



PLANNING AND BUILDING  
DEPARTMENT

**CITY OF SACRAMENTO**  
CALIFORNIA

1231 I STREET  
ROOM 300  
SACRAMENTO, CA  
95814-2998

PLANNING  
916-264-5381  
FAX 916-264-5328

January 9, 2001

City Council  
Sacramento, California

Honorable Members in Session:

**SUBJECT: P00-029 - Music Circus Renovation**

Appeal of the Sacramento City Planning Commission approving the various entitlements for the replacement of the California Musical Theater (CMT) tent and renovation of the Sacramento Theater Company (STC) theater and offices:

1. Environmental Determination: Certify Final Environmental Impact Report (FEIR);
2. Mitigation Monitoring Plan;
3. Variance to reduce the 5' street side setback to 2' on 1.1± acres in the General Commercial (C-2) zone; and
4. Lot Line Adjustment to modify the property lines of APN: 002-0166-014 and -012, parcels totaling 1.7± acres in the General Commercial zone.

**LOCATION AND COUNCIL DISTRICT:**

1419 H Street, 1422 G Street  
APN: 002-0166-014, 002-0166-012  
Council District 1.

**RECOMMENDATION:**

The Planning Commission and Planning Staff recommend the City Council take the following actions;

1. Deny the appeal and uphold the Planning Commission approval of the various entitlements for the replacement of the California Musical Theater (CMT) tent and renovation of the Sacramento Theater Company (STC) theater and offices:
  - A. Environmental Determination: Certify Final Environmental Impact Report (FEIR);
  - B. Mitigation Monitoring Plan;
  - C. Variance to reduce the 5' street side setback to 2' on 1.1± acres in the General Commercial (C-2) zone; and
  - D. Lot Line Adjustment to modify the property lines of APN: 002-0166-014 and -012,

parcels totaling 1.7± acres in the General Commercial zone.

**CONTACT PERSON:**

Ted Kozak, Assistant Planner (264-1944)  
Fred Buder, Senior Planner (264-7602)

**FOR COUNCIL MEETING OF:**

January 9, 2001 (evening)

**SUMMARY:**

The proposal is consistent with the General Plan's goal to actively support the development of cultural and entertainment facilities and events in the downtown area (GP, Section 4-12).

**COMMITTEE/COMMISSION ACTION:** On December 7, 2000, by a unanimous vote of 6-0, with 2 abstentions, the Planning Commission certified the Final Environmental Impact Report (FEIR), approved the Mitigation Monitoring Plan, approved the Variance to reduce the 5' street side setback to 2', and approved the Lot Line Adjustment to modify the property lines of APN: 002-0166-014 and -012.

**BACKGROUND INFORMATION:**

The following is a chronological summary of the key events associated with the Music Circus:

- In summer, 1951 Music Circus opens its first summer season at the corner of 15th and H Streets.
- In summer, 1969 Music Circus relocated to the corner of 15th and G Streets and expanded by approximately 750 seats to a total of 2,500 seats.
- In 1986 the City and County of Sacramento purchased H Street property in an attempt to assist the Sacramento Theater Company with major renovations and on-going operations.
- In 1997 the City and County established the H Street Arts Partnership Fund to encourage both STC and CMT to move forward with renovation of the site.
- In October 1999 the Music Circus/STC renovation project is presented to the Board of Supervisors and City Council and receives conceptual approval to move forward.
- October 31, 2000 the Board of Supervisors and the City Council received an update on the H Street Theater Project Renovation, approved the Business Terms Agreement executed by authorized representatives of CMT and STC, and incorporated the changes to the original financing plan as well as gave direction to staff to proceed with the financing related to the project.
- On December 7, 2000, the City Planning Commission certified the environmental document and approved the various entitlements for the renovation of the CMT and STC structures.

- On January 3, 2001, the City Design Review and Preservation Board certified the environmental documents and approved the design for the renovation of the CMT and STC structures.

**FINANCIAL CONSIDERATIONS:** None

**ENVIRONMENTAL CONSIDERATIONS:**

An EIR and Mitigation Monitoring Plan (MMP) have been prepared for this project. The Draft EIR was circulated for a 45-day public review period between September 20, 2000 through November 3, 2000.

The City received seven written comment letters on the Draft EIR, five from public agencies, one from a resident, and one from the project applicant's attorney. The comment letters and the City's responses to the comments on the Draft EIR are presented in the Final EIR.

The EIR identified potential impacts on noise, transportation and circulation, air quality, public utilities, fire prevention and emergency response, visual resources, biological resources, and cultural resources. Mitigation measures will reduce the majority of impacts to less than significant levels (noise, air quality, public utilities, biological resources and cultural resources). One potentially significant unavoidable impact on the viewshed from Washington District Preservation Area cannot be reduced.

Of particular concern to some residents is the potential noise impact of the project. The project will enclose the existing use within a permanent, enclosed structure, reducing the noise effect when compared to the existing temporary tent structure. However, analysis indicated that the project has the potential to exceed the City's more stringent night time Noise Ordinance requirements (after 10pm). Mitigation measures are incorporated into the project to add additional acoustic lining(s), thus ensuring a less than significant noise impact.

Environmental Services staff comments on the appeal include:

- The Final EIR properly applies the exterior sound level limits of the City's Noise Control Ordinance to the project. The mitigation measures are designed to ensure compliance of all requirements of the Noise Ordinance.
- The EIR fully analyzes a reasonable range of alternatives including an onsite design alternative, an offsite location alternative (southern half of 14th/15th/I/J Streets), and a no-project alternative. Several other sites were considered but rejected in the EIR for a variety of reasons, including (1) insufficient property size to accommodate the project, (2) potential impacts from other existing uses, (3) some sites are proposed for other projects, and (4) the presence of historic structures onsite. (Please see Chapter 4 of the draft EIR for full analysis).
- The EIR was discussed at length during the public hearing held before the City Planning Commission on December 7, 2000.

Environmental Staff recommends that Council certify the EIR and adopt the MMP.

**POLICY CONSIDERATIONS:**

The proposed renovation is consistent with the General Plan's goal to actively support cultural amenities such as symphonies, theaters, libraries, museums, and the arts to help enhance the urban environment. The proposed General Plan designation of Community Neighborhood Commercial & Offices is consistent with the proposed renovation of the theater use.

The renovation project also supports the adopted Downtown Cultural and Entertainment District Master Plan and enhances the City's Arts and Entertainment District. The proposed project would improve the existing theater facilities for theater patrons (e.g., air conditioning and modern bathrooms) thus encouraging theater patrons to seek entertainment in the City.

**ESBD CONSIDERATIONS:** Not applicable.

Respectfully submitted,



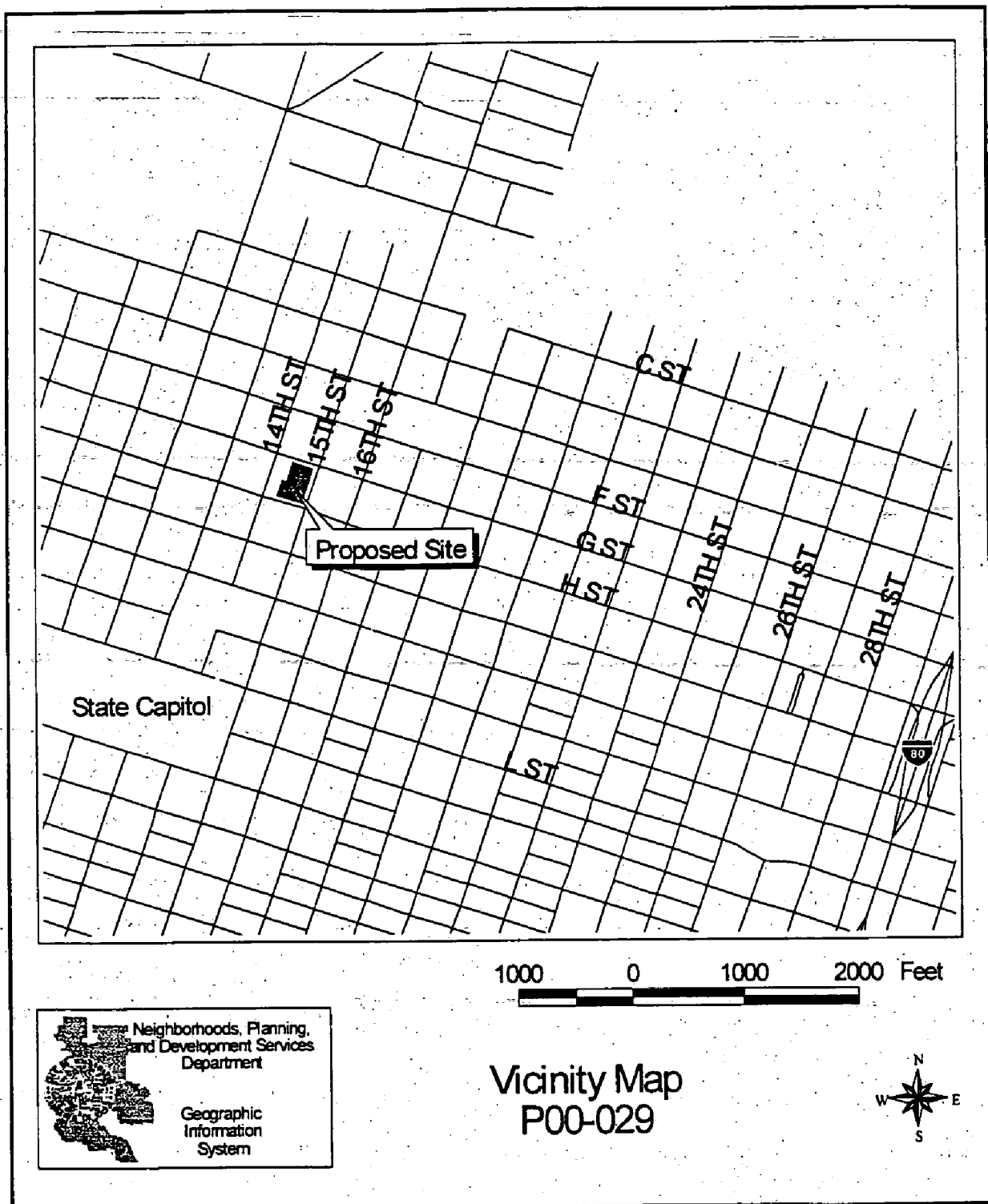
GARY L. STONEHOUSE  
Planning Director

**FOR CITY COUNCIL INFORMATION:**

**ROBERT P. THOMAS**  
City Manager

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Attachment 1  
Vicinity Map



## Land Use and Zoning Map



## RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**RESOLUTION CERTIFYING THE ENVIRONMENTAL IMPACT  
REPORT AND ADOPTING FINDINGS OF FACT IN SUPPORT OF  
ITS APPROVAL OF THE MUSIC CIRCUS RENOVATION,  
LOCATED AT 1419 H & 1422 G STREETS; SACRAMENTO, CA  
(APN:002-0166-014, -012) (P00-029)**

THE CITY COUNCIL OF THE CITY OF SACRAMENTO DOES HEREBY FIND, DETERMINE,  
AND RESOLVE AS FOLLOWS:

1. The City Council finds and certifies that the Final Environmental Impact Report for the proposed Music Circus Renovation, which consists of the Draft Environmental Impact Report and Final Environmental Impact Report, has been completed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the Sacramento Local Environmental Procedures.
2. The City Council finds and certifies that the Final Environmental Impact Report was prepared, published, circulated, and reviewed for the above-identified project pursuant to the requirements of CEQA, State CEQA Guidelines, and the Sacramento Local Environmental Procedures, and constitutes an adequate, accurate, objective and complete EIR in accordance with the requirements of CEQA, State CEQA Guidelines, and the Sacramento Local Environmental Procedures;
3. The proposed Environmental Impact Report and comments received during the public review process were considered prior to action being taken on the project and the City Council certifies that the EIR reflects the independent judgement and analysis of the City of Sacramento;
4. Based upon the Initial Study, the Environmental Impact Report, and the comments received during the public review process, substantial evidence demonstrates that the project will not have a significant effect on the environment; and
5. The City Council adopts Findings of Fact, as attached hereto.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
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Date Adopted: \_\_\_\_\_



**CEQA STATEMENT OF FINDINGS OF FACT  
AND STATEMENT OF OVERRIDING CONSIDERATIONS**

**FOR**

**MUSIC CIRCUS RENOVATION EIR  
(State Clearinghouse #2000042081)**

**Prepared By:**

**City of Sacramento Planning and Building Department  
Office of Environmental Affairs  
December 2000**

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**Resolution No.:** \_\_\_\_\_

**Date Adopted:** \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SACRAMENTO  
CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE  
PROPOSED MUSIC CIRCUS RENOVATION**

The City Council of the City of Sacramento does hereby find, determine, and resolve as follows:

**I. CEQA FINDINGS**

1. The City Council finds that the Environmental Impact Report for the Music Circus Renovation Project (herein EIR) which consists of the Draft EIR, and Final EIR (Response to Comments) and Appendices, has been completed in accordance with the requirements of the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the Sacramento Local Environmental Procedures.
2. The City Council certifies that the EIR was prepared, published, circulated, reviewed, and completed in accordance with the requirements of CEQA, the State CEQA Guidelines, and the Sacramento Local Environmental Procedures, and constitutes an adequate, accurate, objective, and complete Final Environmental Impact Report in accordance with the requirements of CEQA, the State CEQA Guidelines and the Sacramento Local Environmental Procedures.
3. The City Council certifies that the EIR has been presented to it and that the City Council has reviewed it and considered the information contained therein prior to acting on the proposed project and that the EIR reflects the independent judgement and analysis of the City.
4. Pursuant to CEQA Guidelines Sections 15091 and 15903, and in support of its approval of the Music Circus Renovation Project, the City Council hereby adopts the attached Findings of Fact and Statement of Overriding Considerations. The Statement of Overriding Considerations provides the specific reasons for approving the project even though the EIR identifies certain environmental effects as significant and unavoidable.
5. Pursuant to CEQA Guidelines Section 15901, the City Council hereby adopts the Mitigation Monitoring Plan for the Music Circus Renovation Project (November 2000), governing implementation of the feasible mitigation measures identified in the EIR.

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## II. PROCEDURAL FINDINGS

1. The City of Sacramento caused an Environmental Impact Report ("EIR") on the Project to be prepared pursuant to the California Environmental Quality Act, Public Resources Code, Section 21000 et seq. (CEQA), the CEQA Guidelines, Code of California Regulations, Title XIV, Section 15000 et seq., and the City of Sacramento environmental guidelines.
2. A Notice of Preparation of the Draft EIR was filed with the Office of Planning and Research on April 20, 2000 and was circulated for public comments from April 20, 2000 to May 22, 2000.
3. A Notice of Completion (NOC) and copies of the Draft EIR were distributed to the State Clearinghouse on September 20, 2000 to those public agencies that have jurisdiction by law with respect to the Project and to other interested parties and agencies. The comments of such persons and agencies were sought.
4. An official forty-five (45) day public review period for the Draft EIR was established by the State Clearinghouse. The public review period began on September 20, 2000 and ended on November 3, 2000.
5. A Notice of Availability (NOA) was distributed to all interested groups, organizations, and individuals on September 20, 2000 for the Draft EIR. The NOA stated that the City of Sacramento had completed the Draft EIR and that copies were available at the City of Sacramento, Department of Planning and Building, 1231 I Street, Room 300, Sacramento, California 95814. The letter also indicated that the official forty-five day public review period for the Draft EIR would end on November 3, 2000.
6. A public notice was placed in the Daily Recorder on September 20, 2000 which stated that the Music Circus Renovation Project Draft EIR was available for public review and comment.
7. Following closure of the public comment period, the Final EIR was prepared to incorporate comments received and the City's responses to said comments.
8. Following notice duly and regularly given as required by law, and all interested parties expressing a desire to comment thereon or object thereto having been

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heard, the EIR and comments and responses thereto having been considered, the City Council makes the following determinations:

- A. The EIR consists of the Draft EIR, and Final EIR (Responses to Comments) and appendices.
  - B. The EIR was prepared and completed in compliance with CEQA.
  - C. The EIR has been presented to the City Council, which reviewed and considered the information therein prior to acting on the Music Circus Renovation Project proposal, and they find that the EIR reflects the independent judgement and analysis of the City of Sacramento.
9. The following information is incorporated by reference and made part of the record supporting these findings:
- A. The Draft and Final EIR and all documents relied upon or incorporated by reference including:
    - City of Sacramento General Plan, City of Sacramento, January, 1988
    - Draft Environmental Impact Report City of Sacramento General Plan Update, City of Sacramento, March, 1987
    - Findings of Fact and Statement of Overriding Considerations for the Adoption of the Sacramento General Plan Update, City of Sacramento, 1988
    - Zoning Ordinance, City of Sacramento, Amended May 1999
    - Central City Neighborhood Design Guidelines, City of Sacramento, December 1998
  - B. The Mitigation Monitoring Plan dated November 2000.
  - C. Testimony, documentary evidence, and all correspondence submitted or delivered to the City in connection to the project and the associated EIR.
  - D. All staff reports, memoranda, maps, letters, minutes of meetings and

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other documents relied upon or prepared by City staff relating to the project, including but not limited to, City of Sacramento General Plan and the Draft and Final Environmental Impact Report for the City of Sacramento General Plan Update.

- E. This resolution and the Findings of Fact and Statement of Overriding Considerations.

10. Copies of these materials are in the custody of the City Planning Division, located at 1231 I Street, Room 300, Sacramento, CA 95814.

### III. FINDINGS OF FACT REGARDING THE ENVIRONMENTAL IMPACT REPORT FOR THE MUSIC CIRCUS RENOVATION PROJECT

The Environmental Impact Report (EIR) for the Music Circus Renovation Project, prepared in compliance with the California Environmental Quality Act, evaluates the potentially significant and significant adverse environmental impacts that could result from adoption of the project or alternatives to the project.

Because the EIR indicates that implementation of the project (or project alternatives) would result in certain unavoidable adverse impacts, the City is required under CEQA, and the State and City guidelines adopted pursuant thereto, to make certain findings with respect to these impacts. The required findings appear in the following sections of this document. This document lists all identified potentially significant and significant impacts of the project, as identified in the EIR. The potentially significant or significant impacts that cannot be mitigated to a less-than-significant level are considered acceptable by the City Council based on a determination that the benefits of the project (listed in the Statement of Overriding Considerations, Section IV) outweigh the risks of the potentially significant environmental effects of the project.

#### 1. SIGNIFICANT IMPACTS WHICH CAN BE AVOIDED

Finding - As authorized by Public Resources Code Section 21081 and Title 14, California Administrative Code Sections 15091, 15092, and 15093, the City finds that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant or potentially significant environmental impacts listed below, as identified in the EIR for the project. The City further finds that these changes or alterations in the project are within the jurisdiction of the City to require, and that these measures are appropriate and

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feasible.

These findings are supported by substantial evidence in the record of proceedings before the City as stated below.

In this section of the Findings of Fact for the proposed Music Circus Renovation Project, the City identifies the significant impacts that can be reduced through mitigation measures to a less than significant level. These mitigation measures are hereby incorporated into the description of the project and their implementation will be tracked through the Music Circus Renovation Project Mitigation Monitoring Plan.

**A. Impact 4.2.4.4 Relocation, Demolition, and Construction Noise**

Significant Impact

Demolition of existing structures and construction of the proposed project would generate noise levels corresponding to the types and number of equipment used. This would be a **significant impact**.

Finding

*As authorized by Public Resources Code Section 21081 and Title 14, California Administrative Code §15091(a)(1), the City finds that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environment impacts listed above as identified in the EIR. The City further finds that this change or alteration in the project is within the jurisdiction of the City to require, and that this measure is appropriate and feasible.*

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the following mitigation measure from the Music Circus Renovation Project EIR:

- 4.2.4.4(a) Comply with all elements of the City of Sacramento Noise Ordinance relating to construction noise;
- 4.2.4.4(b) Use equipment that has sound-control devices (exhaust

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and intake silencers) no less effective than those provided on the original equipment and muffled exhaust;

4.2.4.4(c) Implement appropriate additional noise mitigation, including changing the location of stationary equipment, shutting off idling equipment not in use, rescheduling construction activity during less annoying periods, notifying adjacent residents and sensitive receivers in advance of unusually loud construction activity; and/or installing acoustic barriers around stationary construction noise sources;

4.2.4.4(d) CMT shall identify an onsite monitor to respond to noise questions or complaints.

**B. Impact 4.2.4.5 Demolition and Construction Vibration**

Potentially Significant Impact

Demolition of existing structures and the construction of the proposed project would generate ground-borne vibration levels corresponding to the types and number of equipment used. Blasting will not be required or allowed. Construction activities that may cause high levels of vibration, such as soil compacting, could cause structural damage to nearby older and buildings. This would be a potentially **significant impact**.

Finding

*As authorized by Public Resources Code Section 21081 and Title 14, California Administrative Code §15091(a)(1), the City finds that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environment impacts listed above as identified in the EIR. The City further finds that this change or alteration in the project is within the jurisdiction of the City to require, and that this measure is appropriate and feasible.*

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the following mitigation measure from the Music Circus Renovation Project EIR:

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- 4.2.4.5(a) Fixtures and finishes on all adjacent buildings susceptible to damage will be documented (photographically and in writing) prior to construction. The pre-existing condition of adjacent buildings will be recorded in order to evaluate damage from construction activities. All damage will be repaired to its pre-existing condition.
- 4.2.4.5(b) Adjacent buildings shall be examined regularly (during construction) to check for the occurrence of new cracks or signs of distress caused by project construction.
- 4.2.4.5(c) To reduce potential damage to adjacent structures, construction staging areas shall be located away from adjacent buildings.
- 4.2.4.5(d) All construction shall temporarily cease and the problem activity shall be identified if significant damage to any adjacent structures occur. After identification of the problem activity and assessment as to the severity of the problem, the problem activity shall be modified to protect the adjacent structures.

**C. 4.2.4.6 Operational Noise Compared to the General Plan and Noise Control Ordinance**

**Significant Impact**

The proposed operation would result in noise levels that exceed the nighttime  $L_{8.3}$  criterion and the  $L_{max}$  criterion of the City's Noise Ordinance. This would be a **significant impact**.

**Finding**

*As authorized by Public Resources Code Section 21081 and Title 14, California Administrative Code §15091(a)(1), the City finds that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environment impacts listed above as identified in the EIR. The City further finds that this change or alteration in the project is within the jurisdiction of the City to require, and that this measure is appropriate and feasible.*

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Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the following mitigation measure from the Music Circus Renovation Project EIR:

4.2.4.6(a) In order to ensure compliance with all applicable noise limits, CMT shall install an additional layer of Fabrasorb II or other acoustic lining in the structure. Prior to obtaining the Certificate of Occupancy from the Building Division, CMT shall submit a noise report, prepared by a qualified noise professional, to the Planning Division that shows the results of the exterior sound levels with the additional acoustic lining. Should exterior sound levels continue to exceed noise limits due to CMT operation, then CMT shall be required to implement additional noise reduction measures. These noise reduction measures may include, but would not be limited to, installing additional acoustic lining, modifying speaker placement or output, or adjusting show times.

4.2.4.6(b) To ensure the Music Circus operation complies with all applicable noise limits, a noise level compliance monitoring plan shall be implemented by CMT during the first year of project operation. During the first year that the new facility is in full operation, noise monitoring shall occur once per week for each of the musical shows. The measurements shall begin 30 minutes prior to the performance and continue until 30 minutes after the end of the performance. If the noise level measurements indicate that the Noise Control Ordinance limits were exceeded due to the CMT operation, CMT shall be required to implement noise reduction measures to ensure the limits will not be exceeded in future performances. These noise reduction measures may include, but would not be limited to, installing additional acoustic lining, modifying speaker placement or output, or adjusting show times. The effectiveness of these measures in reducing noise levels to meet the noise limits shall be verified during the second season that the new facility is in full operation. Based on the second noise level compliance monitoring, additional noise reduction measures shall be implemented by CMT, if necessary, until noise limits are attained.

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**D. Impact 4.4.3.3 Impacts on Air Quality from Project Construction**Potentially Significant Impact

Emissions from project construction would cause temporary localized increased emissions of CO, ROG, NO<sub>x</sub>, and fugitive dust (PM<sub>10</sub>). This would be a **potentially significant impact**.

Finding

*As authorized by Public Resources Code Section 21081 and Title 14, California Administrative Code §15091(a)(1), the City finds that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environment impacts listed above as identified in the EIR. The City further finds that this change or alteration in the project is within the jurisdiction of the City to require, and that this measure is appropriate and feasible.*

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the following mitigation measure from the Music Circus Renovation Project EIR:

- 4.4.3.3(a) To reduce construction-related emissions of CO, ROG, and NO<sub>x</sub>, the following measures shall be implemented:
- Phase construction activities to reduce simultaneous operation of construction equipment and thereby minimize emissions.
  - Routinely tune and maintain construction vehicle and equipment.
  - Use low sulfur fuel.
  - Use existing power sources (e.g., electric-powered equipment) or clean fuel generators instead of temporary onsite power generators.

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- Use low-emission mobile construction equipment as available, feasible, and appropriate.

4.4.3.3(b) To reduce emission of construction-related fugitive dust ( $PM_{10}$ ), the following measures shall be implemented:

- Suspend excavation activities during windy periods (i.e., winds in excess of 25 miles per hour).
- Periodically apply water to disturbed areas and active construction sites or provide temporary cover to exposed soils that are not in the immediate construction area.
- Wash dirt off construction vehicles and equipment within the staging areas prior to leaving the construction site.
- Implement construction management techniques such as those described for mitigation of construction-related emissions of CO, ROG, and NOx.

4.4.3.3(c) In addition, the Sacramento City Code (SCC) Section 15.40.050 states that any person who has been issued a building permit shall take responsible precautions to prevent and control movements of dust created by construction activities. Therefore, CMT shall adhere to the SCC standards regarding proper maintenance of a job site. Also, the Building Division Manager may order the work to be stopped if a project is violating this article (Section 15.40.060 of the SCC).

4.4.3.3(d) Demolition would take place over a very short period of time (estimated at 10 days), limiting the length of exposure to  $PM_{10}$ . To reduce demolition emissions, demolition activities are required to conform to the rules and guidelines outlined in the SMAQMD Rule 403. Rule 403 requires taking reasonable precautions to prevent the emissions of fugitive dust, such as using "water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the construction of roadways, of the clearing of land" where possible and applying "asphalt, oil, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces that can give rise to airborne dust."

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- 4.4.3.3(e) Demolition of buildings are also required to conform to the rules and guidelines outlined in SMAQMD Rule 902, which is primarily concerned with asbestos removal activities.

**E. Impact 4.8.3.3 Potential Impact on Special-Status Species or Sensitive Habitats**

Significant Impact

Bird species protected pursuant to the Migratory Bird Treaty Act, if killed or its nest is destroyed during project construction, would result in a **significant impact**.

Finding

*As authorized by Public Resources Code Section 21081 and Title 14, California Administrative Code §15091(a)(1), the City finds that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environment impacts listed above as identified in the EIR. The City further finds that this change or alteration in the project is within the jurisdiction of the City to require, and that this measure is appropriate and feasible.*

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the following mitigation measure from the Music Circus Renovation Project EIR:

- 4.8.3.3 The CMT shall implement one of the following measures to avoid causing the incidental take of migratory birds:
- Place netting or other devices over trees to prevent birds from nesting during the construction period.
  - Develop alternative methods to avoid harming nesting birds in consultation with the California Department of Fish and Game and City of Sacramento.

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**F. 4.8.3.4 Potential Impact on Project City Street (Site Perimeter) Trees**Significant Impact

Potential impacts to City street tree roots or canopies could occur during demolition or construction activities. This would be considered a **significant impact**.

