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SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

March 17, 1981

CITY MANAGER'S OFFICE
RECEIVED
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Redevelopment Agency of the
City of Sacramento
Sacramento, California

Honorable Members in Session:

SUBJECT: Approval of Assignment and Preliminary Plans for
Proposed Office Building and Parking Structure on
Parcel H-2

SUMMARY

The attached resolution approves the assignment of the rights and obligations of Commerce Realty, Inc. and Capitol Bank of Commerce with respect to Parcel H-2 in the block bounded by 3rd and 4th Streets, Capitol Mall and N Street, to Capitol Mall Associates, a joint venture, and authorizes execution of the Assignment Agreement. The resolution also approves Preliminary Plans for the proposed fifteen story, 306,000 gross square foot office building and 650-space parking structure.

BACKGROUND

On October 7, 1980 by Resolution No. 2946-A, the Chairman and Secretary of the Agency were authorized to execute an Assignment Agreement with Commerce Realty, Inc. and Capitol Bank of Commerce.

On November 25, 1980 by Resolution No. 2953-A, the Chairman and Secretary were authorized to execute the amended Assignment Agreement which increased the amount of cost reimbursement set forth in Section 3.01 of the Agreement.

Schematic designs were submitted and approved by the Agency on October 7, 1980 by Resolution No. 2946-A. The City Architectural Review Board approved the project as submitted on November 5, 1980. At that time the parking structure was proposed to have five levels above ground and one level below ground. Because of the high water table a design modification placing all six levels above ground was submitted and approved by the Architectural Review Board on January 7, 1981.

APPROVED
SACRAMENTO REDEVELOPMENT AGENCY

Date 3/24/81

3-24-81

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Redevelopment Agency of the
City of Sacramento
March 17, 1981
Page Two

ASSIGNMENT AGREEMENT

The Assignor requests approval of this assignment for the following reason:

Capitol Mall Associates is a joint venture composed of Commerce Realty, Inc. and Daon Corporation. Due to the scope of the project, institutional lenders have required that a developer possessing undisputed credentials for experience and performance become a principal in the project. The Assignor has selected Daon because of its excellent reputation and its possession of the financial resources which will assure the success of the project.

Staff has no opposition to this assignment by which the Assignor, Commerce Realty, Inc. and Capitol Bank of Commerce, grant all development rights and obligations to the Assignee, Capitol Mall Associates, a joint venture composed of Commerce Realty, Inc. and Daon Corporation.

PRELIMINARY PLANS

In accordance with the Redeveloper's performance schedule, the required Preliminary Plans were received by the Agency on February 9, 1981. The submittal satisfies the requirements of the Redevelopment Plan. The Preliminary Plans substantially reflect the proposed design concept as originally submitted by the Redeveloper and approved by the Commission.

Modifications and refinement of the design have occurred but have not changed the design concept nor the scope of the development. The main entry of the project has been set at approximately ten feet above Capitol Mall. The preliminary plaza plan provides a monumental entry. Staff has some technical concerns with the details of the design but these do not impact upon the design concept.

The Redeveloper has proposed to "fast track" the construction of the project. Attached is a copy of the February 9, 1981 letter from the project architect addressing the "fast track" approach and the proposed schedule. Staff has no problem with this method

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Redevelopment Agency of the
City of Sacramento
March 17, 1981
Page Three

of construction providing that the final architectural details being developed while the structural portions of the building are being constructed do not alter the final building design. According to City Planning Department and Architectural Review Board staff, no submittal of the Preliminary Plans is required. Under the "fast track" method, the final architectural plan submittal, review and approval of the Architectural Review Board and the Agency will occur after the building is under construction. The Redeveloper has requested Agency approval of the "fast track" method. The question of approval of the "fast track" construction method more appropriately is that of the City Building Department.

It is recommended that the Preliminary Plans be approved and that favorable consideration be given to the concept of "fast track" construction.

FINANCIAL DATA

The original purchase price of the site is \$653,255. There is no change in the purchase price or other financial impact as a result of this assignment. All costs incurred by Commerce Realty, Inc. and Capitol Bank of Commerce for planning, architecture, engineering, testing and incidental expenses in connection with this project are being contributed to Capitol Mall Associates, a joint venture, as a portion of its capital contribution. The project will cost approximately \$26 Million and will be required to pay full property tax.

