

DISPOSITION AND DEVELOPMENT AGREEMENT

AMONG

THE CITY OF HOLLISTER,

DEL CURTO BROTHERS CONSTRUCTION, INC.

AND

COMMUNITY FOUNDATION FOR SAN BENITO COUNTY

400 BLOCK

June 5, 2017

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Upon revesting in the Grantor of title to the Property or any portion thereof as provided in this Section 11, the Grantor shall, pursuant to its responsibilities under State law, use its best efforts to resell the Property as soon as possible, in a commercially reasonable manner and consistent with the objectives of such law and of the Redevelopment Plan. The Property shall be sold at a price that the Grantor determines is not less than the value of the Property given the covenants, conditions and requirements the Grantor is imposing on the purchaser. Upon such resale of the Property or any portion thereof the proceeds thereof shall be applied as follows: 5

Subject to procurement of all necessary City land use entitlements, the improvements to be developed on the Property by the Developers pursuant to the Agreement would substantially conform to the following:..... 1

A. **Retail Tenant Strategy:** 1

The Developer and Foundation shall be required to retain a Management Agent as required in Section 2.14 g. Management Agent of this Agreement for any commercial lease areas on Site 2 and any non-profit commercial lease areas on Site 1. The objective shall be to operate and maintain the completed Development at a high quality standard that attracts retail uses that nurture the vitality of downtown Hollister. 1

Preferred uses at all locations: 1

1. Restaurant 1

4. Specialty Retail sales 1

- Exhibit A: Legal Description of the Property
- Exhibit B: Site Map
- Exhibit C: Financing Proposal
- Exhibit D: Form of City Grant Deed
- Exhibit E: Schedule of Performance
- Exhibit F: Form of Memorandum of DDA
- Exhibit G: Scope of Development
- Exhibit H: Form of City Use Agreement

DISPOSITION AND DEVELOPMENT AGREEMENT (400 Block)

This Disposition and Development Agreement (the "Agreement") is entered into as of June 5, 2017 (the "Effective Date"), by and among the City of Hollister, a municipal corporation (the "City"), Del Curto Brothers Construction Company, Inc., a California corporation ("Del Curto"), and the Community Foundation for San Benito County, a nonprofit public benefit corporation (the "Foundation"). (Each of Del Curto and the Foundation shall be referred to as a "Developer" and together they shall be referred to as the "Developers"). The City and the Developers enter into this Agreement, with reference to the following facts, understandings and intentions of the parties:

RECITALS

A. These Recitals refer to and utilize certain capitalized terms that are defined in Article 1 of this Agreement. The Parties intend to refer to those definitions in connection with the use of capitalized terms in these Recitals.

B. The City Council adopted the Redevelopment Plan establishing the Project Area. The goals for the Redevelopment Plan include alleviation of blighting conditions and the stimulation of economic development activities in the Project Area.

C. In accordance with California Health & Safety Code Section 34172, the Former Agency was dissolved as of February 1, 2012. The Successor Agency is the successor to the Former Agency. The Successor Agency transferred the Property to the City pursuant to the Long Range Property Management Plan approved by the State Department of Finance by letter dated February 21, 2014.

D. As of the Effective Date, the City is the owner of the Property, which consists of approximately twenty thousand (20,000) square feet of land located in the Project Area, located at the southeast corner of Fourth and San Benito Streets, known as the "400 Block". The Property consists of two (2) parcels and the portion of Briggs Alley between the two parcels.

E. The City and the Developers desire for the Developers to develop the Development on the Property. To effectuate this purpose, the City will convey the portions of the Property to each Developer, subject to the terms and conditions of this Agreement, for the development of each Phase.

F. The City has determined that the Developers have the necessary expertise, skill and ability to carry out the commitments set forth in this Agreement and that this Agreement is in the best interests, and will materially contribute to the improvement of the City by stimulating economic development activities in the Project Area.

G. Prior to the Effective Date, the City and Del Curto entered into the ENA. In accordance with Section 1.2 of the ENA, the ENA is terminated as of the Effective Date.

H. Pursuant to the Appraisal, the City has further determined that: (i) the sale of the Property to the Developers for the total of the Purchase Prices for each Site is equal to the fair market value of the Property, and(ii) the Purchase Price was arrived at by an arms' length negotiation between the City and the Developers.

I. The City Council has found and determined, pursuant to Resolution No. _____ adopted on June 5, 2017, and in accordance with the requirements of Government Code Section 65402, that the development of the Property, as contemplated by this Agreement, conforms to the General Plan applicable to the Property.

J. Pursuant to the CEQA, the City, in its capacity as "lead agency", has determined that the mixed use Development to be developed on the Property as described in this Agreement qualifies for a Class 32 Categorical Exemption from the CEQA. The Development is the redevelopment of a nearly one-half acre area that was substantially developed in the 1880's with seven commercial buildings comprising roughly 25,800 square feet in downtown Hollister. The majority of the former buildings were demolished within six months of the Loma Prieta Earthquake in 1990 due to catastrophic damage to the unreinforced masonry structures. The former Hollister Redevelopment Agency cleared two other buildings to assemble property for redevelopment. The four-story Parking Structure was constructed to the west of the Property in 1995 with the potential for a pedestrian bridge to connect future development on the Property to the Parking Structure. The Property is surrounded by existing commercial urban development and can be adequately served by public and utility services available on San Benito Street, Fourth Street and the former Briggs Alley that traverses through the Property. The proposed land use and density of the Development is consistent with the City of Hollister General Plan and Zoning Ordinance.

The Development is located within a Monterey Bay Area Blue Print Priority Growth Area because the locality of the Development could help reduce greenhouse gas emissions from vehicle miles traveled. The Development is located within a block of San Benito Express bus service and less than one quarter mile from grocery stores, banks, superior court, Gavilan Community College satellite campus, City offices, Hollister Community Center, a health clinic and other commercial services in downtown Hollister. More than 50% of the Development will consist of housing and the vertical mixed-use development type is consistent with the Association of Monterey Bay Area Governments Sustainable Communities Strategy Implementation Toolkit for Infill Housing types with potential to reduce vehicle miles traveled. Off-street parking for the Development will be provided in the contiguous Parking Structure. The orientation of the buildings within the Development will be pedestrian friendly. The Development will not contribute to a significant air quality, noise, or traffic impact. The Planning Commission will review the Site & Architectural Review applications for conformance of the building design, signs and exteriors with applicable City plans and ordinances and an environmental determination will be made regarding the aesthetics of the Development and consistency of the Development design with applicable policies and plans at that time.

THEREFORE, the City and the Developer agree as follows:

ARTICLE 1.
DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. In addition to the terms defined elsewhere in this Agreement, the following definitions shall apply throughout this Agreement.

(a) "Affiliate" means an entity under the Control of: (i) the Del Curto or any of its principal, or (ii) the Foundation.

(b) "Agreement" means this Disposition and Development Agreement, including the attached Exhibits and all subsequent operating memoranda and amendments to this Agreement.

(c) "Applicable Land Use Approvals" means the City and other governmental permits and approvals necessary for the construction and operation of the Development, including overall design, site and architectural review, subdivision, planned unit development, lot line adjustment, encroachment permits for construction staging area on a 12-foot wide strip on the east side of the driveway leading to the Parking Structure and the interior plaza/walkway between the Parking Structure and the Property and for parking of construction vehicles along San Benito Street; encroachment permits and/or easements as needed for loading zones and the Trash Enclosure and approval pursuant to CEQA, but excluding a building permit.

(d) "Appraisal" means that certain appraisal of the Property dated November 2, 2015, prepared by Steve Loose Appraisal.

(e) "CC&Rs" means one of the OA Documents as further described in the definition of OA Documents in this Section 1.1.

(f) "CEQA" means the California Environmental Quality Act (California Public Resources Code §§ 21000 et seq.), and its implementing regulations and guidelines, as may be amended from time to time.

(g) "Certificate of Completion" means the certificate to be issued by the City upon the completion of construction of each Phase as more particularly set forth in Section 5.11.

(h) "City" means the City of Hollister, California.

(i) "City Council" means the City Council of the City of Hollister.

(j) "City Documents" means, collectively, this Agreement, the City Grant Deed, the City Use Restriction, and all other documents required to be executed by the Developer in connection with the transaction contemplated by this Agreement.

(k) "City Event of Default" has the meaning set forth in Section 8.3

(l) "City Grant Deed" means the grant deed by which the City shall convey each Site to the applicable Developer substantially in the form of Exhibit D.

(m) "City Use Restriction" means the use restriction, to be executed by the Parties, and recorded against the applicable Site(s), at the Closing for each Site, substantially in the form attached hereto as Exhibit H.

(n) "Closing" means the date mutually acceptable to the Parties within thirty (30) days following the date on which all conditions precedent to conveyance for a particular Site, as set forth herein have been satisfied, but in no event later than the date set forth in the Schedule of Performance (provided that the applicable Developer has satisfied the conditions precedent to conveyance set forth herein and that this Agreement has not been terminated in accordance with its terms), or such other date that the Parties agree upon in writing.

(o) "Condo Map" means one of the OA Documents as further described in the definition of OA Documents in this Section 1.1.

(p) "Condominiums" means the fourteen (14) to twenty-two (22) residential condominiums to be construction as a portion of Phase 2 of the Improvements.

(q) "Construction Plans" means all construction documentation upon which a Developer, and that Developer's general contractor and subcontractors, shall rely on for constructing a Phase identified in the scope of work specifications and a time schedule for construction.

(r) "Control" shall mean direct or indirect management or control of: (i) the managing member or members in the case of a limited liability company; (ii) the managing general partner or general partners in the case of a partnership; and (iii) a majority of the directors in the case of a corporation, as determined by the City.

(s) "Deposit" means the deposit, in the amount of Ten Thousand Dollars (\$10,000) made by the Del Curto and Ten Thousand Dollars (\$10,000) made by Foundation to the City.

(t) "Developer" means either of Del Curto or the Foundation, as applicable, for the applicable Phase of the Development.

(u) "Developers" means both Del Curto and the Foundation.

(v) "Developer Event of Default" has the meaning set forth in Section 8.4.

(w) "Development" means, collectively, all of the Property and the Improvements.

(x) "ENI" means that certain Exclusive Negotiating Rights Agreement dated as of June 16, 2016, by and between the City and Del Curto.

(y) "Escrow" means the escrow established with the Title Company for the purpose of conveying each Site from the City to the applicable Developer.

(z) "Financing Plan" means, for each Phase, the applicable Developer's plan for financing the acquisition of the applicable Site and the construction of the applicable Phase of

Improvements for that Site, including a detailed development budget, and construction and permanent financing commitment letters or equity commitments, to be approved by the City pursuant to Section 2.7, and which may be revised from time to time with the approval of the City pursuant to this Agreement.

(aa) "Financing Proposal" means the Developers' initial financing proposal for financing the acquisition of the Property and the construction of the Development, in the form approved by City and attached hereto as Exhibit C.

(bb) "Former Agency" means the Redevelopment Agency of the City of Hollister, which was dissolved pursuant to California Health & Safety Code Section 34172.

(cc) "Hazardous Materials" means any substance, material, or waste which is: (1) defined as a "hazardous waste", "hazardous material," "hazardous substance," "extremely hazardous waste," "restricted hazardous waste," "pollutant" or any other terms comparable to the foregoing terms under any provision of California law or federal law; (2) petroleum; (3) asbestos; (4) polychlorinated biphenyls; (5) radioactive materials; (6) mold; (7) MTBE; or (8) determined by California, federal or local government authority to be capable of posing a risk of injury to health, safety or property. Without limiting the foregoing, Hazardous Materials means and includes any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, a hazardous, toxic or radioactive substance, or other similar term, by any Hazardous Materials Laws including any federal, state or local environmental statute, regulation or ordinance presently in effect that may be promulgated in the future, as such as statutes, regulations and ordinances may be amended from time to time.

The term "Hazardous Materials" shall not include: (i) construction materials, gardening materials, household products, office supply products or janitorial supply products customarily used in the construction, maintenance, rehabilitation, or management of commercial properties, buildings and grounds, or typically used in office or residential activities, or (ii) certain substances which may contain chemicals listed by the State of California pursuant to California Health & Safety Code Section 25249.8 et seq., which substances are commonly used by a significant portion of the population living within the region of the Improvements, including, but not limited to, alcoholic beverages, aspirin, tobacco products, NutraSweet and saccharine, so long as such materials and substances are stored, used and disposed of in compliance with all applicable Hazardous Materials Laws.

(dd) "Hazardous Materials Laws" means all federal, state, and local laws, ordinances, regulations, orders and directives pertaining to Hazardous Materials in, on or under the Development or any portion thereof.

(ee) "Improvements" means, collectively, Phase 1 and Phase 2, all as more particularly set forth in the Scope of Development attached as Exhibit G. As the context may require, the term "Improvements" may also refer to the improvements constructed on either Site.

(ff) "Lot Line Adjustment" means the partial street vacation and lot adjustment incorporating one-half of the Briggs Alley portion of the Property into each of the other parcels comprising the Property thereby creating the parcels for the Phase 1 Site and the Phase 2 Site,

approved by the City and recorded immediately prior to the conveyance of the Phase 1 Site to the Foundation.

(gg) "Memorandum of DDA" means the memorandum of Disposition and Development Agreement to be recorded against a Site at the Closing for each Site, in the form attached as Exhibit F.

(hh) "Official Records" means the official records of the County of San Benito. "Operating Agreement" means the operating agreement of the Developer, as may be amended from time to time.

(ii) "OA" means the owner's association (the "OA") to be formed by Del Curto in conjunction with the development of the Condominiums and the commercial space on Phase 2.

(jj) "OA Documents" means the : (i) the Articles of Incorporation for the OA, (ii) the Bylaws for the OA; (iii) the condominium map to subdivide the ground and the airspace in Phase 2 of the Property into the commercial parcels and the twenty-one (21) airspace parcels for the Condominiums (the "Condo Map"); and (iv) the Declaration for Covenants, Conditions, and Restrictions (the "CC&Rs") to be recorded in connection with the formation of the OA, all to be approved by the City and the California Department of Real Estate.

(kk) "Official Records" means the official records of the County of San Benito.

(ll) "Owner" means the Developers, an Affiliate or any transferee of a Developer, approved by the City, or any other Person who owns the fee interest of a Site.

(mm) "Parking Structure" means the City-owned Briggs Building Parking Structure located at 365 Fourth Street, Hollister, CA.

(nn) "Parties" means the City and the Developers, or other Owner (as applicable). "Party" means any of the City, Del Curto or the Foundation.

(oo) "Person" means an individual, general or limited partnership, limited liability partnership or company, corporation, trust, estate, real estate investment trust, association or any other entity.

(pp) "Phase" means either Phase 1 or Phase 2, as applicable.

(qq) "Phase 1" means all of the improvements to be made on the Phase 1 Site. "Phase 1" is anticipated is anticipated to consist of the following improvements on the Phase 1 Site (as depicted on the Site Map): (i) one (1) two-story building with approximately 8,800 square feet of philanthropic center space with approximately 4,400 square feet per floor and a second floor deck; (ii) a ground floor open plaza facing Briggs Alley; (iii) appropriate pedestrian-friendly features, landscaping and related improvements; and (iv) trash enclosure with capacity for three to four yards of waste collection on the west side of the Fifth Street driveway to Briggs Alley consistent with city standards that shall be available for joint use by the building located at 452 San Benito Street, Del Curto and the Foundation.

(rr) "Phase 2" means all of the improvements to be made on the Phase 2 Site as well as the off-site Trash Enclosure. As of the Effective Date, "Phase 2" is anticipated to consist of the following improvements on the Phase 2 Site (as depicted on the Site Map): (i) a building with approximately 8,000 to 11,000 square feet of commercial lease areas on the ground floor and fourteen (14) to twenty-two (22) Condominiums on the second and third floors; (ii) an optional pedestrian bridge between the third floor of the Parking Structure and the Condominiums; and (iii) appropriate pedestrian-friendly features, landscaping and related improvements.

(ss) "Phase 1 Site" means the portions of the Site on which Phase 1 shall be located. As of the Effective Date, the Phase 1 Site consists of Parcel 1 as described on Exhibit A and the approximately 839.55 square feet of the adjoining Briggs Alley for a total of approximately 7,124.55 square feet. The final legal description of the Phase 1 Site shall be established by the Lot Line Adjustment.

(tt) "Phase 2 Site" means the portions of the Site on which Phase 2 shall be located. As of the Effective Date, the Phase 2 Site consists of Parcel 2 as described on Exhibit A and the approximately 839.55 square feet of the adjoining Briggs Alley for a total of approximately 12,537.55 square feet. The final legal description of the Phase 2 Site shall be established by the Lot Line Adjustment.

(uu) "Project Area" means the real property located within the City of Hollister, California that is covered by the Redevelopment Plan, as more particularly described and set forth in the Redevelopment Plan.

(vv) "Property" means the real property to be redeveloped by the Developers pursuant to this Agreement, consisting of the Phase 1 Site and the Phase 2 Site, which real property is more particularly described in the attached Exhibit A and shown on the Site Map attached as Exhibit B.

(ww) "REA" means the reciprocal easement agreement among the Foundation, Del Curto and the owner of the property located at 452 San Benito Street addressing (i) use and maintenance of the ground floor plaza and walkways by the users of the Phase I and Phase 2 Sites, and (ii) use and maintenance of the Trash Enclosure by the owners and tenants of the Phase I Site, Phase 2 Site and 452 San Benito Street.

(xx) "Redevelopment Plan" means the Hollister Redevelopment Plan for the Hollister Community Development Project Area, adopted by the City Council of the City of Hollister by Ordinance No. 611 on July 19, 1983, as amended from time to time.

(yy) "Restaurant" means the high-quality, full service restaurant which can also provide catering to the philanthropic center on the Phase I Site consisting of approximately 2,000 square feet of the Retail Component.

(zz) "Retail Component" means the approximately 8,000 to 11,000 square feet of ground floor portion of the Improvements used for retail purposes in Phase 2.

(aaa) "Schedule of Performance" means the summary schedule of actions to be taken by the Parties pursuant to this Agreement to achieve disposition of each Site to the

applicable Developer and the construction of the applicable Improvements thereon. The Schedule of Performance is attached to this Agreement as Exhibit E.

(bbb) "Security Financing Interest" has the meaning set forth in Section 10.1.

(ccc) "Site" means either the Phase 1 Site or the Phase 2 Site, as applicable.

(ddd) "Site Map" means the site map of the Site setting forth the general location of the Phase 1 Site and the Phase 2 Site. The Site Map is attached hereto as Exhibit B.

(eee) "Stage 1" means the following Phase 2 Improvements to be constructed as the first stage of Phase 2 in accordance with approved Construction Plans and the building permit: (i) construction of the exterior of the three (3)-story building; (ii) optional construction of a pedestrian bridge between third floor of the Parking Structure to the nearest portion of the three (3)-story building; (iii) installation of the elevator and completion of the third floor sufficient to establish a temporary or permanent elevator entry and exit area, with access to the pedestrian bridge if Del Curto opts to construct the pedestrian bridge, but with no public or resident access to the remainder of the third floor; (iv) construction of all emergency stairways; (v) completion of the Commercial Component, including the Restaurant; (vi) completion of all second floor Condominiums; (vii) construction of off-site Trash Enclosure; and (viii) appropriate pedestrian-friendly features, landscaping and related improvements.

(fff) "Stage 2" means the third floor condominiums to be constructed as the second stage of Phase 2 in accordance with approved Construction Plans and the building permit.

(ggg) "Successor Agency" means the Successor Agency to the Redevelopment Agency of the City of Hollister, which was formed as the successor to the Former Agency pursuant to California Health & Safety Code Section 34173.

(hhh) "Term" means the term of this Agreement, which shall commence on the Effective Date and shall continue, for each Site, until the issuance of the Certificate of Completion for such Site.

(iii) "Title Company" means First American Title Insurance Company unless modified by the Parties.

(jjj) "Title Report" means the Title Guarantee Number 5026900-5454433 for the Site dated as of May 9, 2017, prepared by Title Company

(kkk) "Transfer" has the meaning set forth in Section 7.1.

(lll) "Trash Enclosure" means a trash enclosure with capacity for three to four yards of waste collection to be installed on the west side of the Fifth Street driveway to Briggs Alley consistent with City standards that shall be available for joint use by the building located at 452 San Benito Street, Del Curto and the Foundation as addressed in the REA

Section 1.2 Exhibits. The following exhibits are attached to and incorporated in the Agreement:

Exhibit A:	Legal Description of the Property
Exhibit B:	Site Map
Exhibit C:	Financing Proposal
Exhibit D:	Form of City Grant Deed
Exhibit E:	Schedule of Performance
Exhibit F:	Form of Memorandum of DDA
Exhibit G:	Scope of Development
Exhibit H:	Form of City Use Agreement

ARTICLE 2. PREDISPOSITION REQUIREMENTS TO THE CONVEYANCE OF THE SITE

Section 2.1 Conditions Precedent to Conveyance of each Site; Development in Phases.

(a) Conditions Precedent to Conveyance of each Site. The requirements set forth in this Article are conditions precedent to the City's obligations to convey each Site to the applicable Developer. The City's obligation to convey each Site to the applicable Developer shall be subject to the satisfaction of all such conditions precedent for such Phase prior to the date or dates set forth in the Schedule of Performance, unless otherwise waived by the City. The satisfaction by the applicable Developer of the conditions precedent for each Phase are independent obligations of the Developer, and the City's approval of any particular condition precedent for one Phase shall in no way impair, limit, or waive the Developer's obligation to satisfy, and the City's review and approval rights for, the conditions precedent for the subsequent Phase. The conditions set forth in this Article 2 are solely for the benefit of the City and may only be waived by the City pursuant to Section 11.18. Satisfaction of the conditions set forth in this Section shall in no way limit the City Council's discretion set forth in Sections 3.5, 3.6, 3.7 and 3.8.

(b) Development in Phases. The Parties anticipate that the Developers shall develop the Improvements in two (2) separate Phases, and that the City shall convey the Phase 1 Site to the Foundation prior to the conveyance of the Phase 2 Site to Del Curto, in accordance with the terms of this Agreement. The Parties further anticipate that the Foundation shall satisfy the conditions precedent to the Phase 1 Site first, and that Del Curto shall satisfy the conditions precedent to the Phase 2 Site after the Phase 1 Site has been conveyed by the City to the Foundation, all in accordance with this Agreement. Each Phase is more particularly described in the Scope of Development.

Section 2.2 Street Vacation. No later than the date set forth in the Schedule of Performance, Del Curto shall have prepared for approval by the City, in its regulatory capacity, all necessary engineering reports, drawings and other documents to apply to the City for the City's vacation or closure of Briggs Alley portion of the Property, subject to any necessary reservations or easements for emergency access, utilities and any other item deemed necessary by the City, including without limitation a 20 foot height clearance for utilities. The documents implementing the street vacations or closures shall be recorded in the Official Records at the Closing. Approval by the City, in its regulatory capacity, of the street vacation, the execution the street vacation documents by the City, the passage of any time period required by applicable law

to render such approvals free from legal challenge, and recordation of the documents to effectuate such street vacation shall be a condition precedent to the City's obligation to convey the Phase 1 Site to the Foundation. In addition to all other costs and expenses to be paid by the Developers pursuant to this Agreement, Del Curto shall pay (or otherwise reimburse the City for) all costs and expenses incurred by the City in connection with the preparation and approval of such street vacation, the execution by the City of such street vacation, and the recordation of such street vacation in the Official Records.

Section 2.3 Public Space Easements.

(a) Loading Zone for Center. The City shall determine the location of two (2) loading zones with one on San Benito Street near the front of the Phase 1 Site and second on the east portion of the driveway access to the Briggs Building Parking Structure from Fifth Street near the west side of the Phase 1 site. The City shall cause to place signs and/or yellow paint as appropriate prior to occupancy of the Phase 1 site.

(b) Trash Enclosure Encroachment Permit/Easement. No later than the date set forth in the Schedule of Performance, Del Curto shall have prepared for approval by the City, in its regulatory capacity, all necessary engineering reports, drawings and other documents to apply to the City for an encroachment permit and/or easement converting a portion of the west side of the Fifth Street driveway to the Parking Structure for use as the Trash Enclosure. Approval by the City, in its regulatory capacity, of the Trash Enclosure easement, the execution the Trash Enclosure easement documents by the City, the passage of any time period required by applicable law to render such approvals free from legal challenge, and recordation of the easement documents shall be a condition precedent to the City's obligation to convey the Phase 1 Site to the Foundation. In addition to all other costs and expenses to be paid by the Developers pursuant to this Agreement, Del Curto shall pay (or otherwise reimburse the City for) all costs and expenses incurred by the City in connection with the preparation and approval of such easement, the execution by the City of such easement and the recordation of such easement in the Official Records.

(c) Loading Zone for Phase 2. No later than the date set forth in the Schedule of Performance, the City, in its regulatory capacity will convert one parking space on San Benito Street in front of the proposed building which will house the Restaurant for use as a loading zone. The City shall determine the location of the loading zone on San Benito Street.