Finding

*As authorized by Public Resources Code Section 21081 and Title 14, California Administrative Code §15091(a)(1), the City finds that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environment impacts listed above as identified in the EIR. The City further finds that this change or alteration in the project is within the jurisdiction of the City to require, and that this measure is appropriate and feasible.*

Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the following mitigation measure from the Music Circus Renovation Project EIR:

- 4.8.3.4 The City Arborist has prescribed the following mitigation (Pskowski, 2000c):
- a. CMT shall hire an International Society of Arboriculture (ISA) certified arborist to do any required pruning for equipment clearance or root inspections.
  - b. If, during excavation for the project, tree roots greater than two inches in diameter are encountered, work shall stop immediately until the project arborist can perform an onsite inspection. All roots shall be cut clean and the tree affected may require supplemental irrigation/fertilization and pruning as a result of the root cutting. CMT shall be responsible for any costs incurred. Depending on the amount of

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roots encountered and the time of year, wet burlap may be required along the sides of the trench.

- c. Pruning will be allowed by permit, when approved by the City Arborist, for equipment clearance.
- d. CMT shall be held liable for any damage to existing trees, i.e., trunk wounds, broken limbs, pouring of any deleterious materials, or concrete washout under the dripline of the trees. Damages will be assessed using the "Guide to Plant Appraisal", eighth edition, published by the International Society of Arboriculture. The project arborist will submit a report for review by the City Arborist.
- e. Prior to the issuance of building permits, if the sidewalk is closed, then a six-foot chain link fence shall be erected. Exact placement of fencing will be determined by the City Arborist. No trenching, grade changes, storage of materials, or parking of vehicles will be allowed inside this fenced area.
- f. CMT shall hire an ISA-certified arborist to make bi-monthly inspections, if the sidewalk is closed, to ensure the protective fencing stays in place and to monitor the health of the trees. The project arborist will take any required action to ensure the health of the trees, i.e., supplemental irrigation, fertilization, soil compaction remediation. CMT shall be responsible for any costs incurred.
- g. The trees to be preserved and the protection methods noted above shall be identified on all construction plans for the project.

#### **G. Impact 4.9.3.3 Potential Impact on Cultural Resources**

##### Potentially Significant Impact

Impacts from the proposed project would be less than significant

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because it would not impact important historic resources. If archaeological resources are encountered during project excavation, this would be a ***potentially significant impact***.

#### Finding

*As authorized by Public Resources Code Section 21081 and Title 14, California Administrative Code §15091(a)(1), the City finds that changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the significant environment impacts listed above as identified in the EIR. The City further finds that this change or alteration in the project is within the jurisdiction of the City to require, and that this measure is appropriate and feasible.*

#### Facts in Support of Finding

The significant impact listed above would be reduced to a less-than-significant level with the following mitigation measure from the Music Circus Renovation Project EIR:

- 4.9.3.3(a) In the event that any historic surface or subsurface archaeological features or deposits, including locally darkened soil "midden", that could conceal cultural deposits, animal bone, shell, obsidian, mortars, or human remains, are discovered during construction, work within 100 feet of the find shall cease and a qualified archaeologist shall be contacted to determine if the resource is significant. If the find is identified as being significant, resources found on the site shall be donated to an appropriate museum or cultural center.
- 4.9.3.3(b) When Native American archaeological, ethnographic, or spiritual resources are involved, all identification and treatment shall be conducted by qualified archaeologists who are either certified by the Society of Professional Archaeologists (SOPA) or who meet the federal standards as stated in the Code of Federal Regulations (CFR) (36 CFR 61), and Native American representatives who are approved by the local Native American community as scholars of their cultural traditions. In the event that no such

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Native American is available, persons who represent tribal governments and/or organizations in the locale in which resources could be affected shall be consulted.

4.9.3.3(c) Pursuant to Section 5097.98 of the State Public Resources Code, if human bone or bone of unknown origin is found during construction, all work shall stop in the vicinity of the find and the Sacramento County Coroner shall be contacted immediately. If the remains are determined to be Native American, the coroner shall notify the native American Heritage Commission who shall notify the person it believes to be the most likely descendant. The most likely descendant shall work with the contractor to develop a program for reinternment of the human remains and any associated artifacts. No additional work is to take place within the immediate vicinity of the find until the identified appropriate actions have been implemented.

4.9.3.3(d) Immediately following demolition activities, CMT shall implement security measures (i.e., fencing, guards) to protect construction sites against potential looting and pot-hunting.

## 2. SIGNIFICANT IMPACTS WHICH CANNOT BE AVOIDED

Finding - The City finds that, where feasible, the changes or alterations have been required in, or incorporated into, the Project which reduce the significant environmental impacts listed below as identified in the EIR. However, specific economic, legal, social, technological, or other considerations, make infeasible mitigation measures or project alternatives to reduce the following impacts to a less-than-significant level. This finding is supported by evidence in the record of proceedings before the City, including the Draft and Final EIR prepared for this project. All available, reasonably feasible mitigation measures identified in the EIR are employed to reduce the magnitude of the impacts, even if the reduction is not to a less-than-significant level.

In this section of the Findings of Fact for the proposed Music Circus Renovation Project, the City identifies the significant impacts that cannot be reduced through mitigation measures to a less than significant level.

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## A. Impact 4.6.3.4 Potential Impact on Historic Districts

Potentially Significant and Unavoidable Impact

The proposed structure will be located on a site that is directly adjacent to the Washington District Preservation Area. The viewshed from the Washington District Preservation Area is expected to be at least partially affected by the proposed project. This is considered a ***potentially significant and unavoidable impact***.

Finding

No mitigation is available to reduce this impact to a less than significant level.

Facts in Support of Finding

It has been determined that there are no feasible mitigation measures to reduce the potentially significant impact to the Washington District Preservation Area viewshed. As the project site is located directly adjacent to the Preservation Area, any structure at that site would result in a potentially significant impact on the Preservation Area. The project has been designed to be consistent with the City's Central City Neighborhood Design Guidelines and preserves all City street trees. The project is also generally consistent with the development standards set forth in the City's Zoning Ordinance (meets all development standards except for a variance, reducing the street side yard setback from 5 feet to 2 feet. Therefore, this impact would remain ***potentially significant and unavoidable***.

3. REJECTION OF ALTERNATIVES

CEQA mandates that every EIR evaluate a no-project alternative, plus a range of alternatives to the project or its location. Alternatives provide a basis of comparison to the Project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is used to consider reasonable feasible options for minimizing environmental consequences of a project. For the reasons documented in the EIR and summarized below, the City finds that approval and implementation of the project as approved is appropriate, and rejects each one and any combination of project

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alternatives.

**A. Alternative A: Onsite Design Alternative**

The Onsite Design Alternative would replace the existing tent with a conventional (standard) building structure that has a maximum overall height of 55 feet. The project site would remain in its current condition as a vacant undeveloped lot. The Onsite Design Alternative would meet the project objectives, it would not result in a building style similar to historical tent facility which currently exists.

**Finding**

*Specific economic, social, or other considerations make infeasible the Onsite Design Alternative identified in the EIR and described above.*

**Facts in Support of Finding**

- 1) The Onsite Alternative would result in greater construction costs which would make the project economically infeasible.

**B. Alternative B: 14th/15th/I/J Street Alternative**

The 14th/15th/I/J Street Alternative would construct the proposed tent structure of the project at the northern half of the block bound by 14th, 15th, I, and J streets. This alternative would require acquiring seven parcels (51,049 square feet) and would result in the elimination of six businesses and a surface parking lot. The two existing smaller theaters (Main Stage Theater and Stage 2 Theater) on the existing project site would remain in their current location.

**Finding**

*Specific economic, social, or other considerations make infeasible the 14th/15th/I/J Street Alternative identified in the EIR and described above.*

**Facts in Support of Finding**

- 1) Alternative B would meet the project's objectives, although it

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would not enhance the City's Art and Entertainment District as much as the proposed project or Alternative A because theatrical venues would be farther apart and would not be as centrally located.

- 2) Alternative B would result in greater construction costs which would make the project economically infeasible.

**C. Alternative C: No Project Alternative**

The No Project Alternative is required by CEQA. The No Project Alternative would maintain the existing conditions, the proposed project would not be constructed and no existing buildings at the site would be demolished. The No Project Alternative would not reduce the existing noise levels.

**Finding**

*Specific economic, social, or other considerations make infeasible the No Project Alternative identified in the EIR and described above.*

**Facts in Support of Finding**

- 1) Alternative C would not meet any of the goals and objectives of the proposed project.
- 2) Alternative C would not reduce the existing noise levels surrounding the project site.
- 3) Alternative C would not provide the site with improved access or make the site compliant with the American with Disabilities Act.

**IV. STATEMENT OF OVERRIDING CONSIDERATIONS**

Under CEQA, the City must balance the benefits of the Project against its unavoidable environmental risks in determining whether to approve the Project. If the benefits of a Project outweigh the unavoidable adverse effects, those effects may be considered "acceptable" (CEQA Guidelines Section 15093(a)). However, CEQA requires the City to support, in writing, the specific reasons for considering a Project acceptable when significant impacts are unavoidable. Such reasons must be based on substantial

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evidence in the EIR or elsewhere in the administrative record (CEQA Guidelines Section 15093(b)). Those reasons are provided below as the "Statement of Overriding Considerations."

The City finds that the economic, legal, social, technological, or other benefits of the Project, outweigh the unavoidable environmental impacts and that the Alternatives are rejected based upon the following legal, environmental, economic, social, technological and other considerations.

In making this finding, the City has balanced the benefits of the project against its unavoidable environmental impacts and has determined to accept each of those significant and unavoidable adverse effects for the following legal, environmental, economic, social, and technological and other considerations. Each benefit set forth below constitutes an overriding consideration warranting the approval of the Project, as implemented by the Music Circus Renovation Approvals. These overriding considerations are presented below:

1. Enhance the City's Arts and Entertainment District. The adopted Downtown Cultural and Entertainment District Master Plan is a plan that intends to create an area within downtown that is a dynamic focal point for Sacramento's unique cultural and artistic diversity. The goal of the Master Plan is to create a concentrated mix of cultural and entertainment facilities that will be capable of contributing to downtown's night and weekend activity by attracting and accommodating professional artists and supporting patrons from the greater Sacramento area. The Proposed Project would improve the existing theater facilities for theater patrons (e.g., air conditioning and modern bathrooms) thus encouraging theater patrons to seek entertainment in the City.
2. To Ensure the Sacramento Theatre Company and California Musical Theatre's Compliance with Terms of Their Subleases: On December 12, 1995, by resolution number 95-713, the City executed a 30-year sublease agreement to the Sacramento Theatre Company (STC) and the Sacramento Light Opera Association (now California Musical Theatre (CMT)), and a management agreement between the City and STC. The sublease agreement included all of the provisions as outlined in the City Council report of March 24, 1994, and added sections on maintenance and operations obligations, and dispute resolution. The sublease also requires that by May 20, 1997, STC and CMT begin to make annual contributions of \$15,000 and \$5,000 respectively, to a capital reserve

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account which shall be used for extraordinary and substantial repairs and replacements. The capital improvements required by the sublease are:

- A) — Phase I - Life safety, code improvements (e.g., Americans with Disabilities Act compliance)
- B) — Phase II - New construction
- C) — Phase III - Existing building renovation.

The proposed project would ensure that STC and CMT complies with the terms of the sublease.

- 3. Encourage Urban Use: The project area is surrounded by residential and commercial uses. The project would encourage full use of the site. A vacant parcel creates blight and possibly a public nuisance.
- 4. Encourage the Revitalization of the Central City: The primary goal of the Central City Community Plan Goals and Policies is "...to continue the revitalization of the Sacramento Central City area as a viable living, working, shopping, and cultural environment with a full range of day and night activities." The proposed project would improve the existing theater environment, encouraging the revitalization of the Central City. The project would also increase the day (e.g., proposed matinee performances) and night time activities surrounding the site.
- 5. Noise Section of the General Plan: Goal A, Policy 2 of the Noise Section of the City of Sacramento General Plan states: "Require mitigation measures to reduce noise exposure to the 'Normally Acceptable Levels' except where such measures are not feasible." The proposed project was able to incorporate mitigation measures which reduce noise levels to the surrounding environment to acceptable levels which the existing condition did not consistently meet.

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**RESOLUTION NO.****ADOPTED BY THE SACRAMENTO CITY COUNCIL****ON DATE OF \_\_\_\_\_**

**RESOLUTION ADOPTING A MITIGATION MONITORING  
PLAN FOR THE MUSIC CIRCUS RENOVATION, LOCATED  
AT 1419 H & 1422 G STREETS; SACRAMENTO, CA  
(APN:002-0166-014, -012) (P00-029)**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO THAT:**

The Mitigation Monitoring Plan is approved for the proposed Music Circus Renovation project based upon the following findings:

1. One or more mitigation measures have been added to the above-identified project;
2. A Mitigation Monitoring Plan has been prepared to ensure compliance and implementation of the mitigation measures for the above-identified project, a copy of which is attached as Exhibit C-1;
3. The Mitigation Monitoring Plan meets the requirements of Public Resources Code Sec. 21081.6; and
4. The Mitigation Monitoring Plan is approved, and the mitigation measures shall be implemented and monitored as set forth in the Plan.

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**MAYOR****ATTEST:**

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**CITY CLERK**

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# Mitigation Monitoring Plan

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## Introduction

The California Environmental Quality Act (CEQA) requires review of any plan or project that could have significant adverse effects on the environment. In 1988, CEQA was amended to require reporting on and monitoring of mitigation measures adopted as part of the environmental review process. This Mitigation Monitoring Plan (MMP) is designed to aid the City of Sacramento (City) in its implementation and monitoring of measures adopted from the Music Circus Renovation Environmental Impact Report.

The City recommended a series of mitigation measures in Section 4 of the Draft EIR for the Music Circus Renovation Project and also in Section 3 of the Final EIR to minimize potential environmental impacts during project construction and operation. Those measures are incorporated into this Mitigation Monitoring Plan, and are listed in Table 1.

This mitigation monitoring plan is intended to be used by the City to ensure that each mitigation measure, adopted as a condition for project approval, is implemented. This monitoring plan meets the requirements of the CEQA, as amended, which mandates the preparation of monitoring provisions for the implementation of mitigation assigned as part of project approval or adoption.

## Mitigation Implementation and Monitoring

The project applicant will be responsible for monitoring the implementation of mitigation measures. Implementing measures assigned to mitigate impacts associated with the proposed project is ultimately the responsibility of the project applicant, although for certain mitigation measures, the construction contractor has been assigned the responsibility of actually implementing the mitigation.

The project applicant will retain primary responsibility for ensuring that the proposed project meets the requirements of this mitigation plan and other permit conditions imposed by participating regulatory agencies. The City will be responsible for ensuring that the project applicant performs this function.

The project applicant will designate specific personnel who will be responsible for monitoring implementation of the mitigation that will occur during project construction. The designated personnel will be responsible for submitting all documentation and

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reports to the City in a timely manner necessary for demonstrating compliance with mitigation requirements. The project applicant will ensure that the designated personnel have authority to require implementation of mitigation requirements and will be capable of terminating project construction activities found to be inconsistent with mitigation objectives or project approval conditions.

The project applicant will be responsible for demonstrating compliance with other agency permit conditions to the appropriate regulatory agency. It will also be responsible for ensuring that the construction contractor and its construction personnel understand their responsibilities for adhering to the performance requirements of the mitigation plan and other contractual requirements related to the implementation of mitigation as part of project construction.

In addition to the prescribed mitigation measures, Table 1 identifies each identified potential impact, the corresponding monitoring and reporting requirement, and the party who is responsible for ensuring implementation of the mitigation measure and monitoring effort. A sample checklist and environmental compliance monitoring report are attached at the end of this plan.

### **Mitigation Enforcement**

The project applicant will be responsible for enforcing mitigation measures being implemented by the construction contractor. Performance standards necessary for the implementation of required mitigation will be included as part of contract terms with the construction contractor. Damage clauses in the construction contract will serve to enforce mitigation implementation.

If alternative mitigation measures are identified that would be equally effective in mitigating the identified impacts, the implementation of these alternative measures will not occur until agreed upon by the City.

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## MUSIC CIRCUS RENOVATION PROJECT MITIGATION MONITORING PLAN

TABLE 1

## Music Circus Renovation Project Mitigation and Monitoring Summary

Impact	Mitigation	Mitigation Implementation Timing		Monitoring Duration		Responsibility	
		One-time	Ongoing	One-time	Ongoing	Mitigation Implementation	Mitigation Monitoring
Noise							
1. Relocation, demolition, and construction noise.	The following measures shall be incorporated into the construction contract documents:	During construction contract preparation		During construction contract preparation		Project Architect	Project Applicant & City Economic Development
	a. Comply with all elements of the City of Sacramento Noise Ordinance relating to construction noise		Throughout the project construction period		Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
	b. Use equipment that has sound-control devices (exhaust and intake silencers) no less effective than those provided on the original equipment and muffled exhaust		Throughout the project construction period		Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development

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## MITIGATION MONITORING PLAN

	c. Implement appropriate additional noise mitigation, including changing the location of stationary equipment, shutting off idling equipment not in use, rescheduling construction activity during less annoying periods, notifying adjacent residents and sensitive receivers in advance of unusually loud construction activity; and/or installing acoustic barriers around stationary construction noise sources.	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
	d. Identify an onsite monitor to respond to noise questions or complaints during project construction.	Prior to the start of project construction	Prior to the start of project construction	Project Applicant	Project Applicant & City Economic Development
2. Demolition and construction vibration	a. Fixtures and finishes on all adjacent buildings susceptible to damage shall be documented (photographically and in writing) prior to construction. The pre-existing condition of adjacent buildings shall be recorded to evaluate damage from construction activities. All damage shall be repaired to its pre-existing condition.	Prior to and throughout the project construction period	Prior to and throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
	b. Adjacent buildings shall be examined regularly (during construction) to check for the occurrence of new cracks or signs of distress caused by project construction.	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development

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## MUSIC CIRCUS RENOVATION PROJECT MITIGATION MONITORING PLAN

c. To reduce potential damage to adjacent structures, construction staging areas shall be located away from adjacent buildings.	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
d. If significant damage to any adjacent structures occur, construction activities shall cease in the affected area, and the problem activity shall be identified. After identification of the problem activity and assessment as to the severity of the problem, the problem activity shall be modified to protect the adjacent structures.	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development

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## MITIGATION MONITORING PLAN

3. Operational  
Noise Compared  
to the General  
Plan and Noise  
Control  
Ordinance

- a. In order to ensure compliance with all applicable noise limits, CMT shall install an additional layer of Fabrasorb II or other acoustic lining in the structure. Prior to obtaining the Certificate of Occupancy from the Building Division, CMT shall submit a noise report, prepared by a qualified noise professional, to the Planning Division that shows the results of the exterior sound levels with the additional acoustic lining. Should exterior sound levels continue to exceed noise limits due to CMT operation, then CMT shall be required to implement additional noise reduction measures. These noise reduction measures may include, but would not be limited to, installing additional acoustic lining, modifying speaker placement or output, or adjusting show times.

Prior to  
Issuance of  
Certificate of  
OccupancyDuring  
Construction  
Plan Check1st year of  
project  
operation

Applicant

Project  
Applicant & City  
Building  
Division and  
City Economic  
Development

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## MUSIC CIRCUS RENOVATION PROJECT MITIGATION MONITORING PLAN

- b. To ensure the Music Circus operation complies with all applicable noise limits, a noise level compliance monitoring plan shall be implemented by CMT during the first year of project operation. During the first year that the new facility is in full operation, noise monitoring shall occur once per week for each of the musical shows. The measurements shall begin 30 minutes prior to the performance and continue until 30 minutes after the end of the performance. If the noise level measurements indicate that the Noise Control Ordinance limits were exceeded due to the CMT operation, CMT shall be required to implement noise reduction measures to ensure the limits will not be exceeded in future performances. These noise reduction measures may include, but would not be limited to, installing additional acoustic lining, modifying speaker placement or output, or adjusting show times. The effectiveness of these measures in reducing noise levels to meet the noise limits shall be verified during the second season that the new facility is in full operation. Based on the second noise level compliance monitoring.

During 1st year  
of project  
operation

Once per  
week during  
1st year of  
project  
operation

2nd year of  
project  
operation, if  
required

Project Applicant

Project  
Applicant & City  
Economic  
Development

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## MITIGATION MONITORING PLAN

**Air Quality****1. Impacts on air quality from project construction**

The following measures shall be incorporated into the construction contract documents:

During construction contract preparation

During construction contract preparation

Project Architect

Project Applicant & City Economic Development

a. To reduce construction-related emissions of CO, ROG, and NO<sub>x</sub>, the following measures should be implemented:

- Phase construction activities to reduce simultaneous operation of construction equipment and thereby minimize emissions.

- Routinely tune and maintain construction vehicles and equipment.

- Use low sulfur fuel.

- Use existing power sources (e.g., electric-powered equipment including cranes, elevators, or conveyors) or clean fuel generators instead of temporary onsite power generators.

Throughout the project construction period

Throughout the project construction period

Throughout the project construction period

Throughout the project construction period

Throughout the project construction period

Throughout the project construction period

Throughout the project construction period

Throughout the project construction period

Construction Contractor

Construction Contractor

Construction Contractor

Construction Contractor

Project Applicant & City Economic Development

Project Applicant & City Economic Development

Project Applicant & City Economic Development

Project Applicant & City Economic Development

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## MUSIC CIRCUS RENOVATION PROJECT MITIGATION MONITORING PLAN

- Use low-emission mobile construction equipment (including on-road and off-road heavy-duty vehicles) as available, feasible, and appropriate.	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
e. To reduce emissions of construction-related fugitive dust ( $PM_{10}$ ), the following measures should be implemented:				
- Suspend excavation activities during windy periods (i.e., winds in excess of 25 miles per hour).	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
- Periodically apply water to disturbed areas and active construction sites or provide temporary cover to exposed soils that are not in the immediate construction area.	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
- Wash dirt off construction vehicles and equipment within the staging area prior to leaving the construction site.	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
- Implement construction management techniques such as those described for mitigation of construction-related emissions of CO, ROG, and $NO_x$ .	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
c. Adhere to the SCC standards regarding proper maintenance of a job site. Also, the Building Division Manager may order the work to be stopped if a project is violating this article (Section 15.40.060 of the SCC).	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development

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## MITIGATION MONITORING PLAN

d. Demolition activities are required to conform to the rules and guidelines outlined in the SMAQMD Rule 403. Rule 403 requires taking reasonable precautions to prevent the emissions of fugitive dust, such as using "water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the construction of roadways, or the clearing of land" where possible and applying "asphalt, oil, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces that can give rise to airborne dust."		Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
e. Demolition of buildings is also required to conform to the rules and guidelines outlined in SMAQMD Rule 902, which is primarily concerned with asbestos removal activities.		Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
<b>Biological Resources</b>					
1. Potential impact on special-status species or sensitive habitats	Implement one of the following measures to avoid causing the incidental take of migratory birds:	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
	a. Place netting or other devices over trees to prevent birds from nesting during the construction season.	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development

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## MUSIC CIRCUS RENOVATION PROJECT MITIGATION MONITORING PLAN

	b. Develop alternative methods to avoid harming nesting birds in consultation with the California Department of Fish and Game and City of Sacramento.		Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
2. Potential impact on City street (site perimeter) trees	a. Hire an International Society of Arboriculture (ISA) certified arborist.	At the beginning of project construction	Prior to issuance of Building Permit	At the beginning of project construction	Project Applicant	Project Applicant & City Economic Development & City Building Division
	b. Perform required pruning for equipment clearance or root inspections.		Throughout the project construction period, subject to City Arborist approval	Throughout the project construction period	ISA-Certified Arborist	Project Applicant & City Economic Development & City Tree Services
	c. Pruning will be allowed by permit, when approved by the City Arborist, for equipment clearance.		Throughout the project construction period	Throughout the project construction period	ISA-Certified Arborist	Project Applicant & City Economic Development
	d. CMT shall be held liable for any damage to existing trees, i.e., trunk wounds, broken limbs, pouring of any deleterious materials, or concrete washout under the dripline of the trees. Damages will be assessed using the "Guide to Plant Appraisal", eighth edition, published by the International Society of Arboriculture. The project arborist will submit a report for review by the City Arborist.		Throughout the project construction period & prior to issuance of Certificate of Occupancy	Throughout the project construction period	Project Applicant	Project Applicant & City Economic Development & City Tree Services & City Building Division

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## MITIGATION MONITORING PLAN

e. If the sidewalk is closed, erect a 6-foot chain link fence. Exact placement of fencing will be determined by the City Arborist. No trenching, grade changes, storage of materials, or parking of vehicles will be allowed inside this fenced area.	Prior to issuance of Grading or Building Permits	Prior to issuance of Grading or Building Permits	Construction Contractor	Project Applicant & City Economic Development & City Tree Services
f. Conduct bi-weekly inspections, if the sidewalk is closed, to ensure the protective fencing stays in place and to monitor the health of the trees. Take required action to ensure the health of the trees, i.e., supplemental irrigation, fertilization, soil compaction remediation.	Throughout the project construction period	Throughout the project construction period	ISA-Certified Arborist	Project Applicant & City Economic Development
g. Identify the trees to be preserved and the protection methods on all construction plans for the project.	During project design	During project design & Prior to issuance of Building Permit	Project Architect	Project Applicant & City Economic Development & City Building Division

## Cultural Resources

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## MUSIC CIRCUS RENOVATION PROJECT MITIGATION MONITORING PLAN

1. Potential impact on archaeological resources	a. If historic surface or subsurface archaeological features or deposits, including locally darkened soil "midden", that could conceal cultural deposits, animal bone, shell, obsidian, mortars, or human remains, are discovered during construction, work within 100 feet of the find shall cease and a qualified archaeologist shall be contacted to determine if the resource is significant. If the find is identified as being significant, resources found on the site shall be donated to an appropriate museum or cultural center.	Throughout the project construction period	Throughout the project construction period	Construction Contractor	Project Applicant & City Economic Development
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Date Adopted: \_\_\_\_\_

**RESOLUTION NO.****ADOPTED BY THE SACRAMENTO CITY COUNCIL****ON DATE OF \_\_\_\_\_**

**RESOLUTION ADOPTING A NOTICE OF DECISION AND  
FINDINGS OF FACT FOR THE VARIANCE AND LOT LINE  
ADJUSTMENT FOR THE MUSIC CIRCUS RENOVATION,  
LOCATED AT 1419 H & 1422 G STREETS;  
SACRAMENTO, CA  
(APN:002-0166-014, -012) (P00-029)**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO THAT:**

In accordance with the rules governing appeals, this project was heard de novo by the City Council on January 9, 2001 to consider the appeal of the entitlements. Based on the verbal and documentary evidence at said hearing, the City Council adopts the Notice of Decision and Findings of Fact (attached hereto) for the Variance and Lot Line Adjustment for the Music Circus Renovation at 1419 H and 1422 G Streets.

\_\_\_\_\_  
**MAYOR****ATTEST:**\_\_\_\_\_  
**CITY CLERK**

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**FOR CITY CLERK USE ONLY**

Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_

**NOTICE OF DECISION AND FINDINGS OF FACT FOR MUSIC CIRCUS  
RENOVATION LOCATED AT 1419 H AND 1422 G STREETS, IN THE GENERAL  
COMMERCIAL (C-2) ZONE.**

**—(P00-029) APN: 002-0166-014, -012**

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At its regular meeting of January 9, 2001 the City Council heard and considered evidence in the above entitled matter. Based on verbal and documentary evidence at said hearing, the Council denied the appeal of the Variance to reduce the 5' street side setback to 2' on 1.1± acres in the General Commercial (C-2) zone, Lot Line Adjustment to modify the property lines of APN: 002-0166-014 and -012, parcels totaling 1.7± acres in the General Commercial zone and approved the project based on the following findings:

On the date of December 15, 2000, Friends of Washington District filed an appeal of the Planning Commission's decision on all of the entitlements.

