

October 7, 2022



TO: Capitol Area Development Authority (CADA) Board of Directors
Capitol Area Community Development Corporation (CACDC) Board of Directors

SUBJECT: **October 14, 2022 Board Meeting**
AGENDA ITEM 6
16th and T – Partnership, Agreements and Financing

CONTACTS: Renee Funston, Development Manager (CADA), Staff (CACDC)
Todd Leon, Development Director (CADA), Staff (CACDC)
Wendy Saunders, Executive Director (CADA), President (CACDC)

RECOMMENDED ACTIONS:

Staff recommends the CADA Board of Directors and the CACDC Board of Directors approve various agreements and allocate funds as necessary to enable, undertake and pay for various predevelopment tasks for a project at 2000 16th Street.

CADA

Approve an Amendment to the previously approved MOU between CADA, CACDC, and Mutual Housing to address project guarantees and the collection of developer and asset management fees,

Approve a Promissory Note and Loan Agreement establishing an unsecured revolving line of credit between CADA and the CACDC with a maximum credit line of \$900,000 for CACDC to use as predevelopment funds,

Approve a budget Amendment to reduce the FY 22-23 CADA Development budget for the 2000 16th Street project by \$900,000 and create a new FY 22-23 CACDC Development Budget in the amount of \$900,000 for the 2000 16th Street project, and

Authorize the Executive Director to take any and all actions that may be necessary or advisable, in her discretion, in order to complete funding requests and applications to fund construction of the project.

CACDC

Approve an Amendment to the previously approved MOU between CACDC, CADA, and Mutual Housing to address project guarantees and the collection of developer and asset management fees,

Authorize the President to form a development LLC to be the General Partner in the development partnership with Mutual Housing California,

Authorize the President to enter into a Limited Partnership Agreement with Mutual Housing for the creation of 2000 16th Street Investors LP, the project owner and developer,

Approve a Promissory Note and Loan Agreement establishing an unsecured revolving line of credit between CADA and the CACDC with a maximum credit line of \$900,000 that CACDC would use as predevelopment funds, and

Authorize the President to take any and all actions that may be necessary or advisable, in her discretion, in order to complete funding requests and applications to fund construction of the project.

BACKGROUND

In July 2021, staff began searching for available sites for multifamily affordable housing projects. Staff chose 2000 16th Street because of its large size, proximity to the R Street Corridor, and prominent location at an important intersection on a major arterial. In conformance with the acquisition policy adopted by the Board in August 2021, staff submitted a Letter of Intent/Offer to the owners of the property. Following due diligence analyses of the property and negotiations, on July 13, 2022, the sellers, State Water Board, and CADA were able to agree on the assignment of State environmental remediation funds and clean-up actions. On July 15, 2022, CADA finalized the purchase of 2000 16th Street.

At the August 2022 Board meeting, CADA and CACDC approved a Memorandum of Understanding with Mutual Housing to establish a partnership and begin work on this affordable housing project. CADA currently owns the 2000 16th Street property. Per the terms in the MOU, CACDC is leading predevelopment efforts. In mid-September, CACDC invited three architectural firms to submit a fixed fees and services proposal, which was due October 10. Following selection of an architect, the team will initiate entitlements discussions with the City, begin concept designs, and conduct community outreach. Staff anticipates it will take approximately 12 months to complete schematic design and secure entitlements. After obtaining City entitlements, the partnership will work to secure project financing and complete construction drawings, obtain permits and start construction, which will take another 10 months.

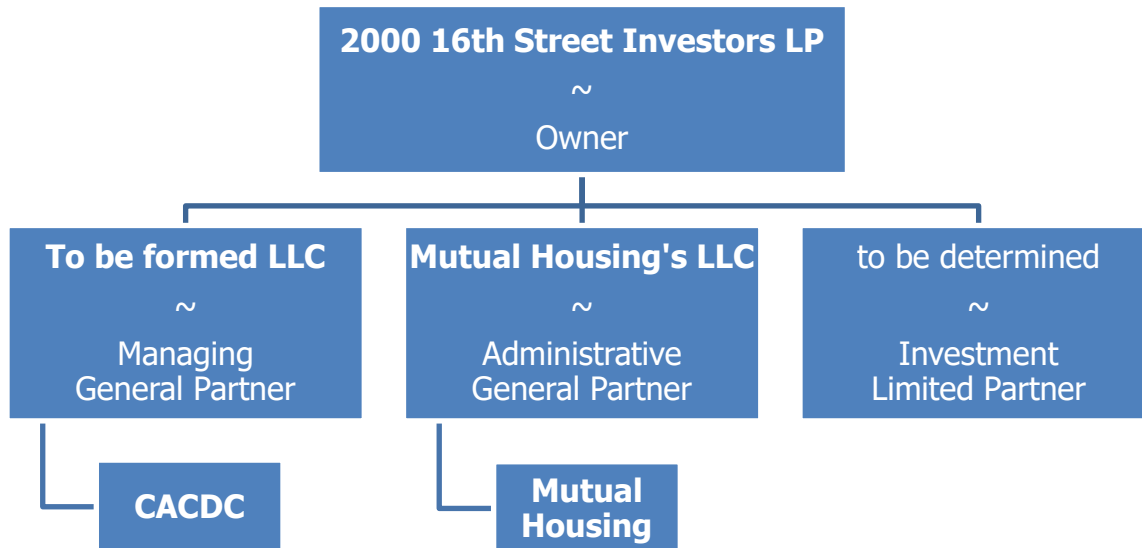
SUMMARY

MOU and Partnership

Staff recommends the CACDC Board and CADA Board approve an amendment to the Memorandum of Understanding with Mutual Housing to include details regarding each party's responsibilities in providing project guarantees, the amount of developer fee each party collects, and who will be collecting the fee for managing the asset on behalf of the limited partnership. For the 2000 16th Street project, CACDC and Mutual have negotiated and agreed to split the responsibility for the project guarantees and evenly share the developer fees. The General Management Fee is a yearly fee collected after project completion. The fee compensates the Managing General Partner for its time to manage the project on behalf of the limited partnership. CACDC will be the Managing General Partner for the 2000 16th Street project. The Amendment to the MOU is **Attachment 1**.