(d) Parking Structure Encroachment Permit/Licenses. No later than the date set forth in the Schedule of Performance, Del Curto shall have prepared for approval by the City, in its regulatory capacity, all necessary engineering reports, drawings and other documents to apply to the City for an encroachment permit and/or license for the Parking Structure to permit the optional construction by Del Curto of the pedestrian bridge from the Parking Structure and related maintenance of such pedestrian bridge by Del Curto. No later than the date set forth in the Schedule of Performance, the Foundation shall submit applications to secure non-transferrable Licenses for use of the Parking Structure and, no later than the date set forth in the Schedule of Performance, Del Curto shall submit applications for no cost assignable Licenses that will be issued by the City for use of the Parking Structure for the Condominiums. Approval by the City Council of the optional pedestrian bridge encroachment permit and/or easement, the loading zone encroachment permit and/or easements, and licenses for parking in the Parking

Structure; the payment of City fees for all such encroachment permits, easements and licenses; the passage of any time period required by applicable law to render such approvals free from legal challenge; and recordation of the applicable documents shall be a condition precedent to the City's obligation to convey the Phase 1 Site to the Foundation. In addition to all other costs and expenses to be paid by the Developers pursuant to this Agreement, the Foundation shall pay (or otherwise reimburse the City for) all costs and expenses incurred by the City in connection with the preparation, approval and issuance of the non-transferrable license for use of the Parking Structure by the Foundation in operation of the Phase 1 Improvements and Del Curto shall pay all costs and expenses incurred by the City in connection with the preparation, approval and issuance of the licenses for use of the Parking Structure in operation of the Phase 2 Improvements, all costs and expenses incurred by the City in connection with the preparation and approval of any easements or encroachment permits, and all costs and expenses incurred with regard to the recordation of the applicable documents in the Official Records.

Section 2.4 Lot Line Adjustment. No later than the date set forth in the Schedule of Performance, Del Curto shall have prepared for approval by the City, in its regulatory capacity, all necessary engineering reports, drawings and other documents to apply to the City for the Lot Line Adjustment to create the Phase I Site and the Phase 2 Site (including the to-be-vacated portions of Briggs Alley). Approval by the City, in its regulatory capacity, of the Lot Line Adjustment, the execution of the Lot Line Adjustment by the City, in its capacity as the owner of the Site, the passage of any time period required by applicable law to render such approvals free from legal challenge, and recordation of the Lot Line Adjustment shall be a condition precedent to the City's obligation to convey the Phase 1 Site to the Foundation. In addition to all other costs and expenses to be paid by the Developers pursuant to this Agreement, the Developers shall pay (or otherwise reimburse the City for) all costs and expenses incurred by the City in connection with the preparation and approval of the Lot Line Adjustment, the execution by the City of the Lot Line Adjustment, and the recordation of the Lot Line Adjustment in the Official Records. The Foundation and Del Curto shall split these costs with each Developer paying fifty percent (50%) of the costs.

Section 2.5 Application for Applicable Land Use Approvals. No later than the date set forth in the Schedule of Performance, the applicable Developer shall apply to the City and any other relevant government agency for the Applicable Land Use Approvals for the Phase. All applications shall substantially conform with the description of the Phase set forth in this Agreement, unless a variation has been previously approved by the City in writing. In conjunction with any application(s) to the City for any Applicable Land Use Approvals, the applicable Developer shall comply with the City's standard application process and shall pay, when due, all applicable City fees, including, but not limited to any applicable fee(s) imposed by the City in connection with CEQA review of the applicable Phase of the Development. Thereafter, subject to the other provisions of this Agreement, the Developer shall obtain the Applicable Land Use Approvals including but not limited to Site & Architectural, Lot-line adjustment, subdivision, and encroachments permits for the applicable Phase no later than the date set forth in the Schedule of Performance. This condition precedent to the Closing for a Site for a Phase shall be deemed satisfied only upon the Developer's delivery of documentation reasonably acceptable to the City, that all Applicable Land Use Approvals for the Phase have been obtained and the City's approval of such documentation.

Section 2.6 Construction Plans

(a) Developer Submittal. The applicable Developer shall submit its Construction Plans for each Phase to the City for the City's review and approval no later than the date set forth in the Schedule of Performance. Notwithstanding the foregoing, the applicable Developer shall submit its Construction Plans to the City in sufficient time to allow adequate City review of the Construction Plans, possible resubmission of the Construction Plans and final City approval of the Construction Plans prior to the Closing for the applicable Phase.

(b) Process for City Review and Approval. The City, in its capacity as the owner of the Property, shall approve or disapprove, in writing, the Construction Plans for a Phase within fifteen (15) days following the City's receipt of the complete Construction Plans, which approval shall not be unreasonably denied. If the Construction Plans are disapproved by the City, the City shall deliver a written notice to the Developer setting forth, in reasonable detail, the reasons for such disapproval. The applicable Developer shall have thirty (30) days following the receipt of such notice to submit revised Construction Plans. The provisions of this Section relating to time periods for approval, disapproval, and resubmission of new Construction Plans shall continue to apply until the final Construction Plans have been approved by the City, in its capacity as owner of the Property; provided, however, that if City's reasonable approval of the final Construction Plans for a Phase has not been obtained by the date set forth in the Schedule of Performance, then the City may declare a Developer Event of Default, as set forth in Section 8.4, and if such default is not cured by the applicable Developer in accordance with this Agreement, then the City may terminate this Agreement pursuant to Section 8.4.

(c) Developer Acknowledgement of City's Review. The final Construction Plans shall be consistent with all land use standards, design guidelines and building codes of the City. Each Developer acknowledges that approval of the final Construction Plans by the City, pursuant to this Agreement, does not constitute approval by the City in its municipal regulatory capacity as required for issuance of a building permit, or otherwise in connection with any City approval of Applicable Land Use Approvals. Each Developer further acknowledges that the City's right to review and approve the proposed Construction Plans, pursuant to this Agreement, are in addition to, and shall not be limited by, the City's obligation to review each Developer's proposed Construction Plans for consistency with applicable building code requirements, or otherwise in connection with the Applicable Land Use Approvals. Each Developer further acknowledges that the City is under no obligation to approve such proposed Construction Plans and shall have no obligation to approve such proposed Construction Plans in the event that either Developer fails to incorporate the City's reasonably requested changes or modifications to the proposed Construction Plans (even in the event that such requested changes or modifications exceed the minimum thresholds set forth in any applicable building code and have not been required by the City's building department, acting in its capacity as a municipal regulatory authority).

Section 2.7 Financing Proposal and Financing Plan

(a) Process for Review. As of the Effective Date, the City has approved the preliminary Financing Proposal attached to this Agreement as Exhibit C. No later than the date set forth in the Schedule of Performance, the applicable Developer shall submit an updated and revised Financing Proposal for each Phase, including a third-party cost estimate for the cost of construction of such Phase to be paid for by the applicable Developer, commitment letters for all

construction of such Phase not to exceed \$15,000 to be paid for by the applicable Developer, commitment letters for all financing for such Phase, and setting forth the Developer's revisions to the Financing Proposal based on such commitment letters, to the City for review and approval. The City shall reasonably approve or disapprove the revised Financing Proposal for each Phase in writing within fifteen (15) calendar days after the City's receipt. Upon City approval, the Developer's Financing Proposal for each Phase shall be referred to as the "Financing Plan" for such Phase. If the Financing Proposal is disapproved by the City, the Developer shall have fifteen (15) calendar days from the date of the Developer's receipt of the City's notice of disapproval to submit a revised Financing Proposal for such Phase. The provisions of this Section relating to time periods for approval, disapproval and resubmission of a new Financing Proposal for each Phase shall continue to apply until the revised Financing Plan for such Phase has been approved by the City; provided, however, that if the City's approval of the revised Financing Plan for such Phase has not been obtained by the date set forth in the Schedule of Performance, then the City may declare a Developer Event of Default, as set forth in Section 8.4, and if such default is not cured by the Developer in accordance with this Agreement, then the City may terminate this Agreement pursuant to Section 8.4.

(b) Closing of Financing. All financing necessary to purchase each Site and develop the applicable Phase, as approved by the City in the Financing Plan, shall be closed by the applicable Developer prior to, or simultaneously with, the conveyance of each Site by the City to the applicable Developer. The applicable Developer shall also submit to the City evidence, reasonably satisfactory to the City that any conditions to the release or expenditure of the financing described in the approved Financing Plan as the sources of funds to pay the costs of purchasing each Site and developing each Phase (including Stages 2 and 3 of Phase 2) have been met, or will be met upon conveyance of each Site to the Developer (or in the case of Phase 2 upon the completion of the previous Stage), and that such funds will be available upon such conveyance for purchasing each Site and, subject to the applicable Developer's satisfaction of standard disbursement preconditions required to be satisfied on a periodic basis, for constructing the Phase. Submission by the applicable Developer, and approval by the City, of such evidence of financing availability shall be a condition precedent to the City's obligation to convey each Site to the applicable Developer.

Section 2.8 Building Permit. No later than the date set forth in the Schedule of Performance, the applicable Developer shall apply for a building permit allowing for the construction of each Phase in accordance with the Construction Plans. After submitting an application for a building permit, the applicable Developer shall diligently pursue and obtain a building permit for the construction of such Phase, and no later than the date set forth in the Schedule of Performance, the applicable Developer shall deliver evidence to the City that the Developer is entitled to issuance of a building permit for the Phase upon payment of applicable permit fees. Only upon delivery to the City of such evidence in a form reasonably satisfactory to the City shall the predisposition condition of this Section be deemed met. If such evidence is not delivered by the date set forth in the Schedule of Performance for such Phase, then the City may declare a Developer Event of Default, as set forth in Section 8.4, and if such default is not cured by the applicable Developer in accordance with this Agreement, then the City may terminate this Agreement pursuant to Section 8.4. The City shall render all reasonable assistance (at no additional cost or expense to the City) to each Developer to obtain the building permit for each Phase.

Each Developer acknowledges that execution of this Agreement by the City does not constitute approval by the City, in its municipal regulatory capacity, of any required permits, applications, or allocations for the Development, and in no way limits the discretion of the City in the permit allocation and approval process for the Development.

Section 2.9 Construction Bonds/Surety. No later than the date set forth in the Schedule of Performance, each Developer, or its general contractor(s) shall obtain one (1) labor and material bond and one (1) performance bond for construction of the Phase, each in an amount equal to one hundred percent (100%) of the scheduled cost of construction of such Phase. Each bond shall name the City as co-obligee and shall be issued by a reputable insurance company licensed to do business in California, and named in the current list of "Surety Companies Acceptable on Federal Bonds" as published in the Federal Register by the Audit Staff Bureau of Accounts, U.S. Treasury Department, and for an amount which is not in excess of the acceptable amount set forth on such list for the respective surety. The form of the labor and material bond and the performance bond shall be subject to the City's prior review and written approval. Such City-approved bonds shall be delivered to the City prior to, or in conjunction with, the Closing for each Phase. Alternatively, each Developer can propose alternative surety acceptable to the City, in its sole discretion, to assure completion of each Phase. Any Developer that proposes an alternative surety shall submit a refundable cash deposit to the City not to exceed ten thousand dollars (\$10,000) to fund a financial risk analysis of the proposed alternative surety.

Section 2.10 Insurance. Each Developer shall furnish to the City evidence of the insurance coverage meeting the requirements of Section 6.4 below for each Phase, no later than the date set forth in the Schedule of Performance.

Section 2.11 Additional Conditions Precedent for Phase 2. In addition to all of the conditions precedent set forth above, and in Article 3, below, the following shall be conditions precedent to the Closing for the Phase 2 Site, and must be satisfied by Del Curto prior to, or in conjunction with, the Closing for the Phase 2 Site:

(a) No Default. There shall exist no condition, event, or act which would constitute a breach or default under this Agreement, or any other City Document or which, upon the giving of notice or the passage of time, or both would constitute such a breach or default.

(b) Phase 1 Closing. The Foundation has satisfied all of the predisposition requirements set forth in Article 2 and shall have acquired the Phase 1 Site.

(c) REA (Reciprocal Easement Agreement). Del Curto shall prepare for City approval, in its reasonable discretion, the REA to be recorded on the Property at Closing for the Phase 2 Site. The REA shall address pedestrian and circulation issues among the Phase I and Phase 2 Sites, use of Trash Enclosures by the owners of the Phase 1 and Phase 2 Sites and their tenants and invitees, and use of the Trash Enclosure by the owners and tenants of the Phase 1 Site, the Phase 2 Site and 452 San Benito Street, including maintenance and operations issues. The proposed REA shall be approved by both Developers and the owner of 452 San Benito prior to its submission to the City. The REA shall be deemed approved by the City unless disapproved in writing within thirty (30) days after its receipt by the City. Any written disapproval shall specify the reasons for such disapproval. Del Curto shall thereafter submit a revised REA,

approved by the Foundation and the owner of 452 San Benito, to the City for approval, and the same procedures for approval and disapproval shall apply to the revised REA as set forth for the original submission. Submission by Del Curto, and approval by the City, of the REA shall be a condition precedent to the City's obligation to convey the Phase 2 Site to Del Curto.

(d) Commitment for the Restaurant.

(i) Binding Commitment prior to Closing. Prior to the Closing on the Phase 2 Site, Del Curto shall deliver to City either an executed lease (conditioned only upon the completion of the construction of the applicable Improvements, and tenant improvements, or such other customary and standard conditions in the commercial leasing context) or a legally binding letter of intent, reasonably acceptable to the City between Del Curto and a reputable tenant for the Restaurant for the City's limited review and approval regarding the proposed tenant (including the tenant's experience with successful restaurant and catering), and that such agreement constitutes a binding commitment to lease the Restaurant and operate it as a high-quality, full service restaurant which is open at least five (5) days a week for lunch and dinner and which can also provide catering to the philanthropic center on the Phase I Site. The City shall either approve or disapprove of such agreement within ten (10) days following the City's receipt. The City's failure to either approve or disapprove of such evidence within such ten (10) day period shall be deemed approval. The City shall not unreasonably withhold, delay, or condition its approval of such lease or letter of intent.

(ii) City Approval. Any approval by the City, pursuant to this Section, shall in no way be deemed to be a representation by the City regarding the business advantage or the enforceability of such document, or constitute approval of or concurrence with any other term or condition of such document. City approval of such documentation shall merely constitute satisfaction of the condition set forth in this Section.

(e) Leases for the Retail Component.

(i) Leases prior to Closing. Prior to the Closing, Del Curto shall deliver to the City for its limited review and approval evidence of leasing activity as required by its lender. The leases shall be between Del Curto and reputable tenants that meet the use criteria of the City Use Agreement and the City Use Restriction. The City's review and approval shall be limited to the proposed tenant, the use of the premises leased, and the size of the premises leased. The City shall either approve or disapprove of such leases within ten (10) days following the City's receipt. The City's failure to either approve or disapprove of such evidence within such ten (10) day period shall be deemed approval. The City shall not unreasonably withhold, delay, or condition its approval of such leases.

(ii) City Approval. Any approval by the City, pursuant to this Section, shall in no way be deemed to be a representation by the City regarding the business advantage or the enforceability of such document, or constitute approval of or concurrence with any other term or condition of such document. City approval of such documentation shall merely constitute satisfaction of the condition set forth in this Section.

(f) OA Documents. Del Curto shall prepare for City approval, in its reasonable discretion, the OA Documents to be signed and recorded, as necessary, on the Phase 2

Site prior to the issuance of any occupancy permits for the Phase 2 Site. The OA Documents shall be deemed approved by the City unless disapproved in writing within thirty (30) days after its receipt by the City. Any written disapproval shall specify the reasons for such disapproval. Del Curto shall thereafter submit revised OA Documents, to the City for approval, and the same procedures for approval and disapproval shall apply to the revised OA Documents as set forth for the original submission. Submission by Del Curto, and approval by the City, of the OA Documents shall be a condition precedent to the City's obligation to convey the Phase 2 Site to Del Curto. Recordation of the Condo Map the CC&Rs must occur prior to the issuance of any occupancy permit for the Phase 2 Improvements. Del Curto understands and acknowledges that it must obtain approval of the OA Documents the California Department of Real Estate and it must obtain approval of the OA Documents prior to issuance of any occupancy permits for the Phase 2 Improvements.

(g) Management Agent. The Retail Component of Phase 2 shall at all times be managed by an experienced professional management agent reasonably acceptable to the City, with demonstrated ability to operate retail spaces such as the Retail Component in a high quality manner and consistent with the Form of City Use Agreement . Del Curto shall submit for the City's approval the identity of any proposed retail management agent. The Developer shall also submit such additional information about the background, experience and financial condition of any proposed retail management agent as is reasonably necessary for the City to determine whether the proposed management agent meets the standard for a qualified management agent set forth above. If the proposed management agent meets the standard for a qualified management agent set forth above, the City shall approve the proposed management agent by notifying Del Curto in writing. Unless the proposed management agent is disapproved by the City within thirty (30) days after submission, which disapproval shall state with reasonable specificity the basis for disapproval, it shall be deemed approved.

ARTICLE 3. CITY PRE-DISPOSITION ACTIONS

Section 3.1 Conditions Precedent. This Article 3 sets forth various actions that the City shall seek diligently and in good faith to perform and achieve in order to enable conveyance of the Site to the Developer in accordance with Article 4. Performance and achievement of the actions set forth in this Article 3 constitute conditions precedent to the Closing. Articles 2 and 4 set forth additional conditions precedent to the Closing.

Section 3.2 Parking Agreement. No later than the date set forth in the Schedule of Performance, the City shall prepare a parking agreement that will (i) reserve up to 1,375 parking space for each Condominium with a license with a maximum of twenty-four (24) spaces; (ii) reserve twenty (20) of the parking spaces in the Parking Structure for use by the Foundation with non-transferable licenses; and (iii) convert the security parking space on the lower deck of the second floor of the Parking Structure to a handicapped parking space. This parking license agreements will be signed and executed for the Phase 1 Site, and Phase 2 Site prior to the conveyance of the Phase 1 Site to the Foundation.

Section 3.3 Impact Fees.

(a) Credit. The Foundation and Del Curto shall have impact-fee credits from the City for up to 22,000 square feet of commercial building area due to the former commercial uses located on the Property to apply to Phase 1 Improvements and the Retail Component of Phase 2.

(b) Impact Fee Study. On November 7, 2016, the City approved a professional services contract to evaluate adjustments to traffic impact fees for certain types of land uses including high density residential near transit corridors that contribute to reduced vehicle miles travelled. The City will make a good faith effort to complete the study in a timely matter and make adjustments to traffic impact fees to support infill development in the downtown area. The City makes no guarantee that any adjustments to traffic impact fees will be made as a result of this study or that any adjustment to traffic impact fees will be made prior to any such fees needing to be paid for the Development.

Section 3.4 No City Financial Obligation. Notwithstanding any provision of this Agreement to the contrary, as more particularly set forth in this Article, each Developer agrees and acknowledges that nothing in this Agreement commits the City to provide any financial or other assistance to the Developers. The Foundation and Del Curto are each solely responsible for funding the costs of their respective obligations under this Agreement.

Section 3.5 No City Obligation; Developer at Risk. Notwithstanding any provision of this Agreement to the contrary, as more particularly set forth in this Article, each Developer agrees and acknowledges that nothing in this Agreement shall be construed to compel the City Council to approve or make any particular findings with respect to any CEQA approval or documentation required for the Development, and that each Developer assumes all risks regarding CEQA, including, but not limited to, the risk that the Development may not be approved by the City Council, and that the City Council may impose mitigation measures on the Development.

Section 3.6 Developer Acknowledgement regarding City Council Discretion. Each Developer acknowledges that the environmental review process under CEQA involves the preparation and consideration of certain information by the City Council, as well as consideration of input from third parties; that approval or disapproval of the Development following completion of the environmental review process pursuant to CEQA is within the sole and absolute discretion of the City Council without limitation by or consideration of the terms of this Agreement; and that the City makes no representation regarding the ability or willingness of the City Council to approve the Development at the conclusion of the environmental review process required by CEQA, or regarding the imposition of any mitigation measures as conditions of any approval that may be imposed by the City Council. Each Developer further acknowledges that the City Council retains, to maximum extent permitted under applicable law, its full discretion under CEQA and applicable planning and zoning laws to: (i) make such modifications to any entitlements, permits or approvals as may be reasonably necessary to impose reasonable measures to mitigate any significant environmental impacts of the proposed Development; (ii) select other reasonable alternatives to avoid significant environmental impacts of the proposed Development; (iii) balance the benefits against any significant environmental impacts of the proposed Development (if any) prior to taking final action if such significant impacts cannot

otherwise be reasonably avoided; (iv) determine not to proceed with the proposed Development in the event there are substantial environmental impacts that cannot be feasibly reasonably mitigated so the proposed Development can be approved without a statement of overriding considerations; or (v) take such other actions to approve or not approve the proposed Development as determined by the City Council. In addition, each Developer further acknowledges that any required approvals by any other local, state or federal agency (or any other required approvals under any applicable local, state, or federal law) may require additional environmental review, and that approval by the City Council pursuant to CEQA (if any) shall not bind any other local, state or federal agency to approve the Development (or otherwise satisfy any requirements of any other applicable local, state, or federal law, to the extent such laws may be applicable to the Development), or bind any other local, state, or federal agency to impose mitigation measures that are consistent with the terms of this Agreement or with the terms of any mitigation measures that may be required by the City Council pursuant to the City's environmental review in accordance with CEQA.

Section 3.7 Termination following Completion of CEQA; Developer Release. The City of Hollister has made a determination that the Development qualifies for a Class 32 Categorical Exemption under CEQA. If however, a significant impact is identified during the site and architectural review and subdivision processes, each of the Developers and the City have the right to terminate this Agreement if the City Council disapproves the Development following completion of the environmental review process pursuant to CEQA. In addition, either Developer may terminate this Agreement if such Developer determines that the implementation of any required environmental mitigation measures required by the City Council would cause development of such Developers Phase of the Development to become economically infeasible. To effectuate such termination of this Agreement, the terminating Party shall deliver a written notice to the other Parties setting forth that this Agreement is terminated pursuant to this Section within ten (10) days following the City Council's final action under CEQA. In the event this Agreement is terminated pursuant to this Section, then the City: (i) shall have no obligation to convey either Site, or any other interest in the Site, to either of the Developers; (ii) shall have no further obligation or duty under this Agreement (except for any provision that expressly survives the termination of this Agreement); and (iii) the Deposit shall be returned by the City to Del Curto and Foundation. In the event of such termination of this Agreement, then neither Developer shall have any further duties or obligations under this Agreement (except for any provision that expressly survives the termination of this Agreement). Each Developer further acknowledges that due to the termination of this Agreement as set forth above, such Developer shall have no right, pursuant to this Agreement, to acquire the Property (or either Site), and, therefore, may suffer economic loss or other consequences, including, but not limited to, economic loss or other consequences due to such Developer's inability to obtain ownership of the Property (or either Site), develop its Phase of the Development, or to operate, or to permit the operation of, any particular form of business at the Property (or either Phase). Each Developer, on behalf of itself and anyone claiming by, through or under such Developer specifically releases and waives any claim against the City for such loss or economic consequences in connection with the termination of this Agreement following completion of all applicable requirements of CEQA, or any other failure of any, or all, of the conditions precedent set forth above. Each Developer, on behalf of itself and anyone claiming by, through or under such Developer, hereby assumes the above-mentioned risks and hereby expressly waives any right such Developer and anyone claiming by, through or under such Developer, may have under Section 1542 of the California Civil Code, which reads as follows:

"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 must have materially affected his or her settlement with the debtor."

Foundation's Initials: fb

Del Curto's Initials: DC

Section 3.8 Conflict with Other Provisions. In the event of any conflict between the terms of this Article, and the terms of any other provision of this Agreement, the terms of this Article shall control.

ARTICLE 4. CONVEYANCE OF THE PROPERTY

Section 4.1 Purchase and Sale. Subject to the terms and conditions of this Agreement, the City shall sell the Phase 1 Site to the Foundation, and the Foundation shall purchase the Phase 1 Site from the City. Subject to the terms and conditions of this Agreement, the City shall sell the Phase 2 Site to Del Curto, and Del Curto shall purchase the Phase 2 Site from the City. Each Site shall be conveyed by the City Grant Deed, a form of which is attached as Exhibit D.

Section 4.2 Purchase Price. The purchase price for each Site shall be: (i) One Hundred Forty One Thousand Three Hundred Sixteen Dollars (\$141,316) for the Phase 1 Site; and (ii) Two Hundred Forty Eight Thousand Six Hundred Eighty-Four Dollars (\$248,684) for the Phase 2 Site (each a "Site Purchase Price", and, collectively, the "Purchase Price"). Each Site Purchase Price equals the Property's fair market value of Three Hundred Ninety Dollars (\$390,000) as set forth in the Appraisal, prorated between each Site based on square footage of each Site. Each Site Purchase Price shall be paid to the City in cash at the Closing for each applicable Phase; provided, however, Del Curto shall receive a credit against the Site Purchase Price for the Phase 2 Site in the amount of the Deposit.