In accordance with the rules governing appeals, this project was heard *de novo* by the City Council on January 9, 2001 to consider the appeal of the entitlements. Based on verbal and documentary evidence at said hearing, the City Council took the following actions for the location listed above:

- C. Adopted the attached Notice of Decision approving the Variance to reduce the 5' street side setback to 2' on 1.1± acres in the General Commercial (C-2) zone;
- D. Adopted the attached Notice of Decision approving the Lot Line Adjustment to modify the property lines of APN: 002-0166-014, -012, parcels totaling 1.7± acres in the General Commercial (C-2) zone.

**FINDINGS OF FACT**

**C. Variance:**

1. The Variance, as conditioned, shall not extend a special privilege to the property owner.
2. The Variance, as conditioned, will not be injurious to the public welfare, nor to property in the vicinity of the applicant in that the height and the setback of the proposed tent structure will be substantially similar to what

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Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_

existed previously.

3. The Variance, as conditioned, is in harmony with the general purposed and intent of the Zoning Ordinance and will not affect the General Plan.

D. Lot Line Adjustment:

1. The project is based upon sound principles of land use in that the proposed use will not adversely affect the peace and general welfare of the surrounding residential and commercial neighborhood.
2. The project will not be detrimental to the public welfare and result in the creation of a public nuisance.
3. The project is consistent with the General Plan in that the proposed use is permitted by right.

CONDITIONS OF APPROVAL

C. Variance:

- C1. Construct or reconstruct to current ADA standards any non-compliant curb ramps at the southwest corner of 15<sup>th</sup> and G Streets and at the northwest corner of 15<sup>th</sup> and H Streets. This may also require construction or reconstruction of any non-compliant curb ramps on the opposite corners.
- C2. Remove and reconstruct any deteriorated curb, gutter, and sidewalk per City standards. Construction shall conform to current ADA standards.
- C3. Remove and reconstruct any deteriorated curb, gutter, and sidewalk per City standards. Construction shall conform to current ADA standards.
- C4. Provide historic ornamental street lights. Coordinate street light design with the City's Public Works Electrical Section.
- C5. Any unused driveways must be abandoned.
- C6. The applicant shall enter into a Validation Program agreement with the City no later than 30 days prior to the first show of the season. The

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Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_

Validation Program may be similar to the one implemented for the 2000 season, which offered a flat rate evening validation for use by theater patrons at the parking facility at 13<sup>th</sup> and I Streets. The agreement shall be in effect until such time as the Lot C parking garage is completed and open for parking.

**D. Lot Line Adjustment**

- D1. File a Certificate of Compliance, submit all required documents according to the submittal requirements checklist, and pay all necessary fees.
- D2. File a waiver of Parcel Map.
- D3. Pay off any existing assessments, or file the necessary segregation request and fees to segregate any existing assessments.
- D4. The public sewer maintenance hole, sewer main, water main, and utility easement shall be abandoned and relocated to the satisfaction of the Department of Utilities.
- D5. The proposed project is located in the 100 year floodplain, designated as an A99 zone on the Federal Emergency Management Administration (FEMA) Federal Insurance Rate Maps (FIRMs) that have been revised by a Letter of Map Revision effective May 22, 2000. Within the A99 zone, there are no requirements to elevate or flood proof.
- D6. No Build and Egress easements to be submitted to Building Division for approval prior to it being recorded.

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**FOR CITY CLERK USE ONLY**

Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

**P00-029**

Exhibits:

Exhibit 3-A Site Plans

Exhibit 3-B Elevations

Exhibit 3-C Lot Line Adjustment

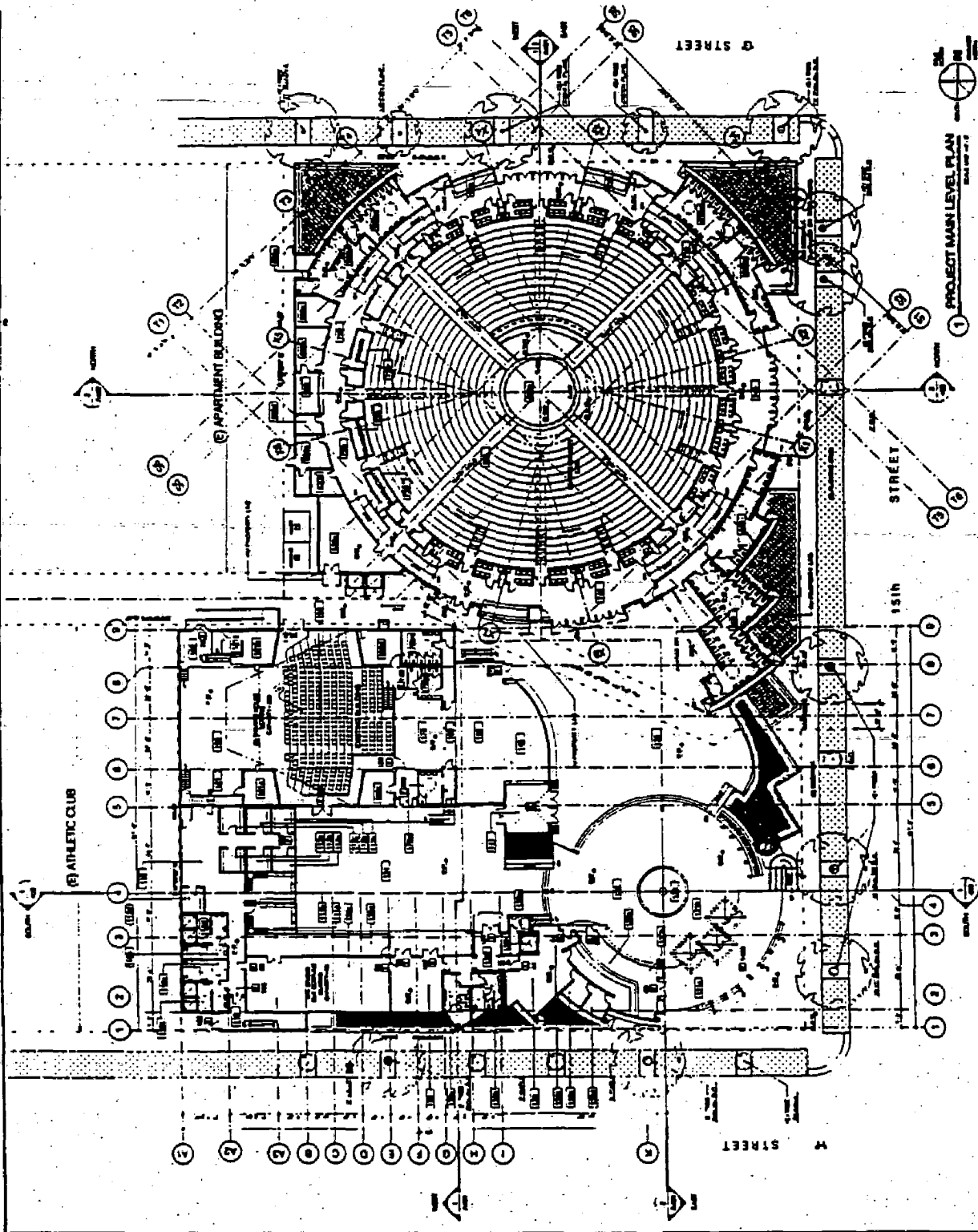
\_\_\_\_\_  
**FOR CITY CLERK USE ONLY**

Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_



# Exhibit 3-A, Site Plan



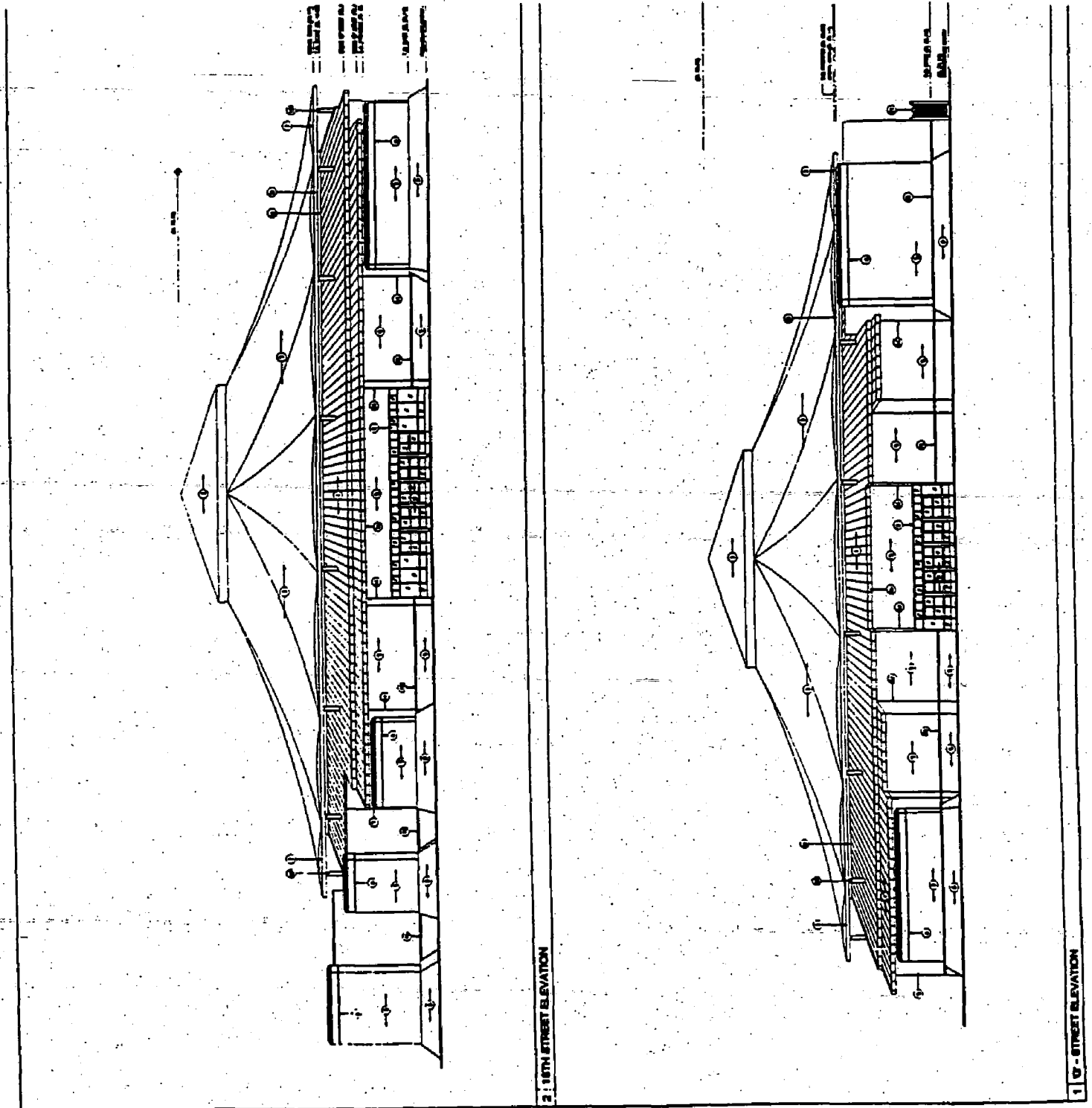
DRAWING SYMBOLS

- SEATING AREA TO BE BUILT
- EXISTING BUILDING
- NEW BUILDING
- EXISTING DRIVE

FOR CITY CLERK USE ONLY

Resolution No.: \_\_\_\_\_

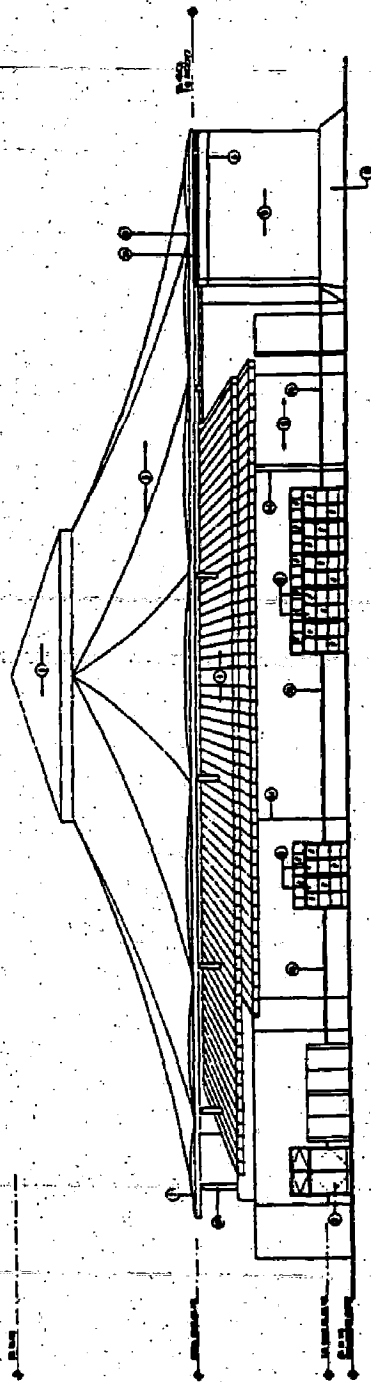
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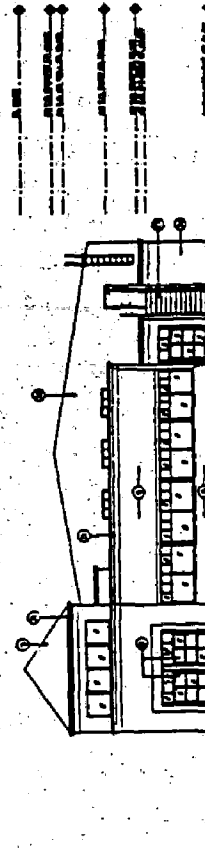
FOR CITY CLERK USE ONLY

Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_



21. @ COURTYARD SOUTH ELEVATION



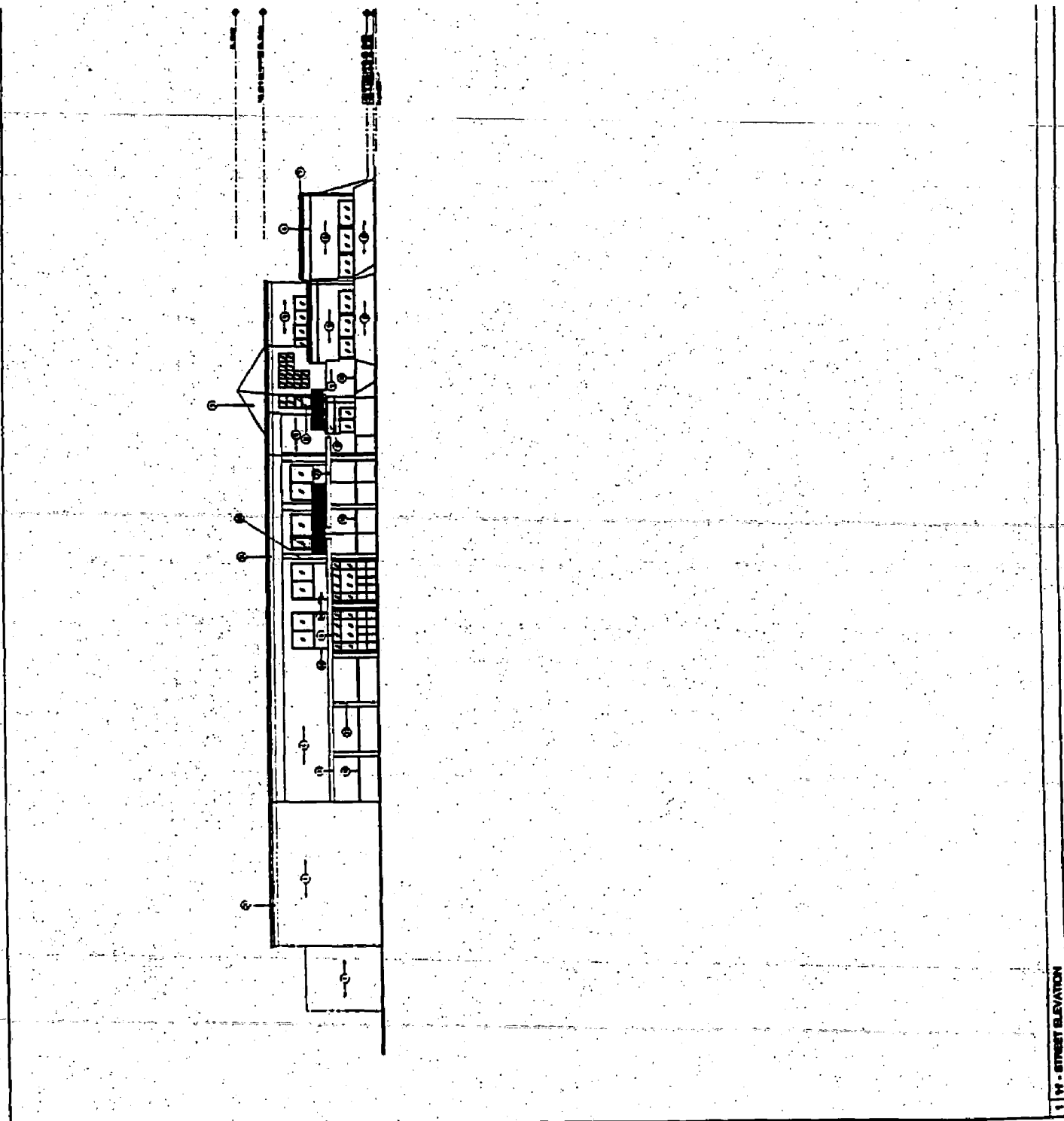
11. @ COURTYARD WEST ELEVATION

FOR CITY CLERK USE ONLY

Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_

Exhibit 3-B, Elevations

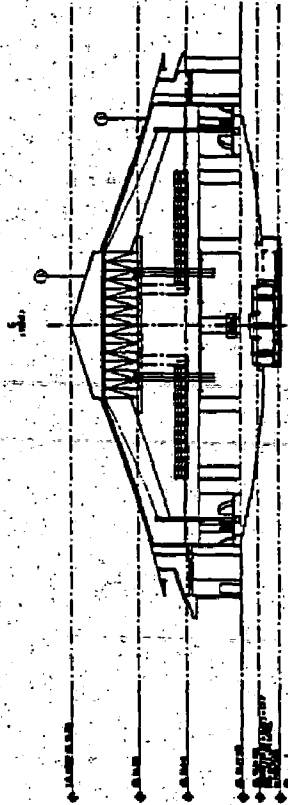


FOR CITY CLERK USE ONLY

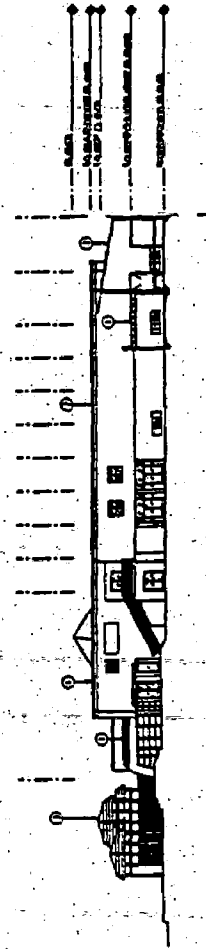
Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_

# Exhibit 3-B, Elevations



2 | TRANSVERSE BUILDING SECTION (NORTH)

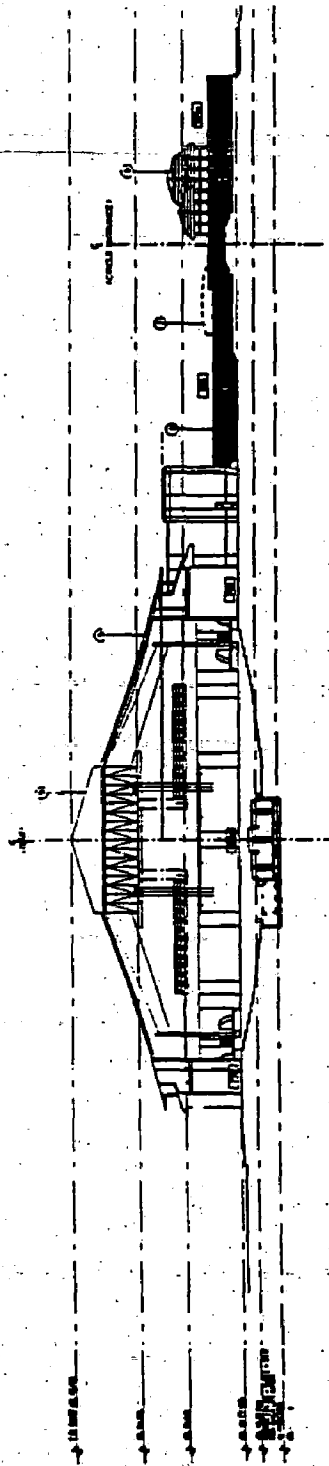


1 | TRANSVERSE SECTION (SOUTH)

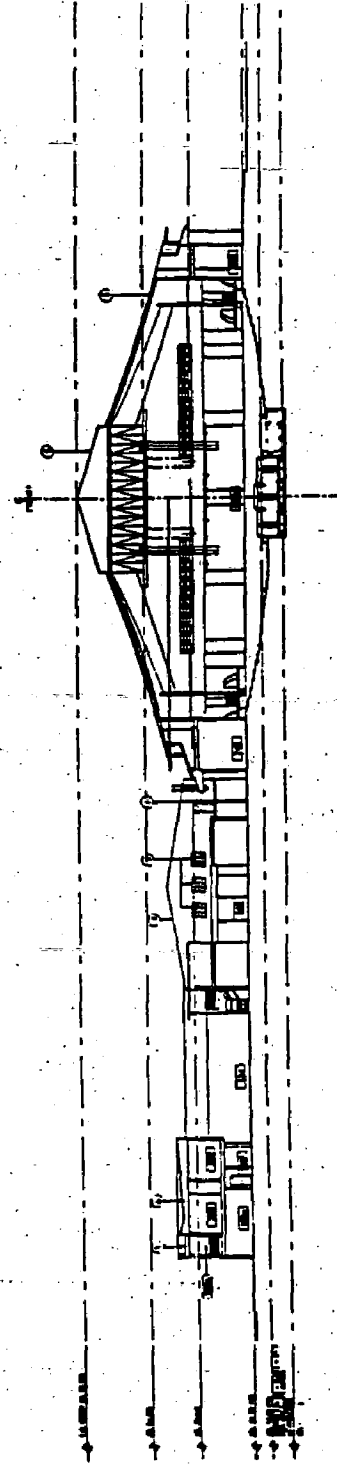
**FOR CITY CLERK USE ONLY**

Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_



2' LONGITUDINAL BUILDING SECTION (EAST)



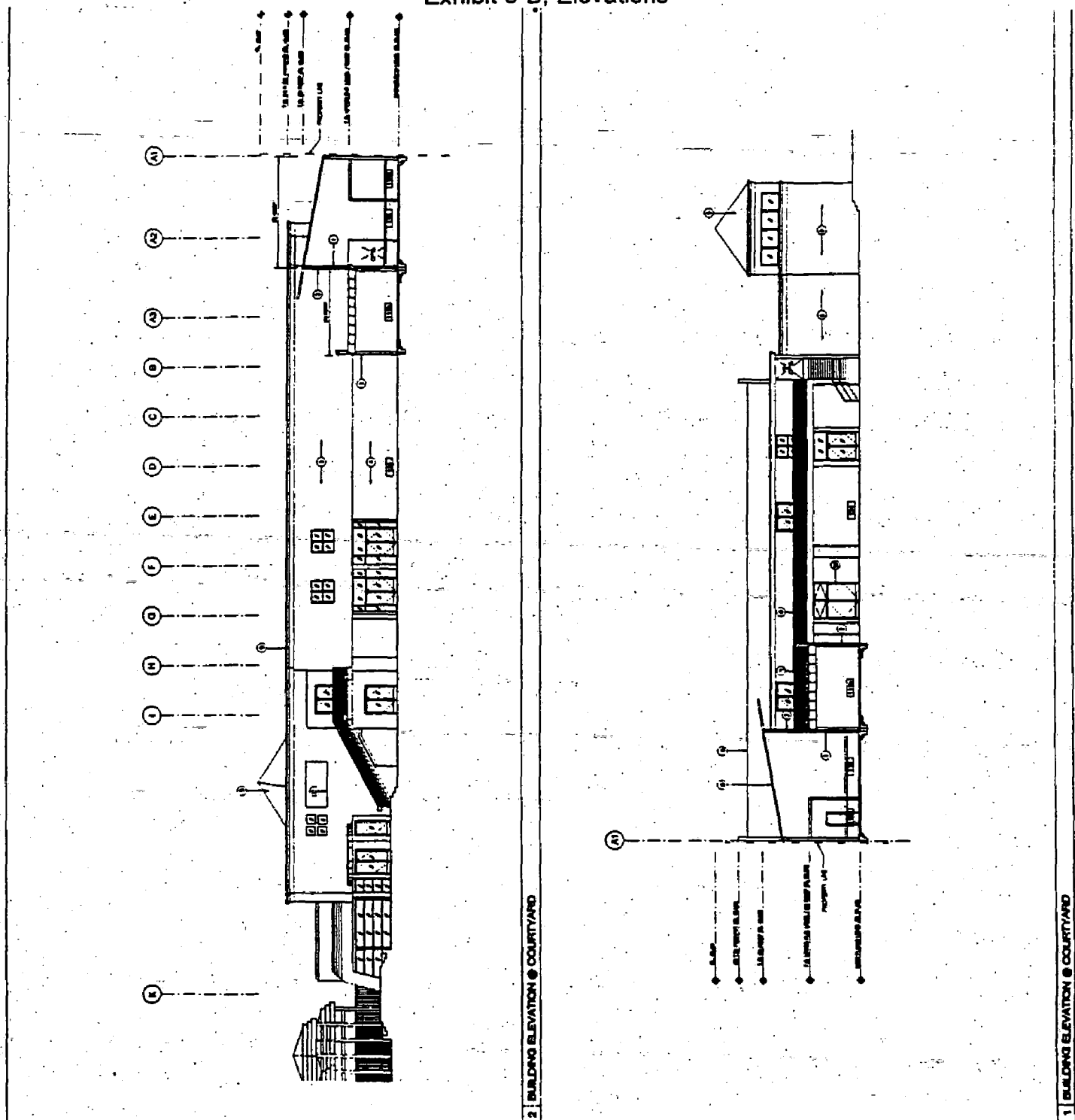
3' LONGITUDINAL BUILDING SECTION (WEST)

FOR CITY CLERK USE ONLY

Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_

### Exhibit 3-B, Elevations



**FOR CITY CLERK USE ONLY**

Resolution No.: \_\_\_\_\_

Date Adopted: \_\_\_\_\_

**FOR CITY CLERK USE ONLY**

**Date Adopted:** \_\_\_\_\_

COOPER, THORNE & ASSOCIATES, INC.

1215 Wonder Drive, Suite 1

(916) 558-0918 / FAX 558-2479



Exhibit 4-A

Voting Record of Planning Commission

CITY PLANNING COMMISSION  
HEARING ITEMCPC AGENDA DATE: December 7, 2000

Item No.	Project No.	Title/Location	Action: Approved/Denied
5.	P00-029	Music Circus Renovation - T. Kozak	<i>Approved</i>

## ACTION

*Bob Waste: We shouldn't rush this review. Long review > Neighbors concern.*

*Phil Harvey: Explain Noise Analysis (to staff)  
EIR identified noise*

*Mat Jacobs: Was project on time? yes*

*John Valencia: Were latest neighbors concerns addressed in the EIR? No police calls for noise are on record*

## VOTE OF THE PLANNING COMMISSION:

COMMISSIONER	MOTION 1 <i>To Approve</i>			MOTION 2 <i>To Continue to Jan. 11</i>			ABSTAIN
	Yes	No	M/S	Yes	No	M/S	
Harvey	✓		M		✓		
Jacobs (Vice-chair)	✓				✓		
Kennedy	✓		S		✓		
Molodanof	✓				✓		
Valencia				✓		S	X #1 → on Motion #1
Duruisseau (Chair)	✓				✓		
Waste	✓			✓			
Taylor-Carroll				✓		M	X #1 → on Motion #1

\*\*\*\* List "Proponents" and Opponents" on reverse side of this page\*\*\*\*

*#2\* substitute: Continue to Jan. 11 instead of Dec 21*  
*Motion*

# PROPONENTS

NAME	ADDRESS	ZIP CODE
Richard Lewis	Applicant - Aggressive schedule: We need to move forward; construction costs Need to start construction in March.	
Taylor Conrad	Need more time for neighbor input for final EIR. Should continue	
Pat Kennedy	Was surprised an EIR was done. Should not be delayed	
Bob Waste	It's a good project. Neighborhood Noise concerns should be addressed Let's do it right. Let's continue it to Jan. 11.	