Staff recommends that the CACDC Board authorize the President to form a development LLC to be the managing general partner of a development partnership, to then enter into a limited partnership with Mutual Housing's LLC to develop an affordable housing project at 2000 16th Street (see Figure 1). Staff is recommending formation of a development LLC to limit access to CACDC and potential impacts of one of CACDC's affordable housing project endeavors upon another. The form of the Limited Partnership Agreement is included as **Attachment 2**.

Figure 1: Organizational Chart



CADA currently owns 2000 16th Street. Following formation of the development partnership, CADA would enter into an Option Agreement with the LP for the land sale. The Option Agreement would include performance requirements as conditions for exercising the purchase option, and require payment of interest during the carrying period. Staff anticipate closing the land sale through a double escrow so the development partnership would buy the land from CADA at close of financing just prior to start of construction at a fair market price.

Revolving Line of Credit from CADA to CACDC and Loan Agreement

When Mutual Housing and CACDC form the development partnership, all predevelopment expenses will need to run through the new entity. In order for CACDC to fund its portion of predevelopment expenses, staff is requesting that CADA provide a line of credit loan to the CACDC. Once financing has closed, the Partnership will recapture its predevelopment costs and the CACDC will be able to pay back all or a portion of the CADA Loan upon close of financing.

Staff estimates that the total capital outlay anticipated for predevelopment activities during the due diligence period will be approximately \$1,800,000, making CACDC’s portion \$900,000. Anticipated costs are as follows:

Architecture, Design, and Engineering	\$800,000
City Entitlement Approvals	\$100,000
Environmental	\$50,000
Studies, Appraisals, and Survey	\$50,000
Legal and Financial Consultant Fees	\$150,000
Financing Fees and Deposits	\$300,000
Permits	\$200,000
Miscellaneous Costs	\$150,000
Total	\$1,800,000

Staff recommends that CADA extend a line of credit and loan to the CACDC with a not-to-exceed limit of \$900,000 to provide it with the resources to fund predevelopment activities. CACDC would draw upon the line of credit on an as-needed basis. In order to establish the line of credit, staff recommends approval of the Loan Agreement for a Line of Credit between CADA and CACDC

attached as **Attachment 3**, and the Unsecured Revolving Promissory Note attached as **Attachment 4**.

FINANCIAL IMPACT

CACDC Line of Credit Loan and Budget

CADA has \$595,685 currently in the FY 21-22 CIP Development budget for the 2000 16th Street project funded by R Street Reserve Funds. To fund the line of credit, staff is requesting to re-budget \$500,000, from the current CADA development project budget to CACDC, and provide an additional \$400,000 from the R Street Reserve Funds and create a new FY 22-23 Development budget of \$900,000 for the 2000 16th Street project. CACDC will use these loaned funds to support the new partnership's predevelopment costs.

ENVIRONMENTAL CONSIDERATIONS

The recommended action is not considered a project, in accordance with the California Environmental Quality Act (CEQA) guidelines. Therefore, no environmental review is required at this time.

Attachment 1 – Amendment to MOU

Attachment 2 – Limited Partnership Agreement

Attachment 3 – Loan Agreement

Attachment 4 – Promissory Note

**Amendment to Memorandum of Understanding
Between
The Capitol Area Development Authority, the Capitol Area Community Development
Corporation, and Mutual Housing California**

This Amendment to Memorandum of Understanding (the "Amendment") is entered into on October __, 2022 ("Effective Date"), by and between the **Capitol Area Development Authority**, a joint powers agency ("CADA"), the **Capitol Area Community Development Corporation**, a non-profit public benefit corporation ("CACDC"), and **Mutual Housing California**, a California non-profit corporation ("Mutual"). CADA, the CACDC, and Mutual are sometimes referred to individually as a "Party," and collectively, as the "Parties."

RECITALS

A. On or about August 31, 2022, the Parties entered into a Memorandum of Understanding ("MOU") to collectively pursue the purchase and development of a mixed-use project (the "Project") on the real property located at 2000 16th Street (APN No's. 009-0151-006, -007, and -008), in the City of Sacramento, California (collectively, the "Property").

B. Pursuant to the terms of the MOU, the Parties agreed to negotiate in good faith the terms of a mutually beneficial arrangement that provides for development, construction, operation, management, and ownership of the Project.

C. The Parties desire to amend this MOU in order to add additional provision in connection with guarantees and certain fees in connection with the Project.

D. On October 14, 2022, the CADA Board of Directors, and the CACDC Board of Directors approved this Amendment.

NOW, THEREFORE, in consideration of the mutual agreements herein set forth, and other valuable consideration, receipt of which is hereby acknowledged, the Parties hereby agree to amend the MOU as follows:

AGREEMENT

1. Capitalized Terms. Unless expressly described herein to the contrary, all capitalized terms shall have the meaning ascribed to such term in the MOU.

2. Guarantees. The following new sections shall be added to the MOU:

5.4 Guarantees. The Parties agree to provide joint and several financial guarantees to the extent required by the project's lenders and investor. The Parties also agree to enter into a contribution agreement that provides that the Parties contribute equally to any call on a guarantee. In the event a guarantee must be funded and one Party funds a greater amount than the other Party, the Party that initially underfunded must reimburse the other Party.