VOTE AND RECOMMENDATION OF COMMISSION

At its regular meeting of March 16, 1981, following public hearing, the Sacramento Housing and Redevelopment Commission adopted a motion recommending approval of the preliminary plans. The votes were as follows:

AYES: T. Coleman, K. Kneprath, L. Luevano, A. Miller, J. Serna,
R. Teramoto, S. Walton

NOES: None

ABSTAIN: H. Fisher

ABSENT: B. Miller

It is anticipated that at its meeting of March 23, 1981, the Sacramento Housing and Redevelopment Commission will adopt a motion recommending that you approve the aforementioned Assignment Agreement. In the event they fail to do so, you will be advised prior to your March 24, 1981 meeting.

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

Redevelopment Agency of the
City of Sacramento
March 17, 1981
Page Four

RECOMMENDATION

The staff recommends adoption of the attached resolution which approves the assignment, authorizes execution of the Assignment Agreement and approves the Preliminary Plans for the proposed office building and parking structure.

Respectfully submitted,

William H. Edgar

WILLIAM H. EDGAR
Interim Executive Director

TRANSMITTAL TO COUNCIL:

Walter J. Slupe

WALTER J. SLIPE
City Manager

Contact Person: Leo T. Goto

RESOLUTION NO. RA- 81-020

Adopted by the Redevelopment Agency of the City of Sacramento

March 24, 1981

APPROVING ASSIGNMENT OF INTEREST, AUTHORIZING
EXECUTION OF ASSIGNMENT AGREEMENT AND AMENDMENT
AND APPROVING PRELIMINARY PLANS OF
OFFICE BUILDING AND PARKING STRUCTURE
CAPITOL MALL ASSOCIATES -- PARCEL H-2

WHEREAS, the Agency entered into an Agreement for Sale of Land for Private Redevelopment with Downtown Plaza Properties, a joint venture, dated June 17, 1968, as supplemented and amended; and

WHEREAS, by Assignment Agreement dated July 30, 1971, the rights, duties and obligations of Downtown Plaza Properties under said Contract with respect to Parcel H-2 were assigned to Gateway Associates, a joint venture; and

WHEREAS, by Assignment Agreement dated November 25, 1980, the rights, duties and obligations of Gateway Associates under said Contract with respect to Parcel H-2 were assigned to Commerce Realty, Inc., a California corporation, and Capitol Bank of Commerce, a California Banking Corporation; and

WHEREAS, Commerce Realty, Inc. and Capitol Bank of Commerce have advised the Agency that in order to facilitate the development of Parcel H-2 and the construction of improvements thereon, it desires to assign its rights and obligations with respect to said Parcel H-2 to CAPITOL MALL ASSOCIATES, a joint venture composed of Commerce Realty, Inc., a California corporation, and Daon Corporation, a Delaware corporation; and

WHEREAS, an "Assignment Agreement and Amendment" and a "Redeveloper's Statement for Public Disclosure" have been filed with the Redevelopment Agency by the proposed Assignee and have been available for public examination at the offices of the Agency for fourteen (14) days after public notice thereof; and

WHEREAS, the Agency has determined on the basis of the information submitted to it that the proposed Assignee has the

APPROVED
SACRAMENTO REDEVELOPMENT AGENCY

Date 3/24/81

qualifications and financial responsibility necessary and adequate to fulfill the obligations undertaken by the Redeveloper with respect to Parcel H-2, and finds that the terms and conditions of the proposed assignment will facilitate the prompt development of the site and construction of the improvements thereon; and

WHEREAS, a public hearing on said assignment was duly held on March 24, 1981 by the Agency after notice as required by Section 105(e) of the Housing Act of 1949, as amended, and Section 33431 of the Health and Safety Code of the State of California; and

WHEREAS, no one appeared at said public hearing to contest or otherwise object to the Agency approving said assignment and entering into said Assignment Agreement and Amendment; and

WHEREAS, the proposed Redeveloper has submitted Preliminary Plans for the office building and parking structure to be constructed on Parcel H-2.

NOW, THEREFORE, BE IT RESOLVED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO:

Section 1. The Redevelopment Agency of the City of Sacramento hereby finds that CAPITOL MALL ASSOCIATES, a joint venture composed of Commerce Realty, Inc., a California corporation, and Daon Corporation, a Delaware corporation, is an acceptable Redeveloper, and the Agency hereby consents to and approves the assignment of the interests of Commerce Realty, Inc. and Capitol Bank of Commerce, in Parcel H-2, to CAPITOL MALL ASSOCIATES, a joint venture.