# OPPONENTS

NAME	ADDRESS	ZIP CODE
Anne Berg	Wants to continue item. Sound/noise is the issue. We called several times about the <del>cat</del> noise (To the police Dept.)	
Mat Jacobs	Need to support project	

Exhibit 5-A

Appeal of Planning Commission

## CITY OF SACRAMENTO

NEIGHBORHOODS, PLANNING &  
DEVELOPMENT SERVICES DEPARTMENT  
1231 I Street, Sacramento, CA 95814

PLANNING DIVISION  
Rm. 200 (916) 264-5381

APPEAL OF THE DECISION OF THE  
SACRAMENTO CITY PLANNING COMMISSION

DATE: 12/15/00

TO THE PLANNING DIRECTOR:

I do hereby make application to appeal the decision of the City Planning Commission on

12/7/00(hearing date), project number (P#) P00-029 when:☐ Special Permit for \_\_\_\_\_☒ Variance for \_\_\_\_\_☐ "R" Review for reduce 5' street side setback to 2'☒ Other \_\_\_\_\_ for a) certification of FEIR  
b) mitigation monitoring planc) lot line adjustment

was:

☒ Granted by the City Planning Commission☐ Denied by the City Planning Commission

GROUNDS FOR APPEAL: (Explain in detail - attach additional sheets if necessary)

FEIR is inadequate for Failure to properly apply City Noise Control Ordinance. FEIR is inadequate for Failure to adequately evaluate alternatives and to include reasonable range of alternatives. No hearing before planning Commission on DEIR.

- PROPERTY LOCATION: 1419 H Street, 1422 G Street  
- APPELLANT: (please print) Friends of Washington District <sup>Preservation Area</sup> PHONE #: (916) 337-1931  
- ADDRESS: 1421 G Street #5  
- APPELLANT'S SIGNATURE [Signature]

## THIS BOX FOR OFFICE USE ONLY

Filing Fee: ☐ \$1000.00 by applicantReceived by: [Signature]☒ \$60.00 by third partyDate: 12/15/00

RECEIVED

Distribute Copies To: GLS, WW, Project Planner, Hawea Pedersen (original &amp; receipt)

59

DEC 15 2000

CITY PLANNING COMMISSION  
SACRAMENTO, CALIFORNIA  
MEMBERS IN SESSION:

ITEM # 5  
DECEMBER 7, 2000  
PAGE 1

P00-029 - Music Circus Renovation

REQUEST:

- A. Environmental Determination: Certify Final Environmental Impact Report (FEIR);
- B. Mitigation Monitoring Plan;
- C. Variance to reduce the 5' street side setback to 2' on 1.1± acres in the General Commercial (C-2) zone;
- D. Lot Line Adjustment to modify the property lines of APN: 002-0166-014 and -012, parcels totaling 1.7± acres in the General Commercial (C-2) zone.

LOCATION:

1419 H Street, 1422 G Street.  
APN: 002-0166-014, 002-0166-012  
Central City Community Plan  
Sacramento Unified School District  
Council District 1

APPLICANT:

William R. Dorman,  
R. F. McCann & Company, (626) 564-8900  
110 S. Rosemead Boulevard, Suite Q  
Pasadena, CA 91107

OWNER:

Sacramento Light Opera Association  
1510 J Street, Suite 200  
Sacramento, CA 95814

APPLICATION FILED:

February 22, 2000

APPLICATION COMPLETED:

March 10, 2000

STAFF CONTACT:

Ted Kozak, 264-1944

SUMMARY/ RECOMMENDATION:

The proposed project consists of the upgrading of the two theaters for the Sacramento Theater Company (STC) and the Sacramento Light Opera Association (SLOA), also known as the California Musical Theater Company (CMT), on the existing site. The STC

Theater complex consists of a 293 seat main stage and an 89 seat stage 2, along with administrative offices, box office, and other production related areas. The existing facility will be upgraded by altering or replacing the main stage loft, adding new seats and risers, new men's and women's restrooms, new scenery loading and unloading prop area, members courtyard, wardrobe, new 2<sup>nd</sup> stage lobby, dressing rooms, and box office. The proposal submitted includes 2 developed lots, totaling 1.69± acres, which are zoned General Commercial (C-2). The orientation of the site is southward to H Street. The two parcels (APN: 002-0166-014, -012) are located within the Central City Arts and Entertainment District which allows staff to modify development standards such as, but not limited to, parking reductions, building height limits, and sign provisions, to encourage these uses.

The existing SLOA theater complex consists of a tent structure theater in the round with 2,487 seats, along with semi-permanent restrooms and concession areas. Each summer the large tent is erected to accommodate the seven week production schedule. The existing tent will be replaced with a new permanent cable supported structure with walls, air conditioning systems, ADA access, 2,300 new seats, men's and women's restrooms, private box seating, and production storage and shared facilities. The shared facilities are the box office, dressing rooms, costume shop, garden lobby courtyard, concession commissary, concession sales, members' courtyard entry and landscaped areas.

The Music Circus renovation would involve two phases. Phase I would begin upon conceptual approval of the plan by the City Council and Board of Supervisors and culminate with a bond sale to finance the capital construction. Phase II would include construction of the improvements over a three year period and retirement of the debt service over several years.

The proposed project consists of the following components:

- Removal of the temporary tent structure and replacement with a permanent fabric structure;
- Removal of temporary concession stands and portable restroom facilities and replacement with permanent facilities;
- Elimination of the existing gravel parking lot, construction of a new box office and entry area, and renovation of the H Street building;
- Renovation of the existing loading area located near the end of the existing alley;
- Construction of a new members' lounge and courtyard;
- Demolition of the existing shed and construction of a new prop area laundry room and dressing rooms.

P00-029

DECEMBER 7, 2000

ITEM # 5  
PAGE 3

Staff recommends approval of the project, subject to conditions. This recommendation is based on the project's consistency with the Arts & Entertainment District policies, development standards, and incentives that encourage a lively extended hour downtown with cultural and entertainment uses which attract people after dark.

**PROJECT INFORMATION:**

General Plan Designation:  
Community Plan Designation:  
Existing Land Use of Site:  
Existing Zoning of Site:

Community/Neighborhood Commercial & Offices  
General Commercial  
Theater  
C-2 zone

**Surrounding Land Use and Zoning:**

North: Commercial/ Residential uses; C-2/ R-5/ R-3A zones  
South: Commercial use; C-2 zone  
East: Commercial use; C-2 zone  
West: Commercial use; C-2 zone

**Music Circus Tent Property**

Setbacks:	Required	Provided
Front:	5'	7.3'
Side(St):	5'	2'
Side(Int):	0'	0**
Rear:	0'	4'

\*setback varies, generally no setback provided.

**SLOA Property**

Setbacks:	Required	Provided
Front:	0'	27.2'
Side(St):	0**	0**
Side(Int):	0**	0**
Rear:	0'	10'

\*existing

P00-029

DECEMBER 7, 2000

ITEM # 5  
PAGE 4

Property Dimensions:	irregular
Property Area:	1.69± acres
Square Footage of new STC Tent:	2,000 square feet
Height of Tent:	45 feet
Exterior Building Materials:	CMU, Brick, Stucco. Tent: Teflon
Roof Material:	Structural Fabric
Hours of Operation:	8:00 to 10:30PM
Parking Provided:	0 spaces
Parking Required:	0 spaces
Topography:	Flat
Street Improvements:	Existing
Utilities:	Existing

**OTHER APPROVALS REQUIRED:** In addition to the entitlements requested, the applicant will also need to obtain the following permits or approvals, including, but not limited to:

<u>Permit</u>	<u>Agency</u>
Design Review	Design Review Staff
Encroachment Permit	State of California, Department of Transportation
Building Permit	Building Division

**BACKGROUND INFORMATION:**

The Sacramento Theater Company (STC) is in its 58<sup>th</sup> year of operation and presents live stage performances at the H Street Theater. Its season normally runs from September to May with 7 to 8 productions annually. Last year, it held 293 performances with a total attendance of 40,000. From May through September, the Sacramento Light Opera Association takes over the entire subject site, using the Music Circus Tent (now known as the ***Wells Fargo Pavilion***) for performances, and using the balance of the buildings of the site, including the 2 smaller STC stages, for activities such as dress rehearsals and prop storage.

The Sacramento Light Opera Association (SLOA) has been in production since 1951 and is the largest non-profit music theater in the State. It is known for its Music Circus summer theater program at its H Street venue and Broadway Series performances at the Community Center Theater and is considered by many as a Sacramento institution. Together both programs drew a total attendance of 294,468 in 1999.

In August, 1986, the City and County of Sacramento purchased the property at 1419 H Street from the STC, giving the management of it to the City of Sacramento. The STC and SLOA have been jointly using the property since 1951.

In December, 1995, by Resolution 95-713, the City executed two (2) thirty-year sublease agreements with the STC and SLOA, respectively, for joint operating use, and a

management agreement between STC and the City. The sublease agreements also required that, beginning in May, 1997, STC and SLOA would make annual contributions for extraordinary and substantial repairs and replacements. In addition, there is a capital improvement component, which requires the development of the unused vacant lot.

In May, 1997, the City and County conceptually approved joint funding totaling \$1.3 million to the STC and SLOA for Life Safety Code and Americans with Disabilities Act improvements, new construction, and existing building improvements. Under the agreements, the STC and SLOA must secure private matching funds.

In mid 1999, the proposed project received support for a Joint Powers Authority (JPA) formed by the City and County. The support is in the form of conceptual approval by the City Council and the County Board of Supervisors. The JPA would issue bonds or certificates of participation to finance the capital construction. The City and County are forming a JPA because of the belief that the performing arts are a necessary component to a high quality of life and a well-rounded city.

On June 14, 2000 the applicant announced to the public plans for Wells Fargo Bank to sponsor the name of the Music Circus tent for an amount disclosed as \$1.5 million paid over a period of 10 years. The tent will now be known as the **Wells Fargo Pavilion**.

**STAFF EVALUATION:** Staff has the following comments:

**A. Policy Considerations**

The proposed project is consistent with the General Plan, Community Plan, and zoning land use designations. The Zoning Ordinance requires that theater uses, movie or stage, shall be required to obtain a Special Permit, except within the Central Business District (C-3) zone, and the portion of the General Commercial (C-2) zone located within the Arts and Entertainment District. The Zoning Ordinance also waives the parking requirement for all uses other than residential, motel, hotel, and office uses within the Central Business District and within the Arts and Entertainment District. Therefore, the Music Circus does not need to provide any on or off-site parking spaces for the project. However, when completed, theater patrons will be able to use the 1,080 parking space City Lot C parking structure, located on H Street between 14<sup>th</sup> and 15<sup>th</sup> Streets.

The project will provide theater and entertainment uses consistent with the following Central City and General Plan Goals and Policies.

***Central City Community Plan Goals and Policies:***

**Sec III-Primary Goal-**

The primary goal of the plan is to continue revitalization of the Sacramento Central City area as a viable living, working shopping, and cultural environment with a full range of



day and night activities.

Sec III-Environmental Goal-

Create an attractive urban setting through the preservation of existing amenities in the Central City and development of an urban design addendum to the Central City Plan.

Sec III-Environmental Sub-Goals-

Capitalize and improve upon existing activity centers in the Central City as well as develop new centers in such a manner as to contribute to the total use of the Central City. These centers should include the Community Center, Historic Old Sacramento area, Central Business District, and various cultural facilities.

Sec III-Environmental Sub-Goals-

Encourage evening activities in the Central Business District which will attract people and increase safety for pedestrians.

*General Plan Goals and Policies:*

Sec 1-30 Policy 1-

Cultural amenities such as symphonies, theater, schools, libraries, museums, and art help to enhance the urban environment. Support for these amenities will help attract and maintain a productive work force.

Section 4-12 Goal A Policy 2-

Actively support the development of cultural and entertainment facilities and events in the downtown area.

B. Site Plan Design/Zoning Requirements

1. Setbacks - Music Circus property

The proposal indicates varying setbacks ranging from 0 to 7.3 feet, meeting or exceeding setback requirements for the General Commercial (C-2) zone along the south, east, and west property lines of the parcel. In the C-2 zone, no setbacks are required when abutting or adjacent to other C-2 zoned parcels. Therefore the side interior and rear of the property require no setbacks. The front of the site is considered to be the 15<sup>th</sup> Street frontage, since this frontage is the narrowest portion of the lot fronting a street. The front yard in the C-2 zone also requires no setbacks when abutting or adjacent to other C-2 zoned parcels. Therefore, the provided 7.7' front setback is appropriate. The C-2 zone requires a minimum 5' street side setback along G Street. The new proposal provides a 2' street side setback, requiring a variance. There is justification for the variance since the existing 8 foot masonry wall is located on the property line, and the proposed tent structure generally the same size and scale as the current structure. Staff

supports the variance.

2. Setbacks - STC property

The proposal indicates varying setbacks ranging from 0 to 27.2 feet, meeting or exceeding all setback requirements for the General Commercial (C-2) zone. The front, side interior, and rear boundaries of the parcel do not require setbacks since in the C-2 zone no setbacks are required when abutting or adjacent to other C-2 zoned parcels, and since this portion of the proposed project will not alter existing setbacks. The provided 27.2', 0' and 10' setbacks of the front, side interior, and rear yards, respectively, meet and exceed these requirements. The street side setback, considered to be the portion of the site located on H Street, normally is required to be 5'. However, since the building currently is located on the property line, and the location is unchanged by the proposed project, the building retains its legal non-conforming status and does not require a variance.

3. Parking/Circulation

Theater uses in the General Commercial (C-2) zone typically require 1 parking space per 3 seats. At 2,300 new seats, the new tent theater would require 767 parking spaces. However, in the Arts and Entertainment District, off-site vehicle parking is required to be provided for residential uses, hotels, motels, and offices only. Therefore, there are no on-site parking spaces required for the project. Demand for parking during performances are anticipated to be addressed by several nearby parking areas within walking distance, including Lot E (13<sup>th</sup> and I), Esquire, and Lot C (14<sup>th</sup> and H) parking structures, in addition to the smaller lots located near the site (16<sup>th</sup> and I and 14<sup>th</sup> and I Streets). As seen in Attachments 5 and 6 and the table below, there are a total of 1,042 on-street parking spaces, 865 commercial off-street parking spaces, and 876 City-run off-street parking spaces within a partial 3 block radius around the site, south of F Street. Not included in this computation is the 1,036 parking spaces at the Lot I parking structure (located 4 blocks away) and the 1,080 parking spaces at Lot C, currently under construction and anticipated to be completed by 2002. As a part of the conditions of approval for the Lot C parking structure to be constructed across the street from the site, increased neighborhood parking restrictions have been established.

In order to address short and long term parking solutions for Phases I and II of the project, on June 6, 2000, the City Council approved a resolution (Resolution number 2000-320) modifying parking regulations in the Mansion Flats residential neighborhood from E to G Streets and 12<sup>th</sup> to 16<sup>th</sup> Streets (see Attachment 4). The modifications to these parking regulations were initiated to relieve the anticipated increase in parking congestion from area events, such as the Music Circus, and during the construction of the Lot C parking garage located on H Street between

14<sup>th</sup> and 15<sup>th</sup> Streets. The existing two hour parking time limit is now reduced to one hour, and the days and hours of restrictions are extended from Monday through Friday, 8AM to 5PM, except holidays, to seven days a week, 8AM to 10PM.

In order to address short term parking deficiencies due to the interim loss of the 167 parking spaces during the construction of the Lot C parking structure, on June 27, 2000, the City Council approved a resolution (Resolution number 2000-401) authorizing the City Manager to negotiate and execute a Parking Validation Agreement with Allright Parking, STC, and SLOA. This action was intended to free up on-street capacity by providing an adjacent off-street parking capacity at the rate previously available at Lot C and was implemented during the 2000 theater season at the cost of \$70,000 to the City. The program offers a flat rate evening validation for use by theater patrons. To access this program, event patrons would tear off a parking stub from the theater ticket and present the ticket to the parking attendant at the parking facility at 13<sup>th</sup> & I Streets (Lot E). Parking costs are \$3.00 per car, per evening and the net cost of the validation to the City is \$2.00 per car.

Parking computations, partial 3 block radius

Parking type	Number of parking spaces
Miscellaneous	248*
Commercial (Privately Run)	865*
City/ Municipally Run	876**
On Street (10 hr meters not incl.)	887**

\*Source: DKS Associates Parking Study, January 23, 1996

\*\*Source: City Public Works Parking Inventory, October 27, 1998

^Total spaces, including Lot C after completion: 1,956

^Total spaces, including Lot C after completion and Lot I: 2,992

4. Tent height

The Zoning Ordinance, specifically within the Arts and Entertainment District, states that building height in the General Commercial (C-2) zone is not to exceed 50 feet when a minimum of 50 percent of the leaseable ground floor area to pedestrian oriented uses such as theaters, and when located within 100 feet of residential uses. The submitted elevation plan indicates the height of the tent structure to be 45 feet to the top of the plate line. Therefore, the height of the tent structure meets City requirements.

5. Landscaping

The submitted landscape plan indicates that the proposed landscaping will consist of a combination of trees, shrubs, ground cover, and lawn. All unpaved areas not utilized for parking and storage will be required to be landscaped utilizing ground cover and/ or shrubbery, and tree material.

6. Signs

In the Arts and Entertainment District of the General Commercial (C-2) zone, Section 3.04.069.5.f.1 of the City's Sign Ordinance states that subject to the review and approval of the planning director, retail businesses and facilities that are entertainment or culturally oriented, and contribute to the active night-life of the CBD-SPD and the Arts and Entertainment District, may be allowed creative signage which does not conform to the requirements of the SPD sign ordinance. The applicant intends to construct a total of 6 attached signs and 19 poster case (monument style) signs in the future. The sign proposal is not a part of this application and will require separate Planning Director and Design Review approvals when submitted.

7. Lot Line Adjustment

The project requires a Lot Line Adjustment due to the placement of the Music Circus tent and the restrooms across the property lines of the two parcels. The configuration of the Lot Line Adjustment functions to provide a land distribution between the two land owners, the City and the SLOA, in order to lessen the financial burden of the real estate transaction on SLOA.

D. Building Design

The tent's height is proposed to be 45 feet to the top of plate line, and 55 feet total. The proposed structure's exterior materials consist of brick and stucco, with the tent's material composing of teflon. The project is within the Central City Design Review Area and is subject to the Design Review process. The project's design is scheduled for review and approval at the City's Design Review and Preservation Board on December 20, 2000. Comments from the Design Review staff are included in the Agency comments section.

PROJECT REVIEW PROCESS:

A. Environmental Determination

An Environmental Impact Report (EIR) and Mitigation Monitoring Plan (MMP) have been prepared for this project. The Draft EIR was circulated for a 45-day public review period between September 20, 2000 through November 3, 2000

The City received seven written comment letters on the Draft EIR, five from public

agencies, one from a resident, and one from the project applicant's attorney. The comment letters and the City's responses to the comments on the Draft EIR are presented in the Final EIR. The following issues were raised by the comment letters:

- Red D.E. Banes, City of Sacramento Design Review and Preservation Board
  - requests map which includes preservation areas and historic districts;
  - requests consistency discussion of the project with the City design guidelines; and
  - develop mitigation measures for the project and the project alternatives.
- Neal B. Allen, Sacramento Regional County Sanitation District
  - increased sewage flows may exceed 60 mgd and may require payment of impact fees.
- Phil Stafford, Sacramento Metropolitan Air Quality Management District
  - concurs with proposed air quality mitigation measures.
- Jeffery Pulverman, Caltrans
  - concerned about automobile and pedestrian impacts to State Route 160;
  - need for encroachment permits; and
  - need for Americans with Disabilities Act improvements.
- Thad Johnson, Taylor, Hooper & Wiley
  - alternative project location sites are too small to accommodate the proposed project;
  - clarify that construction noise would not result in significant impacts unless occurs beyond Noise Ordinance;
  - clarify air quality impacts; and
  - disagrees with EIR conclusion regarding potential significant unavoidable impacts to the Washington District Preservation Area.
- Dennis E. Yeast, Sacramento County Department of Environmental Review and Assessment
  - clarify noise impacts of the project; and
  - clarify visual and cultural resources impacts.
- Anne Burke, resident
  - noise impacts were not adequately addressed.

These issues are addressed in the Final EIR. All changes to the Draft EIR are presented in Section 3, Text Changes to the Draft EIR of the Final EIR.

The EIR identified potential impacts on noise, transportation and circulation, air quality, public utilities, fire prevention and emergency response, visual resources, biological

resources, and cultural resources. Mitigation measures have been identified to reduce the majority of impacts to less than significant levels (noise, air quality, public utilities, biological resources and cultural resources) are presented in the MMP. One potentially significant unavoidable impact on the viewshed from Washington District Preservation Area cannot be mitigated to a less than significant level.

Of particular concern to one resident is the potential noise impact of the project. The project will enclose the existing use within a permanent structure, reducing the noise effect when compared to the existing temporary tent structure. However, analysis indicated that the project has the potential to exceed the City's more stringent night time Noise Ordinance requirements. Mitigation measures are incorporated into the project and the Final EIR to add additional acoustic lining(s), thus ensuring a less than significant noise impact.

B. Public/Neighborhood/Business Association Comments

During the EIR process, comments from residents in the neighborhood were solicited during the Notice of Preparation and the DEIR 45 day public review period have been incorporated into the EIR. One resident submitted comments which is presented as Attachment 8.

C. Summary of Agency Comments

The project has been reviewed by several City Departments and other public agencies. The following summarizes the comments received:

1. City Department of Utilities

The Department of Utilities has the following comment:

The proposed encroachment of the public utility easement with a permanent structure will not be allowed without the abandonment and relocation of the public water main to the satisfaction of the Department of Utilities.

A99 Flood Zone

The Federal Emergency Management Agency (FEMA) publishes Flood Insurance Rate Maps (FIRM) that delineate flood hazard zones for communities. The project site is currently within an area designated as an A99 flood zone by a Letter of Map Revision (LOMR) to the City's FIRM (dated July 6, 1998), issued by FEMA on May 22, 2000. This zone is applied to areas of the City which have less than 100-year flood protection; however, FEMA has determined that adequate progress has been made on a Federal funded flood control project which, when completed, will provide 100-year flood protection to those areas. Implementation of the project

will, therefore, expose people and/or property to the risk of injury and damage in the event of a 100-year, or greater, flood. These risks are considered significant adverse impacts under CEQA. The City of Sacramento has evaluated these risks associated with allowing development within the A-99 Flood Zone in the Programmatic Environmental Impact Report (EIR) prepared in connection with the Land Use Planning Policy Within the 100-Year Floodplain (the "Policy") (M89-054) which was adopted by the City Council on February 6, 1990. Accordingly, the findings adopted by the Council in connection with its certification of the Program EIR and its adoption of the Policy are applicable to the proposed project. These findings are set forth in the Findings of Fact/Statement of Overriding Considerations for the Land Use Planning Policy Within the 100-Year Flood Plain in the City of Sacramento. This Program EIR and Addendums thereto are available at the City of Sacramento, Planning and Building Department, 1231 I Street, Room 300, Sacramento.

In 1998, per congressional mandate to establish a Special Flood Hazard Area (SFHA) addressing flood control systems that no longer provide 100-year protection, FEMA issued a final flood elevation determination letter and revised the FIRM for portions of the Sacramento area, replacing the A99 designation with a new flood zone entitled AR Flood Zone. This AR zone was intended for communities, such as Sacramento, where a certified 100-year or greater flood protection system had been decertified due to updated hydrologic or other data. The AR zone allowed for development to continue, with some restrictions, while progress was being made toward restoring a 100-year flood protection level. In 1998, the City of Sacramento certified Addendum III to the EIR for Land Use Planning Policy within the 100-year Floodplain, which evaluated the risks of allowing development to continue within the AR zone.

Subsequent to the AR zone redesignation, the Army Corps of Engineers lowered the estimates for 100-year flood flows on the American River. In addition, the Sacramento Area Flood Control Agency (SAFCA) continued to make progress on flood control projects along the American River. These two occurrences enabled the City to apply for and receive a flood map revision. On May 22, 2000, FEMA notified the City that the FIRM was being revised to redesignate areas previously listed as an AR zone back to the A99 zone. FEMA's action removes the 3-foot elevation and floodproofing requirement for new buildings but does not eliminate the mandatory flood insurance requirement. Because of an underlying floodplain from Morrison Creek, the City will also require that some building restrictions remain in place in the Pocket and Meadowview areas until the South Sacramento Stream Groups Project is at least 50% complete (possibly within 2001-2003). On July 25, 2000, the City Council adopted these updates relating to the City's flood zone status and the Morrison Creek Floodplain policies (Resolution # 2000-451).

2. Design Review and Preservation Board (DR/PB)

Comments from the August 16, 2000 DR/PB hearing are included in Attachment 7. The following are comments as submitted by Luis Sanchez, City Design Review staff.

A. Site Design

1. The applicant proposes to retain the existing building line along H Street, but proposes enhancements to the pedestrian entry to the inner courtyard. This is in keeping with the Board's guidelines.

The Board's Central City Neighborhood Design Guidelines, (hereafter referred to as the Board's guidelines) were adopted by the City Council on June 1, 1999, and are now applicable to all proposed projects. The Design Principle A.2 on page 3-4, states that the applicant should "Locate structures to create usable outdoor places and continuity of desirable characteristics of adjoining structures along the street face." In addition, Principle A.1, on page 3-2, recommends that clearly defined spaces be provided to create a sense of place, or to provide "Placemaking". The courtyard enhancements, which include a new water feature and decorative paving will meet this criteria.

By providing entries directly relating to street frontages, the project complies with Principle A.5, on page 3-8. The pedestrian activity at the 15<sup>th</sup> and H Street corner will also aid in complying with Principal A.6, on page 3-9, related to providing "the greatest sense of safety, comfort, aesthetic pleasure, and connection to building activities at edges where structures adjoin the public area...". maximum visibility and observation is also obtained, complying with Principal A.8, on page 3-12.

Any proposed site furnishings should also meet Principle B.7, on page 3-20 recommending that outdoor furnishings complement the proposed structure and landscaping design. ***The neighborhood has expressed concern with the corner of 15<sup>th</sup> and H Street and requested that the applicant look at a water feature accessible to the public. The applicant feels this is infeasible, and staff concurs that there are other ways to enhance this corner. Staff has suggested looking at decorative paving and other landscaping features to provide interest at the courtyard entrance.***

2. Existing street trees will be retained. The site plan shows some preliminary proposed landscaping consisting of new trees in the courtyard and off of 15h Street. Staff feels that with paved outdoor use areas, and the



landscaped spaces provided, the project meets the public open space Principle A.4, on page 3-7, based on the scale and use of the project. All planting should have an urban quality, per Principal B.1, on page 3-13, and a variety of plantings, per Principal B.2, on page 3-14. Irrigation should be provided per Principal B.6, on page 3-19.

