



City of Bridgeport
OFFICE OF PLANNING & ECONOMIC DEVELOPMENT

Margaret E. Morton Government Center
999 Broad Street, Bridgeport, Connecticut 06604



JOSEPH P. GANIM
Mayor

THOMAS GILL
Director

COMM. #115-16 (Ref. #88-16) Ref'd to Contracts Committee
on 08/07/2017.

August 1, 2017

Office of the City Clerk
45 Lyon Terrace
Bridgeport, CT 06605

Re: Resolution Authorizing LDA – Theatres and Adjacent Properties
Request for Public Hearing Order for Full Council Meeting of 9-5-17

Dear City Clerk:

Attached, please find a resolution authorizing the execution of the attached Land Development Agreement (“LDA”) for the Theatres and Adjacent Properties. This is following up on Item #88-16. This is for referral to the Contracts Committee.

Relevant to this resolution and to the property disposition it would authorize, OPED respectfully requests that the Council act at its upcoming meeting of August 7th to order the required public hearing for its next Council meeting of September 5th.

Sincerely,

Bill Coleman
Deputy Director

CC: Tom Gill, OPED
Max Perez, OPED
Tom Gaudett, Office of the Mayor
R. Christopher Meyer, City Attorney
Attorney Ron Pacacha, Esq.
Associate City Attorney Mark Anastasi

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**Resolution Authorizing Execution of a Land Development Agreement
("LDA") for the Downtown Theatre Buildings and Adjacent Vacant
Properties**

WHEREAS, in December of 2016, the City's Office of Planning and Economic Development ("OPED") published a Request For Expressions of Developer Interest ("RFEI") relevant to the Theatres and Adjacent Parcels, (1315 Main Street; 54 Golden Hill; 771 Water; 190 Middle; 196 Middle; 208 Middle; 797 Water; 230 Middle; 30 Gold; 240 Middle, 254 Middle; 274 Middle; 1340 Main; 1346 Main; 1352 Main; 1362 Main; 137 Housatonic; depicted in the attached document as "Development Properties," and herein collectively referred to as "**The Properties**");

WHEREAS, after reviewing development proposals received in February of 2017, and after interviewing the developer candidates who responded to the RFEI, the City selected Exact Capital Group, LLC (the "**Developer**") as the preferred developer for The Properties;

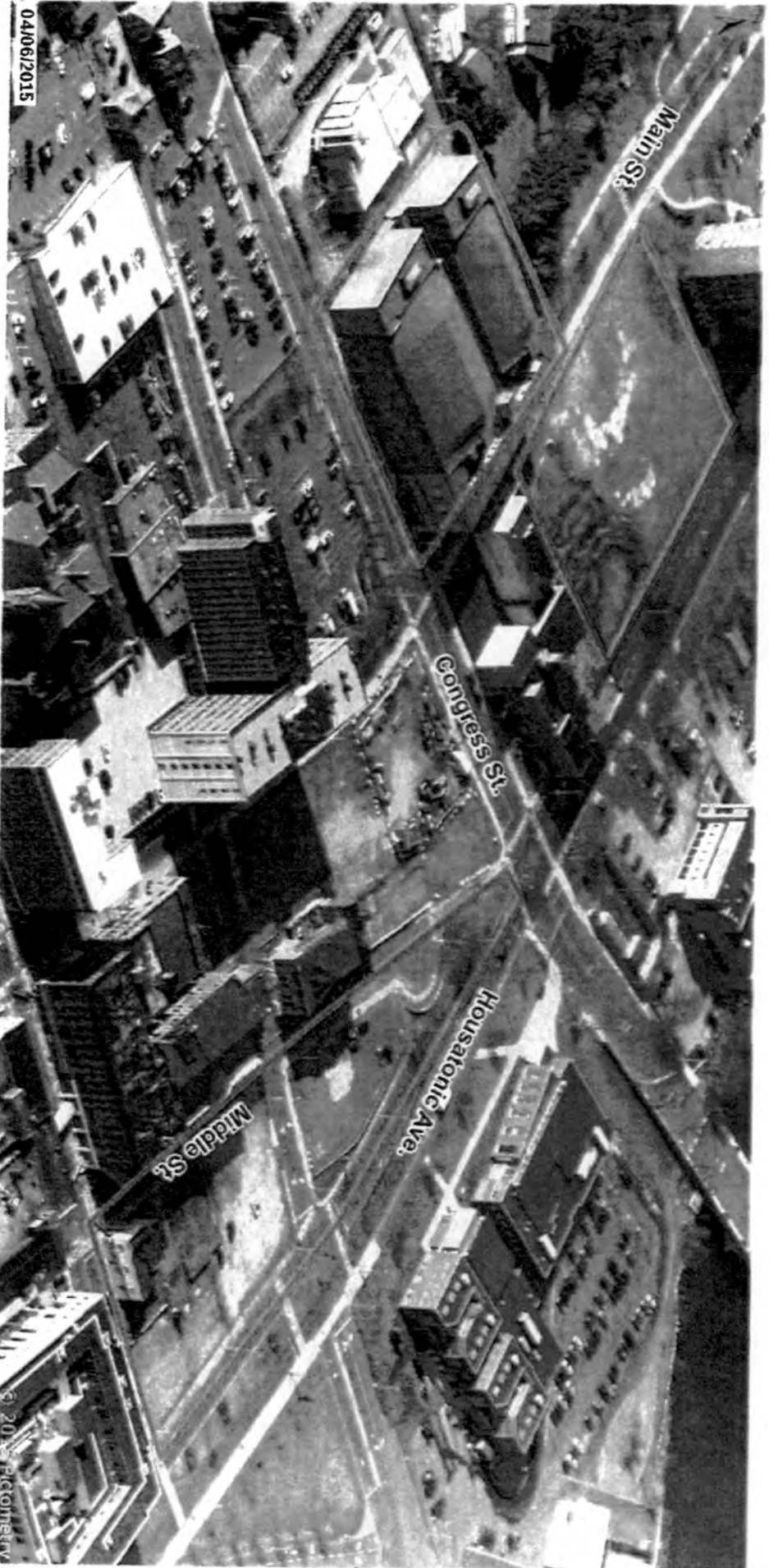
WHEREAS, on June 19, 2017, OPED submitted to the City Council Item #88-16, seeking authorization to execute with the Developer a Memorandum of Understanding ("MOU") outlining the business deal and development program in a manner that would inform the City's subsequent execution of a comprehensive LDA for the Properties;

WHEREAS, on August 7, 2017, the City Council approved Item #88-16 thereby authorizing execution of the MOU;

WHEREAS, consistent with the MOU, the parties have negotiated a LDA.;

NOW THEREFORE BE IT RESOLVED that the Mayor or the Director of OPED is authorized to finalize and execute the attached LDA, and is further authorized to negotiate and to execute such other agreements and to take such other necessary or desirable actions in furtherance of the Project and consistent with this resolution as he/she may deem to be in the best interests of the City.

Development Properties



04/06/2015

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LAND DEVELOPMENT AGREEMENT

Between

The City of Bridgeport ("City")

And

Exact Capital Group, LLC ("Exact Capital" or "Developer")

August 2, 2017

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LAND DEVELOPMENT AGREEMENT

Between

The City of Bridgeport ("City")

And

Exact Capital Group, LLC ("Exact Capital" or "Developer")

THIS AGREEMENT, made as of _____, 2017 between the "City", a municipal body corporate and politic, having an address at 45 Lyon Terrace, Bridgeport, Connecticut 06604 and Exact Capital Group, LLC ("Exact Capital"), a limited liability company organized and existing under the laws of the State of _____, having a principal place of business at 477 Madison Avenue, 6th Floor, New York, N. Y. 10022.

WITNESSETH:

WHEREAS, the City owns land and improvements in the Downtown North Village District that it seeks for redevelopment and issued a Request for Expressions of Developer Interest in December 2016 ("**RFEI**"), seeking qualified developers for the development of the Parcels (defined below) of real property and certain improvements identified therein, a copy of such RFEI being attached hereto and incorporated by reference herein as **Exhibit 1**;

WHEREAS, Exact Capital submitted a proposal in response to the RFEI received on February 22, 2017 entitled "Response to Request for Expression of Development Interests for Majestic and Poli Theater Mixed Use Development Project Solicitation 1612-002" (the "**Proposal**"), a copy of such Proposal being attached hereto and incorporated by reference herein as **Exhibit 2**, which development in one or more Phases (defined below) shall constitute the project (the "**Project**");

WHEREAS, the City reviewed the Proposal and determined that Exact Capital is qualified and experienced to develop the real estate and improvements identified in the RFEI generally described as follows, the exact sizes, locations, and configuration of which are subject to the conduct of a survey performed by a licensed surveyor in the State of Connecticut the (collectively, the "**Development Parcels**" and each a "**Parcel**");

- Poli-Majestic Theatres and Savoy Hotel at 1315 Main Street

- 2-Acre Parcel at 1340, 1346, 1352, 1362 Main Street, and 137 Housatonic Avenue Across From the Theatres
- 1 1/2 –Acre Parcels (2) at 274, 254, 240, 230 Middle Street, and 30 Gold Street, as well as at 208, 196, 190 Middle Street, and 54 Golden Hill Street and 771 and 797 Water Street Across From the Bus Station

These Development Parcels are generally described on **Schedule A** attached hereto and made a part hereof and are subject to confirmation by a Title Commitment and an A-2 quality survey.

WHEREAS, in order to hasten pre-development due diligence and other Developer preparations, the parties submitted that certain Memorandum of Understanding to the Bridgeport City Council (Item No. 88-16) on June 19, 2017, which the City Council approved on August 7, 2017, a copy of which is attached hereto and incorporated herein by reference as **Exhibit 3**;

WHEREAS, this Agreement was subsequently submitted to the City Council (Item No. 115-16) on August 7, 2017 and was approved by the City Council on September _____, 2017 following a public hearing held on September _____, 2017, a copy of which approval is attached hereto and incorporated herein by reference as **Exhibit 4**;

WHEREAS, the Developer and the City recognize that the value and impact of the construction of improvements on the respective Development Parcels is dependent upon the development of the project in phases (each a "**Phase**") (described below);

WHEREAS, the City requires the Developer to demonstrate significant progress on or substantial completion of a Phase before the City is obligated to transfer property to the Developer in a subsequent Phase;

WHEREAS, the City's purpose in transferring Development Parcels to the Developer in Phases is to induce the Developer to make the "**Developer's Investment**" defined below in each Phase and to construct the "**Improvements**" required in each Phase prior to transferring Development Parcels in a subsequent Phase, and the Developer desires to acquire the Development Parcels from the City in Phases for the purpose of adaptive reuse and/or new construction in accordance with this Agreement;

WHEREAS, in connection with the disposition of the Development Parcels the City wishes to prohibit the sale of any or all Development Parcels, any part thereof, or any interest in the Project or the Developer entity to a not-for-profit, tax-exempt organization ("**Non-Profit Entity**"), unless the Non-Profit Entity has entered into a tax incentive, payment-in-lieu-of-taxes or other tax-fixing or assessment-fixing agreement with the City, because such a sale to a Non-Profit

Entity would defeat one of the City's public purposes, which is to increase its tax base in exchange for selling the Development Parcels at a favorable price;

WHEREAS, the City and the Developer acknowledge that the Project includes the interrelationship of various parcels of land, plats and properties included as part of the Project and that the financing, construction, development and operation of the improvements constituting the Project and each Development Parcel, including the existing improvements to be renovated and new improvements to be constructed and located thereon, shall require cooperation between the Parties in a number of areas that may not be apparent until final design, satisfaction of closing conditions, or completion of construction of the improvements is achieved, meaning that the Parties agree in furtherance of the completion of the Project to reasonably cooperate with one another in good faith and in a timely manner with respect to such matters; provided, however, that, whenever in this Agreement a Party's cooperation is requested or required, such Party's obligation to cooperate shall, unless otherwise specified herein or contrary to the basic intent of this Agreement, be subject to the facts and circumstances of each particular situation and the Party's exercise of its commercial business judgment reasonably exercised, and such Party's cooperation obligation shall not require it to lessen or forego its standard diligence in each situation or require it to waive or relinquish any material right, requirement or obligation owed to it;

and

WHEREAS, the City believes that the Developer's proposed redevelopment of the Development Parcels pursuant to the terms of this Agreement is in the best interests of the City and its economy, will serve to promote the health, safety and welfare of its residents, will result in an increase to the City's tax base, and is consistent with the public purposes and provisions of the applicable State and local laws and requirements applicable to the Project.

NOW THEREFORE, in consideration of the representations, warranties, covenants, agreements and the obligations of the parties contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties mutually agree as follows:

ARTICLE I

DEFINITIONS

For the purpose of this Agreement, the following terms shall have the meanings assigned to them below:

"**Access Agreement**" shall mean that certain access agreement between the City and the Developer, its contractors, consultants and agents that will

permit the Developer to conduct its predevelopment due diligence activities on the Development Parcels.

"Affiliate" of the Developer shall mean any person or entity controlling, controlled by, or under common control with Developer, and a person "affiliated" with the Developer shall include, without limitation, any person who has a familial relationship by blood, marriage or otherwise with any member, manager, or partner of the Developer or any Affiliate of the Developer.

"Agreement" shall mean this Land Development Agreement, together with all documents, Exhibits and Schedules referred to, incorporated herein or attached or to be attached hereto, all of which together form the complete agreement between the parties.

"Approval" or similar words like "consent" having the same intent required by or from a Party as the context may require or imply herein, shall mean the duly-authorized, written approval or consent required from or by a Party in the form, manner and at the time required by this Agreement to give effect to an action, with such Party from whom approval or consent is requested acting in good faith and with diligence in the manner described herein and exercising such discretion as may be allowed herein applicable to such a request for consent or approval.

"Best Efforts" shall mean diligent, continuous, good faith, commercially reasonable efforts generally exercised by a Party. Objective criteria for determining whether a Party has used Best Efforts in a particular situation may be specifically set forth in a section where a Party is obligated to use best efforts.

"Certificate of Completion" shall mean a certificate requested by the Developer and executed by the City to indicate that certain of the Developer's obligations hereunder have been fulfilled with respect to a Phase or a Development Parcel, with the possibility that certain obligations and responsibilities may survive issuance of such Certificate of Completion to the extent specifically provided in such certificate.

"Certificate of Occupancy" shall mean a certificate issued by the City's Building Department to signify completion of the work encompassed by a particular building permit or permits sufficient to allow lawful use of the Improvements covered by such Certificate of Occupancy, whether designated as "permanent", "temporary", "conditional" or "unconditional", provided, however, that any temporary or conditional certificate must become final, permanent or complete within one (1) year after issuance of the original Certificate of Occupancy.

"City" shall mean City of Bridgeport, located in Fairfield County, Connecticut, organized and existing by virtue of an Act of the General Assembly of the State of Connecticut, acting through its mayor or other duly-authorized

administrative officer, and including its elected and appointed officials, officers, executives, administrators, employees, agents and contractors, and any Approved successor in interest, whether by act of a party or parties to this Agreement, by operation of law or otherwise. Certain powers and responsibilities of the City hereunder, including without limitation the oversight and administration of this Project and the City's relationship with the Developer, are exclusively assigned or delegated to "OPED" (defined below).

"Closing" shall mean the transfer of title to one or more Development Parcels in the manner provided herein, the Developer's payment of or written, firm commitment to pay the Purchase Price (defined below) for each to the City for such Development Parcel or Parcels, the execution and delivery of all **"Closing Documents"** as defined herein related to the applicable Development Parcel or Parcels, and the completion of all other actions and the execution of all other documents required for a Closing pursuant to the terms of this Agreement, unless such document(s) or action(s) are waived by a Party entitled to such action(s) or document(s).

"Closing Conditions" shall mean a Party's obligation to meet certain pre-conditions in order to proceed to a Closing of title regarding one or more Development Parcels.

"Closing Contingency Date" shall mean the date that is twenty (20) days before the date set for Closing on a particular Development Parcel based upon the Parties meeting their respective Closing Conditions, as such scheduled Closing date may be revised by mutual agreement of the parties or in accordance with the specific provisions of this Agreement.

"Closing Date" shall mean the date for the transfer of title to a Development Parcel after the Parties' have met their respective obligations or the Party entitled to enforce such obligation has waived the right to enforce such obligation related to a Development Parcel.

"Closing Documents" shall mean, collectively, the City's Closing Documents and the Developer's Closing Documents applicable to the transfer of a Development Parcel.

"Completion Date" shall mean the substantial completion of the required Investment Obligation applicable to a Phase or a Development Parcel, as applicable.

"Contractor" or **"Consultant"** shall mean any construction manager, general contractor, subcontractor, material supplier, manufacturer, installer, advisor or consultant employed directly or indirectly by the Developer in connection with the Project.

"Control" (including the terms "controlling," "controlled by," and "under common control with") shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management, decisions and/or policies of any person, corporation or other entity whether through the ownership of securities, by law, contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Deed" shall mean the deed to be delivered at a Closing to effect the City's conveyance of one or more Development Parcels to the Developer.

"Developer" shall mean the Party identified as such on the first page of this Agreement, or a successor that lawfully succeeds to the Developer's interest consistent with this Agreement in this Agreement, the Project, or any Development Parcel(s), as the case may be, either as permitted by this Agreement or by operation of law, but shall not include any party merely by reason of such party's holding any mortgage, lien or security interest in all or any portion of this Agreement, the Project, or a Development Parcel.

"Developer's Plan" shall mean the Developer's plan for the Project, as it may be revised as necessary as the Project proceeds so long as such revisions are consistent with this Agreement. The Developer's Plan includes (a) site plans for the Development Parcels, elevations, preliminary or schematic design drawings, design development drawings, construction drawings and similar materials ("**Project Plans**") listed in **Exhibit 5**; (b) the "**Schedule**") setting forth deadlines and time allowances for achievement of various mandatory milestones for the Developer's completion of due diligence, the closing of title, and the completion of Improvements to each Development Parcel set forth in **Exhibit 6** consistent with this Agreement; and (c) a "**Budget**" for the Developer's Investment Obligation in a particular Phase or collectively the "**Project Costs**" as hereinafter defined.

"Enforcement Mortgage" shall mean one or more mortgages securing the completion of the Developer's Investment Obligation for each Development Parcel and for each Phase hereunder, each of which the City agrees to subordinate to one or more Financing Transactions as described herein.

"Environmental Conditions" shall mean any existing or future condition that has resulted in, results in, or is reasonably likely to result in the Release or migration of "**Hazardous Materials**" as defined herein, alone or in conjunction with other substances, at, upon, under, onto, generated by, emanating or having emanated from, or emitting or having been emitted from, a Development Parcel in violation of applicable "**Environmental Laws**" as defined herein. Those environmental conditions existing prior to or as of the Closing Date, whether known or unknown, and not caused by the action or omission of the Developer on a Development Parcel before Closing, are referred to as "**Existing Environmental Conditions**". Those environmental conditions that either are

created by the Developer after the execution of this Agreement or that first come into existence after the Closing Date are referred to as "**Future Environmental Conditions**". The responsibility and liability for addressing environmental conditions is described herein.

"**Environmental Laws**" shall mean all statutory and common federal, state and local laws, rules, orders, regulations, statutes, ordinances, codes, orders, decrees or other requirements of and/or within the jurisdiction of any Governmental Authority (defined herein), now or at any point in effect and applicable to City and/or Developer and regulating, relating to, or imposing liability for the protection of the environment, or any Hazardous Materials, including without limitation the following: any federal, state or local environmental law, ordinance, rule or regulation including, without limitation, the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901-6987, as amended by the Hazardous and Solid Waste Amendments of 1984, the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§ 9601-9657 ("**CERCLA**"), the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 1801-1812, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.) ("**RCRA**"), the Toxic Substances Control Act (15 U.S.C. §2601 et seq.) ("**TSCA**"), the Clean Air Act, 42 U.S.C. §§ 7401 et seq. ("**CAA**"), the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq. ("**FIFRA**"), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) ("**FWPCA**") and/or the Safe Drinking Water Act (42 U.S.C. §300f et seq.) ("**SDWA**"), Connecticut General Statutes 22a-114 et seq., 22a-134 et seq., and 22a-451 et seq., as the foregoing may have been amended to date, and all similar federal, state and local environmental laws, ordinances, rules, codes and regulations, and any other federal, state or local laws, ordinances, rules, codes and regulations, as any of the foregoing may have been from time to time amended, supplemented or replaced and any other federal, state or local laws, ordinances, rules, codes and regulations relating to the protection of health, safety or the environment or the regulation or control or imposing liability or standards of conduct concerning toxic or Hazardous Materials or other contaminants.

"**Environmental Release**" shall mean the release document to be delivered by the Developer to the City at a Closing.

"**Environmental Reports**" shall mean reports concerning Existing Environmental Conditions at a Development Parcel, including communications from governmental agencies asserting the existence of any Existing Environmental Conditions on or affecting a Development Parcel.

"**Event of Default**" shall mean the occurrence of an event that may constitute a default by either Party of its obligations set forth in this Agreement

and that must be cured within any cure period related to such occurrence granted herein.

"Exhibit" shall mean an attachment to this Agreement so described, attached at the time of execution of this Agreement or added later upon mutual agreement of the Parties, which shall be considered part of this Agreement as if set forth in the main body hereof.

"Existing Improvements" shall mean all buildings and improvements existing on a Development Parcel as of the date of this Agreement.

"Financing Transaction" shall mean one or more transactions providing financing to the Developer for predevelopment or construction activities to be undertaken as part of Developer's Investment Obligation for a Development Parcel, a Phase or for the entire Project, as the case may be, including without limitation (a) loans from any "institutional lender" (meaning thereby any bank, insurance company or recognized provider of "conventional financing" as such term is commonly understood in the real estate industry), or from any "governmental entity" (meaning thereby the City, the State of Connecticut or the United States of America, or any agency or instrumentality thereof); (b) "Remediation Financing" as defined herein; (c) grants-in-aid from any governmental entity or not-for-profit entity; and (d) transactions involving the raising of revenue from sale or other utilization of tax credits or similar financing vehicles. Any Financing Transaction may include the granting of mortgages, leaseholds, non-controlling equity interests or other interests commonly associated with the particular type of financing involved.

"Governmental Authority" shall mean any federal, state, or local law or decision, requirement, order, ruling, regulation or executive order of any court, governmental agency, authority, commission, board, bureau, or instrumentality having jurisdiction over any portion of the Project under the Laws.

"Improvements" shall mean buildings and other improvements to be constructed or re-constructed on a Development Parcel pursuant to this Agreement, and as the context reasonably requires shall include the "Pre-Closing Work" as defined herein.

"Investment Obligation" shall mean the Developer's obligation to invest or cause the investment of a minimum dollar amount in connection with each Phase or each Development Parcel by means of any combination of equity or Financing Transactions that the Developer deems appropriate, as evidenced to the City's Approval.

"Land Use Approvals" shall mean any and all applicable permits, approvals, variances or other actions, documents or proceedings required by any Governmental Authority for the proper and legal construction and occupancy of

the Improvements in each Phase, on a particular Development Parcel or as to the Project as a whole including, without limitation, site plan approvals, coastal area management approvals, special permits, permitted modifications of the Bridgeport Zoning Regulations, environmental remediation permits, demolition permits and base building permits, but excluding (a) sewer and other utility connection permits if the same require only demonstration of compliance with the respective utility provider's technical requirements; (b) building and other permits for "fit-up" or similar work awaiting determination of the identities of tenants or other end users; (c) Certificates of Occupancy; and (d) permits for the actual conduct of specific activities at a Development Parcel, e.g., health department approvals for food service establishments, liquor permits and the like.

"Laws" shall mean all requirements of Governmental Authorities, including but not limited to the Environmental Laws, applicable to each Development Parcel, the Project and the Parties, as such laws may be amended from time to time, including all statutory and common law, rules, orders, statutes, regulations, codes, decrees, judgments, rulings, opinions or other legal requirements.

"Mortgagee" shall mean the holder of a mortgage or other security interest in a Development Parcel or Parcels as security for a Financing Transaction.

"OPED" shall mean the City's Office of Planning & Economic Development, or such agency as may hereafter succeed to substantially all of such office's responsibilities relevant to the Project and this Agreement. The extent of OPED's authority to act on behalf of "the City" hereunder is described herein.

"Permitted Encumbrances" shall mean those permitted encumbrances to title against a Development Parcels as of Closing as described herein.

"Permitted Uses" shall mean the lawful use of the Improvements under the Laws and consistent with this Agreement.

"Person" shall mean any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust (including any beneficiary thereof), unincorporated organization, government or any agency or political subdivision thereof.

"Pre-Closing Work" shall mean the temporary cleaning, shoring, securing, repairing and other work to maintain the status quo and safety of each Development Parcel and any improvements existing thereon as described herein.

"Project" shall mean the completion of the Improvements to the Development Parcels contained in a Phase in accordance with this Agreement,

consisting generally of the completion of approximate numbers of units, rooms, square footages, parking, building and green elements on the Development Parcels as more particularly set forth and described in **Exhibit 5**.

"Project Component" shall mean a specific component of the Improvements identified by the Developer in a particular Phase or on a Development Parcel that, once "Substantially Completed", can function and be legally occupied with reasonable independence from any other component of the Phase, the Development Parcel or the Project as a whole.

"Phase Cost" shall mean the cost to the Developer of completing a particular Phase, and the cost of completing each Development Parcel within such Phase, including all "hard" and "soft" costs as these are commonly understood in the real estate development industry, and including without limitation all financing and other transactional costs including legal and consulting fees.

"Purchase Price" shall mean the purchase price for each Development Parcel as described herein.

"Release" shall mean any spill, discharge, leak, emission, migration, or other intentional or unintentional release of any Hazardous Materials.

"Remediation" shall mean any and all investigation, mitigation, containment, removal, monitoring, and cleanup activities necessary to achieve compliance of a Development Parcel and the completed Improvements thereon with the RSR's, other applicable Environmental Laws, or any Laws.

"Remediation Financing" means any Financing Transaction or monies for the benefit of the Developer or a Development Parcel.

"Remediation Standards Regulations" or "RSR's" shall mean the provisions of Sections 22a-133k-1, et seq., of the Regulations of Connecticut State Agencies, as they may be amended from time to time.

"Schedule" shall mean a timetable that sets forth permissive and mandatory milestone dates for the commencement and completion of the Improvements to be completed on a Development Parcel or in a Phase, as the case may be. The version of the Schedule at the execution of this Agreement is set forth in **Exhibit 6**, as the same may be further amended in accordance with this Agreement.

"Substantial Completion" or "Substantially Complete" shall mean the completion of the Improvements for a particular Development Parcel or a Phase, as the case may be, as described herein.

"Uniform Standards" shall mean those City standards mutually agreed to by the City and the Developer relating to the installation of granite curbs, tree wells at the curbs, with mature trees of a species reasonably specified by the City with a minimum caliper measured 5'-0" above ground of 2.5 inches for the design and construction of the public sidewalks around the Development Parcels, which shall apply in all instances except where they may be modified at the request of the State of Connecticut Historic Preservation Office, and the requirements for Historic Districts or National Historic Register properties that are part of the Project.

The above recital clauses shall be incorporated into the body of this Agreement.

ARTICLE II

ACQUISITION OF AND CONDITION OF DEVELOPMENT PARCELS TO BE CONVEYED

SECTION 2.1 Transfer of Each Development Parcel.

(a) The City represents and warrants that it has fee simple title to each Development Parcel, and shall deliver marketable and insurable title to each as set forth herein.

(b) The City represents, warrants and covenants to and with the Developer that, pursuant to Connecticut General Statutes Section 12-195, the City's acquisition of the Development Parcels is effective to cancel all of the City's claims for unpaid taxes and assessments, interest or lien fees assessed against a Development Parcel on the date of its acquisition, and each Development Parcel shall be conveyed to the Developer free of any taxes, assessments, interest and live fees levied for the period prior to the Closing Date.

(c) At Closing, the City shall deliver exclusive possession of each Development Parcel to the Developer free and clear of any tenants, licensees or occupants. Each Development Parcel shall also be conveyed free of any service or maintenance contracts, and utility charges incurred prior to Closing. However, the Developer shall be responsible for the supply of temporary utilities requested by it or its Contractors for each Development Parcel prior to Closing.

SECTION 2.2 Conditions Precedent to Closing. The obligation of the Developer to purchase a Development Parcel from the City, and the obligation of the City to sell a Development Parcel to the Developer, are subject to the satisfaction by each Party of all of the respective conditions required to be met by the other Party set forth in this Section using Best Efforts

(each a "**Closing Condition**", and collectively, the "**Closing Conditions**"), as follows:

(a) **General Provisions.**

(i) The timetable for satisfaction of certain of the Closing Conditions in each Phase and as to each Development Parcel is set forth in **Exhibit 6**. The intention of this Agreement is that such timetable is sequential so that, without limiting any specific provision of this Agreement that allows for extensions of such timetable or for termination of this Agreement by reason of failure to fulfill a Closing Condition, a delay by more than thirty (30) days in achieving any milestone set forth in Exhibit 6 not arising from the Developer's sole cause or its commission of a default shall operate to extend the timetable for fulfillment of subsequent milestones. Any delay that results from the City's sole cause or its commission of a default shall operate to extend the timetable for the Developer's fulfillment of subsequent milestones for each day of a City delay. When a delay of more than thirty (30) days occurs in the Schedule, either Party has the right to demand from the other Party the reasons for such delay and the Parties shall agree to the corresponding extensions of future milestone dates that may be required.

(ii) If any Closing Conditions on which the Developer relies have not been satisfied for a particular Development Parcel, as determined by the Developer in the exercise of its commercial business judgment, reasonably exercised, before the Closing Contingency Date, then the Developer shall have the right to terminate this Agreement as to such Development Parcel by giving written notice no later than fifteen (15) days after such Closing Contingency Date and, upon the giving of such notice, this Agreement shall be terminated as to such Development Parcel and the Parties shall thereafter be relieved of all further liability or obligation hereunder to the other, except for any matters that are expressly stated herein to survive the termination of this Agreement as to such Development Parcel.

(iii) The Developer's termination of a portion of the Agreement for the reasons specified in subparagraph (ii) above shall not result in a termination of the Developer's rights to acquire future Development Parcels or to proceed to the development of subsequent Phases of the Project, however, a termination by the Developer for other reasons may terminate its right to acquire future Phases or Development Parcels in the City's commercial business judgment, reasonably exercised.

(b) **Developer's Plan Contingency.** The City has approved the initial Developer's Plan in concept (including the Schedule and Budget included therein) in Phases as and when required pursuant to **Exhibit 6** and acknowledges that further development of the Project Plan will be required to allow time for applications for Land Use Approvals and fulfillment of other Closing Conditions in accordance with the Schedule.

(c) **Title Contingency.** At Closing, the City shall deliver marketable title to a Development Parcel, insurable at ordinary insurance rates, by delivery of a deed ("**Deed**") in the form to be set forth in **Exhibit 7**, the content of which shall be reasonably acceptable to the Developer and its title company but in any event shall be consistent with this Agreement. Title to each Development Parcel shall be conveyed subject only to the Permitted Encumbrances.

- (i) Permitted Encumbrances shall consist of the following:
 - (A) a covenant prohibiting the sale or other transfer of any part of a Development Parcel to a Non-Profit Entity;
 - (B) a covenant prohibiting sale or other transfer of any part of the Development Parcel, or a sale or transfer of Control of the Developer, prior to achievement of Substantial Completion of such Development Parcel except as permitted by this Agreement;
 - (C) the Enforcement Mortgage applicable to each Development Parcel;
 - (D) this Agreement;
 - (E) non-monetary encumbrances that the Developer determines, in its commercially reasonable business judgment, will have no adverse impact on the construction or subsequent use of the Improvements;
 - (F) utility easements and rights-of-way; and
 - (G) other encumbrances of record disclosed in the Developer's title search as to which the Developer does not make timely objection as described herein.
- (ii) The Developer shall order a title commitment (the "**Commitment**") within fifteen (15) days after the execution of this Agreement for a title insurance policy (the "**Title Policy**"), to be

issued by a title insurance company selected by the Developer (the "**Title Company**"), in the face amount of the Purchase Price for each Development Parcel in Phase 1 or in such other amount as the Developer may request, covering the Developer's fee simple interest in each Development Parcel, together with copies of all title exception documents referenced therein, with such endorsements as the Developer shall deem appropriate. The Developer shall deliver a copy of the Commitment, and of any subsequent update thereto, promptly to the City when received. The Developer shall order similar title Commitments for subsequent Phases in sufficient time prior to any anticipated Closing that will allow the City to address any title objections that do not constitute Permitted Encumbrances for a Development Parcel(s) in such subsequent Phase.

(iii) The Developer shall have sixty (60) days from the date of execution of this Agreement in which to provide a copy of the Commitment to the City together with written notice of any matters shown by the Commitment, or by any survey of the Development Parcel(s), that are not satisfactory to the Developer according to the terms of this Agreement, which notice must specify the reason such matter(s) are not satisfactory and the Title Company's determination of the curative steps necessary to remove the basis for the Developer's disapproval (the "**Title Objection Notice**"). The City shall then have fifteen (15) days after receipt of such Title Objection Notice to begin to take such steps in good faith and with diligence as shall be acceptable to the Title Company to satisfy or remove the cause of the Developer's objection(s), and shall complete such cure within sixty (60) additional days unless the time to cure such objection shall require a longer time to cure or remove so long as the City pursues such cure or removal in good faith and with due diligence and reports its progress to the Developer (the "**Title Cure Period**").

(iv) If the City is either unable or unwilling to remove or correct such objection(s) to the Title Company's satisfaction within the Title Cure Period, the Developer shall have the right to terminate this Agreement, and upon such termination the Parties shall have no further obligations to each other except for such provisions that are specifically stated to survive the termination of this Agreement or a portion thereof as to a specific Development Parcel. In the event that the Developer fails to timely give a Title Objection Notice, the Developer shall be deemed to have accepted as Permitted Encumbrances all matters reflected in the Commitment and the survey, if any, as to such Development Parcel.

(v) Within five (5) working days after the issuance of any continuation, supplement or update of the Commitment or survey (but no later than the Closing Contingency Date) (the "**Title Update**"), the Developer shall deliver to the City a Title Objection Notice setting forth any matters constituting objections to title disclosed by such Title Update that were not disclosed by the initial Commitment or survey, or by any previous Title Update. If the City is either unable or unwilling to remove or correct such objection(s) disclosed by the Title Update to the Title Company's satisfaction prior to the scheduled Closing Date (or any adjourned date agreed to by the Developer), the Developer shall have the right to terminate this Agreement, and upon such termination the parties shall have no further obligations to each other except for such provisions that are specifically stated to survive the termination of this Agreement or partial termination of this Agreement as to a particular Development Parcel. In the event that the Developer fails to timely give a Title Update to the City or fails to raise objections to items in the Title Update, the Developer shall be deemed to have accepted as Permitted Encumbrances all matters reflected in such Title Update as to a particular Development Parcel.

(vi) From and after the execution date of this Agreement, the City shall not voluntarily lien or encumber title to a Development Parcel, or alienate title to all or any portion of the Project, without the Developer's prior written consent, which consent may be withheld in the Developer's sole discretion.

(vii) Notwithstanding anything to the contrary contained in this subparagraph (c), at or prior to the Closing and without the requirement for objection by the Developer, the City must (A) satisfy any mortgage or deed of trust encumbering a Development Parcel, and (B) cause the removal of all other monetary liens encumbering a Development Parcel not arising from actions of the Developer before Closing.

(d) **Land Use Approvals Contingency.** The Developer's obligation to purchase a Development Parcel is conditioned upon final issuance, beyond the possibility of appeal, of all Land Use Approvals required for the Development Parcel or the Phase, as applicable. The Developer may not waive such "**Land Use Approvals Contingency**". If the Developer fails to obtain all Land Use Approvals according to the timetable set forth in **Exhibit 6**, as the same may be extended by mutual agreement, or if the Developer fails to fulfill the Land Use Approvals Contingency in its entirety according to the timetable set forth in Exhibit 6, then in either case either Party may, within thirty (30) days after expiration of the time limit contained in Exhibit 6, give written notice to the other of the notifying

Party's election to terminate this Agreement or the portion of this Agreement related to Developer's failure to obtain all Land Use Approvals for a Development Parcel. If such notice is given, this Agreement shall thereupon be terminated as to such Development Parcel, and neither Party hereto shall have any rights, obligations or liabilities to the other, except for those items that are specifically stated herein to survive termination of this Agreement.

(e) **Remediation Financing Contingency.** The Developer's obligation to purchase a Development Parcel may be conditioned upon execution of an agreement or a commitment for a Financing Transaction to address Existing Environmental Conditions ("**Remediation Financing Loan Agreement**").

(f) **Financing Contingency.** The Developer's obligation to purchase one or more Development Parcels may be conditioned upon obtaining the funds required to make the Developer's Investment and to complete a Phase or to complete the Project as a whole, and its demonstration, to the reasonable satisfaction of the City (as part of the Developer's Plan described in **Exhibit 5**), that viable funds are available from Financing Transactions and equity commitments. The Developer cannot waive such "**Financing Contingency**". Commitments required to fulfill the Financing Contingency, for purposes of the timetable set forth in Exhibit 6, may be conditioned upon subsequent issuance of demolition and/or building permits.

SECTION 2.3 Enforcement Mortgage. Each Development Parcel shall be conveyed subject to an Enforcement Mortgage, a form of which is attached hereto as **Exhibit 8**, which shall be prepared in final form for Closing on a Development Parcel or Phase, as applicable, shall be reasonably acceptable to the Parties but in any event shall be consistent with this Agreement. The Enforcement Mortgage shall secure the Developer's obligations as to one or more of the following items:

- (a) To complete the Investment Obligation as to each Development Parcel or Phase, as applicable.
- (b) To complete the Project in accordance with this Agreement.
- (c) To repay any Remediation Financing if the same is not separately secured.

The City agrees to subordinate an Enforcement Mortgage to all other Financing Transactions, leases and other conveyances or encumbrances that secure Financing Transactions.

SECTION 2.4 Condition of the Development Parcels; Pre-Closing Work.

(a) Except as otherwise expressly provided in this Agreement, the City has not made and does not make any representations or warranties as to the physical condition, expenses, operations, legality of occupancy, governmental compliance or any other matter or thing affecting or relating to any Development Parcel, the ability to construct the Improvements on any Development Parcel, or Developer's proposed use of a Development Parcel. Developer hereby expressly acknowledges that no such representations or warranties have been made to it, and, subject to the satisfaction of the Closing Conditions, agrees to purchase a Development Parcel "**AS IS, WHERE IS, WITH ALL FAULTS**" at the time of execution of this Agreement, normal wear and tear and deterioration by the elements prior to the Closing excepted. The City shall not be liable or bound in any way for any verbal statements, representations, or information pertaining to a Development Parcel furnished by any person or by any real estate broker or agent of either party, or any other person that are not set forth herein. The Parties understand and agree that all prior and contemporaneous representations, statements, understandings and agreements, oral and written, between and among themselves (excluding those that are specifically described in this Agreement as having been made contemporaneously with this Agreement) are merged into this Agreement, which alone fully and completely expresses the agreement of the Parties.

(b) In addition to fulfilling the other requirements for Closing set forth herein, the Developer agrees to use Best Efforts to perform or have performed the following Pre-Closing Work on each Development Parcel, as applicable, at the Developer's sole cost and expense (except as funded by any Remediation Financing) and without creating any mechanic's or materialmen's liens on a Development Parcel, not later than the Closing Contingency Date for a Development Parcel or a Phase, as applicable:

- (i) Prepare and/or maintain each existing building on a Development Parcel so that it is vacant, clean, dry and protected from the elements;
- (ii) Shore each existing building on a Development Parcel that requires physical support to prevent collapse or further structural deterioration;
- (iii) Make temporary repairs to roofs, walls, windows and doors as in any existing building as reasonably required to make and/or maintain each building leak-free and protected from water-intrusion and resulting damage;;
- (iv) Remove trash and debris from buildings and grounds;

- (v) Correct any blighted conditions; and
- (vi) Secure each existing building from burglary, vandalism and squatting, and manage and inspect each on a regular basis.

If the Developer should terminate this Agreement prior to the Closing, it shall be obligated to restore each Development Parcel to the condition in which it existed at the time of the execution of this Agreement within thirty (30) days after the effective date of termination, provided, however, that the Developer shall not be allowed or required to remove or reverse any of the Improvements made prior to such termination that were performed consistent with this Agreement. This paragraph shall survive termination of this Agreement.

SECTION 2.5 Closings; Purchase Price; Downpayment. A Closing shall be scheduled for each Development Parcel or Development Parcels, as the case may be, in a Phase and each such Closing shall require the Parties to meet their respective obligations with respect to each Closing, as follows:

(a) **Closing Date; Developer Notice.** The Closing Date for each respective Development Parcel or Development Parcels, as the case may be, in a Phase shall take place within thirty (30) days after the Closing Conditions established for such Development Parcel have been satisfied. The Developer shall schedule a Closing by providing written notice to the City that it has achieved the Closing Conditions established for such Development Parcel or Development Parcels and the City shall not unreasonably withhold or delay the Closing in the exercise of its commercial business judgment reasonably exercised.

(b) **City Closing Documents.** At the Closing, the City shall deliver to the Developer the following documents, duly-executed and, where appropriate, acknowledged by the City, and the following items (the documents and other items described below being collectively referred to herein as "**City Closing Documents**"):

- (i) The Deed;
- (ii) State and Municipal Conveyance Tax Statements (Note: the transfer of title to a Development Parcel is exempt from Connecticut State and local conveyance taxes);
- (iii) Documents and instruments establishing the City's authority to sell each Development Parcel to the Developer, in form

reasonably acceptable to the Developer, its lenders, and the Title Company;

(iv) An owner's title affidavit in the form customarily required by title insurance companies in the State of Connecticut, sufficient to induce the Title Company to insure the Developer's title to each Development Parcel free of any matters unless they are Permitted Encumbrances, the exception for rights of tenants or parties in possession, and free of mechanic's liens (other than those created by the Developer related to work, materials or services performed or provided by or at the request of the Developer). If any such work, materials or services have been provided within the ninety (90) days preceding Closing, other than by or at the request of the Developer, the City must remove any lien created or provide such indemnification as will allow the Title Company to insure the Developer's title without exception for mechanic's liens arising from the same;

(v) Any additional instruments, agreements and other documents that are typical and customary for transactions of the type contemplated by this Agreement and that may be necessary or appropriate to consummate this transaction;

(vi) All keys and access cards in the City's possession to all entrance doors, gates, equipment and utility rooms located at or used in connection with any Development Parcel, if any; and

(vii) Such other documents or actions as the parties may mutually agree to in writing.

(c) **Developer Closing Documents.** At or before the Closing for a particular Development Parcel or Development Parcels, as the case may be, the Developer shall deliver to the City the following documents and other items (such documents and other items described below being collectively referred to herein as the "**Developer Closing Documents**"):

(i) The Environmental Release;

(ii) Materials to comply with the "Transfer Act", if applicable;

(iii) Payment in good, immediately available funds or, if payment of the Purchase Price is to be deferred, a Promissory Note in the amount of the Purchase Price;

(iv) An Enforcement Mortgage;

- (v) Evidence of the Developer's legal power and authority to enter into this Agreement and to acquire title to a Development Parcel in form and manner reasonably acceptable to the City; and
- (vi) Such other documents or actions as the parties may mutually agree to in writing.

(d) **Purchase Price Determination.** The Purchase Price of a Development Parcel shall be determined in the following manner:

- (i) At such time as the Developer believes that the Closing Conditions for the transfer of a Development Parcel will be satisfied, the Developer shall notify the City and each Party shall promptly commission an appraisal of the Development Parcel from an MAI appraiser licensed to offer appraisal services in the State of Connecticut and provide copies thereof to the other Party.
- (ii) The Purchase Price shall be the higher of the fair market value found in the two (2) appraisals, provided, however, that if the fair market values found in such appraisals shall differ by more than ten (10) percent from one another, the appraisers shall submit the matter of valuation with copies of the initial appraisals to an independent MAI appraiser selected by the Parties' respective appraisers (the "**Neutral Appraiser**") within fifteen (15) days after the initial appraisals are exchanged.
- (iii) The Neutral Appraiser shall consider the two appraisals and shall determine in writing the Purchase Price based upon the fair market value of the Development Parcel within thirty (30) days after the matter has been submitted to him/her, and such Purchase Price shall be final and binding on the Parties.

