

RESOLUTION NO. 2001-032

ADOPTED BY THE REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO

ON DATE OF

MAY 29 2001

APPROVAL OF CONCEPTUAL BUSINESS TERMS AS FRAMEWORK FOR NEGOTIATION OF POTENTIAL OWNER PARTICIPATION AGREEMENT AND RELATED DOCUMENTS WITH MICHAEL J. HELLER, GLENN W. SORENSEN, MARK FRIEDMAN, BOB WALSH, BOB FORSTER, RANDY BOEHM AND MATT LEEDING, FOR PROPOSED DEVELOPMENT OF THE ELLIOT BUILDING MIXED-USE PROJECT AT 1530 J STREET

WHEREAS, the Redevelopment Agency of the City of Sacramento ("Agency") has adopted the Merged Downtown Redevelopment Plan ("Redevelopment Plan") and a 5-year "Implementation Plan" for the Merged Downtown Project Area ("Project Area") and the City Council of the City of Sacramento has adopted the Economic Development Strategy Framework ("Economic Strategy") that identifies strategies for the 16th Street and Midtown business corridors;

WHEREAS, Michael J. Heller, Glenn W. Sorensen, Mark Friedman, Bob Walsh, Bob Forster, Randy Boehm and Matt Leeding (collectively the "Developer"), together, owns or has the right to acquire an ownership interest in certain real property ("Property"), in the Project Area generally described as 1530 J Street, 1020 16th Street, 1531 K Street and 1015 15th Street and Assessor Parcel Numbers 006-0121-001, -008, -009, and -010;

WHEREAS, the Agency and the Developer desire to pursue the negotiation of an Owner Participation Agreement ("OPA") and related documents for the development of a mixed-use project with retail, residential, office and parking uses within the framework of the Statement of Conceptual Business Terms and Purchase of Covenants ("Business Terms") attached as Exhibit 1;

WHEREAS, the City of Sacramento has established criteria and guidelines for the awarding of the sewer connection credits available to it under the Sacramento County Regional Sanitation District Economic Development Treatment Capacity Bank, and the proposed project meets the criteria by implementing the adopted economic development strategy in an identified commercial corridors, by fostering redevelopment, by providing in-fill housing, by creating additional employment and because it is a catalyst project; and

WHEREAS, the proposed project and the OPA that may be negotiated are still subject to all applicable laws and regulations including, without limitation, the California Environmental Quality Act (CEQA), the Agency Redevelopment Plan and Implementation Plan, zoning regulations, design review and historic preservation ordinances and building codes prior to any binding approvals being granted and any approval of the project can be made only after public hearing and due consideration in proper exercise of legislative authority.

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

Section 1. The foregoing findings are true and correct and based upon those findings and the evidence presented, the proposed project is consistent with strategies identified in the Redevelopment Plan, Implementation Plan and Economic Strategy in that the project.

Section 2. The Business Terms attached as Exhibit 1 are approved solely for use as a framework with which staff is authorized to negotiate a proposed OPA and other related documents as necessary, for presentation to the Agency for consideration of approval. The Agency's consideration of approval of the proposed OPA and the proposed project is and shall be subject to all applicable policies, laws and regulations, including, without limitation, CEQA, the California Redevelopment Law, City planning, zoning, historic preservation and building codes and shall comply with the Redevelopment Plan and the Implementation Plan,.

Heather Fargo CHAIR

ATTEST:

Valerie A. Burrows
SECRETARY

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EXHIBIT 1

Elliot Building Mixed Use Project
1530 J Street
Statement of
Conceptual Business Terms and Purchase of Covenants