***The community group reviewing this project has requested that the applicant plant two mature trees on the G Street side. The applicant is reviewing this proposal and verifying costs and feasibility of providing mature trees. Staff feels that a mature tree may be more problematic than a quick growing 24" box tree, but agrees that two trees are needed to infill on G Street. This item should be discussed by the Board and comments are requested from the Board's landscape architect.***

3. Walls and fencing proposed must comply with Principal B.5, on page 3-18, recommending that walls and fences "reflect the style, materials, colors, and architectural character of the building and site." ***Fencing on the revised renderings appear to be horizontal bars. Further information is needed on fencing proposal with regards to color, material, and design. Staff recommends that the applicant look at brick pillars with decorative steel elements between, or similar more compatible fencing for the project.***
4. Design Principle F.2, on page 3-41 states that "Service, storage, trash, and loading functions should not be located in a position so as to negatively impact adjacent properties." The project appears to comply with this, but additional information on this issue is needed from the applicant. Backflow prevention devices, SMUD boxes, etc., should also be placed where not visible from street views, and screened from any pedestrian view.
5. The Board's guidelines state that the exterior lighting style and design should "best complement the character and design of adjacent structure". (Design principle D.2, page 3-37). The applicant should provide the Board with preliminary ideas on lighting. New decorative acorn lighting should be considered for the 15<sup>th</sup> and H Street frontages to complement new acorn lighting proposed for the new parking structure on the south side of H Street. ***Building lighting needs to be addressed by the applicant. Lighting should be subtle and be designed to not adversely impact the neighboring structures with glare.***
6. All site signage must meet the Board's criteria that signage be oriented towards the pedestrian (Design Principle E.2, page 3-38). Signs should be of the highest quality per Principle E.3, on page 3-39. ***Staff***

***recommends externally lit signage that does not adversely impact neighboring structures with glare. Some information is provided in the revised drawings, but a final sign program must be developed for review by the Board and staff.***

7. Bicycle parking and storage must comply with principle B.8 recommending that it be conveniently placed for the bicyclist, and allow for surveillance from building users.

#### **B. Building Design**

1. The applicant proposes a new permanent tent structure to replace the tent that was put up for each season. This will provide theater in the round with 2487 seats. The new structure will be a cable supported structure with permanent masonry walls, air conditioning systems, ADA access, men's and women's restrooms, private box seating, dressing rooms, costume shop and concession sales.

Principle C.8, on page 3-35, states that projects should have "material textures and colors selected to further articulate the building design". The Board should look at the material palette proposed to verify compliance with this principle. Additional information on storefront frame design and color, as well as glazing is needed for staff and Board review. ***A materials and color board has been provided for review by staff and the Board. Some comments had been made on the potential for glare from the off-white tent fabric. The applicant has informed staff that this is the only available color for the fabric.***

2. The proposed project must meet Design Principle C.1, on page 3-22, which requires a coherent design concept with appropriate scale, and continuity of design on all faces. principle. The project as proposed on most portions of the project complies with the scale, height, and massing indicated in Principle C.3, on page 3-26. ***There is some concern by the neighborhood group that the tent like roof elements at the entry structures at the corner of 15<sup>th</sup> and H Streets are too "futuristic" and not compatible with the overall design and the buildings in the neighborhood. One suggestion was to look at the pyramid roof shape already used on the building, and utilize that form at the entry element.***
3. The tent structure is large( 51'-0" to the top), and there have been some issues presented to staff by neighbors that feel it is too large. Shadow casting details, details at fenestration, planar changes, and other finer grain detailing of the building will help it to comply with Principal C.4, on

page 3-31, recommending that projects "incorporate the scale and level of detail that is typical of well designed buildings in the surrounding area." Quality of detailing is also important for the project to comply with Principal C.7.

4. All entries should be well defined. The entries should be in scale with the project, and relate to the street frontage per Principal A.5, on page 3-8. Clear glazing should also be incorporated to maximize the pedestrian/user interaction. ***There is concern with clear glazing on the G Street doors since they open out to a residential neighborhood. It has been suggested that opaque or other special glazing be used at this entry. The Board should review this issue.***
5. ***The previous comment on the H Street design was as follows:*** The H Street elevation appears to be somewhat "institutional" in design, with striped masonry construction. The Board should provide the applicant with comments on further articulation and integration of color into the design. ***The applicant has revisited the design and simplified the facade for a more streamlined appearance. The Board is requested to comment on the revised project design.***
6. Building lighting should be carefully integrated to best complement the project design.
7. The portion of the main stage structure that appears on the 15<sup>th</sup> Street elevation is totally unadorned. Consideration should be given to provide additional articulation and use of color. ***Staff is still recommending that additional information be provided to staff and the Board to better understand how the building will be detailed. The applicant should explain to staff and the Board how the color and materials palette will be implemented on each side of the building. Colored renderings that accurately depict the proposal would be helpful, since the computer generated drawings are somewhat inadequate.***
8. Marquee design should be further developed and additional information provided for the staff and Board to review. ***The proposed marquee structures have been revised and indicated in the drawings.***
9. ***The previous comment on the block walls was as follows:*** The block walls on the 15<sup>th</sup> and G Street elevations should be better articulated. Consider the use of pilasters and a decorative cornice/cap to alleviate the mass and monotony of the wall. On G Street, provision should be made to provide enough space in front of the wall for landscaping to soften the wall mass. ***The applicant has eliminated the block material from the***

*materials board. Plaster and brick are proposed. Staff has some concerns over the yellow brick, but the applicant indicates that other brick buildings in town have used this color of brick for accent along with red brick.*

10. Parapet walls should be designed to fully screen any roof mounted equipment from any street, per the Board's guidelines, Principal F.4, on page 3-42.

**PROJECT APPROVAL PROCESS:** Of the entitlements below, Planning Commission has the authority to approve or deny A through D. The Planning Commission action may be appealed to the City Council. The appeal must occur within 10 days of the Planning Commission action. Items A and B will be taken for certification by the DR/ PB on December 20, 2000. Items A and B will also be taken for certification by the City Council on January 2, 2001, along with approvals to issue the bonds to finance the capital construction.

**RECOMMENDATION:** Staff recommends approval of the proposed development for the following reasons:

The SLOA and STC operations have been a part of the downtown cultural environment for over 50 years in the City of Sacramento. The Sacramento Economic Development Strategy (July 10, 2000) lists the SLOA and STC operations as one of city-wide "Key" development opportunities in the City. This project proposes to update and modernize the theater complex in order to maintain its economic viability and continue operations for years into the future.

It is the intention of the Arts & Entertainment District to enliven the downtown area after the regular workday is finished by attracting people to after hour events such as live theater. Therefore, the maintenance of the theater complex at this location within the district is important in order to continue the provision of cultural amenities downtown.

Staff recommends the Planning Commission take the following actions


- A. Certify the Environmental Impact Report;
- B. Adopt the attached Notice of Decision, adopt the Findings of Fact and Statement of Overriding Considerations, and approve the Mitigation Monitoring Plan;
- C. Adopt the attached Notice of Decision and Findings of Fact approving the Variance to waive the front yard requirements on 1.7± acres in the General Commercial (C-2) zone;
- D. Adopt the attached Notice of Decision and Findings of Fact approving the Lot Line Adjustment to modify the southeastern property line of APN: 002-0166-014.

P00-029

DECEMBER 7, 2000

ITEM # 5  
PAGE 18

Report Prepared By,



Ted Kozak, Assistant Planner

Report Reviewed By,



Steve Peterson, Senior Planner

December 6<sup>th</sup>, 2000

Kristy Chew  
Planning Division  
1231 I Street Room 300  
Sacramento, CA 95814

Subject : Comments/Concerns of the Music Circus Renovation Project (and Final EIR)

Dear Ms. Chew,

The response to a comment in the final EIR (Response 7-1 Section 4.2.3.2 Item 1A) states "It was noted in the Draft EIR on page 4-3 that no noise complaints were submitted for the 1999 Music Circus Season...". I wish to take this time to voice my experience and concerns with regards to noise issues that the Music Circus brings to me and by neighbors.

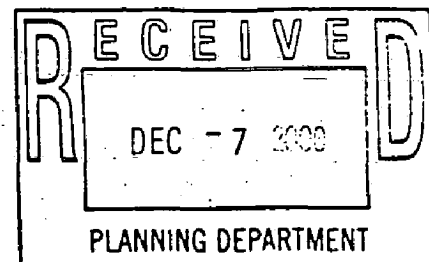
The noise that I experience was, when I first bought my house in the neighborhood, unbelievable and then extremely disruptive. I have had friends come over to visit and ask "what is THAT?". When I explain that it's the Music Circus they respond "can they do that?" or "doesn't it bother you?". My response to them is : of course it bothers me and all my neighbors and yes, they have been doing that for many years and nothing can be done. And that is my point, that this noise burden on the neighborhood is not new and when we have called to complain in the past we were told there is nothing that can be done (I personally learned this 'lesson' in 1997). With the renovation of the Music circus, the city and the Music Circus have the opportunity to right this situation if they so chooses. It seems from the EIR that there has been no issue recognized. I am here to tell you this is wrong, that there is a huge negative impact to the neighborhood. How many times have I herd a neighbor who is renting next door say "I gotta move before the music Circus starts, I just can't bear living through another season of that" These negative impacts are an ongoing issue in the neighborhood and have always been a topic of discussion.

As I have stated above, the noise of the Music Circus is at an unacceptable level and within the new project I am convinced it will not get better. I feel not enough research has been done to identify the different noise issues let alone solve them. My neighborhood is a historic neighborhood with a lot of fine people working hard to make it a great neighborhood. Do not torpedo our hard work with thoughtless projects that do not resolve issues that negatively impact our very livelihood.

Best regards,  
James T. Souder  
1509 G Street

Sacramento City Council  
and  
Ms. Kristy Chew  
Planning Division  
1231 I Street Suite 300  
Sacramento, CA

12/7/00



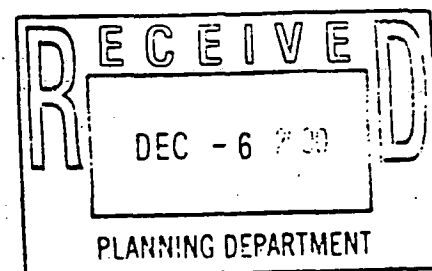
Dear Sirs:

We requested a continuation of the hearing scheduled for Dec 7th so that we could review the FEIR regarding the Music Circus renovation with our sound engineer. We question the adequacy of the proposed mitigation for noise impact. We also question whether alternative sites for this project were adequately studied. The FEIR states that no noise complaints were reported to the Sacramento Police Department. This is not true. We absolutely know that dozens of complaints were made to the Police Department by ourselves, our tenants, the manager of 1415 G Street and her tenants.

Anne Burke  
Robert Pendergrast  
1421 G Street  
Sacramento, CA 95814

**REQUEST FOR CONTINUANCE**

**City of Sacramento  
Planning Commission  
1231 I Street  
Room 300  
Sacramento, CA 95814**



**Dear Sirs:**

**We are requesting a continuance of the public hearing scheduled for Dec 7, 2000 regarding the Music Circus Renovation for the following reasons:**

**Steve Pettyjohn, the sound expert who analyzed the data contained in the draft EIR, as it relates to Noise Ordinance, has not seen the final EIR due to the fact that these reports have only been made available to us within the past week. We therefore request a two week continuance to review with him and respond to the final EIR.**

**Sincerely**

*[Signature]*  
**Apne Burke**

**Robert Pendergrast  
1421 G Street #5  
Sacramento, CA**



6 December 2000

President  
City Planning Commission  
City of Sacramento  
1231 I Street, Room 300  
Sacramento, Ca

Re: P00-029

Dear President and Commissioners:

I am writing to request a continuance of this item in order to allow immediate neighboring property owners additional time to review the proposed final EIR especially as it responds to issues raised by those neighbors in response to the draft EIR.

As you may be aware, a professional sound engineer (John Pettyjohn, Acoustics and Vibrations Group) was engaged by neighbors to do sound studies and the results of his work were the basis for comments made to the draft EIR.

It is my understanding from others that the proposed final EIR only became available last week. (I received no notice of its completion and availability except indirectly by the announcement of this hearing, despite the fact that I did request and received a draft EIR.) More importantly, I am advised that Mr. Pettyjohn is out of town and is therefore unavailable to us to review the sound mitigation measures proposed by the final EIR.

I own a residential property directly across G Street from the Music Circus where I formerly resided and which I have owned since 1980. Appropriate mitigation of the impacts of this project is of keen interest to me and other property owners in the block. I trust you will see the value of a two week continuance of this project in order to help ensure a better end result.

Sincerely,



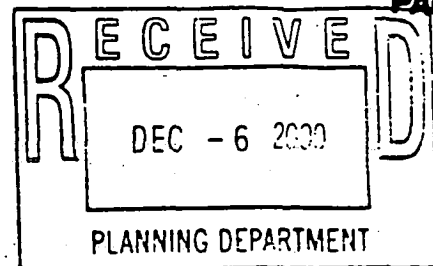
Mark Ryser

135 Ord Street  
San Francisco, Ca 94114

415 553-8033

California State  
Bar #99221

**Linda Dismukes Boudier**  
*Attorney at Law*  
2652 16th Street  
Sacramento, CA 95818-2345  
(916) 930-9106/ fax: (916) 448-3416



December 6, 2000

Sacramento City Council  
HAND DELIVER  
and  
Ms. Kristy Chew  
Planning Division  
1231 I Street, Suite 300  
HAND DELIVER

Re: Music Circus F.E.I.R.

Honored Representatives:

I have reviewed the F.E.I.R. for the proposed Music Circus expansion and would appreciate your discussion of alternatives:

- 1) Why were six alternatives "Considered but Eliminated from Detailed Evaluation?"  
(Page ES-5) Is there a superior alternative hiding in those alternatives?
- 2) The onsite design alternative is mentioned, but apparently not considered.  
(Page ES-4) Why not?

I thank you for your time in exploring these deficiencies.

Kind regards,

A handwritten signature in cursive script that reads "L. Boudier".

Linda D. Boudier  
Attorney at Law

LDB:ms



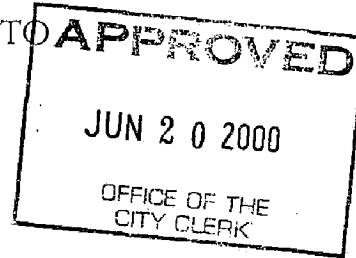
1.30

DOWNTOWN  
DEPARTMENT

PARKING LOT ADMINISTRATION

CITY OF SACRAMENTO  
CALIFORNIA

June 12, 2000



312 K STREET  
SACRAMENTO, CA  
95814-3329

PH: 916-264-5110  
FAX: 916-264-5115

City Council  
Sacramento, California

**SUBJECT: REPORT BACK ON GARAGE C MITIGATION ITEMS  
(VD71)**

**LOCATION AND COUNCIL DISTRICT:** 805 14th Street, Sacramento, Council District 1

**RECOMMENDATION:**

This report recommends that City Council adopt the two attached Resolutions:

1. Adopting administrative changes to the additional non-CEQA related mitigations associated with Garage C adopted by Council on May 9, 2000
2. Adding \$80,000 in street lighting improvements to the Garage C project and financing costs through inclusion in the Garage C portion of the 2000 Capital Improvement Revenue Bonds.

**CONTACT PERSON:** Mark Miller, Parking Operations Manager, 264-7610

**FOR COUNCIL MEETING OF:** June 20, 2000

**SUMMARY:**

On May 9, 2000, City Council certified the Environmental Impact Report (EIR) for Garage C. Council also approved Resolution 2000-227 regarding other actions that were requested by members of the community apart from the Garage C EIR or development of the garage. This report provides clarifications in language for City Council consideration. City Council also directed staff to identify costs for additional street lighting and to provide Council with an alternative plan for including these lighting improvements in the bond for the funding of Garage C.

**COMMITTEE/COMMISSION ACTION:**

None.

## **BACKGROUND INFORMATION:**

On May 9, 2000, City Council certified the Environmental Impact Report (EIR) for Garage C. Council also adopted a list of non-CEQA related measures requested by the community as Resolution 2000-227. This Resolution is included as Exhibit A. The list had several minor errors and one omission. This report is to correct the wording on that Council action. The corrected, "dirty" Resolution is provided as Exhibit B.

If approved, the attached Resolution would correct locations where vehicle counts were to occur, potentially remove parking meters where residents and businesses do not want them, and provide more concise wording of actions already approved by City Council.

The cost of the approved, additional items is up to \$100,000. This amount has already been included in the bond finance planning. Some services included in the attached Resolution would be performed by City staff in the normal course of business. Other elements will be charged to the project.

At the same meeting, City Council asked staff to report on whether certain street lighting should be funded using the bond issuance already needed to construct Garage C. Council directed staff to identify costs to upgrade lighting on 14<sup>th</sup> & 15<sup>th</sup> streets between I and H streets. An analysis by Public Works Department staff identified a project cost of \$80,000 to expand lighting in areas identified by City Council.

After evaluating the cost of the street lighting and the impact of this cost of the overall financing for the project, staff recommends inclusion of the streetlights in the project scope and financing. The attached resolution would direct staff to add street lighting in the specified areas and to increase bond net proceeds by \$80,000 to fund these improvements.

## **FINANCIAL CONSIDERATIONS:**

Increasing bond net proceeds by \$80,000 would not significantly increase overall bond costs or parking rates.

The estimated project budget is \$19,200,000 including a \$500,000 Parking Revenue Control System and \$100,000 in additional mitigation measures approved by Council on May 9 in Resolution No. 2000-227 and listed as a part of this report. The mitigation measures recommended in this report will add \$80,000 to the total project for a project budget of \$19,280,000.

Staff has been advised by consultants studying revenue requirements for bonding Garage C and the Parking Revenue Control System that average, overall increases in Parking Enterprise revenues of 5½% annually would be needed for the next five years to make it possible for the Parking Fund to pay for the Parking Revenue Control System and development of Garage C at the level of expenditures recommended in this report. Parking fee projections indicate that increases averaging 5½ % can be achieved. Because some parking fees are limited by market conditions or long term contracts and because hourly fees are increased in increments of twenty-five cents, parking fee increases would be larger than 5½ % in some years and less in others to achieve the desired average. Also, rate adjustments in some garages may increase much more than 5½ %.

The project is anticipated to be funded by bonds issued for the project and paid by parking revenue, with expenditures incurred before the bond sale reimbursed to the fund. The bond issuance process began with the EIR certification on May 9, 2000 and is anticipated to conclude no later than August 31. The bond issuance will be discussed in a public hearing scheduled before City Council on June 20, 2000.

**ENVIRONMENTAL CONSIDERATIONS:**

In compliance with the California Environmental Quality Act (CEQA), the Planning Services Division, Environmental Section, prepared an Environmental Impact Report (EIR) for the project. On May 9, 2000, City Council certified the Environmental Impact Report. A Notice of Determination was filed with the Sacramento County Clerk. Additional environmental actions may be necessary as a result of the mitigation measures identified by the neighborhood.

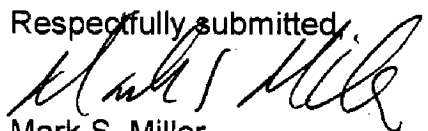
**POLICY CONSIDERATIONS:**

This project supports City Council's policy to provide the citizens of Sacramento with access and services to downtown and supports the goal of the and Economic Development and Regional Enterprise Agency to be financially stable and fiscally responsible.

**ESBD CONSIDERATIONS:**

Staff will continue to involve the Office of Small Business Development to encourage ESBD participation.

Respectfully submitted,

  
Mark S. Miller  
Parking Operations Manager

**RECOMMENDATION APPROVED:**

  
ROBERT P. THOMAS  
City Manager

**RESOLUTION NO. 2000-227**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF MAY 9 - 2000

**RESOLUTION APPROVING NON-CEQA RELATED MEASURES  
ASSOCIATED WITH THE APPROVAL OF GARAGE C**

**BE IT RESOLVED BY THE CITY OF SACRAMENTO THAT:**

1. Design and install signs along 16<sup>th</sup> Street before construction of Garage C is completed, directing northbound traffic traveling to the Convention Center, Memorial Auditorium, and other destinations served by the Garage C facility to turn left on I Street.
2. Design and install signs along 12<sup>th</sup> Street upon completion of Garage C, directing southbound traffic traveling to the Convention Center, Memorial Auditorium, and other destinations served by the Garage C facility to turn left on H Street.
3. Perform vehicle counts on E Street eastbound between 11<sup>th</sup> and 12<sup>th</sup> Streets. A baseline count shall be performed before construction of Garage C is completed and two follow-up counts shall be conducted at six-month intervals subsequent to completion of parking Garage C. Staff shall report back to City Council with results of this traffic count and, if indicated, recommend a half-street closure of E Street eastbound at 12<sup>th</sup> Street or other traffic controls.
4. Install speed dots and signage on 14<sup>th</sup> Street northbound at the intersection of 14<sup>th</sup> and H Streets encouraging a right turn onto H Street, but allowing traffic to proceed over the speed dots northbound on 14<sup>th</sup> Street. These improvements shall be in place when construction is completed at Garage C. Further, staff shall study activity at this intersection within one year of the date that Garage C construction is completed to ascertain whether most east-bound vehicles, originating at Garage C, turn onto H Street or proceed north on 14<sup>th</sup> Street. If these improvements fail to route most eastbound vehicles onto H Street from 14<sup>th</sup> Street, staff shall recommend additional traffic controls to accomplish this.

**FOR CITY CLERK USE ONLY**

RESOLUTION NO.: **2000-227**

DATE ADOPTED: **MAY 9 - 2000**

5. Review and process any petition for amendment of restrictions that may be submitted by members of the public owning or renting property in residential parking permit area "F" or any sub-set of permit area "F" as expeditiously as possible and with a staff report back to Council. Such petitions shall proceed through the City's normal residential permit area review process.
6. Include in the upcoming study of the half-street closure at H & 20<sup>th</sup> Streets to H & 16<sup>th</sup> Street an element identifying the anticipated effects of projected Garage C traffic activity.
7. Manage Garage C retail space such that lease space fronting on H Street shall be let for use by businesses engaged in the sale of goods or services. If, for any reason, these spaces should remain unused for 180 days or more, staff may recommend that City Council approve leases for governmental or non sales-related office use. Should this occur, local resident associations shall be notified of that recommendation prior to City Council action.
8. Include in the contract for development of Garage C a provision requiring the contractor to survey all building on brick or non-reinforced foundations within a radius of four city blocks of the Garage C construction site. Surveys shall be conducted prior to and subsequent to pile driving related to construction to identify any construction-related damage.
9. Staff shall return with review of lighting between E and J and 12<sup>th</sup> and 16<sup>th</sup> streets.
10. Encourage and facilitate use of the privately operated garage located at 13<sup>th</sup> & J Streets by Light Opera Company patrons during the 2000 theater season in order to reduce on-street parking in residential areas during Garage Construction.

City staff shall study the following and report back to City Council within one year of groundbreaking on the parking garage at 14<sup>th</sup> and H Streets:

11. Half-street closure eastbound at 12<sup>th</sup> and F Streets and elimination of the forced left-hand turn lane, instead, merging through traffic to the right.
12. Elimination of a forced left-hand turn lane southbound on 12<sup>th</sup> Street at F Street.

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FOR CITY CLERK USE ONLY

RESOLUTION NO.: **2000-227**  
DATE ADOPTED: **MAY 9 - 2000**

6



**REPLACEMENT RESOLUTION APPROVING NON-CEQA RELATED MEASURES  
ASSOCIATED WITH THE APPROVAL OF GARAGE C**

WEREAS, on May 9, 2000 the City Council of the City of Sacramento adopted Resolution 2000-227, a Resolution Approving Non-CEQA Related Measures Associated With The Approval Of Garage C, and

WHEREAS, the list adopted as an integral part of Resolution 2000-227 had several minor errors and one omission, and

WHEREAS, a correcting Resolution is needed to prevent the possible removal of parking meters where residents and businesses do not want them removed, correct locations where vehicle counts are to occur and provide more concise wording of actions already approved by City Council, **NOW, THEREFORE**

**BE IT RESOLVED BY THE CITY OF SACRAMENTO THAT:**

1. Design and install signs along 16<sup>th</sup> Street before construction of Garage C is completed, directing northbound traffic traveling to the Convention Center, Memorial Auditorium, and other destinations served by the Garage C facility to turn left on I Street.
2. Design and install signs along 12<sup>th</sup> Street ~~upon completion~~ **before construction** of Garage C **is completed** directing southbound traffic traveling to the Convention Center, Memorial Auditorium, and other destinations served by the Garage C facility to turn left on H Street.
3. ~~Perform vehicle counts on E Street eastbound between 11<sup>th</sup> and 12<sup>th</sup> Streets. A baseline count shall be performed before construction of Garage C is completed and two follow up counts shall be conducted at six month intervals subsequent to completion of parking Garage C. Staff shall report back to City Council with results of this traffic count and, if indicated, recommend a half-street closure of E Street eastbound at 12<sup>th</sup> Street or other traffic controls.~~

**Baseline counts shall be performed on both E and F Streets between 12<sup>th</sup> and 15<sup>th</sup> Streets before construction of Garage C is completed. Follow-up traffic counts shall be completed at these locations within 6 months subsequent to completion of Garage C. Should a half-street closure be implemented eastbound at 12<sup>th</sup> and F Streets, then within one year, staff shall study and make a report back to City Council regarding vehicle activity and recommend mitigation as needed. The staff report on "recommended mitigation" shall include consideration of half-street closure of E Street eastbound at 12<sup>th</sup> Street.**

4. Install speed dots and signage on 14<sup>th</sup> Street northbound at the intersection of 14<sup>th</sup> and H Streets encouraging a right turn onto H Street, but allowing traffic to proceed over the speed dots northbound on 14<sup>th</sup> Street. These improvements shall be in place when construction is completed at Garage C. Further, staff shall study activity at this intersection within one year of the date that Garage C construction is completed to ascertain whether most east-bound vehicles, originating at Garage C, turn onto H Street or proceed north on 14<sup>th</sup> Street. If these improvements fail to route most eastbound vehicles onto H Street from 14<sup>th</sup> Street, staff shall recommend additional traffic controls to accomplish this.
5. Review and process any petition for amendment of restrictions that may be submitted by members of the public owning or renting property in residential parking permit area "F" or any sub-set of permit area "F" as expeditiously as possible and with a staff report back to Council. Such petitions shall proceed through the City's normal residential permit area review process.
6. Include in the upcoming study of the half-street closure at H & 20<sup>th</sup> Streets to H & 16<sup>th</sup> Street an element identifying the anticipated effects of projected Garage C traffic activity.
7. Manage Garage C retail space such that lease space fronting on H Street shall be let for use by businesses engaged in the sale of goods or services. If, for any reason, these spaces should remain unused for 180 days or more, staff may recommend that City Council approve leases for governmental or non sales-related office use. Should this occur, local resident associations shall be notified of that recommendation prior to City Council action.
8. Include in the contract for development of Garage C a provision requiring the contractor to survey all building on brick or non-reinforced foundations within a radius of four city blocks of the Garage C construction site. Surveys shall be conducted prior to and subsequent to pile driving related to construction to identify any construction-related damage.
9. Staff shall return with review of lighting between E and J and 12<sup>th</sup> and 16<sup>th</sup> streets.
10. Encourage and facilitate use of the privately operated garage located at 13<sup>th</sup> & J Streets by Light Opera Company patrons during the 2000 theater season in order to reduce on-street parking in residential areas during Garage Construction.

11. Staff is directed to survey property owners, business operators, and residents in the following locations where parking meters are located:

- On G Street between 14<sup>th</sup> and 16<sup>th</sup> Streets
- On 14<sup>th</sup> Street between E and F Streets
- On 15<sup>th</sup> Street between F and G Streets

Where adjacent property owners or residents do not desire meters, meters shall be removed within one year of groundbreaking on the parking garage at 14<sup>th</sup> and H Streets.