(e) **Downpayment.** Upon the execution of this Agreement, the Developer agrees to make a non-refundable downpayment to the City in good funds of five (5.0%) percent of the current appraised value -of the Development Parcels, that is, the sum of _____ (\$_____) Dollars, which sum shall be applied toward the Purchase Price of the Phase 1 Development Parcel.

SECTION 2.6 Phases; Concurrent Development of Phases. The Project shall be developed in Phases beginning with Phase 1, which shall include the redevelopment of the Theatres and the Hotel as set forth and described in

Exhibit 5. Following or upon the achievement of a Closing for Phase 1A and 1B the Developer may proceed with a Closing for the subsequent Phase(s) in accordance with the terms of this Agreement, as per the City's direction, upon meeting the Closing Conditions for that subsequent Phase, as applicable, it being understood however that the City requires that Phase 1A be the principal and signature Phase to be undertaken and that, notwithstanding anything to the contrary set forth in this Agreement, the Developer shall have no right to elect to proceed or to proceed with any subsequent Phases (2A, 2B, 3) until 25% completion of construction of Phase 1A has occurred.

SECTION 2.7 **Environmental Provisions.**

(a) **No Representations.** Except as otherwise set forth in this Agreement, the City makes no representations of any kind with respect to any Environmental Conditions that may exist at a Development Parcel except for those Existing Environmental Conditions set forth in the environmental reports attached hereto and made a part hereof as **Exhibit 9**.

(b) **Environmental Release.** At each Closing, the Developer shall deliver an Environmental Release to the City in form reasonably acceptable to the Parties but in any event consistent with this Agreement. By providing such Environmental Release, the Developer shall thereby release the City from any and all present and future claims, liabilities, costs and expenses, foreseeable or unforeseeable, arising from Existing Environmental Conditions, whether known or unknown. This paragraph shall survive each Closing.

(c) **Connecticut Transfer Act.** The City is not aware if any Development Parcel is or is not an "establishment", as that term is defined in the Connecticut Property Transfer Act (Connecticut General Statutes §§ 22a-134, *et seq.*) (the "**Transfer Act**"). The Developer assumes the risk that the Transfer Act may apply, and it is the Developer's responsibility to determine whether a filing under the Connecticut Transfer Act must be made in connection with the transfer of any Development Parcel. If the Developer should determine that the Transfer Act is applicable to the sale of any Development Parcel, then (i) the Developer shall be obligated to comply with the Transfer Act at its sole cost and expense as the "certifying party" and (ii) the Developer shall be entitled to such extensions of the timetable set forth in **Exhibit 6** as are reasonably required to accommodate the additional work or other delay arising from compliance with the Transfer Act. The City agrees to cooperate with the Developer in connection with the Developer's preparation of and compliance with any necessary Transfer Act filing at no cost to the City.

(d) **Hazardous Materials.** The Developer is responsible for assessing whether there are any building or construction-related environmental hazards at or on a Development Parcel such as lead-based paint, asbestos-containing materials, fluorescent light ballasts, spilled petroleum products and similar

materials commonly encountered during building demolition that require special handling and disposal under applicable Law ("**Hazardous Materials**"). Except as otherwise provided in this Agreement, the City makes no representations of any kind with respect to Hazardous Materials that may exist on a Development Parcel except as may be set in an Environmental Report identified in Exhibit 9.

(e) **Indemnification.** The Developer, for itself, its contractors in any tier, consultants, employees, agents, successors and assigns, agrees to defend, indemnify and hold harmless the City, its appointed and elected officials, officers, department heads, employees and agents, from and against any and all claims, liabilities, obligations, causes of action of whatsoever kind and nature for damages, including costs and expenses, including reasonable attorneys' and consultants' fees arising from Existing Environmental Conditions, Future Environmental Conditions, or the Developer's activities on a Development Parcel prior to a Closing, provided, however, that the Developer shall not be responsible or obligated for claims that arise when the City's action or omission is the sole proximate cause of an Environmental Condition after the execution of this Agreement.

(f) **Remediation Funding.** The Developer shall have the right to seek and obtain remediation funding ("**Remediation Funding**") to address and resolve all Environmental Conditions that may exist on each Development Parcel.

(g) **Insurance Requirements.** The Developer must submit evidence of the following insurance coverages in the form and manner required for the benefit of the City prior to any entry onto a Development Parcel. The Developer shall procure, present to the City, and maintain in effect without interruption through the date of Closing for a Development Parcel the insurance coverages identified below with insurers licensed to conduct business in the State of Connecticut and having a rating reasonably acceptable to the City.

Commercial General Liability (occurrence form) insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen solely out of operations conducted by the Developer on a Development Parcel prior to Closing. Coverage shall be broad enough to include contingent liability, contractual liability, with limitations of \$5,000,000 for each occurrence/ \$10,000,000 aggregate for bodily injury and personal injury, which requirements can be met through a combination of primary and excess coverages.

Workers' Compensation insuring in accordance with Connecticut statutory requirements in order to meet obligations towards employees in the event of injury or death sustained in the course of employment. Liability for employee suits shall not be less than \$500,000 per claim.

Business Automobile Insurance insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of the use of owned, hired or non-owned vehicles in connection with business. Coverage will be broad enough to include contractual liability, with limitations of \$1,000,000 / \$2,000,000 aggregate with a combined single limit for bodily injury, personal injury and property damage.

Builder's Risk/Installation Floater covering contractor's labor, materials and equipment to be used for completion of the work performed at the Property described in this Agreement against all risks of direct physical loss, excluding earthquake and flood, for an amount not less than \$5,000,000 to cover the Improvements (or for such lower amount as may be appropriate before Closing, during initial stages of Construction and after completion of some Project Components).

General requirements. All policies shall include the following provisions:

Cancellation notice—the City shall be entitled to receive from Developer or Developer's insurance carriers not less than thirty (30) days' written notice of cancellation or non-renewal **by policy endorsement** to be given to City at the addresses for notice set forth in this Agreement.

Certificates of Insurance—all policies will be evidenced by an **original certificate of insurance** on an ACORD 25S or other appropriate form authorized and executed with the original signature or official stamp of the insurer or a properly-authorized agent or representative thereof reflecting all coverages required and delivered to the City prior to any entry onto a Development Parcel under this Agreement.

Additional insured—in instances where the City has an insurable interest in a Development Parcel and to the extent coverage is obtainable, the Developer will arrange with its insurance agents or brokers to name the City as additional insured party on all policies of primary and excess insurance coverages **by policy endorsement**. The Developer shall submit to the City upon execution of this Agreement and periodically thereafter prior to a Closing, by no less than once per 12-month period following execution of this Agreement, evidence of the existence of the required insurance coverages in the form required hereby. Such certificates shall specifically designate the City in the following form and manner:

City of Bridgeport, its elected and appointed officials,
officers, department heads, employees, agents, servants,
successors and assigns, ATIMA
In care of the City of Bridgeport
Office of Planning and Economic Development
Margaret E. Morton Government Center
999 Broad Street, 2nd Floor
Bridgeport, Connecticut 06604

Re: Poli-Majestic Theatre Development Project.

SECTION 2.8 Risk of Loss. Prior to Closing, except for the Developer's obligations hereunder, the City shall bear all other risk of loss from damage with respect to the Existing Improvements; provided, however, that (a) the Developer shall have no right to terminate this Agreement by reason of any damage to the Existing Improvements by fire or other casualty; (b) the City shall have no obligation to repair or restore the Existing Improvements by reason of any damage to the Existing Improvements by fire or other casualty prior to Closing; and (c) if Closing occurs, proceeds of insurance payable to either party by reason of such damage, and not applied to restoration or protective measures, shall belong to the Developer.

SECTION 2.9 Condemnation. In the event that, between the date of this Agreement and the Closing Date for a Development Parcel, any condemnation or eminent domain proceedings are initiated that might result in the taking of all or any part of a Development Parcel or making such Development Parcel unsuitable for development of the Improvements, as determined by the Developer in its commercial business judgment, then the Developer may (a) terminate this Agreement by written notice to City within thirty (30) days after learning of such condemnation proceedings; or (b) proceed to the Closing on such Development Parcel, in which event the City shall assign to the Developer all of the City's right, title and interest in and to any award made in connection with such condemnation or eminent domain proceedings. The City shall promptly notify the Developer in writing of the commencement of any condemnation or eminent domain proceedings. Any taking initiated by the City shall constitute a City default under this Agreement.

ARTICLE III

RESTRICTIONS AND EASEMENTS; COMPLETION; TRANSFERS

SECTION 3.1 **Use of the Property.**

(a) Except as the City may approve in its sole discretion in connection with its approval of the Developer's Plan, the Development Parcels shall be redeveloped only in a manner consistent with the Project as defined herein and the Permitted Uses (described below) contained in the description of the Phases set forth on **Exhibit 5**, which uses must be Approved by the City.

(b) Except as the City may approve in its sole discretion after the execution of this Agreement, each Development Parcel may be used only for uses set forth and described in Exhibit 5 (individually and collectively, the "**Permitted Uses**").

(c) Without limiting the foregoing, each Development Parcel may not be used for any use that would require an amendment of the Zoning Regulations or would require a Zoning Board of Appeals waiver or variance.

SECTION 3.2 **Prohibited Uses of a Development Parcel.**

Notwithstanding anything to the contrary set forth in this Agreement, no Development Parcel may be used for any of the following uses (each 1a "**Prohibited Use**" and collectively "**Prohibited Uses**"):

- Smoke shop or head shop or similar store selling drug paraphernalia
- Store selling paraphernalia or material of a sexual nature, adult bookstore, peep show or offering sex-related activities
- Halfway house
- Pawn shop
- Adult massage parlor
- Any "discount," "99 cents" store or "dollar" store-type establishment that sells general merchandise
- Stores selling firearms and ammunition

SECTION 3.3 **Certificate of Completion Required.**

(a) The Developer shall be entitled to receive a Certificate of Completion in recordable form, covering an entire Development Parcel or covering an individual Project Component, upon compliance with the requirements of this Section. For purposes of issuance of Certificates of Completion, a Project Component shall consist of a specified portion of the Development Parcel and specified Improvements; if the Improvements required

to make the Project Component functional as described in the preceding sentence are not located entirely within such Development Parcel or if Improvements located within such Development Parcel are required to make Improvements located on other portions of another Development Parcel functional, appropriate cross-easements shall be established.

(b) The Developer shall submit a request for each Certificate of Completion to the City, together with an Architect's Certificate prepared by the project architect or another qualified architect of the Developer's choosing in the form reasonably acceptable to the parties but in any event consistent with this Agreement. The Architect's Certificate shall:

(i) Certify that the architect is familiar with the particular Phase of the Project.

(ii) Certify that the affected Improvements have been Substantially Completed (or, if applicable, finally completed as evidenced by a permanent certificate of occupancy) in a manner consistent with this Agreement.

(iii) Certify the costs of achieving such completion, to enable the City to confirm the amount of the Developer's Investment represented by such Improvements, for which purpose the architect may rely, in regard to soft costs associated with such completion, on true and complete compilations provided by the Developer. Such information shall be supplied to the City for information only, in such reasonable form as the City may require, provided that, if such information must be supplied to any provider of Project financing (for example, a purchaser of historic tax credits or in connection with a CHAMP or other grant), and the like, the provider's required form shall be acceptable to the City.

(iv) Describe, if the affected Improvements are Substantially Complete but not absolutely complete such as evidenced by a permanent certificate of occupancy, the tasks or items required for absolute completion ("**Incomplete Items**"), and state the reasonably estimated cost of completing the Incomplete Items.

(v) State that the Incomplete Items do not adversely affect or deprive the Improvement of being considered "Substantially Complete", meaning that the Incomplete Items:

(A) are normal and customary punch-list items for projects similar to the affected Improvements in size, type and use;

(B) are capable of being satisfied or completed by the Developer within a reasonable period of time; and

(C) the lack of absolute completion will not cause any material interference with the intended use and operation of the affected Improvements.

(c) Notwithstanding the foregoing, the Developer may request a Certificate of Completion with respect to Improvements that are not Substantially Complete, provided that:

(i) such Improvements consist of portions of structures (for example, condominium units) that are intended to be conveyed to occupants or other end users that will assume responsibility for Incomplete Items; and

(ii) the Architect's Certificate, in describing the Incomplete Items, shall state that such Incomplete Items consist only of the installation of fixtures, interior partitions, finishing and customized details, or any other similar items not typically completed prior to delivery of ownership or occupancy to an end-user in accordance with applicable industry standards.

(d) Upon receipt of the Developer's request for a Certificate of Completion, the City shall proceed with reasonable promptness to determine, in the exercise of its commercial business judgment reasonably exercised, whether the Developer's request complies with this Agreement. For such purpose, the City may request inspections of the Development Parcel and such supporting documentation from the Developer as the City deems reasonable.

(e) Issuance of a Certificate of Occupancy for any Improvements is neither necessary nor sufficient for the issuance of a Certificate of Completion for such Improvements. Conversely, issuance of a Certificate of Completion is neither necessary nor sufficient for issuance of a Certificate of Occupancy.

(f) A Certificate of Completion covering a Development Parcel or covering a particular Project Component, as the case may be, shall represent conclusive evidence that:

(i) the affected Improvements have been completed in accordance with this Agreement;

(ii) all requirements of this Agreement regarding the times for commencement and completion of such Improvements have been satisfied;

(iii) all requirements of this Agreement regarding the amount of the required Developer's Investment (or, in the case of a Project Component, the Developer's Investment allocable to such Project Component) have been satisfied;

(iv) henceforth, the City's rights to access to such Development Parcel may not be exercised as to the Development Parcel, or within the affected Project Component, as the case may be;

(v) henceforth, the affected Project Component shall not be liable for, nor affected by, any obligation of indemnity by the Developer pursuant to this Agreement; and

(vi) henceforth, no "Developer Event of Default" or "Developer Default", as described herein, may be declared with respect to the Development Parcel, or with respect to the affected Project Component, as the case may be.

(g) The Developer's obligation to pay the Purchase Price, and if applicable to repay any Remediation Financing, shall survive issuance of a Certificate of Completion. If a Certificate of Completion is issued with respect to a Project Component, the Certificate of Completion shall specify the portion of the unpaid Purchase Price or indebtedness, as the case may be, allocable to the Project Component; henceforth, such Project Component shall be considered encumbered by the Enforcement Mortgage only to the extent of the amounts thus allocable to such Project Component, and (subject to any allocation made in connection with Certificates of Completion previously issued) the remainder of the Development Parcel shall be encumbered by the Enforcement Mortgage only to the extent of the amounts not so allocated to such Project Component.

(h) The restrictions and prohibitions on use of any Development Parcel under the Law or pursuant to this Agreement shall survive issuance of a Certificate of Completion.

SECTION 3.4 Transfers of Interests in a Development Parcel; Transfers or Interests in the Developer.

(a) **Definitions.**

(i) "Real Property Transfer" means a transfer of an interest in any Development Parcel or any part thereof.

(ii) "Controlling Interest Transfer" or "Control" means the transfer of control of the entity constituting the Developer as to each Development Parcel. A transfer of control shall mean the transfer of a majority equity interest and/or controlling interest in the business entity and/or the possession of power to direct or cause

the direction of the management and policy of such entity, whether through the ownership of a controlling interest, by statute, or according to the provisions of a contract.

(b) The Developer shall make no Real Property Transfer or Controlling Interest Transfer unless permitted in accordance with this Section.

(c) This Agreement imposes no restriction on any Real Property Transfer that affects only portions of a Development Parcel with respect to which Certificates of Completion have been issued, nor does this Agreement impose any restriction on any Controlling Interest Transfer affecting an entity that owns only portions of a Development Parcel with respect to which a Certificate of Completion has been issued.

(d) If the foregoing subparagraph does not apply, the Developer may nonetheless make a Real Property Transfer, provided that it gives prior written notice thereof to the City, and identifies that one or more of the following exceptions applies and provides appropriate supporting documentation that the City reasonably requests:

(i) If the transfer is to an Affiliate and there is no change in Control.

(ii) If the transfer is made to an institutional lender pursuant to a Financing Transaction approved by the City, or such lender's designee, and the transfer covers substantially all of Developer's interest in this Agreement or in the Development Parcel, as the case may be.

(iii) If the City is satisfied, in its commercially reasonable business judgment, that all of the following are true:

(A) All Land Use Approvals required to construct the Improvements have been issued;

(B) The proposed transferee has proven, related project experience, and evidence (comparable to the evidence required in connection with satisfaction of the Financing Contingency) reasonably satisfactory to the City that it has funds available from Financing Transactions and equity commitments to complete the Improvements on a Development Parcel or a Project Component.

(C) Neither the proposed transferee, nor any of its officers, directors and owners of more than five percent (5%) interest have been charged or convicted within the 5-year period prior to the execution of this Agreement with a crime punishable by a prison term of one year or more or

punishable by a fine of \$10,000 or more, or have been adjudicated by a court or governmental agency of having engaged in dishonest, unethical or other disreputable activities in the conduct of their business, or been debarred from doing business in any jurisdiction, been implicated as a participant in governmental corruption, committed serious unethical conduct or other conduct evidencing business or government corruption or fraud and the like.

(D) The proposed transferee and the Persons comprising it are not in default in payments to the City.

(e) The following shall not be considered Real Property Transfers, and shall not be restricted by this Agreement:

- (i) Creation of a common interest community;
- (ii) Bona fide leases for occupancy by residents or other end-users;
- (iii) Granting of mortgages, leaseholds or other interests as security for a Financing Transaction;
- (iv) Imposition of restrictive covenants governing the use of a Development Parcel; or
- (v) Granting of utility, driveway, parking or other easements reasonably required for development or use of a Development Parcel as contemplated by this Agreement.

SECTION 3.5 Covenants Binding Upon Successors in Interest. The Developer acknowledges that the terms of the City's rights set forth in the Deed, the Enforcement Mortgage and this Agreement shall, from and after a Closing for a particular Development Parcel hereunder and until the issuance of a Certificate of Completion for the Improvements on such Development Parcel, comprise covenants running with the land, and that such covenants shall, in any event, and without regard to technical classification or designation, legal or otherwise, be binding upon Developer, its successors and assigns, to the fullest extent provided at law and in equity for the benefit of and enforceable by City, and the respective successors and assigns of each party.

ARTICLE IV

ACCESS TO PROPERTY

SECTION 4.1 Sign. The City reserves the right to require the Developer to install and maintain, at the Developer's sole cost and expense, an

appropriate, temporary sign or signs on one or more Development Parcels showing the proposed Improvements on each Development Parcel and for the Project as a whole promptly after the execution of this Agreement, indicating the City's support of and involvement in the Project and, if applicable, the State of Connecticut's and/or the federal government's proposed or anticipated support of the Project, which signage must be Approved in advance by OPED. The Developer shall be responsible for procuring, at its cost, any approvals required for any such signs, and shall remove the same from any Project Component with respect to which a Certificate of Completion has been issued.

SECTION 4.2 **Developer Access; City Access.**

(a) **Developer Access.** After the execution of this Agreement, the City shall enter into an access agreement with the Developer ("**Access Agreement**") that will permit the Developer, its employees, consultants, contractors, agents and servants to enter upon a Development Parcel to conduct its Pre-Closing Activities and due diligence.

(b) **City Access.** From and after the Closing Date and until the issuance of a Certificate of Completion for all Improvements in each Phase, and upon reasonable written prior notice from the City, the Developer shall permit representatives of the City, its consultants, employees, contractors, agents and servants access to the Property, at the City's sole risk and responsibility, at all reasonable times during normal business hours to determine and verify the Developer's compliance with this Agreement.

ARTICLE V

ACQUISITION OF DEVELOPMENT PARCELS; CONSTRUCTION OF THE IMPROVEMENTS

SECTION 5.1 **Acquisition of Development Parcels and Construction of Improvements.** In consideration of the City's approval of this Agreement, the Developer shall have the duty to use its Best Efforts to close title on or each of the Development Parcels within the dates set forth in the Schedule, as the same may be amended pursuant to this Agreement. Furthermore, the Developer undertakes and agrees to use Best Efforts to undertake the construction of the Improvements on each Development Parcel in accordance with this Agreement, which shall include without being limited to the completion of the Improvements in accordance with the Schedule attached as **Exhibit 6**.

SECTION 5.2 **Time for Commencement and Completion.**

(a) **Commencement of Improvements.** The Developer shall use commercially reasonable efforts to commence the Pre-Closing Work according to

the timetable set forth in **Exhibit 6**, and to complete such Pre-Closing Work and commence and complete the remaining Improvements on a Development Parcel according to such timetable, provided, however, that, if, pursuant to Governmental Authority, any Existing Environmental Condition must be investigated, abated or remediated prior to the commencement of construction, then the Developer shall use commercially reasonable efforts to commence the abatement or remediation of the Existing Environmental Condition and to complete the same prior to starting construction activities on a Project Component, and the schedule for the completion of such Project Component shall be extended for the length of such abatement or remediation work.

(b) **Completion of Improvements.** The Developer shall diligently pursue construction of the Improvements on a Development Parcel or Development Parcels using Best Efforts as required by the terms of this Agreement until Substantial Completion is achieved.

SECTION 5.3 Schedule; Construction Schedule, Progress Reports, Meeting Minutes, Etc.

(a) If, by reason of delays authorized or recognized by this Agreement or otherwise the timetable set forth in **Exhibit 6**, ceases to be accurate or achievable, the Developer shall voluntarily submit appropriate updates from time to time and in any event within ten (10) days after a City request for such an update. The Developer may adjust the dates in the Schedule during the construction of the Improvements without changing the Project Completion Date except as may be agreed by the City in writing.

(b) The Developer shall make available to the City for inspection and copying in the City of Bridgeport upon reasonable prior request during the Developer's normal business hours, all Project documents, schedules, weekly and monthly construction meeting minutes, progress reports, contract compliance reports, certified payrolls, tests, inspection reports and other items reasonably requested by the City, provided that the Developer shall not be required to reveal privileged or confidential information protected from disclosure under the Connecticut Freedom of Information Act.

ARTICLE VI

REPRESENTATIONS, WARRANTIES AND COVENANTS

SECTION 6.1 Representations, Warranties and Covenants of Developer. The Developer represents and warrants to the City that:

(a) Developer's purchase of each Development Parcel is solely for the purpose of the development of the Project and the construction of the Improvements thereon in accordance with the terms of this Agreement.

(b) Developer has full right, power, authority and legal capacity to enter into this Agreement, the execution and delivery of this Agreement has been duly-authorized by Developer's governing body, and no further consents or approvals of any person or entity are necessary in connection with the Developer's execution of this Agreement.

(c) The Developer's entry into and performance of this Agreement will not result in or constitute a breach or violation of the Developer's organizational documents or constitute a breach or violation of any Financing Transaction, mortgage, indenture, contract or other agreement or instrument to which the Developer is a party.

(d) No agreement or provision of Applicable Law requires the vote of any other persons to authorize or approve the performance by the Developer contemplated by this Agreement.

(e) No lawsuit or arbitration proceeding is pending or, to the Developer's knowledge, threatened, against the Developer, and there are no outstanding judgments or awards against the Developer that would prevent or be likely to hinder the Developer's performance of this Agreement or have a material adverse effect upon the Project or the financial condition or business of the Developer.

(f) The Developer acknowledges and agrees that its qualifications, training and development experience and the qualifications, training and development experience of any permitted successor are of particular concern to the Bridgeport community and the City. The Developer shall promptly notify the City, in writing, of its desire to make a Controlling Interest Transfer and shall provide all documentation that the City reasonably requires in advance of any transfer or commitment to transfer taking place. Upon any change in the Control of Developer that is not permitted hereunder or Approved by the City, the City shall have the option of terminating this Agreement effective fifteen (15) days after the City's delivery of notice to Developer advising of City's intention to terminate this Agreement under this Section unless, within such 15-day period the Developer complies with the requirements of this Agreement for the transfer of Control and the City, in the exercise of commercially reasonable business judgment, approves the Change in Control.

(g) The Developer agrees not to discriminate, nor permit discrimination, against any person in its employment practices, in any of its contractual arrangements, in all services and accommodations it offers to the public, and in any of its other business operations on the grounds of race, color, national origin,

religion, sex, sexual orientation, gender identification, disability, veteran status, marital status, mental retardation or physical disability.

SECTION 6.2 **Representations and Warranties of the City.**

(a) **As of the Execution Date.** The City represents and warrants to the Developer, to the best of its knowledge and belief, as of the date of this Agreement, that:

(i) The person executing this Agreement on behalf of the City has been duly-authorized to do so and has full right, power, authority and legal capacity to enter into and obligate the City to this Agreement, to sell the Development Parcels to the Developer pursuant to the terms of this Agreement, and to perform the City's obligations under this Agreement, the execution and delivery of this Agreement has been duly-authorized by action of the City's legislative body, and that no further consents or approvals of any person or entity are necessary in connection with its execution of this Agreement, the sale of the Development Parcels to the Developer or the performance of the City's obligations under this Agreement;

(ii) There is no actual or threatened judicial, administrative or other adversarial action or proceeding against the City relating to any Development Parcel (arising from the asserted existence of Environmental Conditions), or relating to the City's authority to sell a Development Parcel to the Developer and/or to perform its obligations hereunder;

(iii) There are no pending, contemplated or threatened condemnation or eminent domain proceedings (or other takings or purchases in lieu thereof) affecting all or any portion of a Development Parcel;

(iv) There are no written leases, licenses or similar agreements affecting a Development Parcel, and there are no written options or rights to lease or purchase a Development Parcel, or any portion thereof, or interest therein (other than pursuant to this Agreement), and no party has the right to occupy a Development Parcel pursuant to any lease, license or similar agreement; and

(v) The City has no Environmental Reports concerning the Property except for those if any listed in **Exhibit 9**, true and complete copies of which have been delivered to the Developer. This representation is a material inducement to the Developer to assume the obligations of indemnity set forth herein. The City

makes no representations, warranties or assurances concerning the validity, accuracy or completeness of any such Environmental Reports.

(b) **As of the Closing Date.** From and after the date of this Agreement until the Closing Date, the City shall:

(i) Promptly perform its obligations under this Agreement and shall not act in such a manner as to materially and adversely affect the construction of the Improvements or the intended use of a Development Parcel by the Developer, provided the Developer has not committed an Event of Default that continues beyond any applicable grace or cure period provided herein;

(ii) Refrain from entering into any brokerage, service, maintenance or property management contracts affecting a Development Parcel;

(iii) except as otherwise required by this Agreement, not undertake any obligation, make any representation or take any action with respect to the zoning, rezoning or redevelopment of a Development Parcel that has a material and adverse impact on the Developer or the construction of the Improvements;

(iv) not enter into or grant any leases, licenses, rights, options or other agreements affecting a Development Parcel (except as expressly required under this Agreement) that would be binding upon the Developer after the Closing; and

(v) not make any material alterations to a Development Parcel.

ARTICLE VII

INDEMNIFICATION

SECTION 7.1 **Developer's General Indemnification of the City.**

Developer hereby indemnifies, will hold harmless and defend the City from and against any and all claims, demands, actions, liability, loss, damage or expense, including without limitation all reasonable attorneys' and consultants' fees arising out of Developer's breach of this Agreement or breach of the warranties and representations set forth herein or resulting from any material inaccuracy in the representations, warranties, covenants or agreements made by the Developer to the City or any other Governmental Authority or other entity pursuant to or in connection with the terms of this Agreement or any Financing Transaction that continues beyond any applicable grace or cure period provided herein, provided,

however, that the Developer shall not be responsible or obligated (i) for claims arising out of the sole proximate cause of the City, or (ii) by reason of any damage or injury to a Development Parcel prior to Closing which is not caused by the Developer, its agents or contractors, or (iii) by reason of the existence or discovery of any condition existing on a Development Parcel prior to Closing, including any Existing Environmental Conditions. This provision shall survive the transfer of title or the earlier termination of this Agreement.

SECTION 7.2 **Developer's Environmental Indemnification.**

(a) The Developer hereby agrees to indemnify, defend and hold harmless the City from and against any loss, claim, liability, judgment, fine or expense, including reasonable attorneys' fees and consultants' fees, arising directly or indirectly or in connection with:

(i) The neglect, omission (where a duty to act existed) or action of the Developer or its employees, contractors, consultants and agents (each a "**Developer Party**"), before or after Closing, that results in the creation of a Future Environmental Condition;

(ii) Any alleged or actual violation of Environmental Law by a Developer Party prior to or after the Closing Date; or

(iii) If and only if Closing occurs, any Existing Environmental Condition.

(b) The provisions of this indemnification shall govern and control over any inconsistent provision of any other document executed or delivered by the Developer in connection with this Agreement. This environmental indemnification shall survive the expiration of the Agreement or the earlier termination thereof and shall be a continuing obligation of the Developer, its successors and assigns, and shall inure to the benefit of the City, its successors and assigns.

(c) If a Development Parcel or any portion thereof is conveyed by the Developer as allowed by this Agreement, then, with respect to the Development Parcel or the portion conveyed, as the case may be, the Developer's obligations of indemnity under this Section shall cease and the transferee shall be liable for such obligation of indemnity.

SECTION 7.3 **Indemnification Procedures.** Within thirty (30) days after the occurrence of an event giving rise to a claim for indemnification becomes known to the Party entitled to indemnification (the "**Indemnitee**"), the Indemnitee shall promptly give written notice to the Party required to provide indemnification (the "**Indemnitor**"). Such notice shall contain a brief description of the facts relating to such claim for indemnification and shall identify or include copies of all relevant documents and other evidence relating to the claim for

indemnification. Indemnitor, on or before the tenth (10th) day after receipt of any such claim for indemnification from Indemnitee, shall assume the defense of the matter giving rise to the claim for indemnification at Indemnitor's sole cost and expense. Indemnitor shall promptly provide other items of significance relating to such defense or claim and agrees to promptly provide to Indemnitee copies of all pleadings, correspondence and settlement offers in good faith and with due diligence, and shall comply with Indemnitee's other reasonable requests related to such defense or claim. If the compromise or settlement of any claim (combined with any further indemnity provided by Indemnitor) shall not result in the complete release of Indemnitee, its successors and assigns, in the Indemnitee's commercial business judgment reasonably exercised from the claim so compromised or settled, the compromise or settlement shall require the prior written approval of Indemnitee. The judgment of any court or the award of any arbitrator based upon such compromise or settlement shall be binding upon all of the Parties and shall be enforceable in a court having jurisdiction over the Parties located in Fairfield County, Connecticut.

SECTION 7.4 Brokers and Finders. The City and the Developer each represent and warrant to each other that **NO BROKER** was involved in consummating this transaction. Each Party agrees, respectively (each an "**Indemnifying Party**"), to indemnify and hold the other harmless from and defend the other against ("**Indemnified Party**") any claim, loss or damage, including reasonable attorneys' fees and court costs, resulting from the inaccuracy or falsity of the foregoing representation and warranty. This Section 7.4 shall survive the expiration or earlier termination of this Agreement.

ARTICLE VIII

EVENTS OF DEFAULT; REMEDIES

SECTION 8.1 Default by City; Remedies.

(a) In the event that the City defaults in any of its material obligations contained in this Agreement, or if any City representation or warranty should be inaccurate in any material respect when made, and provided that the Developer is in compliance with the material terms of this Agreement and has not committed an Event of Default that remains uncured at the time the Developer sends notice of default to the City (each, a "**City Event of Default**"), the Developer shall give written notice to the City and the City shall have the right to cure such City Event of Default within thirty (30) days after receipt of such notice, unless such cure is not reasonably capable of being achieved in such 30-day period in which case the City shall have the right to an additional sixty (60) days to cure such City Event of Default so long as the City pursues such cure in good faith and with diligence.

(b) If the City is unable to cure such City Event of Default, then the Developer shall have the right to terminate this Agreement if Closing has not occurred, and in any event to pursue all legal and equitable remedies available to it but shall not be entitled to pursue indirect, consequential, special or punitive damages. The Developer shall be entitled to such delay in the Schedule and of the Closing Contingency Date as may be reasonably required by reason of the City Event of Default.

(c) Notwithstanding but without limiting the effect of the preceding subparagraph, if the Developer terminates this Agreement pursuant to such Section before Closing, the Developer shall be entitled to recover from the City reimbursement for the costs actually and reasonably expended by the Developer (including funds required to repay Remediation Financing) in undertaking the Pre-Closing Work.

(d) Notwithstanding subparagraph (b) but without limiting subparagraph (c) above, if the City Event of Default arose from or manifested bad faith in its dealings with the Developer as determined by a court of law, the Developer shall also have the right to seek recovery from the City for reimbursement for the costs actually and reasonably expended by the Developer in pursuing development of a Development Parcel pursuant to this Agreement.

SECTION 8.2 Default by Developer; Remedies; Lender Protections.

(a) **Pre-Closing Developer Defaults.** The occurrence of any of the following events of default prior to a Closing hereunder shall constitute a Developer event of default (each a "**Developer Event of Default**"):

(i) In the event that Developer defaults in any of its material obligations under this Agreement or if any Developer representation or warranty should be inaccurate in any material respect when made and provided that City is in compliance with and has not committed a City Event of Default that remains uncured at the time City sends a notice of default to the Developer (a "**Developer Event of Default**"), the City shall give written notice to the Developer and the Developer shall have the right to cure such Developer Event of Default within thirty (30) days after receipt of such notice, unless such cure is not reasonably capable of being achieved in such 30-day period in which case the Developer shall have the right to an additional sixty (60) days to cure such Developer Event of Default so long as the Developer pursues such cure in good faith and with diligence, and, if the Developer is unable to cure such Developer Event of Default, then the City shall have the right to terminate this Agreement and pursue all legal and equitable remedies available to it but shall not be entitled to pursue indirect, consequential, special or punitive damages; or

(ii) If Developer shall file for bankruptcy or become bankrupt or insolvent, or shall file any debtor protection proceedings in any court pursuant to any statute of the United States, or shall file or have filed against it a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of its assets, or if Developer makes an assignment for the benefit of creditors, or petitions for or enters into an arrangement for the partial satisfaction of its debts, and if any of the aforesaid are not vacated, dismissed or cancelled within ninety (90) days following the date any such event occurs.

(b) City's Remedy for Pre-Closing Developer Event of Default.

Upon the occurrence of a Developer Event of Default prior to Closing that shall not be cured within the applicable notice and cure period, the City shall have the right to terminate this Agreement and all of the Developer's interest in acquiring title to the remaining Development Parcels, the Developer shall deliver and assign to the City in writing and deliver to the City within thirty (30) days after giving such notice of termination all of the Developer's right, title and interest in and to all engineering, surveying and test data, surveys, environmental reports, architectural plans, construction plans, and land use agency permits that the Developer has obtained in conjunction with the Development Parcel or Development Parcels, the City shall be entitled to pursue against the Developer all rights and remedies available at law or in equity, and the City shall have no obligation to reimburse the Developer for any monies that might otherwise be due to Developer in the absence of a Developer Event of Default.

(c) Post-Closing Developer Events of Default. The occurrence of any of the following events subsequent to the conveyance of a Development Parcel to the Developer, shall constitute a Developer Event of Default:

(i) In the event the Developer fails to commence construction of the Improvements on a Development Parcel or fails to achieve Substantial Completion in accordance with the Schedule as the same may be amended pursuant to this Agreement; or

(ii) if the Developer shall make a Real Estate Transfer or a Controlling Interest Transfer in violation of this Agreement without the City's prior written consent; or

(iii) if the Developer shall intentionally violate the non-discrimination covenants contained herein; or

(iv) if the Developer shall commit a material breach of any of its obligations under this Agreement, or

(v) If the Developer shall file for bankruptcy or become bankrupt or insolvent, or shall file any debtor protection proceedings in any court

pursuant to any statute of the United States, or shall file or have filed against it a petition in bankruptcy or insolvency or for reorganization or for the appointment of a receiver or trustee of all or a portion of its assets, or if Developer makes an assignment for the benefit of creditors, or petitions for or enters into an arrangement for the partial satisfaction of its debts, and if any of the aforesaid are not vacated, dismissed or cancelled within ninety (90) days following the date any such event occurs, then, provided that the City is in compliance with and has not committed a City Event of Default that remains uncured at the time the City sends notice to the Developer, the City shall give written notice to the Developer and the Developer shall have the right to cure such Developer Event of Default within thirty (30) days after receipt of such notice, unless such cure is not reasonably capable of being achieved in such 30-day period in which case the Developer shall have the right to an additional sixty (60) days to cure such Developer Event of Default so long as the Developer pursues such cure in good faith and with diligence, and, if the Developer is unable to cure such Developer Event of Default, then the City shall have the right to pursue all available remedies provided by the Enforcement Mortgage and all legal and equitable remedies available to it, but shall not be entitled to pursue indirect, consequential, special or punitive damages.

(d) **Lender Rights.** The City grants the following rights to a lender that enters into a Financing Transaction with the Developer secured by a mortgage or other security instrument on a Development Parcel:

(i) **Recognition.** If the Developer enters into a Financing Transaction and grants a security interest in connection therewith, the Developer may require the City to enter into an agreement with the lender or other financing provider ("**Mortgagee**"), in a form reasonably required by the Mortgagee but consistent with this agreement ("**Recognition Agreement**"), whereby (A) the City agrees to give written notice to the Mortgagee of any Developer Event of Default; (B) the Mortgagee agrees to give notice to the City of any Developer default under the terms of the Financing Transaction, and affords the City time to cure such default without being obligated to do so, and (C) the City agrees that, within a reasonable time after the occurrence of an uncured Developer Event of Default (or in any event within one hundred eighty (180) days after the Mortgagee or its designee acquires a Development Parcel pursuant to or in lieu of foreclosure), the Mortgagee or its designee may but need not assume the Developer's unfulfilled obligations under this Agreement.

(ii) **Mortgagee's Option To Cure Developer Defaults.** Upon the occurrence of a Developer Event of Default, the Mortgagee shall have the right, at its option, to cure such Developer Event of Default as provided in the preceding Subsection (i), and to add the

cost thereof to the mortgage debt and the lien of its mortgage. The Mortgagee's option to cure a Developer Event of Default shall in no way obligate the Mortgagee to complete the Improvements or to guarantee such construction or completion, nor shall any covenant or any other provision in the Deed, the Enforcement Mortgage or this Agreement be construed to so obligate such Mortgagee, provided, however, that, nothing in this Agreement shall be deemed or construed to permit or authorize any such Mortgagee to devote a Development Parcel to any uses other than the Permitted Uses or to construct any improvements other than the Improvements without the City's prior written consent, which may be withheld in the exercise of the City's commercial business judgment.

(iii) **Mortgagee's Election to Assume.** If, following a Developer Event of Default, the Mortgagee shall, in the exercise of its sole discretion, elect to assume the Developer's obligations pursuant to a written agreement reasonably satisfactory to the City in the City's exercise of its commercial business judgment. If the Mortgagee so elects to complete the Improvements, the City and the Mortgagee (or its designee) shall mutually agree to a period of time in which to complete the Improvements pursuant to a completion schedule ("**Completion Schedule**") that affords the Mortgagee or its designee a sufficient period of time to complete the unfinished balance of the Improvements then remaining with reasonable time added if necessary for bidding and mobilization of contractors.

(iv) **Replacement Developer.** Each Mortgagee, if it has not assumed the Developer's obligations after a Developer Event of Default as described in the preceding Subsection (iii), shall have the alternative right, but not any obligation, to procure (and, at its option, to convey the Development Parcel to) a substitute real estate developer acceptable to the City in the City's exercise of its commercial business judgment (the "**Replacement Developer**"), so long as the Replacement Developer agrees to cure the Developer's Event of Default (unless the City agrees in the exercise of its commercial business judgment that this is unnecessary), and the Replacement Developer otherwise agrees to complete the Improvements in accordance with a reasonable Completion Schedule as described in the preceding Subsection (iii). The Replacement Developer and the City shall execute an assignment and assumption agreement and shall execute such other documents and do such other things, as the City may reasonably require. The Replacement Developer's obligations shall not be greater than the Developer's obligations under the Agreement.

(e) **Certificate of Completion.** Any Mortgagee or Replacement Developer that shall Substantially Complete the Improvements on a

Development Parcel or shall complete any Project Component shall be entitled to a Certificate of Completion in the same manner as the Developer would have been entitled pursuant to this Agreement.

(f) **Rights and Remedies Cumulative; Non-Recourse.** Except with respect to rights and exclusive remedies expressly described as such in this Agreement, the rights and remedies of the respective Parties are cumulative and the exercise or non-exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or subsequent times, of any other rights or remedies for the same Event of Default or any other Event of Default by the other Party. Anything to the contrary in this Agreement notwithstanding, the City's recourse against the Developer on account of any Developer Event of Default, or on account of any obligation of indemnity imposed on the Developer hereunder, shall not afford recourse against any member, manager, shareholder, officer, partner, employee or other Person standing in a similar relationship to the Developer.

(g) **Estoppel Certificates.** The City and the Developer shall, without charge, at any time and from time to time, upon request by the other Party or by any existing or prospective Mortgagee, provide within thirty (30) days after any such request any instrument certifying, verifying, stating, or representing the information sought in response to the following:

- (i) that this Agreement is unmodified and in full force and effect; or, if there have been any modifications, that the Agreement is in full force and effect as modified and stating the modifications thereto and the dates thereof;
- (ii) whether or not there are then-existing any uncured Events of Default under this Agreement, and, if so, specifying such defaults with reasonable particularity and the dates thereof;
- (iii) whether or not there are then-existing any setoffs or defenses against the enforcement of any of the obligations, terms and/or conditions of this Agreement, and, if so, specifying the amount and nature of the same; and
- (iv) such other matters as may be reasonably requested.

ARTICLE IX

MISCELLANEOUS PROVISIONS

SECTION 9.1 **Force Majeure.** The Parties hereto, respectively, agree that the other Party shall not be in default of this Agreement whether before or after Closing if such Party is unable to fulfill, or is delayed in fulfilling,

any of its obligations hereunder in spite of its employment of commercially reasonable efforts and due diligence as a result of events beyond the reasonable control of such Party caused by severe weather conditions, natural disasters, catastrophic events, labor unrest, severe shortages of key materials, or delays of contractors or subcontractors due to any such causes, casualties to persons or property, war, governmental preemption in a national emergency, enactment of law, rule or regulation or change in existing laws, rules or regulations which prevent any Party's ability to perform its respective obligations under this Agreement, or actions taken by other persons beyond the exclusive control of the Party claiming hindrance or delay (any of the foregoing being referred to as "**Force Majeure**"). If a Party believes that a hindrance or delay has occurred, it shall give prompt written notice to the other Party of the nature of such hindrance or delay, its effect upon such Party's performance under this Agreement, the action needed to avoid the continuation of such hindrance or delay, and the adverse effects that such hindrance or delay then has or may have in the future on such Party's performance. Notwithstanding the receipt of notice of a claimed hindrance or delay by one Party, such request shall not affect, impair or excuse the other Party hereto from the performance of the non-requesting Party's obligations hereunder unless its performance is impossible, impractical or unduly burdensome or expensive, or cannot effectively be accomplished without the cooperation of the Party claiming hindrance or delay.

SECTION 9.2 Entire Agreement. This Agreement shall supersede all prior oral or written statements, agreements and understandings between or among the Parties hereto with respect to the transactions contemplated by this Agreement, except for those that are described herein as having been made simultaneously with this Agreement.

