



May 14, 2025

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

SUBJECT: **May 23, 2025 Board Meeting**
AGENDA ITEM 8
THIRD AMENDMENT TO SITE 5A DISPOSITION AND DEVELOPMENT
AGREEMENT BETWEEN THE AUTHORITY AND FREMONT/DOWNTOWN
SACRAMENTO PARTNERS, L.P. AND MEMORANDUM OF THIRD
AMENDMENT

CONTACT: Marc de la Vergne, Director of Sustainability, Placemaking and Special Projects

RECOMMENDATION:

Staff recommends the Board adopt a resolution (Attachment 1) authorizing the Executive Director to execute a Third Amendment (Attachment 2) to the Site 5A Disposition and Development Agreement between CADA and Fremont/Downtown Partners, L.P. and a Memorandum of Third Amendment (Attachment 3).

BACKGROUND

On June 2, 1998 the Board of Directors approved by Resolution No. 98-15 the Disposition and Development Agreement for development of Site 5A (16th Street between O and P Streets) as a mixed-use development of multi-family rental housing and ancillary neighborhood commercial retail space. This development is known as the Fremont Building. The developer was Shasta-Downtown Sacramento Mixed Use Development, LLC.

On June 11, 1999, the Board of Directors approved Amendment 1 to the Disposition and Development Agreement (DDA) revising the form of the required corporate guaranty for the project. The project cost was \$9,803,853. The project included a CADA loan to the project of \$570,000, which was CADA's sales price to the developer. Below is the project description.

Table 1 – Project Description

Residential Units	69
Site Square Feet	38,400
Building Gross Square Feet	98,976
Net Residential Square Feet	64,650
Average Unit Square Feet	937
Common Areas Square Feet	10,921
Retail Gross Square Feet	12,295
Parking Spaces	69
Affordable Units	11

The building has been managed by the Garibaldi Company since project completion in 1998.

On August 5, 1999, the Board authorized Amendment 2 to the DDA approving a change to the DDA Schedule of Performances and authorizing Sotiris Kolokotronis to provide the project guaranty.

In 2002, Shasta decided to close its Sacramento offices and dissolve the LLC and its ownership position was assigned to Fremont/Downtown Sacramento Partners, LP, which continues to own the building today. In January 2002, Shasta/Downtown Sacramento Mixed Use Development, LLC assigned its interest in the development documents (DDA) to Fremont/Downtown Sacramento Partners, L.P.

In 2006, as part of an earlier project refinancing, CADA and the project owner agreed on a \$778,155 payoff amount for the CADA loan balance, which the owner made in October 2006, bringing the loan balance to zero.

In 2012, the Garibaldi Company assumed Sotiris Kolokotronis's position as limited partner and co-general partner of Fremont/Downtown Sacramento Partners, LP.

In April 2025, the Garibaldi Company requested that CADA provide Fremont/Downtown Sacramento Partners, LP with certain assistance through another amendment to the DDA, which it requires in connection with a proposed refinancing of the project's permanent loan. That assistance is described below.

ANALYSIS

Fremont/Downtown Sacramento Partners, LP is seeking to refinance its permanent loan at this time. The current loan is with Freddie Mac and was originated by Walker Dunlop. This loan matures 7/1/25. The new loan will be with Fannie Mae and is also being originated by Walker Dunlop. The new loan will have a 7-year term. As part of the underwriting process, Fannie Mae has reviewed the owner's DDA for this project.

As a condition of refinancing the project loan, Fannie Mae is requiring 1) removal of CADA's right to purchase the property in the case of an owner default within the DDA's terms, and 2) modifications to the DDA's insurance term.

To enable staff to evaluate this request and make a recommendation to the Board, CADA's counsel recommended CADA consider two questions: 1) what is the likelihood of a default happening that would trigger the need for CADA to exercise its right under the current, unamended DDA, to purchase the property, and 2) would CADA be interested in purchasing the property following a default?

The DDA requires timely annual payment to the County of Sacramento of all property taxes owed and requires that at all times the assessed value of the property may not fall below a minimum threshold amount of \$7,070,000. This provision was included in the current DDA so that CADA would be able to rely on minimum annual property tax increment flow from the property to support anticipated future CADA projects. The provision will remain in the DDA. While the Third Amendment eliminates CADA's right to repurchase the property for any default under the DDA, a failure to pay the required annual property taxes and a failure to show the assessed value exceeds the minimum threshold assessed value, is extremely unlikely. CADA staff have reviewed the County of Sacramento's property tax records for the property and copies of the owner's tax bills and confirmed that the owners have consistently been paying the required property taxes, that the tax payments have consistently exceeded the DDA-required annual floor amount, and that the assessed value of the property is double the threshold that would trigger a tax payment to CADA.

The annual property tax payments have consistently matched the required County's billed amounts, and the assessed value of the property each year has exceeded the required \$7,070,000 floor. Currently, the assessed value of the property is \$14,126,151. Based on this decades-long payment record and based on the assessed value's performance since the 1998 project completion, staff believes the likelihood of a property tax default happening is extremely small, effectively eliminating the need for CADA to repurchase the project.

