



REPORT TO REDEVELOPMENT AGENCY City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Consent
June 5, 2008

**Honorable Mayor and Members of the City Council and
Honorable Chair and Members of the Board**

Title: Ebner/Empire Hotel: Modification to Disposition Development Agreement

Location/Council District: 116 and 118 K Street, Old Sacramento Historic District,
Council District 1

Recommendation: Adopt a **Redevelopment Agency Resolution:** 1) approving an amendment to section 6.4 of the Disposition and Development Agreement (DDA) modifying the formula for disbursement of Agency funds with the third party lender 2) authorizing the City Manager, as the Agency's designee, to execute amendments to the associated loan documents reflecting the change in disbursement of funds.

Contact: Sheri Smith, Economic Development Project Manager, 808-7204; Leslie Fritzsche, Downtown Development Manager, 808-7223

Presenters: n/a

Department: Economic Development Department

Division: Downtown Development

Organization No: 4451

Description/Analysis

Issue: In 2005, the Economic Development Department, acting as the agent of the Agency, issued a Request for Qualifications (RFQ) to reconstruct buildings in Old Sacramento. A team consisting of Carson Development and The Scurfield Company (Ebner/Empire, LLC hereafter "Developer") was selected to reconstruct the Ebner-Empire Hotel located at 116 and 118 K Street in Old Sacramento. In 2006, the Agency approved a Disposition and Development Agreement with the Developer and two loans totaling \$3.5 million (see Attachment 1). Since that time the Developer has been finalizing plans for the project and has submitted for building permits, which they expect to receive within 30 days. The 26,000 sq. ft. building will have ground-floor retail and two floors of office. The façade will replicate the original Ebner/Empire Hotels as designated by the Old Sacramento Historic District.

The Developer is gearing up to begin construction within the next 30 days and is investigating ways to manage escalating construction costs for the project. One way to cut interest cost to the project is to change the way the funds are currently required to be disbursed during construction. The approved DDA requires disbursement of \$1 million of the Developer's equity first, then the Agency would disburse its funds on a 50/50 basis with the third party lender. Staff is recommending changing the disbursement of Agency funds to a 75/25 basis with the third party lender. This change will mean that a higher percentage of the lower interest Agency money is in the project early and that the higher interest construction loan can be drawn down at a slower rate. This results in a potential savings of \$40,000 to the project in construction interest. The requirement of \$1 million of Developer's equity in first will stay the same. This provides assurance to the Agency of the Developer's commitment to completion of the project.

Policy Considerations: In 2000, a strategy was prepared to guide redevelopment activities for downtown Sacramento. Section Three of the *Framework for Strategic Investment* focuses on the Waterfront and Old Sacramento area. The reconstruction of the Ebner-Empire Hotel is consistent with the goals mentioned in the 2005 Downtown Sacramento Redevelopment Strategy including:

1. The elimination of environmental deficiencies in the Merged Project Area, including mixed and shifting uses, small and irregular lots, obsolete, aged and deteriorated building types, inadequate or deteriorated public improvements, and incompatible and uneconomic land uses;
2. The strengthening of retail and other commercial functions in the downtown area, the strengthening of the economic base of the Merged Project Area and the community by the installation of needed site improvements either inside or outside the Merged Project Area to stimulate new commercial/light industrial expansion, employment and economic growth;
3. The establishment and implementation of performance criteria to assure high site design standards and environmental quality and other design elements, which provide unity and integrity to the entire Merged Project; and
4. The preservation and/or restoration of historically or architecturally significant structures.

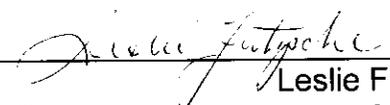
Environmental Considerations: The activities outlined in the development agreement have been analyzed in accordance with the California Environmental Quality Act (CEQA). An Initial Study/Mitigated Negative Declaration (MND) was prepared and a Notice of Intent to Approve a Mitigated Negative Declaration was published and circulated for review and comments from June 16, 2004 to August 4, 2004. The MND determined that the proposed project will not result in significant adverse impacts on the environment that cannot be mitigated. Implementation of mitigation measures outlined in the Mitigation Monitoring Plan and measures included in the project or imposed through adopted ordinances of the City reduce potential impacts to a less than significant level.

