

EXCLUSIVE NEGOTIATION AGREEMENT

THIS EXCLUSIVE NEGOTIATION AGREEMENT (“Agreement”) is entered into this _____ day of _____, 2010 by and between the Redevelopment Agency of the City of San Diego, a public body, corporate and politic (“**Agency**”), and St. Stephen’s Valencia Business Park Development, LLC, a Delaware limited liability company (“**Developer**”), individually referred to as “Party” and collectively referred to as “Parties” herein, on the terms and provisions set forth below.

I. NEGOTIATION

a. Good Faith Negotiations

The Agency and the Developer agree for the period set forth below, to negotiate diligently and in good faith, pursuant to this Agreement, to prepare a Disposition and Development Agreement (“**DDA**”) to be entered into between the Agency, as recommended by the Board of Directors of the Southeastern Economic Development Corporation, Inc. (“**SEDC**”), and the Developer with respect to the redevelopment of that site known as Lots 2 through 7 of the Valencia Business Park as designated as the Site on the Site Map attached hereto and incorporated herein as Exhibit “A” and legally described in Exhibit “B” attached to and incorporated herein (the “**Property**”). However, by entering into this Agreement, the Parties are not required to enter into a DDA.

SEDC shall conduct negotiations pursuant to this Agreement and process the overall project on behalf of the Agency, subject to the approval of the Agency. Accordingly, SEDC shall cause the DDA to be prepared and submitted to Developer for its review. Nothing in this Agreement shall be deemed a covenant, promise or commitment by the Agency, the City of San Diego (“**City**”), SEDC or any agency of the City, with respect to the disposition of the Property or the approval of any development of the Property. The Agency’s acceptance of this Agreement is merely an agreement to enter into a period of exclusive negotiations according to the terms hereof, reserving final discretion and approval as to any actions required of the Agency.

b. Period of Negotiations

The Parties agree to negotiate the DDA for a One Hundred Eighty (180) day period, commencing on the date the Agency executes this Agreement as shown beside its signature (the “**Effective Date**”), upon execution by the Agency General Counsel as to form and legality. If on the 180th day from the Effective Date, the Developer has not signed and submitted a DDA to the Agency, or this Agreement is not otherwise extended by the Parties as approved by the Board of Directors of the Agency, then this Agreement shall automatically terminate and the Developer shall have no further rights regarding the subject matter of this Agreement or the Property, and the Agency shall be free to negotiate with any other persons or entities with regard to the Property.

If a DDA is signed and submitted by the Developer and received by SEDC, on behalf of the Agency, within the final Sixty (60) days of the 180-day exclusive negotiation period, then this Agreement shall be automatically extended for an additional 60 day period to enable the Agency to (1) determine whether it desires to enter into such a DDA, (2) take the actions necessary to authorize the Agency’s execution of the DDA, and (3) execute the DDA. Notwithstanding the above, the Agency is under no obligation whatsoever to enter into a proposed DDA.

If the Agency has not considered and approved the DDA by the expiration of the extended 60-day exclusive negotiation period, or this Agreement is not otherwise extended by the Parties as approved by the Board of Directors of the Agency, then this Agreement shall automatically terminate, the Developer shall have no further rights regarding the subject matter of this Agreement or the Property, and the Agency shall be free to negotiate with any other persons or entities with regard to the Property.

Upon any termination of this Agreement, all remaining balances of deposits paid by the Developer to the Agency including the deposit paid by the Developer to the Agency at the time of developer selection by the Agency, and any accrued interest thereon, shall be retained by the Agency as the Agency's sole and exclusive property. The Developer hereby waives any claim or right to any remaining balance of the deposit and any interest accrued thereon.

c. Deposit

Concurrently with the Developer's submission of its response dated April 2, 2010 to the Agency's Request for Proposals ("**RFP**") issued by SEDC on _____, _____ in connection with the redevelopment of the Property, the Developer submitted a non-refundable good faith deposit in the amount of Fifty Thousand Dollars (\$50,000) in the form of a cashier's check or certified check, naming the Redevelopment Agency of the City of San Diego as payee. The purpose and use of the deposit is to ensure that Developer will proceed diligently and in good faith to negotiate and perform all of the Developer's obligations under this Agreement and to cover the Agency's costs and expenses incurred in connection with negotiating and preparing a DDA and analyzing the proposed development project on the Property. Upon approval of this Agreement by the Agency, the deposit shall be released to the Agency for the Agency's exclusive use, in its sole discretion, to pay for the Agency's costs and expenses incurred in connection with negotiating and preparing the DDA and analyzing the proposed development project on the Property, including related consultant and third party costs