3. Fees and Compensation. The following new sections shall be added to the MOU:

9. Fees and Compensation.

9.1 Developer Fee. The Parties agree to equally share the Project's developer fee. Developer fee paid shall only be paid to the extent funding is available and payment is permitted by the applicable funding sources and feasible under the Project's development budget. The budgeted amount and timing of these fees will be determined when all permanent funding is in place, or at the time the Amended Partnership Agreement is entered into with the investor, and pursuant to a separate Development Agreement with the partnership. Should there be insufficient funds to pay the full developer fee in accordance with the Development Agreement, any deferred developer fee shall be paid out of available cash flow during the first 15 years of operations as a priority distribution.

9.2 Partnership Management Fee. To the extent of available cash flow and to the extent allowed by funding sources, the Partnership shall pay an annual partnership administration fee to the General Partners in an amount agreed upon by the Parties. The extent to which Mutual and CADA (or CACDC) share this fee will be mutually agreed upon and determined based on each Party's roles and responsibilities in managing the limited partnership.

3. Miscellaneous.

3.1 No Other Amendments. The Parties agree that there are no other amendments to the MOU other than those amendments contained in this Amendment, and that all other terms and conditions of the MOU are in full force and effect.

3.2 Conflict. In the event of conflict between the terms of the MOU and the Amendment, the Parties intend that the terms contained in this Amendment shall control and prevail.

3.3 Counterparts. This Amendment may be executed in several counterparts, and may be delivered by facsimile or other means of electronic transmission, each of which shall be deemed an original.

(Signatures on Next Page)

IN WITNESS WHEREOF, the Parties have executed this Amendment on the day and year first above written.

CADA:

Capitol Area Development Authority,
a joint powers agency

By: _____
Wendy Saunders, Executive Director

APPROVED AS TO FORM:

By: _____
Jeffrey A. Mitchell, CADA legal counsel

CACDC:

Capitol Area Community Development Corporation,
a non-profit public benefit corporation

By: _____
Wendy Saunders, President

APPROVED AS TO FORM:

By: _____
Jeffrey A. Mitchell, CACDC legal counsel

MUTUAL:

Mutual Housing California,
a California non-profit public benefit corporation

By: _____
Roberto Jimenez, Chief Executive Officer

**AGREEMENT OF LIMITED PARTNERSHIP
OF
_____, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP**

THIS AGREEMENT OF LIMITED PARTNERSHIP (the “**Agreement**”) is entered into as of _____, 202_, between Capitol Area Community Development Corporation, a non-profit public benefit corporation, as general partner (the “**General Partner**” or “**CACDC**”) and _____, a California _____, as administrative general partner (the “**Administrative General Partner**” or “**Mutual**”) (collectively with the General Partner and the Administrative General Partner the “**General Partners**”), and Capitol Area Community Development Corporation, a non-profit public benefit corporation, and _____, a California _____, as limited partners (collectively the “**Limited Partners**”), by which the parties form _____, L.P., a California limited partnership (the “**Partnership**”).

Recitals

A. CACDC and Mutual have provided, and pursuant to this Agreement will continue to provide, certain services with respect to the Project as outlined in the Memorandum of Understanding executed between CADA and Mutual dated August 31, 2022 (the “**MOU**”). The MOU is attached hereto and incorporated herein as **Exhibit A**.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Formation of Limited Partnership.

(a) The parties hereto form the Partnership as a limited partnership under and pursuant to the California Revised Limited Partnership Act (the “**Act**”).

(b) The General Partners have filed with the California Secretary of State, a Certificate of Limited Partnership pursuant to the provisions of the Act.

2. Name of Partnership. The name of the Partnership shall be “_____”, or such other name as may be selected by the General Partners. In the event the General Partners select a new name for the Partnership, the General Partners shall cause notice of the new name to be given to the General Partners and Limited Partners and an Amendment to the Certificate of Limited Partnership shall be filed by the General Partners with the California Secretary of State.

3. Principal Place of Business. The principal place of business of the Partnership shall be 1522 14th Street, Sacramento, CA 95814, or such other place in the State of California as the Administrative General Partner shall determine.

4. The Partners.

(a) The names and addresses of the General Partners are as follows:

[Mutual Entity]

Contact: _____

[Mutual Entity]

Contact: _____

(b) The names and addresses of the Limited Partners are as follows:

[CACDC Entity]

Contact: _____

[CACDC Entity]

1522 14th Street

Sacramento, CA 95814-5958

Contact: Wendy S. Saunders

5. Term of the Partnership. The term of the Partnership commenced as of the date that the Certificate of Limited Partnership was filed with the California Secretary of State, and shall continue until the Partnership is dissolved by operation of law, mutual agreement of the General Partners and Limited Partner or judicial decree.

6. Purposes.

(a) The primary purpose of the Partnership shall be to:

(i) Purchase that certain real property (the “**Real Property**”) located at 2000 16th Street, 1514 and 1516 T Street, Sacramento, California, 95811, APNs 009-0151-006, -007, and -008.

(ii) Remediate recognized environmental concerns associated with the Real Property (“**Remediation Work**”) for the purpose of building a mixed-use, mixed-income community (the “**Project**”) and perform pre-development work for the Project so the Real Property can be sold or transferred to a to-be-formed Limited Partnership controlled by the General Partners, or their affiliates, for the purpose of building the Project;

(iii) Engage in any other business or activity which a limited partnership may carry on under the laws of the State of California.

(b) The Partnership may execute, deliver and perform all applications, agreements and contracts and other undertakings and engage in all activities and transactions as may in the opinion of the General Partners be necessary or advisable to carry out the foregoing purposes.