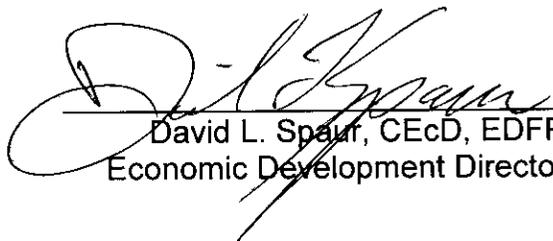
The MND and Mitigation Monitoring Plan were approved on November 30, 2004, and included the reconstruction of the Ebner-Empire Hotel using the Secretary of Interior Standards for reconstruction. The current proposal uses the Secretary of Interior Standards for reconstruction of the site. Pursuant to CEQA Guidelines Section 15162, when a negative declaration has been certified for a project, no subsequent environmental review is required as long as there are no substantial changes to the project and no new significant information or significant environmental effects related to the project that were not discussed in the prior negative declaration. This change is only to the structure of the construction financing and results in no physical change to the project. The prior negative declaration remains valid for the project and no additional environmental review for the project is required.

Rationale for Recommendation: Construction of the Ebner/ Empire project replaces a fenced vacant lot with a historical building and active street level retail on K Street at an entry point into Old Sacramento. Changing the ratio of loan distribution provides financial benefit to the project, improving its chances of success, with minimal impact to the Agency.

Financial Considerations: A higher percentage of the Agency loan will be in the project in the early months of construction than was contemplated in the original DDA. No additional Agency funding is involved with this action.

Emerging Small Business Development (ESBD): None

Respectfully Submitted by: 
Leslie Fritzsche
Downtown Development Manager
on behalf of the Redevelopment Agency
of the City of Sacramento

Approved by: 
David L. Spaur, CEcD, EDFP
Economic Development Director

Recommendation Approved:

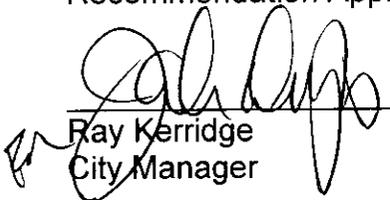

Ray Kerridge
City Manager

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Old Sacramento has had a number of vacant sites contributing to blighted conditions and below-market lease rates in the historic district. In 2005, in an effort to address these blighted conditions, the Economic Development Department, acting as the agent of the Agency, issued a Request for Qualifications (RFQ) to reconstruct buildings in Old Sacramento. A team consisting of Carson Development and The Scurfield Company (Ebner/Empire, LLC hereafter "Developer") was selected to reconstruct the Ebner-Empire Hotel located at 116 and 118 K Street in Old Sacramento.

In 2006, the Agency approved a Disposition and Development Agreement (DDA) with the Developer. The project pro forma identified the need for a subsidy to assist the development team in realizing a market rate return. The approved \$3.35 million assistance from the Agency is required to address the significant gap between construction costs and financial viability. The total project cost is estimated to be \$6.24 million. The Developer is providing approximately \$1.35 million in equity as well as securing a \$1.5 million private loan. The Agency participation comes from the 2005 Merged Downtown Tax Allocation Bond and is split into two loans.

The first Agency loan includes the following terms:

- Loan amount is \$2.35 million;
- The term of the loan is 25 years. At the end of the 25 years, the remaining principal balance, with interest, is due to the Agency;
- The interest rate is 4%;
- Loan payments must begin once the project reaches a return on equity over 12%;