Section 4.3 Opening Escrow. To accomplish the conveyance of the Property, the Parties shall establish an escrow with the Title Company for Phase 1 and Phase 2 by the dates set forth in the Schedule of Performance and shall execute and deliver to the Title Company written instructions that are consistent with this Agreement.

Section 4.4 Closing Date. The Closing for each Phase shall occur no later than the date set forth in the Schedule of Performance and no later than the date twenty-four (24) months from the date of this Agreement, and only in the event that all conditions precedent to conveyance for such Phase, as set forth in Article 2 and Article 3, have been satisfied or waived by the City. In addition to the conditions precedent to execution of the City Grant Deed as set forth in Article 2 (including but not limited to the closing of the financing set forth in the approved Financing Plan), and Article 3, the following conditions shall be satisfied prior to or concurrently with, and as conditions of, execution of the City Grant Deed for each Phase:

(a) The applicable Developer shall provide the City with a certified copy of an authorizing resolution, approving this Agreement, the City Use Restriction, and the City Grant Deed and the conditions and covenants set forth in this Agreement, the City Use Restriction, and the City Grant Deed.

(b) The applicable Developer shall have executed and delivered to the City the City Documents, and any other documents and instruments required to be executed and delivered, all in a form and substance satisfactory to the City.

(c) The City Grant Deed, the Memorandum of DDA, and the City Use Restriction shall have been recorded against the Site as liens subject only to the exceptions authorized by the City.

(d) The applicable Developer shall have provided the City evidence that the Developer is entitled to the issuance of a building permit for the construction of the Phase as set forth in Section 2.8.

(e) There shall exist no condition, event or act which would constitute a breach or default under this Agreement.

(f) The applicable Developer shall have paid to the City, or delivered to the Title Company for disbursement to the City, the applicable Purchase Price as set forth in Section 4.2 as well as deposited the funds required pursuant to Section 4.7.

(g) All representations and warranties of the applicable Developer contained in any part of this Agreement shall be true and correct.

Section 4.5 Condition of Title. Upon the Closing, the applicable Developer shall have insurable fee interest to the Site which shall be free and clear of all liens, encumbrances, clouds and conditions, rights of occupancy or possession, except:

- (a) applicable building and zoning laws and regulations;
- (b) the provisions of the Redevelopment Plan;
- (c) the provisions of this Agreement (as disclosed by the Memorandum of DDA), and the City Grant Deed;
- (d) the City Use Restriction;
- (e) the REA;
- (f) the parking agreement described in Section 3.2
- (g) any easement or encroachment provided for in this Agreement;
- (h) the CC&Rs and the Condo Map for Site 2 only
- (i) any lien for current taxes and assessments or taxes and assessments accruing subsequent to recordation of the Memorandum of DDA;
- (j) the liens of any loan approved by the City in the Financing Plan;
- (k) conditions, covenants, restrictions or easements currently of record or as otherwise approved by the applicable Developer in its reasonable discretion; and

(i) exceptions 1-8, inclusive, as shown in the Title Report for the Phase 1 Site; and exceptions 1-8, inclusive, as shown in the Title Report for the Phase 2 Site.

Section 4.6 Condition of Property.

(a) Required Disclosure. In fulfillment of the purposes of Health and Safety Code Section 25359.7(a), the City hereby represents and warrants that it has no knowledge, and has no reasonable cause to believe, that any release of Hazardous Materials has come to be located on or beneath the Property, except as previously disclosed by the City to the Developer.

(b) **"AS IS" CONVEYANCE.** EACH DEVELOPER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT THAT THE CITY IS CONVEYING AND SUCH DEVELOPER IS OBTAINING THE PROPERTY (INCLUDING ALL EXISTING IMPROVEMENTS THEREON, IF ANY) ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT EACH DEVELOPER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM THE CITY AS TO ANY MATTERS CONCERNING THE PROPERTY, INCLUDING WITHOUT LIMITATION: (A) THE QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, TOPOGRAPHY, CLIMATE, AIR, WATER RIGHTS, WATER, GAS, ELECTRICITY, UTILITY SERVICES, GRADING, DRAINAGE, SEWERS, ACCESS TO PUBLIC ROADS AND RELATED CONDITIONS); (B) THE QUALITY, NATURE, ADEQUACY, AND PHYSICAL CONDITION OF SOILS, GEOLOGY AND GROUNDWATER, (C) THE EXISTENCE, QUALITY, NATURE, ADEQUACY AND PHYSICAL CONDITION OF UTILITIES SERVING THE PROPERTY, OR ANY OF THE IMPROVEMENTS LOCATED ON THE PROPERTY, (D) THE DEVELOPMENT POTENTIAL OF THE PROPERTY, AND THE PROPERTY'S USE, HABITABILITY, MERCHANTABILITY, OR FITNESS, SUITABILITY, VALUE OR ADEQUACY OF THE PROPERTY FOR ANY PARTICULAR PURPOSE, (E) THE ZONING OR OTHER LEGAL STATUS OF THE PROPERTY OR ANY OTHER PUBLIC OR PRIVATE RESTRICTIONS ON THE USE OF THE PROPERTY, (F) THE COMPLIANCE OF THE PROPERTY OR ITS OPERATION WITH ANY APPLICABLE CODES, LAWS, REGULATIONS, STATUTES, ORDINANCES, COVENANTS, CONDITIONS AND RESTRICTIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL ENTITY OR OF ANY OTHER PERSON OR ENTITY, (G) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS ON, UNDER OR ABOUT THE PROPERTY OR THE ADJOINING OR NEIGHBORING PROPERTY, AND (H) THE CONDITION OF TITLE TO THE PROPERTY. EACH DEVELOPER AFFIRMS THAT IT HAS NOT RELIED ON THE SKILL OR JUDGMENT OF THE CITY OR ANY OF ITS RESPECTIVE AGENTS, EMPLOYEES OR CONTRACTORS TO SELECT OR FURNISH THE PROPERTY FOR ANY PARTICULAR PURPOSE, AND THAT THE CITY MAKES NO WARRANTY THAT THE PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE. EACH DEVELOPER ACKNOWLEDGES THAT IT HAD THE OPPORTUNITY TO PERFORM OR CONDUCT TESTS AND INVESTIGATIONS OF THE PROPERTY PURSUANT TO THE ENI, AND THAT SUCH DEVELOPER HAS USED, OR SHALL USE, ITS INDEPENDENT JUDGMENT AND MAKE ITS OWN DETERMINATION AS TO THE SCOPE AND BREADTH OF ITS DUE DILIGENCE INVESTIGATION WHICH IT SHALL MAKE RELATIVE TO THE PROPERTY AND

SHALL RELY UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC AND LEGAL CONDITION OF THE PROPERTY (INCLUDING, WITHOUT LIMITATION, WHETHER THE PROPERTY IS LOCATED IN ANY AREA WHICH IS DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY). EACH DEVELOPER UNDERTAKES AND ASSUMES ALL RISKS ASSOCIATED WITH ALL MATTERS PERTAINING TO THE PROPERTY'S LOCATION IN ANY AREA DESIGNATED AS A SPECIAL FLOOD HAZARD AREA, DAM FAILURE INUNDATION AREA, EARTHQUAKE FAULT ZONE, SEISMIC HAZARD ZONE, HIGH FIRE SEVERITY AREA OR WILDLAND FIRE AREA, BY ANY FEDERAL, STATE OR LOCAL AGENCY.

(c) Survival. The terms and conditions of this Section shall expressly survive the Closing for each Site, shall not merge with the provisions of the City Grant Deed for each Site, or any other closing documents and shall be deemed to be incorporated by reference into the City Grant Deed for each Site. The City is not liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property (or any portion thereof) furnished by any contractor, agent, employee, servant or other person. Each Developer acknowledges that the Purchase Price for each Site reflects the "as is" nature of this conveyance and any faults, liabilities, defects or other adverse matters that may be associated with each Site. Each Developer has fully reviewed the disclaimers and waivers set forth in this Agreement with such Developer's counsel and understands the significance and effect thereof.

(d) Acknowledgment. Each Developer acknowledges and agrees that: (i) to the extent required to be operative, the disclaimers of warranties contained in this Section are "conspicuous" disclaimers for purposes of all applicable laws and other legal requirements, and (ii) the disclaimers and other agreements set forth in such sections are an integral part of this Agreement, that each Site Purchase Price has been adjusted to reflect the same and that the City would not have agreed to convey either Site to the applicable Developer without the disclaimers and other agreements set forth in this Section.

(e) Developer's Release of the City. Each Developer, on behalf of itself and anyone claiming by, through or under such Developer hereby waives its right to recover from and fully and irrevocably releases the City, and its respective council members, employees, officers, directors, representatives, and agents (the "Released Parties") from any and all claims, responsibility and/or liability that such Developer may have or hereafter acquire against any of the Released Parties for any costs, loss, liability, damage, expenses, demand, action or cause of action arising from or related to: (i) the condition (including any construction defects, errors, omissions or other conditions, latent or otherwise within or about any existing improvements on the Property or either Site), valuation, salability or utility of the Property (or either Site), or its suitability for any purpose whatsoever, (ii) any presence of Hazardous Materials, and (iii) any information furnished by the Released Parties under or in connection with this Agreement.

(f) Scope of Release. The release set forth in Section 4.6(e) hereof includes claims of which either Developer is presently unaware or which either Developer does not presently suspect to exist which, if known by such Developer, would materially affect such Developer's release of the Released Parties. Each Developer specifically waives the provision of

any statute or principle of law that provides otherwise. In this connection and to the extent permitted by law, each Developer agrees, represents and warrants that it realizes and acknowledges that factual matters now unknown to such Developer may have given or may hereafter give rise to causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses which are presently unknown, unanticipated and unsuspected, and each Developer further agrees, represents and warrants that the waivers and releases herein have been negotiated and agreed upon in light of that realization and that each Developer nevertheless hereby intends to release, discharge and acquit the City from any such unknown causes of action, claims, demands, debts, controversies, damages, costs, losses and expenses. Accordingly, each Developer, on behalf of itself and anyone claiming by, through or under such Developer, hereby assumes the above-mentioned risks and hereby expressly waives any right such Developer and anyone claiming by, through or under such Developer, may have under Section 1542 of the California Civil Code, which reads as follows:

"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 must have materially affected his or her settlement with the debtor."

Foundation's Initials: fb

Del Curto's Initials: DC

Section 4.7 Costs of Escrow and Closing. Ad valorem taxes, if any, shall be prorated as of the date of recordation of the City Grant Deed for each Site. Each Developer shall pay the cost of all title insurance policies, transfer tax, Title Company document preparation, recordation fees and the escrow fees of the Title Company, if any, to close Escrow.

ARTICLE 5. CONSTRUCTION OF IMPROVEMENTS

Section 5.1 Construction Pursuant to Plans. The Improvements shall be constructed substantially in accordance with the Construction Plans, unless modified by operation of Section 5.2, and the terms and conditions of the land use permits and approvals and building permits, including any variances granted. Each Developer shall comply with all of the duties and obligations set forth in this Article, and such Developer's failure to comply with the duties and obligations set forth in this Article shall constitute a Developer Event of Default.

Section 5.2 Change in Construction of Improvements. If a Developer desires to make any material change in the Improvements which are not substantially consistent with the Construction Plans, such Developer shall submit the proposed change to the City for its approval. No change which is required for compliance with building codes or other government health and safety regulations shall be deemed material. If the Improvements, as modified by any such proposed change, will conform to the requirements of this Agreement, and the Construction Plans, the City shall approve the change by notifying the applicable Developer in writing.

Unless a proposed change is rejected by the City within ten (10) days, it shall be deemed approved. If rejected within such time period, the previously approved Construction Plans shall continue to remain in full force and effect. If the City rejects a proposed change, it shall provide the applicable Developer with the specific reasons therefore.

The approval of changes in the Construction Plans by the City pursuant to this Section shall be in addition to any approvals required to be obtained from the City in its municipal regulatory capacity pursuant to building permit requirements. Approval of changes in the Construction Plans by the City pursuant to this Agreement shall not constitute approval by the City in its municipal regulatory capacity and shall in no way limit the City's discretion in approving changes to the Construction Plans in its municipal regulatory capacity.

Section 5.3 Commencement of Construction. The applicable Developer shall commence construction of the Improvements for each Phase no later than the date set forth in the Schedule of Performance, which is no later than thirty (30) days after the close of escrow for each Site.

Section 5.4 Completion of the Improvements. Each Developer shall diligently prosecute to completion the construction of the Improvements for the applicable Phase no later than the date set forth in the Schedule of Performance, which shall be no later than the date eighteen (18) months after the Closing for applicable Site.

Section 5.5 Equal Opportunity. During the construction of the Improvements there shall be no discrimination on the basis of race, color, creed, religion, sex, sexual orientation, marital status, national origin or ancestry in the hiring, firing, promoting or demoting of any person engaged in the construction work. In connection with the construction of the Improvements, each Developer shall, and shall cause its general contractor to, use commercially reasonable, good faith, efforts to retain, or otherwise utilize, the services of businesses located within the boundaries of the City of Hollister. At a minimum, each Developer shall, or shall cause its general contractor to, notify applicable business firms located in City of Hollister of bid opportunities for the construction of the Improvements. Documentation of such notifications shall be maintained by each Developer and available to the City as requested.

Section 5.6 Compliance with Applicable Laws. Each Developer shall cause all construction work in the applicable Phase to be performed in compliance with (a) all applicable laws, ordinances, rules and regulations of federal, state, county or municipal governments or agencies now in force or that may be enacted hereafter, and (b) all directions, rules and regulations of any fire marshal, health officer, building inspector, or other officer of every governmental agency now having or hereafter acquiring jurisdiction. The work shall proceed only after the payment of all applicable fees, procurement of each permit, license, or other authorization that may be required by any governmental agency having jurisdiction, and the applicable Developer shall be responsible to the City for the procurement and maintenance thereof for the applicable Phase, as may be required of such Developer and all entities engaged in work on the Property.

Section 5.7 Progress Report. The applicable Developer will provide quarterly progress reports to the City regarding the status of the construction of each Phase. The applicable Developer shall provide the reports and information required under this Section until completion of the construction of the Phase, as evidenced by the Certificate of Completion from the City pursuant to Section 5.11.

Section 5.8 Construction Responsibilities. As between the City and the applicable Developer for a Phase it shall be the responsibility of the applicable Developer to coordinate and

schedule the work to be performed so that commencement and completion of the construction of each Phase will take place in accordance with this Agreement. Each Developer shall be solely responsible for all aspects of such Developer's conduct in connection with its Phase of the Development, including (but not limited to) the quality and suitability of the plans and specifications, the supervision of construction work, and the qualifications, financial condition, and performance of all architects, engineers, contractors, subcontractors, suppliers, and consultants. Any review or inspection undertaken by the City with reference to the Development, pursuant to this Agreement, is solely for the purpose of determining whether the applicable Developer is properly discharging its obligations to the City, and should not be relied upon by such Developer or by any third parties as a warranty or representation by the City as to the quality of the design or construction of either Phase of the Development, or compliance with any applicable law.

Section 5.9 Inspections. Each Developer, for the applicable Phase, shall permit and facilitate, and shall require its contractors, to permit and facilitate, observation and inspection at the Development by the City during reasonable business hours for the purposes of determining compliance with this Agreement. Each Developer acknowledges that the City is under no obligation to: (a) supervise the construction, or the means, methods, or techniques utilized in connection with the construction of the Improvements, (b) inspect the Property, or (c) inform the Developer of information obtained by the City during any inspection pursuant to this Agreement. Any inspection by the City during the construction of the Improvements, pursuant to this Section, is entirely for determining whether the applicable Developer is in compliance with this Agreement and is not for the purpose of determining or informing the applicable Developer of the quality or suitability of construction. Neither Developer shall rely upon the City for any supervision or inspection of the construction of the applicable Phase of the Development. Each Developer shall rely entirely upon its own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers. The rights granted to the City pursuant to this Section are in addition to any rights of entry and inspection the City may have in exercising its municipal regulatory authority, including, but not limited to, any inspection rights related to any building permit, or other approval, for a Phase.

Section 5.10 Information. Each Developer shall provide any information reasonably requested by the City in connection with the applicable Phase of the Development.

Section 5.11 Certificate of Completion; Term.

(a) Leases prior to Certificate of Completion for Phase 2. Prior to the issuance of a Certificate of Completion for Phase 2, Del Curto shall deliver to the City for its limited review and approval letters of intent (conditioned only upon the completion of the construction of the applicable Improvements, and tenant improvements, or such other customary and standard conditions in the commercial leasing context) for at least fifty percent (50%) of the Retail Component. The leases shall be between Del Curto and reputable tenants that meet the use criteria of the City Use Agreement and the City Use Restriction. The City's review and approval shall be limited to the proposed tenant, the use of the premises leased, the size of the premises leased, and that such agreement constitutes a binding commitment to lease the applicable portion of the Retail Component. The City shall either approve or disapprove of such leases within ten (10) days following the City's receipt. The City's failure to either approve or

disapprove of such evidence within such ten (10) day period shall be deemed approval. The City shall not unreasonably withhold, delay, or condition its approval of such leases. Any approval by the City, pursuant to this Section, shall in no way be deemed to be a representation by the City regarding the business advantage or the enforceability of such document, or constitute approval of or concurrence with any other term or condition of such document. City approval of such documentation shall merely constitute satisfaction of the condition set forth in this Section.

(b) Certificate of Completion. Within sixty (60) after completion of the construction of a Phase in accordance with those provisions of this Agreement relating solely to the obligations of the applicable Developer to construct the Phase (including the dates for beginning and completing construction of the Phase) and conditioned upon approval of the leases for Phase 2 as set forth in subsection (a) above, the City shall provide an instrument so certifying the completion of the construction of the Phase (the "Certificate of Completion"). The Certificate of Completion shall be conclusive determination that the covenants in this Agreement with respect to the obligations of the applicable Developer to construct the Phase have been met. The issuance of the Certificate of Completion for one Phase shall have no effect on the Term of this Agreement for the other Phase, and the provisions of this Agreement shall remain in full force and effect against a Site until such time as a Certificate of Completion is issued by the City for such Site. The certification shall be in such form as will enable such certificate to be recorded in the Official Records. These certifications and determinations shall not constitute evidence of compliance with the requirements of Section 5.6 or satisfaction of any obligation of the applicable Developer to any holder of a Security Financing Interest, shall not be deemed a notice of completion under the California Civil Code, nor a certificate of occupancy and shall neither hinder nor convey any rights to occupy any portion of the Phase.

(c) Term. This Agreement shall be in effect from the Effective Date and shall not terminate until a Certificate of Completion has been issued for each Site. Notwithstanding the foregoing, provided the Owner of a Site is not in breach of its obligations under this Agreement, this Agreement shall terminate with respect to such Site owned by such Owner (a "Released Parcel") on the date a Certificate of Completion is issued for the Phase on such Site. From and after the date of the Certificate of Completion, the terms and conditions of this Agreement shall no longer apply to the Released Parcel and the Owner of the Released Parcel shall have no further obligations to the City under this Agreement with respect to the Released Parcel (except for any provision herein that explicitly survives termination); provided, however, such Site shall remain subject to the terms of the City Use Restriction for the entire term of the City Use Restriction.

ARTICLE 6. ONGOING DEVELOPER OBLIGATIONS

Section 6.1 Applicability. The conditions and obligations set forth in this Article shall apply throughout the Term, unless a different period of applicability is specified for a particular condition or obligation. Either Developer's failure to comply with the duties and obligations set forth in this Article shall constitute a Developer Event of Default for the applicable Phase.

Section 6.2 Mandatory Language in All Subsequent Deeds, Leases and Contracts.

All deeds, leases or contracts made or entered into by either Developer, its successors or assigns, as to any portion of the Property shall contain therein the following language:

(a) In Deeds:

"(1) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed, nor shall the grantee or any person claiming under or through the grantee, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

(b) In Leases:

"(1) Lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee or any person claiming under or through the lessee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

(c) In Contracts:

"(1) There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

Section 6.3 Hazardous Materials.

(a) Covenants.

(i) No Hazardous Materials Activities. The applicable Developer hereby represents and warrants to the City that, at all times from and after the Closing for a Phase, the Developer shall not cause or permit the applicable Site, or the Improvements thereon to be used as a site for the use, generation, manufacture, storage, treatment, release, discharge, disposal, transportation or presence of any Hazardous Materials.

(ii) Hazardous Materials Laws. The applicable Developer hereby represents and warrants to the City that, at all times from and after the Closing for a Site, the Developer shall comply and cause such Site, and the Improvements thereon to comply with Hazardous Materials Laws, including without limitation, those relating to soil and groundwater conditions.

(iii) Notices. The applicable Developer hereby represents and warrants to the City that, at all times from and after the Closing for a Site, the Developer shall immediately notify the City in writing of: (i) the discovery of any Hazardous Materials on or under such Site; (ii) any knowledge by the applicable Developer that such Site does not comply with any Hazardous Materials Laws; (iii) any claims or actions pending or threatened against the applicable Developer, such Site, or the applicable Phase the Improvements by any governmental entity or agency or any other person or entity relating to Hazardous Materials or pursuant to any Hazardous Materials Laws (collectively "Hazardous Materials Claims"); and (iv) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of either Site, that could cause either Site, or any part thereof to be subject to a land use restriction under the provisions of California Health and Safety Code Sections 25220, et seq., or any regulation adopted in accordance therewith, or to be otherwise subject to any restrictions on the ownership, occupancy, transferability or use of the applicable Phase and/or Site under any Hazardous Materials Laws. The City shall have the right to join and participate in, as a party if it so elects,

any legal proceedings or actions initiated in connection with any Hazardous Materials Claims and to have its reasonable attorney's fees in connection therewith paid by the applicable Developer.

(iv) Without the City's prior written consent, which shall not be unreasonably withheld, a Developer shall not take any remedial action in response to the presence of any Hazardous Materials on, under, or about either Phase (other than in emergency situations or as required by governmental agencies having jurisdiction), nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Materials Claims.

(b) Indemnity. Without limiting the generality of the indemnification set forth in Section 11.7 below, each Developer hereby agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the City) the City, its council members, officers, and employees from and against any and all claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement actions of any kind, and all costs and expenses incurred in connection therewith (including, but not limited to, reasonable attorney's fees and expenses), arising directly or indirectly, in whole or in part, out of: (1) the failure of such Developer or any other person or entity to comply with any Hazardous Materials Law relating in any way whatsoever to the handling, treatment, presence, removal, storage, decontamination, cleanup, transportation or disposal of Hazardous Materials into, on, under or from the applicable Phase and/or Site on or after the date of conveyance of the applicable Site to such Developer; (2) the presence in, on or under the applicable Site of any Hazardous Materials or any releases or discharges of any Hazardous Materials into, on, under or from the applicable Site to the extent it arises on or after the date of conveyance of the applicable Site to such Developer; or (3) any activity carried on or undertaken on or off the applicable Site, subsequent to the conveyance of the applicable Site to such Developer, and whether by such Developer or any successor in title or any employees, agents, contractors or subcontractors of such Developer or any successor in title, or any third persons at any time occupying or present on the applicable Site, in connection with the handling, treatment, removal, storage, decontamination, cleanup, transport or disposal of any Hazardous Materials at any time located or present on or under the applicable Site. The foregoing indemnity shall further apply to any residual contamination on or under the applicable Site, or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with Hazardous Materials Laws. The provisions of this subsection shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

(c) No Limitation. Each Developer hereby acknowledges and agrees that its duties, obligations and liabilities under this Agreement, including, without limitation, under subsection (b) above, are in no way limited or otherwise affected by any information the City may have concerning the Property and/or the presence within the Development of any Hazardous Materials, whether the City obtained such information from such Developer, the other Developer or from its own investigations.

Section 6.4 Insurance Requirements.

(a) Required Coverage. Each Developer shall maintain and keep in force, at its sole cost and expense, the following insurance applicable to the applicable Phase:

(i) To the extent required by law, Worker's Compensation insurance, including Employer's Liability coverage, with limits not less than required by applicable law.

(ii) Comprehensive or Commercial General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverage's for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations.

(iii) Comprehensive Automobile Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired vehicles, as applicable; provided, however, such automobile insurance shall only be required to the extent the Developer owns automobiles.

(iv) Property insurance covering the applicable Phase covering all risks of loss, including) and flood, if the applicable Site is located in a flood zone, for one hundred percent (100%) of the replacement value, with deductible, if any, acceptable to the City.