Section 2. The Chairman and Secretary are authorized to execute the "Assignment Agreement and Amendment" with respect to Parcel H-2, with Commerce Realty, Inc., a California corporation, and Capitol Bank of Commerce, a California Banking Corporation (Assignors), and Capitol Mall Associates, a joint Venture (Assignee), in form approved by Agency Counsel, together with such other documents indicating the Agency's consent as required by State law and Federal regulations.

Section 3. The Redevelopment Agency hereby approves Preliminary Plans submitted by the Redeveloper for the office building and parking structure to be constructed on said site.

CHAIRMAN

ATTEST:

SECRETARY

CAPITOL ON CAPITOL

Angello-Vitiello-Niyya, Inc.
Stafford, King & Associates
Joint Venture Architects

February 9, 1981

Mr. Robert C. Roche
Deputy Director
Sacramento Housing and Redevelopment Agency
630 I Street
Sacramento, CA 95814

RE: Capitol Bank of Commerce Development
3rd, 4th Streets, Capitol Mall, N Street
Sacramento, CA 95814

Dear Mr. Roche:

Please find enclosed two sets of preliminary plans for the subject project for your review and approval, as required by the assignment agreement.

We would appreciate any comments you may have about the project as soon as possible.

I have checked with Mr. Will Weitman, City Planning, and Mr. Dick Hastings of the Architectural Review Board; they have relayed to me that there is no submittal required by their departments at this time.

In addition, the developers would like to request approval for the option of fast-tracking the construction of the project. This process would require that we begin portions of our construction of the project prior to completion of all the construction documents.

1915 I Street
Sacramento, California 95814
916 - 446-0206

February 9, 1981
Mr. Robert C. Roche
Page 2

The early start would begin with the construction of site excavation, piles, foundation work, and underground utilities. The second phase would be the erection of structural steel, and the final phase would be the conclusion of the remaining construction work. I have enclosed a graphic showing the staging of the work.

The developers would like this process approved so that should the opportunity arise, they would be able to start the project ahead of schedule and take advantage of the weather conditions.

We will need your advice and guidance on what agreements will be required of us should we wish to take advantage of this process.

Should you have any questions, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph E. Vitiello", with a horizontal line extending to the right from the end of the signature.