May 29, 2001

A. Introduction

1. The Redevelopment Agency of the City of Sacramento (the "Agency"), to the extent of its authority and Michael J. Heller, Glenn W. Sorensen, Jr., Mark Friedman, Bob Walsh, Bob Forster, Randy Boehm and Matt Leeding (collectively, the "Developer") are considering forming a public/private partnership in the form of an Owner Participation Agreement and Regulatory Agreement to be recorded against real property (collectively, the "OPA"), to redevelop an underutilized historic building located at 1530 J Street (the "Elliot Building," or "Property"). Developer owns, or has the right to acquire an ownership interest in, the Elliot Building and additional ancillary properties located at 1020 16th Street, 1531 K Street, and 1015 15th Street to be used for parking.
2. The City of Sacramento (the "City") has the authority to consider and grant all land use entitlements necessary to approve a development project involving the Elliot Building.
3. **Policy Context:** The Agency has identified construction of Central City residential and mixed-use projects as priorities for Downtown redevelopment and revitalization. The development of new office space for employees and the development of complementary retail uses that contribute to the formation of a lively theater district in the area around the Convention Center and Memorial Auditorium have also been identified as redevelopment strategies. The Midtown (J and L Streets) and 16th Street corridors have been identified in the City's Economic Development Strategy Framework as targets for revitalization and the rehabilitation of existing buildings. The Elliot Building, built in 1922 as an auto dealership, is listed as a "priority and contributory structure" in the Memorial Auditorium Preservation Area.
4. **Project Description:** Developer would rehabilitate, seismically stabilize, and convert the Elliot Building into a mixed-use, urban project while essentially maintaining its historic façade. Although rehabilitation, seismic stabilization and conversion for the proposed uses will necessitate substantial modification to interior appearances of the building, Developer will use reasonable efforts to secure tenants who will require only limited additional modifications to the building's detailed showroom, if feasible. The project would include 19-20 upscale market rate, loft-style residential units on

the third and a new fourth floor. In addition, approximately 11,400 net square feet (nsf) of professional office and approximately 10,200 nsf of ground floor retail, with the intent of attracting at least one high profile destination restaurant, would be developed. Developer would provide parking on an existing 9,600 square foot surface lot on adjacent parcels to the south of the Elliot Building. Developer will provide additional parking for the project in a nearby parking garage and surface lot at 1015 15th Street, to be acquired and improved as part of the project. Other parking solutions may be considered and approved by Developer, Agency and City. Under the City's current regulations, parking is only required for the residential portion of the project. The attached building program, perspective drawings and floor plans, dated May 16, 2001 illustrate the project development concept.

5. The following paragraphs set forth conceptual business terms and conditions of an OPA for the proposed project. These terms and conditions as well as customary business and legal provisions will be incorporated into an OPA for the project described above to be brought back to the Agency for consideration and approval.

B. AGENCY COVENANTS AND CONSIDERATION

1. Upon completion of shell construction for the first and second floors and full construction for the residential third and fourth floors as demonstrated by the Agency's issuance of a Certificate of Completion the Agency will purchase with tax increment funds in the amount of \$2,050,000 an operating covenant, secured by a Regulatory Agreement recorded against the property. The covenant will include the following terms:
 - a. Developer will obtain ground-floor retail tenants that meet the reasonable approval of the Economic Development Director. The Agency is providing the assistance in part in order to obtain an upscale, destination restaurant; however, the Agency would consider other non-restaurant uses that have similar economic benefits.
 - b. Replacement of the ground floor retail tenants shall be subject to the Economic Development Director's reasonable approval for ten years, with the same requirements as the original approval.
 - c. Developer must maintain, for 15 years, the proposed uses, as follows: ground-floor retail, second floor uses consistent with zoning and the Merged Downtown Sacramento Redevelopment Plan, and third- and fourth-floor residential.
 - d. Adequate parking pursuant to the Project Description above must serve the residential occupants of the Elliot Building for at least 15 years, at the ratio of one space per residential unit. All other necessary parking shall be provided within a reasonable distance from the Project.

2. Under separate agreement, the Developer would be entitled to purchase Regional Sanitation sewer credits from the Economic Development Capacity Bank from the City at the reduced rate of \$923 per ESD (Equivalent Single Family Dwelling). The project is estimated to create 76 ESD of sewer demand and the discounted fees represent a savings of \$195,852 at that level of demand

C. PROPERTY ACQUISITION

1. The OPA shall be subject to the Developer's closing of the escrow for acquisition of fee title ownership of the Elliot Building, the property at the northwest corner of 16th and K Streets and at 1015 15th Street.