SECTION 9.3 Requisite Authority. The Developer shall cause its legal counsel to deliver a legal opinion in form and content reasonably acceptable to the City prior to the execution of this Agreement to the effect that: (i) the Developer is a duly-formed or duly-organized and validly existing limited liability company under the laws of the State of its incorporation, and is duly-qualified to transact business in Connecticut; (ii) the signer is the duly-authorized officer or official of the Developer and has full right, power, authority and legal capacity to enter into and obligate the Developer to this Agreement; (iii) the execution and delivery of this Agreement and the performance thereof has been duly-authorized by the governing body of the Developer; (iv) the execution of the Agreement by the Developer will not violate any other contract, arrangement or other obligation of the Developer; and (v) no further consents or approvals of any person or entity are necessary in connection with the Developer's execution and performance of this Agreement.

SECTION 9.4 Notices. All notices, demands or other communications required or desired to be delivered pursuant to this Agreement by any party hereto shall be made in writing and shall be deemed sufficiently

given or delivered only if personally delivered with proof of delivery thereof (any notice or communications so delivered being deemed to have been received at the time delivered), or sent by a nationally-recognized next day courier (such as Federal Express) (any notice or communication so sent being deemed to have been delivered when received, or when delivery is refused), or if sent by certified mail—return receipt requested and deposited in a postage-prepaid envelope with the United States Postal Service, which mail would be deemed received two (2) business days after deposit, each such notice to be addressed to the respective parties as follows:

If to Developer:

Mr. Craig Livingston,
Exact Capital Group LLC
477 Madison Avenue, 6th Floor
New York, NY 10022

With a copy to:

If to City:

City of Bridgeport
Director, Office of Planning & Economic Development
Margaret E. Morton Government Center
999 Broad Street, 2nd Floor
Bridgeport, Connecticut 06604

With a copy to:

City Attorney
Office of the City Attorney
Margaret E. Morton Government Center
999 Broad Street, 2nd Floor
Bridgeport, Connecticut 06604

Each of the Parties hereto shall promptly notify each other in the manner set forth above for the giving of notice of any change or additions to their respective addresses or any other address or other person to whom future notices should be sent.

SECTION 9.5 Severability. If any provision of this Agreement shall be held to be invalid by a court of competent jurisdiction, the remaining

terms of this Agreement, to the extent not inconsistent with any such holding, shall not be affected thereby if such remaining terms would then continue to conform with the requirements of applicable Laws and this Agreement, and would fairly express the Parties' intent in making this Agreement.

SECTION 9.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall be deemed to constitute one and the same agreement.

SECTION 9.7 Waiver. Except as expressly prohibited hereunder, any right or remedy which either party or their respective successors or assigns may have under this Agreement may be waived at any time in writing and shall specifically state whether the item waived is waived until a specific date, for a period of time, or is permanently waived, but any such waiver shall not affect the exercise of such right in the future or any other rights of a Party not specifically waived. No waiver of any right or remedy by any Party at any one time shall be deemed to be a waiver of any such right or remedy in the future unless otherwise expressly stated in a written agreement.

SECTION 9.8 Amendments: Modifications. This Agreement may be amended or modified only by a written document, duly-executed by all of the Parties hereto, evidencing their mutual agreement to any such amendment or modification.

SECTION 9.9 Section Headings. The descriptive headings of the articles, sections and subsections of this Agreement are for convenience only and shall not affect the meaning or construction of any of the provisions hereof.

SECTION 9.10 Governing Law. The respective rights, obligations and remedies of the Parties under this Agreement and the interpretation thereof shall be governed by the laws of the State of Connecticut which pertain to agreements made and to be performed in the State of Connecticut.

SECTION 9.11 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns.

SECTION 9.12 Gender; Number. Whenever used in this Agreement and the context so requires, the singular number shall include the plural and vice-versa, and the use of the masculine, feminine, or neuter gender shall include any gender required.

SECTION 9.13 Prohibitions Against Certain Personal or Financial Interests.

(a) The Developer will notify the City if any elected representative, official or employee of the City participates in any decision relating to this Agreement if such a Person has a personal or financial interest or interests, direct or indirect, in the Developer or the Project or any Project Component or Development Parcel, and the Developer must also disclose, in writing, to all Parties to this Agreement the existence of any formal or informal contract, relationship or understanding, whether oral or written, whether existing or contemplated, that would present a potential conflict of interest or the appearance of impropriety.

(b) After the date of the execution of this Agreement and prior to the issuance of a Certificate of Completion, the Developer will not knowingly, without notice to and a finding by the City that such action is consistent with the public interest, employ any employee of the City who has participated in the Developer's Plan or the Project until a period of two (2) years has passed after the completion of the Project.

SECTION 9.14 Offer and Acceptance. It is expressly understood and agreed that this Agreement shall not constitute an offer or create any rights in favor of the Developer, shall in no way obligate or be binding upon the City, or shall have any force or effect against the City until the City Council has approved this Agreement and a fully-executed original is delivered to the Developer.

SECTION 9.15 Further Assurances. Each Party hereto shall from time to time execute, acknowledge and deliver such further instruments and perform such additional acts at no cost to such party as the other party may reasonably request to further effectuate or confirm the intent of this Agreement.

SECTION 9.16 Dispute Resolution. Any dispute concerning this Agreement or the interpretation thereof set forth in written notice to the other parties hereto, and if such dispute cannot be resolved by mutual agreement shall be resolved in a court of competent jurisdiction over the Parties located in Fairfield County, Connecticut.

SECTION 9.17 Legal Relationship of the Parties. The Parties hereto shall be deemed and construed to be independent of one another for all purposes and nothing contained in this Agreement shall be deemed or determined to create a partnership or joint venture between them.

SECTION 9.18 Non-discrimination. The Developer agrees not to discriminate, nor permit discrimination, against any person in its employment practices, in any of its contractual arrangements, in all services and accommodations it offers to the public, and in any of its other business operations on the grounds of race, color, national origin, religion, sex, sexual

orientation, gender identification, disability or veteran status, marital status, mental retardation or physical disability.

SECTION 9.19 Taxes. The Developer shall pay promptly when due any and all real estate taxes in accordance with State law, all personal property taxes on the Developer's furniture, fixtures, equipment, vehicles and other taxable property, and Downtown Special Services District taxes imposed upon the Development Parcels and first levied or assessed on or after the Closing Date for a Development Parcel.

SECTION 9.20 Waste or Nuisance. The Developer shall not commit or permit waste to the Improvements on a Development Parcel nor shall it, subsequent to the Closing on a Development Parcel, maintain, commit or permit the maintenance or commission of any nuisance, unsightly or unhealthy condition on or about such Development Parcel, provided, however, that the Developer shall not be deemed to be in breach of this Section by reason of the condition of the Development Parcel and the Improvements existing on the Closing Date.

SECTION 9.21 Authority of OPED. Except as specifically set forth herein, all decisions, consents, approvals and other actions required or permitted of "the City" hereunder shall be taken (or withheld, as the case may be) by the City acting through OPED, which shall in turn act through its Executive Director or his or her designee. Notwithstanding the preceding sentence, and without limiting other specific provisions of this Agreement, OPED is not empowered to act in regard to any of the following:

- (a) Land Use Approvals;
- (b) issuance of building permits, Certificates of Occupancy and similar functions performed by the City's Building Department;
- (c) actions requiring amendment of the City's Charter or Municipal Code;
- (d) exercise of police power, or matters of public safety that are the responsibility of the Police Department or Fire Department; or
- (e) matters that represent material changes from the authorization set forth in the Council Resolution as herein described, provided that (i) this Agreement itself is agreed to be consistent with such authorization, notwithstanding any inconsistency in transcription of the City Council deliberations or approval minutes; and (ii) the Parties may rely on the City Attorney's determination as to whether additional or amended authorization is required from the City Council.

SECTION 9.22 **Recording.** This Agreement, or a memorandum thereof in the form of a notice of lease under Connecticut law, may be recorded on the Bridgeport Land Records and a complete copy thereof shall be available for review and inspection at the City's Office of Planning and Economic Development, 999 Broad Street, 2nd Floor, Bridgeport, Connecticut 06604.

SECTION 9.23 **Duration.** This Agreement shall be in effect until the issuance of a Certificate of Completion for all of the Improvements constituting the Project, except for those provisions that are expressed in Closing Documents, until terminated in accordance with this Agreement, or no later than July 1, 2023.

SECTION 9.24 **Precedence of Documents.** In the event that there is any conflict in interpretation between this Agreement and any other agreement or document referred to herein, the terms of this Agreement shall govern over all others, except that, in the event of conflict between any Remediation Financing Loan Agreement or any Closing Document delivered at Closing, and the description thereof in this Agreement, such agreement or Closing Document shall control.

SECTION 9.25 **Minority Contractor Hiring; Employment Opportunities For Bridgeport Residents.** Developer shall utilize all reasonable efforts in good faith to comply with the mandates and goals of the City's Minority Business Enterprise Ordinance in connection with the construction of the Improvements, provided, however, that the Developer may procure goods, services, equipment and supplies privately and does not have to utilize City purchasing and other departments in its procurements. The City has established a Minority Business Enterprise Program Ordinance, Chapter 3.12.130 of the Code of Ordinances, incorporated by reference and made a part hereof as **Exhibit 10 ("MBE Ordinance")**. The Developer's good faith efforts to comply and compliance with the requirements and goals of the MBE Ordinance shall be deemed to be compliance with this requirement. The City's Small and Minority Business Development Office shall administer and determine the Developer's compliance with the MBE Ordinance. The City shall apply and the Developer shall observe the MBE Ordinance in the following manner:

(a) All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the MBE Ordinance.

(b) The City's mandatory requirement for construction projects is established at six percent (6.0%) of the value of the construction contract ("**Mandatory Requirement**") for each Project Component awarded to African-American prime or subcontractors.

(c) The City's attainable goal for the Project is established at an additional nine percent (9.0%), assuming the Mandatory Requirement is met, for MBE subcontractors (15% total when combined with the

percentage of the Mandatory Requirement achieved) ("**Attainable MBE Goal**").

(d) The City's attainable goal for the Project is established at fifteen percent (15.0%) for WBE subcontractors ("**Attainable WBE Goal**").

(e) The Developer will publish all bidding opportunities for minority contractors in the *Connecticut Post* newspaper as required by the MBE Ordinance, which advertisement shall announce the date and location in Bridgeport for an "open house" for MBE prime and subcontractors to discuss contracting opportunities for each Project Component and the Project as a whole at which a City representative shall also be present.

(f) The Developer will cooperate and communicate with the City's Administrator (defined below) so that minority trade organizations and media outlets are aware of the subcontracting opportunities available to minority contractors.

(g) The Developer will coordinate its bidding activities with the City's Small & Minority Business Resource Office, 999 Broad Street, 2nd Floor ("**Administrator**").

(h) The Developer shall require every prime contractor to name its minority subcontractors and the value of the contract to be awarded to each at the time that the prime contractor submits its bid. No substitutions of an MBE subcontractor shall thereafter be made without notice to the City, a demonstration of good cause shown, and receipt of the City's written consent.

(i) The Developer shall submit monthly certified payrolls or such other appropriate documentation as may be required to the City's Small and Minority Business Development Office demonstrating its compliance with the MBE Ordinance.

(j) The Administrator will make all clarifications and determinations concerning compliance with the MBE Ordinance, and the Developer may appeal such clarifications and determinations to the City's Chief Administrative Officer.

(k) In all other respects, the Developer shall adhere to the principles and practices of the MBE Ordinance.

(l) The City encourages, but does not require, that the Developer consider utilizing qualified local Bridgeport-based vendors in the construction of the Improvements and Bridgeport residents in construction and post-construction employment. The Developer fully supports the utilization of local Bridgeport-based vendors and will make

reasonable efforts to inform vendors of contracting opportunities. The Developer will also make reasonable efforts to inform Bridgeport residents of employment opportunities that may be available during the construction of the Project and following the completion of the Project or any part thereof.

SECTION 9.26 Survival. Upon the termination of this Agreement prior to Closing, this Agreement shall come to an end and the Parties shall have no further obligations to each other except for those provisions specifically stated to survive early termination, which shall survive and be binding upon the Parties.

SECTION 9.27 Approval of Phases. In connection with the City's review and approval or disapproval of any Phase of the Developer's Plan, which Approval shall not be unreasonably withheld, the City shall consider the consistency of such Phase of the Developer's Plan with the RFP, provided, however, that, in the event of a conflict between this Agreement (including any Project Component of the Developer's Plan described in **Exhibit 5** that has previously been Approved by the City) and the RFP, this Agreement shall control.

SECTION 9.28 Waterfront Engagement; Streetscape Improvements. The City has embarked on a plan to create public access to its rivers and waterfront through the adoption of a waterfront development plan, which is an ongoing City priority, and understands that waterfront access is important to the Project. The City has also dedicated capital funds to the improvement of streetscapes, utilities and other infrastructure in the Downtown area and expects to dedicate some of such capital funding to improve the area in and around the Project. Although the City cannot make a firm commitment of such access and improvements to the Project itself, the City has the flexibility to make capital improvements that will benefit the general area of the Project. .

[signatures begin on the next page]

IN WITNESS WHEREOF, the parties have executed this agreement on and as of the date first above written.

Signed, sealed and delivered
in the presence of:

CITY OF BRIDGEPORT

By: _____
Joseph P. Ganim,
Mayor
duly-authorized

Signed, sealed and delivered
in the presence of:

EXACT CAPITAL GROUP, LLC

By: _____
Craig Livingston
Its: Managing Member
duly-authorized

STATE OF CONNECTICUT)
) SS.: at Bridgeport _____, 2017
COUNTY OF FAIRFIELD)

Personally appeared, Joseph P. Ganim, Mayor of City of Bridgeport, signer and sealer of the foregoing instrument, and acknowledged the same to be his and City of Bridgeport's free act and deed before me.

Notary Public
My commission expires:
Commissioner of the Superior Court

STATE OF)
) SS.: at _____, 2017
COUNTY OF)

Personally appeared, _____, the _____ of
signer and sealer of the foregoing instrument, and acknowledged the same to be his free act and deed in such capacity and the free act and deed of said entity, before me.

Notary Public
My commission expires:
Commissioner of the Superior Court

Schedule A

Property Descriptions
of the Development Parcels

[To be added by mutual agreement of the Parties after review of the Title
Commitment for each]

Exhibit 1

Request For Expressions of Developer Interest

**REQUEST FOR EXPRESSIONS OF DEVELOPER INTEREST
Majestic & Poli Theatres Mixed-Use Redevelopment Project
Downtown Bridgeport**

December 23, 2016

**CITY OF BRIDGEPORT
OFFICE OF PLANNING AND ECONOMIC DEVELOPMENT
MARGARET E. MORTON GOVERNMENT CENTER
SECOND FLOOR
999 BROAD STREET
BRIDGEPORT, CT 06604
(203) 576-7221**

A. PURPOSE

OPED is issuing this Request for Expressions of Developer Interest in order to identify an appropriately qualified Developer with which the City would propose to enter into a Pre-Development Agreement of not greater than twelve months pursuant to which the Developer would finalize a redevelopment plan consistent with OPED's vision for the parcels described herein. Under this Pre-Development Agreement, the Developer will be expected to conclude feasibility studies as to the cost and economic viability of the specific plan proposed, to seek and secure necessary public approvals, to conclude specific tenancy agreements as needed, and to secure financing for the project. Upon completion of the Pre-Development period, the selected firm will be expected to be ready to begin construction of the project.

B. PROJECT AREA DESCRIPTION.

This 6-acre Project Area in Downtown Bridgeport centers on 1335 Main Street, which is the combined address of the former Poli Palace Theatre (3600 seats) and the former Majestic Theatre (2200 seats) and the former Savoy Hotel (100 rooms), which comprise together in one 80,000 square-foot building a signature piece of architecture at the entrance to the center city. Designed in the Beaux Arts style by architect Thomas A. Lamb in 1922, the building is on the National Register of Historic Places. To the north of the historic theatre/hotel building, the Project Area includes approximately 3 acres of vacant land straddling both sides of Main Street. One block to southeast of the theatre/hotel building, the Project Area consists of two vacant parcels totaling 60,000 square feet. (See attached Project Area Map).

The Project Area represents one of the best transit oriented development locations in Connecticut. It is within four blocks of the Bridgeport Intermodal Transit Center, which serves Amtrak, MetroNorth, Greater Bridgeport Transit, Greyhound, and the Bridgeport-Port Jefferson Ferry. It is convenient to Interstate 95, located within five blocks of the two highway exits serving downtown. The redevelopment site runs roughly parallel to the nearby Pequonnock River and to a developing Pequonnock River Greenway. This immediate area currently has four redevelopment projects underway, which represent approximately \$50MM in combined investment.

C. REDEVELOPMENT OBJECTIVES

The site is suitable for mixed-use development with a heavy residential component. Market-rate residential projects have been very successful downtown, both in the conversion of historic structures and in the development of new construction. Given the strong market absorption of units to date, and given the proximity to multiple transit options, the City views the vacant land in the site as capable of supporting dense residential development of over 1000 new units.

With respect to the historic theatre/hotel complex, the City is not requiring that the theatres be restored as theatres per se. However, the City is requiring that the building be restored in whole or in part in a way that preserves its historic character and highlights the structure for the landmark that it is. The City is not dictating the specific proposed reuse. However the City will expect that the Developer demonstrate the economic viability of any proposed reuse. By way of discussion and description, but not as specific guidance, we note that the hotel component of the building, given its layout, naturally lends itself to renovation as a new hotel, or more generally to residential re-use. As to the theatres themselves, the City is open to creative approaches to the re-use of these spaces, if not as performing venues exclusively, then as spaces used in ways that are related to the arts, or to educational or institutional or civic use, or for any variety of commercial or retail use that would be compatible with the downtown and would provide vitality to this northern end of Main Street.

D. SUBMISSION REQUIREMENTS

- a) A **cover letter** identifying the firm or team, the name of the firm or team's representative(s), and his/her contact information (including phone and email);
- b) Conceptual Development Plan and Implementation Plan – A depiction via rendering and site plan, with accompanying narrative, of the respondent's conceptual development plan in a manner conforming with the City's Redevelopment Objectives. A pre-development and development schedule with milestones and objectives that delineates the developer's plan for implementing the project.
- c) Conceptual Financing Plan and Budget – A general order of magnitude capital budget with a general breakdown of the sources and uses of capital.
- d) Statement of Qualifications—Listing of Principal Members of the Development Team, and a detailing of the Development Team's directly relevant development experience, including its completion of projects similar in scope to this redevelopment opportunity.
- e) Statement of Financial Capacity and Administrative Capacity- Detail the amount of developer equity or developer capital that your team will invest in the pre-development work during the twelve-month due diligence period for the Project. Detail the specific staff and administrative capacity your team will devote to this work.

F. Responses Due – Wednesday, February 22, 2017, 2 pm EST

Responses are to be submitted electronically to the administrative office of the City's Office of Planning and Economic Development at max.perez@bridgeportct.gov.

G. City Review Schedule (Approximate)

March 2017 Administrative Review and Initial Interviews (if necessary)
April 2017 Short-List and Follow-Up Interviews
May 2017 Selection of Developer
June 2017 Execution of 12-month Pre-Development Agreement

NOTE: These dates may be altered for the City's convenience, to accommodate holidays, etc. so long as such changes do not materially and adversely affect the process or its fairness to all Respondents.

H. EVALUATION CRITERIA:

- 1. Specialized Experience, Technical Competence, and Administrative Capacity**
The evaluation will consider relevant experience in the development of projects of similar size and scope. This evaluation will further consider the organizational and team structure assembled to perform the work, as well as the demonstrated capacity of the firm to meet the project's requirements, to execute the work on-time and on budget. **(33.3% of the Evaluation)**

- 2. Soundness of the Concept and the Implementation Plan Proposed:** This evaluation will consider the extent to which the Respondent's concept corresponds to the City's Redevelopment Objective and will evaluate the feasibility and thoroughness of the implementation plan proposed. **(33.3% of the Evaluation)**

- 3. Financial Strength:** This evaluation will judge the Respondent's financial strength as a development entity. This evaluation may involve the confidential review of Financial Statements (should the City so request); but at a minimum shall involve the City's evaluation of the Respondent's ready financial capacity to compensate the City with an earnest money deposit of approximately 5% of the Property's Current Assessed Value. **(33.3% of the Evaluation)**

I. TREATMENT OF CONFIDENTIAL INFORMATION

Financial statements, proposals and other business confidential information may not be subject to disclosure under the Connecticut Freedom of Information law, Section 1-210(b)(5)(A) of the Connecticut General Statutes (FOIA), if such information constitutes "trade secrets" as defined therein. If a Respondent desires certain information to be protected from disclosure under FOIA as a trade secret, the Respondent should clearly identify such information, place such information in a separate envelope appropriately

marked, and submit such information with its response. Such information shall be retained by OPED in confidence, shall only be viewed by City employees and consultants having a "need to know", and shall be returned to all unsuccessful Respondents, or will be destroyed, upon the conclusion of the City's selection process. If such information is sought to be disclosed, OPED will afford notice to the party or parties whose information is being sought so that each has an opportunity to dispute disclosure in a court of law at such party's sole cost and expense. The City shall protect information from disclosure or refuse to disclose such information unless it (i) is already known; (ii) is in the public domain through no wrongful act of the City; (iii) is received by the City from a third party who was free to disclose it; (iv) is properly disclosable under FOIA; or (v) is required to be disclosed by a court of law.

J. QUESTIONS AND ANSWERS ABOUT RFEI

Firms may seek additional information or clarification as to any aspect of the RFEI by submitting questions in writing to OPED's administrative e-mail at Jennifer.Edwards@bridgeportct.gov.

All questions will be summarized by OPED, which will provide prompt written answers via e-mail to the principal of each team or firm. In order to receive written answers, each potential Respondent must notify OPED of its interest and provide OPED with e-mail contact information. All firms are obligated to become familiar with such questions and answers and to submit or revise their responses accordingly. The City assumes no responsibility for a firm's failure to read questions and answers and to revise their responses accordingly. **Contact information and questions should be sent in writing via e-mail to Jennifer.Edwards@bridgeportct.gov.**

K. ACCESS TO THE SITE

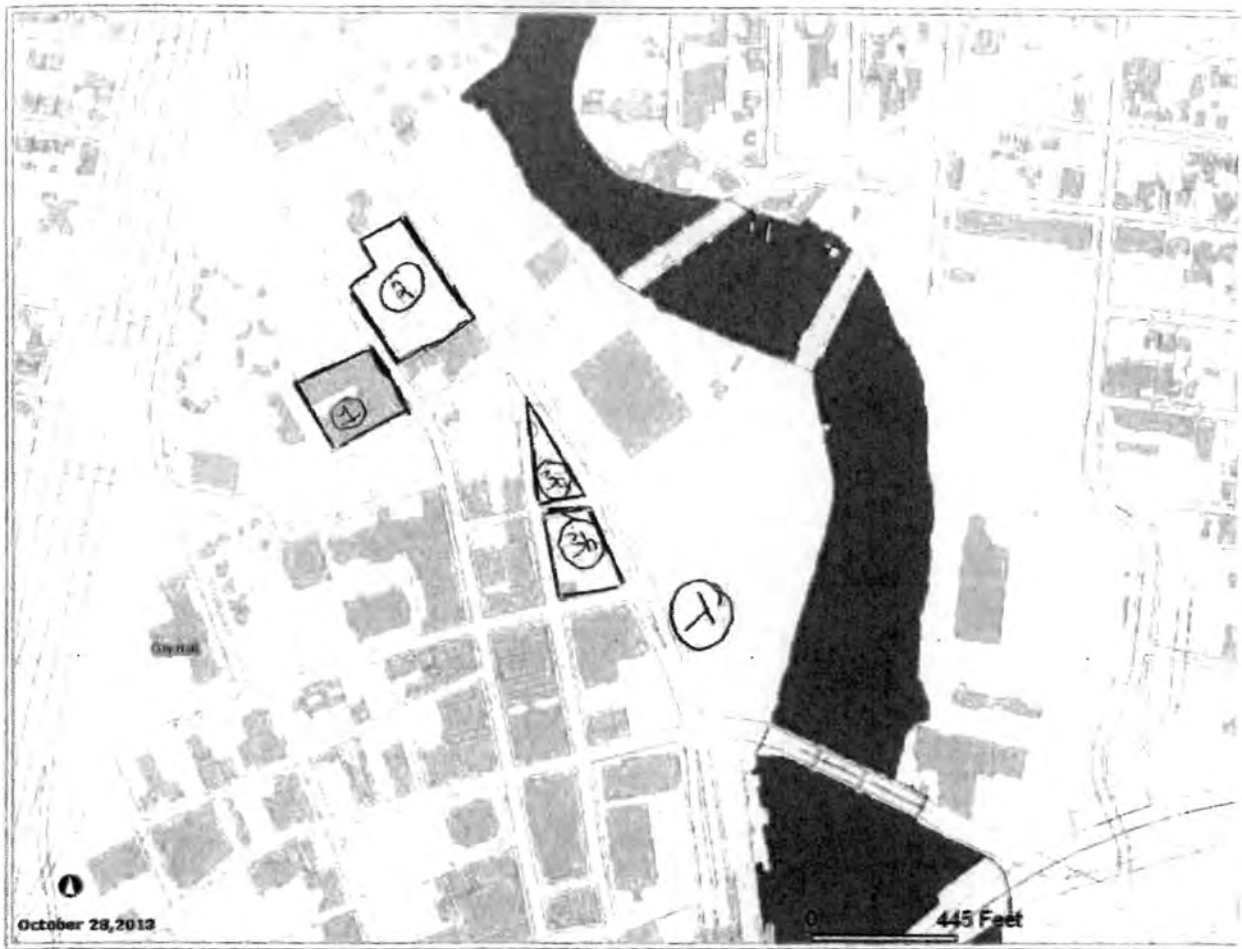
Access may be arranged for accompanied site visits by calling Max Perez at 203-727-2707 or by e-mailing Mr. Perez at max.perez@bridgeportct.gov.

L. PROPERTY OF CITY OF BRIDGEPORT

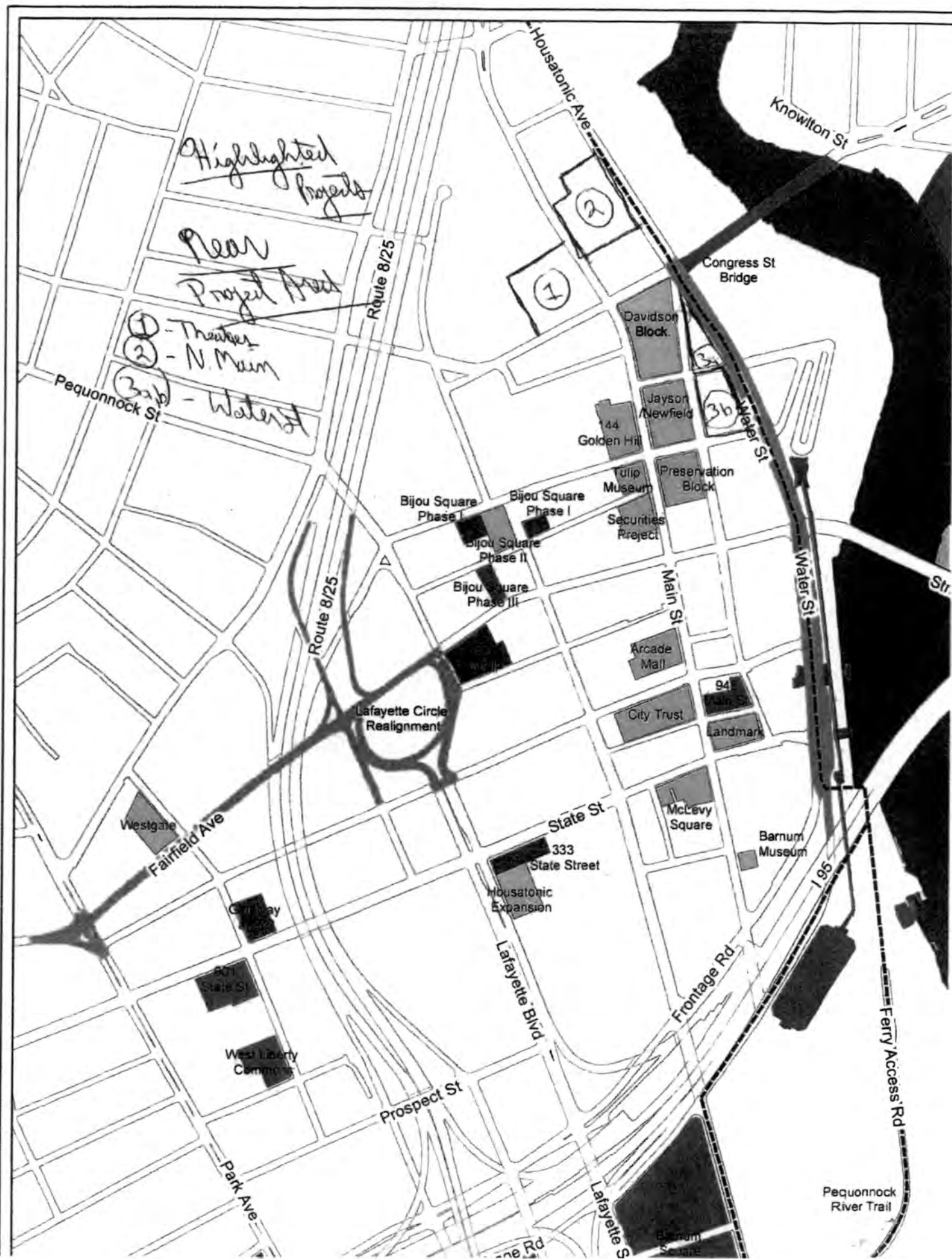
Except as otherwise stated in Section F of this notice, any information or materials submitted as a response to this RFEI shall become the property of the City of Bridgeport and will not be returned. All submitted materials will be available for public review.

M. RIGHT TO REJECT SUBMISSIONS

The City of Bridgeport may reject any and all proposals and cancel this RFEI, without liability therefore, when doing so is deemed to be in the City's best interests. Further, regardless of the number and quality of responses submitted, the City shall under no circumstances be responsible for any firm's cost, risk and expenses. The City accepts no responsibility for the return of successful or unsuccessful responses. This RFEI in no way obligates the City to select a firm.



- ① Theatre/Hotel Building
 - ② 2-acre Main Street site
 - ③a) 1/2 acre triangular site
 - ③b) 9/10 acre site
 - Ⓣ = Transit Center
- across Water St
from Transit Center



Highlighted Projects

near Project Area

- ① - Theater
- ② - N. Main
- ③a,b - Water St

27

24

Congress St Bridge

Davidson Block

Jayson Newfield

44 Golden Hill

Tulip Museum

Securities Project

Bijou Square Phase I

Bijou Square Phase I

Bijou Square Phase II

Bijou Square Phase III

Main St

Arcade Mall

City Trust

94

Landmark

Lafayette Circle Realignment

Westgate

Fairfield Ave

State St

333 State Street

Housatonic Expansion

Lafayette Blvd

Frontage Rd

Barnum Museum

McLevy Square

Gay

West St

West Liberty Commons

Prospect St

Park Ave

Ferry Access Rd

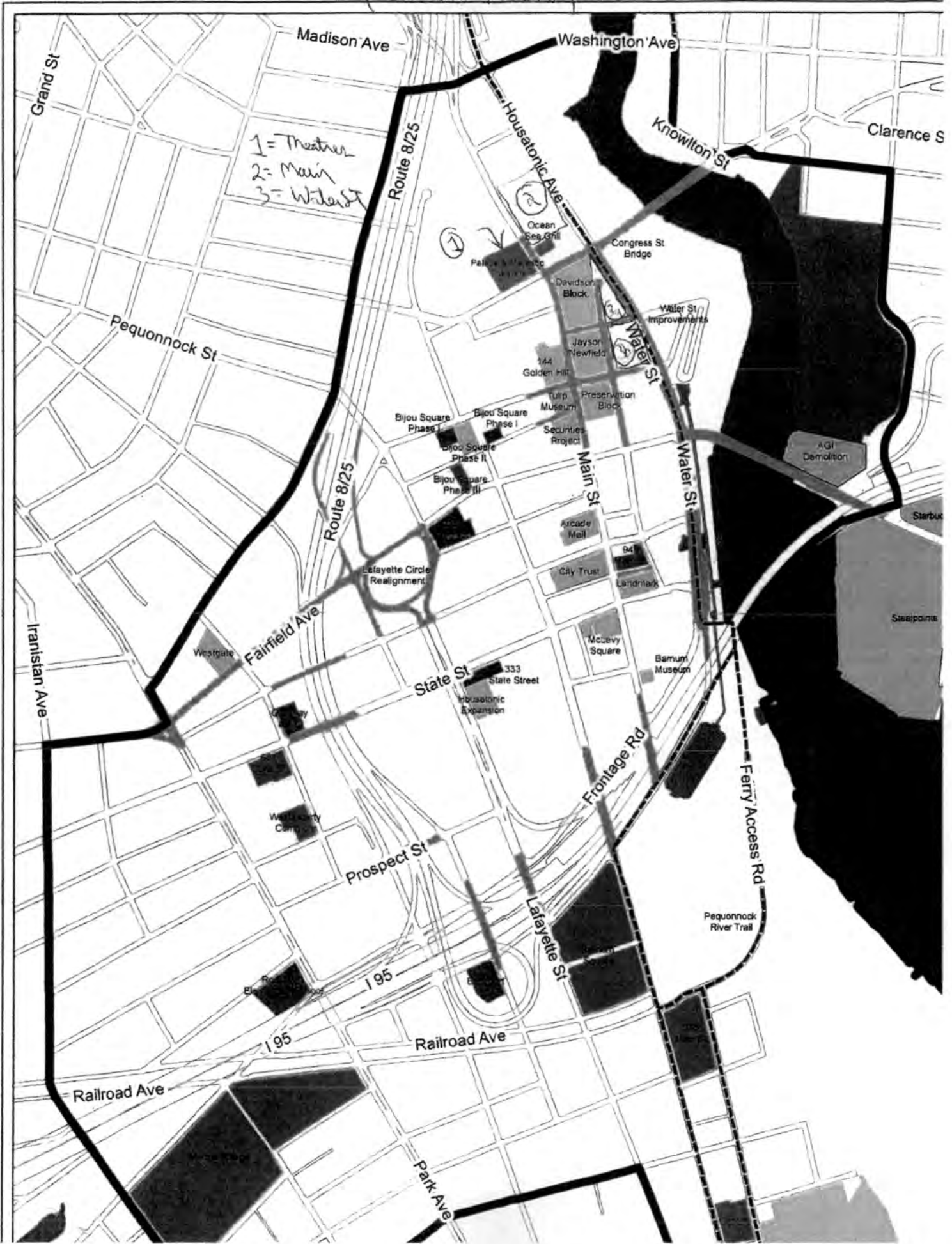
Pequotnock River Trail

one Rd

Lafayette St

Barnum Square

(DOWNTOWN)



1= Theater
2= Main
3= Water St

Grand St

Madison Ave

Washington Ave

Clarence S

Knowlton St

Route 8/25

Housatonic Ave

Pequotonock St

Congress St

Water St

144 Golden Hill

Bijou Square Phase I

Bijou Square Phase II

Bijou Square Phase III

Jayson Newfield

Tulip Museum

Securities Project

Preservation Block

Lafayette Circle Realignment

Arcade Mall

City Trust

Landmark

McBevy Square

Barnum Museum

State St

333 State Street

Housatonic Expansion

Frontage Rd

Ferry Access Rd

Prospect St

Lafayette St

Pequotonock River Trail

Railroad Ave

Railroad Ave

Park Ave

Iranistan Ave

Westgate

Westgate

Westgate

AGI Demolition

Starbucks

Sleeping

Exhibit 2

Developer's Proposal



EXACT CAPITAL

Response to Request for Expression of
Development Interests for Majestic and
Poli Theater Mixed Use Development Project
Solicitation 1612-002.



Submitted by
Contact

Exact Capital Group LLC
Craig Livingston
477 Madison Ave, 6th Floor
New York, NY 10022
clivingston@exactcapital.com
(646) 706-5502

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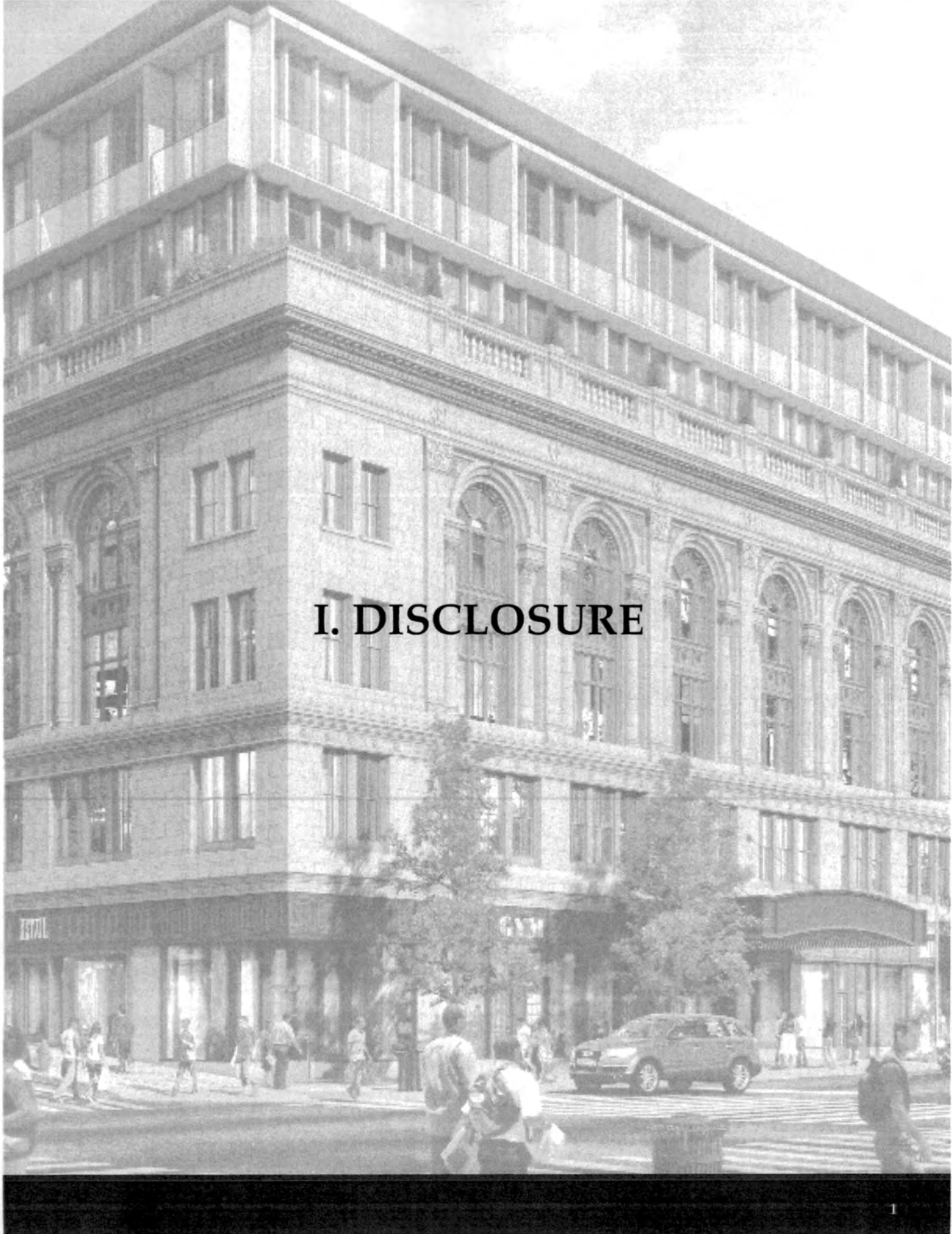
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I. DISCLOSURE

DISCLOSURE



City of Bridgeport

Bid 1612-002

OWNERSHIP DISCLOSURE AND NO CONFLICTS FORM

EVERY BUSINESS THAT SUBMITS A BID, PROPOSAL, QUOTATION, QUALIFICATION PACKAGE OR OTHER SUBMISSION TO THE CITY OF BRIDGEPORT PURSUANT TO THE CITY'S PURCHASING ORDINANCE (Section 3.08.070, AS AMENDED) HAVING A VALUE OR POTENTIAL VALUE OVER \$25,000 MUST FULLY AND ACCURATELY COMPLETE THIS DISCLOSURE FORM OR ITS SUBMISSION WILL BE DEEMED NON-RESPONSIVE. IF THERE IS INSUFFICIENT SPACE FOR ANY ANSWER, ATTACH ADDITIONAL SHEETS.

Name of Business:

Person signing this form:

Title:

Phone Number:

The undersigned hereby represents and warrants that the following statements are true, correct and complete, to the best of his/her knowledge and belief, and that the City of Bridgeport is entitled to rely thereon:

1. Business is (*check one*)

- | | |
|---|---|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <input type="text"/> |

2. Business Address:

3. State of incorporation or organization: Connecticut
 Other

4. What other trade names does the Business use, if any?

DISCLOSURE



City of Bridgeport

Bid 1612-002

5. (a) Identify all officers, directors, managing or general partners, or managing members.

<u>Name</u>	<u>Address</u>	<u>Title</u>
Craig Livingston	477 Madison Ave, NY NY 10022	Managing Partner
Michael Callaghan	477 Madison Ave, NY NY 10022	Partner

(b) Identify owners of 5% or more interest in the Business:

Craig Livingston	477 Madison Ave, NY NY 10022	Managing Partner
Michael Callaghan	477 Madison Ave, NY NY 10022	Partner

DISCLOSURE



City of Bridgeport

Bid 1612-002

6. Identify any parent, affiliate or subsidiary organization of the Business.

(a) Company's name Exact Builders Group, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Affiliate

(b) Company's name Advantage Property Management Services, LLC

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Affiliate

[Add additional sheets if necessary.]

DISCLOSURE



City of Bridgeport

Bid 1612-002

6. Identify any parent, affiliate or subsidiary organization of the Business.

(a) Company's name Northern Manhattan Equities, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Affiliate

(b) Company's name Northern Manhattan Equities II, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Affiliate

[Add additional sheets if necessary.]

DISCLOSURE



City of Bridgeport

Bid 1612-002

6. Identify any parent, affiliate or subsidiary organization of the Business.

(a) Company's name Crotona Park Equities, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Subsidiary

(b) Company's name 1800 SB, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Subsidiary

[Add additional sheets if necessary.]

DISCLOSURE



City of Bridgeport

Bid 1612-002

6. Identify any parent, affiliate or subsidiary organization of the Business.

(a) Company's name East Tremont EC, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Subsidiary

(b) Company's name Hurston Place Equities, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Subsidiary

[Add additional sheets if necessary.]

DISCLOSURE



City of Bridgeport

Bid 1612-002

6. Identify any parent, affiliate or subsidiary organization of the Business.

(a) Company's name 233 W125th Street Danforth, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Subsidiary

(b) Company's name 210 W145th Street Equities, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Subsidiary

[Add additional sheets if necessary.]

DISCLOSURE



City of Bridgeport

Bid 1612-002

6. Identify any parent, affiliate or subsidiary organization of the Business.

(a) Company's name East Medinah Equities, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Subsidiary

(b) Company's name Blondell Equities, LLC, a

- | | |
|---|--|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <u> </u> |

State of Incorporation or organization: New York

Relationship to your company: Subsidiary

[Add additional sheets if necessary.]

DISCLOSURE



City of Bridgeport

Bid 1612-002

6. Identify any parent, affiliate or subsidiary organization of the Business.

(a) Company's name , a

- | | |
|---|---|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <input type="text"/> |

State of Incorporation or organization:

Relationship to your company:

(b) Company's name , a

- | | |
|---|---|
| <input type="checkbox"/> a corporation | <input type="checkbox"/> a general partnership |
| <input checked="" type="checkbox"/> a limited liability company | <input type="checkbox"/> a sole proprietorship |
| <input type="checkbox"/> a limited liability partnership | <input type="checkbox"/> other <input type="text"/> |

State of Incorporation or organization:

Relationship to your company:

[Add additional sheets if necessary.]