Ralph E. Vitiello, AIA

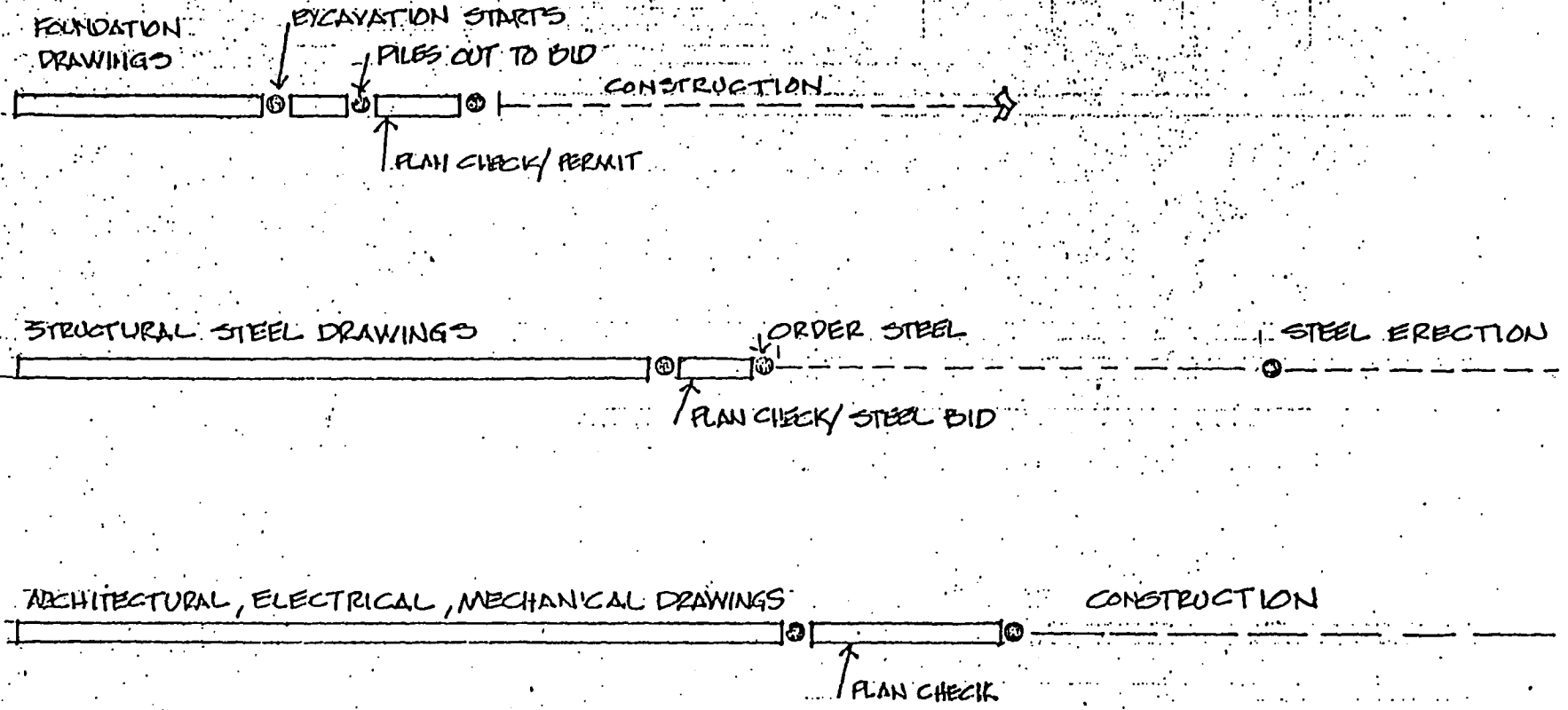
REV/mm

cc. Ed Lammerding
Jeff White

CAPITOL BANK OF COMMERCE

MONTHS

REDEVELOPMENT AGENCY APPROVAL



ASSIGNMENT AGREEMENT AND AMENDMENT

THIS AGREEMENT, made this _____ day of _____, 1981, by and among COMMERCE REALTY, INC., a California corporation ("Commerce"); and CAPITOL BANK OF COMMERCE, a California Banking Corporation ("Bank") (Commerce and Bank herein referred to jointly as the "Assignor"), and CAPITOL MALL ASSOCIATES, a joint venture (herein referred to as the "Assignee"), between Commerce and Daon Corporation, a Delaware corporation (herein referred to as "Daon"), and the REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, a public body, corporate and politic (herein referred to as the "Agency").

WITNESSETH:

WHEREAS, Assignor and Agency are parties to a certain Assignment Agreement dated November 25, 1980; and

WHEREAS, pursuant to the Assignment Agreement of November 25, 1980, Agency has agreed to sell and Assignor has agreed to purchase and improve certain real property described therein as Parcel H-2 (herein referred to as the "Property"), subject to conditions, covenants and restrictions set forth therein, including the controls and restrictions of the Redevelopment Plan for the Capitol Mall Extension, Project No. 3, and the Declaration of

Restrictions referred to in the aforesaid Assignment Agreement;
and

WHEREAS, Assignor desires to assign to Assignee and Assignee desires to acquire the rights and obligations of the Assignor with respect to the Property upon the terms and conditions stated herein and in the aforesaid Assignment Agreement;
and

WHEREAS, Assignee has submitted to the Agency evidence satisfactory to the Agency that Assignee has the financial resources and equity capital to obtain mortgage commitments necessary to purchase the Property, construct the improvements thereon, and otherwise carry out Assignor's obligations under the Assignment Agreement of November 25, 1980, with respect to the Property;
and

WHEREAS, the Agency acknowledges that Daon is acting as the managing and developing partner of Assignee in its efforts to construct improvements on and otherwise develop the Property, and has conditioned its commitment to continue its partnership with Commerce and to continue acting as the managing and developing partner thereof, among other things, upon the Agency's approval of Assignee's assumption of Assignor's obligations under the Assignment Agreement of November 25, 1980, and the Agency's confirming the status of the obligations of Assignor and Assignee and the rights of the Agency under the aforesaid Assignment Agreement; and

WHEREAS, the Agency deems that this assignment will advance the objectives of the Agency.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, and the agreements of Assignor, Assignee and Agency herein contained, it is agreed:

1. Assignor does hereby sell, assign, transfer, grant and convey to Assignee all of its rights under the Assignment Agreement of November 25, 1980. Whenever the term "Redeveloper" appears in this Agreement, or in any other document relating to the Property, it shall include and refer to Assignee hereunder.

