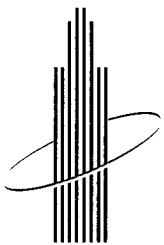
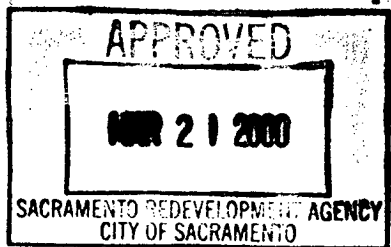


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DOWNTOWN AND REGIONAL
ENTERPRISE DEPARTMENT



March 9, 2000

Redevelopment Agency of the City of Sacramento
Sacramento, CA

Honorable Members in Session:

**SUBJECT: RECOMMENDATION TO ENTER INTO EXCLUSIVE RIGHT TO
NEGOTIATE WITH INGEMANSON ENTERPRISES FOR DEVELOPMENT
OF METRO PLACE**

LOCATION/COUNCIL DISTRICT: Council District 1, Half block between 8th and 9th
Streets and J Street and the alley.

RECOMMENDATION:

Staff recommends that the Redevelopment Agency of the City of Sacramento (RACS) approve the attached resolution authorizing the Deputy City Manager, as designated authority for the Agency, to enter into a 90-day Exclusive Right to Negotiate (ERN) with Ingemanson Enterprises for development of Metro Place.

Within the 90-day period, staff is directed to report back with the developer's Project Proposal for RACS consideration.

CONTACT PERSON: Wendy Saunders, Development Manager, 264-8196
Michelle Nelson, Senior Management Analyst, 264-7064

FOR THE COUNCIL MEETING OF: March 21, 2000

SUMMARY:

This report recommends exclusive negotiations with a developer for a 90-day period to produce a Project Proposal to develop the half-block between 8th and 9th Streets and J Street and the alley.

Building on Our History - Creating The Place to Be.

1

BACKGROUND

- The subject site (Attachment 1) has been identified as a high priority for redevelopment for many years. It is comprised of vacant parcels and structures that are blighted and represent a deteriorated and underutilized site.
- In 1994, the Sacramento Housing and Redevelopment Agency assembled and acquired parcels at the corner of 9th and J Street to facilitate development of the subject site.
- In January 1999, Ingemanson Enterprises acquired parcels on the corner of 8th and J Street, including the Comstock Building, which is on the City's Official Register of Historic Buildings.
- On November 9, 1999, staff received a proposal from Ingemanson Enterprises to develop the entire half block area mentioned above. Components of the preliminary building program include:
 - 260,000 square feet commercial office space
 - 160,000 square feet residential
 - 29,000 square feet retail space
 - 730 parking spaces for building uses
 - 250 short term public spaces (included at staff's request to support K Street retailers)
- Staff recommends that the Agency and Ingemanson enter into a 90-day Exclusive Right to Negotiate (ERN) agreement (Attachment 2) in order to further investigate the feasibility of the proposal.

90-day Exclusive Right to Negotiate

- During the 90- day period, Ingemanson Enterprises will be obligated to finalize their Project Proposal to include the following:
 - a) Detailed description of the project development team
 - b) Project conceptual design, including site plan, elevations and typical floor plates for two alternatives:
 - i) Incorporating in situ the Comstock building
 - ii) Removal of the Comstock building and incorporation of important historic elements within the project design.
 - c) Economic estimate of construction costs for alternative project designs
 - d) 10-year cash flow analysis for alternative project designs
 - e) Proposed location and operation of public parking spaces
 - f) Cost of constructing public parking spaces
- At the end of the 90-day period, staff and Ingemanson will present the final Project Proposal and designs to RACS for consideration.

- If RACS accepts the Project Proposal, the negotiation period will be extended for an additional 180 days to negotiate a Disposition and Development Agreement (DDA), completion of environmental and legal documents to allow implementation of the project. Upon completion of the DDA, environmental and legal documents, RACS will consider final approval.