DISCLOSURE



City of Bridgeport

Bid 1612-002

7. Has the Business, any parent, affiliate or subsidiary company, or any of their respective officers, directors, owners, general partners, managing members, employees, or agents ever been convicted of, entered a plea of guilty, entered a plea of *nolo contendere*, or otherwise admitted to:

- | | <u>Yes</u> | <u>No</u> |
|---|--------------------------|-------------------------------------|
| a) the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b) the violation of any state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a municipal contractor? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c) the violation of any state or federal antitrust, collusion or conspiracy law arising out of the submission of bids or proposals to a public or private contract or subcontract? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d) fraudulent, criminal or other seriously improper conduct while participating in a joint venture or similar arrangement. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e) willfully failing to perform in accordance with the terms of one or more public contracts, agreements or transactions? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f) having a history of failure to perform or a history of unsatisfactory performance of one or more public contracts, agreements or transactions? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g) willfully violating a statutory or regulatory provision or requirement applicable to a public contract, agreement or transaction? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

IF YOU ANSWER YES TO ANY PART OF PARAGRAPH 7, EXPLAIN ON AN ATTACHED SHEET.

DISCLOSURE



City of Bridgeport

Bid 1612-002

8. Initial as appropriate below:

None of the persons listed herein is related by blood or marriage to any City of Bridgeport government official or employee. (Initial)

OR

One or more of the persons listed herein is related by blood or marriage to a City of Bridgeport government official or employee. *(Explain in detail below or attach additional sheet if necessary).* (Initial)

9. Does the Business, any parent, affiliate or subsidiary company, or any of their respective officers, directors, owners, general partners, managing members, employees, or agents have any business or familial relationship, through ownership, directorship, contractual arrangement, control, or other arrangement with any of the subcontractors to be used on the work involved in the bid for which this form is being submitted?

IF YOU ANSWER YES TO ANY PART OF PARAGRAPH 9, EXPLAIN ON AN ATTACHED SHEET.

10. Read and initial at the end of the following paragraph:

BY INITIALING BELOW, THE UNDERSIGNED REPRESENTS THAT THERE EXISTS NO KNOWN OR SUSPECTED CONFLICTS OF INTEREST BETWEEN THE BUSINESS, ITS PARENT, AFFILIATES OR SUBSIDIARIES AND THE CITY OF BRIDGEPORT.

(Initial)

DISCLOSURE

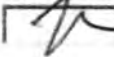


City of Bridgeport

Bid 1612-002

11. Read and initial at the end of the following paragraph:

BY INITIALING BELOW, THE UNDERSIGNED UNDERSTANDS THAT THE DUTY TO PROVIDE THE INFORMATION REQUESTED IN THIS FORM IS A CONTINUING OBLIGATION AND THAT THE INFORMATION REQUIRED BY THIS FORM MUST AND WILL BE PROMPTLY UPDATED UPON ANY CHANGE.

 (Initial)

WARNING: Falsifying information on this form, or failing to promptly notify the City of changes to the information contained in it during the course of the Business's performance of the work will constitute a default under any contract or purchase order awarded to the Business, and will permit the City to terminate its contract with the Business and pursue its legal rights and remedies as to such Business.

Dated 2/21/2015

Michael C. Cravotta

Name:

Title:

Finance

duly-authorized



An architectural rendering of a multi-story building. The ground floor features a dark storefront with large windows and a sign that reads "ESV". The upper floors have a light-colored facade with arched windows and balconies. The building is situated on a street corner with a crosswalk, and there are people walking and a car driving in the foreground. The sky is blue with some clouds.

II. CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN

CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



ARCHITECTURAL NARRATIVE

Date: 02-13-17

Solicitation 1612-002

REQ for Expression of Development Interest / Majestic and Poli Theater mixed use development project

We are pleased to respond to the Request for Expression of Interest to revitalize the main downtown corridor and entry way to the City of Bridgeport. This is an iconic opportunity to provide market rate and mixed income affordable housing units, desired retail uses complementing residential occupancy, parking, community facility and the reopening of the historic theater among some of the proposed uses. In total, we are proposing approximately 130,000 Sq. Ft. of hotel space with 200 hotel rooms, 727,040 Sq. Ft. of residential area comprising 844 Dwelling units (43) 0BR, (465) 1BR, (168) 2BR and (168) 3BR. We have incorporated 59,656 Sq. Ft. of retail and would propose to complete the project in three distinct phases as follows:

Phase 1 (Building A & Building B)

Building A (located on Site 1) - Poli Palace Theatre and former Majestic Theatre and former Savoy Hotel.

- We are proposing to renovate and reopen the former Majestic Theatre with approximately 2,200 seats while incorporating local and regional performing art groups by engaging them to use this renovated landmark space as a performance venue. Paying homage to the historical significance of the theater, this space will be renovated to its original magnificence and deeded back to the City of Bridgeport as a condominium unit within the larger building. We have engaged the services of the renowned preservation architectural firm BCA (Building Conservation Association) to lead the historical preservation and rehabilitation of this national landmark.
- In addition, we are planning to rehabilitate (3) on grade retail spaces (approximately 4,500 Sq. Ft.) that will also provide uses complimentary to the Hotel.
- The former Poli Palace Theatre entrance will be renovated to its original historic luster and will be the new entrance to the Savoy Hotel.
- A portion of the existing Poli Palace Theatre (approximately 7,000 Sq. Ft.) will be re-purposed as a gym or another healthy lifestyle venue to support and promote healthy lifestyles and fitness activities in this revitalized community.
- The portion of the Poli Palace Theatre facing Congress street (16,000 Sq. Ft. approximately) will be re-purposed as a ball room or entertainment venue for hosting banquets, conferences, weddings, graduations, gala's, parties etc. and will also compliment and support the newly renovated hotel.
- The second floor and double height spaces of the Poli Palace Theatre with its own entrance will be re-used as a family friendly indoor recreational venue like a Dave and Busters or an indoor fun park This space will be provided with its own vertical circulation and egress components.
- The existing Savoy Hotel will be rehabilitated to comply with the today's modern Hotel standards and CT code regulations. We are proposing an additional two floors on top of the existing structure increasing the room count to a 200-room hotel.

CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



ARCHITECTURAL NARRATIVE

Building B (located on Site 2)

- Building "B" will be 18 stories and will include 254,516 Sq. Ft. of residential area, 296 Dwelling units (15) 0BR, (163) 1BR, (59) 2BR and (59) 3BR. We are proposing 14,356 Sq. Ft. of retail
- We are proposing an 18-story tower with multiple private terraces appurtenant to their respective units. The first setback is proposed at the 5th floor to comply with the current zoning regulations and to continue with the same street wall exposure scale as the rest of the existing nearby developments.
- We are using the site's natural slope to connect from one street to the other. We will provide a vanishing point at the waterfront park and from this point angles out to maximize the view from the park to the Theater. The intention is to visually and fiscally connect the landmark Theater and the waterfront park. Site 2 will provide a pedestrian plaza that connects Main Street and Housatonic Avenue via an ADA ramp. The entire street level will provide retail sidewalk access from the street frontage as well from the plaza.
- Parking access will be provided from Housatonic Avenue and will be located behind retail spaces and below ground fronting on Main Street.

Phase 2 (Building C & Building D)

Building C (located on Site 2)

- Building "C" will be 18 stories and will include 197,824 Sq. Ft. of residential area, 230 Dwelling units (13) 0BR, (127) 1BR, (45) 2BR and (45) 3BR. We are proposing 11,300 Sq. Ft. of retail
- Similar to Building B, this 18-story tower will have multiple private terraces appurtenant to their respective units. The first setback is proposed at the 5th floor to comply with the current zoning regulations and to continue with the same street wall exposure scale as the rest of the existing nearby developments.
- And again, similar to Building, B we plan to use the site's natural slope to connect from one street to the other. We will provide a vanishing point at the waterfront park and from this point angles out to maximize the view from the park to the Theater. The intention is to visually and fiscally connect the landmark Theater and the waterfront park. Site 2 will provide a pedestrian plaza which connects Main Street and Housatonic Avenue via an ADA ramp. The entire street level will provide retail sidewalk access from the street frontage as well from the plaza.
- Parking access will be provided from Housatonic Avenue and will be located behind retail spaces and below ground fronting on Main Street.

Building D (located on Site 3a)

- This building's design includes 94,700 Sq. Ft. of residential area, 110 Dwelling units (5) 0BR, (61) 1BR, (22) 2BR and (22) 3BR. We are proposing 12,000 Sq. Ft. of retail

CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



ARCHITECTURAL NARRATIVE

- We are proposing one 10-story building. The first setback is proposed at the 5th floor in order to comply with the current zoning regulations and to continue with the same street wall exposure scale as the rest of the existing nearby developments.
- We are using the site's natural slope to provide parking underground and maintain all retail at sidewalk access and improve security on the site by avoiding low illuminated uses above ground.

Phase 3

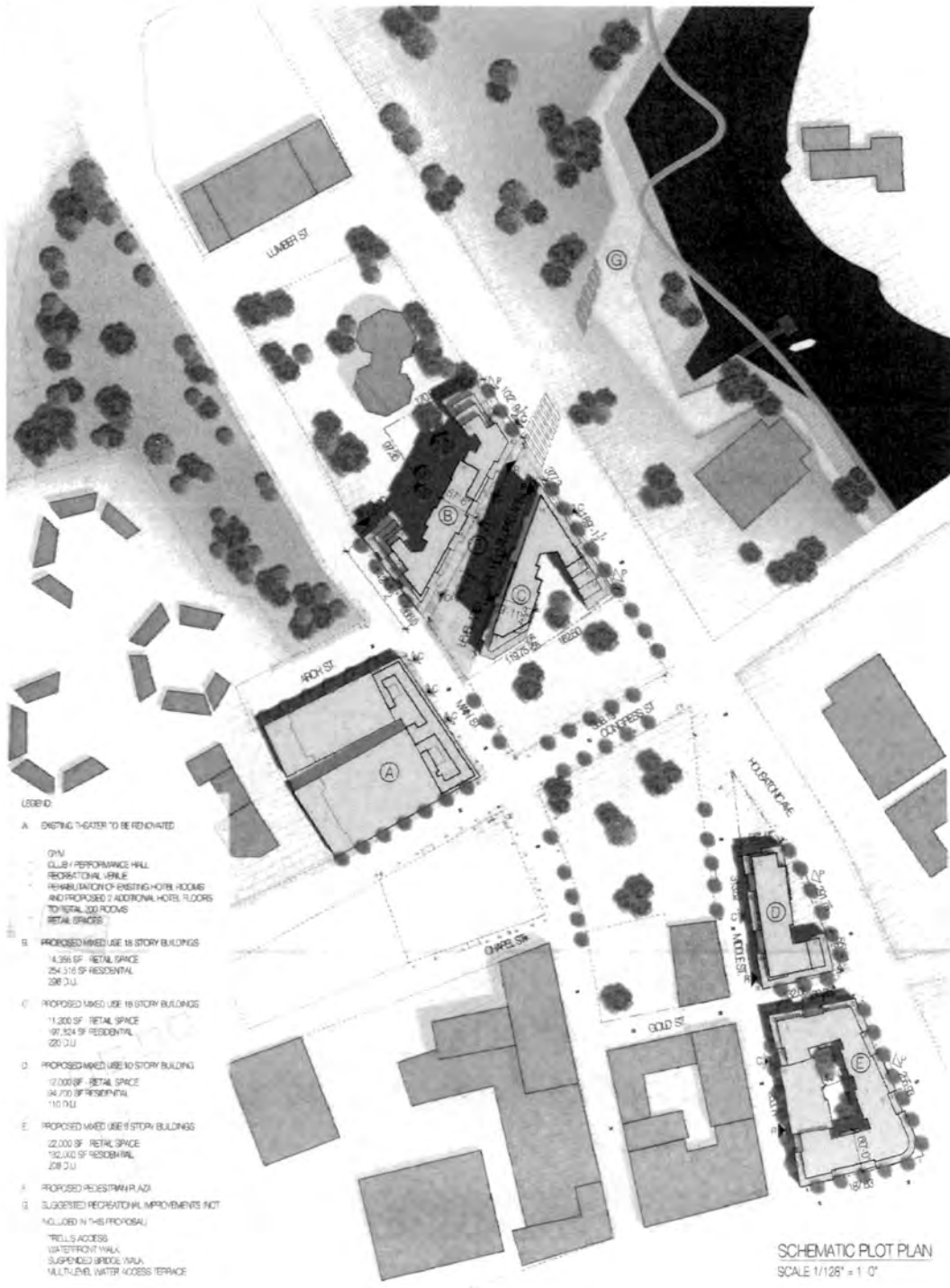
Building E (located on Site 3b)

- This building includes 182,000 Sq. Ft. of residential area, 208 Dwelling units (10) 0BR, (114) 1BR, (42) 2BR and (42) 3BR. We are proposing 22,000 Sq. Ft. of retail
- We are proposing one 8-story building to connect from the 18-story towers down to 8-story and blend with the context of the existing site. The first setback is proposed at the 5th floor in order to comply with the current zoning regulations and to continue with the same street wall exposure scale as the rest of the existing nearby developments.
- We are using the site's natural slope to provide parking underground and maintain all retail at sidewalk access and improve security on the site by avoiding low illuminated uses above ground.
- The building amenities will include of the following:
 - Onsite parking area.
 - Bicycle parking.
 - Laundry room.
 - Lounge area.
 - Private indoor recreation area.
 - Indoor health club.
 - Outdoor rec. area with areas to be activated by all ages (passive areas and active areas).
 - Outdoor grilling areas.
- The buildings will include the following Green elements in order to reduce energy consumption and promote healthier living. Some examples are cited below:
 - Energy star appliances in every apartment.
 - High efficiency natural gas boilers.
 - Additional wall and roof insulation exceeding code requirements and improving "R" value.
 - Air seal system.
 - Double pane low "E" window system
 - Low albedo colored roofs to reduce heat island effect.
 - Low maintenance façade materials.
 - Low / no VOC paints and adhesives.
 - LED energy efficient light fixtures.

CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SITE PLAN



MAJESTIC THEATER
1315 MAIN ST.
BRIDGEPORT, CT

AUFGANG ARCHITECTS
REQ FOR EXPRESSION OF DEV INTEREST / MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-002
02.22.17
ZONE OMO-100

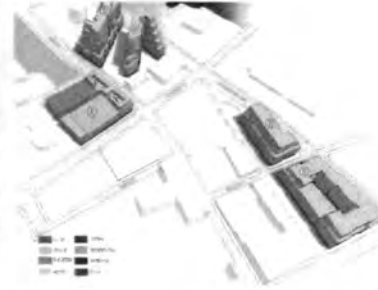
EXACT CAPITAL
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SCHEMATIC SITE PLAN



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



MAPS & CALCULATIONS



FLOOR	TOTAL SF	GROSS SF	PARKING SF	RETAIL SF	RESI SF
1	126229	94594	11221	20773	
2	82394	0	0	45159	42235
3	82394	0	0	0	82394
4	82394	0	0	0	82394
5	82394	0	0	0	82394
6	80779	0	0	0	80779
7	35969	0	0	0	35969
8	35969	0	0	0	35969
9	35969	0	0	0	35969
10	24324	0	0	0	24324
11	24324	0	0	0	24324
12	24324	0	0	0	24324
13	21895	0	0	0	21895
14	21895	0	0	0	21895
15	21895	0	0	0	21895
16	17010	0	0	0	17010
17	17010	0	0	0	17010
18	17010	0	0	0	17010
TOTAL	296947	94594	36590	748173	304
D.J.					304



MAJESTIC THEATER
1315 MAIN ST.
BRIDGEPORT, CT

AUFGANG ARCHITECTS

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-002
02.22.17
ZONE DVD-100

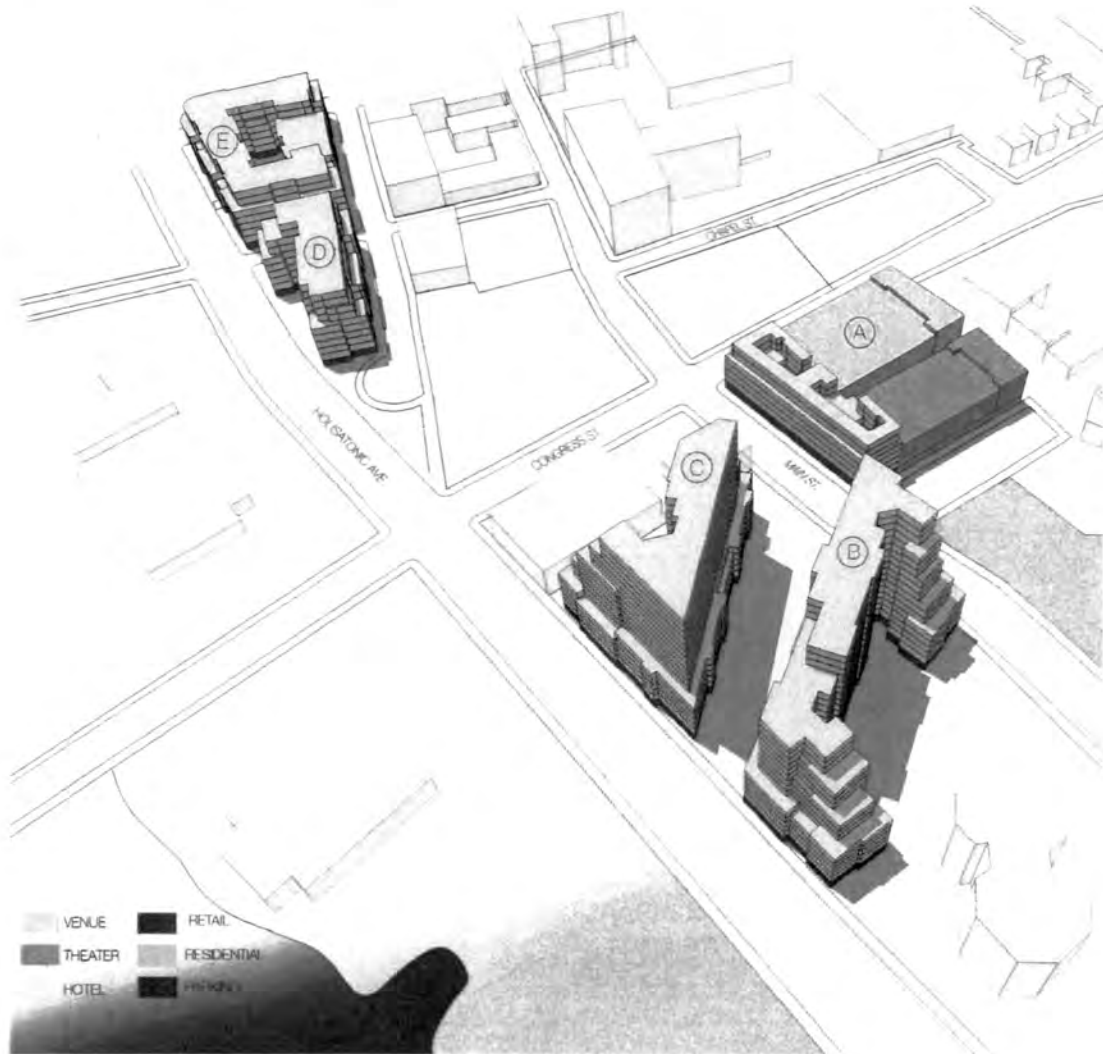
E XACT CAPITAL
C-002.00
MAPS & SQUARE
FOOTAGE BREAKDOWN



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: 3D MASSING



**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1512-002

02.22.17
ZONE D1-D-100

EXACT CAPITAL

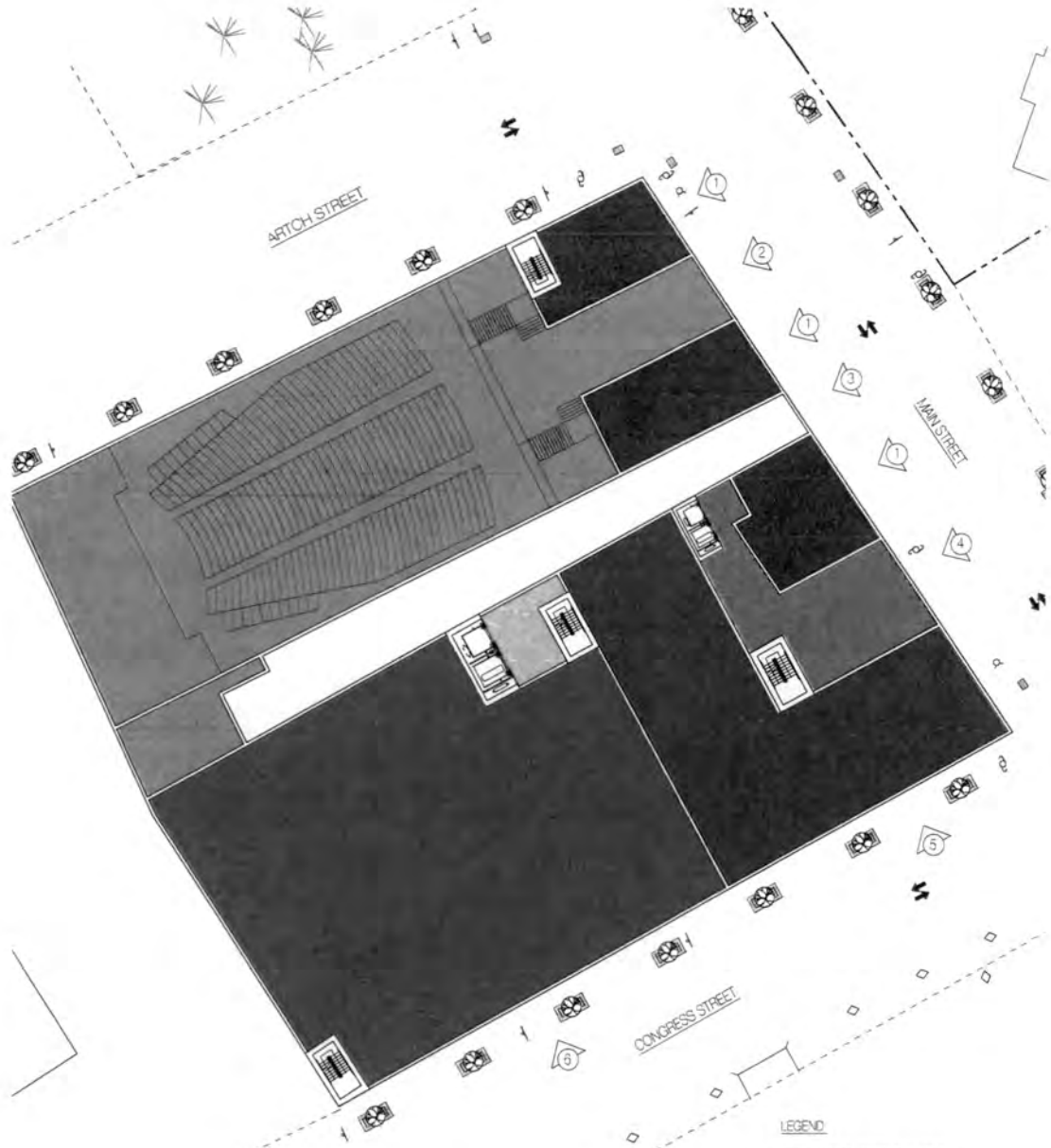
A-001.00
SCHEMATIC 3D MASSING



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: THEATER



THEATER
SCHEMATIC 1ST FLOOR PLAN
NOT TO SCALE



- LEGEND**
- RETAIL ENTRANCE
 - THEATER ENTRANCE
 - 2ND FLOOR RECREATIONAL VENUE ENTRANCE
 - HOTEL ENTRANCE
 - GYM ENTRANCE
 - CLUB / PERFORMANCE
 - ALL ENTRANCE
 - RETAIL SPACES (4,500 SF)
 - GYM (7,000 SF)
 - HOTEL LOBBY
 - EXISTING THEATER TO BE RENOVATED
 - CLUB / PERFORMANCE HALL (16,000 SF)
 - REHABILITATION OF EXISTING HOTEL ROOMS
 - RECREATIONAL VENUE (20,000 SF)
 - PROPOSED 2 ADDITIONAL HOTEL FLOORS TOTALING 200 ROOMS

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV
PROJECT - SOLICITATION 1/11 2-012
02.22.17
ZONE D1D-100

EXACT CAPITAL

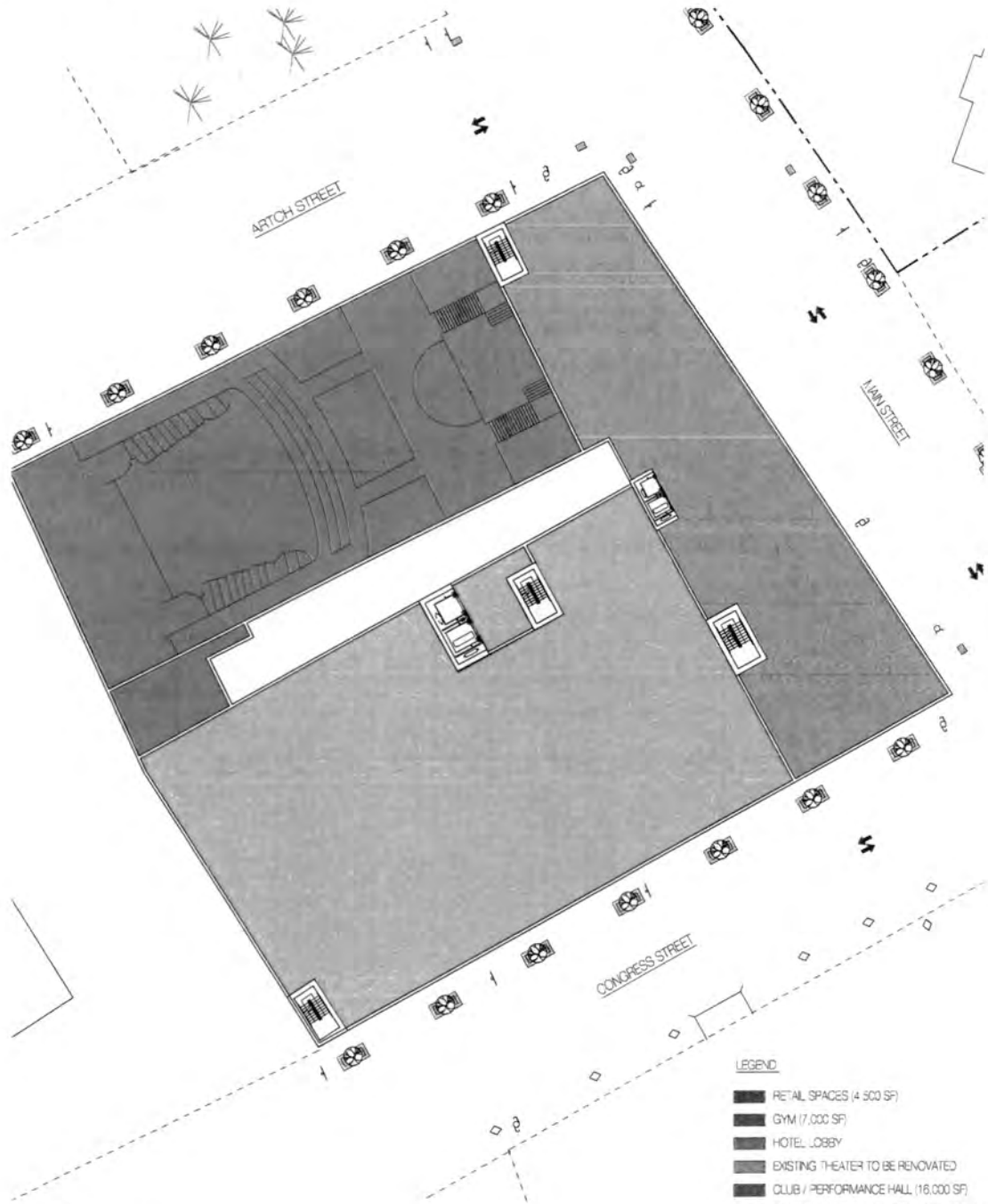
**A-100.00
SCHEMATIC PLANS**



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: THEATER



THEATER
SCHEMATIC 2ND FLOOR PLAN
NOT TO SCALE



LEGEND

- RETAIL SPACES (4,500 SF)
- GYM (7,000 SF)
- HOTEL LOBBY
- EXISTING THEATER TO BE RENOVATED
- CLUB / PERFORMANCE HALL (16,000 SF)
- REHABILITATION OF EXISTING HOTEL ROOMS
- RECREATIONAL VENUE (20,000 SF)
- PROPOSED 2 ADDITIONAL HOTEL FLOORS
TOTALING 200 ROOMS

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-102

02.22.17
ZONE D1D-103

EXACT CAPITAL

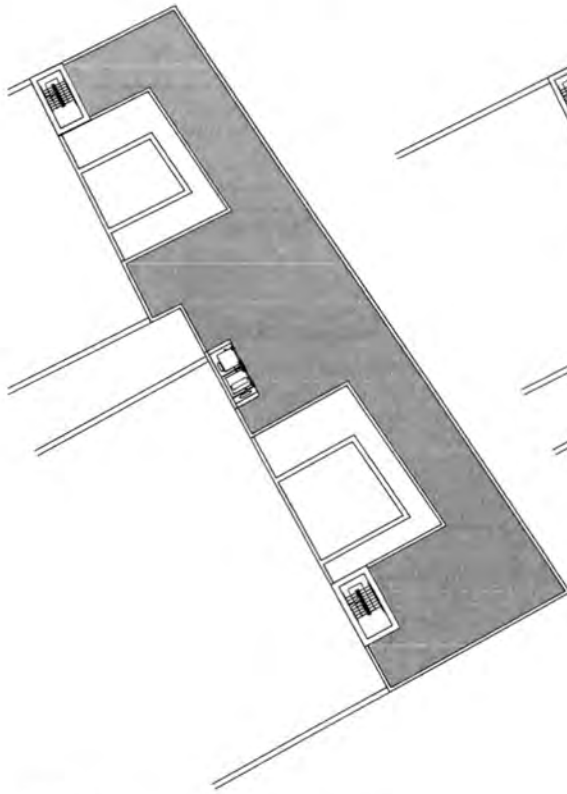
**A-101.00
SCHEMATIC PLANS**



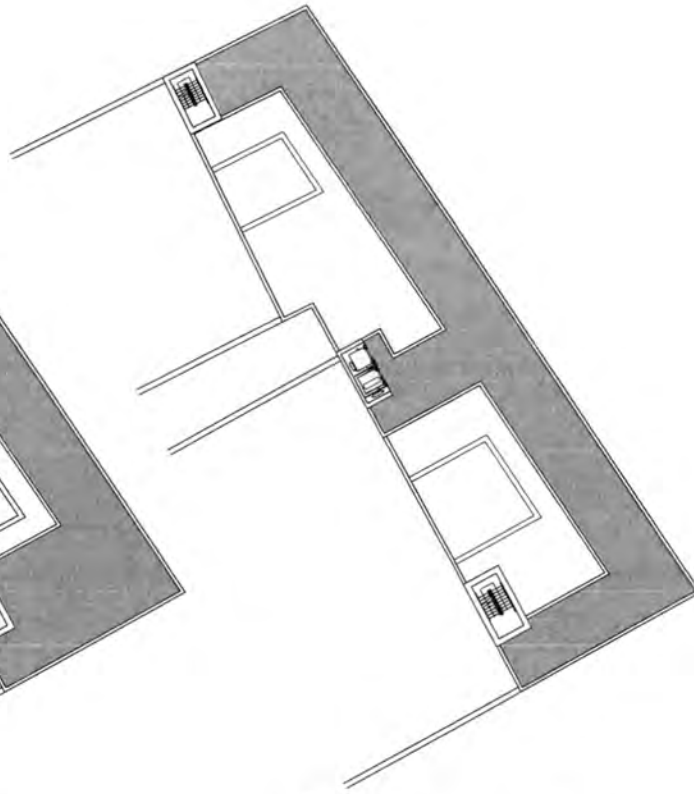
CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: THEATER



THEATER
SCHEMATIC 3RD & 4TH FLOOR PLAN
NOT TO SCALE



THEATER
SCHEMATIC 5TH FLOOR PLAN
NOT TO SCALE

LEGEND

- RETAIL SPACES (4,500 SF)
- GYM (7,000 SF)
- -HOTEL LOBBY
- EXISTING THEATER TO BE RENOVATED
- CLUB / PERFORMANCE HALL (16,000 SF)
- REHABILITATION OF EXISTING -HOTEL ROOM
- RECREATIONAL VENUE (20,000 SF)
- PROPOSED 2 ADDITIONAL HOTEL FLOORS
TOTALING 200 ROOMS

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 11112-002

02.22.17
ZONE DM-100

EXACT CAPITAL

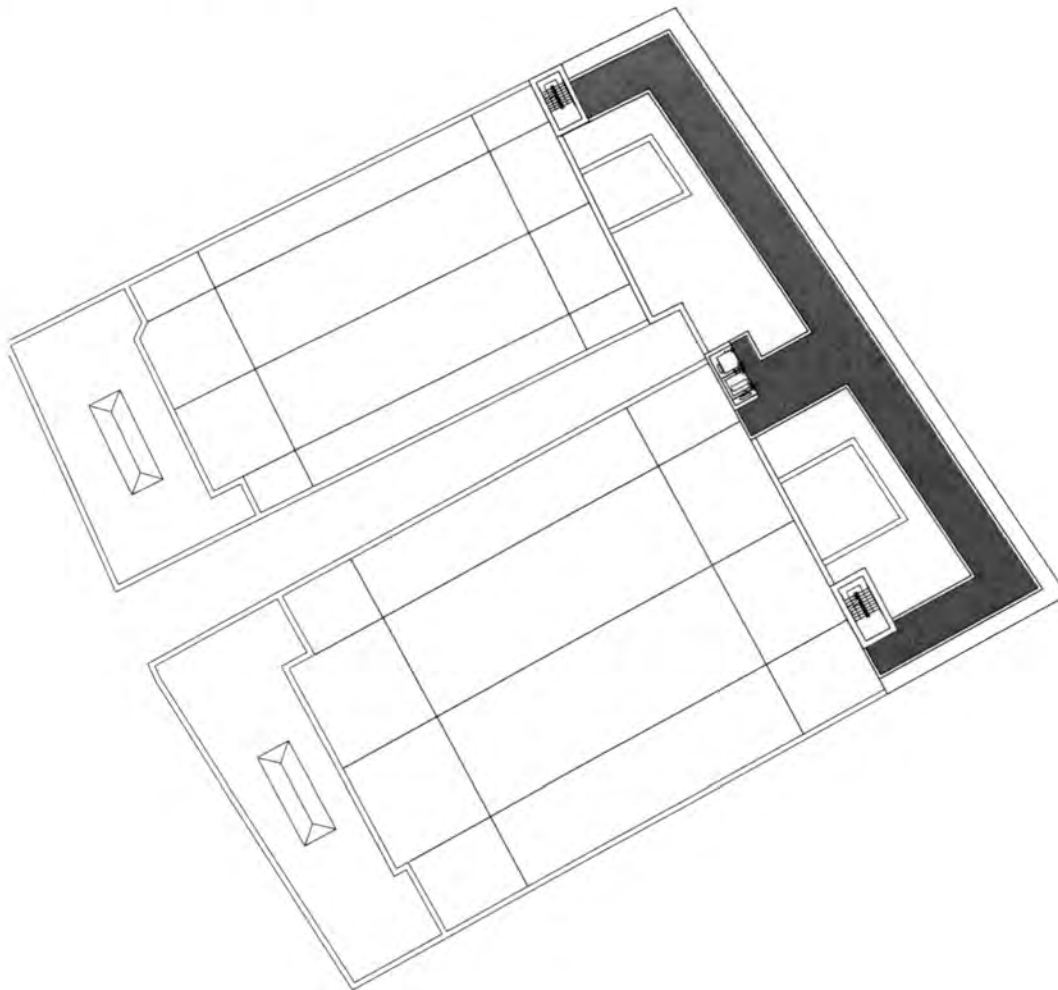
A-102.00
SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: THEATER



THEATER
SCHEMATIC 6TH & 7TH FLOOR PLAN
NOT TO SCALE



LEGEND:

- RETAIL SPACES (4,500 SF)
- GYM (7,000 SF)
- HOTEL LOBBY
- EXISTING THEATER TO BE RENOVATED
- CLUB / PERFORMANCE HALL (16,000 SF)
- REHABILITATION OF EXISTING HOTEL ROOM
- RECREATIONAL VENUE (20,000 SF)
- PROPOSED 2 ADDITIONAL HOTEL FLOORS
TOTALING 200 ROOMS

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV
PROJECT - SOLICITATION 1/12-002

02.22.17
ZONE DM-100

EXACT CAPITAL

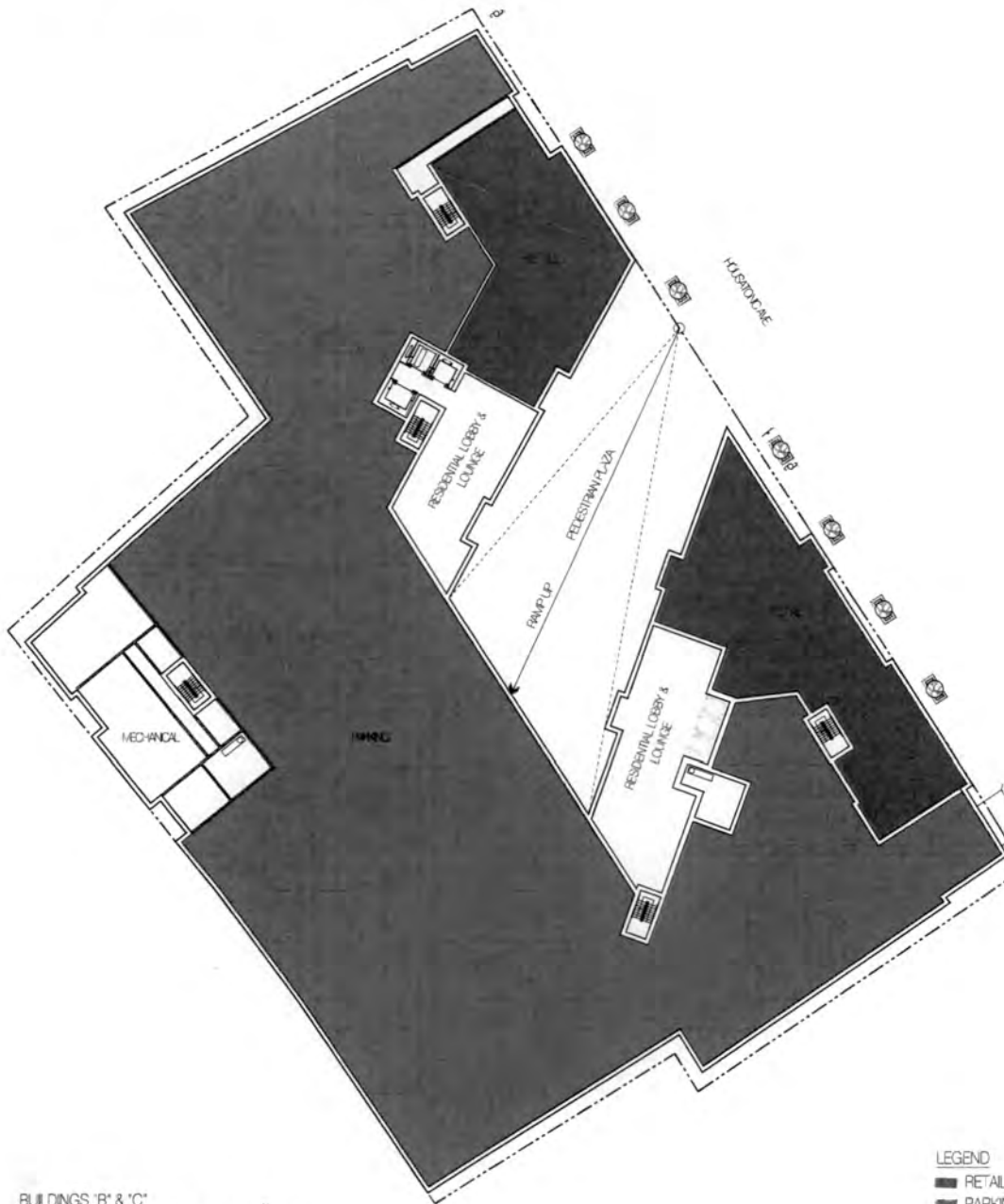
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING B & C



BUILDINGS 'B' & 'C'
SCHEMATIC 1ST FLOOR PLAN
NOT TO SCALE



- LEGEND
- RETAIL
 - PARKIN
 - RESIDE

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 16112-1X12

02.22.17
ZONE DND-TDD

EXACT CAPITAL

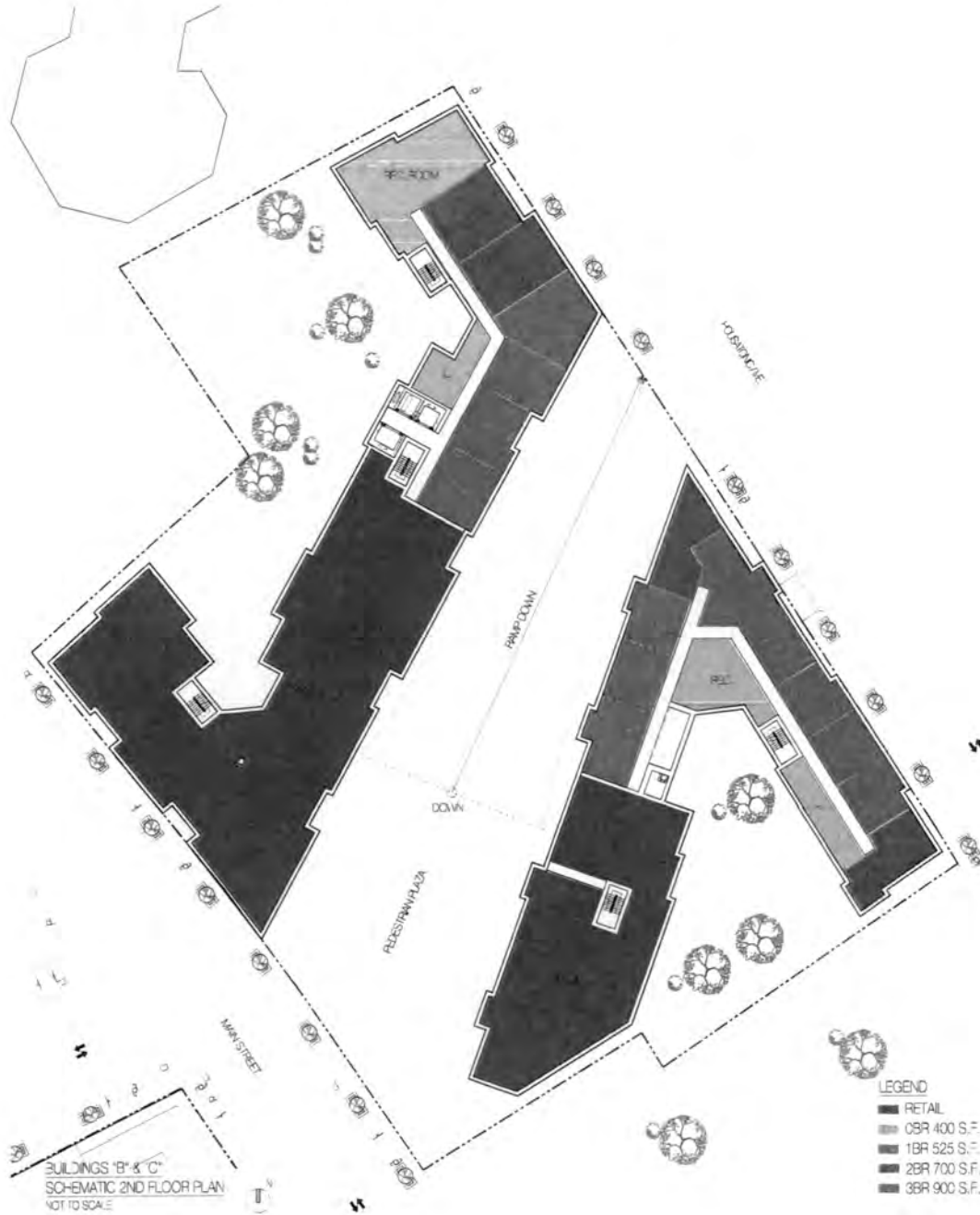
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING B & C