II. **PROPOSED DEVELOPMENT**

a. Development Concept and Essential Terms and Conditions

The proposed development to be negotiated hereunder shall include the development of a site with 130,627 square feet of new buildings and a 71,898 square foot parking structure with the lowest level one-half story below grade. The locations of the building footprints and associated square footages may vary as the development becomes more defined. Any variance from the square footages presented in the RFP to what is ultimately agreed to in the DDA process will be fully disclosed. Phase One would consist of 31,513 square feet of retail and Phase Two would consist of 99,114 square feet of office, community space, and retail.

The Developer's proposal and any supplemental information submitted by the Developer in response to SEDC's inquiries, together with the requirements of the RFP, constitute the frame of reference for the development to be negotiated under this Agreement. The essential terms and conditions of any such DDA to be negotiated pursuant to this Agreement shall be in conformance with the proposal submitted by the Developer in response to the RFP and include the following requirements:

(1) The Developer shall purchase the Property from the Agency for a purchase price as stated in the DDA. The sale will occur after the Developer has satisfactory evidence of committed financing for the development of the Property as contemplated by the DDA, zoning

approval, entitlements and permits, and satisfied other conditions precedent to the closing on the Property as specified in the DDA.

(2) The Developer will design and construct the private improvements on the Property, at its own cost and expense, in accordance with a Schedule of Performance to be negotiated as part of the DDA and in accordance with the Scope of Development as part of the DDA and the plans and specifications prepared by the Developer and approved by the Agency.

(3) The Developer will design and construct a development project on the Property that assures compliance with all conditions required by the U.S. Department of Housing and Urban Development in connection with the Agency's initial acquisition of the Property.

(4) The Developer will design and construct all on-site infrastructure improvements on the property and develop a plan for financing the cost of infrastructure improvements.

(5) The Developer will secure all necessary planning, zoning and other entitlement and permit approvals for the proposed development as contemplated by the DDA at its own cost and expense.

(6) The Developer, working through the City of San Diego and SEDC, will prepare, or pay the costs to have prepared, all required environmental analysis documents in accordance with the California Environmental Quality Act (CEQA) of 1970, and the National Environmental Policy Act ("NEPA") if required, at its own cost and expense. The Agency will have approval rights of all draft environmental documents.

(7) The Developer will be responsible for marketing and leasing the Property and generating tax revenues to the Agency through each phase of development.

(8) The Developer will conduct a series of public outreach meetings (minimum of two) prior to finalizing the site plan and executing the DDA. Such meetings to be held at the sole cost of the Developer.

b. Developer's Responsibilities

The Developer shall have 60 days from the signing of this Agreement to provide to the Agency with the following information, satisfactory to the Agency:

(1) A preliminary conceptual site plan showing building layout and dimensions, parking, landscaping, and access, which shall be subject to changes with the approval of the Agency, which such approval shall not be unreasonably withheld.

(2) Cost estimates and project data for the proposal in sufficient detail to permit adequate financial analysis by the Agency.

(3) A detailed financial plan, including:

- a. The approach for securing construction financing.
- b. The approach for securing long-term financing.
- c. Financial pro forma and project budget.

(4) Agreement on the location of project signs on the Site with wording to be approved by the Agency.

(5) The Developer agrees to defend, indemnify and hold harmless the Agency, SEDC, City and each of their officers, agents and employees from damages, claims or liability arising from Developer's acts or omissions under or in connection with this Agreement, provided, the obligation to hold harmless and indemnify for such damages, claims and liability shall only be to the extent any such damages, claims or liability as caused by Developer's acts or omissions under or in connection with this Agreement.

c. Developer's Findings, Determinations, Studies, and Reports

From time-to-time, as requested by the Agency, the Developer agrees to make oral and written progress reports, and to submit to the Agency reports and analyses, advising the Agency on all matters related to the development, including financial feasibility analyses, construction cost estimates, marketing studies, and similar due diligence matters. Should negotiations not result in a DDA between the Agency and the Developer, the Agency may use the information provided by the Developer in any way deemed by the Agency to be of benefit to the Agency. All costs incurred by Developer in the preparation and presentation of such findings, determinations, studies, reports or other requests by Agency under this Agreement shall be at the sole expense of Developer.

d. Agency's Responsibilities: The Agency's Role in the Entitlement Process.