(b) Contractor's Insurance. Each Developer shall cause any general contractor or agent working on a Phase under direct contract with such Developer (including, but not limited to, such Developer's architect) to maintain insurance of the types and in at least the minimum amounts described in subsections (a)(i), (a)(ii), and (a)(iii) above, and shall require that such insurance shall meet all of the general requirements of subsection (c) below. Subcontractors working on the applicable Phase under indirect contract with such Developer shall be required to maintain the insurance described in subsections (a)(i), (a)(ii) and (a)(iii) above except that the limits of coverage for insurance described in subsections (a)(ii) and (a)(iii) may be One Million Dollars (\$1,000,000). Liability and Comprehensive Automobile Liability insurance to be maintained by such contractors and agents pursuant to this subsection shall name as additional insured's the City, councilmembers, officers, agents, and employees.

(c) General Requirements. The required insurance shall be provided under an occurrence form, and each Developer shall maintain such coverage continuously throughout the Term. Should any of the required insurance be provided under a form of coverage that includes an annual aggregate limit or provides that claims investigation or legal defense costs be included in such annual aggregate limit, such annual aggregate limit shall be three times the occurrence limits specified above.

Comprehensive General Liability, Comprehensive Automobile Liability and Property insurance policies shall be endorsed to name as additional insureds the City and its council members, officers, agents, and employees. All policies and bonds shall contain (a) the agreement of the insurer to give the City at least thirty (30) days' notice prior to cancellation (including, without limitation, for nonpayment of premium) or any material change in said policies; (b) an agreement that such policies are primary and noncontributing with any insurance that may be carried by the City; (c) a provision that no act or omission of the applicable

Developer shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained; and (d) a waiver by the insurer of all rights of subrogation against the City and its authorized parties in connection with any loss or damage thereby insured against.

(d) Certificates of Insurance. Upon the City's request at any time during the Term of this Agreement, each Developer shall provide certificates of insurance, in form and with insurers reasonable acceptable to the City, evidencing compliance with the requirements of this Section, and shall provide complete copies of such insurance policies, including a separate endorsement naming the City as additional insured, if requested by the City.

Section 6.5 Leases for the Retail Component.

(a) Leases. Prior to entering into any lease for Phase 2, Del Curto shall deliver to the City for its limited review and approval the final draft of each lease(conditioned only upon the completion of the construction of the applicable Improvements, and tenant improvements, or such other customary and standard conditions in the commercial leasing context). Each lease shall be between Del Curto and reputable tenants that meet the use criteria of the City Use Agreement and the City Use Restriction. The City's review and approval shall be limited to the proposed tenant, the use of the premises leased, and the size of the premises leased. The City shall either approve or disapprove of such leases within ten (10) days following the City's receipt. The City's failure to either approve or disapprove of such evidence within such ten (10) day period shall be deemed approval. The City shall not unreasonably withhold, delay, or condition its approval of such leases.

(b) City Approval. Any approval by the City, pursuant to this Section, shall in no way be deemed to be a representation by the City regarding the business advantage or the enforceability of such document, or constitute approval of or concurrence with any other term or condition of such document. City approval of such documentation shall merely constitute satisfaction of the condition set forth in this Section.

ARTICLE 7. ASSIGNMENT AND TRANSFERS

Section 7.1 Definitions. As used in this Article, the term "Transfer" means:

(a) Any total or partial sale, assignment or conveyance, or any trust or power, or any transfer in any other mode, or form, of or with respect to this Agreement or of the Development, a Phase, a Site, or any part thereof or any interest therein or any contract or agreement to do any of the same; or

(b) Any total or partial sale, assignment or conveyance, or any trust or power, or any transfer in any other mode or form, of or with respect to any ownership interest in Developer or any contract or agreement to do any of the same; or

(c) Any merger, consolidation, sale or lease of all or substantially all of the assets of a Developer; or

The sale or leasing of individual residential units within Phase 2 shall not be deemed a "Transfer" for purposes of this Article.

Section 7.2 Purpose of Restrictions on Transfer. This Agreement is entered into solely for the purpose of development and operation of the Development and its subsequent use in accordance with the terms hereof. Each Developer recognizes that the qualifications and identity of such Developer are of particular concern to the City, in view of:

- (a) The importance of the development of the Property to the general welfare of the community; and
- (b) The reliance by the City upon the unique qualifications and ability of the Developer to serve as the catalyst for development of the Property and upon the continuing interest which such Developer will have in the Property to assure the quality of the use, operation and maintenance deemed critical by the City in the development of the Property; and
- (c) The fact that a change in ownership or control of the owner of the Property, or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in ownership or with respect to the identity of the parties in control of such Developer or the degree thereof is for practical purposes a transfer or disposition of the Property; and
- (d) The fact that the Property is not to be acquired or used for speculation, but only for development and operation by such Developer in accordance with the Agreement; and
- (e) The importance to the City and the community of the standards of use, operation, and maintenance of the Property; and
- (f) Each Developer further recognizes that it is because of such qualifications and identity that the City is entering into this Agreement with such Developer and that Transfers are permitted only as provided in this Agreement.

Section 7.3 Prohibited Transfers. The limitations on Transfers set forth in this Section shall apply until expiration of the Term. Except as expressly permitted in this Agreement, each Developer represents and agrees that such Developer has not made or created, and will not make or create or suffer to be made or created, any Transfer, either voluntarily or by operation of law without the prior written approval of the City.

Any Transfer made in contravention of this Section shall be void and shall be deemed to be a default under this Agreement whether or not the applicable Developer knew of or participated in such Transfer.

Section 7.4 Permitted Transfers. Notwithstanding the provisions of Section 7.3, the following Transfers shall be permitted and are hereby approved by the City.

- (a) Any Transfer creating a Security Financing Interest permitted pursuant to the approved Financing Plan;

(b) Any Transfer directly resulting from the foreclosure of a Security Financing Interest or the granting of a deed in lieu of foreclosure of a Security Financing Interest or as otherwise permitted under Article 10.

(c) The Transfer of the rights under this Agreement by a Developer to an Affiliate pursuant to an assignment and assumption agreement, prepared by the City, pursuant to which the Affiliate shall expressly assume the obligations of such Developer under this Agreement, and the City Documents, and agrees to be subject to the conditions and restrictions to which such Developer is subject arising during this Agreement and the City Documents.

Section 7.5 Other Transfers with City Consent. The City may, in its sole and absolute discretion, approve in writing other Transfers to a Qualified Transferee as requested by a Developer. In connection with such request, there shall be submitted to the City for review all instruments and other legal documents proposed to affect any such Transfer. If a requested Transfer is approved by the City such approval shall be indicated to the applicable Developer in writing. Such approval shall be granted or denied by the City within thirty (30) days after receipt by the City of such Developer's request for approval of a Transfer. Upon such approval, if granted, the Qualified Transferee, by an instrument in writing prepared by the City and in form recordable among the Official Records, shall expressly assume the obligations of the applicable Developer under this Agreement, and the City Documents, and agree to be subject to the conditions and restrictions to which the applicable Developer is subject arising during this Agreement and the City Documents, to the fullest extent that such obligations are applicable to the particular portion of or interest in the Development conveyed in such Transfer. In the absence of specific written agreement by the City, no such Transfer, assignment or approval by the City shall be deemed to relieve the applicable Developer or any other party from any obligations under this Agreement.

ARTICLE 8. DEFAULT AND REMEDIES

Section 8.1 General Applicability. The provisions of this Article shall govern the Parties' remedies for breach or failure of this Agreement.

Section 8.2 No Fault of Parties. The following events constitute a basis for a Party to terminate this Agreement without the fault of the other:

- (a) The Agreement is terminated in accordance with Section 3.7;
- (b) The Developer, despite good faith and diligent efforts, is unable to satisfy all of the conditions precedent to the City's obligation to execute the City Grant Deed set forth in Article 4 by no later than the dates set forth in the Schedule of Performance; or
- (c) The City, despite good faith and diligent efforts, is unable to execute the City Grant Deed and convey the Property to the Developer and the Developer is otherwise entitled to the conveyance of the Property.

Upon the happening of any of the above-described events, and at the election of any Party, this Agreement may be terminated by written notice to the other Party. After termination, no Party shall have any rights against or liability to the other Parties under this Agreement,

except that the waiver and indemnification provisions set forth herein shall survive such termination and remain in full force and effect.

Section 8.3 Fault of City. Except as to events constituting a basis for termination under Section 8.2, the following events each constitute a City Event of Default and a basis for the applicable Developer to take action against the City:

(a) The City, without good cause, fails to convey the Property to a Developer within the time and in the manner set forth in Article 4 and the applicable Developer is otherwise entitled by this Agreement to such conveyance; or

(b) The City breaches any other material provision of this Agreement.

Upon the happening of any of the above-described events, a Developer shall first notify the City in writing of its purported breach or failure, giving the City forty-five (45) days from receipt of such notice to cure or, if cure cannot be accomplished within forty-five (45) days, to commence to cure such breach, failure, or act. In the event the City does not then so cure within said forty-five (45) days, or if the breach or failure is of such a nature that it cannot be cured within forty-five (45) days, the City fails to commence to cure within such forty-five (45) days and thereafter diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) days, then the applicable Developer shall be afforded all of its rights at law or in equity, by taking all or any of the following remedies: (1) terminating in writing this Agreement (provided, however, that the waiver and indemnification provisions set forth herein shall survive such termination); and (2) prosecuting an action for specific performance.

Section 8.4 Fault of a Developer. Except as to events constituting a basis for termination under Section 8.2, the following events each constitute a Developer Event of Default for such Phase and a basis for the City to take action against the Developer for such Phase:

(a) Developer fails to exercise good faith and diligent efforts to satisfy, within the time set forth in the Schedule of Performance, one or more of the conditions precedent to the City's obligation to convey a Site to the applicable Developer; or

(b) Developer refuses to execute the City Grant Deed within the time set forth in the Schedule of Performance and under the terms set forth in Article 4; or

(c) Developer constructs or attempts to construct the Development or otherwise redevelop the Property in violation of Article 5; or

(d) Developer has not satisfied all preconditions set forth in this Agreement to commencement of construction of the Phase by the date set forth in the Schedule of Performance, or fails to commence or complete the construction of the Phase within the times set forth in the Schedule of Performance, or abandons or suspends construction of the Phase prior to completion of all construction for a period of thirty (30) days after written notice by the City of such abandonment or suspension;

(e) Developer violates the requirements of Article 6, or any requirement of the City Use Restriction.

(f) A Transfer occurs, either voluntarily or involuntarily, in violation of Article 7;

(g) Any representation or warranty contained in this Agreement or in any application, financial statement, certificate or report submitted to the City in connection with this Agreement by a Developer proves to have been incorrect in any material and adverse respect when made.

(h) A Developer Event of Default or an event of default occurs under any of the City Documents with respect to a Developer.

(i) A court having jurisdiction shall have made or entered any decree or order (1) adjudging the applicable Developer to be bankrupt or insolvent, (2) approving as properly filed a petition seeking reorganization of the applicable Developer or seeking any arrangement for the applicable Developer under the bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction, (3) appointing a receiver, trustee, liquidator, or assignee of the applicable Developer in bankruptcy or insolvency or for any of its properties, or (4) directing the winding up or liquidation of the applicable Developer, if any such decree or order described in clauses (1) to (4), inclusive, shall have continued unstayed or undischarged for a period of ninety (90) days unless a lesser time period is permitted for cure under any other mortgage on the applicable Site, in which event such lesser time period will apply under this subsection (i) as well; or the applicable shall have admitted in writing its inability to pay its debts as they fall due or shall have voluntarily submitted to or filed a petition seeking any decree or order of the nature described in clauses (1) to (4), inclusive; or

(j) The applicable Developer shall have assigned its assets for the benefit of its creditors or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executed upon shall have been returned or released within ninety (90) days after such event (unless a lesser time period is permitted for cure under any other mortgage on the applicable Site, in which event such lesser time period shall apply under this subsection (i) as well) or prior to sooner sale pursuant to such sequestration, attachment, or execution. In the event that the applicable Developer is diligently working to obtain a return or release of the property, as determined in the City's reasonable business judgment, and the City's interests under the Agreement are not immediately threatened, in the City's reasonable business judgment, the City shall not declare a default under this subsection; or

(k) The applicable Developer shall have voluntarily suspended its business or the applicable Developer shall have been dissolved or terminated; or

(l) The applicable Developer breaches any other material provision of this Agreement.

Upon the happening of any of the above-described events, the City shall first notify the applicable Developer in writing of its purported breach, failure or act above described, giving the applicable Developer in writing forty-five (45) days from receipt of such notice to cure, or, if cure cannot be accomplished within said forty-five (45) days, to commence to cure such breach, failure, or act. In the event the applicable Developer fails to cure within said forty-

five (45) days, or if such breach is of a nature that it cannot be cured within forty-five (45) days, applicable Developer fails to commence to cure, and diligently complete such cure within a reasonable time thereafter but in no event later than one hundred twenty (120) days, then the City shall be afforded all of its rights at law or in equity by taking any or all of the following remedies:

(i) Termination of this Agreement with regard to the applicable Developer by written notice to the applicable Developer; provided, however, that the City's remedies pursuant to this Article or any other City Document and the waiver and indemnification provisions of this Agreement shall survive such termination; or

(ii) Any of the remedies specified in Article 9.

Section 8.5 Right to Cure at Developer's Expense. The City shall have the right to cure any monetary default by a Developer under a loan in connection with the Development. Each Developer agrees to reimburse the City for any funds advanced by the City to cure a monetary default by such Developer upon demand therefor, together with interest thereon at the lesser of the rate of ten percent (10%) per annum or the maximum rate permitted by law from the date of expenditure until the date of reimbursement.

Section 8.6 Construction Plans. If this Agreement is terminated pursuant to Section 8.2 or Section 8.4 or partially terminated as to a Phase under Section 8.4, then the Developer for the terminated Phase(s) shall promptly deliver to the City, within ten (10) days of such termination, copies of all plans and specifications for the terminated Phase(s) of the Development, all permits and approvals obtained in connection with the terminated Phase(s) of the Development, and all applications for permits and approvals not yet obtained but needed in connection with the terminated Phase(s) of the Development (collectively, the "Assigned Development Documents"). The delivery of the Assigned Development Documents shall be accompanied by an assignment, in form reasonably satisfactory to the City, of the applicable Developer's right, title and interest in the Assigned Development Documents; provided however, that any use of the Assigned Development Documents by the City or any other person shall be without liability of any kind to the applicable Developer and without any representation or warranty of the applicable Developer or its employees, as to the quality, validity, or usability of the Assigned Development Documents.

Section 8.7 Remedies Cumulative. No right, power, or remedy given by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given by the terms of any such instrument, or by any statute or otherwise. Neither the failure nor any delay to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 8.8 Waiver of Terms and Conditions. No waiver of any default or breach by a Developer hereunder shall be implied from any omission by the City to take action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the waiver, and such waiver shall be operative only for the time and to the extent therein stated. Waivers of any covenant, term, or condition contained

herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. The consent or approval by the City to or of any act by a Developer requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act. The exercise of any right, power, or remedy shall in no event constitute a cure or a waiver of any default under this Agreement or the other City Documents, nor shall it invalidate any act done pursuant to notice of default, or prejudice the City in the exercise of any right, power, or remedy hereunder or under this Agreement, unless in the exercise of any such right, power, or remedy all obligations of such Developer to the City are paid and discharged in full.

ARTICLE 9. RIGHT OF REVERTER AND OPTION TO PURCHASE

Section 9.1 Right of Reverter. If there is an uncured Developer Event of Default or this Agreement is terminated pursuant to Section 8.4, and such default and/or termination occurs after the Closing, but prior to issuance of the Certificate of Completion for a Phase pursuant to Section 5.11, then the City shall have the right to reenter and take possession of the applicable Site and all improvements thereon, and to revest in the City the estate of the defaulting Developer in the applicable Site. Each Developer hereby agrees to execute such documents as reasonably necessary to cause its interest in the applicable Site to revert and revest in the City.

Upon revesting in the City of title to the applicable Site, or any portion thereof, the City shall promptly use its best efforts to resell the revested Site consistent with its obligations under state law. The City may also determine, in its sole discretion, to complete the construction of all or any of the applicable Phase of the Improvements, prior to the sale of the applicable Site. Upon sale, the proceeds shall be applied as follows:

- (a) First, to reimburse the City, for any reasonable costs it incurs in managing or selling the applicable Site, or in connection with the completion of the construction of any Improvements on such Site, including but not limited to amounts to discharge, or to prevent, liens or encumbrances arising from any acts or omissions of the applicable Developer;
- (b) Second, to the applicable Developer in the amount of the reasonable costs expended by such Developer in undertaking the construction of the Improvements on the applicable Site;
- (c) Any balance to be retained by the City.

The right of reverter contained in this Section shall be set forth in the City Grant Deed.

Section 9.2 Option to Repurchase, Reenter and Repossess.

(a) The City shall have the additional right at its option to repurchase, reenter and take possession of the applicable Site, or any portion thereof owned by the applicable Developer for which a Certificate of Completion has not been issued, with all improvements thereon, if after conveyance of title to the Property, and prior to the issuance of the Certificate of Completion for the Phase, there is a Developer Event of Default pursuant to Section 8.4 with respect to the construction of the Phase or portion thereof.

(b) To exercise its right to repurchase, reenter and take possession, the City shall pay to the applicable Developer in cash an amount equal to the amount of the applicable Site Purchase Price. Upon vesting in the City of title to all or a portion of the applicable Site, the City shall promptly use its best efforts to resell it, subject to a requirement that the applicable Site be developed in accordance with this Agreement. Upon any resale of the applicable Site or portion thereof by the City, the City shall apply such sale proceeds as follows:

(i) To the applicable Developer, the fair market value of any improvements existing on the applicable Site at the time of the repurchase, reentry and repossession; less

(A) Any gains or income withdrawn or made by the applicable Developer from the applicable Site or the improvements thereon; less

(B) The value of any unpaid liens or encumbrances on the applicable portion of the Site which the City assumes or takes subject to said encumbrances.

(ii) The remaining sale proceeds, if any, shall be retained by the City.

Section 9.3 Rights of Mortgagees. Any rights of the City under this Article, shall not defeat, limit or render invalid any lease, mortgage, deed of trust or any other security interest permitted by this Agreement or otherwise consented to by the City in writing or any rights provided for in this Agreement for the protection of holder of security interests in the Site. The City acknowledges that, upon obtaining ownership of the applicable Site pursuant to the this Article, the City shall be subject to all applicable obligations of any Security Financing Interest, arising on, or after, the date the City re-acquires the applicable Site (other than any obligation personal to the applicable Developer, including, but not limited to any guaranty or indemnification obligation).

ARTICLE 10. SECURITY FINANCING AND RIGHTS OF HOLDERS

Section 10.1 No Encumbrances Except for Development Purposes. Notwithstanding any other provision of this Agreement, mortgages and deeds of trust, or any other reasonable method of security are permitted to be placed upon the applicable Developer's fee interest in a Site but only for the purpose of securing loans approved by the City pursuant to the approved Financing Plan. Mortgages, deeds of trust, or other reasonable security instruments securing loans approved by the City pursuant to the approved Financing Plan are each referred to as a "Security Financing Interest." The words "mortgage" and "deed of trust" as used in this Agreement include all other appropriate modes of financing real estate acquisition, construction, and land development.

Section 10.2 Holder Not Obligated to Construct. The holder of any Security Financing Interest authorized by this Agreement is not obligated to construct or complete any improvements or to guarantee such construction or completion. However, nothing in this Agreement shall be deemed to permit or authorize any such holder to devote a Site or any portion thereof to any uses, or to construct any improvements thereon, other than those uses of improvements provided for or authorized by this Agreement.

Section 10.3 Notice of Default and Right to Cure. Whenever the City pursuant to its rights set forth in Article 8 of this Agreement delivers any notice or demand to the applicable Developer with respect to the commencement, completion, or cessation of the construction of a Phase, the City shall at the same time deliver to each holder of record of any Security Financing Interest creating a lien upon the Developer's fee interest in the Phase or any portion thereof a copy of such notice or demand. Each such holder shall (insofar as the rights of the City are concerned) have the right, but not the obligation, at its option, within ninety (90) days after the receipt of the notice, to cure or remedy or commence to cure or remedy any such default or breach affecting the Site which is subject to the lien of the Security Financing Interest held by such holder and to add the cost thereof to the security interest debt and the lien on its security interest. Nothing contained in this Agreement shall be deemed to permit or authorize such holder to undertake or continue the construction or completion of the Phase (beyond the extent necessary to conserve or protect such improvements or construction already made) without first having expressly assumed in writing the applicable Developer's obligations to the City relating to such Phase under this Agreement pursuant to an assignment and assumption agreement prepared by the City. The holder in that event must agree to complete, in the manner provided in this Agreement, the Phase to which the lien or title of such holder relates. Any such holder properly completing such Phase pursuant to this Section shall assume all rights and obligations of Developer under this Agreement and shall be entitled, upon completion and written request made to the City, to a Certificate of Completion from the City in accordance with Section 5.11.

Section 10.4 Failure of Holder to Complete Phase. In any case where six (6) months after default by the Developer in completion of construction of a Phase under this Agreement, the holder of record of any Security Financing Interest, having first exercised its option to construct (pursuant to the assignment and assumption agreement more particularly described in Section 10.3), has not proceeded diligently with construction of the Phase, the City shall be afforded those rights against such holder it would otherwise have against the applicable Developer under this Agreement, including, but not limited to declaring a default in accordance with Article 8.

Section 10.5 Right of City to Cure. In the event of a default or breach by the applicable Developer of a Security Financing Interest prior to the completion of development of a Phase, and the holder has not exercised its option to complete the construction of the Phase, the City may cure the default, prior to the completion of any foreclosure. In such event the City shall be entitled to reimbursement from the applicable Developer of all costs and expenses incurred by the City in curing the default. The City shall also be entitled to a lien upon such Developer's fee interest in the applicable Site or any portion thereof to the extent of such costs and disbursements. The City agrees that such lien shall be subordinate to any Security Financing Interest, and the City shall execute from time to time any and all documentation reasonably requested by such Developer to effect such subordination.

Section 10.6 Right of City to Satisfy Other Liens. Following the Closing for a Site, and after the applicable Developer has had a reasonable time to challenge, cure or satisfy any liens or encumbrances on the fee interest in the Site or any portion thereof (including, but not limited to, any breach or default under a Security Financing Interest), the City shall have the right to satisfy any such lien or encumbrances; provided, however, that nothing in this Agreement shall require the applicable Developer to pay or make provision for the payment of any tax, assessment, lien or charge so long as such Developer in good faith shall contest the validity or amount therein and

so long as such delay in payment shall not subject the Property or any portion thereof to forfeiture or sale.

Section 10.7 Holder to be Notified. The provisions of this Article shall be incorporated into the relevant deed of trust or mortgage evidencing each Security Financing Interest to the extent deemed necessary by, and in form and substance reasonably satisfactorily to the City, or shall be acknowledged by the holder of a Security Financing Interest prior to its coming into any security right or interest in a Site.

ARTICLE 11. GENERAL PROVISIONS

Section 11.1 Notices, Demands and Communications. Formal notices, demands, and communications between the City and the Developers shall be sufficiently given if, and shall not be deemed given unless, dispatched by registered or certified mail, postage prepaid, return receipt requested, by reputable overnight delivery service, or delivered personally, to the principal office of the City and the applicable Developer as follows:

City:	City of Hollister 375 Fifth Street Hollister, CA 95023 Attn: City Manager
Del Curto:	Del Curto Brothers Construction Company, Inc. 2200 Santa Ana Valley Rd Hollister, CA 95023 Attn: Darin Del Curto and Derek Del Curto
Foundation:	Community Foundation for San Benito County. 29 San Benito Street, Suite 200 Hollister, CA 95023 Attn: President and CEO

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section.

Section 11.2 Non-Liability of City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to either Developer or successor or on any obligation under the terms of this Agreement.

Section 11.3 Forced Delay. In addition to specific provisions of this Agreement, performance by any Party hereunder shall not be deemed to be in default where delays or defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority; litigation (including suits filed by third parties

concerning or arising out of this Agreement); weather (provided that such claim is documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had a material adverse impact on the Party's ability to satisfy its obligation hereunder); inability to secure necessary labor, materials or tools; acts of the another Party; acts or failure to act of any public or governmental agency or entity (other than the acts or failure to act of the City in its capacity as a party to this Agreement but not in its capacity as a municipal regulatory authority); or any other causes (other than the applicable Developer's inability to obtain financing for a Phase) beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any cause will be deemed granted if notice by the Party claiming such extension is sent to the other Party (City or applicable Developer for a given Phase) within ten (10) days from the date the Party seeking the extension first discovered the cause and such extension of time is not rejected in writing by the other Party within ten (10) days after receipt of the notice. Times of performance under this Agreement may also be extended in writing by the City and the applicable Developer for a specific Phase. In no event shall the cumulative delays exceed one hundred eighty (180) days, unless otherwise agreed to by the City and the applicable Developer for a Phase in writing.

Section 11.4 Inspection of Books and Records. Upon request, each Developer shall permit the City to inspect at reasonable times and on a confidential basis those books, records and all other documents of such Developer necessary to determine such Developer's compliance with the terms of this Agreement.