FINANCIAL CONSIDERATIONS

Prior to commencement of the DDA negotiation period, Ingemanson will deliver to Agency a deposit fee of \$100,000 to be used solely for payment of all third party fees, costs and expenses incurred by Agency for predevelopment activities.

ENVIRONMENTAL CONSIDERATIONS

Complete environmental analysis and documentation, in compliance with CEQA, will be undertaken during the DDA negotiation period, before RACS considers final project approval.

POLICY CONSIDERATIONS

- Development of the subject site is a high priority and consistent with the Merged Downtown Redevelopment Plan.
- The subject site had been considered a potential location for the Civic Center Complex, however, Ingemanson's proposal is not contingent on any participation by the City.

ESBD CONSIDERATIONS

Not applicable.

Respectfully submitted:

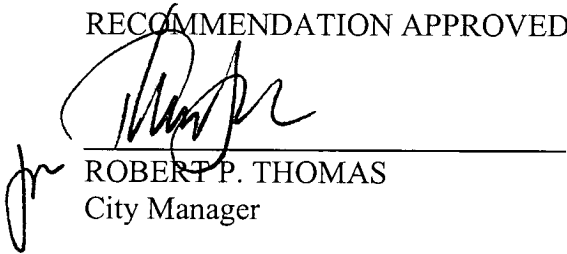


Wendy Saunders
Development Manager



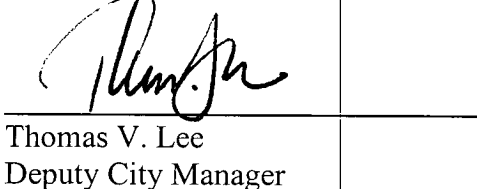
Andrew J. Plescia, Director
Economic Development Department

RECOMMENDATION APPROVED:



ROBERT P. THOMAS
City Manager

APPROVED:



Thomas V. Lee
Deputy City Manager

Attachment 1

**Metro Place
Proposed Development Site**



Library Parking
Structure

US Bank
Building

Cesar Chavez
Park

J

ST

ST

ST

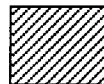
8TH

9TH

Renaissance
Tower



Agency-owned



Developer-owned

Attachment 2
**AGREEMENT FOR EXCLUSIVE RIGHT TO NEGOTIATE
Metro Place**

THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO ("Agency") and INGEMANSON ENTERPRISES, ("Developer"), have entered into this Agreement for Exclusive Right to Negotiate ("Agreement") as of _____, 2000, ("Effective Date") upon the follow terms:

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

a. Developer desires to negotiate with Agency to develop certain real property ("Property") located in the City of Sacramento, County of Sacramento, State of California, being all or a portion of the block bounded by 8th, 9th, and J Streets and the alley. The Property is within the Merged Downtown Sacramento Redevelopment Project Area ("Project Area") and approximately half of the Property is owned by the Agency. The development of the Property ("Project") consistent with the Merged Downtown Sacramento Redevelopment Plan ("Redevelopment Plan") and its implementing documents, has been identified by the Agency as important to the furtherance of the Project Area and the elimination of blighting conditions in the Project Area.

b. Developer, as majority owner of the portion of the Property not owned by the Agency, submitted a proposal dated November 9, 1999 regarding negotiation to develop a mixed-use project on the Property. The parties contemplate that such negotiation will lead to a mutually satisfactory program for transfer, financing and development of the Property, and negotiation of the Disposition and Development Agreement ("DDA") under which such program will be prosecuted to completion. The building program contemplated by the Parties includes the following components: 1) 260,000 square foot commercial office space; 2) 160,000 square foot residential; 3) 29,000 square foot retail space; 4) 730 parking spaces dedicated to building uses; 5) 250 short term public parking spaces (square footage and the number of parking spaces are approximate).

c. The purpose of this Agreement is to state the obligations of the parties to investigate the feasibility of the Project and to develop the Project proposal. Once such feasibility is demonstrated, the parties intend to negotiate the DDA, exclusively and in good faith; to use reasonable good faith efforts to complete, execute and deliver the DDA at the end of the term of this Agreement, after full and unrestricted CEQA review and consideration of the Project.

d. Agency represents, and Developer agrees, that the development of the Site, the completion of the Project and the fulfillment generally of this Agreement are for the purpose of community improvement and welfare, for the benefit of the Project Area and in accord with the public purposes and provisions of any applicable federal, state and local laws and requirements under which the Project is to be undertaken.