7. General Partner Powers. The General Partners shall have all powers permitted by the Act for a general partner of a California limited partnership, in order to pursue the purposes and conduct the business of the Partnership. Such powers shall include, but not be limited to, the right to contract with the General Partners on behalf of the Partnership and to reimburse the General Partners for expenses (not including capital contributions) incurred by it in connection with the business of the Partnership before or after the date of this Agreement of Limited Partnership.

8. Transferability. The interests of the Limited Partners in the Partnership may not be transferred without the prior written consent of the General Partners, which consent may be withheld in the absolute and sole discretion of the General Partners.

9. Capital Contributions.

(a) The initial capital contribution obligations of the General Partners and Limited Partners shall be made and allocated as follows:

General Partner (Mutual LLC)	\$100.00
General Partner (CACDC LLC)	\$100.00
Limited Partner (Mutual LLC)	\$100.00
Limited Partner (CACDC LLC)	\$100.00

(b) If any General Partner or Limited Partner has engaged in any contracts or agreements relating to plans, specifications, surveys, drawings, permits, construction and the like relating to the Real Property or the Project the General Partners and Limited Partners hereby assigns all of its right, title, and interest in said contract, agreement, or like document and any work product that has resulted from said contract, agreement, or like document to the Partnership.

(c) Additional capital contributions shall be made at the times and in such amounts as shall be mutually agreed upon by the General Partners and Limited Partners.

10. Income, Profits and Losses. Income, profits and losses of the Partnership shall be allocated as follows:

General Partner (Mutual LLC)	0.05%
General Partner (CACDC LLC)	0.05%
Limited Partner (LLC)	99.9%

11. Distribution of Cash and Other Property. Any distributions of cash or other property from the Partnership to the General Partners and Limited Partners as a distribution of the profits of the Partnership shall be made in the percentages set forth in Section 10. Any such

distributions in return of capital contributions shall be made in proportion to unreturned capital contributions. Distributions shall first be made in return of capital contributions.

12. Accounting Method. The Partnership shall keep its books on an accrual basis in accordance with tax accounting principles

13. Amendment of the Partnership Agreement. This Agreement may be amended, in whole or in part, upon the written consent of all General Partners and Limited Partners.

14. Governing Law. This Agreement, and the rights of the General Partners and Limited Partners hereunder, shall be governed by and constructed in accordance with the laws of the State of California.

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

GENERAL PARTNERS:

[**Mutual Entity**],
a California _____

By: _____
Name: _____
Title: _____

[**CACDC Entity**],
a California _____

By: _____
Wendy S. Saunders, President

APPROVED AS TO FORM:

By: _____
Jeffrey A. Mitchell, CACDC legal counsel

LIMITED PARTNERS:

[**Mutual Entity**],
a California _____

By: _____
Name: _____
Title: _____

[CACDC Entity],
a California _____

By: _____
Wendy S. Saunders, President

APPROVED AS TO FORM:

By: _____
Jeffery A. Mitchell, CACDC legal counsel

LOAN AGREEMENT

(16th & T Streets)

THIS LOAN AGREEMENT (this "Loan Agreement") is entered into and effective as of _____, 2022 (the "Effective Date"), by and between the **Capitol Area Community Development Corporation**, a California non-profit public benefit corporation ("Borrower"), and the **Capitol Area Development Authority**, a California joint powers agency ("Lender"), each individually, as a "Party" or, collectively, as the "Parties."

Recitals

A. Borrower and Lender are currently in negotiation for the purchase of certain real property located at 2000 16th Street, 1514 and 1516 T Street, Sacramento, California, 95811, APNs 009-0151-006, -007, and -008 (collectively, the "Property").

B. Borrower and Lender are also currently in negotiation with Mutual Housing California, a California non-profit corporation ("Mutual") to explore joint development and ownership of a mixed use project to be developed on the Property (the "Project").

C. Borrower will be undertaking certain predevelopment activities in accordance with the terms of a Memorandum of Understanding between Borrower, Lender and Mutual ("MOU"), dated August 31, 2022, in order to determine the viability of the Project.

D. Borrower is in need of funds for its predevelopment activities and Lender has determined that Borrower's mission and objectives will be best met if fund are made available to Borrower for its activities. Therefore, Lender is willing and able to provide a revolving line of credit (the "Loan") to Borrower under the terms contained herein and in that Unsecured Revolving Promissory Note executed by Borrower the same date herewith (the "Note").

NOW, THEREFORE, for and in consideration of the premises and the material covenants hereinafter contained, the Parties hereto hereby formally covenant, agree and bind themselves as follows:

Agreement

1. Line of Credit. Subject to the terms and conditions of this Loan Agreement, Lender hereby agrees to make a Loan to Borrower in the form of advances under a line of revolving credit to Borrower in an aggregate principal amount of Nine Hundred Thousand Dollars (\$900,000.00) (the "Maximum Amount"), or so much thereof as may be advanced or re-advanced from time to time under this Loan Agreement (the "Loan"). The aggregate unpaid balance amount of all advances made hereunder shall not exceed the Maximum Amount. Within the foregoing limits, Borrower may borrow, partially or wholly prepay, and reborrow under this Loan Agreement as set forth herein.

1.1 Unsecured Revolving Promissory Note. The Loan is evidenced by the Note, which has a term of _____ (__) years at zero percent (0%) interest and is unsecured.

1.2 Conditions Precedent to Each Advance. Lender's consideration of Borrower's request to make any advance to or for the account of Borrower under this Loan Agreement is subject to the following conditions precedent:

(a) Lender shall have received evidence that this Loan Agreement and any related documents have been duly authorized, executed, and delivered by Borrower to Lender;

(b) Each advance shall be evidenced by a written request from an authorized representative of Borrower ("Authorized Representative"). The following individuals are each hereby authorized to act on behalf of Borrower, as an Authorized Representative, acting alone, until written notice of the revocation of such authority is received by Lender from Borrower:

Wendy S. Saunders, President.