City staff shall study the following and report back to City Council within one year of groundbreaking on the parking garage at 14<sup>th</sup> and H Streets:

12. Half-street closure eastbound at 12<sup>th</sup> and F Streets and elimination of the forced left-hand turn lane, instead, merging through traffic to the right.
13. Elimination of a forced left-hand turn lane southbound on 12<sup>th</sup> Street at F Street.
14. Removal of the forced left-hand turn lane at 16<sup>th</sup> & G Streets.
15. Creation of a forced left-hand turn lane at 16<sup>th</sup> & I Streets.
16. Closure of the alley between F and G Streets and between 13<sup>th</sup> and 14<sup>th</sup> Streets.
17. Installation of angled parking on 13<sup>th</sup> and 14<sup>th</sup> Streets between E and H Streets.  
Staff shall study installation of angled parking on 15<sup>th</sup> Street between E & H Streets within twelve months of transfer of that roadway from State to City responsibility and report back to City Council.
18. Should staff recommendations indicate which traffic control recommendations would impact roadways administered by the State of California, City Council may direct City staff to petition the State of California to implement some or all of these changes. City Council may also defer action on recommendations until and unless these roadways become the responsibility of the City of Sacramento.
19. Work with owners of the Quality Inn regarding the moving of their signs and mitigation of noise and dust.
20. Report back to Council as part of the financing of this project on the fair share portion of H, I, 14<sup>th</sup> and 15<sup>th</sup> Street lighting.
21. Study the viability of using construction vehicles identified by the Air Quality Management District.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

# RESOLUTION NO. 2000-356

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_



## REPLACEMENT RESOLUTION APPROVING NON-CEQA RELATED MEASURES ASSOCIATED WITH THE APPROVAL OF GARAGE C

WEREAS, on May 9, 2000 the City Council of the City of Sacramento adopted Resolution 2000-227, a Resolution Approving Non-CEQA Related Measures Associated With The Approval Of Garage C, and

WHEREAS, the list adopted as an integral part of Resolution 2000-227 had several minor errors and one omission, and

WHEREAS, a correcting Resolution is needed to remove parking meters where residents and businesses do not want them, correct locations where vehicle counts are to occur and provide more concise wording of actions already approved by City Council,  
**NOW, THEREFORE**

### BE IT RESOLVED BY THE CITY OF SACRAMENTO THAT:

1. Adding \$80,000 in street lighting improvements to the bond issuance funding the Garage C project with costs to be paid from parking fee proceeds. Design and install signs along 16th Street before construction of Garage C is completed, directing northbound traffic traveling to the Convention Center, Memorial Auditorium, and other destinations served by the Garage C facility to turn left on I Street.
1. Design and install signs along 12th Street before construction of Garage C is completed directing southbound traffic traveling to the Convention Center, Memorial Auditorium, and other destinations served by the Garage C facility to turn left on H Street.
2. Baseline counts shall be performed on both E and F Streets between 12<sup>th</sup> and 15<sup>th</sup> Streets before construction of Garage C is completed. Follow-up traffic counts shall be completed at these locations within 6 months subsequent to completion of Garage C. Should a half-street closure be implemented eastbound at 12<sup>th</sup> and F Streets, then within one year, staff shall study and make a report back to City Council regarding vehicle activity and recommend mitigation as needed. The staff report on "recommended mitigation" shall include consideration of half-street closure of E Street eastbound at 12<sup>th</sup> Street.

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RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

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3. Install speed dots and signage on 14th Street northbound at the intersection of 14th and H Streets encouraging a right turn onto H Street, but allowing traffic to proceed over the speed dots northbound on 14th Street. These improvements shall be in place when construction is completed at Garage C. Further, staff shall study activity at this intersection within one year of the date that Garage C construction is completed to ascertain whether most east-bound vehicles, originating at Garage C, turn onto H Street or proceed north on 14th Street. If these improvements fail to route most eastbound vehicles onto H Street from 14th Street, staff shall recommend additional traffic controls to accomplish this.
4. Review and process any petition for amendment of restrictions that may be submitted by members of the public owning or renting property in residential parking permit area "F" or any sub-set of permit area "F" as expeditiously as possible and with a staff report back to Council. Such petitions shall proceed through the City's normal residential permit area review process.
5. Include in the upcoming study of the half-street closure at H & 20th Streets to H & 16th Street an element identifying the anticipated effects of projected Garage C traffic activity.
6. Manage Garage C retail space such that lease space fronting on H Street shall be let for use by businesses engaged in the sale of goods or services. If, for any reason, these spaces should remain unused for 180 days or more, staff may recommend that City Council approve leases for governmental or non sales-related office use. Should this occur, local resident associations shall be notified of that recommendation prior to City Council action.
7. Include in the contract for development of Garage C a provision requiring the contractor to survey all building on brick or non-reinforced foundations within a radius of four city blocks of the Garage C construction site. Surveys shall be conducted prior to and subsequent to pile driving related to construction to identify any construction-related damage.
8. Staff shall return with review of lighting between E and J and 12<sup>th</sup> and 16<sup>th</sup> streets.
9. Encourage and facilitate use of the privately operated garage located at 13th & J Streets by Light Opera Company patrons during the 2000 theater season in order to reduce on-street parking in residential areas during Garage Construction.
10. Staff is directed to survey property owners, business operators, and residents in the following locations where parking meters are located:
  - On G Street between 14<sup>th</sup> and 16<sup>th</sup> Streets
  - On 14<sup>th</sup> Street between E and F Streets
  - On 15<sup>th</sup> Street between F and G Streets

Where adjacent property owners or residents do not desire meters, meters shall be removed within one year of groundbreaking on the parking garage at 14<sup>th</sup> and H Streets.

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FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

City staff shall study the following and report back to City Council within one year of groundbreaking on the parking garage at 14th and H Streets:

11. Half-street closure eastbound at 12th and F Streets and elimination of the forced left-hand turn lane, instead, merging through traffic to the right.
12. Elimination of a forced left-hand turn lane southbound on 12th Street at F Street.
13. Removal of the forced left-hand turn lane at 16th & G Streets.
14. Creation of a forced left-hand turn lane at 16th & I Streets.
15. Closure of the alley between F and G Streets and between 13th and 14th Streets.
16. Installation of angled parking on 13th and 14th Streets between E and H Streets.  
Staff shall study installation of angled parking on 15th Street between E & H Streets within twelve months of transfer of that roadway from State to City responsibility and report back to City Council.
17. Should staff recommendations indicate which traffic control recommendations would impact roadways administered by the State of California, City Council may direct City staff to petition the State of California to implement some or all of these changes. City Council may also defer action on recommendations until and unless these roadways become the responsibility of the City of Sacramento.
18. Work with owners of the Quality Inn regarding the moving of their signs and mitigation of noise and dust.
19. Report back to Council as part of the financing of this project on the fair share portion of H, I, 14<sup>th</sup> and 15<sup>th</sup> Street lighting.
20. Study the viability of using construction vehicles identified by the Air Quality Management District.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

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## RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

### **RESOLUTION ADDING \$80,000 IN STREET LIGHTING IMPROVEMENTS TO THE GARAGE C PROJECT AND FINANCING COSTS THROUGH INCLUSION IN THE GARAGE C PORTION OF THE 2000 CAPITAL IMPROVEMENT REVENUE BONDS**

WEREAS, on May 9, 2000 the City Council of the City of Sacramento adopted Resolution 2000-227, a Resolution Approving Non-CEQA Related Measures Associated With The Approval Of Garage C, and

WHEREAS, Council directed staff as a part of the Resolution to report back as part of the financing of Garage C on the "fair share" portion of H, I, 14th and 15th Street Lighting, and

WHEREAS, the cost of the portion of street lighting is eighty thousand dollars (\$80,000), and

WHEREAS, inclusion of this cost in the financing for the project will not deleteriously effect of the ability of the Parking Operation to support the debt service on the financing, **NOW, THEREFORE**

#### **BE IT RESOLVED BY THE CITY OF SACRAMENTO THAT:**

The \$80,000 cost of street lighting on the portion of H, I, 14th and 15<sup>th</sup> Streets is hereby included in the financing for the Garage C project.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

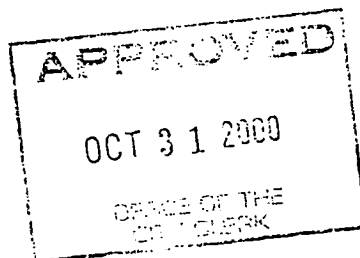
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FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

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# CITY OF SACRAMENTO -- COUNTY OF SACRAMENTO



October 10, 2000

**TO:** Mayor, Member of the Sacramento City Council  
Sacramento County Board of Supervisors

**FROM:** Thomas Friery, City Treasurer  
Geoffrey Davey, County Chief Financial Officer  
Barbara Bonebrake, Director, City Culture and Leisure Services Department  
Andy Plescia, Director, City Economic Development Department

**SUBJECT: H STREET THEATER PROJECT UPDATE**

**LOCATION AND DISTRICT:** 1419 "H" Street  
City Council District 1  
Supervisory District 1

## RECOMMENDATION:

It is recommended that the Sacramento County Board of Supervisors and the Sacramento City Council adopt a resolution to:

- (1) Receive and file the update on the H Street Theater Project Renovation.
- (2) Approve the attached Business Terms Agreement (Appendices A, B & C) which has been executed by authorized representatives of the California Musical Theatre (CMT) and the Sacramento Theatre Company (STC) and incorporates the following changes to the original financing plan:
  - (a) Deletion of a short-term loan from the City for up to \$475,000.



- (b) Conceptually approve an extension of the City and County's annual commitment of \$66,000 each per year to the H Street Arts Partnership Fund (HTP Fund) for a period not to exceed the year 2020.
  - (c) Modify the existing agreement with STC and CMT to allow a payment out of the HTP Fund to be made without the matching requirement.
  - (d) Review changes to the original revenue projections.
  - (e) Incorporates a "lock-box" mechanism to assure all project-specific pledged revenues of the CMT and STC are captured, and if necessary, other revenues earned at the project site are available to meet the debt service.
- (3) Give direction to staff to proceed with the financing related to the project.

**CONTACT PERSON:**

Laura Sainz, City Economic Development Department, 264-2677

**FOR COUNCIL/BOARD OF SUPERVISORS MEETING OF:** October 31, 2000

**SUMMARY:**

In October of last year, the City Council and County Board of Supervisors conceptually approved the proposed improvements and financing plan for the H Street Theater Project. Since that time, there have been some changes to the financing plan for the project including:

- (1) Originally, the financing plan included a loan of up to \$475,000 for pre-construction expenses. This loan is no longer necessary.
- (2) In May 1997, the City and County conceptually approved joint funding totaling \$1,320,000 (\$66,000 each over the next ten years) to the H Street Theater Arts Partnership Fund (HTP Fund) for future ADA improvements, new construction and improvements to existing buildings. This commitment will need to be modified to extend the City and County's commitment until 2020 or when the bonds are paid off, whichever occurs first. The revenue is needed in order to support the payments on the bonds.
- (3) The HTP Fund agreement needs to be modified to allow a payment for pre-construction expenses to be made without matching funds.
- (4) The revenue projections originally submitted by California Musical Theatre (formerly the Sacramento Light Opera Association) have changed to reflect the Naming Rights Agreement as well as additional revenue from a new Concert Series. In addition, the Grant that was being proposed as potential revenue is no longer being considered.
- (5) Pledging of all CMT revenues earned at the project site to flow through a "lock-box" account to ensure that if CMT & STC project-specific pledged revenues fall short of meeting debt service requirements, that other CMT revenues earned at the site will be

available to pay debt service payments. This will enable us to avoid a call on the City and County's debt-service guarantee on the bonds.

#### **COMMITTEE/COMMISSION ACTION:**

The project has been reviewed and approved by the Boards of Directors of the Sacramento Theatre Company and the California Musical Theatre.

#### **BACKGROUND INFORMATION:**

On October 5, 1999, the City Council and Board of Supervisors conceptually approved the H Street Theater Project improvements and financing plan. That conceptual approval included:

- (1) The City and County's joint participation in a capital improvement program at the City/County owned property at 1419 "H" Street.
- (2) A capital financing plan, including:
  - a) Establishment of a Joint Powers Authority (JPA);
  - b) A bond issuance to finance the improvements;
  - c) The commitment of new revenues by STC and CMT for debt service; and
  - d) The continuation of the existing City/County investment in the property.
- (3) The approval of a short-term loan from the City of up to \$475,000 for pre-construction expenses.
- (4) The establishment of a City Capital Improvement Project with authority to spend funds for first year project costs, if necessary.

Following conceptual approval, STC and CMT proceeded to explore the possibility of renovating the existing site. Both STC and CMT started collecting a facilities fee on their ticket sales in order to begin accumulating the revenue necessary to service the debt on potential bonds. This calendar year, CMT collected approximately \$294,000. STC has collected \$57,700 to date, and will continue to collect the fee through this season, which ends in November.

#### *Environmental Review*

In addition to collecting a facilities fee, CMT also started the environmental review process for the proposed project. CMT has been working with the City to complete the required Environmental Impact Review. The project is in the middle of the process, as the draft EIR has been issued and is in the 45-day review period. The remaining schedule is projected to be as follows:

Final EIR Issued:	11/28/00
Planning Commission review and final action on EIR and variance for setback:	12/7/00
Design Review Board review and approval of final design:	12/20/00
City Council review and approve items listed below:	1/2/01
Board of Supervisors review and approve items listed below:	1/9/01
Joint Powers Authority to approve bond issuance:	By 2/15
Bond Issuance:	3/1/01

*City Council Action*

At the January 2, 2001 City Council meeting City Council is expected to review and approve the following:

- (1) Environmental Impact Review (EIR Certification);
- (2) Business Agreement between STC and CMT;
- (3) Formation and approval of a JPA with the County for bond issuance;
- (4) Bond authorization and approval of related bond documents; and
- (5) Exiting agreements that need to be recorded on the property deed.

At the January 9, 2001 County Board of Supervisors meeting the Board is expected to review and approve the following:

- (1) Business Agreement between STC and CMT;
- (2) Formation and approval of a JPA with the County for bond issuance;
- (3) Bond authorization and approval of related bond documents; and
- (4) Exiting agreements that need to be recorded on the City and County's property deed.

*Business Terms Agreement*

The City Treasurer and County Chief Financial Officer have, with the assistance of Bond Counsel, the Bond Underwriter, and staff from the City's Culture and Leisure Services and Economic Development Departments, negotiated a Business Terms Agreement (Attached as Appendices A, B & C) which details the economic terms of the project, including the delineation of project-specific revenues pledged over the life of the bonds. Following is a summary of the changes to the financing terms from the original terms conceptually approved for the project in October 1999:

- (1) The City and County approved a \$475,000 short-term loan for pre-construction expenses. This loan is no longer necessary as the pre-construction expenses were funded through the HTP account and CMT.
- (2) The need to conceptually approve the extension of the City and County's annual commitment to the HTP Fund. In May 1997, the City and County conceptually approved joint funding totaling \$1,320,000 - \$66,000 each over the next ten years into the HTP Fund. These funds were to be used for ADA and other improvements. This commitment will need to be modified to extend the City and County's commitment until 2020 or when the bonds are paid off, whichever occurs first. This is necessary in order to ensure there is adequate revenue to service the bond debt and to enhance the coverage in order to market the bonds at the lowest possible interest rate and insure bond holder repayment.
- (3) The HTP Fund agreement needs to be modified to allow a payment for pre-construction expenses to be made without matching funds. CMT has contributed \$250,000 to pre-construction expenses, which have been matched by the HTP Fund. The final payment of

pre-construction expenses, estimated to be \$96,000 will need to come from the Fund without a matching portion from CMT. This will allow CMT to deposit the facilities fees collected to date in the reserve fund for the bonds.

- (4) The revenue projections originally submitted by CMT have changed. The new revenue sources include the Wells Fargo Naming Rights Agreement as well as additional revenue from a proposed Concert Series. The Concert Series will be a series of 15 concert dates taking place over a three-week period at the beginning of the summer starting in 2004. In addition, the \$250,000 grant from a private foundation that CMT was going to try to secure is no longer an option.

The changes in the projected revenue sources are summarized in the table below:

<b>Changes in Projected Revenue Sources for H Street Theater Renovation Project</b>		
<b>Revenue Source</b>	<b>Projected in October 1999</b>	<b>Projected in October 2000</b>
Ticket Facilities Fee on Tickets Sold by CMT	\$364,000 annually	\$300,000 Yrs 2000-2001 \$342,000 Yrs 2002-2020
Music Circus Expanded Season Facilities Fee	No expanded season planned.	\$96,000 annually Yrs 2003-2020
Naming Rights Agreement	\$200,000 annually for ten years	\$127,500 annually for ten years
Name a Seat Campaign	\$200,001 for the first three years	\$600,000 for the first five years
Grant	\$250,000 one time	\$0
Concert Series Facilities Fee	No concert series planned.	\$90,000 annually, starting in 2004

- (5) In addition to the above changes in projected revenue there is also an agreement to use a lock box mechanism that will capture all CMT revenues from performances at the project site. If the pledged project related revenues are collected at a rate sufficient to meet the debt service then non-project related revenues will immediately flow back to CMT. However, if the pledged project related revenues are not collected at a rate sufficient to meet the debt service additional funds will be held in order to meet the required bond payment. Project related revenues in excess of what is needed to service the bond payment will go to a reserve fund that will build up in order to cover any shortfall in debt payments/as well as allow CMT and STC to pay off the bonds early, if possible.

## **FINANCIAL CONSIDERATIONS:**

### *Analysis of Bond Structure*

The financing plan being proposed for the H Street Theater Project is designed to help STC and CMT meet their long-term capital improvement goals while minimizing the risk to the City and

County. The City Treasurer and County Chief Financial Officer have performed an initial analysis of alternative bond structures.

The original bond amount proposed in 1999 for a 20 year bond maturity was \$8.15 million (See Attached - Table 1). As shown in Table 1, this particular financing plan assumed that the first two years of construction were going to be paid for out of incoming revenues, not the bond proceeds.

Table 2 describes the currently proposed bond issuance of \$11.4 million, which allows incoming project related revenue to build up in the reserve account in order to assure a safeguard for future debt service. In addition, the overall cost of the project has grown, from a total of \$8.2 million in October 1999 (including both pre-construction and construction costs) to approximately \$8.9 million today, including \$596,000 in pre-construction expenses and \$8.36 million in construction costs. The cost of the project has gone up due to an increase in construction costs in the region and design changes that resulted from meetings with the neighborhood and the Design Review Board. The City and County's commitment continues to be \$66,000 per year each until 2020 max.

Table 3 shows the revenues committed to servicing the bond debt. Based on the ticket revenue projections given by CMT and STC, the revenue available to pay off the debt service is adequate. If the ticket revenue collected is at least 74% of what has been projected, the bonds can be paid in the 20-year period. If the ticket revenue collected is 100% or more of what has been projected, the bonds will be paid in 14 years or earlier.

In addition, the City and County have secured a lock-box mechanism that will capture all revenues related to CMT performances held at the project site as security, in case project related revenues fall short. The current bond scenario also allows for a reserve fund, which will have at least one-year's worth of debt service payments in case all captured revenue falls short.

#### **ENVIRONMENTAL CONSIDERATIONS:**

The H Street Theater Project is in the midst of an EIR. A Notice of Preparation was issued and the draft EIR is now being circulated for public comment. The 45-day public comment period ends on November 3<sup>rd</sup>. In addition, the project has been presented to the Design Review Board twice for comments and will be returning for a final vote on the proposed design in December of this year.

#### **POLICY CONSIDERATIONS:**

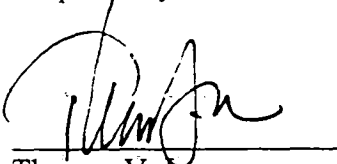
In January of 1997, the Regional Performing Arts Center and Conference Facility Study indicated a desire to support and improve existing performing arts facilities in the downtown area. The H Street Theater Project is consistent with that study's findings. This proposal is also consistent with City policy to support activities that facilitate joint City/County cooperation and improve City/County property that will enrich the community through cultural and entertainment activities. 85% of the debt is funded by the two non-profit theaters. The project is also consistent with the County's traditional use of TOT revenues to support cultural activities for the entire

community. In addition, the improvement of City/County property will aid in drawing new audiences to the facilities, contributing to the revitalization of Downtown, including more pedestrian traffic being drawn to the City's Lot C, which will feature ground floor retail that supports the theater activities across the street. Finally, the financial conditions placed on STC and CMT to develop outside sources of revenues will contribute to their economic stability while minimizing financial risk to the City and County.

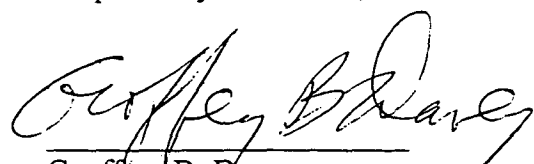
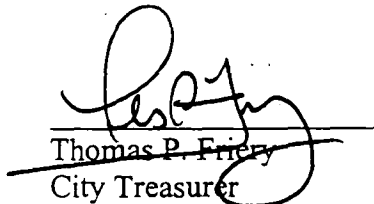
**ESBD CONSIDERATIONS:**

All purchases and contract requirements will fall under the City's ESBD requirements.

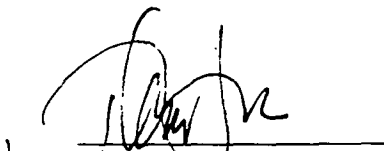
Respectfully Submitted,

  
Thomas V. Lee  
Deputy City Manager


Respectfully Submitted,

  
Geoffrey B. Davey  
County Chief Financial Officer  
Thomas P. Friery  
City Treasurer

RECOMMENDATION APPROVED:

  
Robert P. Thomas  
City Manager

RECOMMENDATION APPROVED:

  
Terry Schutten  
County Executive

**TABLE 1**  
**October 1999 - Financing Plan for H Street Theater Project**

<b>Total Construction Budget</b>	<b>\$ 8,237,999</b>
Construction Expenses to be Paid for out of City Loan and HTP Fund	<u>(878,571)</u>
Balance of Construction Budget	<b>\$ 7,359,428</b>
 <b>Balance of Construction Budget</b>	 <b>\$ 7,359,428</b>
Total Revenue to be Collected & Paid out in 2000 & 2001*	<u>(1,794,653)</u>
Net Balance of Construction Budget	<b>\$ 5,564,775</b>
 <b>Net Balance of Construction Budget</b>	 <b>\$ 5,564,775</b>
Less Interest Earnings	<u>(586,791)</u>
Balance due for Construction	<b>\$ 4,977,984</b>
 <b>Breakdown of Bond Issuance Costs</b>	
Balance due for Construction	\$ 4,977,984
Reserve Fund	815,000
Capitalized Interest Fund	934,242
City Loan Repayment (with interest)	504,287
Property Note Payment	668,221
Cost of Issuance	<u>250,268</u>
<b>Total Bond Issuance</b>	<b>\$ 8,150,002</b>

\*This includes \$400,000 in Naming Rights Revenue, \$133,333 in Name-A-Seat Revenue, \$250,000 in a Foundation Grant, \$728,000 in ticket facilities fees, \$132,000 in city/county contribution, and \$151,320 in the property note repayment.

Note: These numbers are estimates based upon market rates on a specific date. The actual numbers will depend on market conditions when the bonds are issued.

**TABLE 2**  
**October 2000 - Financing Plan for H Street Theater Project**

The total bond issuance will be approximately \$11.4 million broken out as follows:

**Breakdown of Bond Issuance Costs**

Construction Budget	\$8,360,000
Reserve Fund	\$965,000
Capitalized Interest Fund	\$1,000,000
Property Note Payment	\$600,000
Cost of Issuance	\$475,000
<b>Total Bond Issuance</b>	<b>\$11,400,000</b>

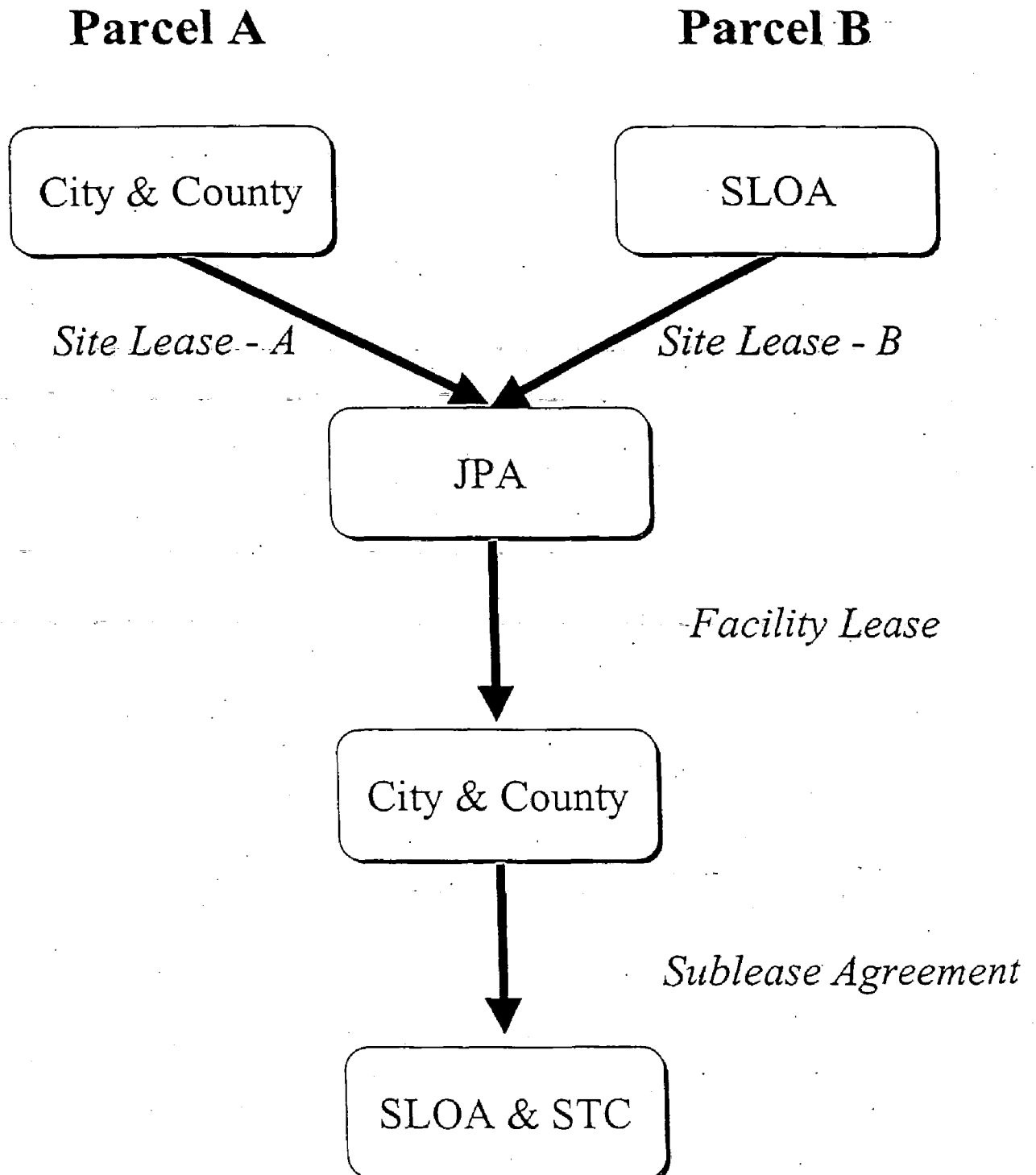
Note: These numbers are estimates based upon market rates on a specific date. The actual numbers will depend on market conditions when the bonds are issued.



