.8 Resale of Property. When title to the Property revests in the Agency, the Agency shall use its best efforts to resell the Property, consistent with the objectives of the Law and of the Plan, to a qualified and responsible party (as determined by the Agency). The transferee will assume the obligation of completing the Project or constructing improvements other than the Project, satisfactory to the Agency and according to the uses specified in the Plan. Upon any resale of the Property, or part of it, the proceeds shall be applied as follows:

A. First, to reimburse the Agency for (a) all commercially reasonable costs and expenses incurred (including, without limitation, salaries of personnel) in connection with the recapture/reverter, management, and resale of the Property, or part of it, less any income the Agency derived from the property in connection with the management; (b) all taxes, assessments, and water and sewer charges respecting the property (or, if any of the Property is exempt from taxation or assessment or such charges during the Agency's ownership, then such taxes, assessments or charges as would have been payable if the Property were not so exempt); (c) any payments necessary to discharge or prevent any subsequent encumbrances or liens due to obligations, defaults, or acts of the Developer, its successors or transferees from attaching or being made; (d) any expenditures made or obligations incurred to complete the Project or other improvements on the Property; and any amounts otherwise owing to the Agency from the Developer or by its successor or transferee; and

B. Second, to reimburse the Developer, its successor or transferee, up to the amount equal to the sum of (a) the Purchase Price paid to the Agency for the Property; and (b) the out-of-pocket costs incurred to develop and improve the Property, less (c) any gains or income to the Developer from the Property, the Project or other improvements on it. Notwithstanding the foregoing, the amount calculated pursuant to this paragraph shall not exceed the sum of the Purchase Price and the fair market value of the private improvements on the Property when the default or failure occurred, which led to the Agency's exercise of the right of reverter.

C. Any balance remaining after such reimbursements shall be retained by the Agency.

7.9 No speculation in land. The rights established in this Section 9 shall be interpreted considering the Agency's intent to convey the

Property to the Developer for development of the Project, and not for speculation in undeveloped land or any other purpose.

8. GENERAL PROVISIONS.

8.1 Notice, demands and communication. Formal notices, demands, and communications between the Agency and the Developer shall be given as follows: (i) personal delivery, or (ii) delivery by a reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (iii) by facsimile via a machine that issues a confirmation showing the date and time of transmission, and the office name and number to which the transmission was made, or (iv) by registered or certified mail, return receipt requested, postage prepaid, addressed to the principal offices of the Agency or the Developer as follows:

AGENCY: Redevelopment Agency of the City of Fresno
Attention: Executive Director
2344 Tulare Street, Suite 200
Fresno CA 93721
Facsimile No.: (559) 498-1870

WITH COPIES TO: City Attorney as Ex-Officio Attorney
for the Redevelopment Agency
2600 Fresno Street, Room 2031
Fresno CA 93721-3602
Facsimile No.: (559) 488-1084

DEVELOPER: Edison Plaza Partners, LP
855 M Street, Suite 1110
Fresno, CA 93721
Attn: Tom Richards
Facsimile No. (559) 268-6030

A party may change its address by notice given according to this subsection.

8.2 Conflict of interests. No member, official, officer or employee of the Agency shall have any direct or indirect interest in this Agreement, or shall participate in any decision relating to this Agreement where such interest or participation is prohibited by law. No officer, employee, or agent of City who exercises any function or responsibility concerning the planning and carrying out of the Project, or any other person who exercises any function or responsibility concerning any aspect of this Agreement or the Project, shall have any personal financial interest, direct or indirect, in this Agreement or the Project.

8.2.1 Developer represents and warrants that it has not paid or given, and will not pay or give, to any third party any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, consultants, engineers and attorneys.

8.2.2 No contractor, subcontractor, mechanic, material man, laborer, vendor, or other person hired or retained by with Developer shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement, rather each such person shall be deemed to have agreed (a) that they shall look to Developer as their sole source of recovery if not paid, and (b) except as otherwise agreed to by Agency and any such person in writing, they may not enter any claim or bring any such action against Agency under any circumstances. Except as provided by law, or as otherwise agreed to in writing between Agency and such person, each such person shall be deemed to have waived in writing all right to seek redress from Agency under any circumstances whatsoever.

8.3 Executive Director to Provide Approvals and Actions. Whenever this Agreement references an action or approval required or permitted by the Agency, the Executive Director or his or her designee is authorized to act for the Agency unless this Agreement, the Law, or Agency bylaws, resolutions or procedures provide otherwise, or the context otherwise requires.

8.4 Nonliability of officials, employees and agents. No member, official, officer, employee or agent of the Agency shall be personally liable to the Developer, or any successor in interest, for any default or breach by the Agency.

8.5 Counterparts. This Agreement may be executed in counterparts, and together each executed counterpart shall constitute one Agreement.

8.6 Waiver. A party's waiver of the other's breach of any provision of this Agreement, shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision of this Agreement. No provision of this Agreement may be waived except in a writing signed by all parties. Waiver of any one provision shall not be deemed to be a waiver of any other provision herein.

8.7 Attorneys' fees. If a party initiates or defends litigation or any legal proceeding regarding the enforcement of this Agreement, the prevailing party in such litigation or proceeding, in addition to any other relief that may be granted, shall be entitled to reasonable attorneys' fees. Attorneys' fees shall include attorneys' fees on any appeal. A party entitled to attorneys' fees shall be entitled to all

other reasonable costs for investigating the action, retaining expert witnesses, taking depositions and discovery, and all other necessary costs incurred with respect to the action. All such fees shall be deemed to have accrued on commencement of the action and shall be enforceable whether or not such action is prosecuted to judgment.

8.8 Governing law. This Agreement shall be interpreted and enforced, and the rights and duties of the parties under this Agreement (both procedural and substantive) shall be determined, according to California law.

8.9 Further assurances. Each party will take any further acts and will sign and deliver any further instruments required to carry out the intent and purposes of this Agreement.

8.10 Entire understanding of the parties. The parties will execute three duplicate originals of this Agreement. The exhibits referenced as attached are by such references incorporated into this Agreement. This Agreement, including the exhibits, is the entire understanding and agreement of the parties. All prior discussions, understandings, and written agreements are superseded by this Agreement. This Agreement shall not be modified except by written instrument duly approved as required by law and executed by authorized representatives of the parties. Should the terms of any exhibit conflict with the body of this Agreement, the body of this Agreement shall govern.

8.11 Consent, reasonableness. Unless this Agreement specifically authorizes a party to withhold its approval, consent, or satisfaction in its sole discretion, any consent, or approval, or satisfaction to be requested or required of a party, shall not be unreasonably withheld, conditioned, or delayed.

8.12 Partial invalidity. If any part of this Agreement is held to be invalid, void, or unenforceable in any legal, equitable or arbitration proceeding, the remainder of the Agreement shall continue in effect, unless not giving effect to the invalid or unenforceable part would prevent effecting the redevelopment purposes of the Project and this Agreement.

8.13 Ambiguity. This Agreement is the result of the combined efforts of the parties. Should any provision of this Agreement be found ambiguous, the ambiguity shall not be resolved by construing this Agreement in favor of or against any party, but by construing the terms according to their generally accepted meaning, considering the objective of the Agreement.

8.14 Number and gender. Masculine, feminine or neuter gender terms and singular or plural numbers will include others when the context so indicates.

8.15 Headings. All headings are for convenience only, are not a part of this Agreement, and are not to be used in construing this Agreement.

8.16 Binding upon successors. This Agreement shall bind and inure to the benefit of the successors in interest, personal representatives, and assigns of each party, subject to the limitation on transfer and assignment contained in this Agreement. Any reference in this Agreement to a specifically named party shall be deemed to apply to any successor, heir, administrator, executor, representative, or assign of the party who has acquired an interest in compliance with the terms of this Agreement, or under law.

8.17 Relationship of the parties. The relationship between the Agency and the Developer is solely that of a California redevelopment agency and an independent, private developer of property in a redevelopment project area. Nothing in this Agreement, the Grant Deed, or any other document executed in connection with this Agreement shall be construed as creating a partnership, joint venture, agency, employment relationship or similar relationship between the Agency and the Developer or any of the Developer's contractors, subcontractors, employees, agents, representatives, transferees, successors-in-interest or assigns. Nothing in this Agreement establishes a principal and agent relationship between the parties.

8.18 Nature of the project. The Project is a private undertaking of the Developer. After the Agency conveys title or possession of the Property to the Developer, the Developer shall have exclusive control over the Property, subject to the terms of this Agreement, the Plan, the Law and all other applicable Federal, State and local laws, ordinances, codes, regulations, standards and policies. By entering and performing this Agreement, the Agency does not approve or endorse the Project except to implement the redevelopment purposes, goals, policies, and objectives of the Plan and the Law.

8.19 Time of essence. Time is of the essence of each term, condition, and covenant contained in this Agreement.

8.20 Survival of Provisions. Those provisions expressly surviving expiration or earlier termination, including each indemnification provision, shall survive the Closing and expiration or earlier

termination of this Agreement, and shall not merge with the Grant Deed or other document evidencing any interest in real property.

8.21 Amendments or modifications. This agreement may be amended or modified only by the written mutual consent of the parties, and the approval of the Agency Board where required by Law.

8.22 Interpretation. In the event of any conflict between the body of this Agreement and any exhibit or attachment to it, the terms and conditions of the body of this Agreement will control.

IN WITNESS WHEREOF, Agency and Developer have executed this Agreement on the dates set forth below.

EDISON PLAZA PARTNERS, LP

By _____
Name: _____
Title: _____

Dated: _____

By _____
Name: _____
Title: _____

Dated: _____

By _____
Name: _____
Title: _____

Dated: _____

REDEVELOPMENT AGENCY OF THE CITY OF FRESNO

By _____
Marlene Murphey
Executive Director

Dated: _____

The above persons to execute this agreement before a Notary Public and attach the notary acknowledgments.