(c) There are sufficient funds available under the line of credit to fulfill the requested advance; and

(d) There shall not exist at the time of any advance a condition which would constitute an Event of Default under this Loan Agreement that has not been cured in accordance with the terms herein.

1.3 Making Loan Advances. Each Advance shall be conclusively deemed to have been made at the request of and for the benefit of Borrower when advanced in accordance with the instructions of an Authorized Representative.

2. Purpose and Use of Loan Proceeds. The purpose of the Loan is to finance the third-party costs and other expenses incurred by Borrower during the predevelopment phase of the Project as described in the MOU, and the Loan funds shall not be used for any other purposes.

3. Affirmative Covenants of Borrower. Borrower shall at all times:

3.1 Accounting Records. Keep, or cause to be kept, proper books of record and account, prepared in accordance with generally accepted accounting principles, in which complete and accurate entries shall be made of all transactions of or in relation to the business and operations of Borrower. Such books of record and account shall be available for inspection by Lender upon reasonable advance notice, at reasonable hours and under reasonable circumstances;

3.2 Notices of Claims and Litigation. Promptly inform Lender in writing of (1) all material adverse changes in Borrower's financial condition, and (2) all existing and all threatened litigation, claims, investigations, administrative proceedings or similar actions affecting Borrower which could materially affect the financial condition of Borrower;

3.3 Additional Information. Furnish such additional information and statements, as Lender may request from time to time;

3.4 Other Agreements. Comply with all terms and conditions of all other agreements associated with the Loan, whether now or hereafter existing, between Borrower and any other party and notify Lender immediately in writing of any default in connection with any other such agreements; and

3.5 Loan Proceeds. Use all proceeds of advances solely for the purposes described herein.

4. Representations and Warranties. Borrower represents and warrants to Lender that, as of the date of execution of this Loan Agreement (such representations and warranties to remain operative and in full force and effect before and after the issuance of the Loan):

4.1 Good Standing. Borrower is a non-profit public benefit corporation duly organized and in good standing under the laws of the State of California, has the requisite legal right, power and authority to enter into this Loan Agreement, and to carry out and consummate all transactions contemplated by this Loan Agreement, and by proper corporate action has duly authorized the execution, delivery and performance of this Loan Agreement;

4.2 Duly Authorized. The making and performance by Borrower of this Loan Agreement, and the execution and delivery of the Note, have been duly authorized by all necessary parties and shall not violate any law, rule, regulation, order, writ, judgment, decree or determination, presently in effect; or result in a breach of or constitute a default under any bank loan or any other agreement or instrument to which the Borrower is a party or by which it or its property may be bound or affected;

4.3 Valid, Binding Enforcement Obligations. This Loan Agreement, and each of the agreements, documents, or instruments required to be executed by Borrower in connection with this Loan Agreement, are valid, binding, and enforceable obligations of Borrower in accordance with their terms, except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally, by the application of equitable principles regardless of whether enforcement is sought in a proceeding at law or in equity and by public policy; and

4.4 No Legal Actions. There are no legal actions, suits, or proceedings pending, or to the knowledge of the Borrower, threatened against the Borrower before any court or administrative agency, which if determined adversely to the Borrower, would have a material adverse affect on the financial condition or business of the Borrower.

5. Events of Default. The following events shall be "Events of Default:"

5.1 Failure to Make Payment. A failure by the Borrower to make any payment due under the Note within ten (10) days after written notice from Lender;

5.2 Default in Obligations. Failure by Borrower to observe and perform any covenant, condition or agreement on its part to be observed or performed herein for a period of thirty (30) days after written notice from Lender specifying such failure and requesting that it be remedied; provided, however, that if the failure is such that it can be corrected, but not within such 30-day period, and corrective action is instituted by Borrower within such period and diligently pursued until such failure is corrected, then such period shall be increased to such extent as shall be determined by Lender to be necessary to enable Borrower to observe or perform such correction through the exercise of due diligence;

5.3 Incorrect Representation or Warranty. If any representation or warranty contained in or made in connection with the execution and delivery of this Loan Agreement, or in any certificate furnished pursuant hereto, shall prove to be incorrect or to have been incorrect when made in any material respect; and

5.4 Insolvency; Bankruptcy. Borrower (a) admits in writing its inability to pay its debts generally; (b) makes a general assignment for the benefit of creditors; (c) institutes any proceeding or voluntary case (i) seeking to adjudicate it a bankrupt or insolvent, (ii) seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief or protection of debtors, or (iii) seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property; (d) takes any action to authorize any of the actions described above in this subsection; or (e) shall have instituted against it any proceeding (i) seeking to adjudicate it a bankrupt or insolvent, (ii) seeking liquidation, winding up, reorganization, arrangement, adjustment, protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief or protection of debtors, or (iii) seeking the entry of an order for relief or the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property, and, if such proceeding is being contested by Borrower in good faith, such proceeding shall remain undismissed or unstayed for a period of sixty (60) days.