**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1/112-1/12

02.22.17
ZONE: D10-100

EXACT CAPITAL

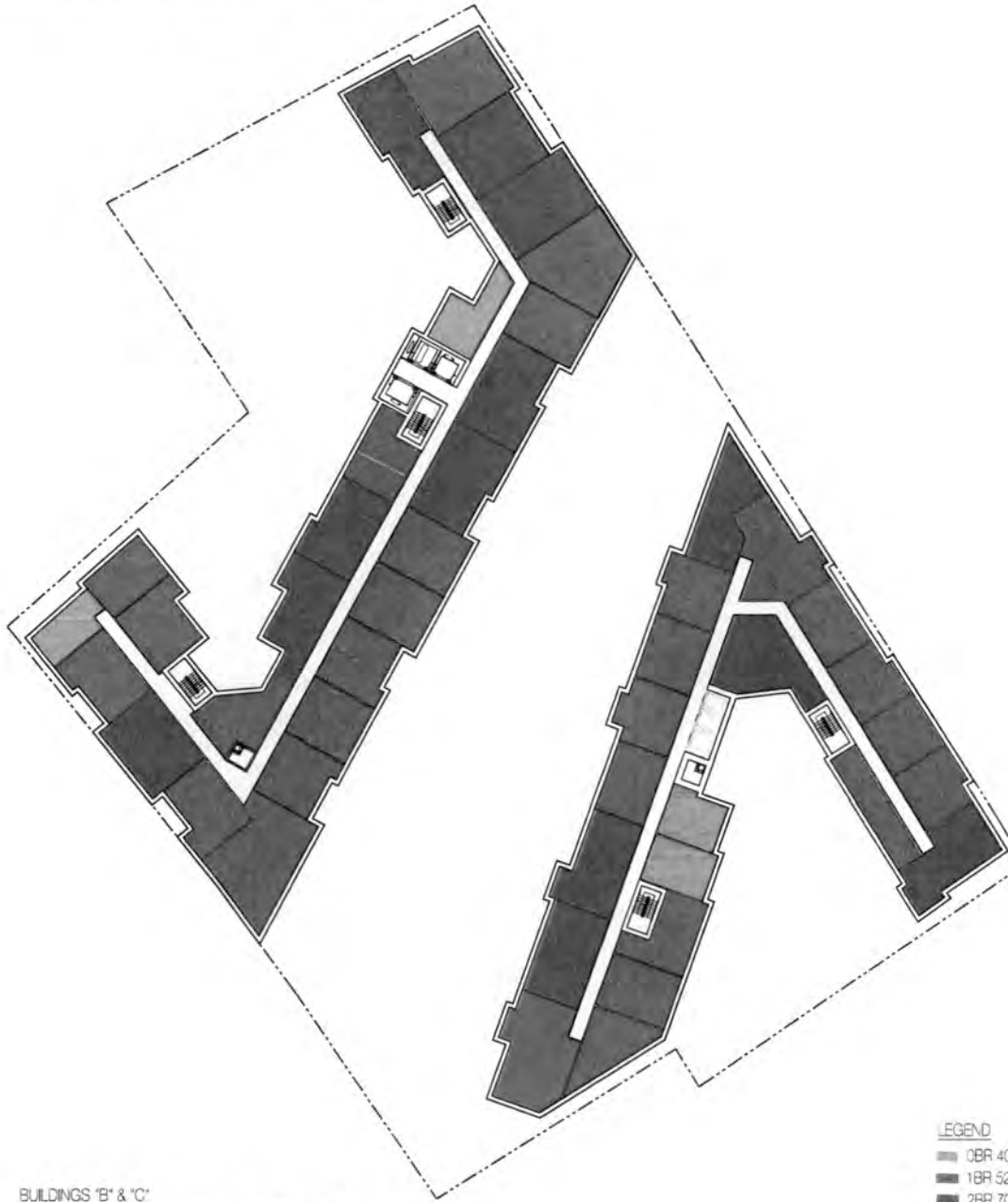
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING B & C



BUILDINGS "B" & "C"
SCHEMATIC 3RD THRU 5TH FLOOR PLAN
NOT TO SCALE



LEGEND

- 0BR 4C
- 1BR 52
- 2BR 7C
- 3BR 9C

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLJ THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1R12-1X12

02.22.17
ZONE 2ND-100

EXACT CAPITAL

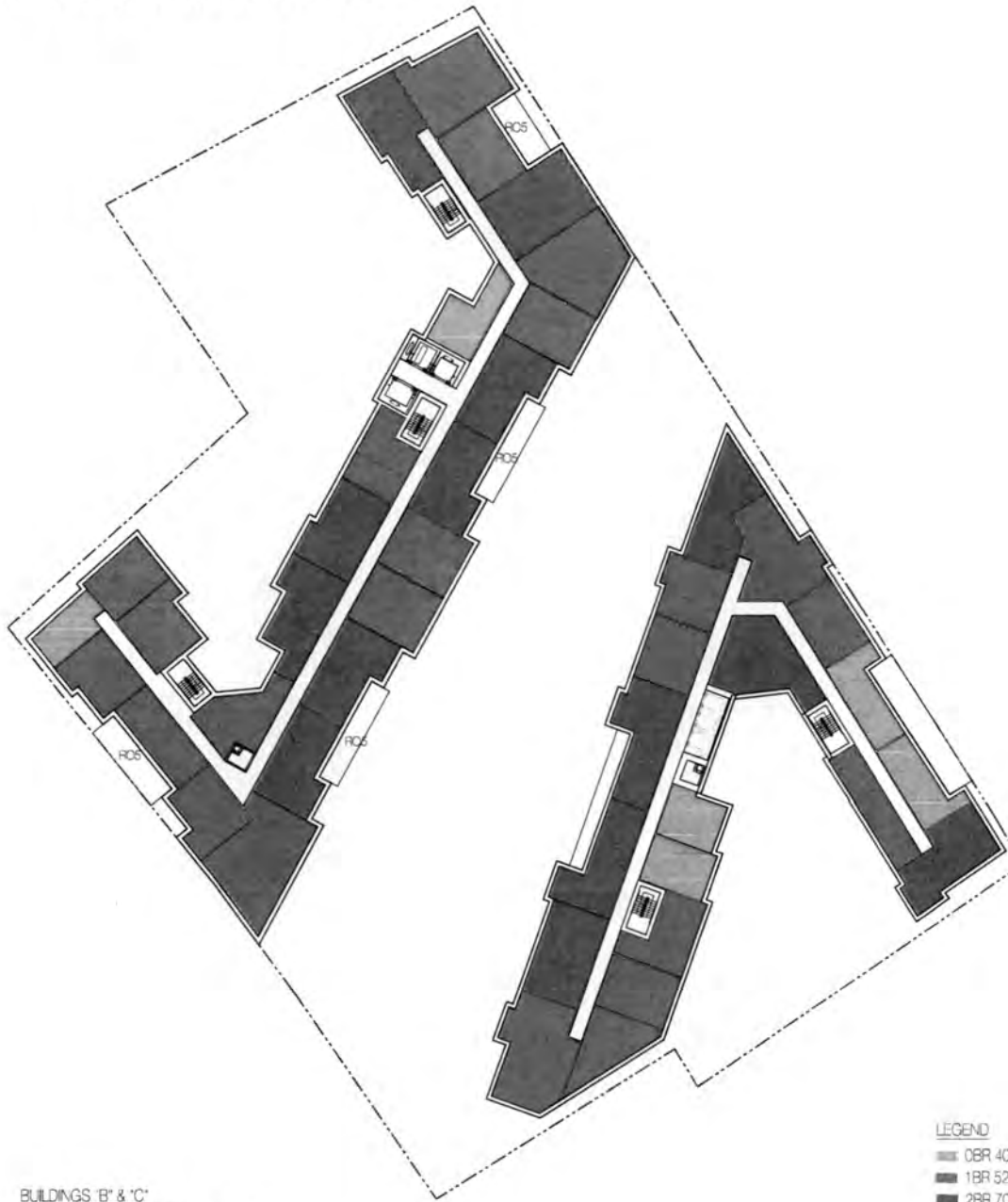
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING B & C



BUILDINGS 'B' & 'C'
SCHEMATIC 6TH FLOOR PLAN
NOT TO SCALE



- LEGEND
- ▒ OBR 4C
 - 1BR 52
 - 2BR 7C
 - 3BR 9C

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-XXJ2

02.22.17
ZONE DM-100

EXACT CAPITAL

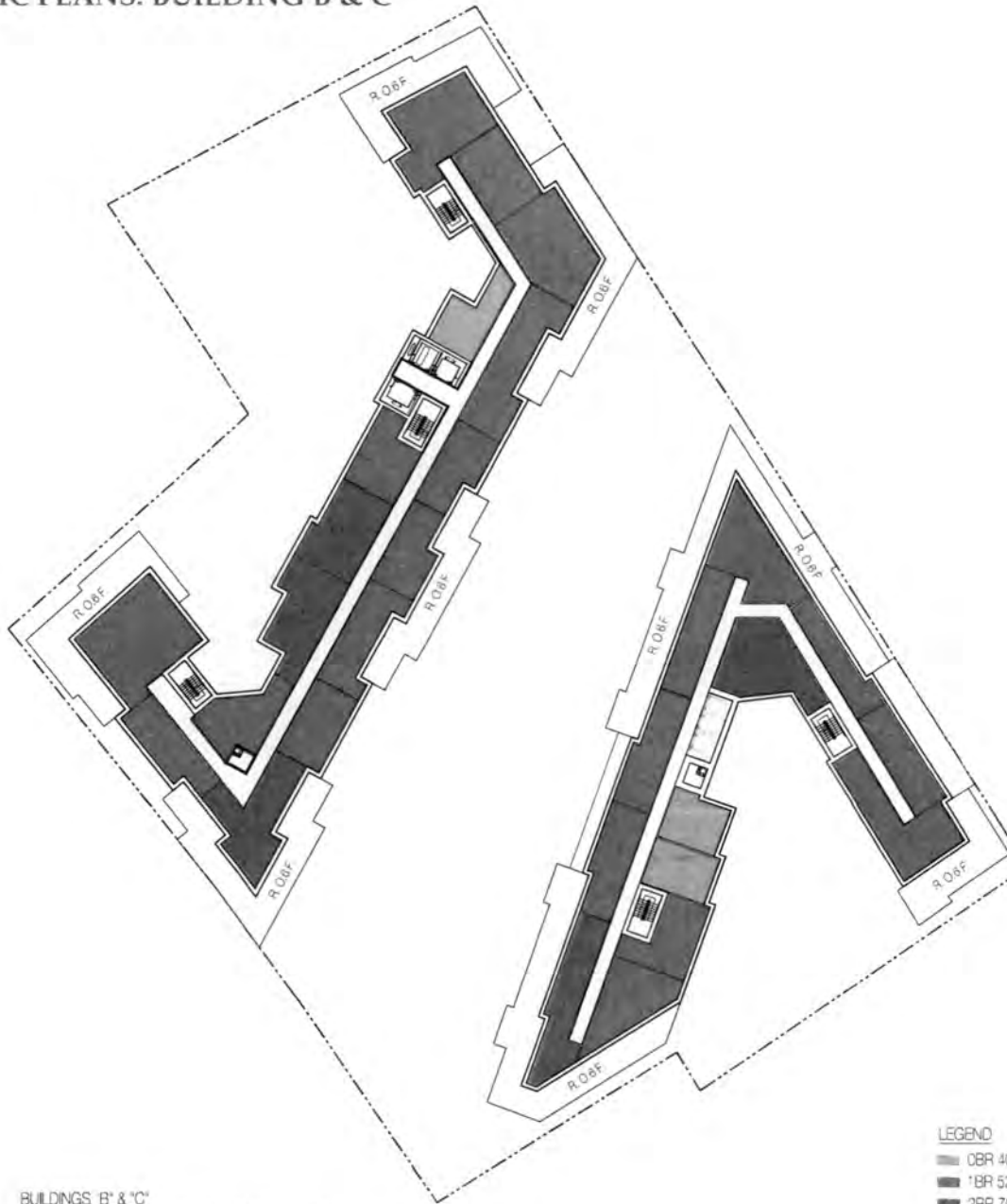
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING B & C



BUILDINGS B' & 'C'
SCHEMATIC / 7TH THRU 9TH FLOOR PLAN
NOT TO SCALE

- LEGEND**
- OBR 4C
 - 1BR 52
 - 2BR 7C
 - 3BR 9C

**MAJESTIC
THEATER**

1315 MAIN ST,
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV
PROJECT - SOLICITATION 1612-012
02.22.17
ZONE 31D-100

EXACT CAPITAL

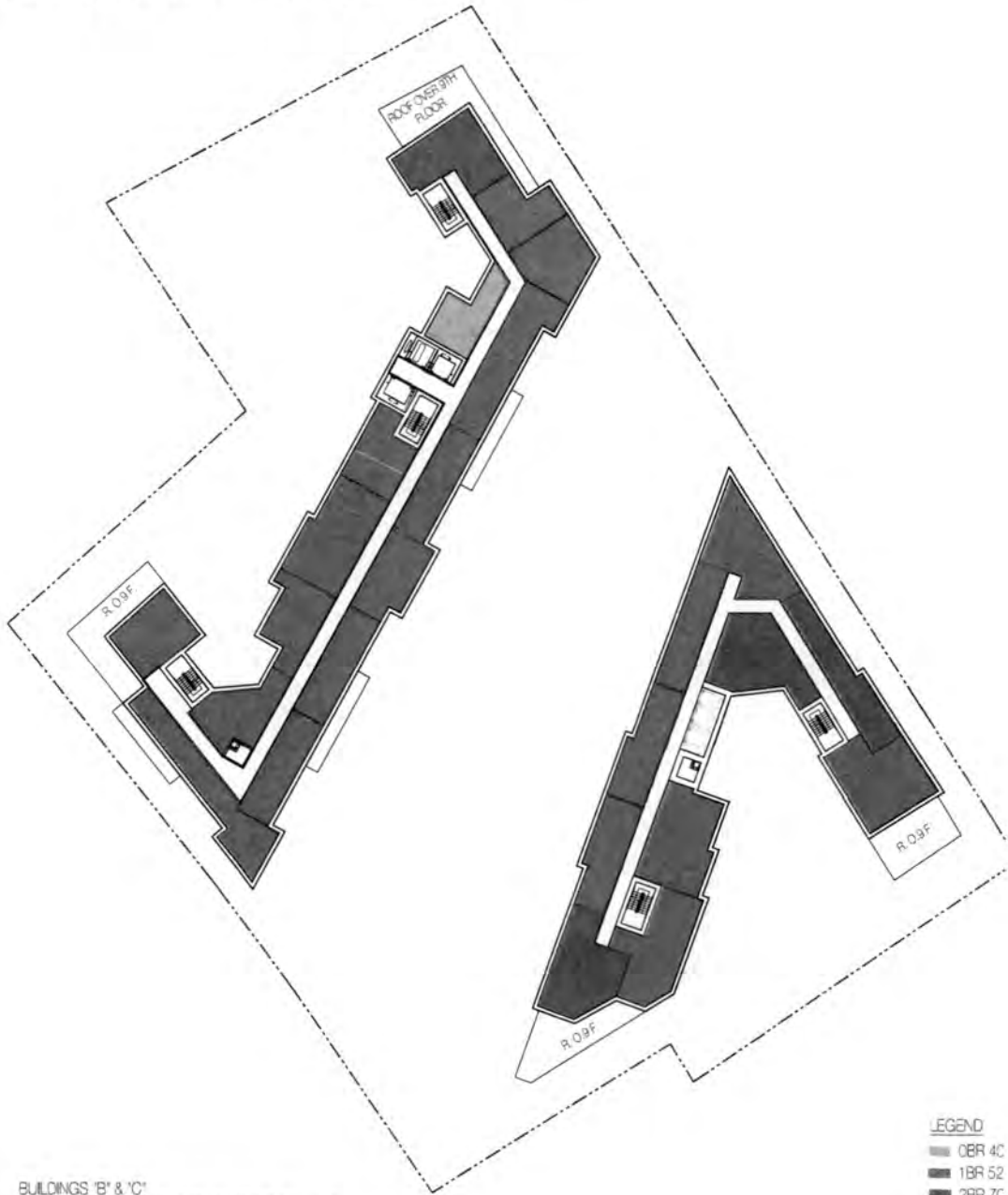
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING B & C



BUILDINGS 'B' & 'C'
SCHEMATIC 10TH THRU 12TH FLOOR PLAN
NOT TO SCALE



- LEGEND**
- OBR 4C
 - 1BR 52
 - 2BR 7C
 - 3BR 9C

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1R12-4372

02.22.17
ZONE DMO-100

EXACT CAPITAL

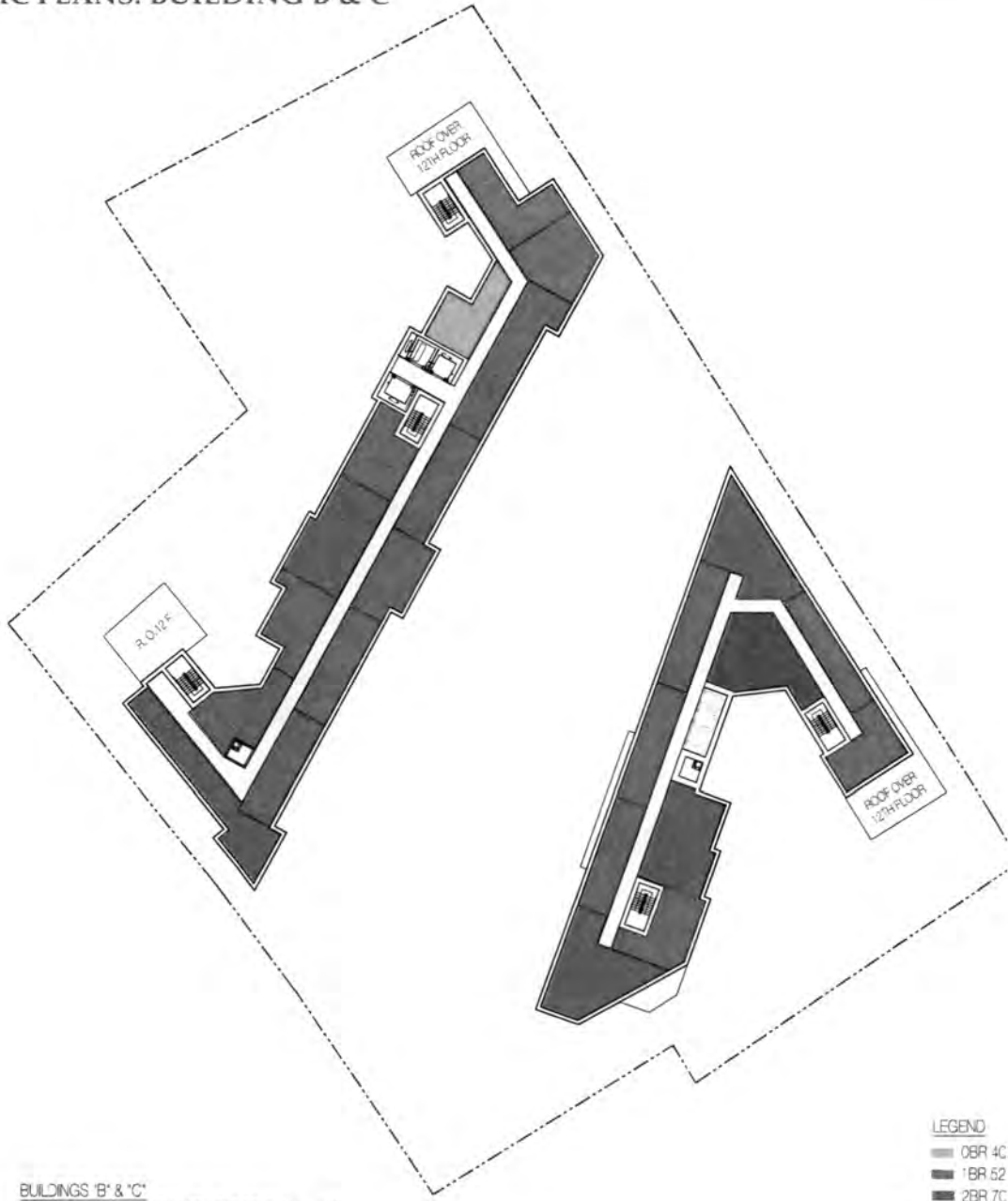
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING B & C



BUILDINGS 'B' & 'C'
SCHEMATIC: 13TH THRU 15TH FLOOR PLAN
NOT TO SCALE



- LEGEND
- 0BR 4C
 - 1BR 52
 - 2BR 7C
 - 3BR 9C

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV
PROJECT - SOLICITATION 1612-012

02.22.17
ZONE: M3-100

EXACT CAPITAL

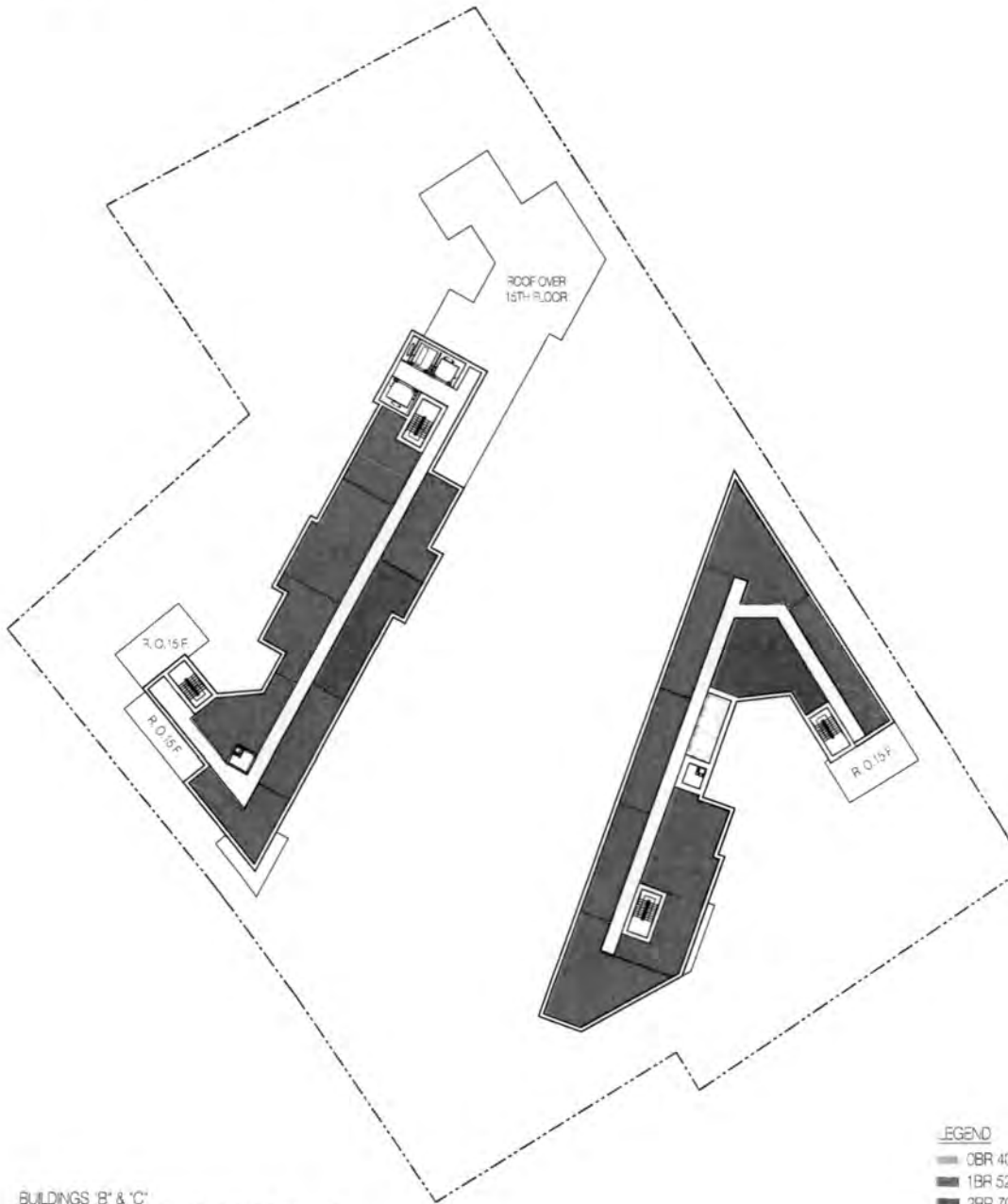
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING B & C



BUILDINGS 'B' & 'C'
SCHEMATIC 16TH THRU 18TH FLOOR PLAN
NOT TO SCALE



LEGEND

- ▬ 0BR 4C
- ▬ 1BR 52
- ▬ 2BR 7C
- ▬ 3BR 9C

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV/
PROJECT - SOLICITATION 11/12-012

02.22.17
ZONE 210-100

EXACT CAPITAL

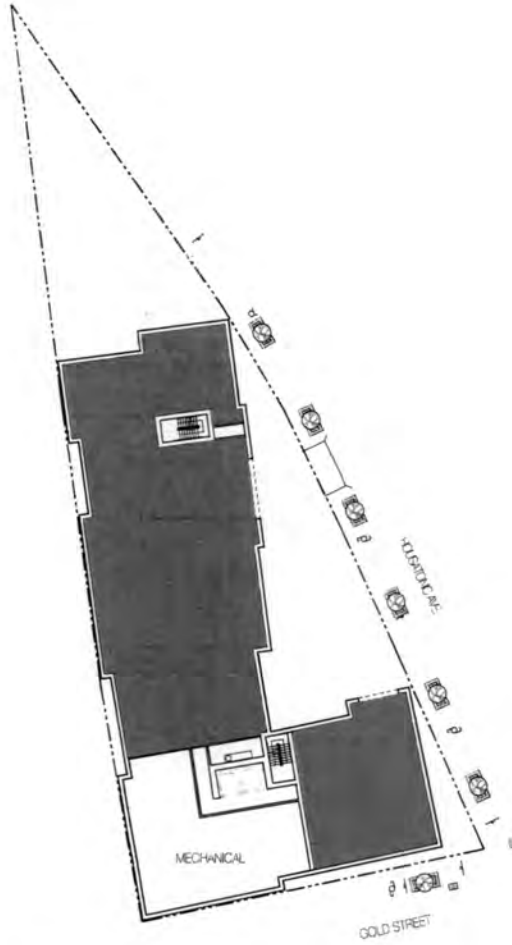
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING D



BUILDING "D"
SCHEMATIC 1ST FLOOR PLAN
NOT TO SCALE



LEGEND
 PARKIN
 RESIDE

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1812-002

02.22.17
ZONE JMD-100


EXACT CAPITAL

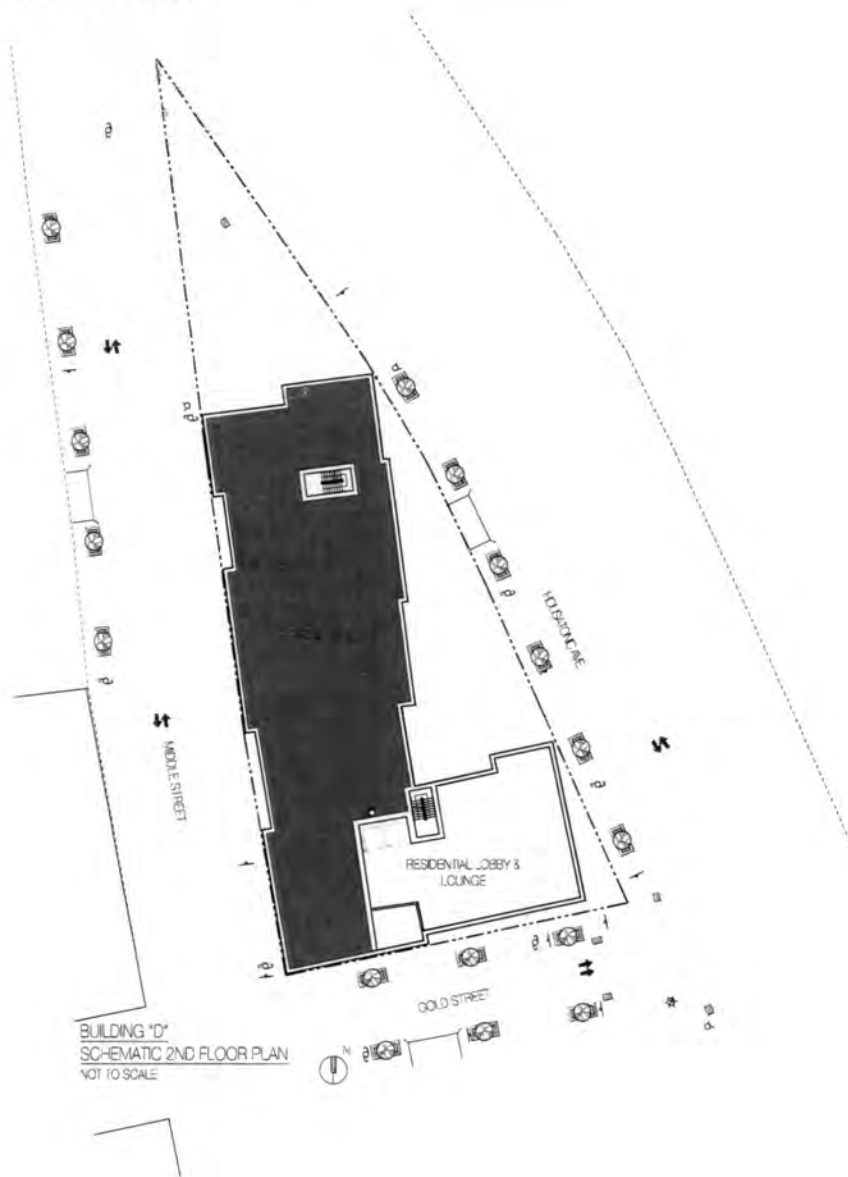
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING D



BUILDING "D"
SCHEMATIC 2ND FLOOR PLAN
NOT TO SCALE

LEGEND
 RETAIL
 RESIDE

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLJ THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-4002

02.22.17
ZONE 2ND-100


EXACT CAPITAL

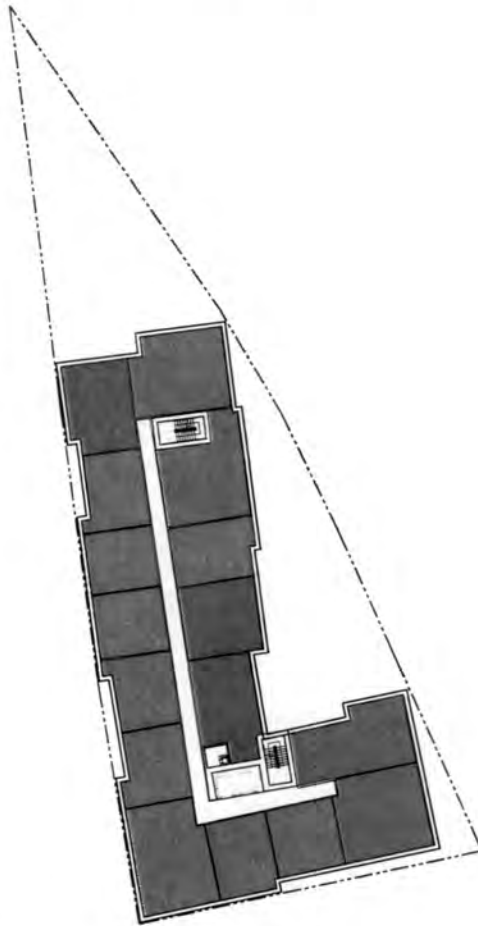
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SCHEMATIC PLANS



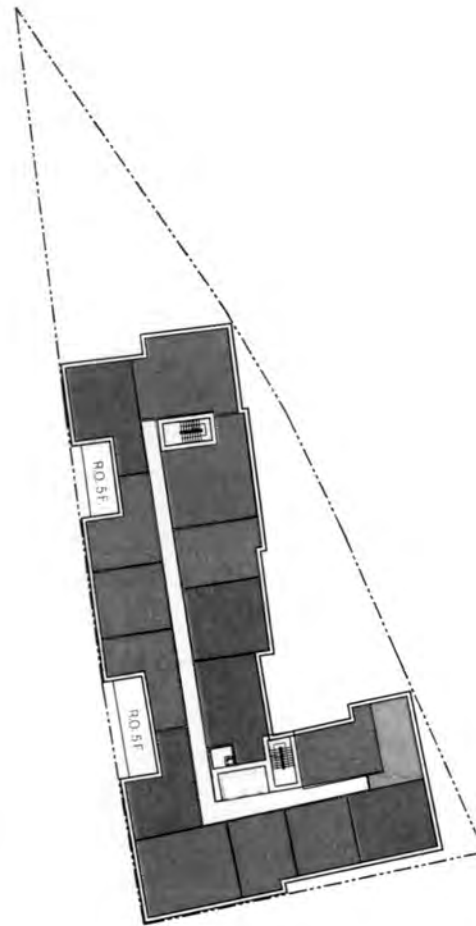
CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING D



BUILDING 'D'
SCHEMATIC 3RD THRU 5TH FLOOR PLAN
NOT TO SCALE



BUILDING 'D'
SCHEMATIC 6TH FLOOR PLAN
NOT TO SCALE



LEGEND

- CBR 4C
- 1BR 52
- 2BR 7C
- 3BR 9C

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ. FOR EXPRESSION OF DEV INTEREST,
MAJESTIC AND POLJ THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-002

02.22.17
ZONE DMD-100

EXACT CAPITAL

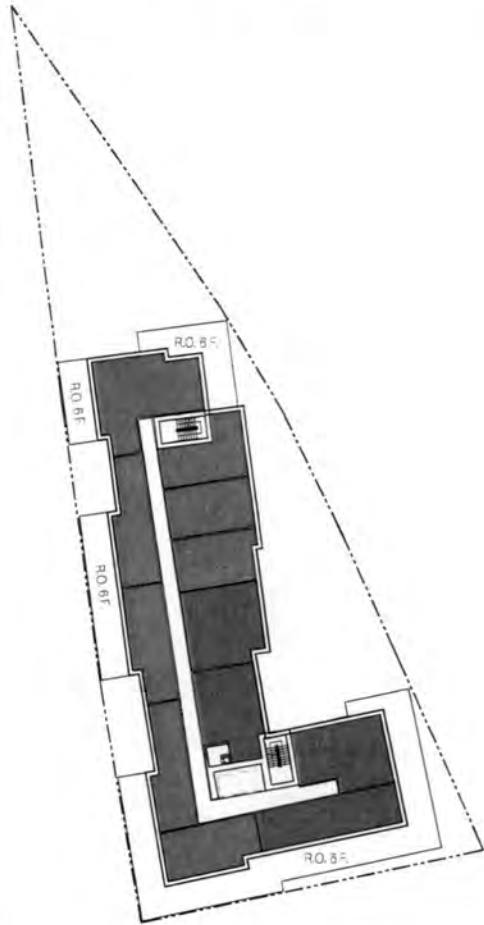
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SCHEMATIC PLANS



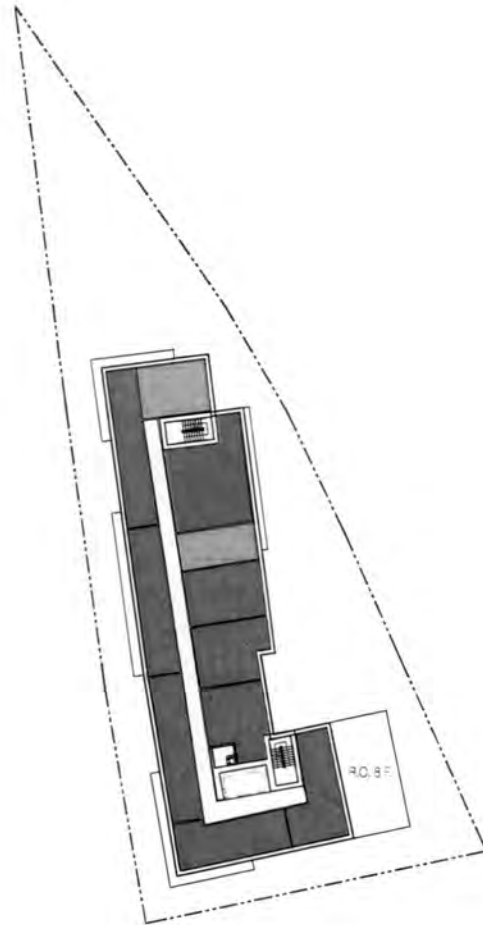
CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING D



BUILDING "D"
SCHEMATIC 7TH & 8TH FLOOR PLAN
NOT TO SCALE



BUILDING "D"
SCHEMATIC 9TH & 10TH FLOOR PLAN
NOT TO SCALE



- LEGEND
- CBR 40C
 - 1BR 52E
 - 2BR 70C
 - 3BR 90C

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-Y12

02.22.17
ZONE DMO-100

EXACT CAPITAL

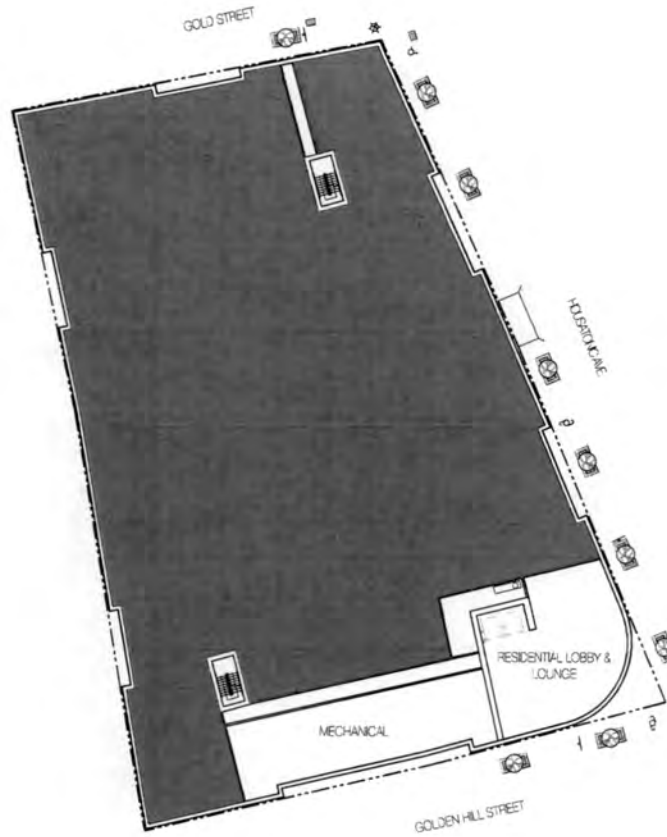
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING E



BUILDING 'E'
SCHEMATIC 1ST FLOOR PLAN
NOT TO SCALE



LEGEND
 PARKING
 RESIDENTIAL

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-002

02.22.17
ZONE DMO-TDD


EXACT CAPITAL

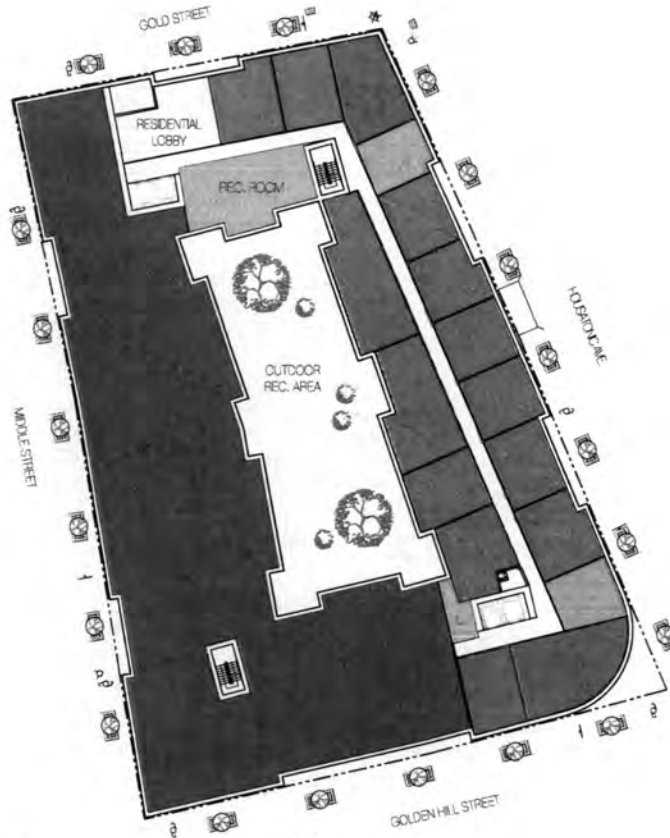
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING E



BUILDING 'E'
SCHEMATIC 2ND FLOOR PLAN
NOT TO SCALE



LEGEND

- RETAIL
- 0BR 400 S.F.
- 1BR 525 S.F.
- 2BR 700 S.F.
- 3BR 900 S.F.

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-0032

02.22.17
ZONE 2ND-100

EXACT CAPITAL

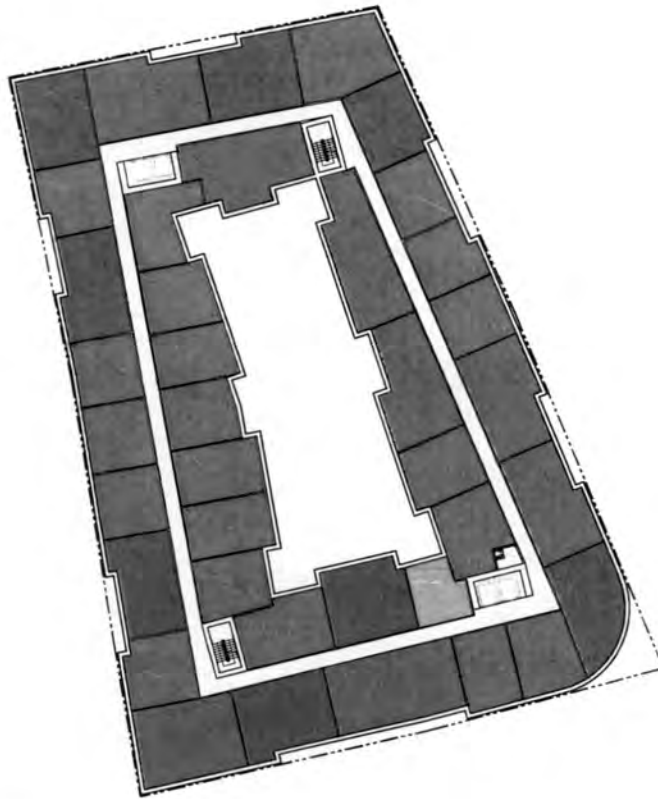
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SCHEMATIC PLANS**



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING E



BUILDING "E"
SCHEMATIC 3RD THRU 5TH FLOOR PLAN
NOT TO SCALE



LEGEND

- OBR 400 S.F.
- 1BR 525 S.F.
- 2BR 700 S.F.
- 3BR 900 S.F.