2. Assignee, for itself and its successors and assigns, assumes and agrees expressly for the benefit of the Agency, to comply with, perform and execute all of the covenants and obligations of Assignor contained in the Assignment Agreement of November 25, 1980, and to be subject to all of the conditions and restrictions to which the Assignor is subject thereunder except as modified hereby. It is the intention of the parties hereto that, except only in the manner and to the extent specifically provided otherwise in this Agreement, or in the aforesaid Assignment Agreement, that this assignment and transfer of Assignor's interest in the Property, shall in no way operate, legally or practicably, to deprive or limit Agency of or with respect to any rights, remedies or controls provided in or resulting from the aforesaid Assignment Agreement, and the construction of the improvements thereunder (the "Improvements") that the Agency would have had, had this assignment not been made.

3. (a) As a material inducement to the Agency to consent to this assignment, Assignee covenants and agrees that

it will construct the Improvements in accordance with the Assignment Agreement of November 25, 1980, and the requirements of the Redevelopment Plan for Project No. 3.

(b) Subject to all the terms, covenants and conditions of the Assignment Agreement of November 25, 1980 which are not inconsistent with this Agreement, the Agency will convey the Property to the Assignee, upon the payment in full by the Assignee, which payment the Assignee hereby agrees to make, of a Purchase Price in the amount set forth in the Assignment Agreement.

4. Agency hereby acknowledges that Assignee is an acceptable Redeveloper and Agency expressly consents to this assignment.

5. Assignee has, prior to the execution of this Agreement, delivered to the Agency a good faith deposit in the amount set forth in said Assignment Agreement.

6. The designation of the Redeveloper contained in said Assignment Agreement of November 25, 1980 shall be amended to read as follows:

CAPITOL MALL ASSOCIATES
c/o Daon Corporation
444 Market Street, Suite 2500
San Francisco, California 94111
Attention: Jeffrey P. White.

7. For the purpose of providing Daon with the assurances it requires as a precondition to Daon's agreeing to continue its partnership with Commerce and to continue acting as the managing and developing partner of Assignee, and for other purposes

hereinafter set forth, the Agency hereby represents and warrants to Daon and Assignee and agrees as follows:

(a) The Assignment Agreement is in full force and effect on the date hereof and contains, incorporates or references all of the obligations of Assignor, and has not been amended or modified since November 25, 1980. To the best of the Agency's knowledge no event or condition of default or event or condition which would constitute a condition of default thereunder exists as of the date hereof. The Agency hereby waives any right which it may have or which may have accrued prior to the date hereof that it knew or should have known of to declare Assignor or Assignee (upon its assumption of the Assignment Agreement) in default pursuant to the terms of the Assignment Agreement. To the best of the Agency's knowledge, Assignor has fully performed its obligations under the Assignment Agreement through the date hereof, including the making of all payments required thereunder and all reports required thereunder. All approvals required to be given by the Agency under the terms of the Assignment Agreement respecting actions heretofore taken by Assignor have been duly given by the Agency and are currently in full force and effect.

(b) Promptly upon completion of portions of the Improvements substantially in accordance with the approved plans and specifications and in compliance with the requirements of the Assignment Agreement, the Agency shall provide Assignee and any construction lender with respect to the Improvements with Certificates of Completion in recordable form pursuant to the

Assignment Agreement. Notwithstanding the above, Agency shall provide said Certificates of Completion prior to completion of the approved life safety system for the Improvements, provided that the validity of said Certificates of Completion shall be conditioned upon the completion thereof.

(c) No approval or other action of the Department of Housing and Urban Development is necessary in connection with Assignor's transfer of the Assignment Agreement to the Assignee or in connection with the construction and development of the Improvements by the Assignee.

(d) Agency shall use its best efforts to cause the City of Sacramento to abandon that certain twenty foot (20') alley running east and west through the center of the block bounded by 3rd and 4th Streets, Capitol Mall and N Street and to deed the fee title interest therein to Assignee prior to or on the date on which the Agency conveys the Property to the Redeveloper.

(e) The terms of the Assignment Agreement will be amended if reasonably required by any construction or permanent lender with respect to the Improvements, provided that any such amendment is consistent with the Redevelopment Plan for the Property.

8. Assignee may desire to undertake construction of the Improvements in phases. If Assignee elects to construct the Improvements in phases, Assignee shall construct the foundation for the Improvements during the First Phase. During the Second

Phase, Assignee shall construct the basic structural portion of the Improvements. During the Third Phase, Assignee shall complete the Improvements.