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

a. Developer is Ingemanson Enterprises, organized and doing business in the State of California. The principal office of Developer is located at 11000 Olsen Drive, Suite 125, Rancho Cordova, California 95670. Developer shall, as a condition precedent to execution of the DDA by

Agency, make full disclosure to Agency of the identity of all principals, officers, stockholders, partners, joint venturers, and entities in Developer. Initially, a principal of Developer is Dean Ingemanson.

b. Agency is the Redevelopment Agency of the City of Sacramento, a public body, corporate and politic, organized under California law and functioning within the jurisdiction of the City of Sacramento. The principal office of Agency for purposes of this agreement is located at 1030 15th Street, Suite 250, Sacramento, CA 95814. Agency includes any successor to operations of Agency.

c. Notices to any party shall be personally delivered or sent by first class mail to its principal office address. Notices to Agency shall be clearly marked "Attention: Downtown Development Group (Metro Place)". A copy of all notices to Agency shall be mailed or delivered to 630 I Street, Sacramento, CA 95814 and marked "Attention: Legal Department (Metro Place)."

1) Notice to the Developer shall also be served upon Developer's counsel: Timothy D. Taron, Hefner, Stark and Marois, 2710 Gateway Oaks Drive, Suite 300 South, Sacramento, California, 95833.

3. EXCLUSIVE RIGHT TO NEGOTIATE. Agency grants to the Developer an exclusive right to negotiate for the right to develop the Property in accordance with the terms and conditions of the Proposal and the DDA to be developed under this Agreement.

4. TERM. This Agreement shall be effective as of the date of its execution ("Commencement Date"), and shall terminate ("Termination Date") upon the earlier of completion of all obligations or ninety (90) days after such effective date unless extended in accordance with Section 9 or Section 10. If the Proposal is disapproved by final action of the governing bodies of the Agency, as a result of CEQA review or otherwise as may be required in this Agreement or by law, this Agreement shall terminate as of the date of such disapproval. Except as expressly stated in this Agreement, if this Agreement terminates without execution of a DDA, each party shall bear its own costs related to this Agreement.

5. CEQA REVIEW. In accordance with the California Environmental Quality Act ("CEQA"), Agency as lead agency shall prepare the environmental documentation and consider the environmental effects of the Project, at Developer's expense pursuant to Section 11a, below, prior to considering action to approve the proposed DDA.

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

b. Agency is not, and shall not be considered to be, obligated by this Agreement, or otherwise, to approve a DDA or any other agreement, unless and until it has fully reviewed and considered the environmental impacts of the proposed Project in accordance with CEQA. After CEQA review, Agency is not obligated, by this Agreement or otherwise, to adopt findings of overriding considerations for the approval of the Project or take any other action in support of the proposed Project. After CEQA review, Agency is not precluded, by this Agreement or otherwise, from rejecting the Project

or from imposing mitigation measures as a condition of Project approval, which measures mitigate or avoid direct or indirect environmental effects of the Project.

c. Upon Agency request, Developer shall supply data and information both to determine the impact of the development on the environment and to assist in the preparation of the environmental documents for the proposed Project. As stated in Section 11, the Agency shall use the deposit to pay the cost of environmental review.

6. OTHER LEGISLATIVE REVIEW. Agency and Developer acknowledge that the Agency must exercise its independent legislative authority in making any and all findings and determinations required of them by law concerning the Project. Developer acknowledges that the Proposal is also subject to review by the City's Design Review/Preservation Board.