6. Remedies on Default. Upon an Event of Default by Borrower, Lender shall have all the rights and remedies available to it under state law in enforcing this Loan Agreement including, but not limited to, the following:

6.1 Accelerate Loan. Lender may, upon notice in writing to Borrower, declare the then outstanding principal balance of the Loan payable for the remainder of the term of the Loan to be immediately due and payable, whereupon the same shall be immediately due and payable, without notice of default, demand for payment or presentment, protest or notice of nonpayment or dishonor, or any other notices or demands of any kind or nature, anything in this Loan Agreement to the contrary notwithstanding;

6.2 Other Remedies. Lender may pursue any and all other remedies available and take whatever action, at law or in equity, as may appear necessary or desirable to collect the payments due under this Loan Agreement, any other payments then due and thereafter to become due under this Loan Agreement or to enforce the performance and observance of any obligation, covenant, agreement or provision contained in this Loan Agreement to be observed or performed by Borrower; and

6.3 Remedies Not Exclusive. No remedy herein conferred upon or reserved to Lender is intended to be exclusive of any other available remedy or remedies, but each and every such remedy, to the extent permitted by law, shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity or otherwise.

7. Waiver of Notice. No failure or delay on the part of the Lender in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No modification or waiver or any provision of this Loan Agreement or of the Note, nor any consent to any departure by the Borrower therefrom, shall in any event be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

8. Notices. Notices provided for herein may be given by delivery personally or by sending them by registered or by certified mail, with postage charged prepaid, to the parties' mailing addresses, or to any other mailing address of which written notice is given, and notices shall be deemed given upon actual receipt thereof:

If to Borrower: Capitol Area Community Development Corporation
1522 14th Street
Sacramento, CA 95814

If to Lender: Capitol Area Development Authority
1522 14th Street
Sacramento, CA 95814

Borrower shall promptly notify Lender of any change of address.

9. Independent Contractor. Borrower is and shall at all times be an independent contractor with respect to Lender in the performance of its obligations under this Loan Agreement.

10. No Agency Relationship. Borrower hereby acknowledges that it is not an agent of Lender.

11. Amendment. This Loan Agreement may be modified or amended only by mutual written agreement of the Parties. Any such modification or amendment must be in writing, dated and signed by the Parties, and explicitly indicate that such writing modifies or amends this Loan Agreement.

12. Term. The term of this Loan Agreement shall commence on the Effective Date and shall continue until all sums owing on the Loan are paid in full in accordance with the provisions of the Note and this Loan Agreement.

13. Assignment; Successors and Assigns. Borrower may not assign any of their respective rights, interests, duties, or obligations under this Loan Agreement without Lender's prior written consent, which consent may be given or withheld in Lender's sole discretion. Any attempted or purported assignment by Borrower in violation of this Section shall be void. Lender may, in Lender's sole discretion, assign any or all of Lender's rights, interests, duties, or obligations hereunder to any person or entity without the prior written consent of Borrower. Subject to the foregoing, this Loan Agreement shall be binding on and shall inure to the benefit of the Parties and their respective heirs, successors, assigns and representatives.

14. Attorneys' Fees. If any Party or Parties bring an action or proceeding arising out of or relating to this Loan Agreement, the non-prevailing Party or Parties shall pay to the prevailing Party or Parties reasonable attorneys' fees and costs incurred in such action, including fees incurred in post judgment motions, contempt proceedings, garnishment, levy, debtor and third party examinations, discovery, bankruptcy litigation, arbitration, at trial, on appeal and on any review therefrom, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid whether or not such action is prosecuted to judgment. Any judgment or order entered shall contain a provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. The prevailing Party shall be the Party who is entitled to recover its costs of suit (as determined by the court of competent jurisdiction or the arbitrator), whether or not the action or proceeding proceeds to final judgment or award.

15. Counterparts. This Loan Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

16. Governing Law. This Loan Agreement shall be interpreted under and governed by the laws of the State of California, except for those provisions preempted by federal law. All Parties to the Loan Agreement agree that all actions or proceedings arising in connection with this Loan Agreement shall be tried and litigated only in the County of Sacramento Superior Court.

17. Entire Agreement. This Loan Agreement is the entire understanding and agreement of the Parties regarding its subject matter, and supersedes any prior oral or written agreements, representations, understandings or discussions among the Parties with respect to such subject matter.

18. Severability. If any provision of this Loan Agreement, in whole or in part, or the application of any provision, in whole or in part, is determined to be illegal, invalid or unenforceable by a court of competent jurisdiction and such provision can be severed without substantially changing the bargain reached by the Parties, such provision or part of such provision shall be severed from this Loan Agreement, and such severance shall have no effect upon the enforceability, performance or obligations of the remainder of this Loan Agreement, including the remainder of such provision not determined to be illegal, invalid or unenforceable.

IN WITNESS WHEREOF, Borrower and Lender have executed this Loan Agreement on the date first written above.

Borrower:

Capitol Area Community Development Corporation,
a California non-profit public benefit corporation

By: _____
Wendy Saunders, President

APPROVED AS TO FORM:

By: _____
Jeffrey A. Mitchell, CACDC legal counsel

Lender:

Capitol Area Development Authority,
a California joint powers agency

By: _____
Wendy Saunders, Executive Director

APPROVED AS TO FORM:

By: _____
Jeffrey A. Mitchell, CADA legal counsel

UNSECURED REVOLVING PROMISSORY NOTE

(16th & T Streets)

\$900,000.00

_____, 2022
Sacramento, California

1. Obligation. FOR VALUE RECEIVED, the **Capitol Area Community Development Corporation**, a California non-profit public benefit corporation ("Borrower"), hereby unconditionally promises to pay to the **Capitol Area Development Authority**, a California joint powers agency ("Lender"), at **1522 14th Street, Sacramento, CA 95814**, or at such other place as Lender may from time to time designate in writing to Borrower, the principal sum that is borrowed by Borrower from time to time in an amount not to exceed Nine Hundred Thousand Dollars (\$900,000.00), at zero percent (0%) interest, in the manner provided for below.