Section 11.5 Provision Not Merged with City Grant Deed. None of the provisions of this Agreement are intended to or shall be merged by the City Grant Deed transferring title to any real property which is the subject of this Agreement from City to the applicable Developer or any successor in interest, and any such grant deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

Section 11.6 Title of Parts and Sections. Any titles of the articles, sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any part of its provision.

Section 11.7 Indemnification. Each Developer agrees to indemnify, protect, hold harmless and defend (by counsel reasonably satisfactory to the City) the City, its council members, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of: (a) such Developer's performance or non-performance under this Agreement, the City Documents or any other agreement executed pursuant to this Agreement, including, but not limited to the failure, or alleged failure to comply with any applicable prevailing wage requirements, (b) acts or omissions of such Developer or any of such Developer's contractors, subcontractors, or persons claiming under any of the aforesaid, (c) such Developer's ownership, construction, use and operation of the Development (including, but not limited to, the use or operation of either Phase, or any claims related to fair housing laws or accessibility laws); (d) the City's granting of any Applicable Land Use Approvals, the City's approval of this Agreement, or the City's approval of the Lot Line Adjustment or any other approval by the City, except as directly caused by the City's willful misconduct or gross negligence; or (e) such Developer's breach of this Agreement. The provisions of this Section shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

Section 11.8 Applicable Law. This Agreement shall be interpreted under and pursuant to the laws of the State of California.

Section 11.9 No Brokers. Each Party represents to the others that it has not had any contact or dealings regarding the Property, or any communication in connection with the subject matter of this transaction, through any real estate broker or other person who can claim a right to a commission or finder's fee. If any broker or finder makes a claim for a commission or finder's fee based upon a contact, dealings, or communications, the Party through whom the broker or finder makes this claim shall indemnify, defend with counsel of each of the indemnified Parties' choice, and hold the indemnified Parties harmless from all expense, loss, damage and claims, including the indemnified Parties' attorneys' fees, if necessary, arising out of the broker's or finder's claim. The provisions of this Section shall survive expiration of the Term or other termination of this Agreement, and shall remain in full force and effect.

Section 11.10 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability.

Section 11.11 Legal Actions. In the event any legal action is commenced to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach thereof, the venue for such action shall be the Superior Court of the County of San Benito.

Section 11.12 Binding Upon Successors. This Agreement shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the Parties hereto except that there shall be no Transfer of any interest by either Developer except pursuant to the terms of this Agreement. Any reference in this Agreement to a specifically named Party shall be deemed to apply to any successor, heir, administrator, executor or assign of such Party who has acquired an interest in compliance with the terms of this Agreement, or under law.

The covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to each Site. However, on the termination of this Agreement, such covenants and restrictions shall expire except as provided in the City Use Agreement recorded on a Site. Each and every contract, deed, or other instrument hereafter executed covering or conveying a Site shall be held conclusively to have been executed, delivered, and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed, or other instrument, unless the City expressly releases such Site from the requirements of this Agreement.

Section 11.13 Parties Not Co-Venturers. Nothing in this Agreement is intended to or does establish the Parties as partners, co-venturers, or principal and agent with one another.

Section 11.14 Time of the Essence. In all matters under this Agreement, the Parties agree that time is of the essence.

Section 11.15 Action by the City. Except as may be otherwise specifically provided in this Agreement or another City Document, whenever any approval, notice, direction, finding,

consent, request, waiver, or other action by the City is required or permitted under this Agreement or another City Document, such action may be given, made, or taken by the City Manager, or by any person who shall have been designated in writing to the applicable Developer by the City, without further approval by the City Council. Any such action shall be in writing. Each Developer acknowledges that nothing in this Agreement (including any approval by the City Manager in accordance with this Agreement) shall limit, waive, or otherwise impair the authority and discretion of: (i) the City Council's discretion in connection with CEQA (as more particularly set forth in Article 3, above); (ii) the City's Planning Department, in connection with the review and approval of the proposed construction plans for the Development (or any change to such plans), or any use, or proposed use, of a Site, (iii) the City's issuance of building permit(s), or (iv) any other office or department of the City acting in its capacity as a governmental regulatory authority with jurisdiction over the development, use, or operation of the Development.

Section 11.16 Representations and Warranties of Each Developer. Each Developer hereby represents and warrants to the City as follows:

(a) Organization. Each Developer is a validly existing California corporation (in the case of the Foundation, a California nonprofit public benefit corporation), and is in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted.

(b) Authority of Developer. Each Developer has full power and authority to execute and deliver this Agreement, and the other City Documents to be executed and delivered pursuant to this Agreement, and to perform and observe the terms and provisions of all of the above.

(c) Authority of Persons Executing Documents. This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of such Developer, and all actions required under such Developer's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken.

(d) Valid Binding Agreements. This Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of such Developer enforceable against it in accordance with their respective terms.

(e) No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on such Developer, or any provision of the organizational documents

of such Developer, or will conflict with or constitute a breach of or a default under any agreement to which such Developer is a party, or will result in the creation or imposition of any lien upon any assets or property of such Developer, other than liens established pursuant hereto.

(f) Compliance with Laws; Consents and Approvals. The construction of the Improvements on the applicable Phase to be constructed by such Developer will comply with all applicable laws, ordinances, rules and regulations of federal, state and local governments and agencies and with all applicable directions, rules and regulations of the fire marshal, health officer, building inspector and other officers of any such government or agency.

(g) Pending Proceedings. Such Developer is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of such Developer, threatened against or affecting such Developer, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to such Developer, materially affect such Developer's ability to construct its applicable Phase of the Development.

(h) Title to Property. Upon the recordation of the City Grant Deed for each Site, the applicable Developer will have good and marketable title to the Site and there will exist thereon or with respect thereto no mortgage, lien, pledge or other encumbrance of any character whatsoever other than those liens approved by the City or as called for in this Agreement, liens for current real property taxes and assessments not yet due and payable, and liens in favor of the City or approved in writing by the City.

(i) Financial Statements. The financial statements of such Developer and other financial data and information furnished by such Developer to the City fairly present the information contained therein. As of the Effective Date, there has not been any adverse, material change in the financial condition of such Developer from that shown by such financial statements and other data and information.

(j) Sufficient Funds. Upon such Developer's acquisition of the Site, such Developer holds sufficient funds or binding commitments for sufficient funds to purchase the Site, and complete the construction of the applicable Phase in accordance with this Agreement

Section 11.17 Complete Understanding of the Parties. This Agreement and the attached exhibits (and, to the extent applicable, the City Documents) constitute the entire understanding and agreement of the Parties with respect to the matters set forth in this Agreement. This Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if all Parties had prepared it. The Parties to this Agreement and their counsel have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party (including but not limited to Civil Code Section 1654 as may be amended from time to time) shall not apply to the interpretation of this Agreement.

Section 11.18 Operating Memoranda; Implementation Agreements. The Parties acknowledge that the provisions of this Agreement require a close degree of cooperation and that new information and future events may demonstrate that changes are appropriate with respect to the details of performance of the Parties under this Agreement. The Parties desire, therefore, to retain a certain degree of flexibility with respect to the details of performance for those items covered in

general terms under this Agreement. If and when, from time to time, the Parties find that refinements or adjustments are desirable, such refinements or adjustments shall be accomplished through operating memoranda or implementation agreements approved by the Parties which, after execution shall be attached to this Agreement as addenda and become a part hereof.

Operating memoranda or implementation agreements may be executed on the City's behalf by the City Manager, or his or her designee. In the event a particular subject requires notice or hearing, such notice or hearing shall be appropriately given. Any significant modification to the terms of performance under this Agreement shall be processed as an amendment of this Agreement in accordance with Section 11.19 and must be approved by the City Council in accordance with applicable law.

Section 11.19 Amendments. The Parties can amend this Agreement only by means of a writing signed by all Parties, following approval by the City Council, in accordance with applicable law.

Section 11.20 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

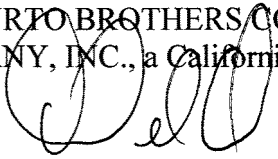
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IN WITNESS WHEREOF, the City and the Developers have executed this Agreement on or as of the Effective Date.

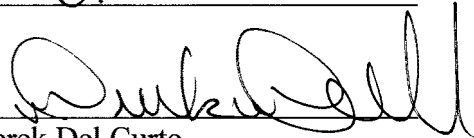
DEVELOPERS:

DEL CURTO:

DEL CURTO BROTHERS CONSTRUCTION
COMPANY, INC., a California corporation

By: 
Darin Del Curto


Title: CFO

By: 
Derek Del Curto

Title: CEO

FOUNDATION:

COMMUNITY FOUNDATION FOR SAN
BENITO COUNTY, a nonprofit public benefit
corporation

By: 
Gary Byrne
President and CEO

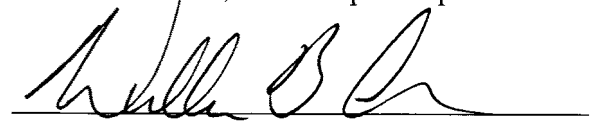
**Developers must also initial Section 3.7 and
Section 4.6**

Signatures continue on following page

CITY:

CITY OF HOLLISTER, a municipal corporation

By:

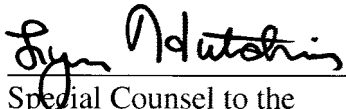


William B. Avera
City Manager

APPROVED AS TO FORM:

GOLDFARB & LIPMAN LLP

By:



Special Counsel to the
City of Hollister

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Real property in the City of Hollister, County of San Benito, State of California, described as follows:

PARCEL 1: (APN: 054-110-036-000) AND APN NOT YET ASSESSED FOR PORTION IN BRIGGS ALLEY)

ALL THAT CERTAIN PROPERTY SITUATE IN THE CITY OF HOLLISTER, COUNTY OF SAN BENITO, CALIFORNIA, BEING ALL OF LOTS 1 AND 2 AND A PORTION OF LOT 3 OF BLOCK 14 AS SHOWN ON THAT CERTAIN MAP FILED IN BOOK 1 OF MAPS AT PAGE 54, SAN BENITO COUNTY RECORDS AND ALSO DESCRIBED AS PARCEL 2 IN THE LOT LINE ADJUSTMENT FILED UNDER INSTRUMENT NO. 95-03336 SAN BENITO COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOW:

BEGINNING AT THE SOUTHWEST CORNER OF THE INTERSECTION OF FOURTH AND SAN BENITO STREETS, SAID POINT ALSO BEING THE NORTH EAST CORNER OF LOT 1 AS SHOWN ON THE AFOREMENTIONED MAP;

THENCE FROM SAID POINT OF BEGINNING SOUTH 2° 54' 16" WEST 139.92 FEET ALONG THE WESTERLY RIGHT-OF-WAY OF SAN BENITO STREET TO THE NORTHERLY RIGHT-OF-WAY OF BRIGGS ALLEY;

THENCE NORTH 87° 05' 09" WEST 83.62 FEET ALONG THE NORTHERLY RIGHT-OF-WAY OF BRIGGS ALLEY;

THENCE LEAVING SAID RIGHT-OF-WAY, NORTH 2° 54' 51" EAST 139.92 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF FOURTH STREET;

THENCE EASTERLY ALONG SAID SOUTH RIGHT-OF-WAY OF FOURTH STREET, SOUTH 87° 05' 09" EAST 83.60 FEET TO THE POINT OF BEGINNING;

ALSO TOGETHER WITH A PORTION OF BRIGGS ALLEY.

PARCEL 2: (APN: PORTION 054-110-016-000, PORTION 054-110-030-000 AND APN NOT YET ASSESSED FOR PORTION IN BRIGGS ALLEY)

BEING A PORTION OF LOTS 29, 30, 31 AND 32 OF BLOCK 14 OF THE TOWN OF HOLLISTER, ACCORDING TO THE MAP THEREOF RECORDED MARCH 23, 1870 IN VOLUME 1 OF MAPS, PAGE 54, SAN BENITO COUNTY RECORDS, BOUNDED BY A LINE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY LINE OF SAN BENITO STREET AT THE SOUTHERLY LINE OF BRIGGS ALLEY AND THENCE RUNNING ALONG THE SAID WESTERLY LINE OF SAN BENITO STREET SOUTH 2° 55' 51" WEST 74.39 FEET, MORE OR LESS, TO THE SOUTHEASTERLY CORNER OF THAT CERTAIN PARCEL ONE DESCRIBED IN THE FINAL ORDER OF CONDEMNATION RECORDED NOVEMBER 25, 1996 AS INSTRUMENT NUMBER 9611258, SAN BENITO COUNTY RECORDS; THENCE ALONG THE SOUTHERLY LINE OF SAID PARCEL ONE AND PARALLEL WITH THE NORTHERLY LINE OF FIFTH STREET NORTH 87° 06' 01" WEST 84.49 FEET; THENCE LEAVING SAID SOUTHERLY LINE OF PARCEL ONE AND RUNNING PARALLEL TO THE WESTERLY LINE OF SAN BENITO STREET NORTH 2° 55' 51" EAST 74.41 FEET, MORE OR LESS, TO A POINT IN THE SOUTHERLY LINE OF BRIGGS ALLEY; THENCE ALONG SAID SOUTHERLY LINE SOUTH 87° 05' 09" EAST 84.49 FEET TO THE POINT OF BEGINNING.

THIS LEGAL DESCRIPTION IS MADE PURSUANT TO THAT CERTAIN LOT LINE ADJUSTMENT CERTIFICATE NO. 2014-01 RECORDED JUNE 5, 2014, AS INSTRUMENT NO. 2014-0004333, OF OFFICIAL RECORDS.

ALSO TOGETHER WITH A PORTION OF BRIGGS ALLEY.

EXHIBIT B

SITE MAP

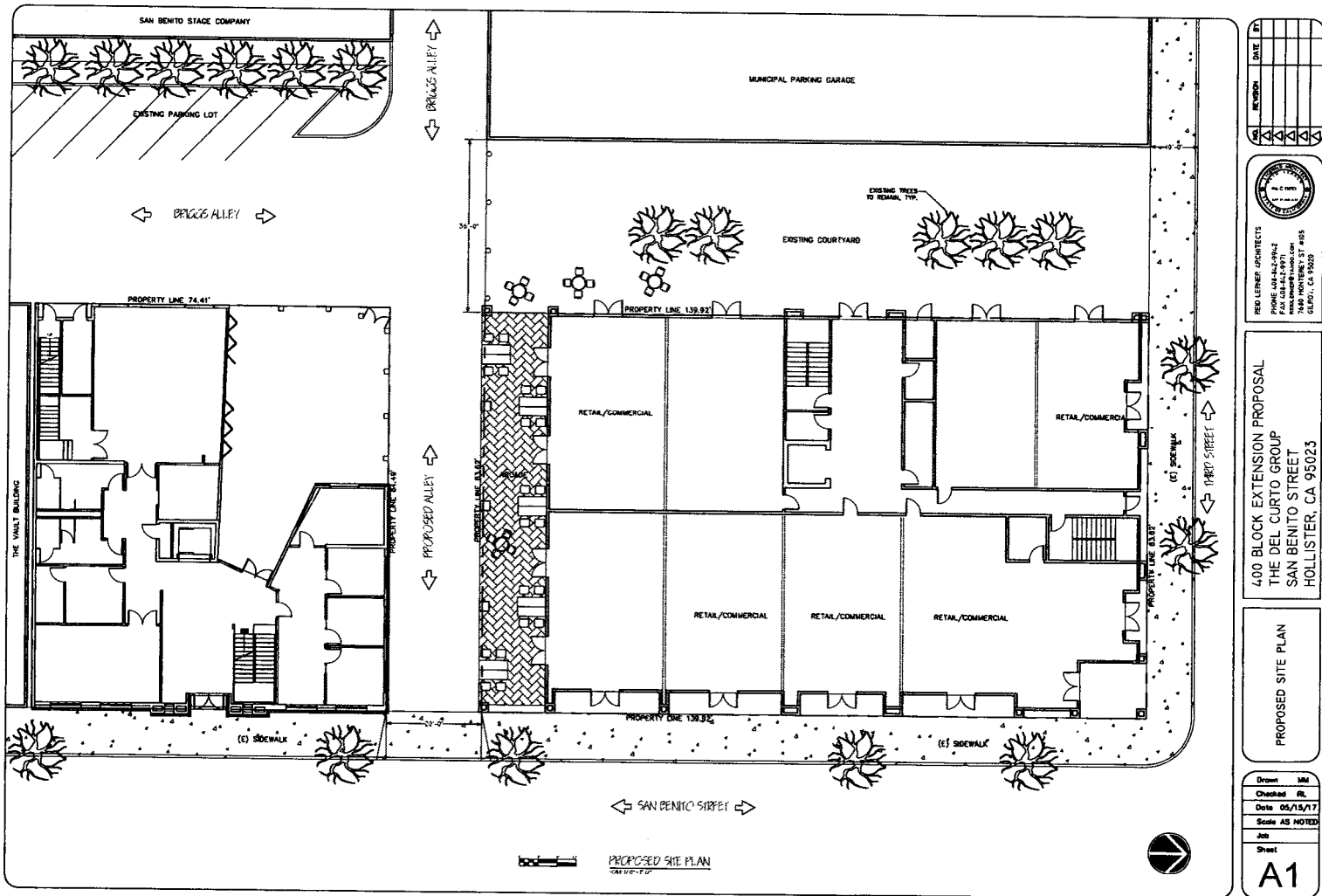


EXHIBIT C

FINANCING PROPOSAL

Del Curto Bros Construction Co. Inc.

2200 Santa Ana Valley Rd.
Hollister, Ca. 95023
Office: (831) 637-4583
Cell: (831) 902-5454
Fax: (831) 637-6940
E-Mail: delcurtodarin@yahoo.com

5-1-17

***400 Block 21 condominium and 11,000 sq.ft. Commercial/retail
Financial obligation for construction of Development.***

Total Development Cost- \$3,505,000.00/w permits & impact fees
\$2,600,000.00 Hard Costs, \$905,000.00 Soft Costs

*Del Curto Bros. to deposit of \$1,000,000.00 to escrow account to fund Development. Proceeds
from sale of 22 lot subdivision on El Cerro Dr. Project.*

*1st deed of trust new construction loan from Pacific Capital Group in the amount of
\$2,500,000.00. Total funds available - \$3,500,000.00 with cash reserves of \$500,000.00*

Description: 3 story Development will be constructed as follows

***Phase 1: 3 story exterior complete and final. Elevator, Emergency
Stairways, etc.***

2nd floor 11 condominiums complete and final occupancy issued.

Sale of 2nd floor 11 condos

*Complete commercial and retail ground floor space, ready for occupancy of
tenants.*

***Phase 2: 3rd floor 11 condominiums complete interior finish and final occupancy
issued.***

Sale of 3rd floor 11 condos



Community Foundation

FOR SAN BENITO COUNTY

FOUNDATION BOARD

Chair
Phil Fortino
Vice Chair
Rebecca Medeiros Wolf
Secretary
Kathy Flores
CFO, Treasurer
Mike Grace
Past Chair
Fernando Gonzalez
Christine Breen
Vince Brigantino
Alfonso Castaneda
Alan Clark
Marilyn Ferreira
Kay Filice
Steve Hudner
Susan Schwabacher Modic
Allison Rohnert
Ed Stephenson
Bob Tiffany
Gene Zanger
President/CEO
Gary Byrne

829 San Benito St. Ste 200
Hollister, CA 95023
831.630.1924
FAX 831.630.1934
www.cffsbc.org

501(c)3 Organization
TIN 77-0312582

Thursday, December 9, 2016

Mary M. Paxton
City of Hollister Development Services
375 Fifth Street
Hollister, California 95023

Dear City of Hollister,

Here is the information that you need regarding the Philanthropic Center that will be housed on the 400 block/San Benito Street.

The philanthropic center is been funded by a private donor, it will be an all cash gift. To date \$1 million has been gifted to the foundation for this project. The total assets that the foundation hold at this time is in excess of \$10 million.

Regarding the running and sustaining of the center when it is built, here are a few of the comparisons:

	Present office	Philanthropic center
Square feet	3,200 +/-	8,400 +/-
Non Profits	5	9-11
Conference space	1	3-4
Rent paid	\$42,600 a year	0
Utilities	\$8,000 +/-	\$18,000 +/-
New overhead	0	\$30,000
Rent received	\$23,520	\$44,000
Net cost	-\$27,080	-\$4,000

If you need any more information, please contact me at any time.

Sincerely,

Gary Byrne
President and CEO

For Good... For Ever!

EXHIBIT D

FORM OF CITY GRANT DEED

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Hollister
375 Fifth Street
Hollister, CA 95023
Attn: Mary Paxton

NO FEE FOR RECORDING PURSUANT TO GOVERNMENT CODE SECTION 27383

GRANT DEED

For valuable consideration, the receipt of which is hereby acknowledged,

THE E CITY OF HOLLISTER, a municipal corporation, of the State of California (the "Grantor"), acting to carry out redevelopment purposes pursuant to the Community Redevelopment Law of the State of California, hereby grants to _____, a California _____ (the "Grantee"), the real property (the "Property") described in Exhibit A attached hereto and incorporated in this Grant Deed by this reference.

1. The Property is conveyed subject to a Disposition and Development Agreement, dated as of _____, 2017, by and among the Grantor, Grantee and [Del Curto or the Foundation] (the "Agreement").

2. The Grantee hereby covenants and agrees, for itself and its successors and assigns, that the Grantee and such successors and assigns shall promptly begin and diligently prosecute to completion the redevelopment of the Property through the installation of the improvements required pursuant to the Agreement (the "Improvements"), and that such installation shall be commenced and completed within the times provided in the Agreement.

Promptly after completion of the installation of improvements on the Property in accordance with the provisions of the Agreement, the Grantor will furnish the Grantee with an appropriate instrument so certifying (a "Certificate of Completion"). Such Certificate of Completion by the Grantor shall be a conclusive determination of satisfaction and termination of the agreements and covenants in the Agreement and in this Grant Deed with respect to the obligations of the Grantee and its successors and assigns to install the improvements and the dates for the beginning and completion of such installation.

3. The Grantee hereby covenants and agrees, for itself and its successors and assigns, that during installation and thereafter, the Grantee shall devote the Property only to the uses specified in the Agreement.

4. The Grantee hereby covenants and agrees, for itself and its successors and assigns, that during installation and thereafter, the Grantee shall operate and maintain the Property and Improvements thereon in compliance with all requirements for operation and maintenance set forth in the Agreement and in the Agreement Containing Covenants Affecting Real Property between the Grantor and the Grantee recorded concurrently with this Grant Deed.

5. The Grantee covenants and agrees, for itself and its successors and assigns, that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, sexual orientation, age, marital status, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall the Grantee itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Property and the Improvements thereon.

All deeds, leases or contracts made relative to the Property and the Improvements thereon or any part thereof, shall contain or be subject to substantially the following non-discrimination clauses:

a. In Deeds:

"(1) Grantee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property herein conveyed, nor shall the grantee or any person claiming under or through the grantee, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the property herein conveyed. The foregoing covenant shall run with the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

b. In Leases:

"(1) Lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee or any person claiming under or through the lessee, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

c. In Contracts:

"(1) There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

6. The Grantee represents and agrees that the Property will be used for the purposes of timely redevelopment as set forth in the Agreement and not for speculation in landholding. The Grantee further recognizes that in view of the following factors, the qualifications of the Grantee are of particular concern to the community and the Grantor:

- a. The importance of the redevelopment of the Property to the general welfare of the community; and
- b. The land acquisition assistance and other public aid that have been made available by law and by the government for the purpose of making such redevelopment possible; and
- c. The reliance by the Grantor upon the unique qualifications and ability of the Grantee to serve as the catalyst for development of the Property and upon the continuing interest which the Grantee will have in the Property to assure the quality of the use, operation and maintenance deemed critical by the Grantor in the development of the Property; and
- d. The fact that a change in ownership or control of the owner of the Property, or of a substantial part thereof, or any other act or transaction involving or resulting in a significant change in ownership or with respect to the identity of the parties in control of the Grantee or the degree thereof is for practical purposes a transfer or disposition of the Property; and
- e. The fact that the Property is not to be acquired or used for speculation, but only for development and operation by the Grantee in accordance with the Agreement; and
- f. The importance to the Grantor and the community of the standards of use, operation and maintenance of the Property.

The Grantee further recognizes that it is because of such qualifications and identity that the Grantor has entered into the Agreement and has conveyed the Property to the Grantee.

For the reasons stated above, the Grantee covenants, for itself and its successors and assigns, that there shall be no sale, transfer, assignment, conveyance, lease, pledge or encumbrance of the Agreement, or the Property and the Improvements thereon or any part thereof, or of other ownership interest in the Grantee in violation of the Agreement.

No voluntary or involuntary successor in interest of the Grantee shall acquire any rights or powers under this Grant Deed or the Agreement except as expressly set forth in this Grant Deed or the Agreement.