TABLE 3

DATE	CITY/ COUNTY CONTRIB.	CASH FLOW FROM LAND PAYOFF	CMT FACILITY CHARGE	CMT CHARGE EXP. SEASON	CMT CHARGE CONCERT SER.	STC FACILITY CHARGE	CMT FROM OPERATING FUNDS	NAMING RIGHTS	NAME-A-SEAT CAMPAIGN	MISC. CAMPAIGN	TOTAL FUNDS
3/1/01			300,000.00			89,272.00		127,500.00	125,000.00	50,000.00	691,772.00
3/1/02	132,000.00	121,056.00	300,000.00			91,000.00		127,500.00	175,000.00	50,000.00	996,556.00
3/1/03	132,000.00	121,056.00	342,000.00			91,000.00		127,500.00	150,000.00	50,000.00	1,013,556.00
3/1/04	132,000.00	121,056.00	342,000.00	96,000.00		91,000.00		127,500.00	100,000.00	50,000.00	1,059,556.00
3/1/05	132,000.00	121,056.00	342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00	50,000.00		1,124,556.00
3/1/06	132,000.00	121,056.00	342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00			1,074,556.00
3/1/07	132,000.00	121,056.00	342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00			1,074,556.00
3/1/08	132,000.00	90,792.00	342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00			1,044,292.00
3/1/09	132,000.00		342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00			953,500.00
3/1/10	132,000.00		342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00			953,500.00
3/1/11	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/12	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/13	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/14	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/15	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/16	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/17	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/18	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/19	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/20	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/21	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
<b>TOTAL</b>	<b>2,640,000.00</b>		<b>7,098,000.00</b>	<b>1,728,000.00</b>	<b>1,530,000.00</b>	<b>908,272.00</b>	<b>1,275,000.00</b>	<b>1,275,000.00</b>	<b>600,000.00</b>	<b>200,000.00</b>	<b>18,071,400.00</b>

## APPENDIX A



## Appendix B

### Description of Proposed Structure of Financing

The following paragraphs describe the proposed structure of financing (the "Financing") for the H Street Theater Project (the "Project") which was conceptually approved by resolution of the City Council of the City of Sacramento and the Board of Supervisors of the County of Sacramento adopted on October 5, 1999 and September 27, 1999, respectively:

1. **Site Leases.** The City and County own Parcel A (1419 H Street). California Musical Theater (CMT) owns Parcel B (1422 G Street). All existing leases involving Parcel A and Parcel B will be terminated simultaneously with the execution and delivery of the Financing leases described herein (i.e. the closing of the Financing). Under separate Site Leases, the City and County will lease Parcel A to a joint powers authority created by the City and County (the "JPA") and CMT will lease Parcel B to the JPA.<sup>1</sup> The JPA appoints the City and the County to cause the Project to be constructed and installed.
2. **Facility Lease.** The JPA will lease Parcel A and Parcel B to the City and the County under a Facility Lease. The City and the County will each be responsible for 50% of the total lease payments under the Facility Lease from their general funds based on use and occupancy of Parcel A and Parcel B. The total lease payments required under the Facility Lease will equal the debt service obligations on the Certificates of Participation (COPs).<sup>2</sup> The City and County agree to construct and install the project as agent of the JPA and acknowledge that the City and County have delegated to CMT and STC, pursuant to the Sublease Agreement, described in Paragraph 3, below, the authority to enter into contracts for the construction and installation of the Project with certain conditions.
3. **Sublease Agreement.** The City and County, as sublessors, will sublease Parcel A and Parcel B to STC and CMT under a Sublease Agreement which shall contain substantially the same terms as those set forth in the existing subleases between the City and CMT and STC which are to be terminated in connection with the Financing, with the following principal revisions: (i) the Sublease Agreement shall provide for lease payments sufficient to cover the debt service obligations on the Certificates of Participation; (ii) the Sublease Agreement shall contain provisions obligating CMT and STC to act as agents for the City and County to jointly administer and contract for construction and installation of the Project; and

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<sup>1</sup> Both Site Leases will be structured as capital leases for tax purposes and will effectively transfer title to Parcel A and Parcel B to the JPA. The Facility Lease will also be structured as a capital lease and will transfer title to the City and County. The Sublease Agreement will be structured as a true lease with respect to Parcel A and a capital lease with respect to Parcel B. This will accomplish one of the goals of the financing to have title remain as originally held by the parties. Accordingly, title to Parcel A will remain with the City and County and title to Parcel B will remain with CMT.

<sup>2</sup> A recent change in law will allow the JPA, at its option, to issue Bonds instead of COPs for the Financing.

(iii) the Sublease Agreement shall also contain covenants relating to the Project construction and other business related covenants. While STC will be a party to the Sublease Agreement, its payment obligations under that agreement shall be limited to the funds obtained by STC from the facilities fees (see Appendix C, part C, (3) (a)). STC will not be the lessee of Parcel B. To the extent that CMT pays the lease payment required under the Sublease Agreement in amounts sufficient to pay the debt service obligation on the Certificates of Participation, the City's and County's obligations to pay lease payments required under the Facility Lease to the Bond Trustee as assignee of the JPA will be credited. To the extent that CMT's payments are insufficient to pay the required debt service obligation on the Certificates of Participation, the City and County will pay any deficiency on a 50/50 basis.

4. **Certificates of Participation.** Certificates of Participation will be delivered to the Bond Trustee evidencing the right to receive payment from the City and the County under the Facility Lease. The JPA will assign its rights under the Facility Lease to the Trustee. In consideration of the assignment, the Trustee will pay the net proceeds of the Certificates of Participation to the JPA and the JPA will use the proceeds for construction of the Project improvements, and refinancing the private mortgage on Parcel B.
5. **Deed of Trust.** CMT will provide a deed of trust on its fee interest in Parcel B to the City and the County to secure CMT's obligation under the Sublease Agreement.
6. **STC Guaranty.** STC will guaranty CMT's obligations under the Sublease Agreement. STC's obligations under the guaranty will be limited to the revenues STC receives from the facilities fee.

## Appendix C

The following paragraphs describe the stages for funding the financing (the "Financing") required to complete the H Street Theater Project (the "Project") and the conditions precedent which must be satisfied in order for the Financing to occur:

### A. DESCRIPTION OF THREE STAGES OF FUNDING

Action by the City and County is required for three separate stages of funding to CMT and STC (together, the "Arts Partnership"). Each stage has its own set of pre-conditions that must be met before money is made available. The three stages are:

- (1) **Release of up to \$476,829 currently held by the City in the HTP FUND for the Arts Partnership (the "HTP Fund Release.")** Pursuant to a Funding Agreement dated as of May 1, 1997 (the "Funding Agreement"), and subject to certain terms and conditions contained therein, the City and County have each agreed to contribute \$66,000 each fiscal year during the term of the Funding Agreement to a fund managed by the Department of Community and Visitor Services and referred to as the "HTP Fund." The Funding Agreement also sets forth procedures whereby an "Arts Partnership" comprised of CMT and STC may draw upon the HTP Fund to pay the cost of approved Project improvements as well as debt service for any Project Financing. The public funds contributed pursuant to the HTP Fund, together with accrued interest, presently total approximately \$476,829. Upon satisfaction of the pre-conditions described below, those accumulated HTP Funds shall be disbursed to the Arts Partnership on the condition that the funds be used solely to pay for approved pre-construction Project expenses. Under its present terms, the Funding Agreement ends on May 6, 2007.
- (2) **Delivery of the COPs.** The construction funding for the Project will come from the delivery of Certificates of Participation ("COPs")<sup>1</sup> by the Joint Powers Authority ("JPA") to be formed by the City and County. The JPA will cause the proceeds of the COPs to be used to construct the Project improvements, and refinance the private mortgage currently on Parcel B. Please refer to Appendix A and Appendix B for a description of the COPs financing structure.
- (3) **Continued Disbursements from the HTP Fund.** In addition to the HTP Fund disbursement described in Part A (1), above, pursuant to the terms of the Funding Agreement, as extended pursuant to Part B (1), below, the Arts Partnership may draw on the HTP Fund for payment of costs of approved Project improvements and/or for debt service for the COPs. This may cause the amounts on deposit in the HTP Fund to be yield restricted to yield on COPs.

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<sup>1</sup> A recent change in law will allow the JPA, at its option, to issue Bonds instead of COPs for the Financing.

**B. PRE-CONDITION FOR THE RELEASE OF ACCUMULATED HTP FUNDS:**

Before any funds accumulated in the HTP Fund are released to the Arts Partnership pursuant to Part A (1), above (i.e., the first stage of Project funding), the following two pre-conditions must be satisfied:

- (1) **Agreement to the Pre-Conditions.** The Arts Partnership must agree to the pre-conditions for the delivery of the COPs contained in this Appendix C.
- (2) **Pre-construction Expenses and Documentation of Pre-Construction Expenses Already Incurred:** The Arts Partnership must deliver to the City and County for approval by both: (i) invoices or other documentation acceptable to the City Manager and the County Executive documenting project pre-construction expenses incurred through the date of the submittal, together with (ii) a budget for anticipated remaining pre-construction Project expenses.

**C. PRE-CONDITIONS FOR THE DELIVERY OF COPS**

- (1) **Amendment of the Funding Agreement.** The Funding Agreement will be amended as follows:
  - (a) The City and County obligation to make annual contributions of \$66,000 each will be extended beyond its current termination date of May 6, 2007 to the year in which any COPs delivered for the theater improvements mature or are paid off, but in no event later than Fiscal Year 2020-2021. If no COPs are delivered, the current termination date of May 6, 2007 will remain in effect.
- (2) **Agreement to business points for the COPs.** Set forth below in this Appendix C are the business points (some of which will be contained in the COP documents) relating to the Arts Partnership's obligations and protections for the general funds of the City and the County:
  - (a) Both CMT and STC have imposed and have been collecting a surcharge, called a "facilities fee" on tickets sold for CMT and STC performances at the Project property. This does not include tickets sold for private, fund raising events not open to the general public. Since January 2000, STC has collected a facilities fee of \$2.50 per ticket sold and CMT has collected a facilities fee of \$3.00 per ticket sold. CMT shall be obligated to continue to collect the facilities fees until the COPS or any subsequent debt issuance to refinance the COPS, have been redeemed or mature. STC shall be obligated to collect the facilities fees for a term ending December 31, 2009.
  - (b) The obligation to pay the City and County lease payments under the Sublease Agreement is an obligation of CMT. STC will guaranty the

lease payments under the Sublease Agreement from amounts collected from the STC facilities fee.

- (c) A binding obligation has been received by CMT from Wells Fargo Bank for the Naming Rights for a minimum of \$127,500 per year for ten years. The City Manager, County Executive, and Bond Counsel must review and accept the Naming Rights Agreement prior to sale of the COPs.
- (d) CMT's Name-a-Seat campaign must secure pledges to generate \$600,000 over five years. In securing pledges for future year payments, CMT must utilize a pledge form acceptable to the City and County. The City and County will not accept the form if it does not create an enforceable obligation for those pledging to actually make future year payments.
- (e) The respective facilities fees of both CMT and STC, the CMT Naming Rights revenues, CMT Name-a-Seat revenues, the CMT expanded season facilities fee, and the CMT concert series facilities fee will collectively be referred to as "Project Related Revenues." In addition, certain CMT operating funds and certain CMT miscellaneous campaign funds are also required as revenue sources to repay the debt service on the COPs. Please see attached Schedule 1 which identifies "Project Related Revenues" as well as other mandatory sources of revenues and minimum amounts to be collected.
- (f) CMT is obligated to use any Project Related Revenue related to any of its productions on Parcel A and B or as defined in the attached Schedule 1 to make lease payments to the City and County under the Sublease Agreement. Though CMT and STC expect that Project Related Revenues, as defined above, will be sufficient to make the payments required under the Sublease Agreement, CMT must agree to pledge and assign all of its revenue related to any of its productions held on Parcel A and B to Sublease payments in order to protect the City and the County against the possibility of a shortfall in Project Related Revenues.
- (g) A lock-box mechanism must be in place for all Project-Related Revenues. All Project Related Revenues from STC and CMT, as received, will be placed in lock-box at a bank for the benefit of the JPA, the City, and the County. The full amount of Project Related Revenues collected to date should be transferred to the lock box account immediately on formation of the JPA.
- (h) All parties will agree upon a schedule for the receipt of Project Related Revenues. Project Related Revenues should be collected at a rate sufficient to make the next payment pursuant to the Sublease Agreement (the "Sufficiency Rate" - see attached Schedule 2). Upon delivery of the COPs, all revenues of CMT related to any of its productions on Parcel A

and B will also flow through a lock box bank. As long as Project Related Revenues and other revenues identified on Schedule 1 have been received at least as fast as the Sufficiency Rate, all non-Project Related Revenues will flow immediately out of the lock box bank to CMT. If revenues are received more slowly, however, the lock box bank will retain a portion of revenues as necessary to return the rate of accumulation to the Sufficiency Rate.

- (i) To the extent that Project Related Revenues exceed Sublease payments in any year, the excess will be retained by the Bond Trustee as a reserve against lease payment shortfalls in future years. If the reserve becomes large enough, it will be used to fully defease or prepay the COPs. This revenue may be subject to yield restriction.
- (j) CMT and STC will, as agent for the City and County, cause the theater improvements to be constructed. This will be accomplished through a guaranteed maximum price contract. The improvements will be constructed by a contractor paying prevailing wages and selected pursuant to a bid process. Construction will be managed by a construction manager approved by the City and County.
- (k) While the COPs are outstanding, CMT may not incur any additional debt or similar obligation, other than contracts necessary for performances, without the prior written approval of the City and County. Debt is described as the borrowing of funds versus contractual agreements necessary in the ordinary course of business. Existing debt instruments will also need to be reviewed by bond counsel.
- (l) The Arts Partnership must provide all materials reasonably requested for due diligence by the City and County.
- (m) Counsel to CMT and STC must deliver opinions acceptable to the City and County with respect to, among others things, the 501(c)(3) status of CMT and STC, the authority of CMT and STC to enter into the agreements contemplated by these Financing arrangements and the enforceability of the obligations of CMT and STC under such agreements.
- (n) Existing leases between the City and CMT/STC will be terminated and replaced by the Sublease Agreement and other Project documentation described in Appendix B in order to accommodate the delivery of the COPs. Unless otherwise required for the marketing of the COPs, the operating arrangements between the parties in the new leases will be consistent with those contained in the existing leases.
- (o) The costs of issuance in excess of the amount that can be paid from the COPs will be paid by Project Related Revenues collected to date.



- (3) **Execution of an agreement between CMT and STC.** CMT and STC must enter into the agreement, approved by the City and County. The agreement must be prepared by CMT and STC and should include at least the following provisions:
- (a) Provisions obligating STC to impose and collect the facilities fee of at least \$2.50 per ticket sold for STC performances other than special fund raising events not open to the general public at the Project site for a term ending December 31, 2009.
  - (b) Provisions relating to the joint administration of the construction of the Project improvements;
  - (c) Provisions obligating CMT to assume any STC management duties outlined in the STC/City Management Agreement and to continue the use of the STC theater site for theatrical presentations in the event that STC ceases operations;
  - (d) Provision defining what constitutes "cessation of operations" by STC;
  - (e) Provisions making the JPA, the City and the County third party beneficiaries of STC's obligations to CMT;
  - (f) Provisions requiring approval of any amendments to the CMT/STC Agreement by the City Manager and County Executive.
- (4) **Once all pre-conditions are met, the City and County expect to be able to complete the COP financing as expeditiously as possible, subject to expiration of the CEQA appeals/challenge period.** The steps necessary to complete the financing and the costs incurred once that process begins require that the City and County have lead time to provide funding once the Arts Partnership has met all preconditions.

SCHEDULE 1  
Appendix C

DATE	CITY/ COUNTY CONTRIB.	CASH FLOW FROM LAND PAYOFF	CMT FACILITY CHARGE	CMT CHARGE EXP. SEASON	CMT CHARGE CONCERT SER.	STC FACILITY CHARGE	CMT FROM OPERATING FUNDS	NAMING RIGHTS	NAME-A-SEAT CAMPAIGN	MISC. CAMPAIGN	TOTAL FUNDS
3/1/01			300,000.00			89,272.00		127,500.00	125,000.00	50,000.00	691,772.00
3/1/02	132,000.00	121,056.00	300,000.00			91,000.00		127,500.00	175,000.00	50,000.00	996,556.00
3/1/03	132,000.00	121,056.00	342,000.00			91,000.00		127,500.00	150,000.00	50,000.00	1,013,556.00
3/1/04	132,000.00	121,056.00	342,000.00	96,000.00		91,000.00		127,500.00	100,000.00	50,000.00	1,059,556.00
3/1/05	132,000.00	121,056.00	342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00	50,000.00		1,124,556.00
3/1/06	132,000.00	121,056.00	342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00			1,074,556.00
3/1/07	132,000.00	121,056.00	342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00			1,074,556.00
3/1/08	132,000.00	90,792.00	342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00			1,044,292.00
3/1/09	132,000.00		342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00			953,500.00
3/1/10	132,000.00		342,000.00	96,000.00	90,000.00	91,000.00	75,000.00	127,500.00			953,500.00
3/1/11	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/12	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/13	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/14	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/15	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/16	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/17	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/18	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/19	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/20	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
3/1/21	132,000.00		342,000.00	96,000.00	90,000.00		75,000.00				735,000.00
TOTAL	2,640,000.00		7,098,000.00	1,728,000.00	1,530,000.00	908,272.00	1,275,000.00	1,275,000.00	600,000.00	200,000.00	18,071,400.00

## **Appendix C**

### **Schedule 2 - The Sufficiency Rate**

The Sufficiency Rate Schedule will be calculated after the bonds have been sold. It will be a schedule that shows, as of the end of every month, how much money needs to be in the lock box to ensure that by the time debt service is due (which will occur every six months) there will be sufficient funds to pay debt service. The schedule will reflect the timing and amount of debt service payable to investors and the pattern of cash flow received by CMT and STC. Funds in the lock box (other than Project-Related Revenues) in excess of what the Sufficiency Rate Schedule requires will flow back to CMT.

APPROVED

OCT 31 2000

OFFICE OF THE  
CITY CLERK

**RESOLUTION NO.**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**RESOLUTION ON THE UPDATE TO THE H STREET  
THEATER PROJECT AND CHANGES TO THE  
PROPOSED FINANCING PLAN**

BE IT HEREBY RESOLVED BY THIS CITY COUNCIL THAT:

1. The City Council will receive and file the update on the H Street Theater renovation project.
2. The City Council approves the attached Business Terms Agreement (Appendices A, B & C) which has been executed by authorized representatives of the California Musical Theatre (CMT) and the Sacramento Theatre Company (STC) and incorporates the following changes to the financing plan:
  - (a) A deletion of the short-term loan from the City for up to \$475,000.
  - (b) Conceptual approval of an extension of the City's annual commitment of \$66,000 per year to the H Street Arts Partnership Fund for a period not to exceed the year 2020.
  - (c) Modification of the existing agreement with STC and CMT to allow a payment out of the HTP Fund to be made without the matching requirement for pre-construction expenses only.
  - (d) Changes to California Musical Theater's project related revenue projections.
  - (e) A lock box mechanism to assure all project-specific pledged revenues of the CMT and STC are captured.
3. The City Manager is authorized to move forward with the financing plan for the H Street Theater Project.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

**FOR CITY CLERK USE ONLY**

RESOLUTION NO: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

4.4

# CITY OF SACRAMENTO -- COUNTY OF SACRAMENTO



September 27, 1999



To: Mayor, Members of the Sacramento City Council  
Sacramento County Board of Supervisors

From: Robert P. Thomas, City Manager  
Terry Schutten, County Executive

APPROVED  
BY THE CITY COUNCIL

OCT 5 1999

OFFICE OF THE  
CITY CLERK

**SUBJECT: CONCEPTUAL APPROVAL FOR H STREET THEATER PROJECT  
PROPOSAL AND FINANCING**

**LOCATION AND DISTRICT:** 1419 'H' Street  
City Council District 1  
Supervisory District 1

## RECOMMENDATION:

It is recommended that the Sacramento County Board of Supervisors and the Sacramento City Council adopt a resolution to:

- (1) Conceptually approve the City of Sacramento and County of Sacramento's joint participation in a capital improvement program at the City/County-owned property at 1419 "H" Street currently being used by the Sacramento Theater Company (STC) and Sacramento Light Opera Association (SLOA).
- (2) Conceptually approve a capital financing plan, including:
  - (a) Establishment of a Joint Powers Authority (JPA),
  - (b) A bond issuance to finance the improvements,
  - (c) Commitment of new revenues by STC and SLOA for debt service (at a minimum),
  - (d) Continuation of the existing City/County investment in the property.
- (3) Approve a short-term loan from the City of Sacramento not to exceed \$475,000 to finance pre-construction expenses.
- (4) Establish a City Capital Improvement Project (xxxx) to be funded from existing dedicated City/County revenues with authority to spend funds for first year (Phase 1) project costs.

**CONTACT PERSON:** Thomas Friery, City Treasurer, 264-8455  
Geoffrey Davey, County Chief Financial Officer, 874-5803  
Barbara Bonebrake, EDREA Manager, 264-7733

**FOR COUNCIL/BOARD OF SUPERVISORS MEETING OF:** October 5, 1999

**SUMMARY:**

This report recommends conceptual approval for the City and County of Sacramento to participate, in an \$8.2 million capital improvement program at property jointly owned by the City and County at 1419 'H' Street and currently used by the Sacramento Theater Company and Sacramento Light Opera Association. This proposal continues the City/County long-term commitment to this property and overall support of the arts while minimizing the financial risk.

STC and SLOA are requesting City/County conceptual approval of the project and a first-year loan in order to begin their fund-raising campaign. Also, because this project would likely not qualify for traditional financing, STC and SLOA are requesting the City and County to issue tax-exempt bonds through a newly created Joint Powers Authority to finance the improvements. This would take advantage of the City and County's AAA credit ratings (insured), resulting in lower borrowing costs and making the bonds more marketable. To minimize the City and County's risk, the proposed financial plan is designed to review the fiscal performance of the STC and SLOA prior to the bond issuance.

**COMMITTEE/COMMISSION ACTION:**

This proposal has been reviewed and approved by the Boards of Directors of the Sacramento Theater Company and Sacramento Light Opera Association.

**BACKGROUND INFORMATION:**

*History of City/County Involvement with H Street Property*

- The Sacramento Theater Company is in its 58<sup>th</sup> year of operation and presents live stage performances at the H Street Theater. Its season normally runs from September to May with 7-8 productions presented annually. Last year, it held 293 performances with a total attendance of 40,000. While STC has faced fiscal difficulties in recent years, it ended last season with a small surplus and was able to reduce its long-term debt obligations. The STC is completing preparation of a Five-Year Business Plan to guide its future operations and fiscal management.
- The Sacramento Light Opera Association has been in operation since 1951 and is the largest non-profit musical theater in the State. It is best known for its

popular Music Circus summer theater program at its H Street venue and Broadway Series performances at the Community Center Theater that together drew a total attendance of 294,468 in FY 1999—an all-time high.

- In August 1986, the City and County purchased the property at 1419 H Street from the Sacramento Theater Company. The City would manage the property. A 10-year sublease was executed with STC allowing for a sublease to SLOA. STC and SLOA have been jointly using the property since 1951.
- In December 1995, by Resolution 95-713, the City executed a thirty-year sublease agreement with STC and SLOA for joint operating use, and a management agreement between STC and the City. The sublease agreement included respective maintenance and operations obligations. The sublease also required that, beginning in May 1997, STC and SLOA would make annual contributions for extraordinary and substantial repairs and replacements.
- In May 1997, the City and County conceptually approved joint funding totaling \$1,320,000 (\$66,000 each over the next ten years subject to annual appropriation) to STC and SLOA for Life Safety Code and Americans with Disabilities Act Improvements, new construction and existing building improvements. Under the agreement, STC and SLOA must secure private matching funds.

### *H Street Project Proposal*

The Sacramento Theater Company and Sacramento Light Opera Association are asking the City and County of Sacramento to help secure financing for an estimated \$8.2 million capital improvement program at the 1419 'H' Street property they jointly use. The improvements would include:

- Expansion of the current Theater, including new seating, installation of a new tent and related structural, mechanical and electrical improvements (See Figures 1-3)
- Installation of new performance stage and rehearsal stage
- Improvements to box office, retail and restroom facilities for audiences.
- Construction of new concession area
- Expansion and renovation of lobby facilities
- Aesthetic renovations to Arts Park and Courtyard

The H Street Theater Project would involve two phases. **Phase I** would begin upon conceptual approval of the plan by the City Council and Board of Supervisors and culminate with a bond sale to finance the capital construction no later than September 2000. **Phase II** would include construction of the improvements over a three-year period and retirement of the debt service over several years.

This project will also compliment the recently approved Lot C parking garage across the street. Lot C will provide 1,200 covered and secured parking spaces as well as new retail and office space on the ground floor. This will greatly ease the parking burden on residential streets during performances while providing joint use rehearsal and office space for SLOA and other arts groups.

### **FINANCIAL CONSIDERATIONS:**

The financing plan proposed for the H Street Theater Project is designed to help STC and SLOA meet their long-term capital improvement goals while minimizing the financial risk to the City and County. Total financing would be approximately \$8.2 million. As Table 1 shows, of that amount, \$5.8 million would be used for SLOA improvements, \$442,000 for STC projects and \$2.0 million for joint use improvements. Under one bond structuring under consideration, annual debt service payments would be \$585,000 annually over 20 years.

Table 2 presents a possible financing plan, with debt maturity of 18 and 20 years, that includes the following components:

#### *Phase I*

During Phase I, the City and County would create a new Joint Powers Authority, comprised of representatives from both agencies. The JPA would sell the bonds. If conceptual approval is given, it is recommended that the City and County representatives to the JPA be appointed at a later date when the JPA Agreement is brought forward.

Also, during Phase 1, STC and SLOA will commit to spend up to \$870,000 for drawings, construction documents, etc. The accumulated reserve of \$396,000 paid by the City and County (FY 98-FY 00 contributions) will be used to fund the first part of the expenses. The balance of approximately \$475,000 will be lent by the City at an interest rate of 6 percent. Both the City and County stand behind the short-term loan but the City will be advancing the cash as the County is unable to fund this portion.

Should we not proceed with Phase 2, which will be the bond sale, the City and County will pay the City back from the \$66,000 annual fixed payments both entities have committed to paying into a reserve for STC. If the fiscal milestones are met, a bond sale will be completed by the JPA which will complete the project, including paying the City back.

It is recommended that a City Capital Improvement Project be established to deposit the current accumulated reserves and future City/County contributions.

#### *Minimizing the Risk to the General Fund*

This financing approach puts the City and County at risk in the form of a debt service guarantees. It envisions that City and County Transient Occupancy Tax (TOT) revenues



would be the primary source of that guarantee. It relies on the ability of STC and SLOA to meet the financial commitments necessary to finance the debt service. To minimize the risk to the City and County, STC and SLOA are initially required to demonstrate certain "milestones" in raising the revenues they will need to support the project and the debt service. A precondition for proceeding with the bond sale is that the following fundraising goals be met:

- An agreement for **Naming Rights** for the facility been secured for \$200,000 annually for at least 10 years requiring the first year's revenues collected by September 1, 2000.
- A "**Name a Seat**" campaign with secured pledges of at least \$66,667 per year over the next three years with the first installment due to be collected by September 1, 2000.
- A **foundation grant** for at least \$250,000 due to be collected by September 1, 2000.
- Addition of a **Ticket Surcharge** to the ticket prices for STC and SLOA dedicated to repaying the debt. Projected revenues from the surcharge are \$364,000 from FY 2000 through FY 2002, \$440,000 from FY 2003 through FY 2009 and \$350,000 thereafter. The first year's revenues for each group would be collected prior to the start of and during their respective 2000 performance seasons.

#### *Phase II*

If these conditions were met, the JPA would sell approximately \$8.2 million in bonds no later than September 1, 2000. To pay the debt service over the life of the bonds, the ongoing revenues generated by the Name-a-Seat campaign, naming rights and the ticket surcharge would be used along with the following:

- Continuation of the annual \$66,000 contribution the City and County each make to the theater facility. Because the current term for those payments is scheduled to expire in 2007, before the bonds are paid off, it is recommended that the obligation be extended to 2020, subject to the annual appropriation process of the City and County.
- SLOA is currently scheduled to make payments on a promissory note for a land purchase until 2007. The payments total \$121,056 per year. Under this proposal, the note will be refinanced by the bond issuance and the funds SLOA would have used to repay the note will now be used for debt service until 2007. After that, the obligation will be reduced to \$60,000 from 2008 to the maturity of the bonds.