7. REFINEMENT OF PROPOSAL. As a condition precedent to the Agency negotiating for and entering into the DDA, Developer must prepare and submit to Agency the full Proposal that meets the objectives of the parties and that is approved by the Agency as provided in this Agreement. It is agreed and understood that approval of the full Proposal is a prerequisite and preliminary step to further processing of the Proposal, and that the approval of the full Proposal under this Agreement for further processing and consideration is not intended to, and does not, in fact, compel or require the Agency to approve the Project, enter into a DDA or agree to contribute Agency's portion of the Property to Developer following completion of the CEQA and other review processes. The preparation of the Proposal shall be done in accordance with the Schedule of Performances. Developer shall include in its Proposal, without limitation, the following: (a) detailed description of the Developer's development team, naming the principals of Developer, the architectural and design team, the general contractor, and the marketing team; (b) project conceptual design, including site plan, elevations and typical floor plates for two alternatives: (1) incorporating in situ the Comstock building, and (2) removal of the Comstock building and incorporation of important historic elements within the project design, both in keeping with all applicable planning requirements and design guidelines of the City and Agency; (c) economic estimate of construction costs for alternative project designs; (d) 10-year cash flow analysis for alternative project designs; (e) location of public parking spaces and the physical manner by which those spaces will be operated (i.e., separate or joint ingress/egress); (f) cost of constructing public parking spaces; and (g) a schedule of performances, which identifies milestones to be achieved during the extension period.

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

Responsible Party	Action	Due Date
Developer	Submit Proposal, including all elements stated in Section 7 to Agency for consideration/approval	Within ninety (90) days of Effective Date
Developer and Agency	Meet and confer concerning progress of the foregoing actions; Developer to submit progress reports at each meeting	At least once each month during the term of this Agreement, as it may be extended, commencing not later than twenty (20) days of the Effective date

Developer	Submit information as requested by Agency and City staff for inclusion in presentation to governing bodies	Within ten (10) days of request, or as deemed reasonable by the parties
Agency	Present Project proposal ("Proposal") prepared by Developer, including all of the foregoing submissions of Developer, to Agency governing bodies for consideration/approval	Upon completion of the foregoing tasks or within thirty (30) days after the expiration of the ninety (90) day period, whichever occurs first.
Developer	Submit Deposit for 3 rd party costs	Prior to considerations of Project Proposal by City Council

9. EXTENSION PERIOD. If Developer fulfills its obligations under this Agreement and prepares and submits the Project Proposal as stated in the Schedule of Performances, and if such Proposal is considered by the governing board of Agency, then this Agreement shall be extended for an additional period of one hundred and eighty (180) days ("Extension Period"). During the Extension Period, if any, the parties shall accomplish all of the tasks necessary for the consideration and adoption of the DDA for the Project, including without limitation, negotiation of the DDA terms, developing architectural plans, preparing environmental studies and documentation, obtaining financing commitments, obtaining tenant commitments as necessary for financing, and engaging the general contractor.

a. Additional Extension Period of forty-five (45) days, beyond the Extension Period shall be granted, if required solely for the purposes of completing the environmental studies and documentation.

10. OTHER EXTENSION. Upon written request of Developer, Agency shall reasonably consider an extension of the initial term of this Agreement, exclusive of the Extension Period, if Developer has acted diligently and in good faith in performing its obligations under this Agreement.