7. The covenants contained in Sections 2, 3, 4, and 6 regarding installation, use, operation and maintenance, and transfers of interests, shall remain in effect for the term of the Agreement. The covenants contained in Section 5 regarding non-discrimination shall remain in effect in perpetuity.

8. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Grant Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument permitted

by the Agreement or otherwise approved by the Agency; provided, however, that any successor of Grantee to the Property shall be bound by such covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

9. The covenants contained in Sections 2, 3, 4, 5 and 6 of this Grant Deed shall, without regard to technical classification or designation, legal or otherwise specifically provided in this Grant Deed, be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of and enforceable by the Grantor, its successors and assigns, the City of Hollister and any successor in interest to the Property or any part thereof, and such covenants shall run in favor of the Grantor and such aforementioned parties for the entire period during which such covenants shall be in force and effect, without regard to whether the Grantor is or remains an owner of any land or interest therein to which such covenants relate. In the event of any breach of any of such covenants, the Grantor and such aforementioned parties shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other property proceedings to enforce the curing of such breach. The covenants contained in this Grant Deed shall be for the benefit of and shall be enforceable only by the Grantor, its successors and such aforementioned parties.

10. Only the Grantor, its successors and assigns, and the Grantee and the successors and assigns of the Grantee in and to all or any part of the fee title to the Property shall have the rights to consent and agree to changes or to eliminate in whole or in part any of the covenants contained in this Grant Deed or to subject the Property to additional covenants, easements, or other restrictions. For purposes of this Section, successors and assigns of the Grantee shall be defined to include only those parties who hold all or any part of the Property in fee title, and not to include a tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under deed of trust, or any other person or entity having an interest less than a fee in the Property.

11. If the Agreement is terminated pursuant to Section 8.4 of the Agreement following the close of escrow and prior to the issuance of the Certificate of Completion for the Improvements, then the Grantor may, in addition to other rights granted in the Agreement, re-enter and take possession of the Property for which a Certificate of Completion has not been issued with all improvements thereon, and revest in the Grantor the estate theretofore conveyed to the Grantee. The interest created pursuant to this Section 11 shall be "power of termination" as defined in California Civil Code Section 885.010.

Upon revesting in the Grantor of title to the Property or any portion thereof as provided in this Section 11, the Grantor shall, pursuant to its responsibilities under State law, use its best efforts to resell the Property as soon as possible, in a commercially reasonable manner and consistent with the objectives of such law and of the Redevelopment Plan. The Property shall be sold at a price that the Grantor determines is not less than the value of the Property given the covenants, conditions and requirements the Grantor is imposing on the purchaser. Upon such resale of the Property or any portion thereof the proceeds thereof shall be applied as follows:

a. First, to reimburse the Grantor, or the City, for any reasonable costs it incurs in managing or selling the Property, or in connection with the completion of the construction of the Improvements, including but not limited to amounts to discharge, or to prevent liens or encumbrances arising from any acts or omissions of Grantee;

b. Second, to the Grantor to reimburse the Grantor for damages to which it is entitled under the Agreement by reasons of the Grantee's default;

c. Third, to the Grantor to repay the Agency Loan (as defined in the Agreement);

d. Fourth, to the Grantee up to the reasonable cost of the Improvements the Grantee has placed on the Property and such other reasonable costs the Grantee has incurred directly in connection with the development of the Property that were not financed with the Agency Loan; and

e. Fifth, any balance to the Grantor.

12. If the Agreement is terminated pursuant to Section 8.4 of the Agreement following the close of escrow and prior to the issuance of the Certificate of Completion for the Improvements, then the Grantor may at its option, in addition to other rights granted in the Agreement, repurchase, reenter and take possession of the Property as set forth in the Agreement.

13. In the event there is a conflict between the provisions of this Grant Deed and the Agreement, it is the intent of the parties hereto and their successors in interest that the Agreement shall control.

14. This Grant Deed may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

IN WITNESS WHEREOF, the parties hereto have executed this Grant Deed as of this _____, 201_.

GRANTOR:

CITY OF HOLLISTER, a municipal corporation

By: _____
William B. Avera
City Manager

GRANTEE:

_____, a California

By: _____
Name: _____
Its: _____

By: _____
Name: _____
Its: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public,
personally appeared _____, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public,
personally appeared _____, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

KELLEY
ENGINEERING & SURVEYING

400 PARK CENTER DRIVE, SUITE #4. HOLLISTER, CA 95023-2546
OFFICE: (831) 636-1104 FAX (831) 636-1837

EXHIBIT "A"

**LEGAL DESCRIPTION
PORTION OF 400 BLOCK
PARCEL 2 95-03336**

All that certain property situate in the City of Hollister, County of San Benito, California, being all of lots 1 and 2 and a portion of lot 3 of Block 14 as shown on that certain map filed in Book 1 of Maps at Page 54, San Benito County records and also described as Parcel 2 in the Lot Line Adjustment filed under Instrument No. 95-03336 San Benito County Records, being more particularly described as follow:

Beginning at the southwest corner of the intersection of Fourth and San Benito Streets, said point also being the north east corner of Lot 1 as shown on the aforementioned Map;

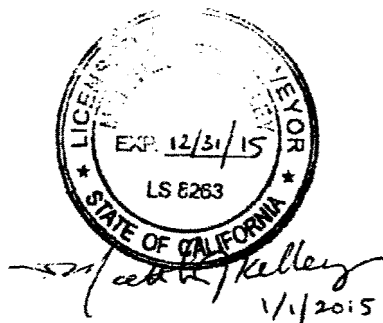
Thence from said Point of Beginning South 2°54'16" West 139.92 feet along the westerly right-of-way of San Benito Street to the northerly right-of-way of Briggs Alley;

Thence North 87°05'09" West 83.62 feet along the northerly right-of-way of Briggs Alley;

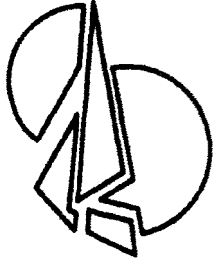
Thence leaving said right-of-way, North 2°54'51" East 139.92 feet to the southerly right-of-way of Fourth Street;

Thence easterly along said south right-of-way of Fourth Street, South 87°05'09" East 83.60 feet to the Point of Beginning;

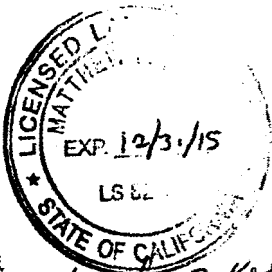
Containing 11,698 square feet more or less.



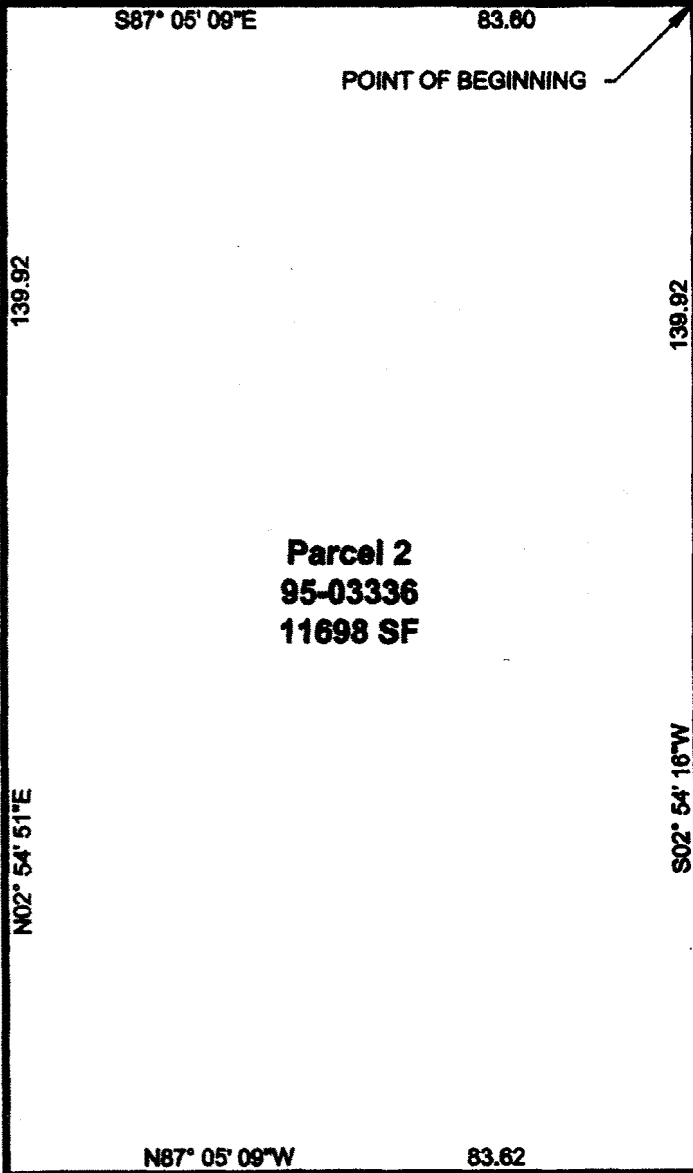
FOURTH STREET



PARCEL 1
95-03336



Matthew Kelley
1/1/2015



SAN BENITO STREET

BRIGGS ALLEY

BEING all of Lot 28 and a portion of Lot 29 of Block 14 of the Town of Hollister, according to the map thereof recorded March 23, 1870 in Volume 1 of Maps, page 54, San Benito County Records, bounded by a line more particularly described as follows:

BEGINNING at a point in the northerly line of Fifth Street that bears North $87^{\circ} 06' 01''$ West 84.49 feet from the intersection thereof with the westerly line of San Benito Street; thence running along the said northerly line of Fifth Street North $87^{\circ} 06' 01''$ West 55.70 feet, more or less, to the southwesterly corner of said Lot 28; thence along the westerly line thereof North $2^{\circ} 55' 33''$ East 139.92 feet to the northwesterly corner of said Lot 28, said corner being in the southerly line of Briggs Alley; thence along the northerly line of the above said Lots 28 and 29 South $87^{\circ} 05' 09''$ East 55.72 feet, more or less, to a point which bears North $87^{\circ} 05' 09''$ West 84.49 feet from the intersection of the westerly line of San Benito Street and the southerly line of Briggs Alley; thence running parallel with the said westerly line of San Benito Street South $2^{\circ} 55' 51''$ West 139.91 feet to the point of beginning.

Parcel 1 = all of APN 054-11-29 and
Portions of APN 054-11-16 and
Portions of APN 054-11-30

EXHIBIT E

SCHEDULE OF PERFORMANCE

TASK	Del Curto (DC)	Foundation (F)	City	DATE
Submittal of preliminary concept plans for Conceptual Development Committee Review for Site and Architectural Review	DC	F		Within 45 days of Agreement
Section 2.4 Application for Applicable Land Use Approvals ✓ Site & Architectural Review ✓ Lot Line Adjustment ✓ Easements and Encroachment Permits <ul style="list-style-type: none"> – Trash Enclosure Easement - Section 2.3.(b) – Parking Structure Section 2.3(c) – Pedestrian Bridge ✓ Section 2.2 Street Vacation	DC DC DC DC	F		Within 75 days of Agreement Within 75 days of Agreement
Sections 2.2, 2.3, 2.4, 2.5 and 2. 6 Planning Commission considers Applications for Phase 1 Site & Architectural Review and Lot Line Adjustment, Easements and Encroachment Permits Planning Commission considers Applications for Phase 2 Tentative Map, PUD, Encroachment Permits/Easements City Council approval of road vacation, Parking Structure easements per Sections 2.3 and 3.2 and Impact Free Credits per Section 3.3	DC	F	City City City	Within 135 days of Agreement Within 240 days of this Agreement (if no CEQA) Within 160 days of Agreement/ Prior to Phase 1 Escrow
Section 2.5 Application for Applicable Land Use Approvals for Phase 2 Tentative Map and PUD	DC			Within 180 days of Agreement
Section 2.6 (a) Submittal of Phase 1 Building Permit and Construction Plans ✓ Initial City Review – 15 days ✓ If applicable, Developer response to		F F	City	No later than 180 days of this Agreement

disapproved plans – 30 days ✓ Development Event of Default declared				270 days of this Agreement
Section 2.3 (a) Loading Zone for Center			City	Within 160 days of Agreement/ Prior to Phase 1 Escrow
Section 2.3 (d) City Council approval of road vacation, Parking Structure			City	Within 160 days of Agreement/ Prior to Phase 1 Escrow
Section 2.4 Lot Line adjustment and road vacation Recordation	DC	F		Within 160 days of Agreement/Prior to Phase 1 Escrow
Section 2.9 Construction Bond Documentation	DC	F		Prior to Building Permit Issuance
Section 2.7 (b) Closing of Financing		F	City	Within 200 days of Agreement for Foundation
	DC			Within 400 days of Agreement for Del Curto
Closing of Phase 1 Escrow ✓ Section 2.2 Street Vacation ✓ Section 2.3 (b) Trash Enclosure Easement ✓ Section 2.3(d) Parking Structure Encroachment/Licenses ✓ Section 2.10 Insurance	DC DC DC DC	F F F F		Within 225 days of this Agreement
Issuance of Phase 1 Building Permit			City	Within 230 Days of this Agreement
Section 2.5 Planning Commission considers Applications for Phase 2 Tentative Map, PUD			City	Within 240 days of this Agreement (if no CEQA)
Section 2.6 (a) Submittal of Building Permit and Construction Plans for the Stages 1 and 2 of Phase 2 ✓ Initial City Review – 15 days ✓ If applicable, Developer response to disapproved plans ✓ Development Event of Default declared	DC DC		City	Within 420 Days of this Agreement

Section 2.11 Additional Conditions Precedent for Phase 2. <ul style="list-style-type: none"> ✓ 2.11 (c) Review by City of REA - 29 days ✓ 2.11 (d) Commitment for Restaurant – Submittal of evidence of a restaurant agreement at Building B of Phase 2 ✓ 2.11 (d) Review by City – 10 days ✓ 2.11 (e) Leases for Retail component ✓ 2.11 (e) City review of leases for Retail component – 10 days 	DC	F	City	Within 420 Days of this Agreement
Closing of Phase 2 Escrow for Stages 1 and 2 <ul style="list-style-type: none"> ✓ Section 2.10 Insurance ✓ Section 2.11. (c) Reciprocal Easement Agreement recordation 	DC	F		Within 465 days of this Agreement/Prior to Phase 2 Escrow
Issuance of Phase 2 Building Permits for Stages 1 and 2	DC		City	Within 470 Days of this Agreement
Construction of Phase 1 completed		F		Within 15 months of building permit issuance
Final occupancy of Phase 1		F	City	Promptly after completion of construction
Construction of Phase 2 Stage 1 Completed	DC			Within 18 months of building permit issuance
Payment of Phase 2 Stage 1 residential impact fees to be paid incrementally at the Final Occupancy inspection for each condominium.	DC		City	Final occupancy inspection
Section 2.6 (a) Submittal of Building Permit and Construction Plans for the Stages 2 of Phase 2 <ul style="list-style-type: none"> ✓ Initial City Review – 15 days ✓ If applicable, Developer response to disapproved plans ✓ Development Event of Default declared 	DC DC		City	Within three months of Stage 1 Final Occupancy Approval

Construction of Phase 2 Stage 2 Completed	DC			Within 12 months of building permit issuance
Payment of residential impact fees to be paid incrementally at the Final Occupancy inspection for each condominium of Phase 2 Stage 2	DC		City	Final Occupancy

EXHIBIT F

FORM OF MEMORANDUM OF DDA

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Hollister
375 Fifth Street
Hollister, California 95023
Attn: City Manager

No fee for recording pursuant to
Government Code Section 27383

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (the "Memorandum") is made as of _____, 201__, by and among the City of Hollister, a municipal corporation (the "City"), Del Curto Brothers Construction Company, Inc., a California corporation ("Del Curto"), and the Community Foundation for San Benito County, a nonprofit public benefit corporation (the "Foundation"; Del Curto together with the Foundation are referred to as the "Developers"), to confirm that the Developers and the Property (as defined below) are subject to that certain Disposition and Development Agreement, dated as of _____, 2017 (the "Agreement"), by and among the City, Del Curto and the Foundation. The Agreement imposes certain conditions (including but not limited to, construction requirements, operating covenants, and transfer restrictions) on the real property described in Exhibit A attached hereto and incorporated herein (the "Property"). The Agreement is a public document and may be reviewed at the principal office of the City.

This Memorandum shall incorporate herein all of the terms and provisions of the Agreement as though fully set forth herein. This Memorandum is solely for recording purposes and shall not be construed to alter, modify, amend or supplement the Agreement, of which this is a memorandum. Pursuant to Section 9.1 of the Agreement, the City has a right of reverter on the Property if the Developer fails to meet certain conditions in the Agreement.

This Memorandum may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

IN WITNESS WHEREOF, the parties have caused this Memorandum to be duly executed as of the date first above written.

DEVELOPERS:

DEL CURTO:

DEL CURTO BROTHERS CONSTRUCTION
COMPANY, INC., a California corporation

By: _____
Darin Del Curto
Title: _____

By: _____
Derek Del Curto
Title: _____

FOUNDATION:

COMMUNITY FOUNDATION FOR SAN
BENITO COUNTY, a nonprofit public benefit
corporation

By: _____
Gary Byrne
President and CEO

CITY:

CITY OF HOLLISTER, a municipal corporation

By: _____
William B. Avera
City Manager

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

Real Property in the City of Hollister, County of San Benito, State of California, described as follows:

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public,
personally appeared _____, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public,
personally appeared _____, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, before me, _____, Notary Public,
personally appeared _____, who proved to me on the
basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Name: _____
Notary Public

EXHIBIT G

SCOPE OF DEVELOPMENT

Subject to procurement of all necessary City land use entitlements, the improvements to be developed on the Property by the Developers pursuant to the Agreement would substantially conform to the following:

1. *Phase 1 - Philanthropic Center:*
 - a. One 2-story building with approximately 8,800 square feet of philanthropic center space with a about 4,400 square feet per floor, a second floor deck and ground floor open plaza facing Briggs Alley;
 - b. Twenty parking spaces reserved in the Briggs Building Parking Structure; and
 - c. Conversion of one (1) on street parking space on San Benito Street in front of the Center to a loading zone.
2. *Phase 2 - Mixed Use Development:*
 - a. A three-story building with approximately 8,000 to 11,000 square feet of commercial lease areas on the ground floor and 14 to 22 Condominiums on the second and third floors.
 - b. Optional pedestrian bridge between the third floor of the Briggs Building parking structure and the Condominiums.
 - c. Reservation of 1.375 parking space per Condominium with a maximum of twenty-four (24) spaces in the Briggs Building Parking Structure with Parking Licenses that will be valid as long as the Condominiums exist.
 - d. Conversion of the security parking space on the lower deck of the second floor to a handicap parking space.
3. **Trash Enclosure:** A joint use trash enclosure with capacity for three to four yards of waste collection to be developed on the west side of the Fifth Street driveway to Briggs Alley consistent with city standards that shall be available for use by the building at 452 San Benito Street and the Developers.
4. **Appropriate pedestrian-friendly features, landscaping and related facilities**

EXHIBIT H

FORM OF CITY USE AGREEMENT

A. **Retail Tenant Strategy:**

The Developer and Foundation shall be required to retain a Management Agent as required in Section 2.14 g. Management Agent of this Agreement for any commercial lease areas on Site 2 and any non-profit commercial lease areas on Site 1. The objective shall to be to operate and maintain the completed Development at a high quality standard that attracts retail uses that nurture the vitality of downtown Hollister.

Preferred uses at all locations:

1. Restaurant
2. Café
3. Bakery
4. Specialty Retail sales
5. Wine bar

Acceptable uses for lease areas facing away from San Benito Street and Fourth Street.

1. Bank
2. Mortgage Broker
3. Office
4. Salon
5. Title

Acceptable uses for lease areas facing away from San Benito Street

1. Classroom
2. Fitness/gym

Prohibited uses:

1. Adult book stores, adult novelty and similar adult uses
2. Bail bonds
3. Cannabis dispensary, production or sales
4. Cash for gold/silver
5. Day care (child or adult)
6. Discount retail
7. Gun Shop
8. Massage as a primary use
9. Pay Day Lending
10. Pawn shop
11. Religious Assembly
12. Smoke shop, smoke paraphernalia, tobacco shop
13. Tattoo or body piercing
14. Second hand or consignment store
15. Scattered site retail of the same use within a mile of the property

16. Short-term lenders

B. Residential:

1. At least 60% of the residential units shall be sold as owner-occupied units.
2. The Developer shall coordinate with the City and make a good faith effort to provide information to prospective home buyers about the City of Hollister first-time homebuyer programs.
3. The Developer shall advertise the availability of *any* rental units at the Gavilan College satellite campus in the Briggs Building Parking Structure.

RESOLUTION NO. 2017-139

**A RESOLUTION OF THE CITY COUNCIL A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF HOLLISTER APPROVING EXECUTION OF A DEVELOPMENT
AND DISPOSITION AGREEMENT BETWEEN THE CITY OF HOLLISTER, THE DEL
CURTO BROTHERS GROUP AND THE COMMUNITY FOUNDATION FOR SAN
BENITO COUNTY**

WHEREAS, the City owns two parcels and a portion of Briggs Alley consisting of approximately 0.48 acres located at the southeast corner of Fourth and San Benito Streets (hereinafter "the Parcel"); and

WHEREAS, the former Hollister Redevelopment Agency purchased several properties on the "400 Block" of San Benito Street to eliminate blight related to catastrophic damage to buildings from the Loma Prieta Earthquake to implement the 1991 Downtown Strategy and Plan to assemble the 400 Block properties for economic development and to facilitate the a catalyst project that would benefit from the Briggs Building parking structure; and

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on January 9, 2012 and pursuant to Health and Safety Code Section 34173, the City Council (the "City Council") declared that the City, a municipal corporation (the "City"), would act as successor agency (the "Successor Agency") for the dissolved City of Hollister Redevelopment Agency (the "Former RDA") effective February 1, 2012; and

WHEREAS, on January 9, 2012 and pursuant to Health and Safety Code Section 34176, the City Council declared that the City would retain all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Former RDA, effective February 1, 2012; and

WHEREAS, on February 1, 2012, the Former RDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, on June 27, 2012 Assembly Bill 1484 amended the Dissolution Act and added requirements in Health and Safety Code Section 34191.5 that requires the Successor Agency to prepare a Long Range Property Management Plan for the disposition of Successor Agency property within six months of the issuance of the Finding of Completion for the Due Diligence Review; and

WHEREAS, the Department of Finance issued a Finding of Completion on May 29, 2013 for the Successor Agency Due Diligence Review of Housing and Other Funds; and

WHEREAS, the Successor Agency prepared a Long Range Property Management Plan in compliance with the provisions of Health and Safety Code Section 34191.5 and the guidelines posted on the Department of Finance web page and adopted Resolution 2013-03 on August 19, 2013 directing staff to submit the plan to the Oversight Board and Department of Finance; and

WHEREAS, the Oversight Board approved the Long Range Property Management Plan on October 3, 2013 and it was submitted to the Department of Finance; and

WHEREAS, the Oversight Board approved an amendment to the Long Range Property Management Plan on January 2, 2014 and it was re-submitted to the Department of Finance; and

WHEREAS, the Department of Finance issued a letter on February 21, 2014 approving the Successor Agency Long Range Property Management Plan; and

WHEREAS, the Long Range Property Management Plan proposed that the City should be allowed to continue the use of the Parcel for non-profit activities open to the public until an agreement can be negotiated for a keystone commercial or mixed use development on the Parcel; and

WHEREAS, the amended Long Range Property Management Plan stated that prior to the transfer of the property to the City, it would be necessary for the City to enter into a compensation agreement required by Health and Safety Code Section 34180 (f) (a); and

WHEREAS, the City Council approved Resolution 2014-77 on April 21, 2014 directing staff to prepare and negotiate a compensation agreement with other taxing entities; and

WHEREAS, staff negotiated a compensation agreement with other taxing entities and the agreement was approved on August 4, 2014 and is on file with the City Clerk; and

WHEREAS, the Successor Agency and City approved Resolutions 2014-12SA and 2014-179 on September 8, 2014 authorizing the execution of documents such as lot-line adjustments and quit claim deeds to clear the title for the future transfer of the Parcel in anticipation of the future sale of the property and the transfer of the Parcel to the City to hold for future redevelopment; and

WHEREAS, the Successor Agency and City executed grant deeds to transfer the ownership of the Parcel to the City in January of 2015; and

WHEREAS, the staff was approached by two parties interested in developing the Property in the fall of 2015; and

WHEREAS, the Parcel is zoned Downtown Mixed Use; and

WHEREAS, an appraisal has been completed establishing a minimum value of \$20 per square foot of land for the fee simple interest of the Parcel, for a total of Two Hundred Ninety Thousand Dollars (\$290,000); and

WHEREAS, on November 2, 2015 the City Council approved Resolution 2015-211 authorizing staff to release a Request for Proposal/Qualifications (RFP/RFQ) for the development of the Parcel with a catalyst project; and

WHEREAS, on January 19, 2016, the City Council at a duly noticed public meeting directed staff to extend the RFP/RFQ period for at least ninety (90) days; and

WHEREAS, on April 19, 2016, the City Clerk publicly opened one qualifying sealed proposal for the purchase of the Parcel from the Del Curto Brothers Group; and

WHEREAS, at a public meeting on May 2, 2017 the City Council approved considered the Del Curto Brothers proposal in partnership with the Community Foundation for San Benito County of constructing a mixed use development with 16 residences on the upper floors of the northern parcel and a 7,420 square foot philanthropic center will provide needed housing, conference and meeting facilities for the community and non-profits and additional retail spaces with modern facilities and will add and wage earnings by future employees and foot traffic downtown; and

WHEREAS, on May 2, 2016 the City Council approved Resolution 2016-69 accepting the proposal submitted by the Del Curto Brothers Group dated April 19, 2016, determining that the sale of the property as proposed in Exhibit 2 conforms to the Long Range Property Management Plan for the Parcel required by Health and Safety Codes Sections §34181 and §34191.5. and authorizing the City Manager to enter into an Exclusive Negotiating Agreement with the Del Curto Brothers Group for the sale of the property that substantially conforms to Exhibit 2 with provision to negotiate an agreement to allow parking for sixteen residents in the Briggs Building Parking Structure; and

WHEREAS, an Exclusive Negotiating Agreement was executed between the City of Hollister and the Del Curto Group on June 16, 2016; and

WHEREAS, during the negotiation period it was mutually agreed that it would be preferable to prepared a tri-party Development Disposition Agreement with the Del Curto Group, the Community Foundation for San Benito County and the City of Hollister and to phase the project;

WHEREAS, the City Council has reviewed the proposal and has determined that the Del Curto Brothers proposal in partnership with the Community Foundation for San Benito County of constructing a mixed use development with 14- 22 residences on the upper floors of the northern parcel and an approximately 8,800 square foot philanthropic center will provide needed housing, conference and meeting facilities for the community and non-profits and additional retail spaces with modern facilities and will add and wage earnings by future employees and foot traffic downtown; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL as follows:

The Del Curto Group has modified the design considered on May 2, 2016 of the mixed use development to include one rather than four buildings but the City Council has determined that the modified design and the sale of the property as proposed in Exhibit 1 conforms to the Long Range Property Management Plan for the Parcel required by Health and Safety Codes Sections §34181 and §34191.5.