ATTEST:
REBECCA E. KLISCH
Ex Officio Clerk

By _____
(Deputy)

APPROVED AS TO FORM:
JAMES C. SANCHEZ
Ex Officio Attorney

By _____ 4-12-08
(Deputy)

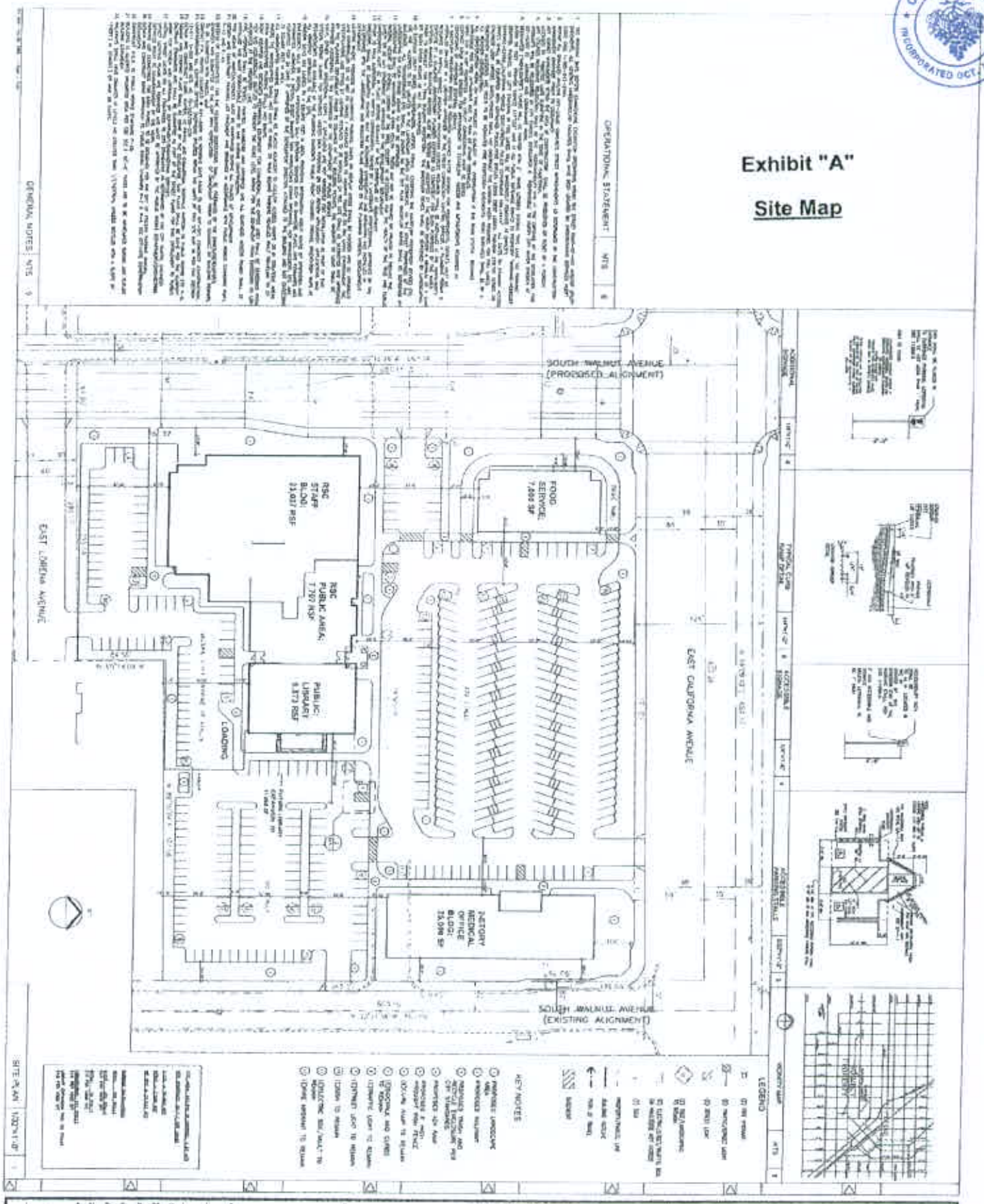
ATTACHMENTS

Exhibit "A"	Site Map
Exhibit "A-1"	Legal Description
Exhibit "B"	Scope of Development
Exhibit "C"	Performance Schedule
Exhibit "D"	Grant Deed
Exhibit "E"	Release of Construction Covenants/Certificate of Completion
Exhibit "F"	Basic Design

CITY OF FRESNO
INCORPORATED OCT. 12, 1885

Exhibit "A"

Site Map



A-1.1

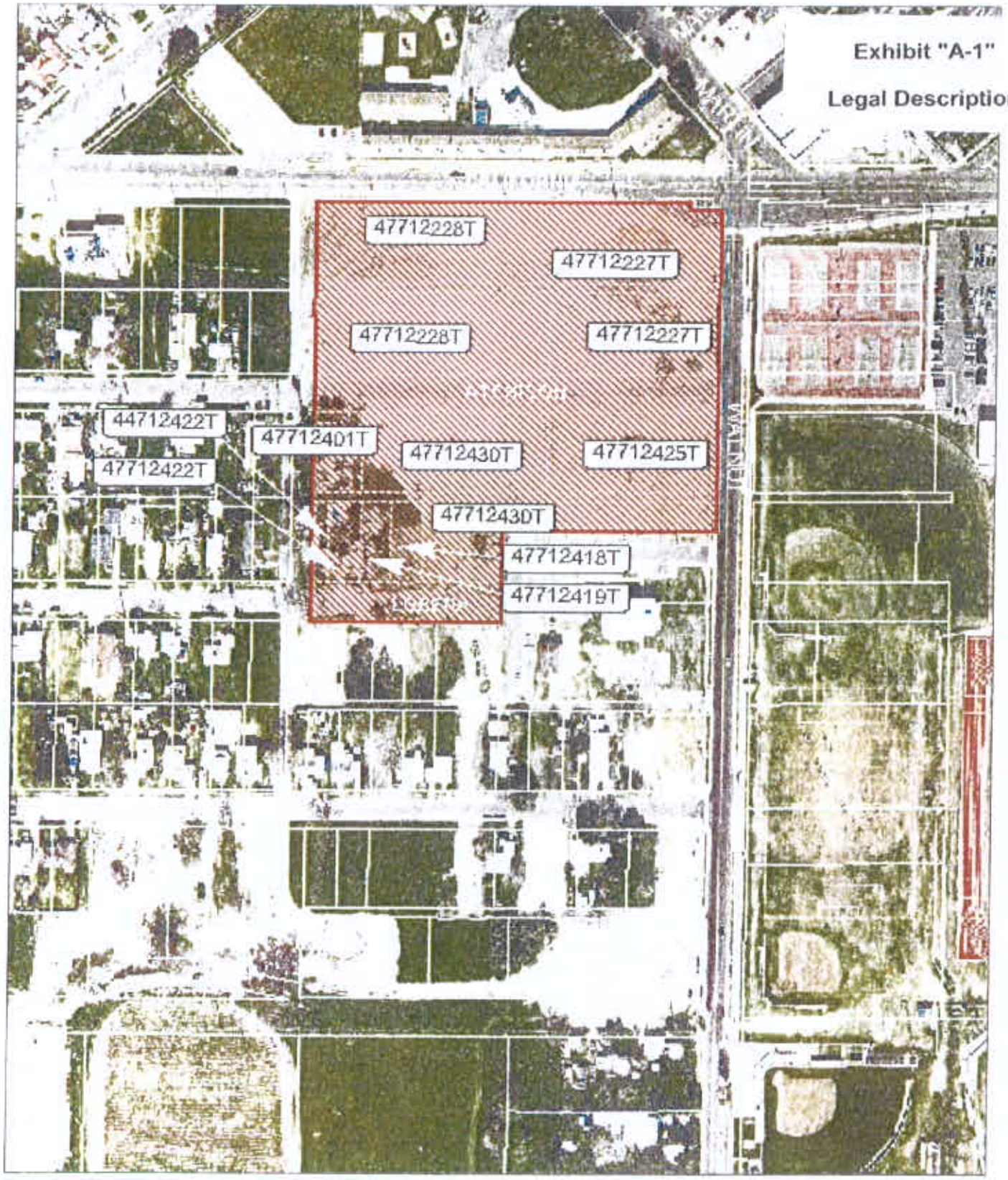
SITE PLAN

WEST FRESNO REGIONAL CENTER

FRESNO, CA

SCOTT BECK ARCHITECT

California-Walnut Mixed-Use DDA



Redevelopment Agency
of the City of Fresno

LEGAL DESCRIPTION

PARCEL ONE:

Commencing at the Northeast corner of Lot 50 in Block 1 of Long Brother's Addition, according to the Map thereof, recorded in Book 1, Page 59 of Plats, Fresno County Records; thence South 00° 20' 51" East along the East line of said Lot 50, a distance of 62.73 feet to the true point of beginning; thence continuing South 00° 20' 51" East along the East line of said Block 1 and the Southerly prolongation thereof and along the East line of Block 2 of said Long Brother's Addition, a distance of 389.76 feet to the Southeast corner of Lot 50 in said Block 2; thence South 89° 10' 45" West along the South line of Lots 40 through 50 inclusive in Block 2, a distance of 256.01 feet; thence North 00° 20' 51" West parallel with and 256.00 feet West of the East lines of said Block 1 and Block 2, a distance of 396.50 feet to a point on a line parallel with and 56.00 feet South of the North line of said Block 1; thence North 89° 10' 45" East along said parallel line, a distance of 249.28 feet; thence South 45° 34' 56" East, a distance of 9.48 feet to the true point of beginning.

APN: 477-124-25T and 477-122-27T

PARCEL TWO:

Lots 11 through 50, inclusive, in Block 1 of Long Brother's Addition, in the City of Fresno, County of Fresno, State of California, according to the Map thereof recorded in Book 1, Page 59 of Plats, Fresno County Records.