Regarding the repurchase provision in the current DDA and whether CADA would consider a repurchase, even if the DDA were not amended as is being requested, it is doubtful that staff would recommend a repurchase in the unlikely event that the developer failed to pay the required amount of property tax. A January 2025 appraisal commissioned by the owner valued the property at \$27,400,000, which is nearly four times the original assessed value, making a hypothetical acquisition a very expensive proposition. Furthermore, CADA's development priorities do not currently include purchasing completed, mostly market-rate, apartment properties.

For these reasons, staff recommends the Board approve the proposed Third Amendment to the DDA which strikes Section 9.5 of the DDA, which gave CADA this right to repurchase. This change is contained in Section 3 of the Third Amendment, included as Attachment 2.

Fannie Mae's second request, is for a modification to the DDA's insurance language to state that in the event of a casualty, the owner would be required to restore the property to a good and tenable condition subject to the rights contained in the loan refinance documents of Fannie Mae. While this modification is minor and standard for lenders to request, at issue, is the application of insurance proceeds. Lenders like having the option of paying off the loan or having the borrower re-build with insurance proceeds. This contradicts what the DDA currently says, so with the amendment, CADA is subordinating to what the lender requires for using the insurance proceeds. These modifications can be found in Section 2 of the Third Amendment, included as Attachment 2.

Staff and CADA's counsel support this request by Fannie Mae.

POLICY

CADA's policy is to require Board approval of any amendments to project Disposition and Development Agreements. Staff and CADA's counsel concur on the recommendation that the Board approve the requested Third Amendment (Attachment 2) to the DDA, as it allows for the refinancing of a thriving community asset that makes regular contributions to CADA's tax revenue.

FINANCIAL IMPACT

As discussed above, there is no significant risk of a financial impact associated with the recommended action.

ENVIRONMENTAL ISSUES

There are no environmental issues associated with this recommended action. It is exempt as an administrative action.

CADA STRATEGIC PLAN

The proposed action addresses the following 2024-2029 CADA Strategic Plan goals:

1. Develop and Collaborate on a variety of housing types and creative projects.

The recommended action supports this goal by providing support to the project owner's effort to refinance its permanent project loan. Refinancing the loan will enable the owner to secure permanent financing for the project at a rate that it finds attractive and that will support the

financial viability of the project along a critical corridor within the CADA area of responsibility, the 16th Street Corridor.

Attachments:

1. Resolution 25-17
2. Third Amendment to the Disposition and Development Agreement Between CADA and Fremont/Downtown Sacramento Partners, L.P., Site 5A
3. Memorandum of Third Amendment

RESOLUTION NO. 25 – 17

Adopted by the Capitol Area Development Authority May 23, 2025

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO
EXECUTE THE THIRD AMENDMENT TO THE DISPOSITION AND
DEVELOPMENT AGREEMENT (DDA) BETWEEN CADA AND
FREMONT/DOWNTOWN SACRAMENTO PARTNERS, L.P. FOR
SITE 5A AND TO EXECUTE THE MEMORANDUM OF THIRD
AMENDMENT TO THE DDA**

WHEREAS, on June 2, 1998 the Board of Directors approved the Disposition and Development Agreement (DDA) for development of Site 5A (16th Street between O and P Streets) as multi-family rental housing and retail space, with developer Shasta-Downtown Mixed Use Development, LLC;

WHEREAS, on June 11, 1999 and August 5, 1999, respectively, the Board approved Amendments 1 and 2 to the DDA; and in April 2025 the project owner requested that CADA approve an amendment to the DDA that would enable it to secure a Fannie Mae refinancing of its permanent loan;

WHEREAS, as a condition of refinancing the project loan, Fannie Mae is requiring 1) removal of CADA's right to purchase the property in the case of an owner default within the DDA's terms, and 2) modifications to the DDA's insurance term;

WHEREAS, Developer's consistent payments since 1998 of the required annual property taxes due to the County of Sacramento and the maintenance of a required minimum property assessed value have fully met the annual requirements of the DDA;

WHEREAS, Developer's past performance under the DDA suggests that risk of a default of the project's annual property tax and assessed value provisions in the future is highly unlikely; and

WHEREAS, Fannie Mae's requested changes to the DDA's insurance provisions are minor and standard for lenders to request.

NOW, THEREFORE, BE IT RESOLVED, by the Capitol Area Development Authority that the Board of Directors hereby authorizes the Executive Director, or her designee to: 1) execute the Third Amendment to the DDA for Site 5A with Fremont/Downtown Sacramento Partners, L.P. and 2) execute the Memorandum of Third Amendment to the DDA.

Ann Bailey, Chair

ATTEST:

Tara Gandara
Secretary to the Board of Directors

Attachment 2

THIRD AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT

This Third Amendment to Disposition and Development Agreement ("Third Amendment") is entered into on May __, 2025, by and between **Capitol Area Development Authority**, a California joint powers agency ("Authority"), and **Fremont/Downtown Sacramento Partners, L.P.**, a California limited partnership ("Developer"). Authority and Developer are each individually referred to as a "Party," and collectively as the "Parties."