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-0072

02.22.17
ZONE DM-100

EXACT CAPITAL

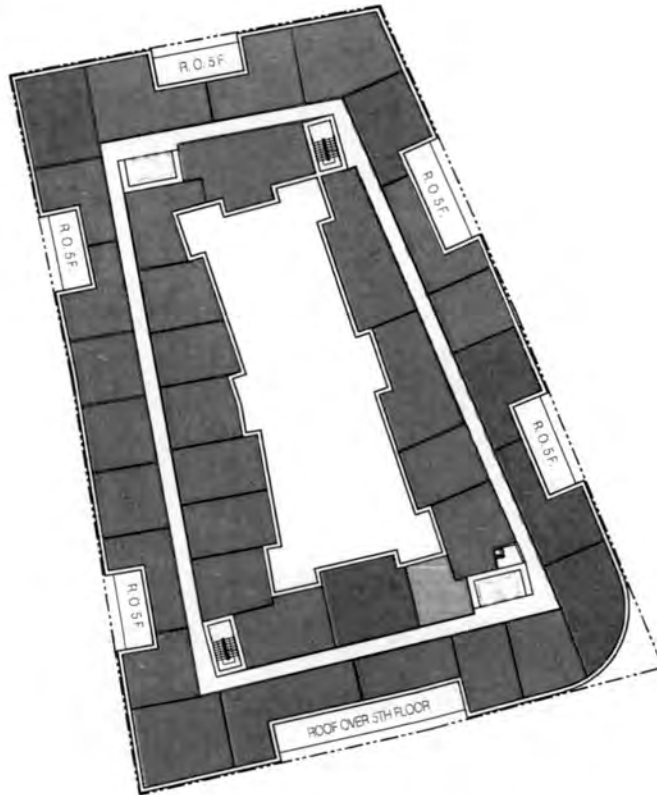
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SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING E



BUILDING 'E'
SCHEMATIC 6TH FLOOR PLAN
NOT TO SCALE



LEGEND

- OBR 400 S.F.
- 1BR 525 S.F.
- 2BR 700 S.F.
- 3BR 900 S.F.

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT, CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1612-1112

02.22.17
ZONE 20-100

EXACT CAPITAL

A-119.00
SCHEMATIC PLANS

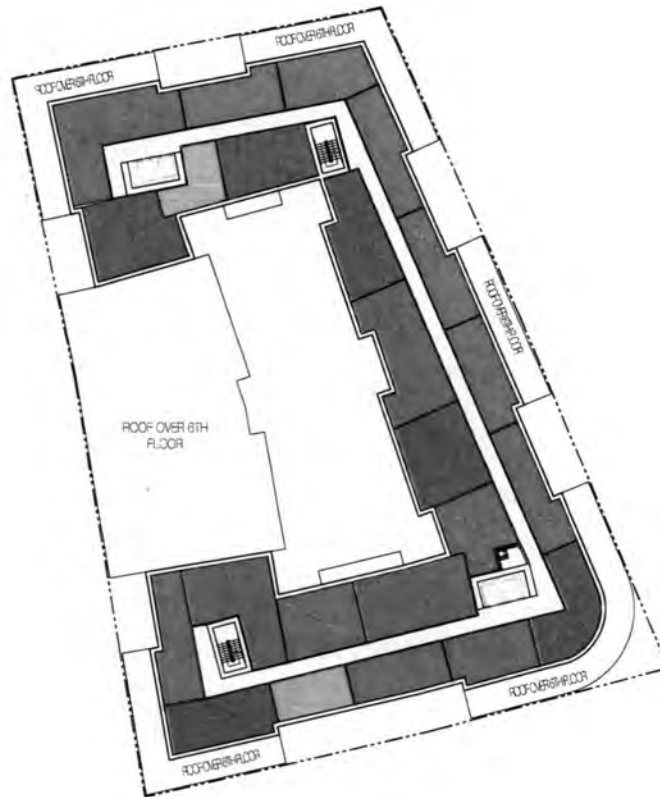


11

CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



SCHEMATIC PLANS: BUILDING E



BUILDING 'E'
SCHEMATIC 7TH & 8TH FLOOR PLAN
NOT TO SCALE



LEGEND

- OBR 400 S.F.
- 1BR 525 S.F.
- 2BR 700 S.F.
- 3BR 900 S.F.

**MAJESTIC
THEATER**

1315 MAIN ST.
BRIDGEPORT CT

**AUFGANG
ARCHITECTS**

REQ FOR EXPRESSION OF DEV INTEREST /
MAJESTIC AND POLI THEATER MIXED USE DEV.
PROJECT - SOLICITATION 1912-002
02.22.17
ZONE DM-100

EXACT CAPITAL

A-120.00
SCHEMATIC PLANS



CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



RENDERING





**III. CONCEPTUAL FINANCING
AND BUDGET**

CONCEPTUAL FINANCING AND BUDGET



Bridgeport RFP - Majestic Theater
Phases I, II & III

Total Units: 844

Developers: Exact Capital Group LLC

SOURCES AND USES

Details:

Phase I - Buildings A & B - 290 residential units, Majestic Theatre, Savoy Hotel and 250 parking spaces

Phase II - Buildings C & D - 340 residential units, 34k SF retail and 100 parking spaces

Phase III - Building E - 208 residential units, 22k SF retail and 53 parking spaces

	Phase I	Phase II	Phase III	TOTAL	per DU	% of total
Construction Sources						
First Mortgage (Lender: BANK)	\$119,672,886	\$90,521,165	\$56,597,068	\$266,791,119	\$316,103	69.37%
CT Historic Rehabilitation Tax Credit Program:	\$4,800,000	\$0	\$0	\$4,800,000	\$5,687	1.25%
Federal Historic Tax Credits:	\$6,480,760	\$0	\$0	\$6,480,760	\$7,679	1.69%
LIHTC	\$6,691,932	\$6,335,402	\$4,365,781	\$17,393,115	\$20,608	4.52%
Mezzanine Debt/Dev Equity	\$8,469,660	\$25,418,570	\$18,701,113	\$52,589,343	\$62,310	13.67%
Deferred Developer's Fee	\$15,342,100	\$12,838,889	\$8,364,716	\$36,545,705	\$43,301	9.50%
Gap	(\$0)	\$0	\$0	\$0	\$0	0.00%
TOTAL SOURCES	\$161,457,338	\$135,114,026	\$88,028,678	\$384,600,042	\$455,687	100.00%
Permanent Sources						
First Mortgage (Lender: BANK)	\$94,950,000	\$61,040,000	\$36,040,000	\$192,030,000	\$227,524	49.93%
CT Historic Rehabilitation Tax Credit Program:	\$4,800,000	\$0	\$0	\$4,800,000	\$5,687	1.25%
Federal Historic Tax Credits:	\$6,480,760	\$0	\$0	\$6,480,760	\$7,679	1.69%
LIHTC	\$44,612,882	\$42,236,011	\$29,105,207	\$115,954,099	\$137,386	30.15%
Mezzanine Debt/Dev Equity	\$8,469,660	\$25,418,570	\$18,701,113	\$52,589,343	\$62,310	13.67%
Deferred Developer's Fee	\$2,144,037	\$6,419,445	\$4,182,358	\$12,745,840	\$15,102	3.31%
Gap	\$0	(\$0)	\$0	\$0	\$0	0.00%
TOTAL SOURCES	\$161,457,339	\$135,114,025	\$88,028,678	\$384,600,042	\$455,687	100.00%
Uses						
Acquisition Cost	\$0	\$0	\$0	\$0	\$0	0.00%
Construction Cost	\$110,889,240	\$94,283,805	\$58,905,000	\$264,078,045	\$312,889	68.68%
Soft Cost	\$35,225,999	\$27,991,331	\$20,758,962	\$83,976,291	\$99,498	21.82%
Developer's Fee	\$15,342,100	\$12,838,889	\$8,364,716	\$36,545,705	\$43,301	9.50%
TOTAL USES	\$161,457,339	\$135,114,025	\$88,028,678	\$384,600,042	\$455,687	100.00%

CONCEPTUAL FINANCING AND BUDGET



BRIDGEPORT MARKET STUDY

*The Majestic and Poli Theaters Sites
Bridgeport, CT
February 21, 2017
Page 13*

SUMMARY OF SALIENT FACTS AND IMPORTANT CONCLUSIONS

Property Address The Majestic and Poli Theaters Redevelopment
Sites 2, 3A and 3B, Bridgeport, CT 06604

Location The subject property consists of 3 development parcels (Sites 2, 3A and 3B) located in the northeasterly portion of the Downtown neighborhood of the City of Bridgeport in Fairfield County, CT. The 3 subject property parcels contain an aggregate 4.06 acres or 176,900 square feet of land area and are summarized in the following table.

SUBJECT PROPERTY PARCELS

Site No./Address	Map/Block/Lot	Owner	Site Area (Acres)	Site Area (Sq.Ft.)
Site 2				
137 Housatonic Avenue	41-1500-20A	City of Bridgeport	1.57	68,400
1362 Main Street	41-1500-6	City of Bridgeport	0.41	17,900
1352 Main Street	41-1500-7	City of Bridgeport	0.14	6,100
1346 Main Street	41-1500-8	City of Bridgeport	0.06	2,600
1340 Main Street	41-1500-9	City of Bridgeport	<u>0.08</u>	<u>3,500</u>
Subtotal			2.26	98,500
Site 3A				
274 Middle Street	35-910-1	State of Connecticut	0.27	11,800
254 Middle Street	35-910-2	City of Bridgeport	0.12	5,200
240 Middle Street	35-910-3	City of Bridgeport	0.13	5,700
230 Middle Street	35-910-4	City of Bridgeport	0.19	8,300
30 Gold Street	35-910-5	State of Connecticut	<u>0.04</u>	<u>1,700</u>
Subtotal			0.75	32,700
Site 3B				
208 Middle Street	35-911-1	City of Bridgeport	0.18	7,800
196 Middle Street	35-911-1A	City of Bridgeport	0.15	6,500
190 Middle Street	35-911-2	City of Bridgeport	0.07	3,000
54 Golden Hill Street	35-911-4	City of Bridgeport	0.13	5,700
797 Water Street	35-911-6	City of Bridgeport	0.19	8,300
771 Water Street	35-911-7	City of Bridgeport	<u>0.33</u>	<u>14,400</u>
Subtotal			1.05	45,700
Total			4.06	176,900

Source: City of Bridgeport assessment records

Date of Value February 17, 2017

Site Size 4.06 or 176,900 square feet

Zoning District Downtown Village Core District (DVD CORE)

Census Tract 706.00

CONCEPTUAL FINANCING AND BUDGET



BRIDGEPORT MARKET STUDY

*The Majestic and Poli Theaters Sites
Bridgeport, CT
February 21, 2017
Page 14*

- Flood Zone** AE Flood Zone FEMA panel No. 09001C0437G (July 8, 2013)
- Current Improvements** With the exception of a small 2-story commercial building located on Site 3A, the subject parcels are vacant. A portion of Sites 3A and 3B are utilized as a surface parking area.
- Proposed Improvements** The subject property is a proposed multi-building development consisting of 3 mix-used buildings with apartments above grade-level commercial spaces. The improvements will range in height from 8 to 18 stories and contain an aggregate 844 apartments, 788,696 square feet of building area inclusive of 59,656 square feet of retail space. Each building is scheduled to contain a below-grade parking garage. The proposed aggregate unit mix consists of 43 studio units, (465) 1-bedroom units, (168) 2-bedroom units and (168) 3-bedroom units. The apartments are anticipated to be positioned as both market-rate and affordable units. The low-income units are indicated to be affordable for households earning from 50% to 60% of the area median income

Conclusions The following tables present a summary of the comparable residential market rent survey, as well as the conclusions regarding market-rate and affordable rents for the subject property assuming it is currently completed and available for occupancy.

SUMMARY OF COMPARABLE MARKET-RATE RENTS

Unit Type	Unit Size (Sq.Ft.)	Monthly Rent	Annualized Rent/Sq.Ft.
Studio	491 - 600	\$1,000 - \$1,200	\$20.00 - \$27.32
1-Bedroom	614 - 833	\$1,200 - \$1,800	\$19.20 - \$25.93
2-Bedroom	825 - 1,162	\$1,279 - \$2,300	\$18.60 - \$23.75
3-Bedroom	1,705	\$1,900	\$13.37

Source: Market survey by MVS

SUMMARY OF MARKET-RATE RENT CONCLUSIONS

Type	No. of Units	/----- Monthly Rents -----\ Minimum Maximum Average			Annual Income
		Studio	43	\$1,100	
1-Bedroom	465	\$1,500	\$1,700	\$1,600	\$744,000
2-Bedroom	168	\$1,900	\$2,100	\$2,000	\$336,000
3-Bedroom	168	\$2,400	\$2,600	\$2,500	\$420,000
Total	844				\$1,551,600

Source: Estimates by MVS



BRIDGEPORT MARKET STUDY

The Majestic and Poli Theaters Sites
 Bridgeport, CT
 February 21, 2017
 Page 15

SUMMARY OF COMPARABLE AFFORDABLE RENTS

Unit Type	Avg. Unit Size (Sq.Ft.)	Monthly Rent	Annualized Rent/Sq.Ft.
Studio	500	\$1,053 - \$1,075	\$25.27 - \$25.80
1-Bedroom	650	\$1,099 - \$1,354	\$20.29 - \$25.00
2-Bedroom	750	\$938 - \$1,680	\$15.01 - \$26.88
3-Bedroom	950	\$1,253 - \$1819	\$15.83 - \$22.98

Source: Market survey by MVS

SUMMARY OF AFFORDABLE RENT CONCLUSIONS

Unit Size	Household Size	Household Median Income	Median Income Level (MIL) (a)	Monthly Gross Rent (30% of MIL / 12 months) (b)	Monthly Utility Allowance (c)	Monthly Net Rent (b) - (c)
Low-Income Units (Max. 50% of AMI)						
Studio	1.0	\$60,410	\$30,205	\$782	\$96	\$686
1-Bedroom	1.5	\$64,725	\$32,363	\$838	\$130	\$708
2-Bedroom	3.0	\$77,670	\$38,835	\$1,005	\$163	\$842
3-Bedroom	4.5	\$89,752	\$44,876	\$1,161	\$200	\$961
Low-Income Units (Max. 60% of AMI)						
Studio	1.0	\$60,410	\$36,246	\$939	\$96	\$843
1-Bedroom	1.5	\$64,725	\$38,835	\$1,005	\$130	\$875
2-Bedroom	3.0	\$77,670	\$46,602	\$1,206	\$163	\$1,043
3-Bedroom	4.5	\$89,752	\$53,851	\$1,393	\$200	\$1,193

Source: Estimates by MVS

SWOT Analysis*

Strengths

- Subject property benefits from location which is proximate to Downtown retail and entertainment options and the Intermodal Transportation Center.
- Current and proposed redevelopment initiatives should increase the desirability of the area and promote future development efforts.

Weaknesses

- In the short term, adjacent properties are blighted and unappealing.

Opportunities

- Continued revitalization and redevelopment of Bridgeport provides long-term value support.

Threats

- A weakening in market conditions may present challenges in securing financing for the various proposed redevelopment projects in the Downtown neighborhood.

A full Market Study is available upon request.

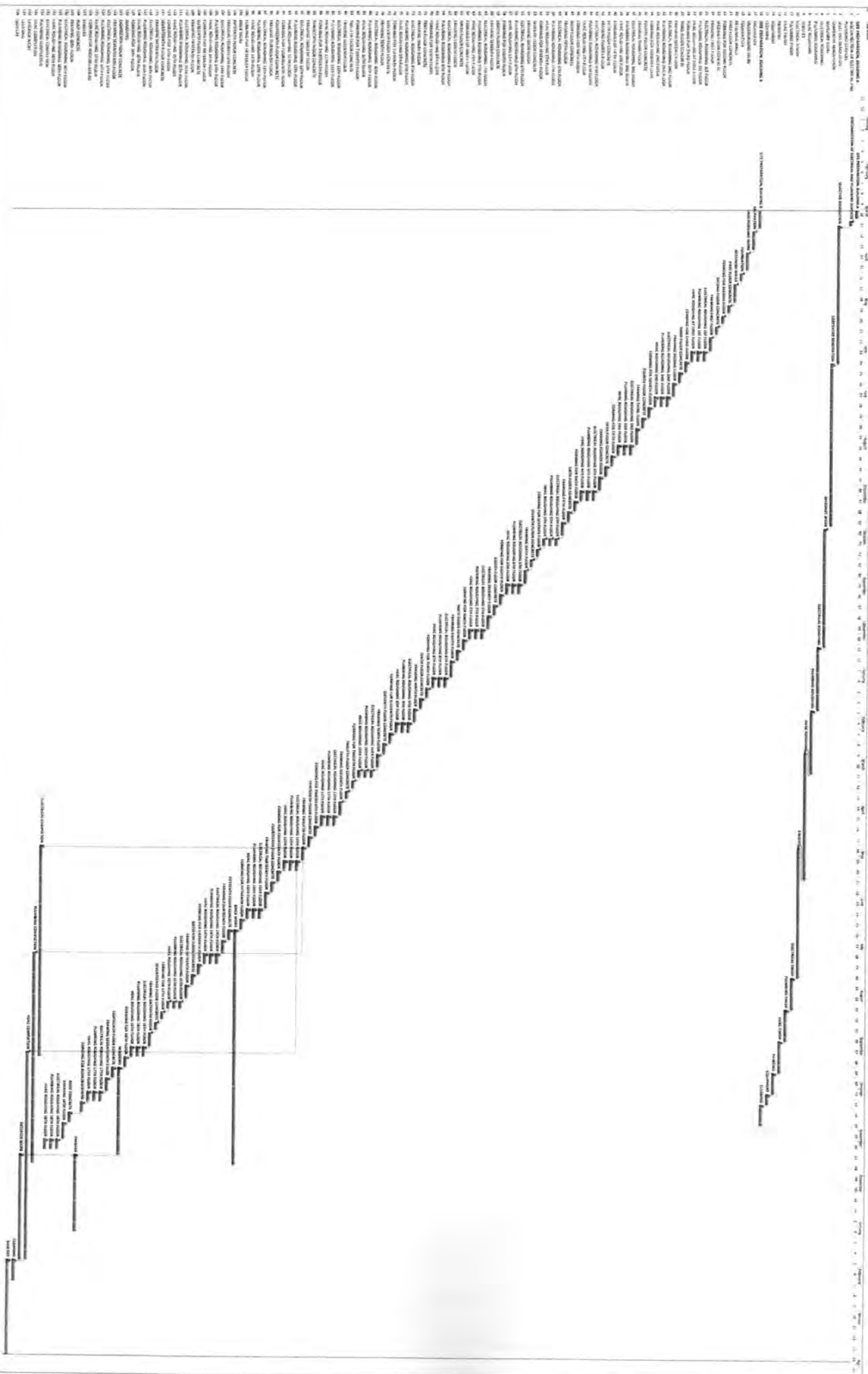
CONCEPTUAL DEVELOPMENT PLAN AND IMPLEMENTATION PLAN



PROJECT SCHEDULE

	<i>Milestone</i>	<i>Start Date</i>
1	Administrative Review and Initial Interview	March 2017
2	Short-List and Follow-up Interviews	April 2017
3	Selection of Developer	May 2017
4	Execution of 12-month Pre-Development Agreement	June 2017
5	Pre-development Due Diligence Items: Environmental, Architectural / Engineering, Third-party Consultants	July 2017
	Engage Environmental Group	
	Engage Architect and Mechanical and Civil Engineers	
	Engage Engineers - Mechanical and Civil	
	Engage Historic Architect	
	Prepare Existing Conditions Report	
	Remove paint samples for analysis	
	Develop catalog of extant historic features and alterations	
	Create/finalize presentation for SHPO (Historic Preservation Plan)	
	Review with necessary Agency	
7	Bridgeport Board Review of Conceptual Design	October 2017
8	Consultation with SHPO	August 2017
	* Present Historic Preservation Plan to SHPO	
9	Complete General Project Plan ("GPP")	December 2017
	Preparation of GPP to City of Bridgeport	
10	Approved Budget for Affordable Housing Component	January 2018
	Meet with State and City Housing Agencies	
	Finalize Budget	
11	Finalize Hotelier Agreement	April 2018
12	Finalize Cultural Partners Agreements	April 2018
14	Architect Completion of Construction Documents	
	SD Submission	November 1, 2017
	100% DD Submission / DOB Filing	January 1, 2018
	100% CD Submission	February 1, 2018
15	MWBE Outreach	December 2017
16	Close on Project Finance	
	Phase 1: Buildings A & B	June 2018
	Construction Commencement	June 2018
	Construction Completion	June 2020
	Project Occupancy & Grand Opening	September 2020
	Phase 2: Buildings C & D	June 2019
	Construction Commencement	June 2019
	Construction Completion	June 2021
	Project Occupancy & Grand Opening	September 2021
	Phase 3: Buildings E	June 2020
	Construction Commencement	June 2020
	Construction Completion	June 2022
	Project Occupancy & Grand Opening	September 2022
17	Full Project Completion	

PHASE 1, BUILDINGS A AND B



- 1. ACTIVITY
- 2. START DATE
- 3. END DATE
- 4. DURATION
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- 117. ACTIVITY
- 118. START DATE
- 119. END DATE
- 120. DURATION
- 121. ACTIVITY
- 122. START DATE
- 123. END DATE
- 124. DURATION

A detailed architectural rendering of a multi-story building, likely a residential or commercial structure, featuring classical architectural elements such as arched windows, decorative moldings, and a prominent corner balcony. The building is situated on a city street corner, with a sidewalk, trees, and a car visible in the foreground. The scene is populated with various figures, including pedestrians and a person with a dog, suggesting a vibrant urban environment. The overall style is that of a professional architectural visualization.

IV. STATEMENT OF QUALIFICATIONS

STATEMENT OF QUALIFICATIONS



The team we've assembled for the redevelopment of the Poli and Majestic Theaters is comprised of three remarkable firms that have a history of working individually and together on projects of this nature where historical preservation of a national landmark, creation of new artistic and entertainment venues, building new hotel capacity, and construction of multifamily high rise apartment buildings are all integral and vital parts of a development. Building Conservation Association (BCA), Aufgang Architects and Exact Capital, have recently collaborated on the redevelopment of the historic Lowes Victoria Theater on 125th Street in Harlem, New York.

The Victoria Theater was designed and built for the Loew's Corporation in 1917 by Thomas W. Lamb, one of America's great theater architects of the era, and is one of the few theaters from Lamb's early career remaining in New York. Upon its opening, the Loew's Victoria Theater (as it was known until 1977) a 2,394-seat, luxury vaudeville and motion picture theater was hailed "as one of the largest and most beautiful theaters in greater N.Y." The theater joined the *Apollo Theater* (then known as the *Hurtig & Seamon's New Burlesque Theater*) a short distance to its East, as well as the *Alhambra* and the *Proctor, Hammerstien Opera House*, all on West 125th Street, which became known as Harlem's "Opera Row".

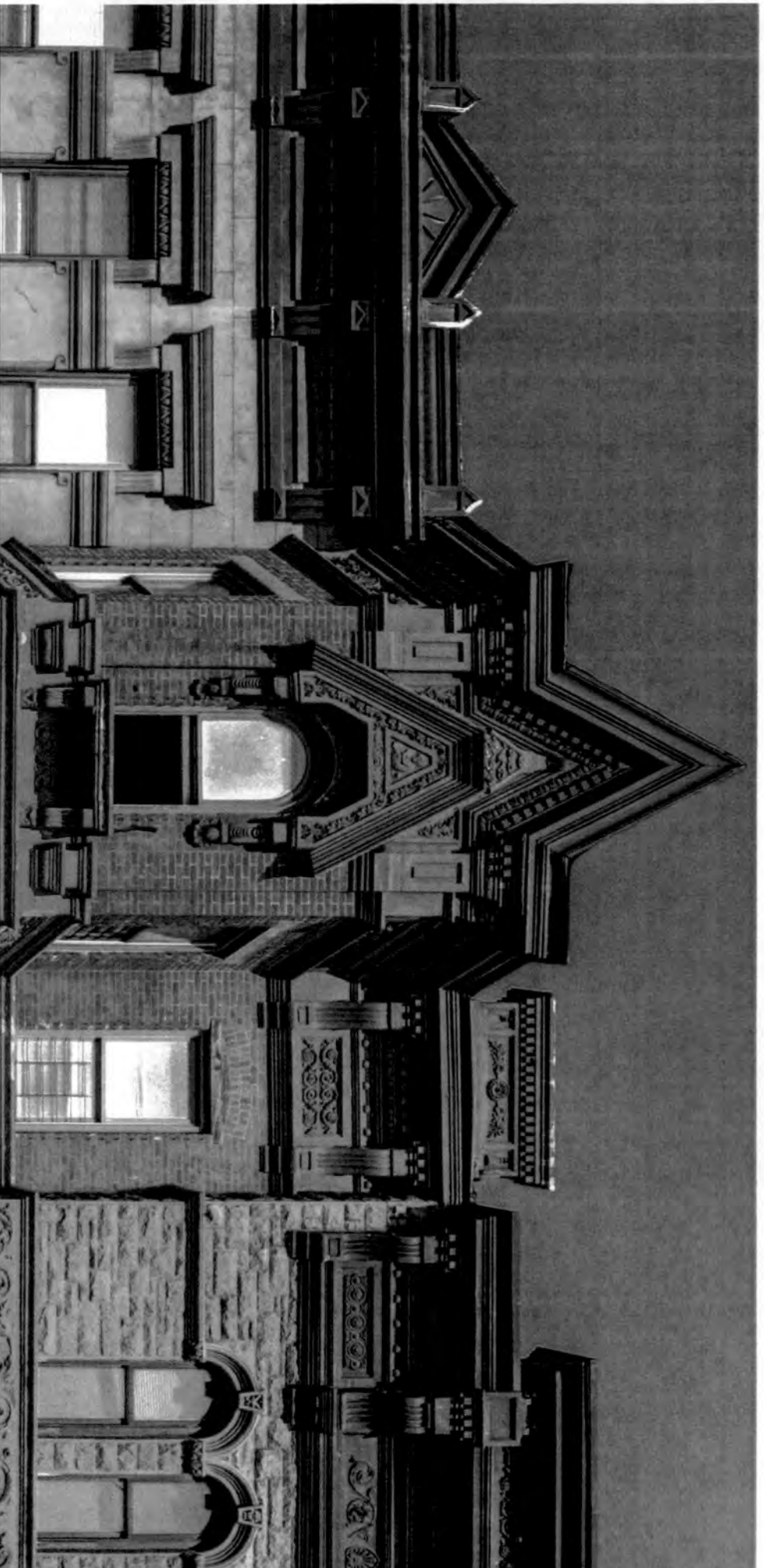
Exact Capital, working in close collaboration with Aufgang Architects and BCA, is redeveloping the historic Victoria Theater into an iconic mixed use project that will see the first full service hotel built in Harlem in over eighty year, a Renaissance by Marriott with 210 rooms, a full-service ballroom, and restaurant. In addition, the redevelopment will include a 190-unit mixed income residential building with units reserved for market rate, middle income, and low income tenants. There will also be a cultural arts facility with offices and two black box theaters leased to the Apollo Theater, as well as two levels of retail space and an inground parking garage. BCA is leading the historical perseveration effort at the Victoria Theater which will see the restoration of the historic façade to its original glory and preservation of select interior elements of the original theater. Goldman Sachs was the lead lender in the project providing a construction loan which closed in August of 2015.

For more information about the impressive work done by these three firms please see the accompanying dossier on each company.



EXACT CAPITAL

Brochure



Overview

- Impeccable reputation with over 20 years of development experience, with an emphasis on urban areas in the Tri-State region.
- Over 2,000 units developed or renovated since inception.
- Developed or in Pre-Development of over 1 million square feet which comprise different assets classes such as: New Construction Condo and Affordable Housing, Rehabilitation of Affordable Housing, Retail, Community Facilities and Hotels.
- Over \$300 million in completed residential and commercial projects in the past 3 years.
- Proven ability to optimize the capital structure of our projects through the use of conventional and non-conventional sources.
- Currently active in the marketplace with over \$220 million in projects in development and in excess of \$200 million in projects in the pipeline.
- Value added relationships with builders, architects, structural, mechanical, and environmental engineers, designers, real estate agents, lenders and other respected professionals.
- Proven development acumen to move the project forward and the know-how to navigate around the foreseen and unforeseen issues that inevitably arise in development.

LIVMOR CONDOMINIUMS

301 West 115th Street, New York, NY

Transaction History

In 2005 a community-based church was faced with a common situation that many community organizations frequently experience: owning a dilapidated building that was sitting on valuable land combined with a pressing need to monetize their major asset. A joint venture was formed to allow for the development of a newly built mixed-use facility with residential, commercial, and community uses.

Strategy

Condo sell-out; Mixed-use Multi-family and Commercial; Structured as a joint venture with the previous owner.

Performance & Execution

Ground up development in Manhattan with 73 luxury condominium units, three retail stores, plus a parking garage was acquired as a development site in 2005.

Low site acquisition costs allowed for flexibility in pricing condo units during the economic downturn.

The project had a \$60 million sell-out in sixteen months.



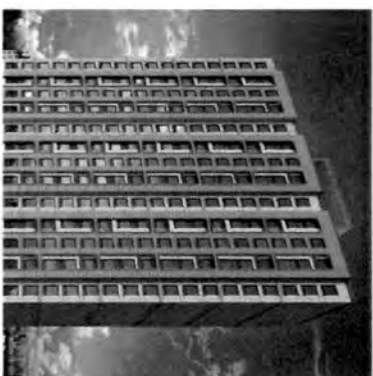
Year Built:	2010
No of Units:	73
Gross S.F.:	160,000
Retail S.F.:	15,000
Total Cost:	~\$48,000,000
Capital Partners:	CPC, Citibank

THE VICTORIA TOWER

233 West 125th Street, Harlem, NY



Year Built:	1917
Year Renovated:	2016-9
No of Resi Units:	192
No of Hotel Units:	210
Gross S.F.:	380,000
Total Cost:	~\$171,000,000
Capital Partners:	Goldman Sachs, HCR, FSD, UMEZ



Transaction History

The Victoria Theater, designed by Thomas Lamb and built in 1917 is part of Harlem's historic Opera Row. Elements of the original building will be preserved as part of the development of the new Victoria Center. This development is being done in a public-private partnership and will serve as an economic development driver for the northern Manhattan community.

Strategy

Mixed Use Multi-family and Commercial.

Performance & Execution

This new construction mixed-use project in Manhattan totals 380,000 s.f. and comprises a 210-unit Renaissance by Marriott hotel, 192 units of residential rentals, 25,000 s.f. of retail space, a 25,000 s.f. cultural arts facility, and a sub-grade parking garage.

Parts of the original Victoria Theater designed by Thomas Lamb in 1917 will undergo historical preservation and will be restored or replicated and incorporated in the new design.

NORTHERN MANHATTAN EQUITIES I

20 Building Portfolio



Year Built:	1920s
Year Renovated:	2014-6
No of Resi Units:	400
No of Retail Units:	17
Gross S.F.:	400,000
Total Cost:	~\$55,000,000
Capital Partners:	HPD, TD Bank



Transaction History

Northern Manhattan Equities was formed as a joint venture between HCCI, Exact Capital, and Prestige Management in order to renovate and preserve needed affordable housing in the northern Manhattan community. The portfolios preserved were Year 15 Low Income Housing Tax Credit portfolios which exited the required 15-year tax credit compliance period.

Strategy

Mixed Use Multi-family and Commercial Preservation / Rehab Project.

Performance & Execution

Stabilized and preserved affordable housing stock within the Harlem community by bringing additional capital which helped with optimizing operating efficiencies.

Moderate rehabilitation with the scope of repairs focused on new gas boilers, facade repairs, new roofs, renovated kitchens, and bathrooms as well as refreshing of public areas.

Rectified tax issues through an Article XI tax abatement.

NORTHERN MANHATTAN EQUITIES II

9 Building Portfolio



Transaction History

Northern Manhattan Equities II was formed as a joint venture between HCCI, Exact Capital, and Prestige Management in order to renovate and preserve needed affordable housing in the northern Manhattan community. The portfolio was previously subject to a regulatory agreement which was extended by the partnership to ensure longstanding affordability for the Harlem community.

Strategy

Mixed Use Multi-family and Commercial; Preservation / Rehab Project.

Performance & Execution

Stabilized and preserved affordable housing stock within the Harlem community by bringing additional capital which helped optimize operating efficiencies.

Moderate rehabilitation with the scope of repairs focused on new gas boilers, facade repairs, new roofs, renovated kitchens, and bathrooms as well as refreshing of public areas.

Rectified tax issues through an Article XI tax abatement.



Year Built: 1920s
Year Renovated: 2014-6
No of Resi Units: 207
No of Retail Units: 7
Gross S.F.: 200,000
Total Cost: ~\$28,000,000
Capital Partners: HPPD, Bank of NY Mellon

CROTONA PARK APARTMENTS

1800 Southern Blvd, Bronx, NY



Year Built:	2012
No of Units:	64
Gross S.F.:	85,000
Retail S.F.:	12,000
Total Cost:	~\$22,700,000
Capital Partners:	HPD, HDC, Chase



Transaction History

This former gas station site was acquired with the intention to remediate the site and develop a newly constructed moderate and low income residential rental building. The site received a Track 1 designation from the DEC which is the cleanest standard for residential occupancy. The construction incorporated energy conservation measures designed in conjunction with the NYSERDA Multifamily Performance Program and will deliver a 25% energy savings.

Strategy

Urban Re-use: This former Brownfield site and BP gas station, was remediated and developed into green affordable housing for middle income and low income residents. Develop and Hold.

Performance & Execution

This ground up development in the Bronx, NY with 64 affordable housing apartments plus 12,000 s.f. of ground floor retail was a former brown-field site with environmental contamination.

The site was remediated as part of the development process, removing 32,000 tons of contaminated soil.

The remediation was conducted within the NYS Brownfield Cleanup Program administered by the DEC. The project received a 2012 Big Apple Award from the NYC Brownfield Partnership.

EAST TREMONT PORTFOLIO

6 Building Portfolio

Transaction History

The portfolio contains at total of 115 units and 1 commercial unit spread throughout 5 walk-up buildings and 1 elevator apartment building. At approximately \$43,000 per dwelling unit, our acquisition is low relative to market in this area. The low acquisition price allowed us to do the necessary construction work which included items such as new boilers, windows, kitchens and bathrooms. The scope of the construction complied with the majority of the Enterprise Green Communities program. The construction was done in phases so tenants would be “checkerboarded”.

Strategy

Mixed-use, Multi-family and Commercial. Low acquisition cost. Reposition with City subsidy.

Performance & Execution

The asset was repositioned with new mechanical systems, kitchen, bathrooms etc.

Optimized the Rent Roll to improve the performance of the project.

Quality of life issues and L&T issues were addressed during conversion.



Year Built: 1920s
Year Renovated: 2013-4
No of Units: 115
Gross S.F.: 100,000
Total Cost: ~\$13,000,000
Capital Partners: HPD, HDC, TD Bank

Harlem Career Center
CAREER DEVELOPMENT CENTER

CROTONA PARK EQUITIES

19 Building Portfolio



Transaction History

Exact capital has formed a joint venture with Bronx Shepherds with the intent to renovate and preserve needed affordable housing in the Bronx community. The portfolios the company will preserve are Year 15 portfolios which have exited or are about to exit the 15-year tax credit period of a Low Income Housing Tax Credit transaction.

Strategy

Mixed Use Multi-family and Commercial; Preservation / Rehab Project.

Performance & Execution

Stabilize and preserve affordable housing stock within the Bronx community by bringing additional capital which will help optimize operating efficiencies.

Moderate rehabilitation with the scope of repairs focusing on new gas boilers, facade repairs, new roofs, renovated kitchens, and bathrooms as well as refreshing of public areas.

Rectify tax issues through an Article XI tax abatement

Image for Page 11: to be taken from NME I - I can help with this.

Year Built: 1920's
Year Renovated: 2015-2017
No of Units: 350
Gross S.F.: 300,000
Total Cost: ~\$45,000,000
Capital Partners: HPD, TD Bank

Dental Group

FOOT CARE CENTER

POST C

24hr 15min

HURSTON PLACE EQUITIES

2890 & 2906 Frederick Douglass Blvd, Harlem NY

Transaction History

Exact Capital was formed as a joint venture with HCCI to facilitate the conversion of a construction loan to permanent using Fannie Mae as a take-out source. Additionally, Exact Capital would provide a small amount of need capital improvement and ensure proper management of the portfolio and ultimately, preserve the affordability of the portfolio.

Strategy

Mixed-use Multi-family and Commercial; Preservation / Rehab Project

Performance & Execution

Stabilized and preserved affordable housing stock within the Bronx community by bringing additional capital which helped optimize operating efficiencies.

Moderate rehabilitation with the scope of repairs focused on new gas boilers, facade repairs, new roofs, renovated kitchens, and bathrooms as well as refreshing of public areas.

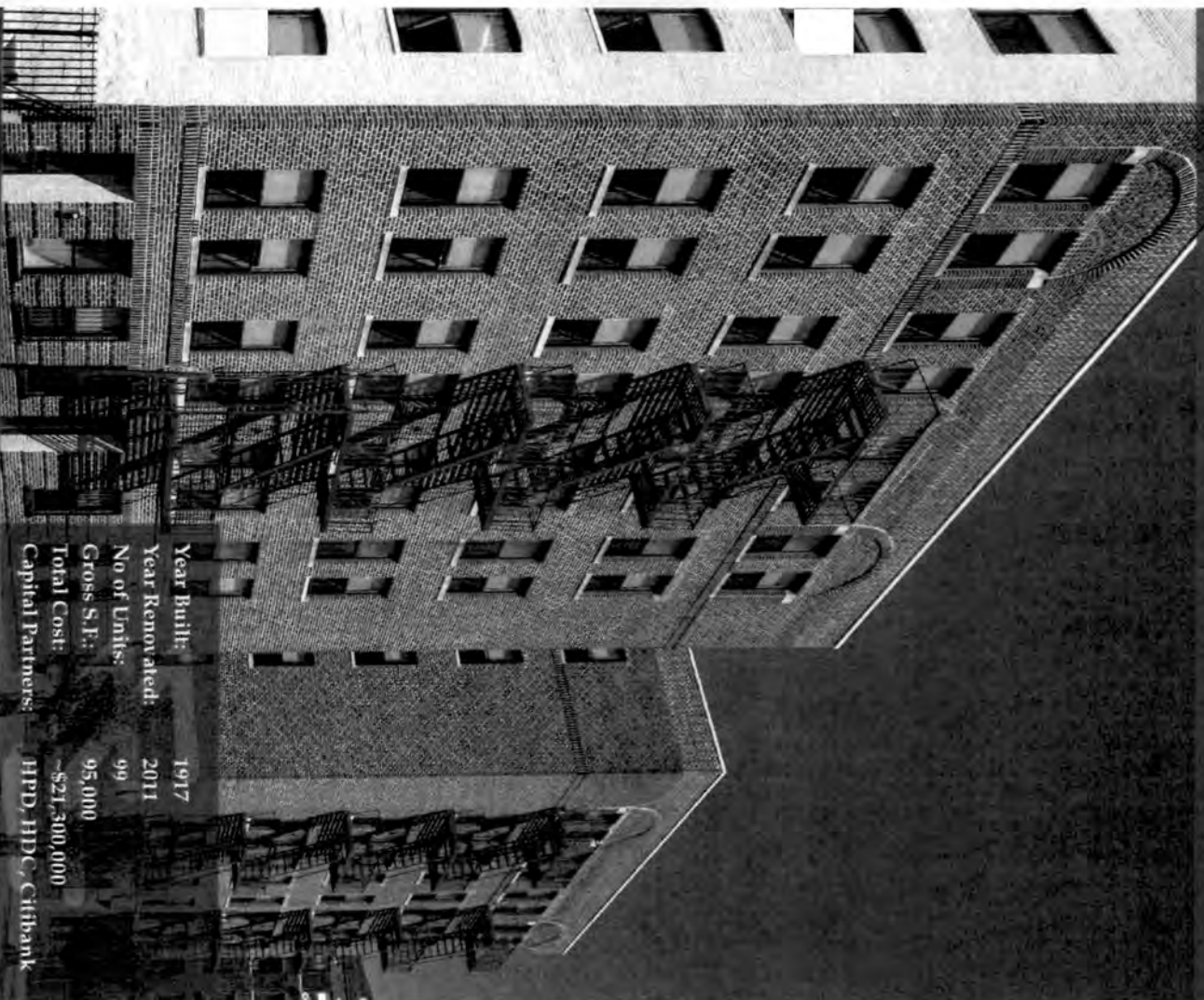
Rectified tax issues through an Article XI tax abatement.



Year Built: 1920s
Year Renovated: 2008
No of Resi Units: ~75
No of Retail Units: 2
Gross S.F.: ~100,000
Total Cost: ~\$11,000,000
Capital Partners: HPPD, Fannie Mae

BRYANT AVE APARTMENTS

1553-55 & 1558 Bryant Avenue, Bronx, NY



Year Built:	1917
Year Renovated:	2011
No. of Units:	99
Gross S.F.:	95,000
Total Cost:	~\$21,300,000
Capital Partners:	HPD, HDC, Citibank



Before



Before

After

Transaction History

In 2010 this portfolio garnered tremendous media attention as the worst buildings in New York City with over 1,800 violations, notoriously irresponsible ownership, and deplorable on-site conditions. The portfolio was ripe for repositioning which required a substantial renovation and the need to address quality of life issues. Through a public - private partnership, this portfolio was converted from some of the city's worst buildings to energy-efficient affordable housing for low-income residents.

Strategy

Distressed Asset Purchase converted to low-income affordable housing; Buy & Hold.

Performance & Execution

This Bronx NY portfolio of 99 units was acquired through a distressed note purchase with the simultaneous acquisition of the deed.

The \$5.4 mil note was purchased for \$3.1 mil, a 42% discount. As part of a refinancing and conversion to low-income affordable housing, the building underwent a \$9mil substantial renovation.

Quality of life issues and L&T issue addressed during conversion.

Tenants were temporarily re-located during renovations.

KEY TEAM MEMBERS

Craig Livingston: Managing Partner

As Managing Partner at Exact Capital, Mr. Livingston is responsible for the core aspects of the firm's development activity including structuring, negotiating, financing and managing the respective ventures formed around the firm's development projects. Mr. Livingston has advised, structured, and executed financing for numerous transactions in the real estate, investment banking, and retail sectors. Previously Mr. Livingston worked in Equities Management at Goldman Sachs where he spearheaded several initiatives focused on positioning the Equity Division to take advantage of growth opportunities through the cultivation of new business channels, strategic acquisitions, and incorporating advanced CRM solutions into the division's operational model. Prior to joining Goldman Sachs, Mr. Livingston consulted at Booz Allen & Hamilton in the Financial Services Area where he advised on post merger integration, corporate restructurings, and operational performance measures for financial institutions. Early in his career he worked as an associate in the Equity Trading area of Merrill Lynch. Mr. Livingston attended the University of Connecticut where he became a member of Omega Psi Phi Fraternity and earned a B.S. with a major in Finance. He later earned an M.B.A. in Finance and Strategic Management from Columbia Business School where he was awarded the Benjamin Botwinick Scholarship for his commitment to ethics in business.

Michael Callaghan: Partner

As Partner at Exact Capital, Mr. Callaghan is responsible for the development, property management, and construction related activities at the firm. More specifically, he is responsible for all real estate development activities including sourcing, negotiation, and financing of real estate development projects, across several asset classes which include: new construction and rehabilitation of both market rate and affordable multi-family housing, retail, community facility and hotels. Michael is also responsible for developing key relationships with governmental agencies, banks, syndicators, investors, public officials and community groups which are critical to effective execution of the firm's development opportunities. Prior to joining Exact Capital, Michael worked in financial services and management consulting related businesses for over 12 years. He successfully provided a broad range of management consulting activities that focused on M&A integration, finance and strategic business transformation. He worked for venerable firms such as JP Morgan, Citigroup Asset Management and Pricewaterhouse before forming his own company that provided management consulting and finance related services to top financial services firms. Michael graduated from Wittenberg University with a Bachelor of Science degree in Business Management.