11. DEPOSIT FEE. Prior to consideration of the project by the City Council, Developer, shall deliver to Agency with its Proposal for Agency governing body consideration a deposit of One Hundred Thousand Dollars (\$100,000) ("Deposit"). The Deposit is the property of the Agency, subject to the following:

a. Prior to execution of the DDA for the Project or termination of negotiations between Agency and Developer, Agency may expend the Deposit solely for payment of all third-party fees, costs and expenses (the "Third Party Costs") for predevelopment activities for the Project incurred by Agency, including, without limitation, costs related to preparation of the environmental documentation for the Project and supporting studies other than fees for Agency outside legal counsel for the negotiation or preparation of documents for the transactions contemplated by this Agreement. Fifteen days prior to any such expenditures, Agency shall provide the Developer with a schedule of anticipated expenditures on the Third Party Costs. The parties anticipate that Third Party Costs will not exceed \$100,000. If the actual expenditures exceed \$100,000 the parties shall meet and confer with respect to the budget for such costs. It is agreed and understood that the required \$100,000 deposit is a Deposit only, and that to the extent that the costs of the Project exceed \$100,000, Developer is responsible for the payment of any and all such additional costs.

b. If the Developer enters into the DDA with the Agency the Deposit remaining after the Third Party Costs may, at Developer's election, be applied to the good faith deposit required under the DDA.

c. If the Agency fails to approve a proposed DDA, developed in accordance with the provisions of this Agreement, which is duly before it for consideration and which has been executed by the Developer, Agency will refund to Developer the Deposit remaining after payment of such Third Party Costs incurred to the date of the hearing regarding approval of the DDA.

d. If Developer and Agency agree in writing to terminate the negotiations, the Deposit remaining after such Third Party Costs will be refunded to the Developer

e. If the terms of the DDA are otherwise not finalized during the negotiation period, the deposit is the property of the Agency, without restriction as to its use, unless the Agency agrees in writing to extend the negotiation period.

12. . . DEFAULTS. Either of the Agency or the Developer shall be in default of this Agreement if it (a) fails to fulfill its obligations when due, which failure is not caused by the other party (b) does not negotiate the DDA in good faith and upon the terms stated in this Agreement, (c) does not reasonably cooperate with the other in fulfilling the other's obligations under this Agreement, or (d) refuses to execute the DDA when negotiations are completed and deposit any funds then required of it for the DDA (unless the refusal to execute the DDA by the Agency is because either of them has disapproved the project in accordance with CEQA in exercise of their independent review); provided, however, that it shall not be in default if such event is a result of Unavoidable Delays as defined in Section 18.

a. The defaulting party shall have thirty (30) days after receipt of written notice of such alleged default from the non-defaulting party to cure the default. Should the defaulting party fail to cure the default within the thirty (30) days, the non-defaulting party may terminate this Agreement by written notice to the defaulting party, and may pursue equitable remedies available to it for such default. Should the Agency be in default, the Developer is entitled to the unencumbered remainder of the Deposit, if any. In the event of such a default by Developer, Agency may retain the Deposit and may terminate the Agreement.

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

c. The remedies contained in this Section 12 are the sole exclusive remedies for default of this Agreement, and neither party may claim, as a result of a default of this Agreement, any damages, whether monetary, non-monetary, contingent, consequential or otherwise.

13. DISPOSITION AND DEVELOPMENT AGREEMENT. In addition to other provisions stated in this Agreement, the DDA will address, without limitation, the following provisions (a) use covenants to run with the land; (b) payment and performance bonding and other completion assurances; (c) insurance and indemnities, including hazardous materials indemnities; (d) anti-discrimination provisions; (e) Agency's M/WBE policy and local hiring provisions, as applicable; (f) performance assurances such as the deposit; (g) limitation on transfers prior to Project completion; (h) compliance with CEQA mitigation; (j) Agency's rights to revest the Property upon default; and (m) Agency's Art in Public Places requirements. The DDA may also address, without limitation, the following provisions: (a) extension fees for delay in construction, and liquidated damages; (b) Agency's rights to cure defaults, assume loans and complete construction; (c) delayed transfer of title to land; and (d) loan guarantees and additional securities.

14. PREDEVELOPMENT COSTS. Subject to Section 11, Developer shall bear all predevelopment costs relating to actions of Developer under this Agreement, including but not limited to costs for planning, environmental architectural, engineering and legal services, and other costs associated with preparation of Developer's Proposal and the DDA.