The land use authority is the City and the sole entitlement decision-making body is the City Council. The Agency will take an active role in assisting the selected Developer in working with the City to obtain entitlements and land use approvals for the Property. The Agency's role will be that of a facilitator in the process.

III. PURCHASE PRICE, RENTAL, AND/OR OTHER CONSIDERATIONS

The purchase price of the Property payable to the Agency by the Developer will be established in the DDA.

IV. THE DEVELOPER

a. Nature of the Developer:

Developer will be a Delaware limited liability company with the following ownership structure:

Associate Member:	
St. Stephen's Retirement Center, Inc.	51%
Managing Member:	
Dudley Venture Realty, LLC:	49%

b. Offices of the Developer

The principal offices of the Developer are located at:

c/o Dudley Ventures Realty, LLC
22 E. Jackson Street
Phoenix, AZ 85004
Attn: Essie Safaie, Director of Development

c. Principals and Employees of the Developer

The principals of the Developer are as follows:

As to Dudley Ventures - James D. Howard, Jr.
As to St. Stephen's Retirement Center, Inc. - Bishop George D. McKinney

The Developer's employees or representatives who will be directly involved in this development are as follows:

As to Dudley Ventures:
Essie Safaie – Director of Development
Robert Nathan – Project Manager
Barbara Beaudoin – CFO
Dillan Knudson – Senior Analyst
Ydenices Martinez – Paralegal

As to St. Stephen's Retirement Center, Inc.:
Pastor George McKinney - President
Honorable Barbara McKinney – Member/Legal Advisor

The Developer has designated the following person(s) to negotiate the DDA with the Agency, and to engage in the activities necessary to determine the feasibility of the development:

James D. Howard, Jr.
Essie Safaie

d. The Developer's Consultants and Professionals

The Developer's attorneys will be: Matthew A. Peterson, Esq.. The Developer's architect will be: Dominy & Associates Architects. The Developer's building contractors will be: To be determined. The Developer's consultants will be: L. Daniel Malcolm, Esq., Malcolm Properties. The Developer is required to make full disclosure to the Agency of its principals, officers, stockholders, partners, joint venturers, employees, and other associates, and all other pertinent information concerning the Developer and its associates. The principals, partners, joint venturers, development manager, consultants, and others directly involved employees of the Developer are subject to the approval of the Agency, which will not be unreasonably withheld. In addition, Developer reserves the right to change the consultants and professionals with the approval of the Agency, which will not be unreasonably withheld.

V. THE DEVELOPER'S FINANCIAL CAPACITY

a. Financial Statement

Financial statements of the members of the Developer were submitted in connection with the RFP.

b. Equity

The Developer proposes to obtain its equity capital in the following manner: Equity investment from a combination of the Developer and New Market Tax Credits or substitute acceptable to the Agency.

c. Construction Financing

The Developer proposes to obtain its construction financing for the development in the following manner: Use of New Market Tax Credit Financing.

d. Long-Term Development Financing

The Developer proposes to obtain its long-term development financing in the following manner: Use of New Market Tax Credit Financing

e. Bank and Other Financial References The Developer's bank and other financial references are as follows:

Wells Fargo Bank
2355 E. Camelback Road, Suite 400
Phoenix, AZ 85016
Attn: Luis Marquez
(602) 522-7819

Arizona Business Bank
1757 E Baseline Rd.
Bldg. 1, Ste. 101
Gilbert, AZ 85233
Attn: Adam Christensen
(602) 217-1564

BBVA Compass
2850 E. Camelback Rd., Ste. 140
Phoenix, AZ 85016
Attn: Nancy Zezza
(602) 778-0782

f. Full Disclosure

The Developer will be required to make and maintain full disclosure to the Agency of the methods of financing and the financing documents to be used in the proposed development.