Excepting therefrom that portion described as follows:

Commencing at the Northeast corner of Lot 50 in Block 1 of Long Brother's Addition, according to the Map thereof, recorded in Book 1, Page 59 of Plats, Fresno County Records; thence South 00° 20' 51" East along the East line of said Lot 50, a distance of 62.73 feet to the true point of beginning; thence continuing South 00° 20' 51" East along the East line of said Block 1 and the Southerly prolongation thereof and along the East line of Block 2 of said Long Brother's Addition, a distance of 389.76 feet to the Southeast corner of Lot 50 in said Block 2; thence South 89° 10' 45" West along the South line of Lots 40 and 50, inclusive, in said Block 2, a distance of 256.01 feet; thence North 00° 20' 51" West parallel with and 256.00 feet West of the East lines of said Block 1 and Block 2, a distance of 396.50 feet to a point on a line parallel with and 56.00 feet South of the North line of said Block 1; thence North 89° 10' 45" East along said parallel line, a distance of 249.28 feet; thence South 45° 34' 56" East, a distance of 9.48 feet to the true point of beginning.

APN: 477-122-28T

PARCEL THREE:

Parcel A of Lot Line Adjustment No. 1999-26, recorded December 15, 2000, Document No. 2000-0153883 of Official Records, described as follows:

Lots 1 through 18, inclusive, in Block 2 of Long Brother's Addition according to the Map thereof recorded in Book 1, Page 59 of Plats, Fresno County Records.

Excepting therefrom the South 84 feet of Lots 1 through 13, inclusive, of said Block 2.

APN: 477-124-30T (a portion)\

PARCEL FOUR:

Lots 29 through 40, inclusive, in Block 2 of Long Brother's Addition according to the Map thereof recorded in Book 1, Page 59 of Plats, Fresno County Records.

Excepting therefrom the East 6 feet of said Lot 40.

APN: 477-124-30T (a portion)

PARCEL FIVE:

Lots 26, 27 and 28, in Block 2 of Long Brother's Addition according to the Map thereof recorded in Book 1, Page 59 of Plats, Fresno County Records.

APN: 477-124-01T

PARCEL SIX:

Lots 21 and 22, in Block 2 of Long Brother's Addition, according to the Map thereof recorded in Book 1, Page 59 of Plats, Fresno County Records.

APN: 477-124-19T

PARCEL SEVEN:

Lots 19 and 20, in Block 2 of Long Brother's Addition, according to the Map thereof recorded in Book 1, Page 59 of Plats, Fresno County Records.

APN: 477-124-18T

PARCEL EIGHT:

Lots 23, 24 and 25, in Block 2 of Long Brother's Addition, according to the Map thereof recorded in Book 1, Page 59 of Plats, Fresno County Records.

APN: 477-124-22T

APN: 477-122-28T & 27T 477-124-18T, 19T, 477-124-25T, 01T, 30T, 22T

Exhibit "B"

Phased Scope of Development – Proforma Budget

I. PRIVATE DEVELOPMENT

A. General

The Developer agrees that the Property shall be developed and improved in accordance with the provisions of this Agreement and the Basic Design (Exhibit "F") approved by the Agency pursuant hereto. The Developer and its supervising architect, engineer and contractor shall work with Agency staff to coordinate the overall design, architecture and color of the improvements on the Property.

B. Developer's Improvements

The Developer shall by lot line adjustment cause each Phase of the Project to be as to a legally severable portion of the Property, according to the following schedule: By March 1, 2009.

The Developer shall construct, or cause to be constructed, on the Property the following:

1. Phase I

A County of Fresno One-Stop West Fresno Regional Center consisting of the "Human Services Building" and the "County Library" of approximately 37,617 square feet, 407 parking spaces and on-site improvements consisting of parking lots with improvement, lighting, landscaping as required by City of Fresno and Redevelopment Agency development standards.

2. Phase II

General and Medical offices of approximately 25,000 square feet. Required parking spaces and on-site improvements required for Phase II will be completed in Phase I development.

3. Phase III

Retail of approximately 7,000 square feet. Required parking spaces and on-site improvements required for Phase III will be completed in Phase I development.

C. Architecture and Design

The Developer's improvements shall be of high architectural quality, shall be well landscaped and shall be effectively and aesthetically designed. The shape, scale of volume, exterior design and exterior finish of the building must be consonant with, visually related to, physically related to and an enhancement of adjacent buildings within the Project Area.

D. Landscaping

Landscaping shall embellish all open spaces on the Property. Landscaping includes such materials as paving, trees, shrubs and other plant materials, landscape containers, plaza furniture, top soil preparation, automatic irrigation and landscape and pedestrian lighting. Landscaping shall carry out the objectives and principles of the Agency's desire to accomplish a high quality aesthetic environment.

E. Signs

All signs on the exterior of the buildings are of special concern to the Agency and must be approved by the Agency (which approval shall not be unreasonably withheld).

F. Screening

Trash areas shall be screened on at least three (3) sides and have movable doors or other devices to obscure such areas from view. All fire standpipes and such other fire related mechanical devices shall be screened with plant materials. Rooftop equipment shall be reasonably hidden so as to mitigate views from principal elevations surrounding the development.

G. Applicable Codes

The Developer's improvements shall be constructed in accordance with the Uniform Building Code (with City modifications) and the Municipal Code.

II. SITE CLEARANCE AND PREPARATION

The Agency shall perform, or cause to be performed, at its sole cost and expense, the following work:

A. On-Site Clearance.

On the Property, clear and grub The Property is vacant and unimproved. The Agency, as of the Effective Date is unaware of any subsurface structures, foundations, obstructions, basements, tanks, and the like.

B. Compaction, Finish Grading and Site Work

The Agency shall compact, finish grade and do such site preparation as is necessary for the construction of the Developer's improvements on the Property.

III. OFF-SITE IMPROVEMENTS

The Agency shall design, construct and install required Off-Site Public Improvements, at its sole cost and on a schedule which coordinates with the development of Phase I of the Project, provided that in no event shall Agency's total cost for Off-Sites exceed [$1,358,470].

IV. PRO FORMA BUDGET (PHASE I)

EDISON PLAZA PARTNERS, LP
California and Walnut Redevelopment Project
Phase One
Proforma Development Analysis
August 4, 2003

		HARD COSTS		
		Square Feet	Cost Per Sf	Total Cost
LAND		281,810	$ 7.00	$ 863,620.00
ON/OFF-SITE IMPROVEMENTS				
Offsite Costs		281,810	$ 4.82	$ 1,358,470
Onsite Costs		281,810	$ 4.44	1,251,062
Contingency		281,810	$ 0.38	106,901
Total On and Offsite Costs				2,716,433
WEST FRESNO REGIONAL CTR				
Shell Costs		37,680	$ 84.00	3,164,115
Public Area Costs		7,702	$ 80.83	622,533
WFHC Tenant Improvements		23,005	$ 73.92	1,696,000
Library Tenant Improvements		8,673	$ 80.06	519,000
Contingency				272,401
Total Construction and Land Costs				$ 9,854,066
		SOFT COSTS		FINANCING COSTS
SOFT COSTS				
Architecture			$ 350,000	
Environmental Testing			4,500	
Caltrans Fees			150,000	
Soils Testing			8,500	
Civil Engineering			78,000	
Construction Testing			10,000	
City Fees			284,037	
School Fees	5.142		13,784	
PG&E			30,000	
Other Utility Fees			23,000	
Building Permit			27,000	
Development Fee			399,267	
Insurance			47,500	
Legal and Accounting			50,000	
Contingency			75,000	
Total Soft Costs			$ 1,657,188	
FINANCING COSTS				
Appraisal				$ 10,000
Loan Fees				184,650
Construction Interest	7.5%			472,500
Title and Escrow				40,415
Miscellaneous				100,000
Total Financing Costs				$ 807,565
TOTAL COSTS			$ 12,048,650	

CITY OF FRESNO
INCORPORATED OCT. 12, 1885

EDISON PLAZA PARTNERS
West Fresno Regional Center and County Library
California and Walnut Avenues
Lease Proforma
June 1, 2008

Rental Income

		Square Feet	Mo Rent Per SF	Monthly Rent	Annual Rent
		37,617	$ 2.25	$ 84,638	$ 1,015,659
		642	$ 1.25	$ 803	$ 9,630
Less:					
Triple Net Reserves-	4%				41,012
Adjusted Rental Income					$ 984,277

Valuation and Loan

Cap Rate	7.5%	$ 13,123,699	
Value- Rounded		$ 13,000,000	
Loan			
Amount		9,295,000	
Amortization	25		
Rate	7%		
LTV	72%		
DSC	125%		
DS			788,342
Cash Flow			$ 195,936

CITY OF FRESNO
INCORPORATED OCT. 12, 1885

Cash Flow Projections: Years 1-7

	First Year Stabilized	2	3	4	5	6	7
INCOME							
Gross Rent	984,277	984,277	984,277	1,013,806	1,044,220	1,075,547	1,107,813
Total Net Income:	984,277	984,277	984,277	1,013,806	1,044,220	1,075,547	1,107,813
Net Operating Income:	984,277	984,277	984,277	1,013,806	1,044,220	1,075,547	1,107,813
DEBT SERVICE PAYABLE							
Financing	788,342	788,342	788,342	788,342	788,342	788,342	788,342
Debt Service Coverage Ratio	1.25	1.25	1.25	1.29	1.32	1.36	1.41
Cash Flow After 1st Mortgage	195,936	195,936	195,936	225,464	255,878	287,206	319,471
DPB 1st Mortgage	9,000,329	8,836,831	8,661,514	8,473,523	8,271,942	8,055,288	7,824,010

Inflation Factors
Income: 3.0%
Expense: 3.0%

Vacancy Factors
Vacancy: 8%
Collection: 0%

Notes: The numbers reflected in this pro forma are for discussion purposes only and are considered estimates.
Inflation factor in income does not pick up until the end of Year 3.
Lenders are requiring a debt service coverage ratio (DSCR) of 1.25.
Loan to Value (LTV) is set at 75%.

Exhibit "C"

Performance Schedule[1]

DEVELOPMENT EVENT	DATE
1. Opening of Escrow	1. Within 15 days after execution of this Agreement.
2. Submit Financing Plan – Phase I	2. Not later than 30 days prior to Close of Escrow.
3. Approve Financing Plan – Phase I	3. Prior to Close of Escrow.
4. Close of Escrow	4. Not later than March 1, 2009.
5. Start of Construction (Phase I)	5. Within 30 days after Close of Escrow
6. Construction of Off-Site Improvements	6. On a schedule that coordinates with the construction of Phase I.
7. Completion of Construction (Phase I)	7. Not later than twelve (12) months following commencement of construction of Phase I.
8. Submit Financing Plan – Phase II	8. Not later than 10 months after Phase II lease is negotiated by Developer.
9. Approve Financing Plan – Phase II	9. Not later than 11 months after Phase II lease is negotiated by Developer.