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

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

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

18. UNAVOIDABLE DELAY. For the purposes of any of the provisions of this Agreement, neither Agency nor Developer shall be considered in breach of, or default in, its obligations with regard to their respective obligations, if the delay in the performance of such obligations is due to unforeseeable causes beyond the delayed party's control and without its fault or negligence. Unforeseeable causes shall include acts of God, acts of the public enemy, acts of the federal government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather (as for example, floods, tornadoes, or hurricanes). In the event of the occurrence of any such delay, the time or times for performance of such obligations of Agency and Developers shall be extended for the period of the delay provided that the party seeking the benefit of the provisions of this Section shall, within ten days after it has or should have knowledge of any such delay, have first notified the other party, in writing, of the delay and its cause, and requested an extension for the period of the delay.

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

AGENCY: REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

By: Thomas V. Lee
Thomas V. Lee, Downtown Director

Approved as to form.

[Signature]
Agency Counsel

DEVELOPER: INGEMANSON ENTERPRISES

By: Dean Ingemanson
Dean Ingemanson, President

Approved as to form:

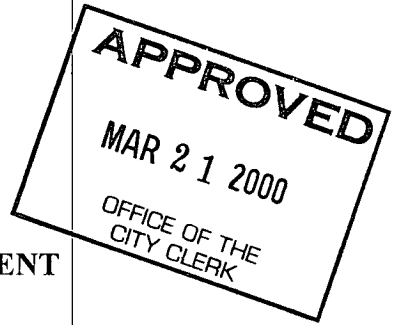
Hefner, Stark and Marois Attorneys at Law
Counsel for Developer

By: Timothy D. Taron
Timothy D. Taron, Attorney

RESOLUTION NO. 2000-016

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF



**AUTHORIZATION TO ENTER INTO
AN EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT
WITH INGEMANSON ENTERPRISES FOR
DEVELOPMENT OF METRO PLACE**

BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO:

Section 1. The City Manager or Thomas V. Lee, Deputy City Manager, as designated signatories, are authorized to execute the Agreement for Exclusive Right to Negotiate with Ingemanson Enterprises for development of the Metro Place development site (being the block bounded by 8th, 9th and J Streets and the alley), in substantially, the form attached to the accompanying staff report.

Section 2. The Redevelopment Agency of the City of Sacramento is authorized to amend the budget to accept, and allocate as necessary, the \$100,000 deposit submitted to the Agency by Dean Ingemanson on behalf of Ingemanson Enterprises.

Section 3. During the negotiation period, the Agency will not consider or pursue any other development proposals for this Site (being the block bounded by 8th, 9th and J Streets and the alley).

CHAIR

ATTEST:

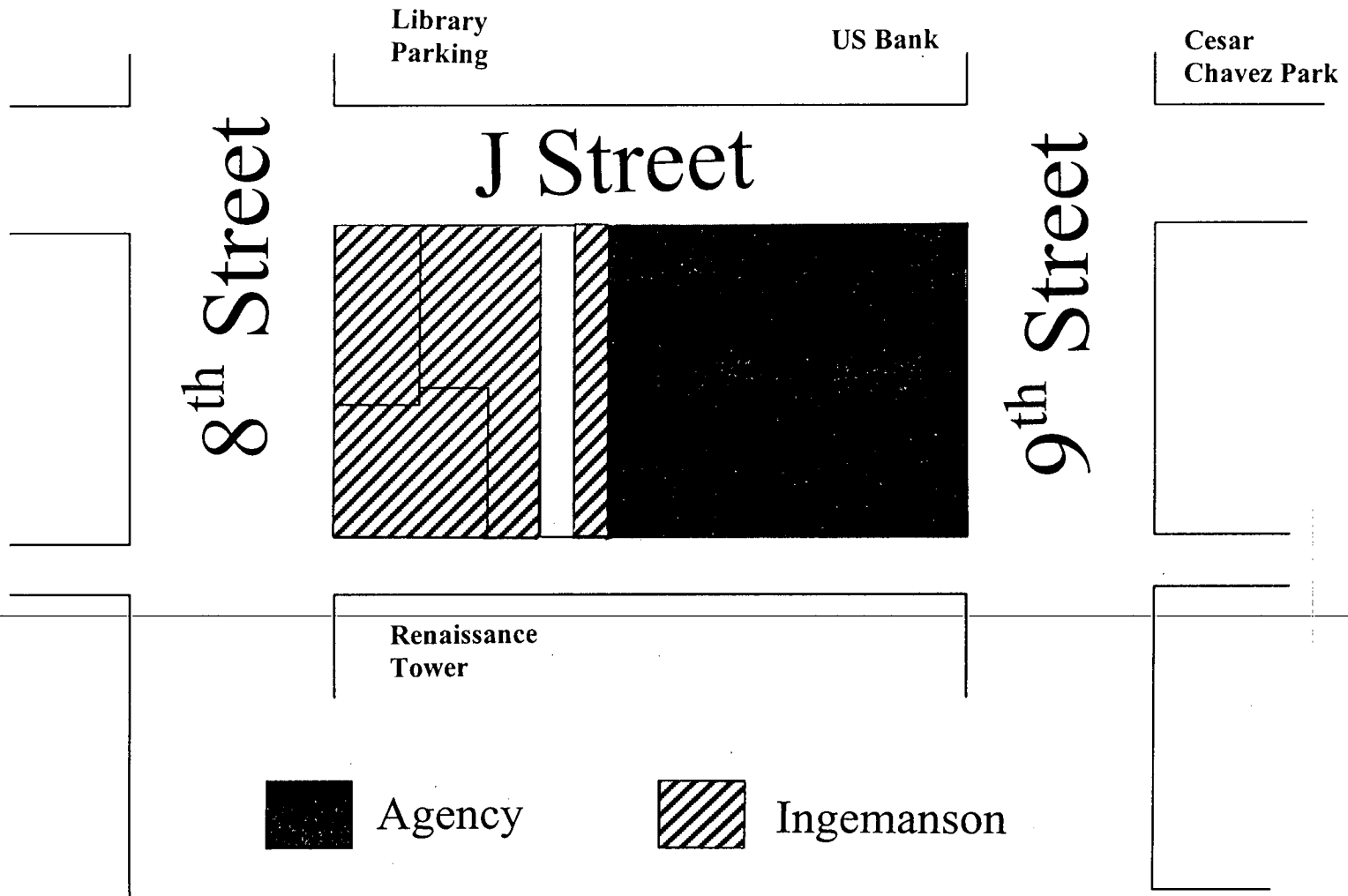
SECRETARY

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

Metro Place Proposed Development Site



Metro Place

Preliminary Building Plan

- 260,000 s.f. office
 - 160,000 s.f. residential
 - 29,000 s.f. retail
 - 730 parking spaces for building uses
 - 250 short term public spaces
-

Metro Place

90 - Day Exclusive Right To Negotiate

- Ingemanson will investigate the feasibility of the proposal
 - Further refine the their proposal to include the following:
-

Metro Place

Project Proposal

- Project Development Team
- Conceptual design - site plans, elevations, typical floor plates for two alternatives:
 - 1) Incorporating Comstock Building in situ;
 - 2) Removal of Comstock Building and incorporation of important historic elements in design

Metro Place

Project Proposal

- Economic estimate of construction costs
 - 10-year cash flow analysis of alternative
 - Proposed location/operation of public parking spaces
-
- Public parking construction cost

Metro Place

Next Steps

- Developer submits project proposal
- Review/Comment by Design Review Preservation Board.
- RACS consideration/authorization of 180 day extension period for DDA negotiations

Metro Place

DDA Negotiation Period

- \$100,000 deposit for third party costs
- Negotiation of business terms
- Development of architectural plans
- Environmental Studies
- Financing Commitments
- Tenant Commitments
- Engage General Contractor