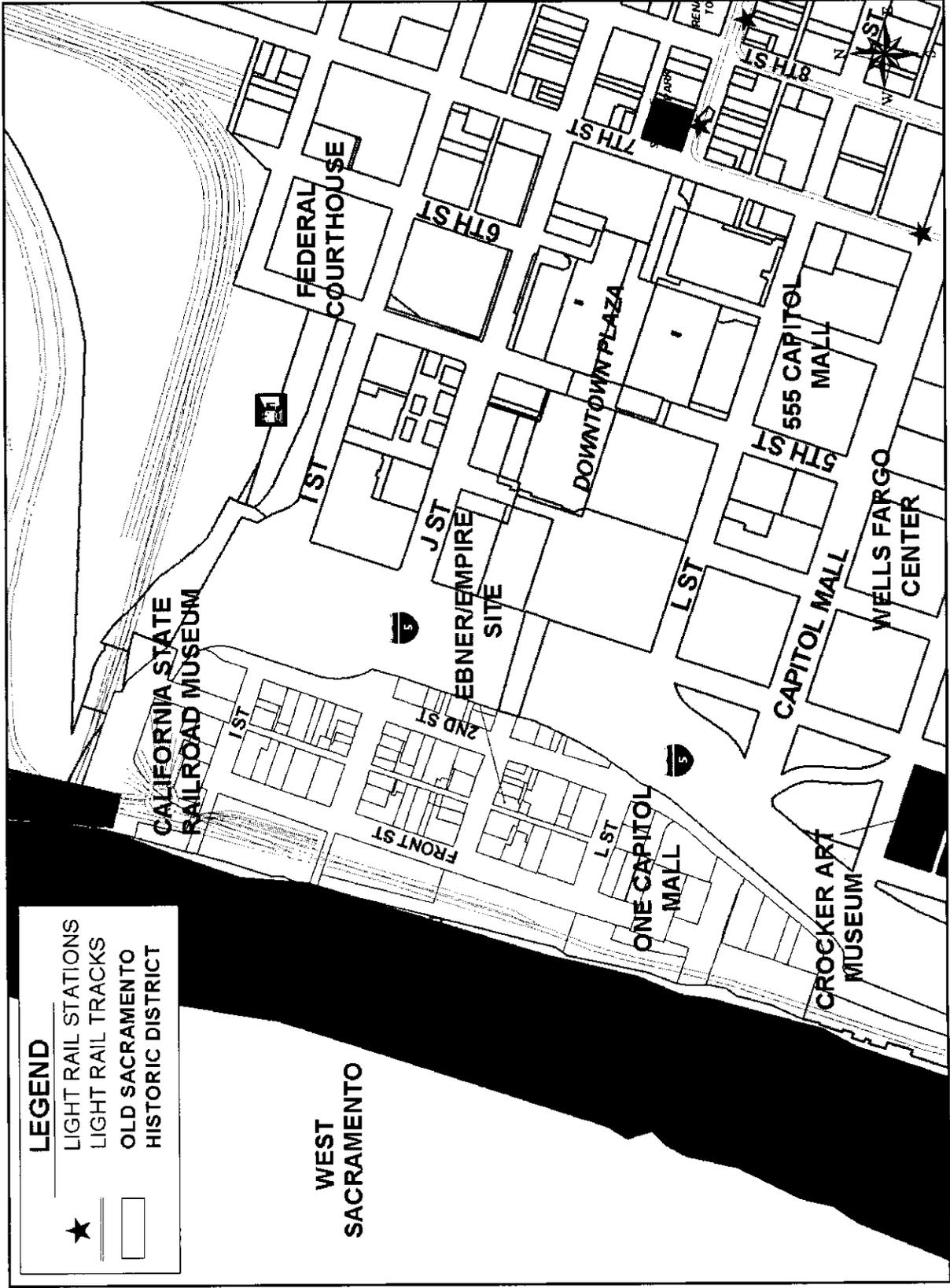
The second Agency loan includes the following terms:

- Loan amount is \$1 million;
- The term of the loan is 10 years. At the end of the 10 years, the principal balance is due to the Agency;
- The interest rate is 0%; and
- A 1% loan fee is due in full upon repayment of the loan.

Section 6.4 of the DDA defines how the above loans are disbursed during construction. First, \$1 million of the Developer's Equity must be used. Then the Agency will disburse its funds on a 50/50 basis with the third party lender. In an effort to reduce costs to the project, the Developer has requested that the Agency disburse its funds on a 75/25 basis. This will result in a higher portion of the lower interest Agency loan and less of the higher interest conventional loan in the early stages of construction, which results in less interest charged to the project over time.

LOCATION MAP

Attachment 2



**Attachment 3
Amendment to DDA**

NO FEE DOCUMENT:
Entitled to free recording
per Government Code 6103.