Taken together, the revenues would total nearly \$1.8 million in available resources by 2002 and would be used to finance construction. The City Treasurer and County Chief Financial Officer is recommending this approach because it reduces the amount that needs to be borrowed and the debt service payments.

#### *Property Reappraisal*

SLOA is proposing property it owns at 1422 G Street as collateral for the bond issuance. The last appraisal was performed in 1997 and is out of date. If the conditions for bond sale are met, a new appraisal will be performed prior to sale to determine the value of the asset. It is our view that the appraisal is substantially in excess of the mortgage on the land. Securing an appraisal at this time would result in having to secure another later should we proceed with Phase 2 as it would be out of date.

#### *Preliminary Analysis of Bond Structures*

The City Treasurer and County Chief Financial Officer have performed an initial analysis of alternative bond structures, using the 18 and 20-year bond maturity options. As Table 3 shows, it requires little margin for error in STC and SLOA projections for the new revenue sources to fully cover debt service costs. For instance, to meet *Percent of Ticket Surcharge Revenue* needed for debt service requirements, 99 percent of the projected surcharge revenue would have to be collected for bonds maturing in 18 years. When the debt is extended to 20 years, the amount falls to 91 percent of projection. While additional analysis will be performed, a bond maturity of this length seems prudent.

#### *Timeline*

If this plan is conceptually approved, City and County staff will meet with representatives of the Sacramento Theater Company and Sacramento Light Opera Association to develop a detailed financing proposal, including the following, which will be brought back to the City Council and County Board of Supervisors for consideration:

- Agreement establishing Joint Powers Authority
- Relevant documents to issue bonds
- Relevant agreements between City, County, STC and SLOA to implement financing plan

These actions would likely occur in the summer of 2000 pending successful completion of STC/SLOA revenue generating goals.

#### **ENVIRONMENTAL CONSIDERATIONS:**

The proposed action will allow staff to proceed with the development of a potential project description for City Council approval. Once a project description is defined, the appropriate environmental review will be prepared and forwarded to the City Council as part of any

action to allow projects to be implemented.

**POLICY CONSIDERATIONS:**

This proposal is consistent with City policy to support activities that improve City property and which enrich the community through the cultural and entertainment activities provided thereon. It is also consistent with the County's traditional use of TOT revenues to support cultural activities for the entire community. In addition, the improvement of City/County property will aid in drawing new audiences to the facilities, contributing to the revitalization of Downtown. Finally, the financial conditions placed on STC and SLOA to develop outside sources of revenues will contribute to their economic stability while minimizing financial risk to the City and County.

**ESBD CONSIDERATIONS:**

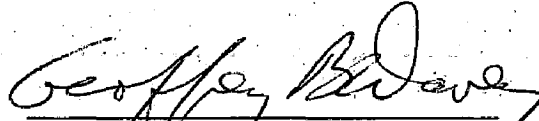
All purchases and contract requirements will fall under the City's ESBD requirements.

Respectfully submitted,



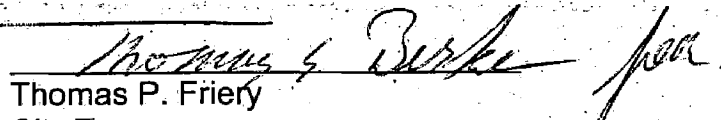
Thomas V. Lee  
Deputy City Manager

Respectfully submitted,

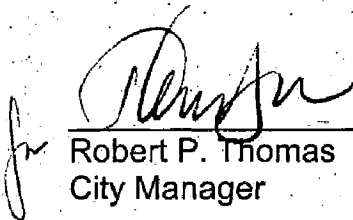


Geoffrey B. Davey  
County Chief Financial Officer

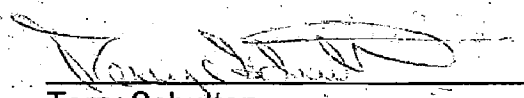
Respectfully submitted,

  
Thomas P. Frieri  
City Treasurer

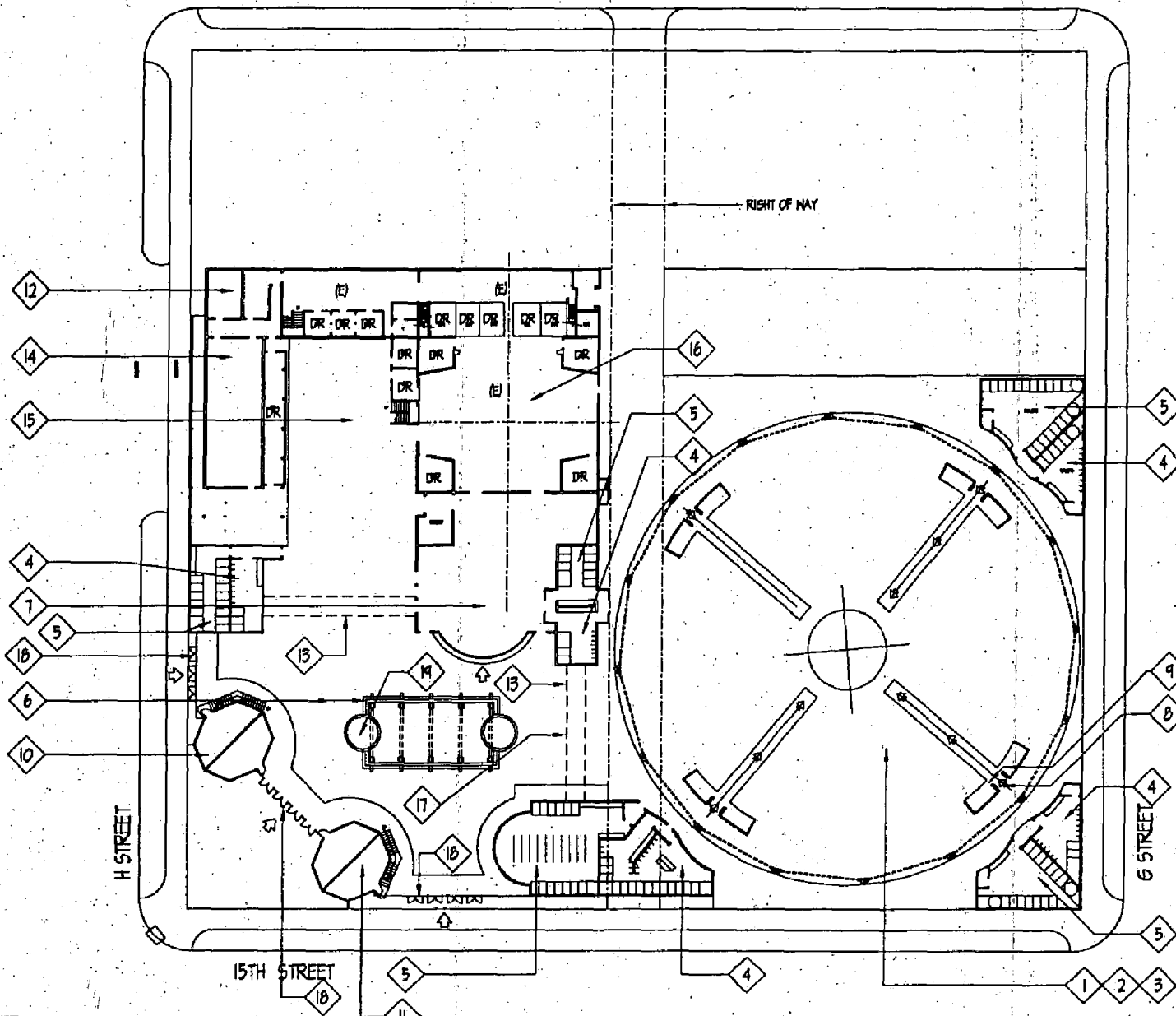
RECOMMENDATION APPROVED:

  
Robert P. Thomas  
City Manager

RECOMMENDATION APPROVED:

  
Terry Schutten  
County Executive

14TH STREET



PHASE I - SCOPE DIAGRAM

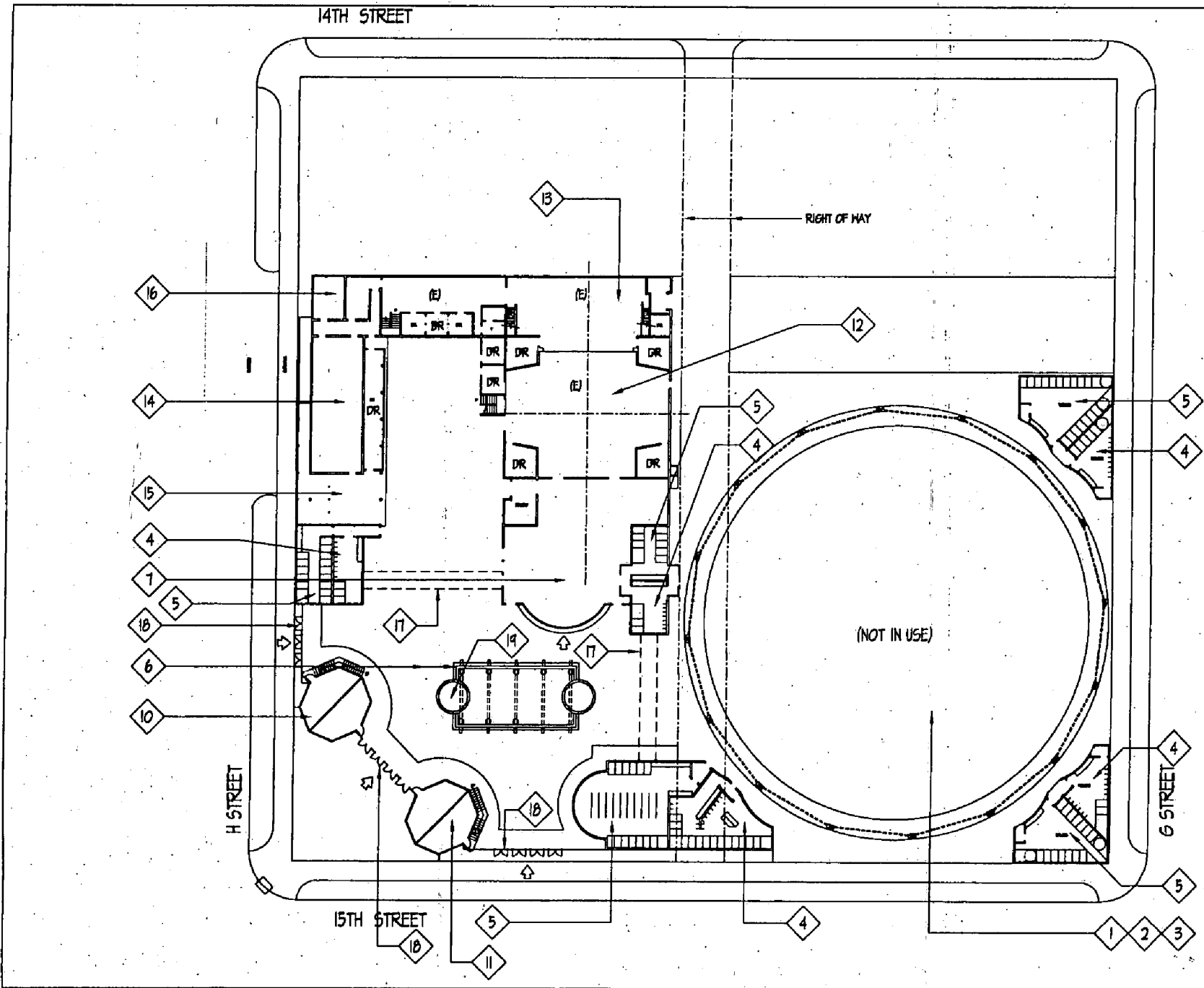
SCALE 1/4" = 1'-0"

## KEY NOTES

### FACILITIES (SUMMER)

- 1 TENT SUPERSTRUCTURE
- 2 STAGE & LOFT
- 3 THEATRE SEATING FORM
- 4 AUDIENCE MEN'S TOILET
- 5 AUDIENCE WOMEN'S TOILET
- 6 ART PARK/COURTYARD
- 7 NIGHT SUBSCRIBERS LOUNGE
- 8 ACTOR ENTRANCE (TYPICAL)
- 9 QUICK CHANGE (TYPICAL)
- 10 TICKET SALES OFFICE/TREASURER
- 11 GIFT SHOP
- 12 COSTUME SCENERY PROP LOAD-IN
- 13 COVERED LINK-WAY
- 14 HALL
- 15 PATRONS LOUNGE
- 16 BLOCKING REHEARSAL ROOM
- 17 CONTROL POINT
- 18 ORNAMENTAL IRON GATE
- 19 FOUNTAIN
- DR DRESSER
- EX EXISTING

FIGURE 1



PHASE I - SCOPE DIAGRAM

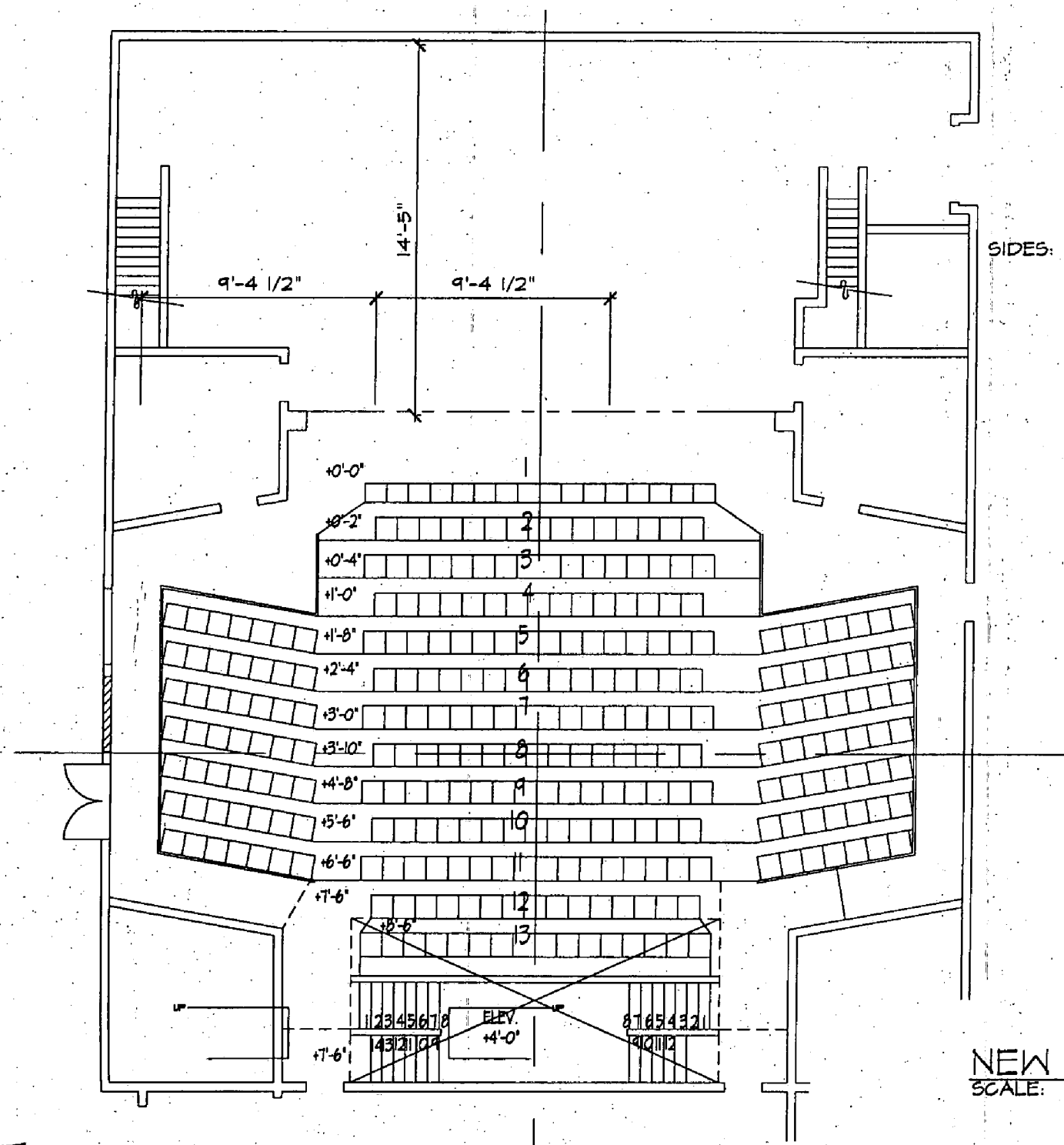
SCALE 1/4" = 1'-0"

## KEY NOTES

### FACILITIES (WINTER)

- 1 TENT SUPERSTRUCTURE (NOT IN USE)
- 2 STAGE 1 LOFT (NOT IN USE)
- 3 THEATRE SEATING FORM (NOT IN USE)
- 4 AUDIENCE MENS TOILET
- 5 AUDIENCE WOMENS TOILET
- 6 ART PARK/COURTYARD
- 7 LOBBY-A / CONTROL POINT
- 8 (NOT IN USE)
- 9 (NOT IN USE)
- 10 TICKET SALES OFFICE/TREASURER
- 11 GIFT SHOP
- 12 300 THEATRE SEATS
- 8 STAGE
- 14 44 SEATS AUDITORIUM
- 15 LOBBY-B / CONTROL POINT
- 16 SCENERY LOAD-IN
- 17 COVERED LINK-WAY
- 18 ORNAMENTAL IRON GATE
- 14 FOUNTAIN
- DR DRESSER
- (E) EXISTING

FIGURE 1A

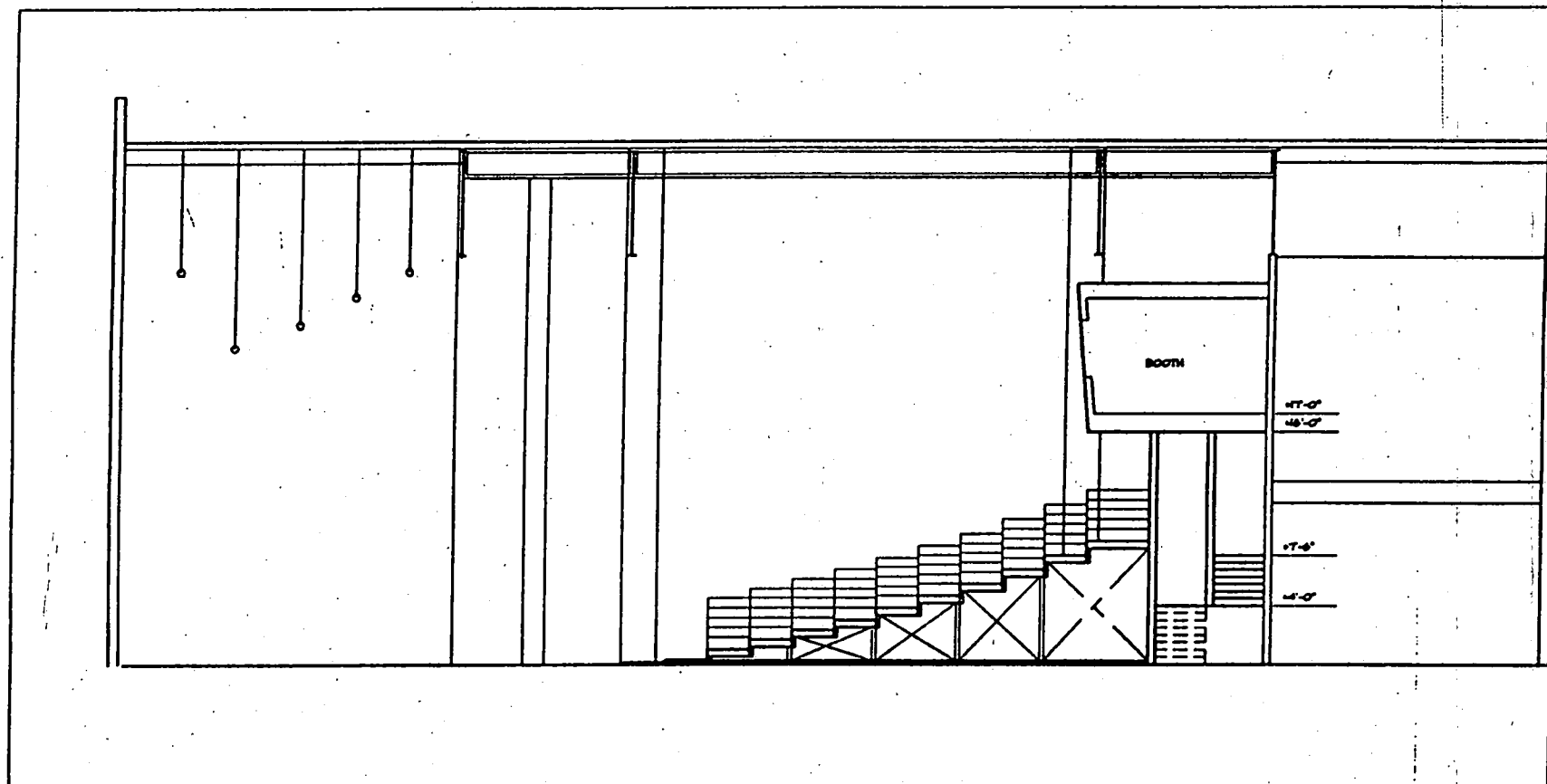


CAPACITY SUMMARY		
CENTER:		
FIXED SEATS	171	
PORTABLE SEATS	31	
SIDES:		
FIXED SEATS	98	
	<u>300</u>	

NEW SEATING PLAN  
SCALE:

FIGURE 2

FIGURE 3



**LONGITUDINAL SECTION**  
SCALE: 1/8"=1'-0"

*Sacramento Theatre Company*  
**300 SEAT THEATRE**  
R.F. McCann & Company  
Theatre Architects

**R.F. McCANN & CO. THEATRE ARCHITECTS**

**5-10-89**

(AMENDED)

## RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

### H STREET THEATER PROJECT AND FINANCING

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO THAT:

1. Conceptual approval is given for the City of Sacramento's participation in a capital improvement project at the City/County joint-owned property at 1419 'H' Street currently used by the Sacramento Theater Company (STC) and Sacramento Light Opera Association (SLOA)
2. Conceptual approval is given for development of a financing plan including:
  - (a) Establishment of a Joint Powers Authority.
  - (b) Commitment of new revenues by STC and SLOA to finance the project.
  - (c) Continuation of the existing City/County investment in the property.
  - (d) Issuance of a bond to finance the capital improvements if STC/SLOA revenue milestones are met.
3. Approval is given for a short-term loan not to exceed \$485,000 from the City of Sacramento to finance pre-construction expenses.
4. A new City Capital Improvement Project (xxxx) be established to be funded from existing dedicated City/County revenues with authority to spend funds for first year (Phase 1) project costs.
5. The following conditions are met:
  - (a) SLOA and STC meet the fiscal milestone requirements specified in the staff report.
  - (b) STC and SLOA meet with neighborhood representatives to address impacts of the project including, but not limited to, noise, lighting and parking.
  - (c) The project is designed to compliment the 14<sup>th</sup> Street "Streetscape" plan, including consideration of installing compatible lighting (e.g. "acorn" design).

---

FOR CITY CLERK USE ONLY

RESOLUTION NO: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_



**ATTEST:**

\_\_\_\_\_  
**MAYOR**

\_\_\_\_\_  
**CITY CLERK**

\_\_\_\_\_  
**FOR CITY CLERK USE ONLY**

**RESOLUTION NO:** \_\_\_\_\_

**DATE ADOPTED:** \_\_\_\_\_

**TABLE 1**
**H STREET PROJECT**  
**DISTRIBUTION OF FINANCIAL RESPONSIBILITIES**

Rev. 5/10/99

Project	SLOA	%	STC	%	TOTAL
<b>Music Circus</b>					
<b>SLOA Property Improvements</b>	5,575,313.00	100%	0.00	0%	5,575,313.00
Arena Superstructure					
Seating Area					
Grid, Theatrical Equipment & Rigging					
Restrooms & Concourse					
Concessions					
<b>Music Circus</b>					
<b>City/County Property Improvements</b>	230,000.00	100%	0.00	0%	230,000.00
Restrooms & Concessions					
<b>Communal Project</b>	742,142.00	50%	742,142.00	50%	1,484,284.00
Expanded Lobby Facilities					
Existing Lobby renovation					
Arts Park					
Box Office					
Retail Sales					
HVAC					
<b>STC Upgrade (Joint Usage)</b>	126,682.00	25%	380,045.00	75%	506,727.00
Seating Form					
Stage - Sprung Floor					
Stage - Power & Distribution					
Dressing Rooms					
Scene Dock					
Building Power					
<b>STC Upgrade (STC Only)</b>	0.00	0%	441,675.00	100%	441,675.00
<b>Total</b>	<b>6,674,137.00</b>		<b>1,563,862.00</b>		<b>8,237,999.00</b>

**City of Sacramento and County of Sacramento**  
**Sacramento Light Opera Association/Sacramento Theatre Company Financing**  
**Analysis of Bond Structures**  
**2 1/2 Years of Capitalized Interest**

	18 Year Maturity	20 Year Maturity	
Total construction requirement	8,237,999	8,237,999	
Requirement before 9/1/2000	(878,571)	(878,571)	
Requirements after bond issuance	7,359,428	7,359,428	
Requirements before 9/1/2000	878,571	878,571	
Current reserve	(264,000)	(264,000)	
Deposits to reserve	(132,000)	(132,000)	
Loan from City	482,571	482,571	
Interest @ 6.00% for 9 months	21,716	21,716	
Loan repayment requirement	504,287	504,287	
Requirements after bond issuance	7,359,428	7,359,428	
2000 and 2001 revenues to offset requirements			
Naming Rights	400,000		\$200,000 per year
Name-A-Seal	133,333		\$66,667 per year
Foundation Grant	250,000		One time grant received by 9/1/2000
Ticket Surcharge	728,000		\$364,000 per year
City/County Contribution	132,000		2001 contribution (2000 contribution accounted for above)
Property Note repayment	151,320		Scheduled quarterly payments from 10/1/2000 through 1/1/2002
Total	1,794,653	(1,794,653)	(1,794,653)
Net to be funded from bond issue	5,564,775	5,564,775	
Less interest earnings	(578,585)	(586,791)	
Deposit to construction fund	4,986,190	4,977,984	
<b>Bond Sizing</b>			
Construction Fund	4,986,190	4,977,984	
Debt Service Reserve Fund	814,500	815,000	10% of issue size
Capitalized Interest Fund	922,052	934,242	2 1/2 years
City Loan Repayment	504,287	504,287	
Property Note Repayment	668,221	668,221	
All-in Costs of Issuance	249,750	250,268	Bond insurance, underwriter's discount, other costs of issuance
Total	8,145,000	8,150,000	

**City of Sacramento and County of Sacramento**  
**Sacramento Light Opera Association/Sacramento Theatre Company Financing**  
**Summary of Financing Alternatives**

<b>Scenario</b>	<b>1</b>	<b>2</b>
<b>Final Maturity</b>	<b>18</b>	<b>20</b>
<b>Years of Capitalized Interest</b>	<b>2.5</b>	<b>2.5</b>
<b>Par Amount of Bonds</b>	<b>\$ 8,145,000</b>	<b>\$ 8,150,000</b>
<b>Average Annual Excess Revenues</b>	<b>\$ 5,000</b>	<b>\$ 37,000</b>
<b>Size of Additional Reserve at Maturity</b>	<b>\$ 3,267,000</b>	<b>\$ 4,541,000</b>
<b>Percentage of Ticket Surcharge Revenue Needed</b>	<b>99%</b>	<b>91%</b>
<b>Years to Redemption from Additional Reserve</b>	<b>15</b>	<b>15</b>