RECITALS

A. On or about June 12, 1998, Authority and Developer's predecessor, Shasta/Downtown Sacramento Mixed Use Development, LLC ("Shasta"), entered into that certain Disposition and Development Agreement – Site 5A, for the development of certain real property located at 16th & P Streets known as the Fremont Apartments, as amended by that certain First Amendment to Disposition and Development Agreement dated September 13, 1999 (the "First Amendment"), and that certain Second Amendment to Disposition and Development Agreement dated September 13, 1999 ("Second Amendment"), collectively referred to herein as the "DDA".

B. In January 2002, Shasta assigned its interests in the DDA to Developer, who is the current owner of the Property.

C. Developer is refinancing the Property and has requested that Authority agree to certain changes to the DDA. Authority and Developer wish to enter into this amendment to implement those changes, which were approved by Authority.

NOW, THEREFORE, for and in consideration of the foregoing, and the covenants and agreements of the Parties set forth hereinbelow, together with other good and valuable consideration received by each of the Parties, the receipt and sufficiency of which are hereby acknowledged by each of the Parties, the Parties do and hereby covenant and agree as set forth below.

AGREEMENT

1. Definitions. All capitalized terms shall have the meaning defined in the DDA unless expressly defined to the contrary herein.

2. Modification of Restoration Rights. The second sentence of Section 8.1 is hereby deleted and replaced with the following:

In the event of a casualty, Developer shall, with due diligence, restore the Property to a good and tenantable condition and fit for use by residential and commercial tenants in accordance with the Agreement, subject to provisions of this Section, Section 7.3 hereof, and subject to the rights contained in the loan documents of senior lender Fannie Mae and of any subsequent senior lender.

3. Termination of Authority's Option to Acquire Property. Section 9.5 of the DDA is hereby terminated.

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

5. Conflict. In the event of a conflict between the terms of the DDA and this Third Amendment, the Parties intend that the terms and conditions contained in this Third Amendment shall control and prevail.

6. Authority. Each of the Parties of this Third Amendment personally represents and warrants that he or she has full authority to sign this Third Amendment on behalf of the Party for which he or she signs.

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

8. Memorandum of Third Amendment. Upon execution of this Third Amendment, the Parties shall cause to be recorded against the title of the Property a Memorandum of Third Amendment to Disposition and Development Agreement in a commercially reasonable form approved by the Parties.

(Signatures on Next Page)

IN WITNESS WHEREOF, the Parties hereto have executed this Third Amendment in one or more counterparts, on the date(s) set forth below.

AUTHORITY:

Capitol Area Development Authority,
a California joint powers agency

By: _____
Danielle Foster, Executive Director

Date: _____

DEVELOPER:

Fremont/Downtown Sacramento Partners, L.P.,
a California limited partnership

By: _____
Name: _____
Title: _____

Date: _____

Attachment 3

No recording fee required pursuant to
Government Code Section 27383.

Recording Requested by and
When Recorded Return to:

Capitol Area Development Authority
1522 14th Street
Sacramento, California 95814
Attention: Executive Director

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MEMORANDUM OF THIRD AMENDMENT TO
DISPOSITION AND DEVELOPMENT AGREEMENT
SITE 5A

THIS MEMORANDUM OF THIRD AMENDMENT TO DISPOSITION AND DEVELOPMENT AGREEMENT is made May __, 2025, by and between the **Capitol Area Development Authority**, a California joint powers agency ("Authority"), and **Fremont/Downtown Sacramento Partners, L.P.**, a California limited partnership ("Developer").

Authority and Developer are parties to that certain Disposition and Development Agreement dated June 12, 1998, as amended by that certain First Amendment to Disposition and Development Agreement dated September 13, 1999 (the "First Amendment"), and that certain Second Amendment to Disposition and Development Agreement dated September 13, 1999 ("Second Amendment"), and that certain Third Amendment to Disposition and Development Agreement dated May __, 2025 ("Third Amendment") (collectively, the "DDA"), the terms and conditions of which are hereby incorporated by this reference as if set forth in full herein.

A Memorandum of Disposition and Development Agreement, dated August 9, 1999, was recorded on September 13, 1999 as Instrument No. 19990913062 in the Official Records of the Office of the Sacramento County Recorder.

The DDA controls the development and use of that certain real property, including improvements thereto, situated in the City of Sacramento, County of Sacramento, State of California, and legally described as follows:

[See Exhibit A, attached hereto and made a part hereof]

AUTHORITY:

Capitol Area Development Authority,
a California joint powers agency

By: _____
Danielle Foster, Executive Director

DEVELOPER:

Fremont/Downtown Sacramento Partners, L.P.,
a California limited partnership

By: _____
Name: _____
Title: _____

MEMORANDUM – Exhibit A

(Legal Description of Property)

Real property in the City of Sacramento, County of Sacramento, State of California, described as follows:

All of Lot 1, the West one-half of Lot 2, the West one-half of Lot 7 and all of Lot 8, in the block bounded by “O” and “P”, 16th and 17th Streets of the City of Sacramento, according to the map or plan thereof.