When recorded, return to:
SACRAMENTO HOUSING AND
REDEVELOPMENT AGENCY
630 "I" Street
Sacramento, CA 95814
Attention: Portfolio Management

First Amendment to Disposition and Development Agreement

IN CONSIDERATION OF THEIR MUTUAL OBLIGATIONS, the Redevelopment Agency of the City of Sacramento ("Agency") and, a California limited liability company, ("Developer") enter into this "First Amendment" and amend the Disposition and Development Agreement ("DDA") dated _____ 2006, between the Redevelopment Agency of the City of Sacramento and Ebner/Empire LLC, a California limited liability company, as follows:

- 1. The DDA is amended as follows:

Section 6.4, on page 13, is hereby amended and shall now read:

6.4 DISBURSEMENTS. Developer's equity, in the amount of \$1,000,000 (one million) shall be used first. The Agency will disburse its funds for Loan One on a 75/25 basis with the third party lender upon the completion or achievement of milestones as identified in the Schedule of Performances, attached hereto as Exhibit 4. The Agency will disburse its Loan Two funds on the same 75/25 basis after disbursal of Loan One Funds per the Loan One Loan Agreement

- 2. No rights, obligations or defaults of the parties under the DDA are waived by this Amendment, except as expressly stated in this First Amendment.
- 3. All other terms of the DDA shall remain the same.

Executed in Sacramento, California as of _____ 2008.

DEVELOPER: EBNER/EMPIRE, LLC
A California Limited Liability Company

**AGENCY: REDEVELOPMENT AGENCY OF THE CITY
OF SACRAMENTO**

By: _____
Johan Otto, Member

By: _____
John Dangberg, Assistant City Manager
As Designated Signatory

By: _____
Dave Scurfield, Member

Approved as to form:

Date: _____

Agency Counsel

NO FEE DOCUMENT:
 Entitled to free recording
 per Government Code 6103.
 When recorded, return to:
 REDEVELOPMENT AGENCY OF
 THE CITY OF SACRAMENTO
 915 "I" Street, Third Floor
 Sacramento, CA 95814
 Attention: Sheri Smith

**FIRST AMENDMENT TO LOAN AGREEMENT
 CONSTRUCTION AND PERMANENT LOAN AGREEMENT
 EBNER EMPIRE REDEVELOPMENT PROJECT
 LOAN ONE**

AS OF THE EFFECTIVE DATE, AND IN CONSIDERATION OF THEIR MUTUAL OBLIGATIONS, REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, the "Lender", and Ebner/Empire LLC, the "Borrower", enter into this "Amendment" and amend the "Original Loan", as follows. For this Amendment to be valid it must be attached to the Original Loan.

1. **DEFINITIONS AND RECITALS.** Terms in quotation marks are defined terms and shall have the meanings so ascribed to them in the table below. If an item in the following table is marked "None", "Not Applicable", "N/A", or equivalent or is left blank, that defined term is not applicable to this Amendment or the referenced item is not required or is not included in this Amendment, as the context may indicate. The statements set out in this Section regarding the Original Loan are true and correct.

GENERAL		
"Effective Date"	The Effective Date is the effective date of this Amendment, which is the following.	
"Lender"	Redevelopment Agency of the City of Sacramento, a political body, corporate and politic, whose address is 630 I Street, Sacramento, California 95814	
"Borrower"	Name	Ebner/Empire LLC, California limited liability company
	Address	1720 3rd Street, Suite 202, Sacramento, CA 95814 , Attention: Johan Otto

ORIGINAL LOAN			
"Original Loan"	Original Loan is the loan made by the Loan Agreement but without regard to this Amendment.		
"Loan"	Loan is the loan made by the Original Loan Agreement as amended by this Amendment.		
"Loan Agreement"	Loan Agreement is the loan agreement for the Original Principal Amount made by and between Lender and Borrower as of the following date and having the following title:	Title	Construction and Permanent Loan Agreement Ebner Empire Redevelopment Project Loan One
		Date	
"Note"	Note is the Promissory Note made by Borrower in favor of Lender, evidencing the Original Loan, and dates as of the following date:	Date	
		Date	
"Deed of Trust"	Deed of Trust is the deed of trust executed by Borrower securing the Original Loan in favor of Lender, dated as of the following date and recorded against the Property in the Office of the County Recorded of Sacramento County on the recording date, series and document number as follows:	Date	
		Recording Date	
		Book No.	
		Page No.	
"Regulatory Agreement"	Regulatory Agreement is the regulatory agreement containing covenants, conditions, restrictions and regulations, executed by Borrower in favor of Lender, required as a condition of the	Date	
		Recording Date	
		Series No.	