Agency hereby agrees that if Assignee elects to construct the Improvements in phases, Assignee must (i) obtain Agency's approval of the final plans and specifications for the construction of each phase prior to commencing construction of that phase; and (ii) obtain appropriate permits from the City of Sacramento Building Department prior to any construction so undertaken.

The parties hereto agree that Assignee's option to construct the Improvements in phases shall not limit or impair in any way Agency's full consideration or approval of the final plans and specifications for each phase and that Agency shall not incur any liability on the basis of its disapproval of the final plans and specifications for any subsequent phase after having previously approved the final plans and specifications for any earlier phase; provided, however, that the Agency hereby agrees that it will not unreasonably withhold or delay its approval of the final plans and specifications for a particular phase; and provided further that Agency shall have no right to disapprove any aspect of any preliminary or final plans that was previously set forth in substantially the same nature and degree in the final plans for any prior phases or in the preliminary or other plans previously approved by the Agency.

9. Any provisions of this Agreement which are inconsistent with the aforesaid Assignment Agreement shall constitute modifications thereof and amendments thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment Agreement and Amendment as of the date first above written.

ASSIGNOR: COMMERCE REALTY, INC., a California corporation

By _____ President

By _____ Secretary

-and-

CAPITOL BANK OF COMMERCE, a California Banking Corporation

By _____ President

By _____ Secretary

ASSIGNEE: CAPITOL MALL ASSOCIATES, a joint venture

COMMERCE REALTY, INC., Its General Partner

By _____ President

DAON CORPORATION, Its General Partner

By _____

By _____

AGENCY:

REDEVELOPMENT AGENCY OF THE CITY
OF SACRAMENTO

By _____
Chairman

By _____
Secretary

APPROVED AS TO FORM:

Chief Counsel



RECEIVED
CITY CLERK'S OFFICE
CITY OF SACRAMENTO
MAR 3 9 28 AM '81

SACRAMENTO HOUSING AND REDEVELOPMENT AGENCY

March 4, 1981

Redevelopment Agency of the
City of Sacramento
Sacramento, California

SUBJECT: PUBLIC HEARING

Honorable Members in Session:

The Agency has been requested to approve an assignment of the interests of Commerce Realty, Inc. and Capitol Bank of Commerce, in Parcel H-2, to Capitol Mall Associates, a joint venture.

The public hearing by the Redevelopment Agency must be held on or after March 24, 1981 so as to allow sufficient time to complete the necessary documentation and give the required notice of the hearings before the Commission and the Agency.

Unless you advise me otherwise, I will set this hearing for your March 24, 1981 meeting.

Respectfully submitted,

William H. Edgar

WILLIAM H. EDGAR
Interim Executive Director

*Lorraine -
If this is okay,
give to Mike
(BX)*

28

ASSIGNMENT AGREEMENT AND AMENDMENT

THIS AGREEMENT, made this _____ day of _____, 1981, by and among COMMERCE REALTY, INC., a California corporation ("Commerce"), and CAPITOL BANK OF COMMERCE, a California Banking Corporation ("Bank") (Commerce and Bank herein referred to jointly as the "Assignor"), and CAPITOL MALL ASSOCIATES, a joint venture (herein referred to as the "Assignee"), between Commerce and Daon Corporation, a Delaware corporation (herein referred to as "Daon"), and the REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, a public body, corporate and politic (herein referred to as the "Agency").

WITNESSETH:

WHEREAS, Assignor and Agency are parties to a certain Assignment Agreement dated November 25, 1980; and

WHEREAS, pursuant to the Assignment Agreement of November 25, 1980, Agency has agreed to sell and Assignor has agreed to purchase and improve certain real property described therein as Parcel H-2 (herein referred to as the "Property"), subject to conditions, covenants and restrictions set forth therein, including the controls and restrictions of the Redevelopment Plan for the Capitol Mall Extension, Project No. 3, and the Declaration of

Restrictions referred to in the aforesaid Assignment Agreement;
and

WHEREAS, Assignor desires to assign to Assignee and Assignee desires to acquire the rights and obligations of the Assignor with respect to the Property upon the terms and conditions stated herein and in the aforesaid Assignment Agreement;
and