Michael Hendrickson: Partner

Mr. Michael Hendrickson recently joined Exact Capital as partner. He will be overseeing the new Property Management department for Exact Capital as they continue to expand. His main concentration is on acquisition of properties for management opportunities. Additionally, Mr. Hendrickson also uses his experience as a developer, to seek out opportunities for development of affordable housing. In leading this department, Mr. Hendrickson also initiates and assists in strengthening and maintaining the important relationships with our clients, business partners, various City, State and Federal agencies in NY and NJ. With over 20 years in both the public and private sectors of the real estate industry, Mr. Hendrickson has the experience and expertise to help EC maintain its status as one of the preeminent developers of affordable housing in New York. Most recently, Mr. Hendrickson was a partner at Prestige Management Inc., where, in three years he doubled the size of their 3rd party management portfolio from 6,000 units to 12,000. Mr. Hendrickson is a graduate of Hunter College, possessing undergraduate and graduate degrees in Economics. Prior to joining Exact Capital, Mr. Hendrickson was a successful real estate sales agent and developer in New York and New Jersey.

STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO

AUFGANG
ARCHITECTS

Multi-Family Residential Portfolio

Selected Works

STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO

DUMBO

181 Front Street | 200 Water Street



181 Front Street

105 Units / 117,000 Sq. Ft.

Services Provided

Architectural Planning & Design
Interiors in conjunction with Even-Tsur
Architectural Workshop

Completion Date

2016

Project Description



Our DUMBO project encompasses all of the aspects of New York development that make a project interesting. This is the site of the landmarked Brillo Steel Wool Factory, which is being converted into a unique development that blends two different styles of housing on a single lot.

181 Front Street, a 12-story, 117,000 Sq. Ft. upscale rental building, is made up of 105 individual apartments occupying the same lot that was formerly an empty warehouse. In addition to luxury apartment units, residents will have access to amenities including a fitness center and recreation room, outdoor recreation space, a children's play area, stroller storage room, and underground parking.

STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO



STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO

200 Water Street

15 Units / 40,000 Sq. Ft.



Services Provided

Architectural Planning and Design
Interiors in conjunction with Even-Tsur
Architectural Workshop

Completion Date

2016

Project Description

200 Water St. is a 6-story luxury condominium building that offers 15 gallery-style 2, 3, and 4 bedroom residences. Due to the unique nature of this site, our challenge was to create comfortable and sophisticated living spaces within a space that was never intended for residential use. We removed 30 ft from the rear of the building, a decision that allowed for a more natural flow of light into the penthouse level addition with floor-to-ceiling glass windows, roof-top decks, and private terraces so residents can enjoy the unobstructed views of the Manhattan skyline from their homes. The building will also offer a fitness center, landscaped gardens, bicycle storage, parking, and full doorman services.



STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO

The Refinery

490 Myrtle Avenue, Brooklyn

232 Units / 220,000 Sq. Ft.

Services Provided

Architectural Design
Construction Administration

Completion Date

2015



Project Description

The lot at 490 Myrtle Avenue had previously been occupied by a row of single-story commercial buildings, and required some creative thinking in order to move the retail tenants into their newly renovated spaces while we completed the apartments above. The challenge was exciting to us and pushed us to conceive of this unique 80/20 inclusionary project. Now complete, "The Refinery" offers 232 units with 40,000 sq. ft. of commercial space on the ground floor. The long and low zoning envelope inspired us to break up the facade with rhythmical changes in materials, all of which reflect the character of surrounding Brooklyn.



STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO

99 Morningside Avenue

99 Morningside Ave, Manhattan

22 Units / 55,000 Sq. Ft.

Services Provided

Architectural Planning and Design
Construction Administration

Completion Date

2017

Project Description

99 Morningside Avenue is an 11-story 55,000 sq. ft. mixed-use development located in Harlem. This project features 36,000 sq. ft. of residential space divided into 22 individual condos that range in size from one to four bedrooms.



The units have been designed with a unique window parti that evokes the sensation of viewing Morningside Park across the street through a forest of trees. Each laterally-oriented room will have over a dozen windows to enhance the feeling of living within nature. Amenities for residents include a fitness center, outdoor rooftop recreation areas, bicycle storage, in-unit laundry facilities, and private terraces for units on the upper floors.

In addition to the residential portion of the building, the lower levels will provide a brand-new 7,700 Sq. Ft. space for the neighborhood's existing St. Luke's Baptist Church, with room for an additional community facility space.

STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO

Woodward Avenue
1881 Starr Street, Ridgewood NY

88 Units / 135,600 Sq. Ft.



Services Provided

Architectural Design
Construction
Administration

Completion Date

2017

Project Description

This property was originally zoned only for manufacturing use, but after a successful petition to rezone the site our firm was able to design this 135,600 sq. ft. mixed-use building. When complete, this development will house 88 residential units with commercial space on the ground-floor and on-site parking. Tenants will have access to a number of amenities including a laundry room in each apartment, various multipurpose rooms, a fitness center, roof top terrace with dog run and pet spa, and luxuriously appointed lobbies and common areas.



STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO

29-10 Broadway

29-10 Broadway, Astoria, NY

64 Units / 87,000 Sq. Ft.



Services Provided

Architectural Design
Construction
Administration

Completion Date

2017

Project Description

29-10 Broadway in Astoria, Queens is a five-story mixed-use market-rate building that features 64 individual residential units with additional commercial space on the ground floor and parking below. Amenities for residents include a social lounge, fitness center, rooftop party room, outdoor recreation and workout spaces, private terraces, and parking.

STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO

470 4th Avenue

470 Fourth Ave, Brooklyn NY

64 Units / 87,000 Sq. Ft.

Services Provided

Architectural Design
Construction
Administration

Completion Date

2017



Project Description

This 105-unit, market-rate rental building is located in the Park Slope section of Brooklyn - just steps away from the highly popular 5th Avenue restaurant and retail strip, and convenient to public transportation. Amenities for residents of 470 Fourth Ave will include a social lounge, library, garden area, fitness center, balconies and parking. Retail spaces will be available on the lower-level.



STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO

150 Union

150 Union Avenue, Brooklyn, NY

94 Units / 94,000 Sq. Ft.



Services Provided

Architectural Planning & Design
Construction Administration

Completion Date

2016

Project Description

This seven-story structure is made up of 96 rental apartments, ranging from studios all the way up to four-bedroom units, with exciting ground-floor retail space and parking. The building's facade features clay-coat architectural brick in a stacked bond pattern, detailed in break metal to create a positive pedestrian experience walking along this long facade. Additional cast channel glass cladding and architectural grills will also be appointed to allow natural ventilation in the first-floor garage and varying views to the interior.

STATEMENT OF QUALIFICATIONS



AUFGANG ARCHITECTS PORTFOLIO

325 Lafayette Avenue

325 Lafayette Ave, Brooklyn, NY

117 Units / 124,000 Sq. Ft.

Services Provided

Architectural Planning and Design
Construction Administration

Completion Date

2017

Project Description

325 Lafayette Avenue is a new, eight-story mixed-use building located in the Clinton Hill section of Brooklyn. Constructed of brick, curtain wall, and metal panels, the building reflects the forward-looking ambiance of the Clinton Hill neighborhood. As part of the Inclusionary Housing Program, 20% of 325 Lafayette's 117 units will be reserved as affordable housing residences. The ground-floor of this development has space for a community facility and retail, as well as 59 below-grade parking spaces for tenants.





44 East 32nd Street
12th Floor
New York, NY 10018
T 212.777.1300
F 212.777.1606
bcausa.com

February 13, 2017

Craig Livingston
Managing Partner
Exact Capital
477 Madison Ave, 6th Floor
New York, NY 10022

Re: Majestic Poli Theater & Savoy Hotel
Majestic and Poli Theater Mixed Use Dev Proj

Dear Craig:

Building Conservation Associates, Inc. (BCA) is please to offer this proposal to Exact Capital for Preservation and Restoration Services as part of the Pre-Development Agreement feasibility studies, proposed restoration plans, public agency review, restoration design and construction aspects of the project for mixed-use development of the Majestic and Poli Theater located in Bridgeport, CT. 1335 Main Street, which is the combined address of the former Poli Palace and Majestic Theatre and the former Savoy Hotel which comprises one 80,000 square-foot Beaux Arts building designed by architect Thomas A. Lamb in 1922. The building is on the National Register of Historic Places.

As per the REQ dated 12/28/2016, the City of Bridgeport is requiring that the building be restored in whole or in part in a way that preserves its historic character and highlights the landmark structure. As to the theaters themselves, the City is open to creative approaches to the re-use of these spaces, if not as performing venues exclusively. It is our understanding hat the current approach to the restoration of the building will include the restoration of one (1) theater space and ancillary theater spaces, the historic lobby, areas of the historic hotel spaces and the exterior façade.

Scope of Work

BCA will perform the following historic preservation services in support of Exact Capital for a new use for the historic building.

Phase I - Preservation Consulting Services

1. Review existing documentation on the history and evolution of theater and hotel.
2. Develop a narrative building description, site history, and alterations chronology, illustrated with historic and existing conditions photographs.
3. Assess levels of significance for building elements.
4. Prepare report of findings with recommended preservation framework.

Phase II - Conservation Assessment

1. Perform up-close and hands-on conditions survey of all interior and exterior architectural elements of the building complex via access provided by others.
2. Perform laboratory testing of architectural materials including but not limited to masonry and mortar (assume two mortar analyses, two materials analyses and a historic finishes analysis of the decorative plaster and paint finishes.
3. Prepare report of findings with priorities for restoration.
4. Design and monitor probes (contractor support allowance to be determined).

Phase III: Restoration Design

1. Schematic Design: Develop draft treatment drawings for restoration scope of work

- (two submissions, drawings).
2. Design Development: Develop draft treatment drawings and outline specifications for restoration scope of work (two submissions, drawings and outline specifications).
 3. Construction Documents: Develop treatment drawings and details and technical specifications for restoration scope (two submissions, drawings and specifications).
 4. Attend meetings and Coordinate with Design Team: Assume two (2) per month for 12 months.

Phase IV: Construction Administration

1. Bid & Award Phase:
 - a. Bid documents (drawings and specifications for restoration scope), bid leveling.
2. Construction Phase (based on a 20 month construction schedule):
 - a. Conformed set (drawings and specifications for restoration scope).
 - b. Submittals, samples and shop drawing review.
 - c. Mock ups and mock-up reviews.
 - d. Periodic site visits (assume three (3) visits per week).

Meetings and Design Team Coordination

1. Attend one (1) meeting per week for 20 months.

Deliverables and Submissions

1. Pre-preliminary Report for scope described.
2. Probes and Testing Phase. Preparation of simple bid documentation and coordination of contractor probes (includes obtaining 3 bids based on outline documents). Cost of construction is a reimbursable expense.
3. Construction Documents for restoration scope (six submission as outlined above).

Alternates

Alternate 1: SHPO Review

The building is on the National Register of Historic Places. Use of state funds would trigger project review by the New York State Historic Preservation Office (SHPO) for compliance with the *Secretary of the Interior's Standards for Rehabilitation*. BCA can provide a separate proposal for SHPO review, including but not limited to preservation design review of architect's DD submissions, development of a supportive analytical narrative for SHPO submissions attending meetings with SHPO and the development of written responses to SHPO comments as required.

Alternate 2: Federal Rehabilitation Tax Credit

The historic theater and hotel complex may qualify for the federal and state historic tax credits. BCA can provide a separate proposal for preparing and filing an application to the SHPO and the National Park Service.

Exclusions

1. Base elevations and plan.
2. Engineering services.
3. Contractor support for survey access.
4. Contractor support for probes.
5. Hazardous materials.
6. Cost estimating.
7. Signing and sealing documents.
8. Services not specifically described herein.
9. Acoustical and Sound consulting
10. Modern Lighting design

11. MEP services

Terms and Conditions

1. Attachment A: Terms and Conditions of Professional Service is attached to this contract and incorporated herein by this reference.
2. The Architect will provide all base drawings in electronic, dwg format, including plans, elevations and sections.
3. The fees set forth in this proposal are lump sum.
4. Design Services are based on a 12 month schedule. Design Services extending beyond 12 months will be subject to additional fee.
5. CA Services are estimated on a 20 month construction schedule. Construction Phases extending beyond 20 months will be subject to additional fee.

Fee & Payment

BCA's fee for this work is broken down as follows:

Phase I:	\$12,130
Phase II:	\$131,430
Phase III:	\$254,560
Phase IV:	\$269,135

Please see Attachment B for allocation of hours and expenses. Reimbursable Expenses are estimated at approximately \$17,250. Expenses will be billed at cost plus 15%.

BCA will bill Exact Capital monthly based on progress. Payment is net 30 days.

If the foregoing is acceptable please sign below and return an executed copy for our files. Please do not hesitate to contact me with any questions. Thank you for this opportunity.

Offered by:

Accepted by:

Building Conservation Associates, Inc.
Raymond Pepi
President

Exact Capital
Craig Livingston
Managing Partner

Attachment A
Building Conservation Associates, Inc.
Terms and Conditions of Professional Service

Standard of Care – Building Conservation Associates, Inc. ("BCA" or "Consultant") is a consulting firm, not a licensed professional. The standard of care for all professional services performed or furnished by BCA under this Agreement will be the skill and care used by members of the Consultant's profession practicing under similar circumstances at the same time and in the same locality. BCA makes no warranties, express or implied, under this Agreement or otherwise, in connection with the services provided by BCA.

Compensation - For the scope of services stated in the accompanying proposal or letter agreement, Client agrees to pay BCA the compensation stated in the agreement. Any modification to the contract amount for compensation shall be agreed upon by both parties in writing. BCA agrees to submit invoices monthly for services rendered in the manner and format stated in the written proposal. Payment terms are net 30 days.

Indemnification - Client and BCA each agree to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of Client and BCA, they shall be borne by each party in proportion to its negligence.

Force Majeure - Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

Dispute Resolution - Client and BCA agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this Agreement. This Agreement shall be construed under and be governed in all respects by the laws of the State of New York, and any litigation arising out of this Agreement shall take place in a State or Federal Court of competent jurisdiction in New York County.

Termination of Contract - Client may terminate this Agreement within seven days prior written notice to BCA for convenience or cause. BCA may terminate this Agreement for cause within seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until BCA has been paid in full all amounts due for services, expenses and other related charges.

Hazardous Environmental Conditions - It is acknowledged by both parties that Consultant's scope of services does not include any services related to the presence at the site of asbestos, PCBs, petroleum, lead, radioactive or other hazardous waste or materials. Client acknowledges that BCA is performing professional services for Client, and BCA is not and shall not be required to become an "arranger," "operator," "generator" or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA).

Ownership of Documents - All documents prepared or furnished by BCA pursuant to this Agreement are instruments of BCA's professional service, and BCA shall retain an ownership and property interest therein, including copyright. BCA grants Client a license to use instruments of Consultant's professional service for the purpose of constructing, occupying and maintaining the Project alone, and for no other purpose. Reuse or modification of any such documents by Client, without BCA's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold BCA harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client, or from any claim, damage, or expense, including legal fees, related in any way to any

change in BCA's instruments of service or deviation therefrom, after the termination or expiration of this Agreement.

Use of Electronic Media - Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) that are signed by Consultant. Files in electronic media format or text, data, graphic or other types that are furnished by BCA to Client are only for convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, BCA makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by BCA at the beginning of this assignment.

Construction Phase Services - If this Agreement provides for any construction phase services by BCA, it is understood that the Contractor, not BCA, is responsible for the construction of the project, and that BCA is not responsible for the acts or omissions of any contractor, subcontractor or material supplier. BCA will not supervise, direct, control or have authority over or be responsible for Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the furnishing or performance of the Work.

Opinions of Cost - When included in BCA's scope of services, opinions or estimates of probable construction cost are prepared on the basis of Consultant's experience and qualifications and represent BCA's judgment as a professional generally familiar with the industry. However, since BCA has no control over the cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, BCA cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from Consultant's opinions or estimates of probable construction cost.

Duration of Agreement - If services under this agreement are not completed within 18 months, or if the project is put on hold through no fault of BCA for more than 12 months, BCA reserves the right to renegotiate the fees and rates.

Equipment Rental - Any prices for the rental of boom lift, scaffolding, scissor lift, or similar stated in the written proposal are based on verbal estimates. Prices will be confirmed with the client once services commence. The actual charge of equipment may vary slightly due to field conditions (e.g. inclement weather).

Exterior Testing - The temperature must be above 50 degrees Fahrenheit for field testing to take place on the exterior of a building. Wind chill temperature must be above 25 degrees Fahrenheit, and wind speeds must be below 20 miles per hour, for survey or other work to be performed on the exterior of a building.

Additional Services - This Agreement is based on BCA's current understanding of the project and the information available for Consultant review. If during the course of the project new information requires a substantial change to the scope of services, BCA will request a change order for additional services and compensation as required. These additional services will be provided only upon mutual agreement between the parties.

Reimbursable Expenses - All reimbursable expenses will be charged at cost plus a markup stated in the written proposal. Reimbursable expenses include direct costs to BCA, contractor support, equipment rentals, and subconsultant fees.

ATTACHMENT B

Project Name: Majestic Poli Theater & Savoy Hotel
Majestic and Poli Theater Mixed Use Dev Proj
Submitted by: BCA - New York
Submitted to: Exact Capital
Date: 02/13/17

TOTAL EXPENSES	Totals
TOTAL:	\$17,250.00
	\$684,505.00



**V. STATEMENT OF FINANCIAL CAPACITY
AND ADMINISTRATIVE CAPACITY**

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



Exact Capital has strong lending relationships with key financial institutions whose participation through lending and investing in development projects is vital to the success of those projects. We are pleased to bring to bear our deep institutional relationships and track record of successful developments to forge the revitalization of the Majestic and Poli Theater and the surrounding community. Exact Capital has worked with its capital partners to develop or renovate over two thousand units of housing throughout the broader NYC market and looks forward to cultivating the same success in the city of Bridgeport CT.

The project will be led by the Partners at Exact Capital, Craig Livingston and Michael Callaghan and will have a full time devoted VP of Real Estate Development, Andrew Giglio who will manage the day to day activities including of all facets of pre-development, financing, and overall project management (Please see a resume for Andrew Giglio attached). The Partners and the VP of Real Estate Development will work very closely with all professionals and consultants to advance the project through predevelopment activities in preparation for construction loan closing. Aufgang Architects and Building Conservation Association have provided proposals for the preliminary scope of work to include the initial predevelopment activities required to prepare the project for construction loan closing (see attached).

For the redevelopment of the Poli Theater and Majestic Theater and the development of the surrounding parcels into mixed use residential and commercial multifamily apartment buildings Exact Capital will invest close to \$1 million dollars during the predevelopment process including the earnest money contract deposit. The requisite funds will be advanced throughout the predevelopment period to fund the following activities.

Due Diligence:

- Hotel Market Study
- Residential Market Study

Architectural / MEP/ Structural Engineering Activities:

- Site plan and programming
- Schematic design
- Design Development
- Foundation / SOE Plans
- Structural Design
- Mechanical Systems
- Energy Efficiency Measures
- Plan Coordination
- Construction Docs

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



Historical Preservation

Environmental

- Phase 1
- Phase 2
- EIS

Finance - Underwriting, structuring proformas and financial models, feasibility assessments, negotiating and securing financial commitments.

Additionally, we have plans to engage the service of By The Numbers Consulting (BTN) to facilitate the implementation of our MWBE outreach and hiring plan. By the Numbers Consulting Services Corp (BTN Consulting) is a leading provider of supportive services to affordable housing and commercial developers, construction contractors and property managers. Whether its construction contract compliance, MWBE outreach and reporting, local hiring, tenant advocacy, eviction prevention, or consultation for new development, BTN Consulting is the go-to firm for real estate entities across the tristate area. BTN Consulting's approach is always community-based, partnering with local entities – for profit and nonprofit – to ensure that opportunities are presented first in the communities serviced by new and existing projects.

Since its inception in 2013, BTN Consulting's outreach and supportive services are responsible for over \$50 million in MWBE contract awards, with another \$80 million in its current pipeline, and has worked to screen and see hired hundreds of individual persons in construction-related trades. BTN Consulting also serves as a New York State-approved monitor to negligent landlords of rent-regulated housing in New York State that are under review by the state. As a monitor, BTN Consulting tracks communications with tenants, ensures that repairs are completed timely and thoroughly, and reviews internal policy changes, reporting directly to the state.

BTN Consulting is a 100% minority-owned firm and is fully bilingual in Spanish. It is headquartered in New York and has consulted and worked on projects throughout New York State. BTN Consulting was formed by Manuel Burgos, BTN Consulting's CEO, who's worked in real estate for over 25 years across ten states, for the Local Initiatives Support Corporation (LISC), Cushman & Wakefield, and several and nonprofit community development corporations. He also worked as special assistant and chief troubleshooter to the commissioner of New York State Homes & Community Renewal (NYSHCR). Throughout Manuel's work in real estate he has always focused on the value of local partnerships and MWBE business opportunities with housing and commercial developers, construction firms, and property management companies. He is frequently called upon for an advisory opinion or to serve on panels on topics spanning private/nonprofit engagements, large-scale community rezoning initiatives, MWBE outreach and policy, and local hiring. (BTN's draft MWBE Outreach Plan for this project is attached).

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



ANDREW GIGLIO RESUME

Andrew J. Giglio
2797 Quaker Church Road
Yorktown Heights, NY 10598
(914) 522-2707
agiglio@exactcapital.com

EXPERIENCE:

Exact Capital, New York, New York

VP of Real Estate Development (2017-present)

- Managing all aspects of the development process for compliance with the business plan
- Assist in project underwriting including market research, entitlement review and basic project programing / feasibility assessments.
- Manage the due diligence process: planning, design, entitlement/approval, construction, commissioning and leasing coordination for entire project, including selection of (and coordination among) attorneys, architects, engineers, contractors, subcontractors, etc.
- Serving as day-to-day liaison with design/construction team, clients, and other stakeholders
- Manage comprehensive tracking of project data for required reporting: construction progress, budget tracking, sales and/or leasing status, periodic market updates.
- Perform Asset Management of real estate portfolios to ensure compliance with business plan, various state and federal regulations, and overall company objectives.

The Community Preservation Corporation, New York, New York

2001 – 2016

Mortgage Officer and Energy Benchmarking Specialist (2007 – 2016)

- Originated construction and permanent loan business in New York City on a basis consistent with CPC's mission
- Responsible for solidifying contacts with local realtors, contractors, financial advisors, and other referral sources
- Meeting with all potential borrowers and inspecting all properties for requested financing
- Responsible for project underwriting and analysis of appropriate risk
- Responsible for actively monitoring projects through construction and conversion and for identifying and addressing problem loans (in both the construction and permanent portfolio)
- Responsible for projects involved in CPC's Green Financing Initiative (GFI), which is focused on greening multifamily buildings in low and middle income communities
- Collected, analyzed and filed over 600 buildings with EPA's Portfolio Manager, for compliance with NYC's Energy Benchmarking Requirement also known as Local Law 84.

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



ANDREW GIGLIO RESUME

Senior Closing Coordinator (2003 - 2007)

- Supervise staff of five closing coordinators
- Work closely with Assistant Mortgage Officers & Mortgage Officers, with respect to each loan, in order to collect all Closing Documentation, schedule closing dates & complete the closing
- Draft closing letters, escrow worksheets, accounting & new loan set-ups, other exhibits and post-closing documentation for construction advances in order to prepare loan files for sale in the secondary market
- Responsible for confirming that all closing conditions indicated on the closing letter have been met prior to disbursement
- Clarify and rectify closing issues, document discrepancies and inconsistencies with underwriting guidelines with Mortgage Officers, Borrowers, closing council, insurance brokers and any co-lenders

Loan Administrator (2001 - 2003)

- Processed mortgage payments for over 2,500 loans
- Personally managed over 150 loans
- Executed property and utility tax searches on over 500 property locations
- Performed annual analysis of escrow accounts (insurance, taxes etc.)
- Entered property inspection reports into McCracken Financial Software
- Created databases to manage the disbursement of loan numbers and monitor deferred maintenance items on unsatisfactory property inspections
- Placed and serviced insurance coverage for over 150 loans

Rentport, Inc., New York, New York

2000 to 2001

Student Intern

- Created and managed database of numerous apartment associations
- Created and managed database of over 1,000 landlords and properties
- Wrote User's Guide for the web-based product known as "RentView"
- Assisted in organizing and conducting Joint Application Design (JAD) sessions

EDUCATION:

Bachelor's Degree - Iona College - New Rochelle, New York

Major: Finance & General Business

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



TD BANK REFERRAL LETTER



February 17, 2017

Re: Craig Livingston and Michael Callaghan

c/o Exact Capital Group LLC

Dear Sir or Madam:

TD Bank, N.A. ("TD Bank") currently has a credit relationship with Craig Livingston and Michael Callaghan, who are partners in Exact Capital Group LLC. TD Bank has provided construction financing on three complicated transactions in the past 3 years and is considering a fourth similar transaction with Exact. I consider them to be good clients of the Bank and would consider future financing on projects in which they are involved.


The Exact team is responsive to information requests, open and honest, and a pleasure to work with.

Our experience with Exact Capital has been positive and TD Bank would be pleased to consider providing financing for other developments sponsored by Exact.

If you have any questions about my experience with Exact, feel free to call me at 212-651-2724.

TD BANK, N.A.

By:


Gloribel Cruz
Vice President

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



HUDSON CAPITAL REFERRAL LETTER

February 21, 2017

Michael Callaghan
Exact Capital
477 Madison Ave, 6th Fl
New York, NY 10022

Re: **Majestic Theater Phase III, Bridgeport, CT**

Dear Dan:

Thank you for providing Hudson Housing Capital LLC ("Hudson") with the opportunity to acquire an interest in the above referenced property. We have reviewed the information provided to us and are interested in acquiring a 99.99% limited partnership interest in the partnership which will own a 208-unit rental housing development in Bridgeport, CT (the "Property"). Exact Capital or an affiliated entity will be the developer (the "Developer") of the Property and the general partner (the "General Partner") of the Partnership. Entities or individuals acceptable to the Investor shall guarantee the General Partner's obligations, subject to Hudson's review and approval of the Guarantor's financial condition. You have advised us that the Partnership will apply for Tax Credits in the amount of \$2,522,664 per year.

Based upon the projections provided to Hudson, the Investor will contribute to the Partnership a total of \$23,965,311 (the "Total Equity"), or approximately \$0.95 (the "Tax Credit Ratio") per total Tax Credit available to the Investor. Hudson provided equity on another recent development in Bridgeport, St. Paul's Commons, and looks forward to working on more projects in the city.

Sincerely,

Hudson Housing Capital LLC

Kimmel Cameron

ACCEPTED AND AGREED TO
THIS ____ DAY OF _____, 2017

By: _____
Name:

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



AUFGANG ARCHITECTS PROPOSAL

February 20, 2017

Mr. Michael Callaghan/Mr. Craig Livingston
Exact Capital

Re: Bridgeport, CT

Gentlemen:

We are pleased to submit our proposal to perform architectural design, construction documents and construction administration services in conjunction with the project indicated above. Please note: this proposal includes Structural, Mechanical, Electrical and Plumbing Engineering.

SCOPE OF WORK:1,

As we understand it, the scope of our work for this job will encompass two phases: 1) the Site Planning and RFP submission and 2) the Architectural Construction plans and specifications for 4 new mixed use structures (two 18 story buildings, one 10 story and one 8 story building) (approximately 804 dwelling units, 725,160 square feet residential with 56,380 square feet of commercial space), plus the rehabilitation plus addition to the one historic building (total 129,516 square feet).

Our services will include:

1. Site Planning and RFP submission documents.
2. Concept & Schematic Design
 - a. Site Plan
 - b. Zoning Calculations and diagrams
 - c. Building Code review and diagrams
 - d. Building Bulk Envelope diagram
 - e. Accessibility Compliance review and diagrams
 - f. Floor plans
 - g. Elevations
 - h. Sections
 - i. Exterior Renderings (2) with alternate schemes and changes
3. Design Development
 - a. Building sections
 - b. Wall sections
 - c. Construction Details
 - d. Window and door schedules
 - e. Kitchen and bath elevations
 - f. General notes
 - g. Preparation of drawings for Building Department submission.
 - h. Vertical circulation design
 - i. Fire protection plans
 - j. Assist as necessary with:
 - i. Equipment use permit
 - ii. Public assembly permit

AUFGANG
ARCHITECTS

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



AUFGANG ARCHITECTS PROPOSAL

- iii. Fence permit
- iv. Elevator permit
- v. Sidewalk shed permit

- 4. Construction Documents
 - a. Coordination of the above noted plans with all consulting engineers
 - b. Project specification book in CSI format as a PDF
 - c. Issuance of final plans in PDF or DWF format and 3 hard copies
 - d. Use of our FTP website for file storage & sharing with sub-contractors and engineers.
- 5. Construction Administration – for duration of the construction
 - a. Field visits as necessary
 - b. Walk thru at time of framing with carpenter and owner to go over all critical ADA clearances and requirements.
 - c. Shop drawing & submittal review and timely return. Maintain shop drawing log.
 - d. As built drawings per GC marked up plans

Not included in this proposal:

- a. Survey
- b. Borings
- c. Expediting fees
- d. Builders Pavement Plan/SOE plan
- e. Interior design
- f. Anything not mentioned herein

Things we will not charge for:

- a. Bi-weekly inspection Travel during construction (we will charge for travel in excess of bi-weekly inspections).
- b. Project based expenses
- c. Extra printing (within reason)
- d. FedEx delivery of all plans and submittals
- e. Minor changes in design based on unforeseen field conditions

PRICING:

SCENERIO 1 -Including Site Planning and RFP Submission

- a. All required RFP documents and all required presentations and meetings (Phase 1 above) - \$50,000
- b. Construction Documents and Construction Administration (Phase 2 – 5 above)

OUR FEE FOR NEW CONSTRUCTION:	Building B:	\$1,779,596.00
	Building C:	\$1,393,093.00
	Building D:	\$ 719,290.00
	Building E:	\$1,322,666.00

AUFGANG
ARCHITECTS

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



AUFGANG ARCHITECTS PROPOSAL

REHAB AND ADDITION TO HISTORIC BUILDING.....\$1,036,128.00

Payment Schedule:

- | | |
|--|-----------|
| 1. Retainer –25% of RFP fee: | \$ 25,000 |
| 2. Finalizing RFP – 25% of RFP fee: | \$ 25,000 |
| 3. Completion of Schematic Plans – 10% of CD/CA fee: | |
| 4. Filing at Department of Building – 40% of CD/CA fee: | |
| 5. Approval at Department of Buildings – 30% of CD/CA fee: | |
| 6. Construction paid monthly proportionate to requisitions–20% of CD/CA fee: | |

Should the project be abandoned or transferred to a different entity this payment schedule above shall be disregarded and the percentage of the total fee due shall be based on the percentage of work completed as described in the scope section of this proposal.

CONCLUSION:

If you find the terms of this proposal acceptable please sign and return to me with the requested retainer of \$25,000. We will immediately commence work and prepare an AIA Owner/Architect agreement.

Very truly yours,



AUFGANG ARCHITECTS LLC
Ariel Aufgang, A.I.A.

AA/el

AGREED TO BY _____ DATE _____

AUFGANG
ARCHITECTS

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



BCA PROPOSAL



44 East 32nd Street
12th Floor
New York, NY 10016

T 212.777.1300
F 212.777.1606

bcausa.com

February 13, 2017

Craig Livingston
Managing Partner
Exact Capital
477 Madison Ave. 6th Floor
New York, NY 10022

Re: Majestic Poli Theater & Savoy Hotel
Majestic and Poli Theater Mixed Use Dev Proj

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STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



BCA PROPOSAL

BCA

- (two submissions, drawings).
2. Design Development: Develop draft treatment drawings and outline specifications for restoration scope of work (two submissions, drawings and outline specifications).
3. Construction Documents: Develop treatment drawings and details and technical specifications for restoration scope (two submissions, drawings and specifications).
4. Attend meetings and Coordinate with Design Team: Assume two (2) per month for 12 months.

Phase IV: Construction Administration

1. Bid & Award Phase:
 - a. Bid documents (drawings and specifications for restoration scope), bid leveling.
2. Construction Phase (based on a 20 month construction schedule):
 - a. Conformed set (drawings and specifications for restoration scope).
 - b. Submittals, samples and shop drawing review.
 - c. Mock ups and mock-up reviews.
 - d. Periodic site visits (assume three (3) visits per week).

Meetings and Design Team Coordination

1. Attend one (1) meeting per week for 20 months.

Deliverables and Submissions

1. Pre-preliminary Report for scope described.
2. Probes and Testing Phase. Preparation of simple bid documentation and coordination of contractor probes (includes obtaining 3 bids based on outline documents). Cost of construction is a reimbursable expense.
3. Construction Documents for restoration scope (six submission as outlined above).

Alternates

Alternate 1: SHPO Review

The building is on the National Register of Historic Places. Use of state funds would trigger project review by the New York State Historic Preservation Office (SHPO) for compliance with the *Secretary of the Interior's Standards for Rehabilitation*. BCA can provide a separate proposal for SHPO review, including but not limited to preservation design review of architect's DD submissions, development of a supportive analytical narrative for SHPO submissions attending meetings with SHPO and the development of written responses to SHPO comments as required.

Alternate 2: Federal Rehabilitation Tax Credit

The historic theater and hotel complex may qualify for the federal and state historic tax credits. BCA can provide a separate proposal for preparing and filing an application to the SHPO and the National Park Service.

Exclusions

1. Base elevations and plan.
2. Engineering services.
3. Contractor support for survey access.
4. Contractor support for probes.
5. Hazardous materials.
6. Cost estimating.
7. Signing and sealing documents.

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



BCA PROPOSAL



II. MEP services

Terms and Conditions

1. Attachment A: Terms and Conditions of Professional Service is attached to this contract and incorporated herein by this reference.
2. The Architect will provide all base drawings in electronic, dwg format, including plans, elevations and sections.
3. The fees set forth in this proposal are lump sum.
4. Design Services are based on a 12 month schedule. Design Services extending beyond 12 months will be subject to additional fee.
5. CA Services are estimated on a 20 month construction schedule. Construction Phases extending beyond 20 months will be subject to additional fee.

Fee & Payment

BCA's fee for this work is broken down as follows:

Phase I:	\$12,130
Phase II:	\$131,430
Phase III:	\$254,560
Phase IV:	\$269,135

Please see Attachment B for allocation of hours and expenses. Reimbursable Expenses are estimated at approximately \$17,250. Expenses will be billed at cost plus 15%.

BCA will bill Exact Capital monthly based on progress. Payment is net 30 days.

If the foregoing is acceptable please sign below and return an executed copy for our files. Please do not hesitate to contact me with any questions. Thank you for this opportunity.

Offered by:

Accepted by:

Building Conservation Associates, Inc.
Raymond Pepi
President

Exact Capital
Craig Livingston
Managing Partner

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



BCA PROPOSAL

Attachment A Building Conservation Associates, Inc. Terms and Conditions of Professional Service

Standard of Care - Building Conservation Associates, Inc. ("BCA" or "Consultant") is a consulting firm, not a licensed professional. The standard of care for all professional services performed or furnished by BCA under this Agreement will be the skill and care used by members of the Consultant's profession practicing under similar circumstances at the same time and in the same locality. BCA makes no warranties, express or implied, under this Agreement or otherwise, in connection with the services provided by BCA.

Compensation - For the scope of services stated in the accompanying proposal or letter agreement, Client agrees to pay BCA the compensation stated in the agreement. Any modification to the contract amount for compensation shall be agreed upon by both parties in writing. BCA agrees to submit invoices monthly for services rendered in the manner and format stated in the written proposal. Payment terms are net 30 days.

Indemnification - Client and BCA each agree to indemnify and hold the other harmless, and their respective officers, employees, agents and representatives, from and against liability for all claims, losses, damages and expenses, including reasonable attorneys' fees, to the extent such claims, losses, damages, or expenses are caused by the indemnifying party's negligent acts, errors or omissions. In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of Client and BCA, they shall be borne by each party in proportion to its negligence.

Force Majeure - Neither party shall be deemed in default of this Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

Dispute Resolution - Client and BCA agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this Agreement. This Agreement shall be construed under and be governed in all respects by the laws of the State of New York, and any litigation arising out of this Agreement shall take place in a State or Federal Court of competent jurisdiction in New York County.

Termination of Contract - Client may terminate this Agreement within seven days prior written notice to BCA for convenience or cause. BCA may terminate this Agreement for cause within seven days prior written notice to Client. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until BCA has been paid in full all amounts due for services, expenses and other related charges.

Hazardous Environmental Conditions - It is acknowledged by both parties that Consultant's scope of services does not include any services related to the presence at the site of asbestos, PCBs, petroleum, lead, radioactive or other hazardous waste or materials. Client acknowledges that BCA is performing professional services for Client, and BCA is not and shall not be required to become an "arranger," "operator," "generator" or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA).

Ownership of Documents - All documents prepared or furnished by BCA pursuant to this Agreement are instruments of BCA's professional service, and BCA shall retain an ownership and property interest therein, including copyright. BCA grants Client a license to use instruments of Consultant's professional service for the purpose of constructing, occupying and maintaining the Project alone, and for no other purpose. Reuse or modification of any such documents by Client, without BCA's written permission, shall be at Client's sole risk, and Client agrees to indemnify and hold BCA harmless from all claims, damages and expenses, including attorneys' fees, arising out of such reuse by Client or by others acting through Client, or from any claim, damage, or expense, including legal fees, related in any way to any

change in BCA's instruments of service or deviation therefrom, after the termination or expiration of this Agreement.

Use of Electronic Media - Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) that are signed by Consultant. Files in electronic media format or text, data, graphic or other types that are furnished by BCA to Client are only for convenience of Client. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. When transferring documents in electronic media format, BCA makes no representations as to long-term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems or computer hardware differing from those in use by BCA at the beginning of this assignment.

Construction Phase Services - If this Agreement provides for any construction phase services by BCA, it is understood that the Contractor, not BCA, is responsible for the construction of the project, and that BCA is not responsible for the acts or omissions of any contractor, subcontractor or material supplier. BCA will not supervise, direct, control or have authority over or be responsible for Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the furnishing or performance of the Work.

Opinions of Cost - When included in BCA's scope of services, opinions or estimates of probable construction cost are prepared on the basis of Consultant's experience and qualifications and represent BCA's judgment as a professional generally familiar with the industry. However, since BCA has no control over the cost of labor, materials, equipment or services furnished by others, over contractor's methods of determining prices, or over competitive bidding or market conditions, BCA cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from Consultant's opinions or estimates of probable construction cost.

Duration of Agreement - If services under this agreement are not completed within 18 months, or if the project is put on hold through no fault of BCA for more than 12 months, BCA reserves the right to renegotiate the fees and rates.

Equipment Rental - Any prices for the rental of boom lift, scaffolding, scissor lift, or similar stated in the written proposal are based on verbal estimates. Prices will be confirmed with the client once services commence. The actual charge of equipment may vary slightly due to field conditions (e.g. inclement weather).

Exterior Testing - The temperature must be above 50 degrees Fahrenheit for field testing to take place on the exterior of a building. Wind chill temperature must be above 25 degrees Fahrenheit, and wind speeds must be below 20 miles per hour, for survey or other work to be performed on the exterior of a building.

Additional Services - This Agreement is based on BCA's current understanding of the project and the information available for Consultant review. If during the course of the project new information requires a substantial change to the scope of services, BCA will request a change order for additional services and compensation as required. These additional services will be provided only upon mutual agreement between the parties.

Reimbursable Expenses - All reimbursable expenses will be charged at cost plus a markup stated in the written proposal. Reimbursable expenses include direct costs to BCA, contractor support, equipment rentals, and subconsultant fees.

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



BCA PROPOSAL

ATTACHMENT B

Project Name: **Majestic Poli Theater & Savoy Hotel**
Majestic and Poli Theater Mixed Use Dev Proj
 Submitted by: BCA - New York
 Submitted to: Exact Capital
 Date: 02/13/17

	Principal	Project Manager	Director	Technical Staff	Sr. Draftsman	Specifications Writer	Conservator	Preservation Planner	Esc.	Totals
SERVICES										
01-Phase I - Preservation										
a-Review Existing Documentation	1	8	4	8	0	0	8	8		\$5,230.00
b-History and Chronology	1	0	4	0	0	0	0	24		\$3,950.00
c-Levels of Significance	1	4	0	0	0	0	0	16		\$2,950.00
Sub-total										\$12,130.00
02-Phase II - Conservation										
a-Ext. Conditions Survey	1	54	16	54	8	8	54	8		\$28,590.00
a-Int. Conditions Survey	1	54	16	160	8	8	160	8		\$53,500.00
d-Materials Sampling	1	0	0	8	0	0	8	0		\$2,130.00
e-Mortar Analysis (2 ea)	1	4	2	16	0	0	16	0		\$5,060.00
f-Materials Analysis (2 ea)	1	4	2	20	0	0	20	0		\$6,000.00
g-Paint Analysis (assume 40 samples)	1	15	8	80	0	0	80	0		\$23,250.00
h-Probes (3 ea)	1	0	0	24	24	0	0	0		\$6,850.00
i-Report	1	8	4	20	8	0	0	0		\$6,050.00
Sub-total										\$131,430.00
03-Phase III - Design										
a-SD Drawings	1	40	10	112	120	0	112	0		\$53,320.00
b-DD Drawings & Specs	1	80	20	112	232	80	112	0		\$90,870.00
c-CD Drawings & Specs	1	80	20	112	232	80	112	0		\$90,870.00
f-Design Meetings	12	48	12	48	0	0	0	0		\$19,500.00
Sub-total										\$254,560.00
04-Phase IV - CA										
a-Conformed Set	1	2	1	8	8	8	8	0		\$5,055.00
b-Bid and Award	1	8	8	8	8	8	8			\$7,330.00
c-Submittals Phase	1	8	4	32	0	0	40			\$10,750.00
d-Periodic Site Visits	20	320	160	800	0	0	0			\$189,000.00
e-Project Meetings	20	160	80	80	0	0	0			\$57,000.00
Sub-total										\$269,135.00
TOTAL SERVICES										\$667,255.00

EXPENSES	Qty	Unit Cost	Markup	
Direct Costs	1	\$15,000	15%	\$17,250.00
Sub-total <i>Includes 15% Markup</i>				\$17,250.00

ATTACHMENT B

Project Name: **Majestic Poli Theater & Savoy Hotel**
Majestic and Poli Theater Mixed Use Dev Proj
 Submitted by: BCA - New York
 Submitted to: Exact Capital
 Date: 02/13/17

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



BTN MWBE OUTREACH PLAN

Planning and Preparation Stage Fall 2017 - Winter 2017

Establish Communications and an Information Dissemination Portal

Timetable: October 2017 and updated regularly

Entities: BTN Consulting, Project Sponsor

BTN Consulting will prepare a monthly report for the Project Sponsor beginning November 1, 2017 until the project is completed.

BTN Consulting will establish a password protected webpage to make readily available downloadable lists, information, deadline reminders, and more pertaining to MWBE and local hiring. Access to the page will be determined by Exact Capital LLC ("Project Sponsor").

Identifying MWBEs by Trade, Capacity, and Location

Timetable: Beginning October 2017 then updated quarterly

Entities: BTN Consulting, Project Sponsor, General Contractor

Using the State of CT database, along with referrals that are received (and verified against the database), MWBE firms will be identified by BTN Consulting by trade, capacity (in order to bifurcate contracts, thus create more MWBE opportunities), and location (starting with those firms that are from the City of Bridgeport and expanding concentrically from there).

BTN Consulting will maintain and freshen these lists quarterly to spot certifications due to expire. Notice will be issued to Project Sponsor and General Contractor of specific subcontractors with pending certification expiration allowing ample time for recertification.