Ebner/Empire: Modification of DDA

	Original Loan, dated as of the following date and recorded against the Property in the Office of the County Recorder of Sacramento County on the recording date, and series and document number as follows.	Document No.	
"Original Principal Amount"	The Original Principal Amount is the principal amount of the Original Loan, which is the following amount. Two Million Three Hundred Fifty Thousand Dollars and No Cents (\$2,350,000.00)	There is to be no change, increase or decrease to the Original Principal Amount	
"Property"	The Property is that certain real property that is security for the Loan located at the following address, and more specifically described as set out in the Legal Description that is attached to this Amendment and incorporated in it by this reference.		

AMENDMENTS AND CHANGES				
"Principal Increase"	The Principal Increase is the amount added to the Original Principal Amount by this Amendment, which amount is the following.		Zero Loan Amount Increase (\$0)	
"New Principal Amount"	The New Principal Amount is the Original Principal Amount as increased by the Principal Increase, which is the following total amount.		There is to be no change, increase or decrease to the Original Principal Amount	
"New Funding Source"	The source of Lender's funds for the Principal Increase is the following:		Not applicable. There is to be no increase.	
"Regulatory Agreement Changes"	If a New Funding Source is different from the "Funding Source(s)" named in the Regulatory Agreement, the Regulatory Agreement is subject to the following "New Funding Requirements", a copy of which is attached to this Amendment as New Funding Requirements and incorporated in this Amendment by reference.			
	New Funding Requirements		None	
	The "Restricted Units" named in the Regulatory Agreement shall be restricted as follows:			
	Restricted Unit	Funding Source	Bedrooms	Affordability Level
"Other Changes"	The following additional changes are made to the Loan documents as indicated:			
	Document: Loan One, Section 8, page 14 shall be amended in its entirety.		Changes: LOAN DISBURSEMENT PROCEDURES. Developer's equity, in the amount of \$1,000,000 shall be used first. The Agency will disburse its funds for Loan One on a proportionate basis with the third party lender upon the completion or achievement of milestones as identified in the Schedule of Performances, attached to the DDA as Exhibit 4. The Agency will fund 75% of the draw request and the private lender will fund 25%. The Agency will disburse its funds for Loan Two following the disbursement of all of the loan proceeds from Loan One on the same 75/25 basis.	

1. **BORROWER REPRESENTATIONS AND WARRANTIES.** As of the Effective Date, Borrower represents and warrants that Borrower has made no other loan secured by or purporting to be secured by the Property, whether or not of record, except as approved by Lender as of the making of the Original Loan and that no other liens, judgments, orders, attachments, or claims have been made and remain against the Property. Borrower's signatory, for himself or herself, and Borrower represents and warrants that said signatory has the requisite authority to execute this amendment on behalf of Borrower.

2. **INCREASE IN PRINCIPAL AMOUNT.** There are no changes, increases or decreases in the principal amount of the Original Loan.

3. **NOTE AMENDMENT.** The Note is amended and restated to conform to this Amendment and to contain such other Note terms as are being amended in conjunction with this Amendment. A copy of such amended and restated note ("Amended

Amendment to Loan and Regulatory Agreement; Notice of Increase in Amount Secured

Page 2

Ebner/Empire: Modification of DDA

Note”) is attached as **Amended and Restated Promissory Note**. Borrower shall execute the Amended Note concurrently with the execution of this Amendment, and upon delivery by Borrower of the duly executed Amendment and Amended Note, Lender shall cancel the Note and deliver the cancelled Note to Borrower.

a) **REGULATORY AGREEMENT CHANGES.** There are no changes to the Regulatory Agreement. It shall remain in full force and effect in its original form.

4. **OTHER CHANGES.** There are no Other Changes than as described in the Disbursement.

5. GENERAL PROVISIONS.

a) No rights, obligations, or defaults of the parties are waived by this Amendment, except as expressly stated in this Amendment.

b) All other terms of the Loan documents shall remain the same.

c) If any term, provision, covenant, or condition or any application is held by a court of competent jurisdiction to be invalid, void, or unenforceable, all terms, provisions, covenants, and conditions and all applications not held invalid, void, or unenforceable will continue in full force and will in no way be affected, impaired, or invalidated.

Executed on _____, 2008 in Sacramento, California.