[1] Agency Executive Director shall have authority to extend time to complete each Phase by not more than 180 days. Additional extension shall require Agency Board approval.

10. Start of Construction – Phase II	10. Not later than 12 months after Phase II lease is negotiated by Developer.
11. Completion of Construction (Phase II)	11. Not later than earlier of 24 months after the Phase II lease is negotiated, and March 1, 2012.
12. Submit Financing Plan – Phase III	12. Not later than 10 months after Phase III lease is negotiated by Developer.
13. Approve Financing Plan – Phase III	13. Not later than 11 months after Phase III lease is negotiated by Developer.
14. Start of Construction – Phase III	14. Not later than 12 months after Phase III lease is negotiated by Developer.
15. Completion of Construction (Phase III)	15. Not later than earlier of 24 months after the Phase III lease is negotiated by Developer, and March 1, 2012.

Exhibit "D"

Grant Deed

Recording Requested By and
When Recorded Mail To:

Redevelopment Agency of
the City of Fresno
Attention: Executive Director
2344 Tulare Street, Suite 200
Fresno, CA 93721

No Fee-Govt. Code Sections 6103-27383
APNs: [_____]

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, and subject to the covenants and restrictions set forth below, the REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, a public body, corporate and politic, GRANTOR, hereby GRANTS to EDISON PLAZA PARTNERS, LP, a California Limited Partnership, GRANTEE, all that real property (the "Property") situated in the County of Fresno, State of California, described as follows:

[See Attachment hereto]

Consistent with the Disposition and Development Agreement including covenants, conditions and restrictions, ("DDA") dated [___, 20__] entered by Grantor and Grantee including California Community Redevelopment Law (Cal. H&S Code Sections 33000 et seq.) (the "Law") and other covenants/requirements therein, all incorporated herein by this reference, the Grantee herein covenants by and for itself and its successors, transferees, vendees, administrators, and assigns, and all persons claiming under or through it, that:

1. There shall be no discrimination against or segregation of, any person or group of persons on account of any bases listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Developer or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy or tenants, lessees, subtenants, sublessees, or vendees in the Property.

2. The Grantor may reenter pursuant to a reserved power of termination and take possession of the Property, or part of it, and all improvements on it, terminate the estate conveyed to Grantee by this Grant Deed, and revest the estate in the Grantor if, before recording a Certificate of Completion, as defined in the DDA, any of the following occurs:

   a. Grantee does not begin and complete construction on the Property, or part of it, within the times specified and as provided in the DDA; or,

   b. Grantee abandons or substantially suspends construction on the Property, or part of it, for 30 days after the Grantor gives written notice of the abandonment or suspension; or,

   c. Grantee assigns or transfers, or suffers an involuntary transfer or any rights or obligations under the DDA, or in the Property, or part of it, in violation of the DDA including assignment provisions therein.

   Such right to reenter, repossess, terminate and revest shall be subject to, limited by, and shall not defeat, render invalid or limit: (i) any Security Financing Interest permitted by the DDA; or (ii) any provision of the DDA protecting the holder's Security Financing Interest.

   When title to the Property revests in Grantor, Grantor shall use its best efforts to resell the Property, consistent with the objectives of the Law and the Redevelopment Plan, to a qualified and responsible party (as determined by the Grantor). The transferee will assume the obligation of completing the redevelopment of the Property, satisfactory to Grantor and according to the uses specified in the Redevelopment Plan. Upon any resale of the Property, or part of it, the proceeds shall be applied as follows:

   a. First, to reimburse the Grantor for (a) all commercially reasonable costs and expenses incurred (including, without limitation, salaries of personnel) in connection with the recapture/reverter, management and resale of the Property, or part of it, less any income Grantor derived from the Property in connection with the management; (b) all taxes, assessments, and water and sewer charges respecting the Property (or, if any Grantor's ownership, then such taxes, assessments or charges as would have been payable if the Property were not so exempt); (c) any payments necessary to discharge or prevent any subsequent encumbrances or liens due to obligations, defaults, or acts of Grantee, its successors or transferees from attaching or being made; (d) any expenditures made or obligations incurred to complete development of the Property; and any amounts otherwise owing to Grantor from Grantee or by its successor or transferee; and

   b. Second, to reimburse Grantee, its successors or transferee, up to the amount equal to the sum of (a) the purchase price paid to Grantor for the

Property; and (b) the out-of-pocket costs incurred to develop and improve the Property, less (c) any gains or income to Grantee from the property or the improvements on it. Notwithstanding the foregoing, the amount calculated pursuant to this paragraph shall not exceed the price that the Grantee paid the Grantor for the Property plus the fair market value of the improvements on it when the default or failure of cure, which led to the Grantors exercise of the right of reverter.

c. Any balance remaining after such reimbursement shall be retained by Grantor.

The rights established in this paragraph 2 shall be interpreted considering Grantor's intent to convey the Property to Grantee for development of the Property, and not for speculation in undeveloped land or any other purpose.

3. a. Grantee and those taking under Grantee will maintain the Property and all improvements on the Property in reasonably good condition and repair (and, as to landscaping, if any, in a healthy condition). Grantee and those taking under Grantee shall: (i) maintain all on-site improvements according to all other applicable laws, rules, ordinances, and regulations of all federal, state, county, municipal and other governmental agencies and bodies having or claiming jurisdiction and all their respective departments, bureaus and officials; (ii) keep the improvements free from graffiti, (iii) keep the Property free from any accumulation of debris or waste material; (iv) promptly make repairs and replacements to the on-site improvements; and (v) promptly replace any dead, or decreased plants and/or landscaping (if any) with comparable materials.

b. Grantor will give Grantee written notice of any breach of this paragraph 3. Within 10 days from receipt of such notice, Grantor and Grantee will meet and confer, and agree to corrective actions and a schedule of performance for such corrective actions. Grantee must cure the default within the agreed schedule or within (a) 10 days after Grantor's notice for any default involving landscaping, graffiti, debris, waste materials, or general maintenance on the Property, (b) 30 days after Grantor's notice for any default involving the improvements. If Grantee does not cure the default within the agreed schedule, Grantor, without obligation to, may enter the Property, cure the default, and protect, maintain and presence the improvements and landscaping.

c. Grantor may lien or assess the Property for the Grantor's expenses in protecting, maintaining and preserving the on-site improvements and aesthetics of the Property, including any lawful administrative charge in the manner used by the Grantor in the abatement of public nuisances. The notice and opportunity to cure provided for herein will substitute for the noticing, hearing and nuisance abatement order used by Grantor. Grantee will promptly pay all such amounts to Grantor upon demand.

4. a. Grantee will take all commercially reasonable precautions to prevent the release into the environment of any Hazardous Materials (as defined in the DDA) in, on or under the Property Grantee will comply with all governmental requirements with respect to Hazardous Materials.

b. Until a Certificate of Completion is recorded as to the Property/portion thereof, Grantee will notify Grantor and give Grantor a copy or copies of all environmental permits, disclosures, applications, entitlements or inquiries relating to the Property including, without limitation, notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements, and reports filed or applications made pursuant to any governmental requirement relating to Hazardous Materials and underground tanks. Immediately after each incident, Grantee will report any unusual or potentially important incidents respecting the environmental condition of the Property to Grantor.

c. If a release of any Hazardous Materials into the environment occurs, Grantee will, as soon as possible after the release, furnish Grantor with a copy of any reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request, Grantee will furnish Grantor with a copy of any other environmental entitlements or inquiries relating to or affecting the Property including, without limitation, all permit applications, permits and reports, including reports and other matters, which may be characterized as confidential.

d. Grantee will indemnity, defend, and hold Grantor harmless from any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage or expense (including, without limitation, attorneys' fees), arising out of (i) the presence, release, use, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about the Property, or the transportation of any Hazardous Materials to or from the Property, or (ii) the violation, or alleged violation of any statute, ordinance, order, rule, regulation, permit judgment or license relating to any use, generation, release, discharge, storage, disposal or transportation of Hazardous Materials on, under, in or about to or from the Property. This indemnity will include, without limitation, any damage, liability, fine, penalty, parallel or cross indemnity occurring after conveyance, cost or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death) tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resource or the environment, nuisance, contamination lease, spill, release or other adverse effect on the environment. The indemnity covers, without limitation, (a) all foreseeable and unforeseeable consequential

damages, (b) the cost of any required or necessary repair, clean-up or detoxification and the preparation of any closure or other required plans, and (c) costs of legal proceedings and attorneys' fees.

e. Grantee releases Grantor from all claims Grantee may have against resulting from or from or connected with the environmental condition of the Property. Such claims include, without limitation, all claims Grantee may have against Grantor under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), or ay other federal state or local law, whether statutory or common law, ordinance, or regulation concerning the release of Hazardous Materials or substances into the environment from or at the Property, and the presence of such materials in, on, under or about the Property. Grantee expressly waives the benefits of Civil Code §1542, which reads as follows:

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

5. Grantor is the beneficiary of the covenants running with the land for itself and for protecting the interest of the community and other parties, public or private, in whose favor and for whose benefit the covenants are provided, without regard to whether Grantor has been, remains, or is in owner of any land on the Property/portion thereof. Grantor may exercise all rights and remedies, and maintain any actions or suits at law or in equity or other proceedings to enforce the covenants for itself or any other beneficiaries. The provisions of the DDA which by their terms or nature are intended to survive completion of the Project/each Phase thereof are fully enforceable under and shall not merge with this Deed.

6. If a conflict exists or arises between the provisions of this Deed and the DDA, the DDA shall control.

The obligations of the Grantee hereunder are covenants or conditions running with the land enforceable by Grantor through a reserved right to re-entry and reverter.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Agency and Developer have executed this Agreement on the dates set forth below.

The above persons to execute this agreement before a Notary Public and attach the notary acknowledgments.