Establish Estimated Contract Amounts by Trade for MWBE Participation

Timetable: Fall - Winter 2018

Entities: Project Sponsor and General Contractor

When the project closes in approximately Spring 2018, City of Bridgeport will issue in writing to the Project Sponsor separate and specific MBE and WBE goals by percent and dollar amounts. These amounts will be used to determine specific MWBE contract goals to meet or exceed the specified amounts.

A number of MWBE subcontractors have already been identified and their estimated contract amounts will be subtracted from the total goals, leaving the Project Sponsor and General Contract with the exact amount needed to fulfill the City's requirements.

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



BTN MWBE OUTREACH PLAN

Once City of Bridgeport specifies the project's goals, and once predetermined subcontract amounts are subtracted from the goals, then the work of each trade will be estimated to the greatest extent possible. After this each trade's estimated work will be bifurcated for the purpose of MWBE contracting, creating a series of smaller, easier to qualify for subcontracts, and thus addressing capacity issues that many MWBE firms face in large scale construction.

First Subcontractor Outreach Meeting and RFQ

Timetable: Late Spring 2018

Entities: BTN Consulting, Project Sponsor, General Contractor, MWBE firms, City of Bridgeport

As part of the outreach, a bid opportunity event will be sponsored in the Spring of 2018 and then every 6 to 12 months afterwards to identify contractors, disseminate information and describe the project.

At this bid conference, RFQs will be disseminated. The RFQ will have language specific to local hiring requirements and statutory government reporting requirements, with said local hiring goals established by size and type each contract.

Firms that are not certified MWBE firms but eligible for certification can meet with HCDC to get certified, and their certifications tracked by BTN Consulting and HCDC.

Develop Local Hire Outreach Plan and List of Partnering Organizations

Timetable: Spring 2018

Entities: BTN Consulting, Project Sponsor

BTN will work with the Project Sponsor to develop an outreach list that includes but is not limited to City Council, City of Bridgeport Dept. of Economic Development, elected officials, the local community board, trade associations. This outreach list will be approved by the Project Sponsor before outreach begins.

The list will allow BTN and the Project Sponsor to quickly disseminate information regarding local hiring and other opportunities.

Once established, this plan will be combined with the list of trades required by the project to identify specific requirements as follows:

- Mechanisms to help local residents obtain OSHA-10 certification in advance of construction
- Mechanisms to help a select number of the OSHA-10 certified residents obtain Scaffolding certification
- Identify other certifications required or desired by specific trades
- Developing a tool and supplies list by trade, to have ready to give to a local applicants once hired

STATEMENT OF FINANCIAL CAPACITY AND ADMINISTRATIVE CAPACITY



BTN MWBE OUTREACH PLAN

The above items will be used to develop a job application for applicants to fill out when recruitment begins in Spring 2018.

Outcome

When the planning and preparation stage is completed, the following items will be completed, and their processes documented:

- A communications portal established
- Lists of MWBE firms made available and updated quarterly, organized by trade, capacity, and location, available in the communications portal and also on request by the Project Sponsor
- Bifurcated contract amounts, in preparation for MWBE participation
- Outreach meeting with MWBEs in early 2018 and every six months after
- New potential certified MWBE firms identified and their applications for certification started through HCDC
- Preparation for local hiring made, including the outreach mechanisms, list of required certifications, tools, and supplies
- The above items documented and condensed into the regular monthly report

Thank you

Exact Capital Group LLC
77 Madison Ave, 6th Floor, New York, NY 10022
clivingston@exactcapital.com
(646) 706-5502

Exhibit 3

MOU Approval

Exhibit 4
LDA Approval

Exhibit 5

Developer Plan, Plans, Budget, Details of Each Phase

Development Plan (Phase 1a and 1b)

(For Building Designations, Refer to Site Plan in Exhibit 2)

Phase 1a: Poli-Majestic & Savoy Hotel – Building A – (1315 Main St)

- Restore and Renovate Savoy Hotel to modern standards with two additional floors to achieve 200-room capacity
- Within Poli Palace Theatre, complementary to the Hotel, create:
 - grand hotel lobby from theatre lobby
 - 7000 sf gym, healthy lifestyle venue
 - 16000 sf ballroom hall for banquets, conferences, galas,
 - 4500 sf of retail at ground level
- In upper levels of Poli Theatre, via separate entrance, create: family-friendly indoor recreation venue or an indoor fun park
- Renovate the former Majestic Theatre as a community performance theatre to be deeded back to the City of Bridgeport
- Estimated Cost of Development: \$53MM

Phase 1b –Mixed Use Building E – Middle, between Golden Hill & Gold)

- 208 Units and 22,000 sf commercial
- Estimated Cost of Development: \$93MM

Development Plan – Subsequent Phases - Mixed Use Buildings

Phase 2a – Mixed Use Building D – Middle, between Gold & Congress

- 110 units and 12,000 sf commercial
- Estimated Cost of Development: \$46MM

Phase 2b – Mixed Use Building B – Northerly Between Main & Housatonic

- 296 units and 14,356 sf commercial
- Estimated Cost of Development: \$125MM

Phase 3 – Mixed Use Building C - Southerly Between Main & Housatonic

- 230 units and 11300 sf retail
- Estimated Cost of Development: \$93MM

Notes on Phasing:

1)Phase 1A (Theatre Buildings) must be the first project pursued.

2)With the City's consent, with respect to the Subsequent Phases only, (including Phase 1b), the sequencing of development may be adjusted from what is presented here in response to extraordinary site conditions, environmental issues, availability of financing, market conditions, market opportunities, market absorption.

3)With the City's consent, with respect to Subsequent Phases only, (including Phase 1b), the exact mix of the uses within the "mixed-use" buildings may be adjusted in response to site conditions, environmental issues, the availability of financing, market conditions, market opportunities, market absorption. With the exception of Phase 1A (where retail space is required) City makes no distinction between commercial and retail space as such may be provided in Subsequent Phases, as the City is encouraging of both.

4)All square footages of development, number of units, and the like are approximate and subject to adjustment during the design process.

Bridgeport RFP - Downtown Revitalization/Majestic Theater

Total Units: 844

By building

Developers: Exact Capital Group LLC

Details:

- Building A** - Majestic Theater (7,000 SF), Club/Performance Hall (47,639 SF), Recreational venue (20,750 SF), rehab of existing hotel rooms and proposed 2 additional floors to total 200 rooms (49,627 SF), retail spaces (4,500 SF))
- Building B** - Mixed-use 14-story building (14,356 SF - Retail/Commercial space; 254,516 SF residential (296 units) & 243 parking spaces (37,471 SF))
- Building C** - Mixed-use 12-story building (11,300 SF - Retail/Commercial space; 197,824 SF residential (230 units) & 86 parking spaces (23,901 SF))
- Building D** - Mixed-use 10-story building (12,000 SF - Retail/Commercial space; 94,700 SF residential (110 units) & 25 parking spaces (8,000 SF))
- Building E** - Mixed-use 8-story building (22,000 SF - Retail/Commercial space; 182,000 SF residential (208 units) & 53 parking spaces (18,400 SF))

	Building A	Building B	Building C	Building D	Building E	Totals
Cross Street	Main St.	Main St.	Main St.	Middle St.	Middle St.	
Residential SF	0	254,516	197,824	94,700	182,000	729,040
Hotel/Commercial/Retail & Parking SF	129,516	51,827	35,201	20,000	40,400	276,944
Total SF	129,516	306,343	233,025	114,700	222,400	1,005,984
Residential Construction PPSF	0	\$275	\$275	\$275	\$275	\$275
Hotel/Commercial/Retail & Parking PPSF	\$275	\$275	\$275	\$275	\$275	\$275
Total Construction Costs	\$35,616,900	\$84,244,325	\$64,081,875	\$31,542,500	\$61,160,000	\$276,645,600
Total Soft Costs	\$17,054,239	\$40,338,235	\$29,138,611	\$14,342,662	\$31,124,720	\$131,998,467
Total Soft Costs PSF	\$132	\$132	\$125	\$125	\$140	\$131
Total Development Costs	\$52,671,139	\$124,582,560	\$93,220,486	\$45,885,162	\$92,284,720	\$408,644,067
Total Development Costs PSF	\$407	\$407	\$400	\$400	\$415	\$406

Exhibit 6
Schedule for Completion of Development Milestones*
All Time-Frames are Reflected from the LDA Execution Date

<u>Task to Complete</u>	<u>Time-Frame</u>
Execution of LDA (All Time-Frames Below are Reflected from the LDA Execution Date)	Start
 Phase 1A and 1B	
Secure Approvals, Financing, Building Permit	12 Months
Complete Construction	36 Months
 Phase 2A and 2B	
Secure Approvals, Financing, Building Permit	24 Months
Complete Construction	48 Months
 Phase 3	
Secure Approvals, Financing, Building Permit	36 Months
Completion Construction	60 Months

Notes:

1) Time-Frames Are Referential to the Date of Execution of the LDA

2) Per the terms of the LDA, provided no Developer Default, with City Consent, Time-Frames may be extended in response to extraordinary site issues, environmental issues, availability of financing, market rates of absorption, market opportunities.

Exhibit 7

Form of Special Warranty Deed

SPECIAL WARRANTY DEED

**TO ALL PEOPLE WHOM THESE PRESENTS SHALL COME -- GREETINGS
KNOW YE, THAT:**

THE CITY OF BRIDGEPORT, a municipal corporation and body politic organized and existing by and under the laws of the State of Connecticut, having its principal address at 45 Lyon Terrace, Bridgeport, Connecticut 06604 (hereinafter referred to as the "**Grantor**"), and _____, a _____, through _____, its _____, having an address at _____ (hereinafter referred to as the "**Grantee**"), for One Dollar and other good and valuable consideration received to its full satisfaction from Grantee, does hereby give, grant, bargain, sell, convey and confirm unto the Grantee forever and upon its successors and assigns forever all the right, title, interest, claim and demand whatsoever as the Grantor has or ought to have in or to all those certain plots, pieces or parcels of land situated in the City of Bridgeport, County of Fairfield and State of Connecticut, and described more particularly in Schedule A attached hereto and made a part hereof.

Together with all and singular the hereditaments and appurtenances thereunto belonging, or in otherwise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity of, in, and to the above-bargained premises, with the hereditaments and appurtenances; **TO HAVE AND TO HOLD** the said premises above bargained and described, with the appurtenances, unto the Grantee, its successors and assigns.

Said premises are conveyed subject to the following:

1. Zoning, planning, subdivision, environmental or ecological controls, sanitary, health and building laws, codes, ordinances, regulations, rules, requirements and restrictions imposed by any governmental authority or otherwise affecting the premises which are legally binding upon and enforceable against the Grantee.

2. Any easements, rights-of-way, reservations, restrictions, covenants, conditions or agreements of record as set forth on Schedule B attached hereto

and made a part hereof affecting or relating to the premises or visible on the ground.

AND the Grantor, for itself, its successors and assigns, does covenant, grant, bargain and agree to and with the Grantee, its successors and assigns, to warrant and defend the quiet and peaceable possession of the premises by the Grantee, its successors and assigns, against all and every person or persons lawfully claiming the whole or any part thereof, by, through, or under the Grantor, but not otherwise.

Schedule A

Description of Land

Permitted Encumbrances

Exhibit 8

Form of Enforcement Mortgage

MORTGAGE

THIS MORTGAGE is made this ___ day of _____, 20___, by and between _____, having an address/principal office and place of business at _____ (hereinafter the "Mortgagor"), and **CITY OF BRIDGEPORT**, a municipal body corporate and politic, having an address at 45 Lyon Terrace, City of Bridgeport, County of Fairfield, State of Connecticut 06604 (hereinafter the "Mortgagee").

Mortgagor, in consideration of the obligations hereinafter recited, does hereby give, grant, bargain, sell, convey and confirm unto Mortgagee, its successors and assigns forever, all those certain pieces or parcels of real estate located at _____ in the City of Bridgeport, County of Fairfield and State of Connecticut as more particularly described in **Schedule A** attached hereto and made a part hereof (hereinafter the "Property"), to have and to hold together with all buildings and other improvements now or hereafter erected thereon, and all easements, appurtenances, rights-of-way and rights used in connection therewith or as a means of access thereto and all tenements and hereditaments thereof and thereto and all fixtures now or hereafter attached to the Property.

This Mortgage deed is given to secure Mortgagor's performance of the Mortgagor's obligations (including those set forth in **Exhibit 1**) pursuant to a certain [Contract of Sale][Land Disposition Agreement][Other] dated _____ ("Contract") between Mortgagor and Mortgagee. This Mortgage shall only become enforceable as and to the extent described herein and in the _____.

This Mortgage is subject and subordinate to the rights of a lender of a construction loan to Mortgagor in a maximum principal amount not to exceed _____ Dollars (\$_____).

This conveyance and grant by Mortgagor to Mortgagee is WITH MORTGAGE COVENANTS.

Mortgagee will entertain partial releases from the amount secured by the Mortgage upon the Mortgagor's demonstration that it has made demonstrated financial investment in the Property securing this Mortgage to the Mortgagee's reasonable satisfaction as required by the Contract.

NOTE: All terms not otherwise defined herein shall have the definitions set forth in the Contract.

Article I

To protect the security of the Mortgage, Mortgagor further covenants, warrants and agrees with Mortgagee as follows:

1.1 Required Insurance. Mortgagor shall, at Mortgagor's sole cost and expense and at all times until the obligations secured hereunder shall be fully performed, maintain or shall cause to be maintained with respect to the Property the insurance coverages and amounts described below. Mortgagor shall procure or cause to be procured, shall present to the City at least once each calendar year, and shall maintain in effect through the term of this Mortgage without interruption, the required insurance from insurers licensed to conduct business in the State of Connecticut and having a Moody's or Best's financial rating acceptable to the Mortgagee, as follows:

Commercial General Liability (occurrence form) insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of operations conducted under this Agreement. Coverage shall be broad enough to include premises and operations, contingent liability, contractual liability, completed operations (24 months), broad form property damage, care, custody and control, with limitations of \$ __,000,000 for each occurrence/aggregate with a combined single limit for bodily injury, personal injury and property damage.

Business Automobile insuring against claims or suits brought by members of the public alleging bodily injury or personal injury or property damage and claimed to have arisen out of the use of owned, hired or non-owned vehicles in connection with business. Coverage will be broad enough to include contractual liability, with limitations of \$ __,000,000 for each occurrence/aggregate with a combined single limit for bodily injury, personal injury and property damage.

Workers' Compensation insuring in accordance with statutory requirements in order to meet obligations towards employees in the event of injury or death sustained in the course of employment. Liability for employee suits shall not be less than \$500,000 per claim.

Property Damage insuring against direct damage loss to buildings, structures or improvements and all materials and equipment to become part of the temporary construction requirements or to permanent buildings, structures or improvements (including boiler and machinery equipment), including materials and equipment in transit and thereafter stored on-site or off-site. Coverage shall include standard builder's risk broad form coverage including repair and replacement including agreed amount clause covering 100% replacement value with no co-insurance requirement, including flood, collapse and earthquake. Waivers of subrogation will be provided for all interested parties named herein. Mortgagor, its

contractors and subcontractors will be responsible for insuring their respective equipment, tools and materials brought to the Property but which are not intended to become part of the temporary construction requirements or part of the permanent structures, buildings or improvements.

General requirements. All policies shall include the following provisions:

Cancellation notice – The Mortgagee shall be entitled to receive from the insurance carriers not less than 30 days' written notice of cancellation or non-renewal to be given to the Mortgagee at: Purchasing Agent, City of Bridgeport, City Hall, 45 Lyon Terrace, Bridgeport, Connecticut 06604.

Certificates of Insurance – All policies will be evidenced by an original certificate of insurance on an ACORD 25S form authorized and executed with the original signature or official stamp of the insurer or a properly-authorized agent or representative thereof reflecting all coverage required and delivered to the Mortgagee prior to any entry onto the Property or the commencement of work or other activity.

Additional insured – Mortgagor will arrange with its insurance agent or broker to name the Mortgagee, its elected and appointed officials, department heads, employees and agents, on all policies of primary and excess insurance. Mortgagor shall submit to the Mortgagee upon commencement of this Agreement and periodically thereafter, but in no event less than once during each year of this Mortgage, evidence of the existence of the required insurance in the form required hereby. Such certificates shall specifically designate the Mortgagee in the following form and manner:

The City of Bridgeport, its elected and appointed officials, department heads, employees, agents, servants, successors and assigns, ATIMA, Attention: Purchasing Agent, 45 Lyon Terrace, Bridgeport, Connecticut 06604.

1.2 Maintenance. Mortgagor shall not commit or permit any waste in or about the Property and shall use its best efforts to develop and maintain the Property in accordance with the Contract and in good condition and repair.

1.3 Inspection. Mortgagee, or its authorized representatives, is authorized to enter, at any reasonable time, upon or in any part of the Property for the purpose of inspecting the same or for the purpose of performing any of the acts it is authorized to perform under the terms of this Mortgage.

Article II

DEFAULT

2.1 Events of Default. Any one or more of the following shall constitute an Event of Default under the Mortgage:

(a) Failure of Mortgagor to make or cause to be made the required level of investment in the Property set forth in Exhibit 1 no later than the dates required to do so during the term of this Mortgage after written notice and a 30-day period to cure such failure.

(b) Failure of the Mortgagor to comply or to cause compliance with the Contract after written notice and a 30-day period to cure such failure.

(c) Transfer of legal or equitable title to any portion of the Property, except to a construction lender as described herein during the term of this Mortgage, unless Mortgagor has completed all of its obligations under Exhibit 1 or unless Mortgagee consents in writing to a transfer of legal or equitable title to any portion of the Property.

(d) Failure to pay any imposition or insurance premium required by this Mortgage when the same shall come due, or failure to continuously maintain the insurance requirements described in this Mortgage.

(e) Failure to maintain the improvements on said Property in good repair and in accordance with the terms and conditions of this Mortgage and the Contract of Sale, after written notice and a 30-day period to cure such failure.

(f) Failure to comply, within the time specified in any judgment, court order, judicial notice, law, ordinance, or regulation, or, if no date for compliance is stated, no later than three (3) months after the issuance thereof, with any requirements set forth in such document issued by any governmental authority claiming jurisdiction over the Property. If Mortgagor notifies the Mortgagee of the issuance of such judgment, court order, judicial notice, law, ordinance, or regulation and the Mortgagor shall not have complied with its terms not later than three (3) months after Mortgagor's receipt of same, then Mortgagor shall not be in default under this Section 2.1(f) unless the Mortgagor fails to cure such default within one hundred twenty days (120) after the issuance of any such requirement or violation.

(g) Failure of the Mortgagor to comply with or perform any warranty, representation, covenant, or agreement contained herein or in the Contract after written notice and a 30-day period to cure such failure.

(h) Damage to any improvements or personal property on the Property in any manner which is not covered by insurance unless such damage is restored within a reasonable period of time not to exceed six (6) months from the date of such damage.

(i) The institution or any bankruptcy, reorganization or insolvency proceedings against Mortgagor or the appointment of a receiver or a similar official with respect to any part of the Property and a failure to have such proceedings dismissed or such appointment vacated within a period of sixty (60) days.

(j) The institution of any voluntary bankruptcy, reorganization or insolvency proceedings by Mortgagor or the appointment of a receiver or a similar official with respect to any part of the Property.

2.2 Mortgagee's Remedies Upon Default.

Upon the occurrence of an event of default and failure of the Mortgagor to cure such default within any grace period provided herein, the Mortgagee shall be entitled;

(a) to foreclose this Mortgage;

(b) to collect out of the Property the amount of any required investment that Mortgagor has failed to make in the Property as required by Exhibit 1 at the time such investment is required to be made;

(c) to maintain its lien position and partake and enjoy all rights and privileges, in law or in equity, commensurate with its lien position;

(d) to appoint and/or have appointed a receiver to collect the rents from the Property; and/or

(e) to partake and enjoy all rights and privileges otherwise available in law or in equity, including but not limited to Mortgagee's right to collect reasonable attorneys' fees and costs.

2.3 Non-Waiver. Any forbearance by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by applicable law or equity, shall not be a waiver of or preclude the exercise of any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Mortgagee shall not be a waiver of Mortgagee's right to accelerate. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity and may be exercised concurrently, independently or successively.

Article III

DESTRUCTION; EMINENT DOMAIN; FORECLOSURE

3.1 Destruction or Damage to the Property. In the event of partial or total damage to the Property or any of the improvements on the Property, Mortgagor shall promptly notify Mortgagee of such damage or destruction. If, by reason of any such damage or destruction, any sums are payable under any insurance policy required to be maintained under this Mortgage, such sums shall be paid at Mortgagee's option in the following manner: Mortgagee shall have the option to apply such proceeds to reduce the amount of any indebtedness secured hereby or prior in right hereto, or such proceeds may be disbursed to Mortgagor for the prompt repair, restoration or reconstruction of the improvements. If Mortgagee elects to give all or any portion of such insurance proceeds to Mortgagor, Mortgagor shall proceed with reasonable diligence to repair, restore or reconstruct the improvements or portion thereof so damaged at its sole cost and expense. The repair, restoration or reconstruction of the improvements under this Paragraph shall be substantially in accordance with the improvements existing as of the date of such damage or destruction.

3.2 Eminent Domain. In the event that the Property or any portion thereof is taken by any public authority pursuant to a condemnation proceeding or other taking, Mortgagee shall be entitled to the first _____ Dollars (\$ _____) of such proceeds received from the public authority as compensation for such taking, then such portion of the proceeds to the Mortgagor in the amount expended by the Mortgagor in performance of its obligations under Exhibit 1 at the time of such condemnation or taking, then to the Mortgagee the sum of _____ Dollars (\$ _____), less the amount of actual improvements made to the Property by the Mortgagor in performance of Mortgagor's obligations under Exhibit 1, then any balance shall be paid to the Mortgagor.

3.3 Mortgage Foreclosure by Mortgagee. In the event that the Mortgagee shall commence a foreclosure action under this Mortgage because the Mortgagor has allegedly failed to meet its Investment Obligation under the Contract summarized in the table attached hereto as Exhibit 1, the proceeds of such action shall be distributed in the following manner: In the event there exists a first mortgage to which the Mortgagee has subordinated its interests, such superior mortgage shall be paid first from the established value of the Property up to a maximum of _____ Dollars (\$ _____) before the remaining proceeds are distributed to the Mortgagee and the Mortgagor. which shall be distributed in the following manner: To the extent that Mortgagor has not met the Investment Obligation at the time of commencement of such action, Mortgagee shall be entitled to receive the sum of _____ Dollars (\$ _____) less the amount of actual verified improvements made to the Property by the Mortgagor in

performance of his obligations under Exhibit 1, with any remaining balance going to the Mortgagor.

Article IV

RECEIVER OF RENTS

4.1 Subject to the terms of any Subordination Agreement, Mortgagor hereby assigns and transfers to Mortgagee as collateral security for its obligations under this Mortgage all the rents and revenues to the Property. Upon and during the continuance of an Event of Default, Mortgagor authorizes Mortgagee or Mortgagee's agents to collect the rents and revenues and hereby directs each tenant of the Property upon written notice from the Mortgagee, to pay, upon notice of default hereunder, the rents and revenues to Mortgagee or Mortgagee's agent. Upon and during the continuance of an Event of Default, upon Mortgagee's written request, Mortgagor shall deliver and assign to Mortgagee all leases and occupancy agreements for the Property and all security deposits made in connection with leases and occupancy agreements for the Property and Mortgagee shall have the right to collect said rents and security deposits and/or apply for the appointment of a receiver to collect the rents and security deposits, which shall serve as further security under this Mortgage.

ARTICLE V

DAMAGES

5.1 Liquidated Damages: "Liquidated Damages" means that total sum represented in Exhibit 1 of this Mortgage, and secured hereby, or so much thereof that is not invested in the Property by the date required under Exhibit 1. It is understood by the parties to constitute stipulated liquidated damages in the event of Mortgagor's failure to complete the required improvements to the Property no later than the time required for completion or Mortgagor's failure to comply with its obligations under the Contract. The parties represent, acknowledge and agree that the actual damages for failure to complete the requirements of Exhibit 1 would be uncertain, as well as difficult to ascertain or prove and mutually agree that the amount of liquidated damages bears a reasonable relationship to the presumable loss or injury to the Mortgagee and is not a penalty.

Article VI

MISCELLANEOUS

6.1 Further Documents. Mortgagor will execute and deliver to Mortgagee such further documents and statements as Mortgagee may require to perfect and protect the lien of this Mortgage on the Property described herein.

6.2 Binding Effect. Any reference herein to Mortgagee shall be deemed to include its heirs, successors and assigns. The covenants herein contained shall be binding upon Mortgagor, his/her/its heirs, descendants, successors and assigns. The covenants contained herein shall inure to the benefit of Mortgagee, its successors and assigns. Whenever used herein, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

6.3 Notices. Any notices, demands and requests required or permitted by the terms herein shall be deemed to be duly given three (3) days after its deposit with the United States Postal Service, postage prepaid, or one business day after its delivery to a nationally recognized courier service, courier charges prepaid, in each case addressed as follows:

If to the City: Office of Planning and Economic Development
999 Broad Street, 2nd Floor
Bridgeport, CT 06604

With copy to: Office of the City Attorney
999 Broad Street, 2nd Floor
Bridgeport, CT 06604

If to the Mortgagee:

With copy to:

6.4 Captions. The captions or headings at the beginning of each paragraph hereof are for convenience only and shall not be deemed part of the context of this Mortgage.

6.5 Amendments. This Mortgage may not be modified or amended except by a written amendment executed by both parties.

6.6 Commercial Transaction. THE MORTGAGOR ACKNOWLEDGES THAT THIS ENFORCEMENT MORTGAGE AND THE COVENANTS AND PAYMENTS SECURED HEREBY REPRESENT A COMMERCIAL TRANSACTION, AND HEREBY VOLUNTARILY AND KNOWINGLY WAIVES THE RIGHT TO NOTICE AND A HEARING UNDER CHAPTER 903a OF THE

CONNECTICUT GENERAL STATUTES OR ANY SUCCESSOR STATUTE OF SIMILAR IMPORT, WITH RESPECT TO ANY PREJUDGMENT REMEDY AS DEFINED THEREIN, AND FURTHER WAIVES DILIGENCE, DEMAND, PRESENTMENT FOR PAYMENT, NOTICE OF NON-PAYMENT, PROTEST AND NOTICE OF PROTEST AND ALL RIGHTS UNDER ANY STATUTES OF LIMITATION.

6.7 Costs of Collection or Enforcement. The Mortgagor agrees to pay all reasonable expenses or costs, including reasonable attorney's fees and costs of collection, which may be incurred by the holder hereof in connection with the enforcement of any obligation hereunder or representation with respect to bankruptcy or insolvency proceedings.

6.8 Governing Law. This Mortgage shall be governed by and construed according to the laws of the State of Connecticut. The Mortgagor and Mortgagee agree to the exclusive jurisdiction of the state and/or federal courts of the State of Connecticut located in Fairfield County, Connecticut.

IN WITNESS WHEREOF, this ____ day of _____, 20__

MORTGAGOR:

.....

STATE OF CONNECTICUT)
) ss.
COUNTY OF FAIRFIELD)

On _____, 20__, before me personally came _____, to me known, who, being by me duly sworn, did depose and say that s/he executed this instrument as his/her free act and deed.

Notary Public

My Commission expires:

Schedule A
Property Description

Exhibit 1
CALCULATION TABLE OF REQUIRED INVESTMENT
(LIQUIDATED DAMAGES)

Within _____ (36) months after the conveyance of the Property to Mortgagor, the Mortgagor shall have invested, and demonstrated to the Mortgagee such investment with all reasonable backup documentation required by the Mortgagee, the amount shown to the right, subject to the right to notice and the right to cure within the period set forth in the Mortgage.

\$

From and after the expiration of the _____ month period and the expiration of any cure period permitted by the Mortgage, the Mortgagor shall pay the amount shown at the right to the Mortgagee as liquidated damages upon demand.

\$ _____, less the amount of actual improvements made to the Property recognized by the Mortgagor

Exhibit 9

Environmental Reports

Exhibit 10

Minority Business Enterprise Ordinance

PROPOSED SMALL BUSINESS ENTERPRISE ORDINANCE

Introduction: The City of Bridgeport does not have a comprehensive plan that provides equal opportunities for small businesses that are interested in doing business with it. In the minds and experiences of many of Bridgeport's political leaders, business leaders, public and private institutions and the general public, there exists a general feeling that small businesses, especially those owned by various minority groups and women, have been historically hindered from development and prosperity in favor of majority-owned and male-owned businesses.

Federal law requires that, in order to meet the Equal Protection Clause of the United States Constitution, no action can be taken to correct perceived discriminatory practices without conducting an objective study to determine the nature, extent, and severity of any discrimination that can be identified. The City has now conducted such a Disparity Study, performed by Mason-Tillman Associates of Oakland, California, dated March 2005, copies of which can be obtained in the Office of the City Clerk. The Disparity Study examined State statistical databases, recent City contracting records, contract awards made by private companies, records of minority contractors in the Bridgeport market area, which consists of Fairfield and New Haven Counties, evidence of institutional, economic, financial and social barriers preventing or hindering small business entry into the market, and interviews with local small businesses and others interested in minority business opportunities. The end result was that the Disparity Study examined the "available" and qualified small business contractors in Fairfield and New Haven Counties and measured the extent to which they were actually "utilized" for contract awards in proportion to such availability.

The Disparity Study concluded that there is both a statistical basis and a legal basis to support race and gender-conscious contracting programs in the City. There is also a legal basis for creating a small local business program. In adopting remedial measures, the law requires that, when race and gender-conscious programs are created, they must specifically target those groups found to have suffered historic discrimination in contracting.

Pursuant to the authority granted in Section 7-148w of the General Statutes, and further pursuant to the authority granted to the City Council under Chapter 8, Section 15 of the Charter, the following ordinance is added to the Municipal Code of Ordinances:

"Section 3.12.130 Small Business Enterprise Program

Purpose. The purpose of this ordinance is to:

- (a) Recognize the findings of the Disparity Study dated March 2005 conducted at the City's request;
- (b) Implement a race and gender-conscious program to correct historic discrimination in contracting for those groups identified in the Disparity Study;
- (c) Create a sheltered market program to benefit small, Bridgeport-based businesses by providing a pool of contracts for which they can compete on a fair basis; and
- (d) Take steps to reduce or eliminate aspects of the City's contracting process that pose the greatest difficulties for small businesses and hinder their participation, prosperity and growth.

Definitions:

[Note: All capitalized terms not defined in this Chapter shall have the meanings assigned to them in Chapter 3.08.070, Purchasing Procedure, unless the context otherwise requires.]

"African American" means an African American as defined in the R.C.S.A. applicable to the Connecticut Department of Public Works or Department of Transportation, as such regulations may be amended or replaced with a similar provision from time to time.

"Asian American" means an Asian American as defined in the R.C.S.A. applicable to the Connecticut Department of Public Works or Department of Transportation, as such regulations may be amended or replaced with a similar provision from time to time.

"City Contract" for purposes of this Chapter means any contract, purchase order, bid or quote for a contract or arrangement involving construction (including new construction, rehabilitation, demolition and sitework), architecture and engineering, professional services and goods and non-professional services in the amount of \$500,000 or less.

"Contractor" means a Small Business Enterprise, as defined in this Chapter, whether a corporation, partnership, joint venture, limited liability company or sole proprietorship.

“Disadvantaged Business Enterprise” or **“DBE”** means a disadvantaged business enterprise as defined in the R.C.S.A. applicable to the Connecticut Department of Public Works or Department of Transportation, as such regulations may be amended or replaced with a similar provision from time to time.

“Evaluation Credits” means the City system established by the Program Administrator for the assignment of incentive points to Target Groups when scoring their proposals so that their competitive disadvantage can be balanced in regard to non-Target Groups.

“Formal” contracts are those City Contracts under \$500,000 that are required to be publicly advertised under Chapter 3.08.070.

“Hispanic American” means a Hispanic American as defined in the R.C.S.A. applicable to the Connecticut Department of Public Works or Department of Transportation, as such regulations may be amended or replaced with a similar provision from time to time.

“Industry Coding” means the assignment of industry classification codes to City Contracts at the time of contract award to facilitate notice of bids, bidding compliance, monitoring and enforcement activities.

“Informal” contracts are those City Contracts under \$25,000 that are not required to be publicly advertised under Chapter 3.08.070.

“Jobs Funnel” means a community effort to provide opportunities for low and moderate income Bridgeport residents to receive job training and education related to identifying, training and retaining qualified workers in the construction and other industries.

“Minority Business Enterprise” or **“MBE”** means a minority-owned Contractor as defined in the R.C.S.A. applicable to the Connecticut Department of Public Works or Department of Transportation, as such regulations may be amended or replaced with a similar provision from time to time.

“Outreach and Marketing Program” means a program to attract and promote new Contractors in the City contracting process, including soliciting businesses to become City Contractors, advertising contracting opportunities, hosting open houses and networking events, arranging training opportunities, partnering with agencies and organizations interested in fostering Small Business Enterprises, and the like.

“Program Administrator” means the Chief Administrative Officer or his designee, which can include an implementation group, a consultant experienced in minority business development, and/or representatives from industry, the

Bridgeport business community, minority business organizations, and other stakeholders in the process.

“Project Labor Agreement” or **“PLA”** means one (or more) agreements sought for and arranged by the City on appropriate projects or programs such as the new schools construction program to ensure the creation of trade apprenticeships, other job opportunities for Bridgeport residents, and coordination with the goals of this Chapter.

“Prompt Payment Directive” means the City’s prompt payment process for all prime contractors and Small Business Enterprises to ensure that payment of complete invoices will be made in a maximum of thirty (30) days.

“Qualified Contractor” means a Contractor that has been certified pursuant to the R.C.S.A. applicable to the Connecticut Department of Administrative Services or pursuant to any other City contractor certification program developed by the Program Administrator.

“R.C.S.A.” means Regulations, Connecticut State Agencies.

“Sheltered Market Program” means a program developed by the Program Administrator or his designee that creates a pool of City Contracts for Small Local Business Enterprises that ensures fair competition based upon the type of industry and the size of each company.

“Small Business Enterprise” or **“SBE”** means a small business enterprise Contractor that is either a Minority Business Enterprise, Women Business Enterprise, or Disadvantaged Business Enterprise as defined in the R.C.S.A. applicable to the Connecticut Department of Public Works or Department of Transportation, as such regulations may be amended or replaced with a similar provision from time to time.

“Small Local Business Enterprise” or **“SLBE”** means a Small Business Enterprise having a principal office in Bridgeport for at least 12 months prior to seeking a City Contract, a business license, fewer than 20 employees, and otherwise qualified under rules developed by the Program Administrator or his designee.

“Subcontractor Substitution” means the requirement that a prime contractor, who is required to list the names of subcontractors at the time of bid or proposal submission, obtain the Program Administrator’s written consent, after written notice to the subcontractor, who shall have a right to be heard, to replace or substitute such subcontractor on a City Contract for good cause shown in accordance with a process established by the Program Administrator.

"Target Groups" means those racial or gender groups that experienced historic discrimination in City contracting to such a degree that this Chapter provides race and gender-conscious remedies.

"Utilization Reports" means those reports required by the Program Administrator to track all phases of the small business enterprise program established by this Chapter.

"Voluntary Programs" means those program activities described in this Chapter and other activities implemented in the future that are designed to encourage and develop Small Business Enterprises and Bridgeport SLBEs, provided that such activities are legally permissible without the need to establish historic discrimination and are essentially neutral as to all types of Small Business Enterprises, including but not limited to the creation of a Sheltered Market Program, the adoption of Project Labor Agreements, the creation of a Jobs Funnel, etc.

"Waiver" means a written showing, satisfactory to the Program Administrator, that the prime contractor's good faith efforts to identify a Contractor in a Target Group, as required by this Chapter, either did not result in Contractors in the Target Group bidding for the work in spite of the prime contractor's outreach efforts conforming to the letter and spirit of this Chapter.

"Women Business Enterprise" or **"WBE"** means a women-owned business enterprise Contractor as defined in the R.C.S.A. applicable to the Connecticut Department of Public Works or Department of Transportation, as such regulations may be amended or replaced with a similar provision from time to time.

A. Establishment of Race and Gender-Conscious Remedies.

1, Formal prime contract remedies. Since Formal City Contracts awarded to prime contractors are often awarded on the basis of qualifications-based selection processes under Chapter 3.08.070, no specific percentage of City Contracts is reserved for Target Groups but another remedial action will be taken. The Program Administrator will develop a fair and reasonable system to assign Evaluation Points to Target Groups when scoring qualifications-based proposals so that evaluation of Contractors in the Target Groups can compete with and not be at a competitive disadvantage with regard to contractors in non-Target Groups. For purposes of this Section 3.12.130(A)(1), the Target Groups that should receive Evaluation Credits are:

- (a) City Contracts for construction: African Americans, Hispanic Americans, Minority Business Enterprises, and Minority Female and Caucasian Female Minority Business Enterprises.
- (b) City Contracts for architecture and engineering: Asian Americans, Hispanic Americans, and Caucasian Females.
- (c) City Contracts for professional services: Asian Americans, Hispanic Americans, Caucasian Females, Minority Business Enterprises, and Minority Female and Caucasian Female Minority Business Enterprises.
- (d) City Contracts for goods and non-professional services: African Americans, Caucasian Females, Minority Business Enterprises, and Minority Female and Caucasian Female Minority Business Enterprises.

2. Informal prime contract remedies. Since Informal City Contracts awarded to prime contractors are not usually publicly advertised and tend to be awarded by individual contract officers after informal quotes are obtained, Small Business Enterprises do not participate sufficiently in City Contracts to the extent that they can build experience, become better equipped to provide goods and services to the City, and circulate procurement dollars within the City's tax base. The Program Administrator shall implement due diligence criteria for contracting officers and standardize the process for identifying, documenting and selecting Target Groups to minimize discretionary practices among contracting officers. For purposes of this Section 3.12.130(A)(2), the Target Groups are:

- (a) City Contracts for construction: African Americans, Hispanic Americans, and Minority Business Enterprises.
- (b) City Contracts for architecture and engineering: Hispanic Americans, Caucasian Females, Minority Business Enterprise, and Minority Female and Caucasian Female Business Enterprises.
- (c) City Contracts for professional services: African Americans, Asian Americans, Hispanic Americans, Caucasian Females, Minority Business Enterprises, and Minority Female and Caucasian Female Minority Business Enterprises.
- (d) City Contracts for goods and non-professional services: African Americans, Caucasian Females, Minority Business Enterprises, and Minority Female and Caucasian Female Minority Business Enterprises.

3. Subcontracting disparity in the construction industry. The Disparity Study found that only African Americans were significantly underutilized as subcontractors in the construction industry and this group constitutes the Target Group for purposes of this Section 3.12.130(A)(3). The City's remedial action is to establish a **5.63% goal** for African American Contractors in the award of construction subcontracts as a percentage of the dollar value of the entire construction contract award. The Program Administrator will create a registration system that will collect business information, construction trade classification, size, capacity and other characteristics for African American Contractors. City Contracts reserved for African American Contractors shall be based on such registry and shall be revised on an annual basis to accommodate the registration of new African American Contractors in the construction trades. The inability of a prime contractor to meet the **5.63% goal** may be permitted only upon the granting of a Waiver from the Program Administrator. If a Waiver is not granted, all or portions of the work shall be re-bid if feasible and practical or shall be assigned by the Program Administrator to Contractors previously identified and participating in the program created by this Chapter. This goal shall be revisited in ten (10) years from the date of passage of this Chapter.

4. Sheltered Market Program for SLBEs. Since Informal City Contracts awarded to prime contractors are usually not publicly advertised and tend to be awarded by individual contract officers without adequate guidelines and monitoring, Small Local Business Enterprises do not participate in City Contracts to the extent that they can build experience, become better equipped to provide goods and services to the City, and circulate procurement dollars within the City's tax base. The remedy for this situation is the creation of a Sheltered Market Program in which **twenty-five percent (25%)** of City Contracts will be reserved for SLBEs as a percentage of the dollar value of the entire contracts that will be awarded in a fiscal year. In order to identify the SLBEs interested in obtaining City Contracts, the Program Administrator will create a registration system that will collect SLBE business information, industry classification, size, capacity and other characteristics. The City Contracts reserved for SLBEs shall be based upon such registry and shall be revised on an annual basis to accommodate the registration of new SLBEs. All SLBEs on the registry shall receive procurement notices for the City Contracts reserved in their industry classification and according to their capability.

B. Establishment of Best Practices. **For purposes of implementing race and gender-neutral programs, the Program Administrator will ensure that best management practices are employed to improve SBE access to and participation in City Contracts. The following practices focus on pre-award and post-award efforts and are intended to benefit all SBEs**

interested in contracting with the City. Best practices include, but are not limited to, the following:

1. **Identification of specific subcontractors required in bids; no substitutions without City consent.** All bids and proposals for Formal and Informal City Contracts must identify subcontractors and the value of each such subcontract. Subcontractor Substitution shall not be permitted except in accordance with this Chapter.
2. **Creation of a uniform system for posting procurement notices.** The Program Administrator shall establish a uniform system for posting notices of City Contracts that includes website posting, fax notification, email notification and any combination thereof with other methods. Sufficient time should be permitted between bid posting and bid opening so that prime contractors are able to make good faith efforts to recruit MBE subcontractor participation.
3. **Unbundling of City Contract opportunities into smaller contracts where feasible.** Where practical and feasible, contracting officers seeking to award City Contracts should make every effort to unbundle contracts in a way that maximizes the ability of SBEs to participate as subcontractors or as prime contractors in accordance with their industry classification and capacity.
4. **Revising bonding requirements.** The Program Administrator shall develop a policy to reduce or eliminate to the extent practical and feasible the bonding requirements for City Contracts so that they do not constitute an unreasonable obstacle for SBEs to participate in City Contracts.
5. **Phase subcontractor bonding and retainage requirements.** When practical and feasible, an SBE's performance bond, where required by a bid or by a prime contractor, and its retainage shall be released upon completion of its portion of the City Contract and the City's satisfaction with it.
6. **Adopt a Prompt Payment Directive.** The Program Administrator shall work with necessary City departments to develop a Prompt Payment Directive that prioritizes speedy payments to Contractors.
7. **Adoption of protest procedures.** SBEs who wish to challenge a bid or City Contract award shall use the bid protest procedures

adopted by the Board of Public Purchases pursuant to Chapter 3.08.070.

8. **Preparation of utilization reports on a regular basis.** In order to determine the level of success and address any problems that may result in the implementation of the program described in this Chapter, the Program Administrator shall prepare quarterly Utilization Reports at the end of the months of October, January, April and July in each fiscal year for submission and review by the Mayor and the City Council.
9. **Outreach and marketing program.** The Program Administrator shall develop an Outreach and Marketing Program that includes developing a tag line and print materials for an outreach campaign, creating procedures for distributing forecasts of contracting opportunities, developing arrangements with public and private agencies and organizations to disseminate information about the program described in this Chapter, and conducting annual program monitoring and evaluation.

C. **Priority of Federal and State Minority Business Award Criteria.** Often, the federal and state governments adopt their own criteria for awarding contracts to SBEs, MBEs, WBEs and DBEs when federal and state dollars, respectively, are used to procure the products or services desired. Recipients of federal and state funds are often required to implement measures to ensure equitable contracting whether a disparity was found or not. Therefore, notwithstanding anything contained in this Chapter to the contrary, any requirements of federal or state governments relating to the award of contracts to SBEs, MBEs, WBEs or DBEs shall govern over any inconsistent provision of this Chapter.

D. **Implementation Timetable.** The Program Administrator has discretion to determine the applicability of this Chapter to City Contracts that are close to being awarded and those that will be awarded soon after passage for purposes of feasibility and practicality. The Chapter shall be fully applicable on January 1, 2006.

Effective Date. This ordinance shall become effective immediately upon publication.”