WHEREAS, Assignee has submitted to the Agency evidence satisfactory to the Agency that Assignee has the financial resources and equity capital to obtain mortgage commitments necessary to purchase the Property, construct the improvements thereon, and otherwise carry out Assignor's obligations under the Assignment Agreement of November 25, 1980, with respect to the Property;
and

WHEREAS, the Agency acknowledges that Daon is acting as the managing and developing partner of Assignee in its efforts to construct improvements on and otherwise develop the Property, and has conditioned its commitment to continue its partnership with Commerce and to continue acting as the managing and developing partner thereof, among other things, upon the Agency's approval of Assignee's assumption of Assignor's obligations under the Assignment Agreement of November 25, 1980, and the Agency's confirming the status of the obligations of Assignor and Assignee and the rights of the Agency under the aforesaid Assignment Agreement; and

WHEREAS, the Agency deems that this assignment will advance the objectives of the Agency.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, and the agreements of Assignor, Assignee and Agency herein contained, it is agreed:

1. Assignor does hereby sell, assign, transfer, grant and convey to Assignee all of its rights under the Assignment Agreement of November 25, 1980. Whenever the term "Redeveloper" appears in this Agreement, or in any other document relating to the Property, it shall include and refer to Assignee hereunder.

2. Assignee, for itself and its successors and assigns, assumes and agrees expressly for the benefit of the Agency, to comply with, perform and execute all of the covenants and obligations of Assignor contained in the Assignment Agreement of November 25, 1980, and to be subject to all of the conditions and restrictions to which the Assignor is subject thereunder except as modified hereby. It is the intention of the parties hereto that, except only in the manner and to the extent specifically provided otherwise in this Agreement, or in the aforesaid Assignment Agreement, that this assignment and transfer of Assignor's interest in the Property, shall in no way operate, legally or practicably, to deprive or limit Agency of or with respect to any rights, remedies or controls provided in or resulting from the aforesaid Assignment Agreement, and the construction of the improvements thereunder (the "Improvements") that the Agency would have had, had this assignment not been made.

3. (a) As a material inducement to the Agency to consent to this assignment, Assignee covenants and agrees that

it will construct the Improvements in accordance with the Assignment Agreement of November 25, 1980, and the requirements of the Redevelopment Plan for Project No. 3.

(b) Subject to all the terms, covenants and conditions of the Assignment Agreement of November 25, 1980 which are not inconsistent with this Agreement, the Agency will convey the Property to the Assignee, upon the payment in full by the Assignee, which payment the Assignee hereby agrees to make, of a Purchase Price in the amount set forth in the Assignment Agreement.

4. Agency hereby acknowledges that Assignee is an acceptable Redeveloper and Agency expressly consents to this assignment.

5. Assignee has, prior to the execution of this Agreement, delivered to the Agency a good faith deposit in the amount set forth in said Assignment Agreement.

6. The designation of the Redeveloper contained in said Assignment Agreement of November 25, 1980 shall be amended to read as follows:

CAPITOL MALL ASSOCIATES
c/o Daon Corporation
444 Market Street, Suite 2500
San Francisco, California 94111
Attention: Jeffrey P. White.

7. For the purpose of providing Daon with the assurances it requires as a precondition to Daon's agreeing to continue its partnership with Commerce and to continue acting as the managing and developing partner of Assignee, and for other purposes

hereinafter set forth, the Agency hereby represents and warrants to Daon and Assignee and agrees as follows:

(a) The Assignment Agreement is in full force and effect on the date hereof and contains, incorporates or references all of the obligations of Assignor, and has not been amended or modified since November 25, 1980. To the best of the Agency's knowledge no event or condition of default or event or condition which would constitute a condition of default hereunder exists as of the date hereof. The Agency hereby waives any right which it may have or which may have accrued prior to the date hereof that it knew or should have known of to declare Assignor or Assignee (upon its assumption of the Assignment Agreement) in default pursuant to the terms of the Assignment Agreement. To the best of the Agency's knowledge, Assignor has fully performed its obligations under the Assignment Agreement through the date hereof, including the making of all payments required hereunder and all reports required hereunder. All approvals required to be given by the Agency under the terms of the Assignment Agreement respecting actions heretofore taken by Assignor have been duly given by the Agency and are currently in full force and effect.

(b) No approval or other action of the Department of Housing and Urban Development is necessary in connection with Assignor's transfer of the Assignment Agreement to the Assignee or in connection with the construction and development of the Improvements by the Assignee.