BORROWER
EBNER/EMPIRE, LLC
A California Limited Liability Company

By: _____
Johan Otto, Member

By: _____
Dave Scurfield, Member

Date: _____

LENDER
Redevelopment Agency of the City of Sacramento

By: _____
John Dangberg, Assistant City Manager
As Designated Signatory

Approved as to form:

Agency Counsel

CONSENT OF SENIOR LENDER

The undersigned, being a lender having a lien that is senior in interest to the lien of Redevelopment Agency of the City of Sacramento, have reviewed the amendment of the Redevelopment Agency of the City of Sacramento loan as represented by this Amendment, and do hereby approve and consent to the Amendment

Senior Lender:

By: _____
Name: _____
Title: _____

[ACKNOWLEDGMENTS]

Ebner/Empire: Modification of DDA

LEGAL DESCRIPTION

APN: 006-0072-028

All that property known as parcel 31-A, as recorded on metropolitan civil engineering company parcel map entitled: "East one-half block bounded by K, L, and 2nd Streets and the Embarcadero," in the City of Sacramento, California, recorded on the 25th day of February, 1972, I Book 4 of parcel maps at page no. 31a, excepting therefrom any portion of said parcel 31-A lying within the boundaries of parcel E-1, as shown on said parcel map.

APN: 006-0072-029

Parcel A, as shown on the parcel map of "parcel 33B and 33C, of the parcel map recorded in Book 4, of parcel maps, Map No. 31," recorded in Book 8 of parcel maps, at page 26, records of said county.

Excepting therefrom any portion thereof lying within the boundaries of parcel E-1 as shown on said parcel map.

NO FEE DOCUMENT:
Entitled to free recording
per Government Code 6103.
When recorded, return to:
REDEVELOPMENT AGENCY of
The City of Sacramento
915 "I" Street, Third Floor
Sacramento, CA 95814
Attention: Sheri Smith

**FIRST AMENDMENT TO LOAN AGREEMENT
CONSTRUCTION AND PERMANENT LOAN AGREEMENT
EBNER EMPIRE REDEVELOPMENT PROJECT
LOAN TWO**

AS OF THE EFFECTIVE DATE, AND IN CONSIDERATION OF THEIR MUTUAL OBLIGATIONS, REDEVELOPMENT AGENCY OF THE CITY OF SACRAMENTO, the "Lender", and Ebner/Empire LLC, the "Borrower", enter into this "Amendment" and amend the "Original Loan", as follows. For this Amendment to be valid it must be attached to the Original Loan.

1. **DEFINITIONS AND RECITALS.** Terms in quotation marks are defined terms and shall have the meanings so ascribed to them in the table below. If an item in the following table is marked "None", "Not Applicable", "N/A", or equivalent or is left blank, that defined term is not applicable to this Amendment or the referenced item is not required or is not included in this Amendment, as the context may indicate. The statements set out in this Section regarding the Original Loan are true and correct.

GENERAL	
"Effective Date"	The Effective Date is the effective date of this Amendment, which is the following.
"Lender"	Redevelopment Agency of the City of Sacramento, a political body, corporate and politic, whose address is 630 I Street, Sacramento, California 95814
"Borrower"	Name Ebner/Empire LLC, California limited liability company
	Address 1720 3rd Street, Suite 202, Sacramento, CA 95814 , Attention: Johan Otto

ORIGINAL LOAN		
"Original Loan"	Original Loan is the loan made by the Loan Agreement but without regard to this Amendment.	
"Loan"	Loan is the loan made by the Original Loan Agreement as amended by this Amendment.	
"Loan Agreement"	Loan Agreement is the loan agreement for the Original Principal Amount made by and between Lender and Borrower as of the following date and having the following title:	
	Title Construction and Permanent Loan Agreement Ebner Empire Redevelopment Project Loan Two	
"Note"	Note is the Promissory Note made by Borrower in favor of Lender, evidencing the Original Loan, and dates as of the following date:	
	Date	
"Deed of Trust"	Deed of Trust is the deed of trust executed by Borrower securing the Original Loan in favor of Lender, dated as of the following date and recorded against the Property in the Office of the County Recorded of Sacramento County on the recording date, series and document number as follows:	
		Date
		Recording Date
		Book No.
"Regulatory Agreement"	Regulatory Agreement is the regulatory agreement containing covenants, conditions, restrictions and regulations, executed by Borrower in favor of Lender, required as a condition of the	
		Page No.
		Date
	Recording Date	
	Series No.	