VI. NONDISCRIMINATION AND EQUAL OPPORTUNITY

a. The Developer shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Developer shall provide equal opportunity in all employment practices. The Developer shall ensure that its contractor and subcontractors comply with the City's and SEDC's Equal Employment Opportunity programs.

b. The Developer has received, read, understands and agrees to be bound by San Diego Municipal Code Division 27 (Equal Employment Opportunity Outreach Program) and the SEDC Equal Opportunity Policy adopted by SEDC's Board of Directors on _____.

c. The Developer has agreed to submit either a Work Force Report or an Equal Employment Opportunity Plan, as required by Section 22.2705 of the San Diego Municipal Code.

VII. AGENCY'S RESPONSIBILITIES

a. Environmental Requirements

The Agency will be the lead agency in environmental matters as required by the California Environmental Quality Act (CEQA). The Agency will provide all necessary data

relative to the Site. However, the Developer, and not the Agency, will be responsible for compliance with NEPA should any of the Developer's financing for development of the Property require compliance with NEPA.

b. Assistance and Cooperation

The Agency shall cooperate fully in providing the Developer with appropriate information and assistance.

c. Agency and City Council Public Hearing

If the negotiations herein culminate in a DDA which involves the disposition of property to the Developer, such an agreement becomes effective only if the DDA and other documents have been considered and approved by the Agency Board of Directors and the City Council after a public hearing.

VIII. REAL ESTATE COMMISSIONS

The Agency shall not be liable for any real estate commission or brokerage fees which may arise here from. The Agency represents that it has engaged no broker, agent, or finder in connection with this transaction, and the Developer agrees to hold the Agency harmless from any claim by any broker, agent, or finder retained by the Developer.

IX. [INTENTIONALLY OMITTED]

X. ACKNOWLEDGEMENTS AND RESERVATIONS

a. Not Binding

The Parties acknowledge and agree that this Agreement is for the sole purpose of stating the intention of the Parties to negotiate a DDA. The Parties have not reached agreement on the matters to be set forth in a DDA, and do not intend to be bound to the disposition and development of the Property until such time as a final written DDA is executed by both Parties. All costs incurred by the Parties during the term of this Agreement, and any extensions thereto, shall be borne by the Party incurring the cost, except to the extent that Agency may utilize the deposits described in Section I(c) to defray its costs. In the event the final, written DDA is not executed by both Parties within the time provided in Section I(b), this Agreement shall automatically terminate, and be of no further force or effect, unless extended by action of the Agency and Developer upon the approval of the Board of Directors of the Agency.

The Agency's acknowledgment of this Agreement is merely an agreement to enter into a period of negotiations according to the concepts presented herein, reserving final discretion and approval by the Board of Directors of the Agency, or any other agencies of the City as to any actions required of them, if any.

b. No Further Obligations

The Agency and the Developer agree that neither the Agency nor the Developer shall be under any further obligation to each other regarding the assembly and disposition of the Property or the development of the proposed project on the Property if this Agreement expires, is terminated for any reason, or a DDA is not executed by both the Agency and the Developer.

c. Agency Not Responsible for Costs

Except as otherwise may be mutually agreed to in writing by the Parties, as part of this Agreement or the DDA, SEDC, the Agency and the City shall not be liable for any costs associated with the preparation of any reports, studies, analysis, architectural plans, and any other documentation to be prepared by the Developer, or planning or development of the Property pursuant to or arising from this Agreement, costs of negotiations or legal fees expended by the Developer.

d. No Agreement

The Developer acknowledges and agrees that no provision of this Agreement shall be deemed to be an offer by the Agency, nor an acceptance by the Agency of any offer or proposal from the Developer, for the Agency to convey to the Developer any interest in all or a portion of the Property or in or to the Property, or for the Agency to provide any financial or other assistance to the Developer for redevelopment of the Property.

e. No Acquisition

The Developer acknowledges and agrees that it has not acquired, nor will acquire, by virtue of the terms of this Agreement, any legal or equitable interest in the Property or any other real or personal property of the Agency.