GRANTEE:

EDISON PARTNERS, LP

By _____
Name: _____
Title: _____

Date: _____

By _____
Name: _____
Title: _____

Date: _____

By _____
Name: _____
Title: _____

Date: _____

ATTEST:
REBECCA E. KLISCH
Ex Officio Clerk

By _____
(Deputy)
Date: _____

APPROVED AS TO FORM:
JAMES C. SANCHEZ
Ex Officio Attorney

By _____
(Deputy)
Date: _____

GRANTOR:

REDEVELOPMENT AGENCY OF THE CITY OF FRESNO

By _____
Authorized Agent

Exhibit "E"

Release of Construction Covenants and Certificate of Completion

RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:

Redevelopment Agency of
the City of Fresno
Attention: Executive Director
2344 Tulare Street, Suite 200
Fresno, CA 93721

No Fee-Govt. Code Sections 6103-27383
APNs: [_____]

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

This **Release of Construction Covenants and Certificate of Completion** is recorded at the request and for the benefit of the Fresno Redevelopment Agency.

A. As agreed in a Disposition and Development Agreement including covenants, conditions and restrictions, ("DDA") dated [___, 20__] entered by the REDEVELOPMENT AGENCY OF THE CITY OF FRESNO, a public body, corporate and politic, AGENCY, and EDISON PLAZA PARTNERS, LP, a California limited partnership, DEVELOPER, the AGENCY conveyed certain real property to DEVELOPER under a Grant Deed, dated [_____], recorded in the Official Records of Fresno County on [ ] as Document No. [ ] (the "DEED"), and the DEVELOPER agreed to complete/cause the completion of the of construction described therein in Phases (the "Project") upon the premises described therein as the "Property" according to the terms and conditions of the DDA and the documents and instruments referenced therein, incorporated herein.

B. The DDA or a memorandum of it was recorded [_____ 200__] as Instrument No. [_____] in the Official Records of Fresno County, California.

C. Under the terms of the DDA, after DEVELOPER completes/causes completion of construction of a Phase of the Project on the Property/portion thereof, DEVELOPER may ask AGENCY to record an instrument certifying that DEVELOPER has completed the required improvements for such Phase of development in the form of a Release of Construction Covenants and Certificate of Completion.

D. DEVELOPER has asked AGENCY to furnish DEVELOPER with a recordable Release of Construction Covenants and Certificate of Completion for a Phase of development.

E. The AGENCY's issuance of this Release of Construction Covenants and Certificate of Completion is conclusive evidence that DEVELOPER has completed the construction on a Phase of development of the Property to terminate and release DEVELOPER from the construction/improvement covenants in the DDA pertaining to such Phase.

NOW THEREFORE:

1. As provided in Section 3.10 of the DDA, the Agency does hereby certify that construction of all of the improvements required by the DDA on the portion of the Property described in Attachment A, attached hereto and incorporated herein by this reference, has been satisfactorily completed.

2. The DDA is therefore of no further force and effect as to such Phase of Development of the Property, and all rights, duties, obligations and liabilities of the Agency and the Developer thereunder with respect to such Phase of Development shall cease to exist. Any continuing and existing rights, duties, obligations and liabilities of the Agency and the Developer (and its successors) pertaining such Phase of development are provided in the Grant Deed conveying the Property from the Agency to the Developer.

3. This Release of Construction Covenants and Certificate of Completion shall not bee deemed or construed to constitute evidence of compliance with 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 the construction of the improvements on the Property. This Release of Construction Covenants and Certificate of Completion, is not a notice of completion as referred to in Section 3093 of the California Civil Code.

IN WITNESS WHEREOF, AGENCY has executed this Release of Construction Covenants and Certificate of Completion as of this ____ day of [_____, 200__.]

THE REDEVELOPMENT AGENCY OF
THE CITY OF FRESNO

By:_____
Its:_____

CONSENT OF DEVELOPER

_____ the owner of record of the Property and the Developer, consents to recording this Release of Construction Covenants and Certificate of Completion against the Property described herein.

Dated:_____

EDISON PLAZA PARTNERS, LP,

By: [_____]
Name:[_____]
Title: [_____]

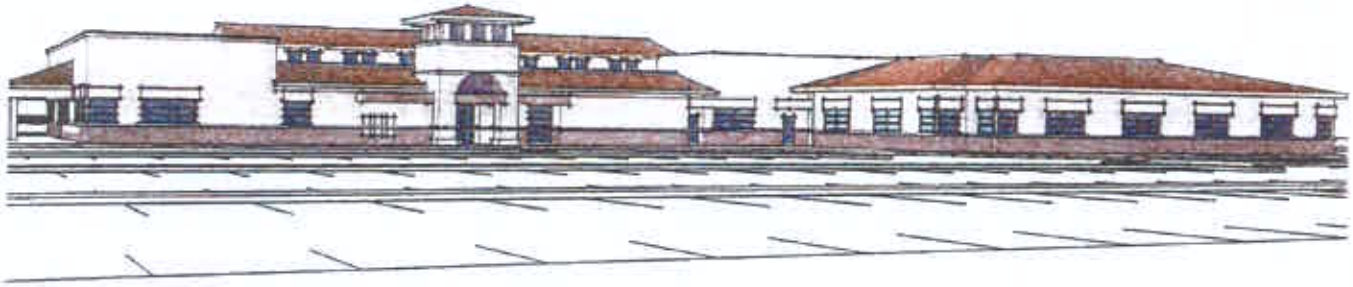
THE ABOVE PARTIES ARE TO SIGN THIS INSTRUMENT BEFORE A NOTARY PUBLIC.

ATTEST:
REBECCA E. KLISCH
Ex Officio Clerk
Redevelopment Agency of the
City of Fresno

By _____
Deputy
Dated:_____

APPROVED AS TO FORM:
JAMES C. SANCHEZ
Ex Officio Attorney
Redevelopment Agency of the
City of Fresno

By _____
Assistant/Deputy
Dated:_____



WEST FRESNO REGIONAL CENTER

FRESNO, CA

9-27-2007

HAW 56

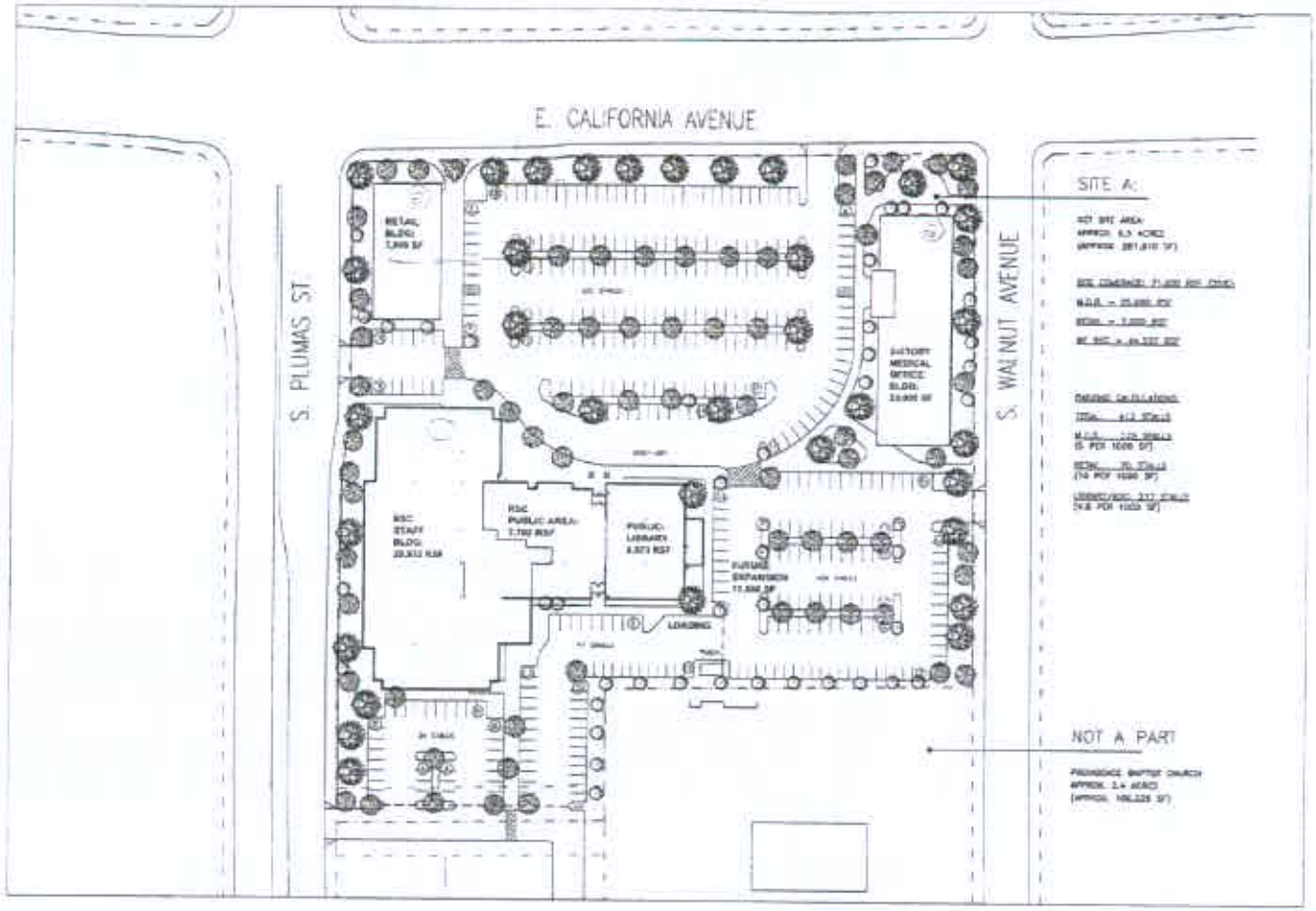
The Penstar Group

SCOTT BECK ARCHITECT

Exhibit "p"