D. GENERAL PROVISIONS

1. The proposed project to be described in the OPA shall be substantially similar to the project design and concept presented at the time of presentation of this statement, subject to modifications required by CEQA, City's Planning Department, other governmental authorities having jurisdiction, and as approved by the Economic Development Director.
2. The Developer, at the time of Agency's consideration and approval of the OPA, shall consist of the development team as presented at the time of this agreement, except that changes affecting, in the aggregate, no more than fifteen percent (15%) of the ownership or control of Developer shall be permitted without Agency's approval. Any changes affecting ownership or control of the Developer, in the aggregate, by greater than 15 percent are subject to the Economic Development Director's reasonable approval through the completion of construction.
3. The Agency's approval of the OPA shall be subject to the completion of the required environmental review process.
4. The Agency shall assist the Developer in expediting where possible the necessary public approvals and entitlements to allow the mixed use project, as proposed, to be developed. This shall include but not be limited to zoning, building code, historic preservation/design review approvals and variances, as needed. Developer is obligated to comply with all applicable processes and regulations, including those of the City and Agency. Nothing requires the City or Agency to change or waive any of its existing policy, processes or regulations.

E. STATEMENT OF CONCEPTUAL BUSINESS TERMS AND AGREEMENT TO PURCHASE COVENANTS NOT BINDING

1. The conceptual business terms and financing identified herein do not create a binding legal obligation on the part of the Developer or the City or Agency and does not constitute an offer, a contract, an agreement or an agreement to agree. This document has been prepared and executed to serve as an aid in the preparation and negotiation of future legal documents and to provide the developer with a general indication of whether the Agency would conceptually consider project assistance at the level identified, for a project of this description, at this location, and with this development team.
2. The specific terms and amounts of the Agency's financial participation itemized in this document are subject to further analysis of the development program and subsequent operating pro forma.
3. This document sets forth all fundamental business terms of the proposed transaction. Additional essential terms, such as those relating to the mechanics of project implementation, any financing terms and customary provisions for the protection of the parties' interests, are subject to further discussion and negotiations; however, the negotiation of such additional terms shall be governed by concepts of reasonableness and the parties' mutual desire to effectuate the terms contained in this document. Both parties acknowledge and agree that this document is insufficient to give rise to any claim of right to either party, except as to the right to reasonable negotiations on the terms stated in this document. No obligation by either party will exist unless and until the parties have complied with all applicable laws and regulations, including without limitation full and independent environmental review under the California Environmental Quality Act, public meeting of the Redevelopment Agency of the City of Sacramento and the City of Sacramento regarding the Project, and Agency's full consideration regarding approval or disapproval of the environmental documentation, the Owner Participation Agreement and any other document developed under the guidance of this document, in exercise of its legislative authority, all of which are conditions to the approval of such agreement, have duly authorized and have executed a formal written contract approved by their respective legal counsel, covering the terms described in this document and all other essential terms of this transaction.
4. If the guidance of this document and subsequent negotiations fail, for any reason, to result in the approval and execution of an Owner Participation Agreement for the Property, neither this document nor any actions of the parties taken pursuant thereto shall limit in any way Developer's ability to develop and utilize the Property for any lawful uses. If the guidance of this document and subsequent negotiations fail, for any reason, to result in the approval and execution of an Owner Participation Agreement or any other agreement regarding the Property,

then the Agency shall obtain no interest in the Property or the Project and neither party shall have any cause of action against the other for any reason arising from or related to this document.

5. Neither the Developer nor the Agency may claim any legal right against the other by reasons of any actions taken in reliance on this document, including without limitation any partial performance or expenditure of time and money in anticipation of entering into binding legal agreements.
6. The direction provided by this document, and any subsequent agreements that may be executed pursuant to its terms shall be contingent upon the approval of project entitlements and other required approvals by the City. Nothing herein is intended to limit the discretion of the City in the review of the application for the project, which will be subject to all necessary public hearings and findings as required by City ordinance or State law.

5/29/01

ESTIMATED SCHEDULE
ELLIOT BUILDING MIXED USE PROJECT
16th and J Streets

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| Approval of Business Terms | May 29, 2001 |
| Prepare OPA/CEQA Review/Entitlements Process | June-September, 2001 |
| Pre-construction/Building Permit Process | Oct., 2001-Jan., 2002 |
| Construction | Nov.,2001-Nov.,2002 |
| Agency Certificate of Completion | November, 2002 |
| Agency Purchases Operating Covenant | |

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