Ebner/Empire: Modification of DDA

2. **INCREASE IN PRINCIPAL AMOUNT.** There are no changes, increases or decreases in the principal amount of the Original Loan.

3. **NOTE AMENDMENT.** The Note is amended and restated to conform to this Amendment and to contain such other Note terms as are being amended in conjunction with this Amendment. A copy of such amended and restated note ("Amended Note") is attached as **Amended and Restated Promissory Note**. Borrower shall execute the Amended Note concurrently with the execution of this Amendment, and upon delivery by Borrower of the duly executed Amendment and Amended Note, Lender shall cancel the Note and deliver the cancelled Note to Borrower.

a) **REGULATORY AGREEMENT CHANGES.** There are no changes to the Regulatory Agreement. It shall remain in full force and effect in its original form.

4. **OTHER CHANGES.** There are no Other Changes than as described in the Disbursement.

5. **GENERAL PROVISIONS.**

a) No rights, obligations, or defaults of the parties are waived by this Amendment, except as expressly stated in this Amendment.

b) All other terms of the Loan documents shall remain the same.

c) If any term, provision, covenant, or condition or any application is held by a court of competent jurisdiction to be invalid, void, or unenforceable, all terms, provisions, covenants, and conditions and all applications not held invalid, void, or unenforceable will continue in full force and will in no way be affected, impaired, or invalidated.

Executed on _____, 2008 in Sacramento, California.

BORROWER
EBNER/EMPIRE, LLC
A California Limited Liability Company

By: _____
Johan Otto, Member

By : _____
Dave Scurfield, Member

Date: _____

LENDER
Redevelopment Agency of the City of Sacramento

By: _____
John Dangberg, Assistant City Manager
As Designated Signatory

Approved as to form:

Agency Counsel

CONSENT OF SENIOR LENDER

The undersigned, being a lender having a lien that is senior in interest to the lien of Redevelopment Agency of the City of Sacramento, have reviewed the amendment of the Redevelopment Agency of the City of Sacramento loan as represented by this Amendment, and do hereby approve and consent to the Amendment

Senior Lender:

By: _____
Name:
Title:

[ACKNOWLEDGMENTS]

Ebner/Empire: Modification of DDA

	Original Loan, dated as of the following date and recorded against the Property in the Office of the County Recorder of Sacramento County on the recording date, and series and document number as follows.	Document No.	
"Original Principal Amount"	The Original Principal Amount is the principal amount of the Original Loan, which is the following amount.	There is to be no change, increase or decrease to the Original Principal Amount	
"Property"	The Property is that certain real property that is security for the Loan located at the following address, and more specifically described as set out in the Legal Description that is attached to this Amendment and incorporated in it by this reference.		

AMENDMENTS AND CHANGES				
"Principal Increase"	The Principal Increase is the amount added to the Original Principal Amount by this Amendment, which amount is the following.	Zero Loan Amount Increase (\$0)		
"New Principal Amount"	The New Principal Amount is the Original Principal Amount as increased by the Principal Increase, which is the following total amount.	There is to be no change, increase or decrease to the Original Principal Amount		
"New Funding Source"	The source of Lender's funds for the Principal Increase is the following:	Not applicable. There is no increase		
"Regulatory Agreement Changes"	If a New Funding Source is different from the "Funding Source(s)" named in the Regulatory Agreement, the Regulatory Agreement is subject to the following "New Funding Requirements", a copy of which is attached to this Amendment as New Funding Requirements and incorporated in this Amendment by reference.			
	New Funding Requirements		None	
	The "Restricted Units" named in the Regulatory Agreement shall be restricted as follows:			
	Restricted Unit	Funding Source	Bedrooms	Affordability Level
"Other Changes"	The following additional changes are made to the Loan documents as indicated:			
	Document:		Changes:	
	"Loan Proceeds" shall be amended in its entirety.	Loan proceeds shall be disbursed following the disbursement of all of Loan One proceeds on the same 75/25 basis as the loan proceeds from <i>Construction and Permanent Loan Agreement Ebner Empire Redevelopment Project Loan One</i> .		
Loan Two, Section 8, page 12 shall be amended in its entirety.	LOAN DISBURSEMENT PROCEDURES. Developer's equity, in the amount of \$1,000,000 shall be used first. The Agency will disburse its funds for Loan Two following the disbursement of all of the loan proceeds from Loan One on the same 75/25 basis, that is the Agency will fund 75% of the draw request and the private lender will fund 25%. The Agency will disburse its funds for Loan Two on a proportionate basis with the third party lender upon the completion or achievement of milestones as identified in the Schedule of Performances, attached to the DDA as Exhibit 4.			