f. No Obligation by SEDC, Agency or City

Nothing herein shall obligate or be deemed to obligate SEDC, the Agency or the City to approve or execute a DDA, commence any actions for voluntary or involuntary acquisition of real or personal property, or any interest therein, or convey any interest in any portion of the Property to Developer. The Parties understand and agree that SEDC, the Agency and the City cannot be obligated to approve or execute a DDA, commence any action for acquisition or convey any interest in any portion of the Property to the Developer unless and until, among other legal requirements and as applicable, (i) CEQA requirements, and NEPA requirements if required, are met, (ii) all necessary steps for acquisition are met, including, but not limited to, opportunities for owner participation, offers to purchase, good faith negotiations and public meetings, and (iii) a DDA satisfactory to Agency is first negotiated, executed by Developer, approved by Agency's Board of Directors and City Council, in each of their sole discretion, after a duly noticed public hearing, and executed by the Agency. The Developer acknowledges and agrees City is not a party to this Agreement.

g. Limitations of this Agreement

Nothing contained in this Agreement shall constitute a waiver, amendment, promise or agreement by the Agency or the City (or any of its departments or boards) as to the granting of any approval, permit, consent or other entitlement in the exercise of the Agency's or the City's regulatory capacity or function. The Developer acknowledges and agrees that no SEDC or Agency staff, consultant, agent, or member of the SEDC or Agency Board of Directors has the authority to bind the Agency. Although the Agency will not be bound to any agreement nor to any course of action except after approval and execution of the proposed DDA, or, as the case may be, the further agreement to negotiate, it is intended by both Parties that these negotiations be conducted to carry out the terms set forth in this Agreement without material change. The final form of any proposed DDA to be negotiated may contain matters not contemplated by this

Agreement, including, but not limited to, matters necessary to accommodate compliance with law, including without limitation CEQA.

XI. LIMITATIONS ON REMEDIES FOR BREACH

a. Rights and Remedies

If either Party defaults with regard to any of the provisions of this Agreement, the non-defaulting Party shall serve written notice of such default upon the defaulting Party. If the default is not cured within a reasonable time, but not more than 45 days, the defaulting Party shall be liable to the non-defaulting Party for any damages caused by such default, and the non-defaulting Party may thereafter, but not before, commence an action for damages against the defaulting Party with respect to such default. The Agency and the Developer hereby waive the right to specific performance as a remedy, provided that the Developer shall have the right to specifically enforce the obligation of the Agency not to negotiate with any other person or entity regarding the disposition or development of the Property during the term of this Agreement.

b. Section 1542

Each Party acknowledges that it is aware of the meaning and legal effect of California Civil Code Section 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her would have materially affected his or her settlement with the debtor.

c. General Release

California Civil Code Section 1542 notwithstanding, it is the intention of both the Agency and the Developer to be bound by the limitation on remedies set forth in this Section XI, and the Agency and the Developer hereby release any and all claims against each other and their respective officers, officials, employees, consultants or agents for damages or specific performance (except as set forth above) related to any breach of this Agreement, whether or not any such released claims were known or unknown to either the Agency or the Developer as of the date of this Agreement. The Agency and the Developer each waive the benefits of California Civil Code Section 1542 and all other statutes and judicial decisions (whether state or federal) of similar effect with regard to the limitations on damages and remedies and waivers of any such damages and remedies contained in this Section XI.

XII. MISCELLANEOUS

a. Counterparts

This Agreement may be executed in counterparts, each of which shall constitute an original, and together which shall constitute one, complete instrument.

b. Integration

This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the Property.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set opposite their signatures.

REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO

Date: _____

By: _____

Name: _____

Title: _____

APPROVED as to form and legality
this ____ day of _____, 2010.

JAN I. GOLDSMITH
General Counsel
Redevelopment Agency of the City of San Diego

By: _____

Diane Bazán Young
Deputy General Counsel

**ST. STEPHEN'S VALENCIA BUSINESS
PARK DEVELOPMENT, LLC**

Date: _____

By: Dudley Ventures Realty, LLC
Its: Managing Member

By: _____

Essie Safaie
Its: Authorized Representative

Date: _____

By: St. Stephen's Retirement Center, Inc.
Its: Associate Member

By: _____

Bishop George D. McKinney, Ph.D.,
D.D.
Chairman of the Board

EXHIBIT "A"

SITE MAP

EXHIBIT "B"

LEGAL DESCRIPTION