Basic Design

CITY OF FRESNO
DEC. 12, 1989
DOCUMENTO



W. FRESNO REGIONAL CENTER

FRESNO CA

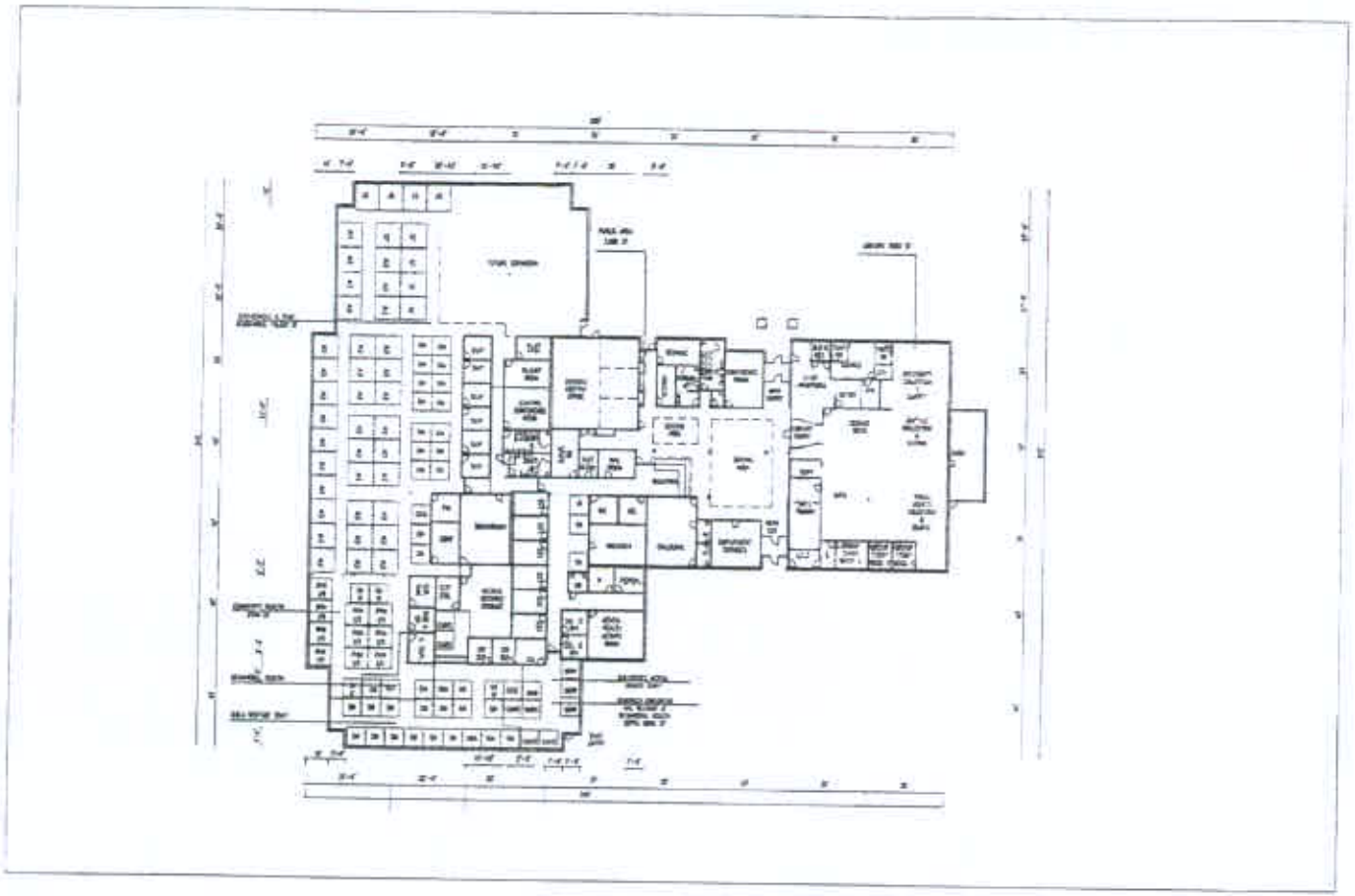
SITE PLAN **A-1.1**

8-26-2007 1"=32'

N

SCOTT BEUCK ARCHITECT

CITY OF FRESNO INCORPORATED OCT. 27, 1885



W. FRESNO REGIONAL CENTER

FRESNO CA

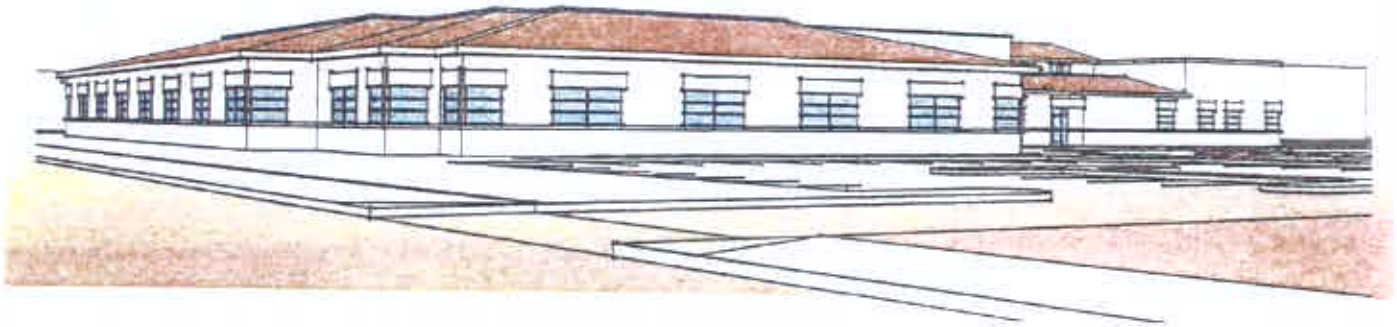
FLOOR PLAN **A-2.1**

8-26-2007 1"=16'