1. BORROWER REPRESENTATIONS AND WARRANTIES. As of the Effective Date, Borrower represents and warrants that Borrower has made no other loan secured by or purporting to be secured by the Property, whether or not of record, except as approved by Lender as of the making of the Original Loan and that no other liens, judgments, orders, attachments, or claims have been made and remain against the Property. Borrower's signatory, for himself or herself, and Borrower represents and warrants that said signatory has the requisite authority to execute this amendment on behalf of Borrower.

Ebner/Empire: Modification of DDA

LEGAL DESCRIPTION

APN: 006-0072-028

All that property known as parcel 31-A, as recorded on metropolitan civil engineering company parcel map entitled: "East one-half block bounded by K, L, and 2nd Streets and the Embarcadero," in the City of Sacramento, California, recorded on the 25th day of February, 1972, in Book 4 of parcel maps at page no. 31a, excepting therefrom any portion of said parcel 31-A lying within the boundaries of parcel E-1, as shown on said parcel map.

APN: 006-0072-029

Parcel A, as shown on the parcel map of "parcel 33B and 33C, of the parcel map recorded in Book 4, of parcel maps, Map No. 31," recorded in Book 8 of parcel maps, at page 26, records of said county.

Excepting therefrom any portion thereof lying within the boundaries of parcel E-1 as shown on said parcel map.

RESOLUTION NO.

Adopted by the Redevelopment Agency of the City of Sacramento

**AMENDMENT OF THE DISPOSITION AND DEVELOPMENT AGREEMENT FOR
EBNER/ EMPIRE HOTEL REDEVELOPMENT PROJECT**

BACKGROUND

- A. The Redevelopment Agency of the City of Sacramento ("Agency") has adopted the Merged Downtown Redevelopment Plan ("Redevelopment Plan") and an Implementation Plan for the Merged Downtown Project Area ("Project Area").
- B. On February 14, 2006 the Agency approved a Disposition and Development Agreement (DDA) with Ebner/Empire, LLC for the reconstruction of the Ebner and Empire Hotels located at 116 and 118 K Street, Sacramento, CA.
- C. Section 6.4 of the DDA regarding disbursements of the Agency loans currently reads as follows: "Developer's equity, in the amount of \$1,000,000 (one million) shall be used first. The Agency will disburse its funds for Loan One on a 50/50 basis with the third party lender upon the completion or achievement of milestones as identified in the Schedule of Performances, attached hereto as Exhibit 4. The Agency will disburse its remaining Loan One funds and its Loan Two funds following all other funds being disbursed into the project, including Developer Equity and the third party loan."
- D. The cost of development in Old Sacramento has increased while the income properties expect to generate has not.
- E. In order to assist the project and provide interest savings, the Agency desires to disburse its funds on a 75/25 basis with the third party lender.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE
REDEVELOPMENT AGENCY RESOLVES AS FOLLOWS:**

Section 1. After due consideration of the facts presented, section 6.4 of the Disposition and Development Agreement dated February 14, 2006 between the Redevelopment Agency and the Ebner/ Empire, LLC is amended to read:
Developer's equity, in the amount of \$1,000,000 (one million) shall be

Ebner/Empire: Modification of DDA

used first. The Agency will disburse its funds for Loan One on a 75/25 basis with the third party lender upon the completion or achievement of milestones as identified in the Schedule of Performances, attached hereto as Exhibit 4. The Agency will disburse its Loan Two funds on the same 75/25 basis after disbursement of Loan One Funds per the Loan One Loan Agreement

Section 2. The City Manager, as the Agency's designee is authorized to execute any and all amended loan documents, subject to the approval as to form by Agency Counsel, necessary to change the loan disbursement term as defined in the amended DDA.