2. Revolving Line of Credit. This Note evidences a revolving line of credit pursuant to a Loan Agreement executed by Borrower and Lender concurrently herewith (the "Loan Agreement"). The line of credit will be available and advances may be requested from time to time during the period commencing on the effective date of this Note through _____, 2022_ (the "Maturity Date") on a revolving basis, which means that the line of credit may be repaid and used again.

3. Payment of Principal. Principal shall be paid to Lender based upon available funds, but in no event shall any unpaid principal, accrued interest and other amounts outstanding on this Note be paid later than the Maturity Date. Each payment made hereunder, including prepayments allowed under Section 5, shall be credited first on interest then due and the remainder on principal, and interest shall thereupon cease upon the principal so credited.

4. Unsecured Note. Repayment of this Note is unsecured.

5. Prepayment. Borrower shall have the right to prepay all or any part of the principal sum hereof or interest due hereunder at any time, without penalty or premium. Prepayments shall not, however, unless otherwise agreed to by Lender in writing, relieve Borrower of Borrower's obligation to continue to make payments in the amount and at the times set forth in Section 3, but rather shall reduce the principal balance of this Note and may result in Borrower making fewer payments under this Note.

6. Notices. Notices provided for herein may be given by delivery personally or by sending them by registered or by certified mail, with postage charged prepaid, to the parties' mailing addresses, or to any other mailing address of which written notice is given, and notices shall be deemed given upon actual receipt thereof:

If to Borrower: Capitol Area Community Development Corporation
1522 14th Street
Sacramento, CA 95814

If to Lender: Capitol Area Development Authority
1522 14th Street
Sacramento, CA 95814

Borrower shall promptly notify Lender of any change of address.

7. Assignment. Borrower covenants that it shall not assign or transfer its rights or obligations under this Note, including an assignment from Borrower, as joint tenants, tenants in common, community property or other form of joint interest, to either Borrower as his or her separate property, without the prior written consent of Lender. Borrower hereby agrees that Lender may assign its rights under this Note at any time.

8. Default; Acceleration. In the event of (i) any default by Borrower in the payment of this Note when due hereunder or in the performance of Borrower's obligations under this Note or any instrument securing repayment of this Note, (ii) the breach of any representation or warranty contained in this Note or any instrument securing repayment of this Note, (iii) the filing of any petition by or against Borrower in any court, whether or not pursuant to any statute of the United States or of any state, in any bankruptcy, reorganization, composition, extension, arrangement or insolvency proceedings, and Borrower shall thereafter be adjudicated bankrupt, or such petition be approved by the court, or the court assumes jurisdiction of the subject matter, and such proceedings not be dismissed within 90 days after the institution of the same, (iv) the appointment of a receiver or trustee in any proceeding for all or any portion of property owned by Borrower and such receivership or trusteeship not be vacated within 90 days after the appointment of the same, (v) an assignment by Borrower for the benefit of its creditors, (vi) the foreclosure upon all or any portion of property owned by Borrower or the condemnation, seizure, attachment or appropriation thereof, or (vii) the sale, conveyance, assignment or transfer of greater than 50% of Borrower's stock, then in such event the entire indebtedness hereunder shall be immediately due and payable at the option of Lender.

9. Waiver. No waiver of any default or failure or delay to exercise any right or remedy by Lender shall operate as a waiver of any other default or of the same default in the future or as a waiver of any right or remedy with respect to the same or any other occurrence. Presentment, notice of dishonor or demand, protest and diligence in collection and bringing suit, including the pleading of any statute of limitations as a defense to any demand against Borrower, are hereby waived by Borrower, who consents that the time for payment of this Note may be extended from time to time without notice by Lender.

10. Default Interest Rate. From and after the Maturity Date of this Note, all sums due and owing hereunder shall earn interest at the maximum rate permitted to be charged under any applicable laws, rules and regulations limiting interest rates.

11. Attorneys' Fees and Costs. Borrower shall pay such fees, costs and expenses as may be incurred by Lender in connection with the exercise, preservation or enforcement of its rights, powers and remedies under the terms of this Note, including, without limitation, actual collection agency fees, costs and expenses, reasonable attorneys' fees and actual costs of suit and appeal incurred in any judicial action or proceeding and reasonable attorneys' fees and actual costs incurred in any collection attempts or non-judicial action or proceeding.

12. Binding on Heirs, Successors and Assigns. Subject to the restrictions on assignment and transfer contained in Sections 7 and 8, this Note shall be binding on and inure to the benefit of the legal representatives, heirs, successors and assigns of Lender and Borrower.

13. Governing Law; Venue. This Note shall be enforced in accordance with the laws of the State of California and shall be construed in accordance therewith, excluding any laws that require the application of another jurisdiction's laws. This Note is entered into and is to be performed in Sacramento County, California, and accordingly the only appropriate venue for a dispute under this Note is in the Superior Court of California with venue in the County of Sacramento.

14. **JURY WAIVER.** LENDER AND BORROWER HEREBY WAIVE THE RIGHT TO ANY JURY TRIAL IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY EITHER LENDER OR BORROWER AGAINST THE OTHER, TO THE EXTENT PERMITTED BY APPLICABLE LAW.

15. Amendments. Neither this Note nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the change, waiver, discharge or termination is sought.

16. Partial Invalidity. If any provision of this Note is held to be unenforceable for any reason, it shall be adjusted rather than voided, if possible, to achieve the intent of the parties to the extent possible. In any event, all other provisions of this Note shall be deemed valid and enforceable to the extent possible.

IN WITNESS WHEREOF, Borrower has executed this Note as of the date first above written.