N

SCOTT BRICK ARCHITECT

CITY OF FRESNO INCORPORATED OCT. 12, 1885



W. FRESNO REGIONAL CENTER

FRESNO CA

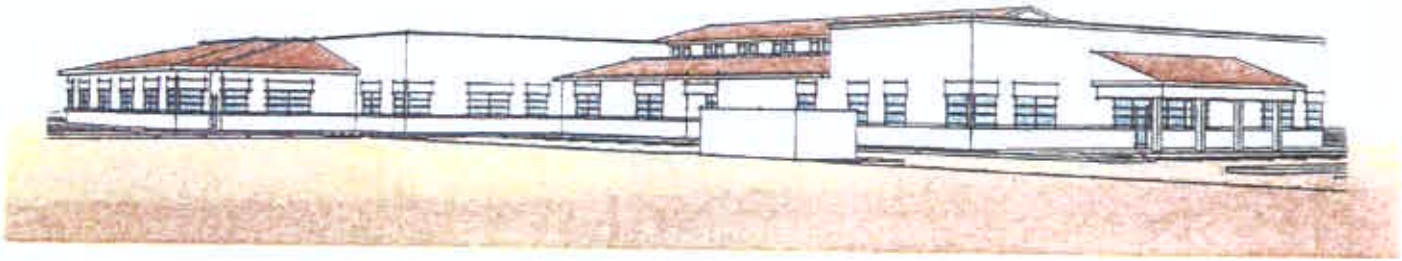
VIEW LOOKING NORTHEAST

8-27-2007

SCOTT SIDLER ARCHITECT

3450 WILSHIRE BOULEVARD STE. 2021
LOS ANGELES, CA (323) 938-4233

CITY OF FRESNO
INCORPORATED
OCT. 12, 1885



W. FRESNO REGIONAL CENTER

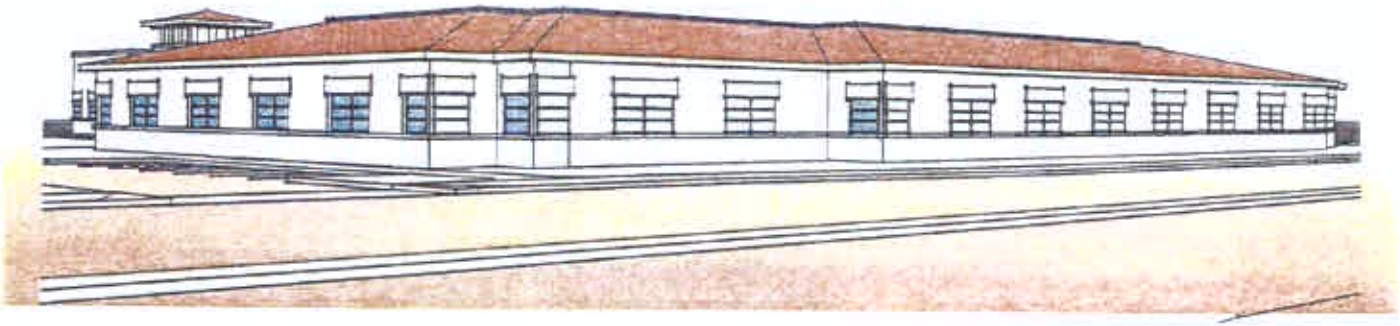
FRESNO CA

VIEW LOOKING NORTHWEST

8-27-2007

SCOTT BIELA ARCHITECT

CITY OF FRESNO INCORPORATED OCT. 12, 1885



W. FRESNO REGIONAL CENTER

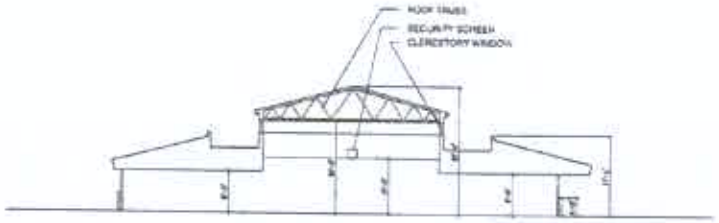
FRESNO CA

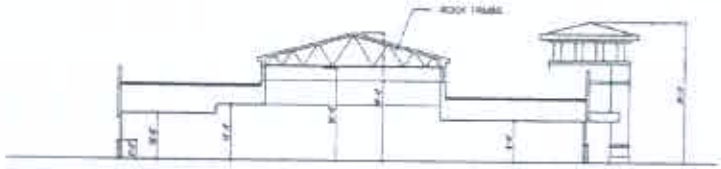
VIEW LOOKING SOUTHEAST

8-27-2007

SCOTT BECK ARCHITECT
1455 WILSHIRE BOULEVARD STE 2020
LOS ANGELES CA (310) 854-8531

INCORPORATED OCT. 12, 1885 • CITY OF FRESNO





W. FRESNO REGIONAL CENTER

FRESNO CA

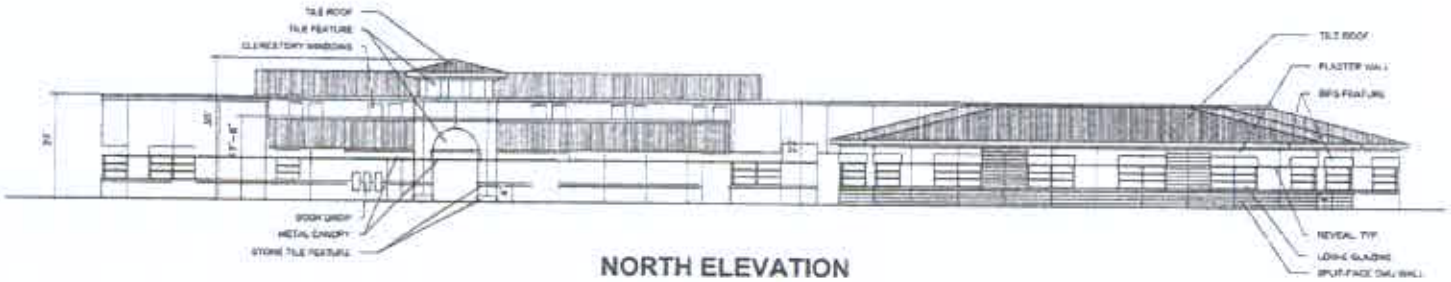
SECTIONS **A-4.1**

8-26-07 SCALE: AS NOTED

SCOTT BECK ARCHITECT

CITY OF FRESNO
INCORPORATED OCT 18, 1885

SOUTH ELEVATION



NORTH ELEVATION

W. FRESNO REGIONAL CENTER

FRESNO CA

ELEVATIONS **A-3.1**

8-26-07 SCALE: AS NOTED

SCOTT BECK ARCHITECT

CITY OF FRESNO INCORPORATED OCT. 12, 1885

WEST ELEVATION

EAST ELEVATION

W. FRESNO REGIONAL CENTER

FRESNO CA

ELEVATIONS **A-3.2**

8-26-07 SCALE: AS NOTED

SCOTT BECK ARCHITECT

CITY OF FRESNO • INCORPORATED OCT. 12, 1885 •

EXCLUSIVE NEGOTIATION AGREEMENT
(Edison Plaza: Mixed Use [Approx. 10] Acres)

This Agreement is made and entered into on [_____, 2008], by and between the FRESNO REDEVELOPMENT AGENCY, a Redevelopment Agency and public body corporate and politic, organized and existing under the laws of the State of California, ("AGENCY"), and EDISON PLAZA PARTNERS, LP, a California limited partnership ("DEVELOPER".)

RECITALS

WHEREAS, the AGENCY owns certain unoccupied partially improved real property more particularly described and depicted in the attached Exhibit "A" (Site Map) and "A-1" (legal description), incorporated herein (collectively the "Property") and containing approximately ten (10) acres; and

WHEREAS, the AGENCY has solicited and the DEVELOPER provided an expression of interest in developing upon the Property a project consisting of [mixed use – housing, education, retail and/or commercial] ("Project"), and DEVELOPER is willing to negotiate with the AGENCY for the development of the Project; and

WHEREAS, AGENCY desires to enter this Agreement in furtherance of the public purposes set forth in the Community Redevelopment Law ("CRL") and the AGENCY adopted Plan for the Southwest Fresno Neighborhood General Renewal Area; and

WHEREAS, the parties mutually desire to negotiate exclusively and to draft and agree upon the terms of a Disposition and Development Agreement or an Owner Participation Agreement and/or a Development Agreement (collectively "Development Agreement") for the Project and Site, in accordance with the terms and conditions of this Exclusive Negotiation Agreement; and

WHEREAS, the DEVELOPER, prior to any AGENCY Board action on this Agreement shall have submitted and the AGENCY shall have accepted a copy of DEVELOPER'S limited partnership agreement including the identity and contact information for all the general partners, principals and venturers therein/thereunder, and key personnel/lead negotiators under this Agreement.

NOW, THEREFORE, the parties mutually agree as follows:

1. Term of Agreement.

(A) Subject to paragraph (B) below, the AGENCY and DEVELOPER shall negotiate exclusively to conclude the terms and conditions of a Development Agreement for the sale and development of the Property for the period of [twelve (12)] months from and after the date first above, provided the parties may reasonably and mutually agree in writing to an extension of this term for up to an additional [twelve (12)] months subject to Council approval. Council shall not withhold approval provided that Developer has substantially performed its obligations and is making reasonable progress towards complete negotiation of the Development Agreement.

2. The DEVELOPER.

(A) The parties agree that the DEVELOPER under the Development Agreement shall be the DEVELOPER or a partnership or corporation or LLC established or to be established by DEVELOPER, the general partners or major shareholders or members of which shall be subject to the approval of the AGENCY, prior to or concurrently with the approval of the Development Agreement. The DEVELOPER, prior to the effective date of this Agreement shall make full disclosure of its general partners, principals, joint venturers, key managerial employees/lead negotiators, and all other material information concerning the DEVELOPER and its associates, as required by this Agreement or requested by the AGENCY. Except as specifically set forth herein, any significant change in the general partners, principals, joint venturers, key managerial employees/lead negotiators, and all other material information concerning the DEVELOPER is subject to the approval of the AGENCY. Notwithstanding the foregoing, without the approval of the AGENCY, the DEVELOPER reserves the right at its discretion to join and associate with other entities in joint ventures, partnerships or otherwise for the purpose of developing the Site, provided that the DEVELOPER retains management and control of such entities and gives the AGENCY prior written notice thereof.

(B) During the term of this Agreement, DEVELOPER shall have no right to assign this Agreement, or any interest herein, without the express written consent of the AGENCY and, the proposed assignee, buyer or transferee unless DEVELOPER retains management and control of the proposed assignee, or the assignment in trust for the benefit of a spouse or children, or the assignment results from death or disability of an individual, and DEVELOPER gives the AGENCY prior written notice thereof. Such approvals of assignee, buyer, or transferee shall not be unreasonably withheld or delayed and shall be based on the criteria set forth in Paragraph (C) of this Paragraph 2, below.

(C) AGENCY consideration of a proposed transferee may include, but need not be limited to, the following criteria: (i) whether the proposed transferee has the qualifications, development experience and financial capability necessary and adequate, as may be reasonably determined by the AGENCY, to fulfill the obligations to be undertaken by the DEVELOPER in this Agreement; (ii) whether the proposed transferee is in default of any obligations to the AGENCY; (iii) whether the consideration payable by the transferee to the DEVELOPER would impair the ability of the transferee to fulfill all of the obligations to be undertaken in this Agreement by the DEVELOPER.

3. The Project.

(A) The Development Agreement shall incorporate a scope of development which specifically describes, at a minimum, the design, development and operational features of the Project (the "Scope"). The actual development of the Project shall conform to these objectives as well as the CRL and the Southwest Fresno Neighborhood General Renewal Area requirements. All drawings, plans and specifications shall be subject to the approval of the AGENCY, consistent with CEQA and the Redevelopment Plan and the applicable provisions of the General Plan and any applicable Specific Plans.

(B) The Development Agreement shall incorporate a Project Schedule of Performance, which shall set forth, at a minimum, the respective times for submittal of evidence of financing, time for satisfaction of all conditions precedent to conveyance of the interests in the Site, start of construction and completion of construction.

(C) The Development Agreement shall set forth the allowable uses of the Site.

(D) The Development Agreement shall contain all other conditions and requirements that the AGENCY may deem necessary or appropriate.

4. Financing.

(A) It is anticipated that the Project will be financed from a combination of private construction and permanent financing, DEVELOPER equity, and other public and/or private sources, as determined by DEVELOPER and AGENCY in the course of their good faith negotiations. The DEVELOPER shall use commercially reasonable efforts to obtain as much private equity and mortgage financing as the Project can reasonably support. AGENCY shall reasonably consider such other sources of public financing as may be necessary to make the Project financially feasible. Within the time set forth in the Performance Schedule (Exhibit "A"), DEVELOPER shall prepare and submit to AGENCY a Project economic model to include development costs, income, supportable investment and public revenues to be generated by the Project. Concurrently with the execution of the Development Agreement, DEVELOPER shall provide to the AGENCY a financing plan, containing such modifications to the previously submitted economic model as may reasonably be necessary, to be approved by the AGENCY concurrently with approval of the Development Agreement.

(B) AGENCY and DEVELOPER, shall each be solely responsible for paying all costs including for any third party professional, services or consultant costs relating to their performance of this Agreement, as set forth in Exhibit "B."

5. Negotiations.

(A) The parties shall negotiate diligently, exclusively and in good faith to complete the Development Agreement prior to the expiration of the term of this Agreement. During negotiations, the parties shall meet as frequently as may be necessary and diligently engage in such activities as may be necessary, to accomplish this end.

(B) During negotiations, DEVELOPER and AGENCY shall designate such experienced and authorized representatives, counsel and other consultants as may be necessary to review/advise regarding deliverables hereunder, and shall make such personnel available for meetings as often as may be necessary to implement this Agreement.

(C) During negotiations, the parties shall prepare and submit written progress reports to the other parties on a monthly basis, advising the other parties on the status of all matters pertaining to the Project.

(D) Upon execution of the Development Agreement by DEVELOPER, the AGENCY staff shall schedule such public hearings as may be required by law. DEVELOPER hereby

acknowledges that the Development Agreement shall be subject to the final approval of the AGENCY.

(E) All members of DEVELOPER'S development team and changes thereto, shall be disclosed to the AGENCY.

(F) DEVELOPER shall make full disclosure to the AGENCY of the methods of financing to be used to provide the funds needed to pay for the Project costs, and the identity and interests of potential lenders and/or investors. DEVELOPER shall submit to the AGENCY for review any proposed agreements relating to financing the Project costs.