The sale of the property as proposed in Exhibit 2 conforms to the Long Range Property Management Plan for the Parcel required by Health and Safety Codes Sections §34181 and §34191.5.

The City Manager is authorized to execute the Development and Disposition Agreement with the Del Curto Brothers Group and Community Foundation for San Benito County attached to this resolution as Exhibit 1.

CEQA Finding. The City Council has made a preliminary determination that the Development qualifies for a Class 32 Categorical Exemption under CEQA. If however, a significant impact is identified during the site and architectural review and subdivision processes, the City will conduct the environmental review process pursuant to CEQA. The City Council finds that the sale of the former RDA property is categorically exempt from CEQA review pursuant to CEQA Guidelines 15332 In-Fill Development Projects because the proposal as described in Exhibit 1 is consistent with the General Plan, the development will occur within the City on less than a one-half acre area, the project site has no value as habitat for endangered, rare or threatened species, the approval of the project would not result in any significant effects related to traffic, noise, air quality or water quality, the site can be adequately served by all required utilities and public services, the project is designed as a pedestrian oriented development near a transit stop and a mixed use infill development that could contribute to vehicle miles travelled and associated greenhouse gas emissions.


PASSED AND ADOPTED, by the City Council of the City of Hollister at a regular meeting held this 5th day of June, 2017, by the following vote:

AYES: Council Members Gillio, Friend, Luna and Vice Mayor Klauer.

NOES: None.

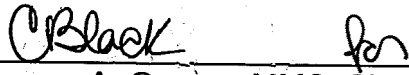
ABSTAINED: Mayor Velazquez. (recused).

ABSENT: None.



Ignacio Velazquez, Mayor

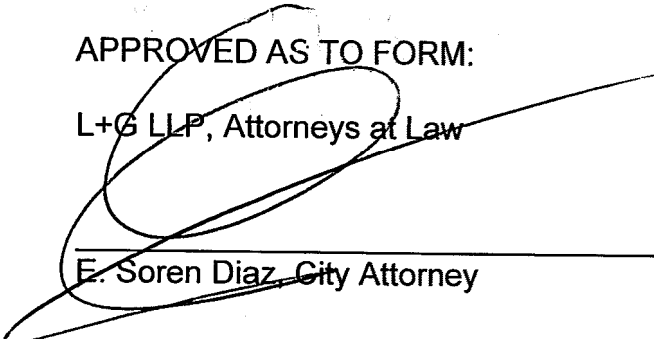
ATTEST:



Thomas A. Graves, MMC, City Clerk

APPROVED AS TO FORM:

L+G LLP, Attorneys at Law



E. Soren Diaz, City Attorney

DUPLICATE OF ORIGINAL
ON FILE IN THE
OFFICE OF THE CITY CLERK
CITY OF HOLLISTER

Exhibit 1

DEVELOPMENT AND DISPOSITION AGREEMENT

**STAFF REPORT
CITY COUNCIL OR STUDY SESSION AGENDA**

DATE: May 25, 2017

STUDY SESSION DATE:

AGENDA ITEM: Resolution *F4, #18*

MEETING DATE: June 5, 2017

TITLE OF ITEM: RESOLUTION NO. 2017-139, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HOLLISTER APPROVING EXECUTION OF A DEVELOPMENT AND DISPOSITION AGREEMENT BETWEEN THE CITY OF HOLLISTER, THE DEL CURTO BROTHERS GROUP AND THE COMMUNITY FOUNDATION FOR SAN BENITO COUNTY FOR THE CITY OF HOLLISTER 400 BLOCK PROPERTY.

BRIEF DESCRIPTION: This Resolution would approve the execution of a Development and Disposition Agreement for the 400 Block Property (San Benito County Assessor Parcel Numbers 054-011-016, 030 and 036) at the southwest corner of the intersection of San Benito and Fourth Streets for the construction of a Phase 1 Philanthropic Center and a Phase 2 Mixed use building with retail on the first floor and 14 to 22 condominiums on the second and third floors.

STAFF RECOMMENDATION: City Council approves the following motion: ADOPT Resolution 2017- 139 A Resolution of the City Council of the City of Hollister Approving Execution of a Development and Disposition Agreement between the City of Hollister, the Del Curto Brothers Group and the Community Foundation for San Benito County.

DEPARTMENT SUMMARY: The City Council approved Resolution 2016-65 on May 2, 2016 accepting a proposal for the development of the 400 Block property at the southwest corner of Fourth and San Benito Streets from the Del Curto Group and authorizing the City Manager to execute an Exclusive Negotiating Agreement (ENA) for the purposes of formulating a Development and Disposition Agreement (DDA) for the construction of a mixed use building and a philanthropic center for the Community Foundation for San Benito County (the "Foundation").

An Exclusive Negotiating Agreement (ENA) was executed between the City and the Del Curto Group on June 16, 2016. Through the course of negotiations, it was determined that it would be in the best interest of all parties to break the project into two phases and to include the Foundation as a third party to the DDA. The DDA specifies that the Foundation's Philanthropic Center would be constructed in Phase 1 with construction to commence within eight months. The Del Curto Group would construct the mixed use building in Phase 2 with construction beginning within fifteen months for the building shell, commercial on the ground floor and the second floor condominiums. The financing plan proposes to use the proceeds from the sale of the second floor units to assist with construction of the condominiums on the third floor. Table 1 summarizes some of the major components of the DDA.

Table 1 – Summary of Elements of the Development Disposition Agreements

Purchase Price Section 4.1	\$390,000 (\$141,316 Foundation and \$248,684 Del Curto Group)
Phasing Sections 1.1. (qq), (rr), (ss), (eee), (fff) Phase 1 Phase 2	 Foundation Philanthropic Center: 2 floors; 8-9,000 square feet; Outdoor Plaza Del Curto Group Mixed Use Building: 3 floors; 8,000- 11,000 square foot retail on first floor; 14-22 condominiums on second and third floors.
Parking Garage Section 2.3 (d)	Foundation - 20 Licenses for parking in garage Del Curto Group - 1.375 Licenses per condominium not to exceed 24
Impact Fees	Credit for up to 25,836 square feet of commercial space from five prior buildings on the property.
Loading Zones (San Benito Street) Sections 2.3.(a)(c)	Two (2) for Foundation and one (1) for restaurant.
Trash Enclosure Section 2.3.(b)	New shared trash enclosure on east side of the driveway leading to the Briggs Building near Fifth Street.
Retail Tenant Strategy (Exhibit H)	Priority uses: Restaurants (2,000 sq. ft. and café, bakery, coffee shop, wine bar, specialty retail Acceptable: Bank, Office, Salon, Title (away from San Benito Street – fitness and classroom) Prohibited uses: tattoo, pawn, massage, second hand, discount, day care, cannabis, bail bonds, adult, religious assembly.
Condominium sales (Exhibit H)	<ul style="list-style-type: none"> ➤ 60% Must be initially sold as owner occupied. ➤ Must provide information on Hollister down payment assistance program. ➤ Must advertise availability of any rentals at the Gavilan satellite Briggs Building campus.

Phase 1: The Foundation retained a separate architectural firm for the Philanthropic Center. The floor plan is similar to the floor plan submitted last May but the exterior elevations have been altered as shown on Attachment A to this staff report. The central third of the building will be 41 feet with a sloped penthouse mechanical roof and flanked

on two sides by building heights of 31 feet with flat parapet roofs. The main entry would be recessed. The buildings would be white with red roof and window features. The Hollister Downtown Strategy Plan encourages muted and soft colors for buildings. The north and west facing elevations lack visual relief. It is also not clear if the height of the southwest portion of the Philanthropic Center building will obstruct views from an outdoor mezzanine at the building to the south at 452 San Benito Street. These issues will be addressed through the Site and Architectural Review process.

Phase 2: Last May, the Del Curto Group proposed to develop the 11,698 square foot northern part of the 400 hundred block with four buildings - one retail and three mixed use buildings centered around a 3,500 square foot open air courtyard with a water feature and outdoor seating and dining and variable building heights. The Del Curto Group has also retained a different architectural firm and now proposes to modify the layout of the project to include one three story 32 foot high building with outdoor dining on the south side as shown in Attachment B of this staff report. The number of proposed condominiums has increased from 16 to a range of 14 to 22.

ATTACHMENTS: Resolution – DDA attached as Exhibit 1
Attachment A: Foundation Plan site plan and elevations
Attachment B: Del Curto Group site plan and elevations
Attachment C: May 2, 2016 Staff Report

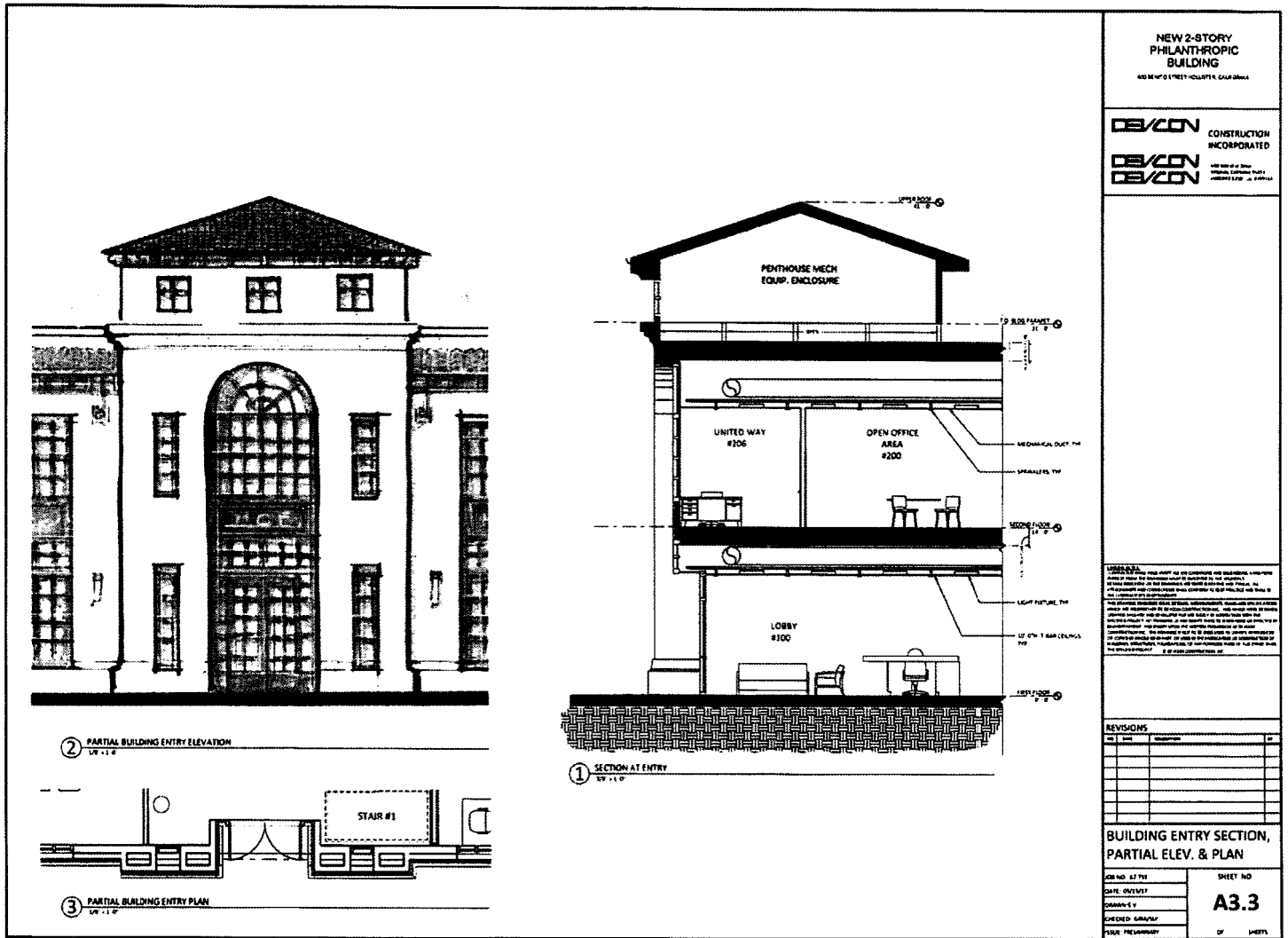
CEQA: CEQA Guidelines §15332 In-Fill Development Projects
FINANCIAL IMPACT: Approximately \$42,000 to the General Fund

DEPARTMENT: Development Services Department
DEPARTMENT HEAD: Bryan Swanson, Development Services Director *BLS*
CONTACT PERSON: Mary M. Paxton, Program Manager *MP*
PHONE NUMBER: 831-636-4340 Extension 21

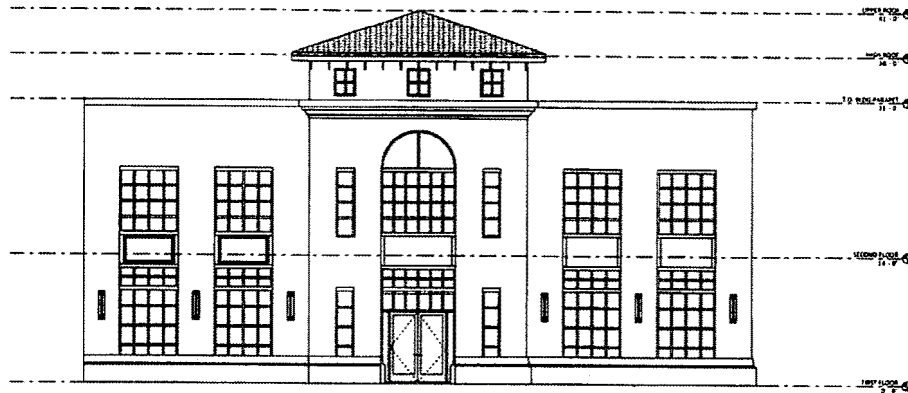
THIS REPORT WAS REVIEWED BY THE CITY MANAGER WHO CONCURS WITH THE STAFF RECOMMENDATION

William B. Avera, City Manager

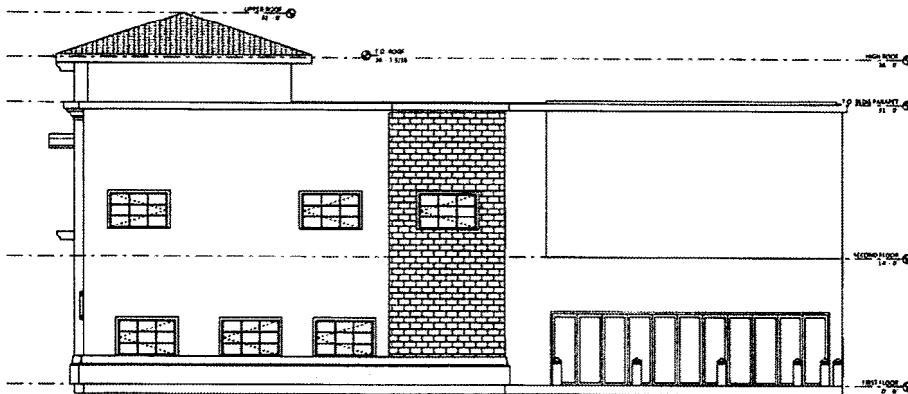
ATTACHMENT A



ATTACHMENT A



① EAST ELEVATION
1/4" = 1'-0"



② NORTH ELEVATION
1/4" = 1'-0"

NEW 2-STORY
PHILANTHROPIC
BUILDING
FOR RENT STREET HOUSING, CALIFORNIA

DEKON CONSTRUCTION
INCORPORATED
1000 10th St. Suite 100
San Francisco, CA 94103
(415) 398-1000

NOTES:
1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
2. ALL MATERIALS AND FINISHES ARE TO BE AS SHOWN ON THE DRAWINGS.
3. ALL WORK IS TO BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE BUILDING CODES AND STANDARDS.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS.
5. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.
6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTING ALL EXISTING UTILITIES AND STRUCTURES.
7. THE CONTRACTOR SHALL MAINTAIN A SAFE WORKING ENVIRONMENT AT ALL TIMES.
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR DISPOSING OF ALL DEBRIS AND WASTE.
9. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE.
10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY BONDS.

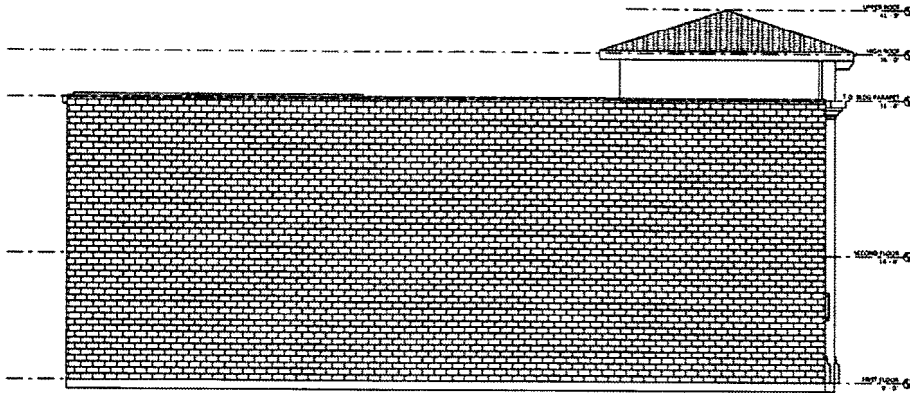
REVISIONS			
NO.	DATE	DESCRIPTION	BY

**NORTH AND EAST
EXTERIOR ELEVATION**

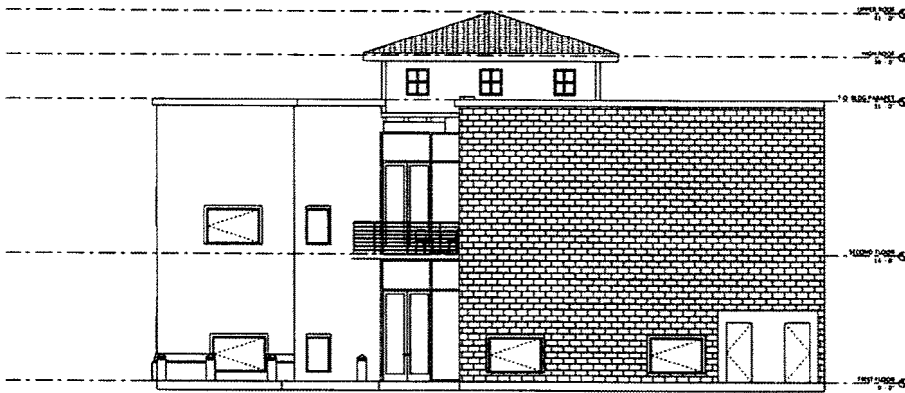
JOB NO. 07 TM
DATE: 04/15/17
DRAWN BY: [Signature]
CHECKED: [Signature]
SCALE: PRELIMINARY

SHEET NO.
A3.1
OF SHEETS

ATTACHMENT A



① SOUTH ELEVATION
SUF = 1/4"



② WEST ELEVATION
SUF = 1/4"

NEW 2-STORY
PHILANTHROPIC
BUILDING
640 REYES STREET HOLLYWOOD, CALIFORNIA

DE/CON CONSTRUCTION
INCORPORATED
3800 HOLLYWOOD BLVD.
HOLLYWOOD, CALIFORNIA 91601
(310) 561-1111

NOTES:
1. SEE ARCHITECT'S SPECIFICATIONS FOR MATERIALS AND FINISHES.
2. SEE ARCHITECT'S SPECIFICATIONS FOR WINDOW AND DOOR SCHEDULES.
3. SEE ARCHITECT'S SPECIFICATIONS FOR ROOFING.
4. SEE ARCHITECT'S SPECIFICATIONS FOR EXTERIOR LIGHTING.
5. SEE ARCHITECT'S SPECIFICATIONS FOR SIGNAGE.
6. SEE ARCHITECT'S SPECIFICATIONS FOR FURNITURE AND FIXTURES.
7. SEE ARCHITECT'S SPECIFICATIONS FOR EQUIPMENT.
8. SEE ARCHITECT'S SPECIFICATIONS FOR SPECIALTIES.
9. SEE ARCHITECT'S SPECIFICATIONS FOR PAINTS AND COATINGS.
10. SEE ARCHITECT'S SPECIFICATIONS FOR GLAZING.
11. SEE ARCHITECT'S SPECIFICATIONS FOR METALS.
12. SEE ARCHITECT'S SPECIFICATIONS FOR WOODS AND PLASTICS.
13. SEE ARCHITECT'S SPECIFICATIONS FOR CERAMICS AND STONE.
14. SEE ARCHITECT'S SPECIFICATIONS FOR GROUND COVER.
15. SEE ARCHITECT'S SPECIFICATIONS FOR UTILITIES.
16. SEE ARCHITECT'S SPECIFICATIONS FOR MECHANICAL, ELECTRICAL AND PLUMBING.
17. SEE ARCHITECT'S SPECIFICATIONS FOR TELECOMMUNICATIONS.
18. SEE ARCHITECT'S SPECIFICATIONS FOR SAFETY AND SECURITY.
19. SEE ARCHITECT'S SPECIFICATIONS FOR ACCESSIBILITY.
20. SEE ARCHITECT'S SPECIFICATIONS FOR SUSTAINABILITY.