Borrower:

Capitol Area Community Development Corporation,
a California non-profit public benefit corporation

By: _____
Wendy Saunders, President

APPROVED AS TO FORM:

By: _____
Jeffrey A. Mitchell, CACDC legal counsel

RESOLUTION NO. 22-37

Adopted by the Capitol Area Development Authority

October 14, 2022

RESOLUTION AUTHORIZING THE CADA EXECUTIVE DIRECTOR TO ENTER INTO AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN CADA, CACDC, AND MUTUAL HOUSING CALIFORNIA; EXECUTE A LOAN AGREEMENT AND PROMISSORY NOTE WITH CACDC; APPROVE A BUDGET AMENDMENT; AND TAKE ACTIONS NECESSARY TO COMPLETE PROJECT FUNDING REQUESTS.

WHEREAS, On August 21, 2021 the Capitol Area Development Authority (CADA) submitted a Letter of Offer to purchase a property at 2000 16th Street and the owners the property (Seller) accepted the offer on August 27, 2021;

WHEREAS, On November 16, 2021, a Purchase and Sale Agreement (PSA) that outlined the terms of the land sale was signed by CADA and the Seller;

WHEREAS, On February 23, 2022, the CADA Board authorized staff to close escrow and purchase the 2000 16th Street property;

WHEREAS, On July 15, 2022, CADA completed the purchase of the 2000 16th Street property;

WHEREAS, CADA intends to develop all or a portion of the Property as an affordable residential project, potentially including a retail and/or commercial component, consistent with permissible uses under the City of Sacramento land use regulations governing the Property;

WHEREAS, CADA, the Capitol Area Community Development Corporation (CACDC), and Mutual Housing California (Mutual) are currently working together on an affordable residential project to be located at 805 R Street, Sacramento and have discussed their mutual desire to collectively pursue the development of a mixed use project on the Property and explore joint development and ownership of the Project through a partnership; and

WHEREAS, On August 19, 2022, the CADA Board approved a Memorandum of Understanding among CADA, CACDC and Mutual Housing regarding the roles and responsibilities of the parties in undertaking a project at 2000 16th Street.

NOW, THEREFORE, BE IT RESOLVED, that the Capitol Area Development Authority Board of Directors hereby:

1. Approves an Amendment to the previously approved MOU between CADA, CACDC, and Mutual Housing to address project guarantees and the collection of developer and asset management fees,
2. Approves a Promissory Note and Loan Agreement establishing an unsecured revolving line of credit between CADA and the CACDC with a maximum credit line of \$900,000 CACDC would use as predevelopment funds,

3. Approves a budget Amendment to reduce the FY 22-23 CADA Development budget for the 2000 16th Street project by \$900,000 and create a new FY 22-23 CACDC Development Budget in the amount of \$900,000 for the 2000 16th Street project, and
4. Authorizes the Executive Director to take any and all actions that may be necessary or advisable, in her discretion, in order to complete funding requests and applications to fund construction of the project.

ATTEST:

Ann Bailey, Chair

Tara Gandara
Secretary to the Board of Directors

RESOLUTION NO. 22-03

Adopted by the Capitol Area Community Development Corporation

October 14, 2022

RESOLUTION AUTHORIZING THE CACDC PRESIDENT TO ENTER INTO AN AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN CACDC, CADA, AND MUTUAL HOUSING CALIFORNIA; CREATE A DEVELOPMENT LLC; ENTER INTO A LIMITED PARTNERSHIP AGREEMENT WITH MUTUAL HOUSING; EXECUTE A LOAN AGREEMENT AND PROMISSORY NOTE WITH CADA; AND TAKE ACTIONS NECESSARY TO COMPLETE PROJECT FUNDING REQUESTS

WHEREAS, On August 21, 2021 the Capitol Area Development Authority (CADA) submitted a Letter of Offer to purchase a property at 2000 16th Street and the owners the property (Seller) accepted the offer on August 27, 2021;

WHEREAS, On November 16, 2021, a Purchase and Sale Agreement (PSA) that outlined the terms of the land sale was signed by CADA and the Seller;

WHEREAS, On February 23, 2022, the CADA Board authorized staff to close escrow and purchase the 2000 16th Street property;

WHEREAS, On July 15, 2022, CADA completed the purchase of the 2000 16th Street property;

WHEREAS, CADA intends to develop all or a portion of the Property as an affordable residential project, potentially including a retail and/or commercial component, consistent with permissible uses under the City of Sacramento land use regulations governing the Property;

WHEREAS, CACDC, CADA, and Mutual Housing California ("Mutual") are currently working together on an affordable residential project to be located at 805 R Street, Sacramento and have discussed their mutual desire to collectively pursue the development of a mixed use project on the Property and explore joint development and ownership of the Project through a partnership; and

WHEREAS, On August 19, 2022, the CACDC Board approved a Memorandum of Understanding among CADA, CACDC and Mutual Housing regarding the roles and responsibilities of the parties in undertaking a project at 2000 16th Street.

NOW, THEREFORE, BE IT RESOLVED, that the Capitol Area Community Development Corporation Board of Directors hereby:

1. Approves an Amendment to the previously approved MOU between CACDC, CADA, and Mutual Housing to address project guarantees and the collection of developer and asset management fees,
2. Authorizes the President to form a development LLC to be the General Partner in the development partnership with Mutual Housing California,

3. Authorizes the President to enter into a Limited Partnership Agreement with Mutual Housing for the creation of 2000 16th Street Investors LP, the project owner and developer,
4. Approves a Promissory Note and Loan Agreement establishing an unsecured revolving line of credit between CADA and the CACDC with a maximum credit line of \$900,000 that CACDC would use as predevelopment funds, and
5. Authorizes the President to take any and all actions that may be necessary or advisable, in her discretion, in order to complete funding requests and applications to fund construction of the project.

ATTEST:

Ann Bailey, Chair

Tara Gandara
Secretary to the Board of Directors