(G) The AGENCY shall cooperate with DEVELOPER in providing such information regarding the Site as the AGENCY may have.

(H) The AGENCY may request further information from DEVELOPER from time to time as to any matter relating to the financing and development of the Site. DEVELOPER shall cooperate with the AGENCY and provide such reasonable information as may be requested.

(I) During the term of this Agreement, the DEVELOPER shall provide to the AGENCY for its deliberation/consideration from time to time, as soon as they are available, copies of all draft/preliminary deliverables described in Exhibit "C" ("Studies"). During the term of this Agreement, the AGENCY agrees to keep the draft/preliminary Studies and all information contained therein confidential, to the fullest extent permitted under the Public Records Act. Any confidential/privileged information/materials shall be expressly marked as such by the DEVELOPER.

(J) Before entering upon any property within the Site, whether for site assessment or other due diligence, DEVELOPER shall first obtain a right of entry from the AGENCY. The right of entry shall be in a form satisfactory to the AGENCY.

(K) DEVELOPER and AGENCY shall timely complete each activity or task set forth in the Project Performance Schedule attached hereto as Exhibit "A" and incorporated herein.

6. Termination.

(A) This Agreement shall terminate on the date provided in Section 1 (A) above, unless prior to such date:

(i) DEVELOPER has executed a Development Agreement which has been presented by DEVELOPER to the Executive Director of the AGENCY as a "final" Development Agreement, in which case, upon approval of the Development Agreement by the AGENCY Board, this Agreement shall terminate, and be replaced and superseded by the Development Agreement; or

(ii) The parties have extended the term of this Agreement by written amendment, in accordance with Section 1(C) hereof; or

(iii) Any party has terminated this Agreement for cause.

(B) For purposes of this provision, any party may terminate this Agreement for cause in the event the other party is in default of this Agreement for failure to negotiate in good faith. Any substantive breach of this Agreement shall constitute a failure to negotiate in good faith.

(C) No party shall terminate this Agreement unless the party seeking to terminate has first provided written notice of its intent to terminate the Agreement to the other parties, specifying the cause, and the non-performing party(ies) fail(s) to cure the default or other cause within thirty (30) days after receipt of such notice.

(D) In the event this Agreement is terminated, no party shall have any further rights or obligations to the other party as the result of this Agreement.

(E) In the event this Agreement is terminated for any reason other than the default of the AGENCY, the Studies referred to in Paragraph 5(I), to any extent paid for by the AGENCY as work for hire, shall belong to the AGENCY, and the AGENCY shall have the right to use the Studies in any manner deemed appropriate thereby. In the event that the Agreement is terminated for any reason other than the default of the AGENCY, the DEVELOPER shall, subject to the rights of the preparers of such Studies, if any, deliver to the AGENCY any such work for hire Studies not previously delivered, within five (5) business days of request by the AGENCY.

7. Miscellaneous.

(A) By its execution of this Agreement, the AGENCY is not committing to or agreeing to undertake: (a) any land acquisition or any disposition of land to the DEVELOPER; or (b) any other acts or activities requiring the subsequent independent exercise of discretion by the AGENCY, the City of Fresno, ,or any agency or department thereof. This Agreement does not constitute a disposition of property or exercise of control over property by the AGENCY and does not require a public hearing. Execution of this Agreement by the AGENCY is merely an agreement to enter into a period of exclusive negotiations according to the terms hereof, reserving final discretion and approval by the AGENCY as to any Development Agreement and all proceedings and decisions in connection therewith.

(B) Each individual executing this Agreement represents and warrants they are duly authorized to execute and deliver this Agreement on behalf of the party named herein and this Agreement is binding upon said party in accordance with its terms. This Agreement may be executed in counterparts.

(C) This Agreement is effective upon execution. It is the product of negotiation and all parties are equally responsible for authorship of this Agreement. Section 1654 of the California Civil Code shall not apply to the interpretation of this Agreement.

(D) In the event of a conflict between the terms, conditions or specifications set forth in this Agreement and those in exhibits attached hereto, the terms, conditions, or specifications set forth in this Agreement shall prevail. All exhibits to which reference is made in this Agreement are deemed incorporated in this Agreement, whether or not actually attached.

(E) Any lawsuit pertaining to any matter arising under, or growing out of, this Agreement shall be instituted in Fresno County, California. If any party brings an action or files a proceeding in connection with the enforcement of its respective rights or as a consequence of any breach by the other party of its obligations hereunder, then the prevailing party in such action or proceeding shall be entitled to have its reasonable attorneys' fees and costs and other out-of-pocket expenditures paid by the losing party. Time is of the essence in this Agreement.

(F) The AGENCY shall not become or be deemed a partner or joint venturer with DEVELOPER or associate in any such relationship with DEVELOPER by reason of the provisions of this Agreement. DEVELOPER shall not for any purpose be considered an agent, officer or employee of the AGENCY.

(G) No officer or employee of the AGENCY shall hold any interest in this Agreement (California Government Code section 1090).

(H) All notices relative to this Agreement shall be given in writing and shall be personally served or sent by certified or registered mail and be effective upon actual personal service or depositing in the United States mail. The parties shall be addressed as follows, or at any other address designated by notice:

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF FRESNO
Attn: [Executive Director]
2344 Tulare St. Suite 200
Fresno, Ca. 93721

DEVELOPER: EDISON PLAZA PARTNERS, LP
855 M Street, Suite 1110
Fresno, CA 93721
Attn: Tom Richards
Facsimile No. (559) 268-6030

(I) The DEVELOPER covenants and agrees that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed, the day and year first-above written.

REDEVELOPMENT AGENCY OF
THE CITY OF FRESNO

_____
MARLENE MURPHEY
Executive Director

Dated: _____, 2008

EDISON PLAZA PARTNERS, LP

By _____
Name: _____
Title: _____

Dated: _____

By _____
Name: _____
Title: _____

Dated: _____

ATTEST:
REBECCA E. KLISCH
City Clerk/Ex-officio Clerk

By _____
Deputy

Date: _____, 2008

APPROVED AS TO FORM:
JAMES C. SANCHEZ
City Attorney/Ex-officio Attorney

By _____
Deputy / Sr. Deputy / Assistant

Date: 9-12, 2008

Attachments:

Exhibit "A": Performance Schedule

Exhibit "B": Allocation of Costs of Exclusive Negotiation Agreement

Exhibit "C": Studies

Exhibit "A"

PERFORMANCE SCHEDULE

1. Joint DEVELOPER, AGENCY Responsibilities.

Fully execute the ENA, subject to approvals by the AGENCY Board.

2. DEVELOPER Responsibilities.

During the exclusive negotiation period, and without limiting any other provision of this Agreement, the DEVELOPER shall complete the following tasks, at its sole cost and expense, in furtherance of the negotiation process, by the times stated. The times stated shall run from the effective date following complete execution of this Agreement by the parties. Should the parties enter an agreement extending the negotiation period and updating this Performance Schedule, the amendment and updated Performance Schedule will supersede this Performance Schedule.

(a) Identify in writing to the AGENCY, the names of its decision makers, lead negotiators, the authority for the forgoing, design consultants, market consultants, architect, engineer, financial consultant (if any), legal counsel and any other development team members. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

(b) Prepare and submit to the AGENCY a market/feasibility/absorption study, and other Studies for the Project listed in Exhibit C, for review and acceptance. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

(c) Prepare, for AGENCY staff review and comment, a conceptual development plan indicating general land use designations, intensities, et cetera, sufficient to determine the entitlement track necessary. Identify any potential Project area boundary modifications. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

(d) Prepare a schematic plan to include number and type of structure(s), square footages, uses, and number and type of parking spaces required. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

(e) Prepare a Project economic model to include development costs, income, supportable investment, and significant public revenues to be generated by the Project. The economic model shall project income derived from the Project, operating costs, and debt service, and shall contain a pro forma statement of Project return adequate to enable the AGENCY to evaluate the economic feasibility of the proposed Project development. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

(f) Submit a financial plan and pro forma budget, including a statement of overall construction costs, source and availability of equity capital, construction and permanent financing, and the scope and type of AGENCY investment necessary. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

(g) Submit to the AGENCY a general development plan and a project scope description sufficient for preparing and/or supplementing appropriate CEQA review documentation/findings. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

3. AGENCY Responsibilities.

During the exclusive negotiation period, and without limiting any other provision of this Agreement, the AGENCY shall complete the following tasks, all in furtherance of the negotiation process, by the times stated. The times stated shall run from the effective date following parties' complete execution of this Agreement. Should the parties extend the negotiation period and update the Performance Schedule, the updated Performance Schedule shall supersede this Performance Schedule.

(a) Provide DEVELOPER with an inventory of existing public infrastructure, its locations, condition and capacity. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

(b) Provide or reasonably assist DEVELOPER in obtaining, available and existing public records, such as, plans, studies, reports and documents relating to the Site. Such information may include, without limitation, EIRs, the General Plan, utility plans, architectural historic surveys, Specific Plans, soils reports, and zoning, redevelopment plan or plans, Owner Participation Rules, any AGENCY adopted policies, or other information that may assist the DEVELOPER in evaluating the Site and the Project. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

(c) Reasonably cooperate with and assist Developer in determining a description and timeline for the entitlement track likely to be necessary to enable the Project to proceed in the timeliest manner. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

(d) Prepare any studies or documents required for compliance with the California Environmental Quality Act, subject to cost allocation in Exhibit B. [By not later than: (Subject to parties' negotiation confirmed in writing by parties' authorized agent.)]

Exhibit "B"

ALLOCATION OF COSTS OF EXCLUSIVE NEGOTIATION AGREEMENT

I. DEVELOPER Costs

[Subject to parties' negotiation confirmed in writing by parties' authorized agent.]

II. AGENCY Costs

[Subject to parties' negotiation, confirmed in writing by parties' authorized agent, confirmed in writing by parties' authorized agent limited to annually allocated/available Agency funds.]

Exhibit "C"

STUDIES

Conceptual and General Development Plans including Project Scope

Schematic Plan

Feasibility Plan

Marketing Plan

Absorption Plan

Financial Plan