(c) Agency shall use its best efforts to cause the City of Sacramento to abandon that certain twenty foot (20') alley running east and west through the center of the block bounded by 3rd and 4th Streets, Capitol Mall and N Street and to deed the fee title interest therein to Assignee prior to or on the date on which the Agency conveys the Property to the Redeveloper.

(d) The terms of the Assignment Agreement will be amended if reasonably required by any construction or permanent lender with respect to the Improvements, provided that any such amendment is consistent with the Redevelopment Plan for the Property.

8. Assignee may desire to undertake construction of the Improvements in phases. If Assignee elects to construct the Improvements in phases, Assignee shall construct the foundation for the Improvements during the First Phase. During the Second Phase, Assignee shall construct the basic structural portion of the Improvements. During the Third Phase, Assignee shall complete the Improvements.

Agency hereby agrees that if Assignee elects to construct the Improvements in phases, Assignee must (i) obtain Agency's approval of the final plans and specifications for the construction of each phase prior to commencing construction of that phase; and (ii) obtain appropriate permits from the City of Sacramento Building Department prior to any construction so undertaken.

The parties hereto agree that Assignee's option to construct the Improvements in phases shall not limit or impair in any way Agency's full consideration or approval of the final plans and specifications for each phase and that Agency shall not incur any liability on the basis of its disapproval of the final plans and specifications for any subsequent phase after having previously approved the final plans and specifications for any earlier phase; provided, however, that the Agency hereby agrees that it will not unreasonably withhold or delay its approval of the final plans and specifications for a particular phase; and provided further that Agency shall have no right to disapprove any aspect of any preliminary or final plans that was previously set forth in substantially the same nature and degree in the final plans for any prior phases or in the preliminary or other plans previously approved by the Agency.

9. Any provisions of this Agreement which are inconsistent with the aforesaid Assignment Agreement shall constitute modifications thereof and amendments thereto.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment Agreement and Amendment as of the date first above written.

ASSIGNOR: COMMERCE REALTY, INC., a
California corporation

By _____
President

By _____
Secretary

-and-

CAPITOL BANK OF COMMERCE, a
California Banking Corporation

By _____
President

By _____
Secretary

ASSIGNEE: CAPITOL MALL ASSOCIATES, a joint
venture

COMMERCE REALTY, INC.,
Its General Partner

By _____
President

DAON CORPORATION,
Its General Partner

By _____

By _____

AGENCY: REDEVELOPMENT AGENCY OF THE CITY
OF SACRAMENTO

By _____
Chairman

By _____
Secretary

APPROVED AS TO FORM:

Chief Counsel

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

On this _____ day of March, 1981, before me, the undersigned, a Notary Public in and for said County and State, personally appeared E. L. Lammerding and Penny Tyler, known to me to be the President and Secretary, respectively, of COMMERCE REALTY, INC., the corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

On this _____ day of March, 1981, before me, the undersigned, a Notary Public in and for said County and State, personally appeared E. L. Lammerding and Penny Tyler, known to me to be the President and Secretary, respectively, of CAPITOL BANK OF COMMERCE, the corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

On this _____ day of March, 1981, before me, the undersigned, a Notary Public in and for said County and State, personally appeared _____ and _____, known to me to be the Chairman and Secretary, respectively, of the REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, a public body, corporate and politic, that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of said Agency, and acknowledged to me that said Agency executed the same pursuant to a resolution of the Members thereof.

WITNESS my hand and official seal.

Notary Public in and for said
County and State

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of March, 1981, before me, a Notary Public in and for said State, duly commissioned and sworn, personally appeared _____ and _____, known to me to be the _____ and the _____, respectively, of DAON CORPORATION, a Delaware corporation, the officers executing the within instrument, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors, said corporation being a General Partner of CAPITOL MALL ASSOCIATES, a California general partnership, and acknowledged to me that such general partnership executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal on the date in this Certificate first above written.

Notary Public in and for said
County and State

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of March, 1981, before me, a Notary Public in and for said State, duly commissioned and sworn, personally appeared _____ and _____, known to me to be the _____ and the _____, respectively, of COMMERCE REALTY, INC., a California corporation, the officers executing the within instrument, and acknowledged to me that such corporation executed the within instrument pursuant to its bylaws or a resolution of its board of directors, said corporation being a General Partner of CAPITOL MALL ASSOCIATES, a California general partnership, and acknowledged to me that such general partnership executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal on the date in this Certificate first above written.

Notary Public in and for said
County and State