REVISIONS			
NO.	DATE	DESCRIPTION	BY

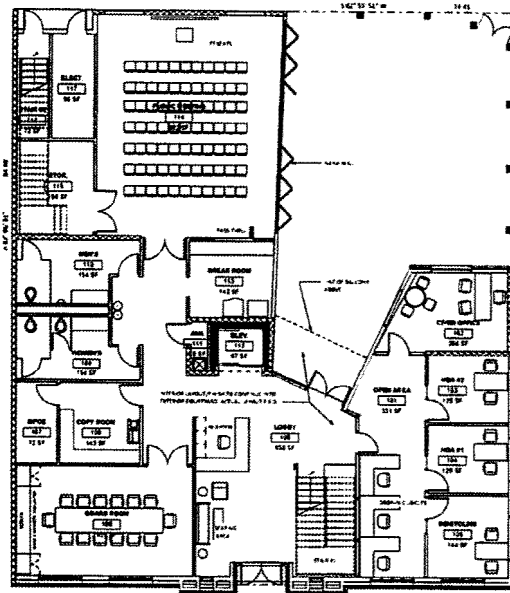
SOUTH AND WEST
EXTERIOR ELEVATIONS

DATE: 07/16/11
DATE: 07/16/11
DESIGNER: [Name]
CHECKED: [Name]
FILE: PRELIMINARY

SHEET NO.
A3.2

OF SHEETS

ATTACHMENT A



① FIRST FLOOR
279'-11" x 142'-0"

4,870 SF



NEW 2-STORY
PHILANTHROPIC
BUILDING
400 NORTH FIRST STREET, LOS ANGELES, CALIFORNIA

DE/CON CONSTRUCTION
INCORPORATED
ARCHITECT
1000 WEST 10TH STREET, SUITE 100
LOS ANGELES, CALIFORNIA 90015

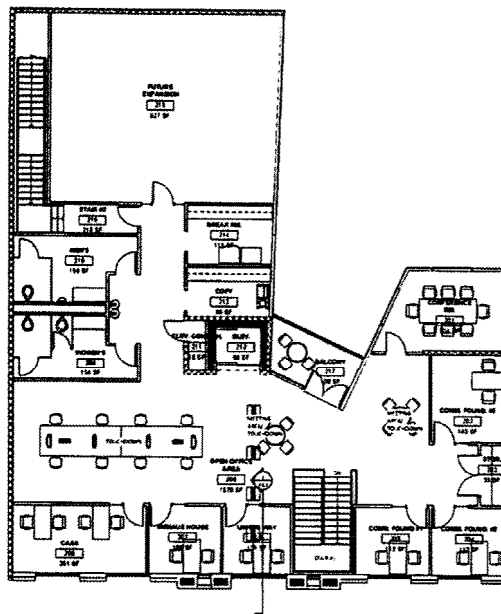
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2. ALL ROOMS SHALL BE FINISHED TO THE CENTERLINE OF THE WALLS.
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NO.	DATE	REVISIONS

PRELIMINARY FIRST FLOOR
PLAN

JOB NO. 47 PM	SHEET NO.
DATE: 10/1/11	A2.1
DRAWN: E.V.	OF SHEETS
CHECKED: G.B. / N.Y.	
ISSUE: PRELIMINARY	

ATTACHMENT A



① SECOND FLOOR
SCALE: 1/8" = 1'-0"

4,810 SF



NEW 2-STORY
PHILANTHROPIC
BUILDING
400 BEMO STREET HOLLYWOOD, CALIFORNIA

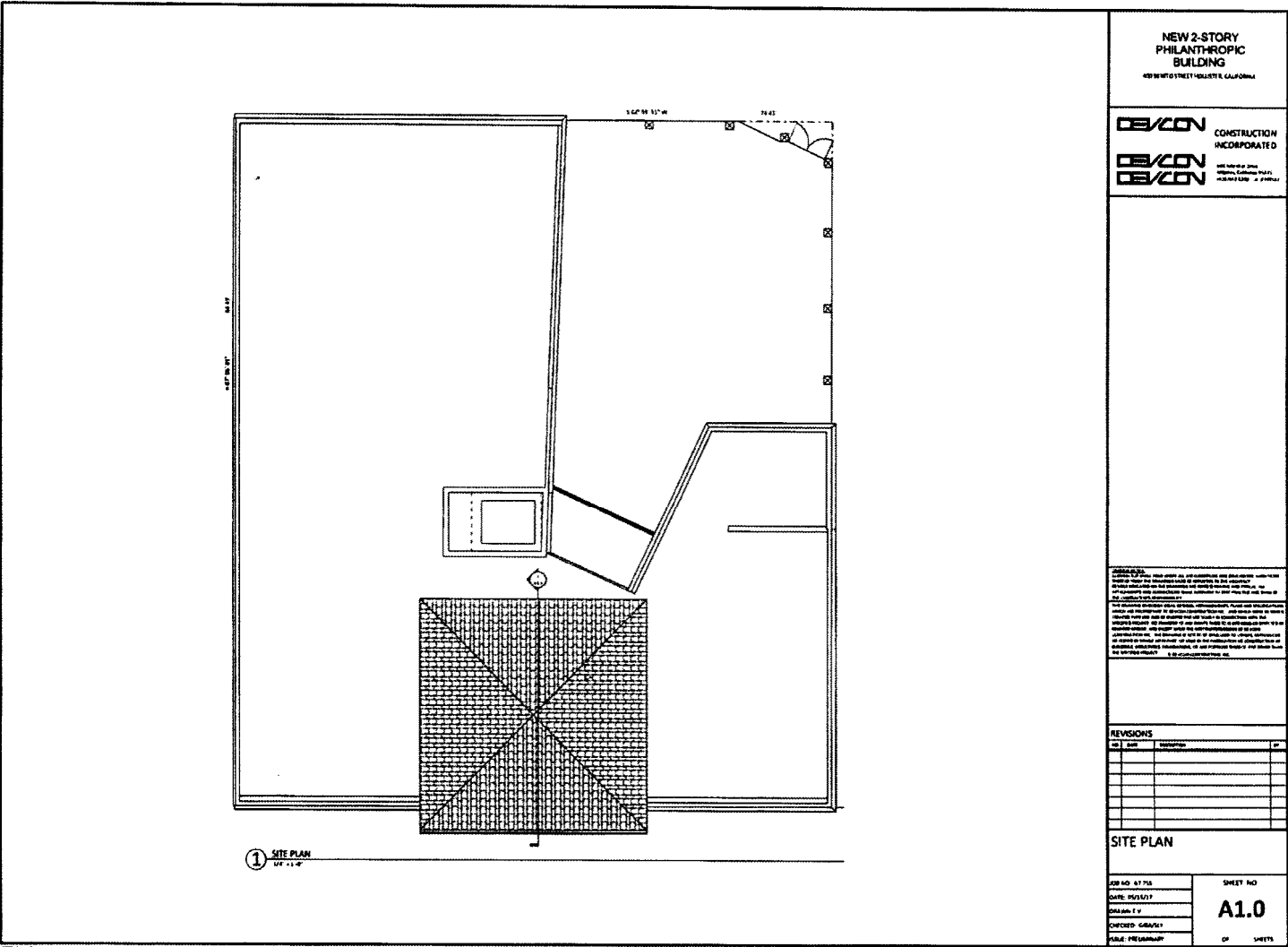
DEVCON CONSTRUCTION
INCORPORATED
400 BEMO STREET
HOLLYWOOD, CALIFORNIA 90028
TEL: (310) 551-1111 FAX: (310) 551-1112

NOTES:
1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
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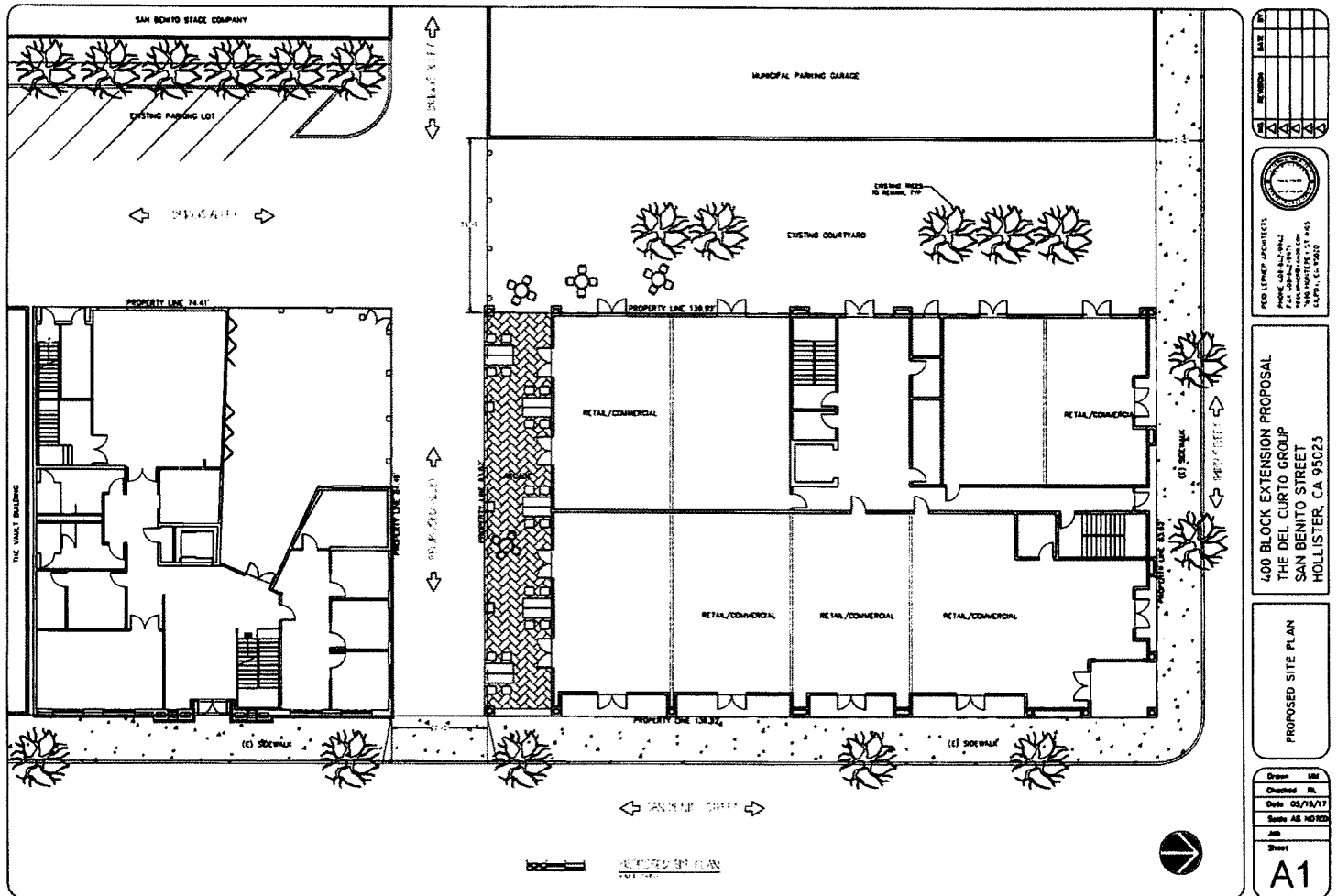
REVISIONS			
NO.	DATE	DESCRIPTION	BY

PRELIMINARY SECOND FLOOR PLAN	
DATE: 01/11/11	SHEET NO. A2.2
DRAWN BY: J.V.	
CHECKED: GRANT	
SCALE: PRELIMINARY	

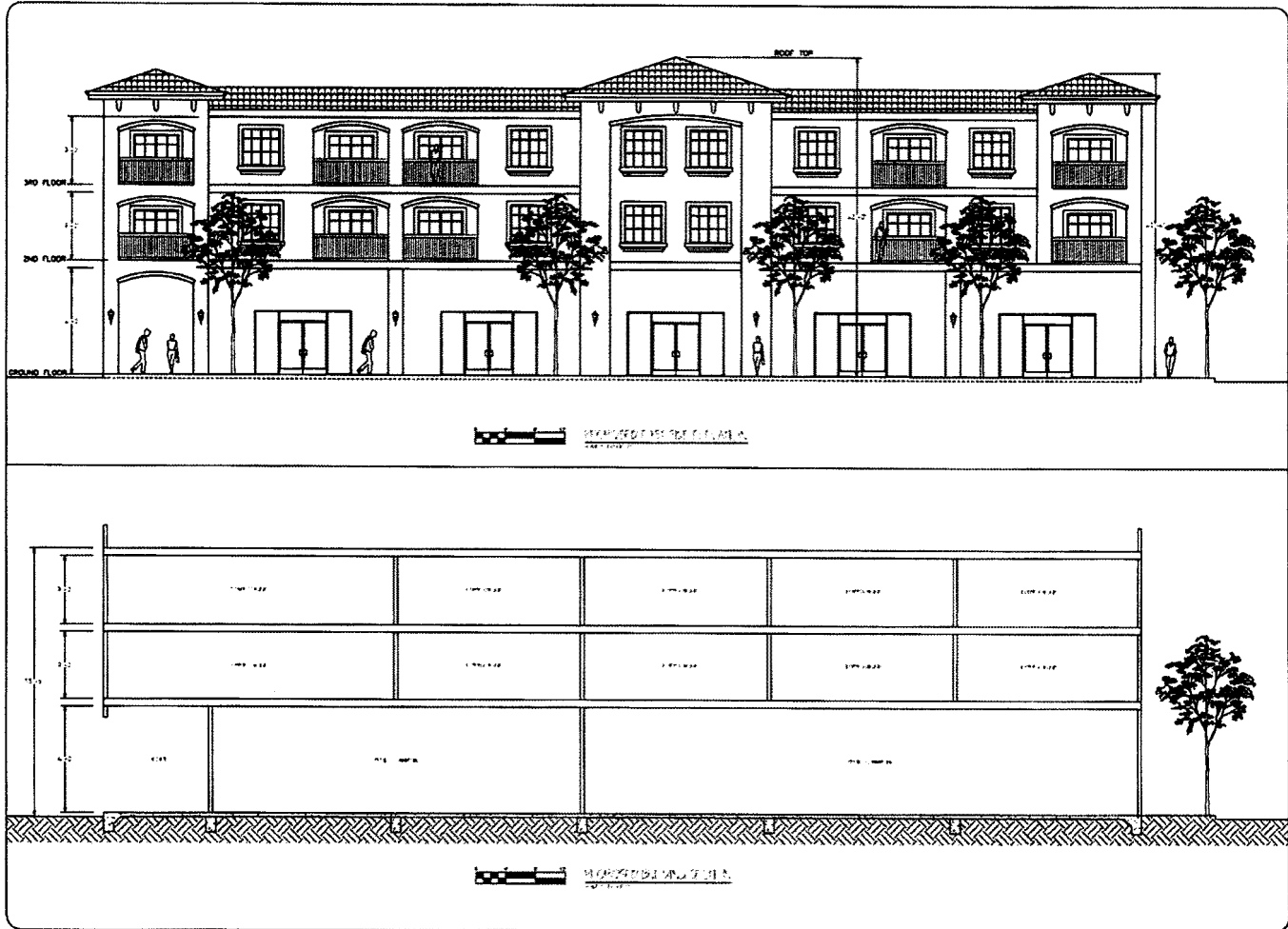
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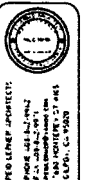
ATTACHMENT B



ATTACHMENT B



DATE	BY	REVISION

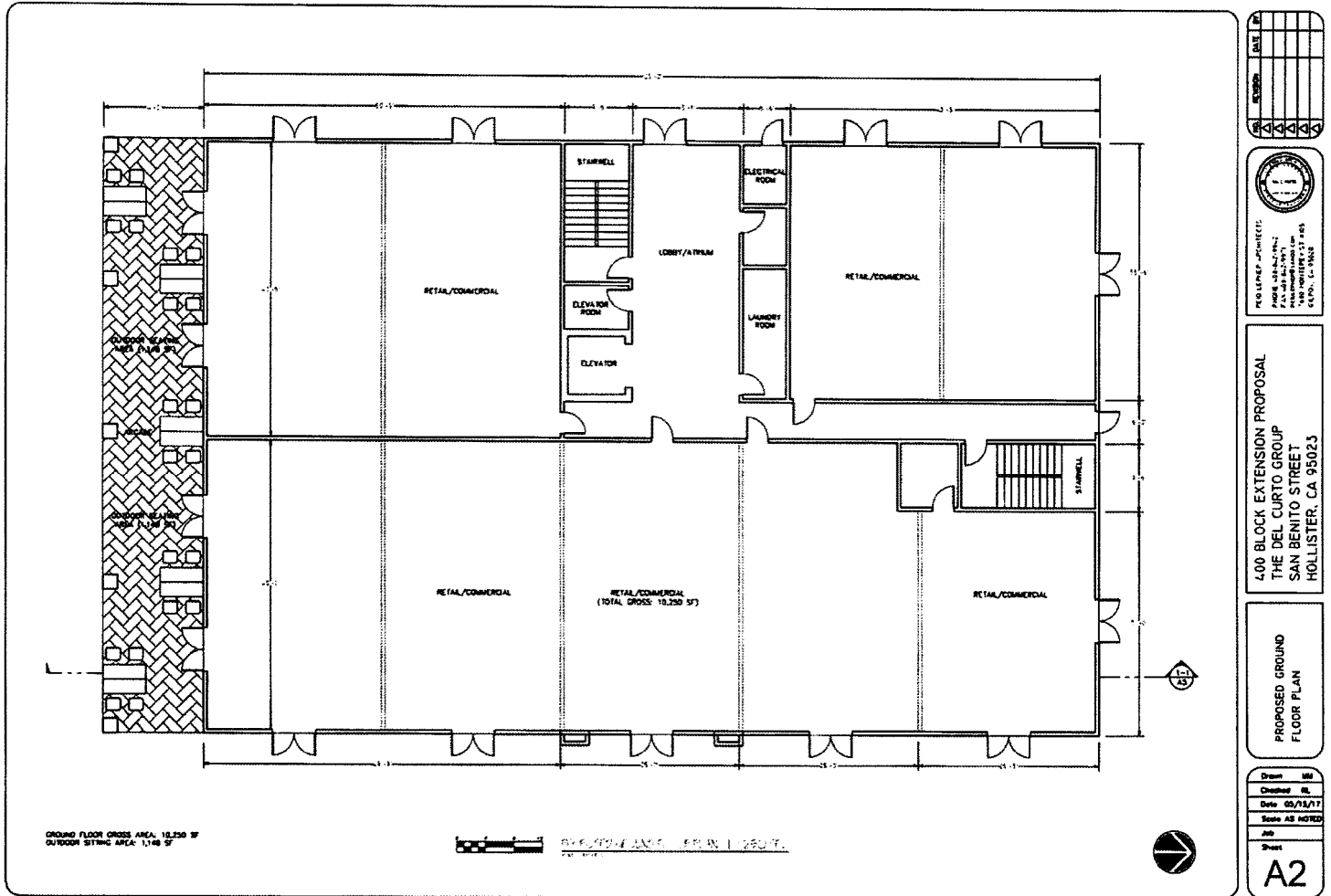


400 BLOCK EXTENSION PROPOSAL
 THE DEL CURTO GROUP
 SAN BENITO STREET
 HOLLISTER, CA 95023

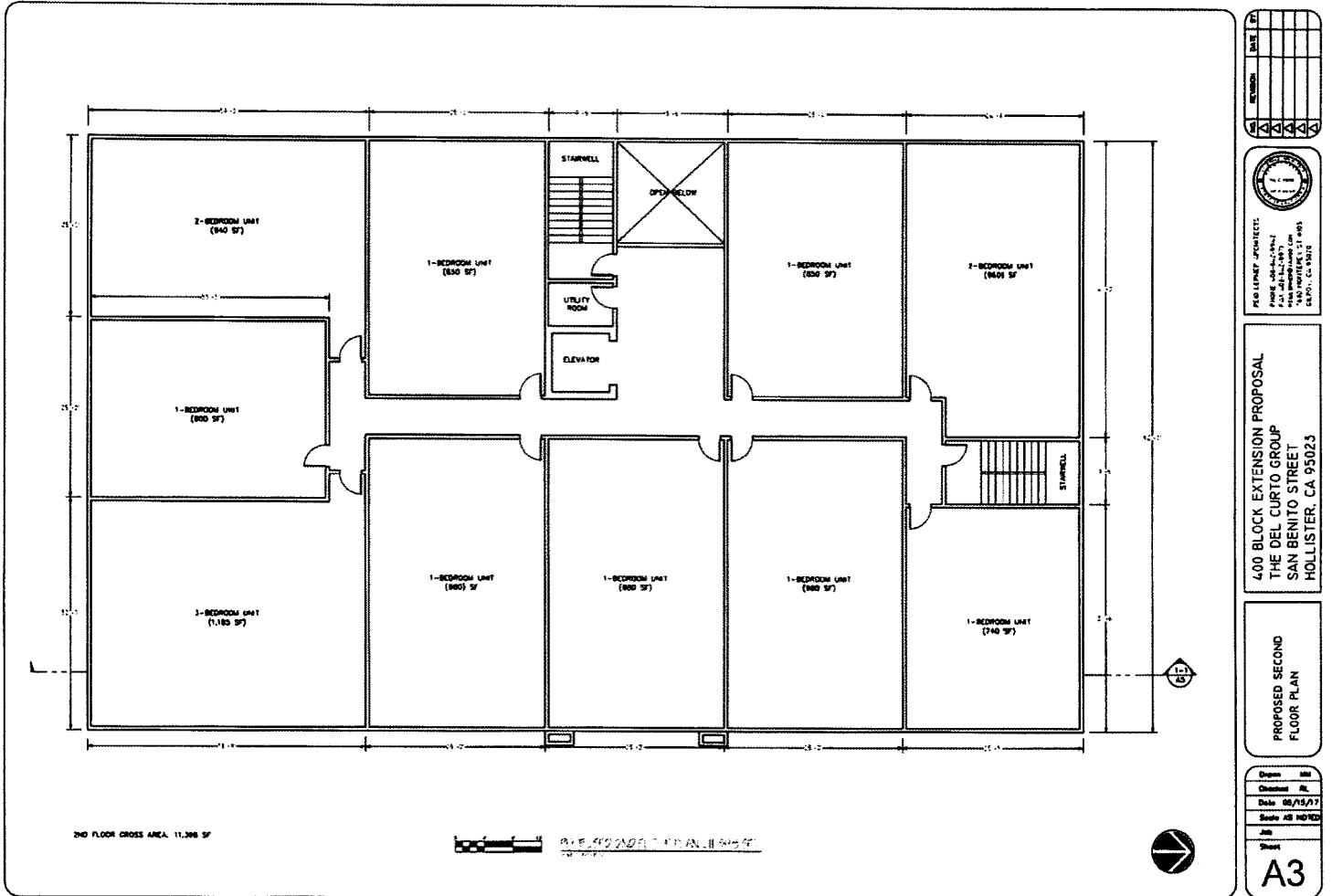
PROPOSED BUILDING
 ELEVATION & SECTION

Drawn: JML
 Checked: JML
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 Scale: AS NOTED
 Job:
 Sheet:
A5

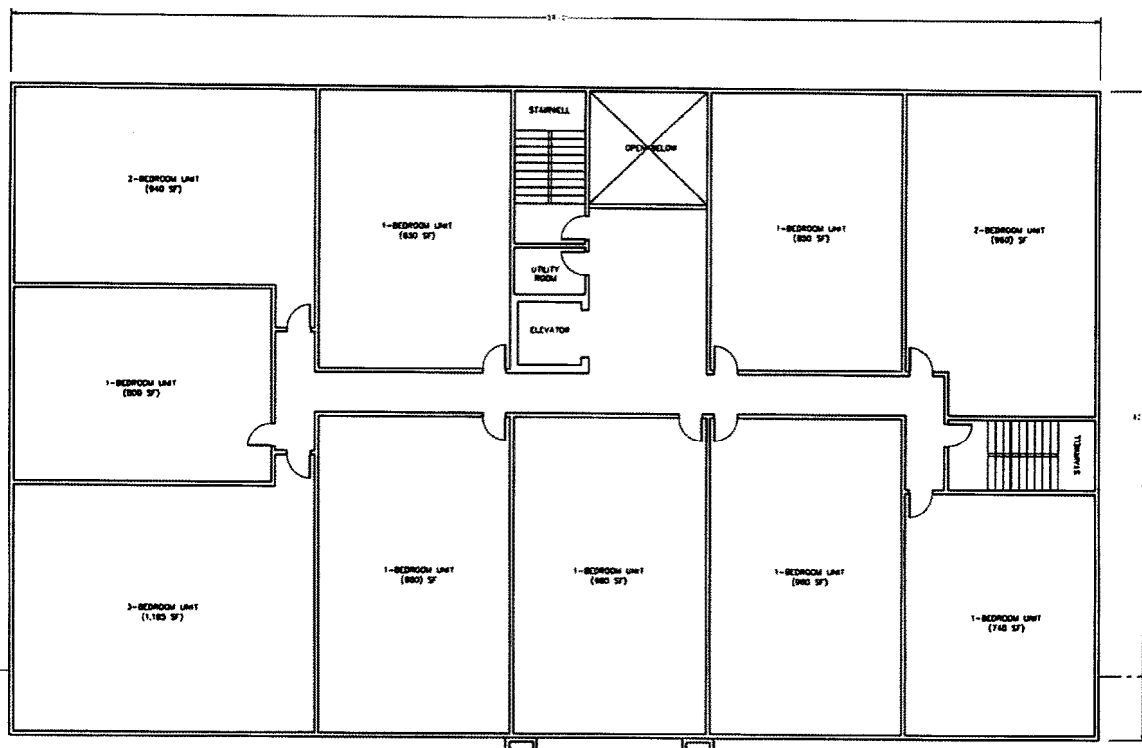
ATTACHMENT B



ATTACHMENT B



ATTACHMENT B



3RD FLOOR GROSS AREA: 11,388 SF



FILED 50-9000-1000-11-1987

[illegible]

PIANO LAVORO PONTIFICIO
 2008-2012-2012
 2008-2012-2012
 2008-2012-2012
 2008-2012-2012

400 BLOCK EXTENSION PROPOSAL
THE DEL CURTO GROUP
SAN BENITO STREET
HOLLISTER, CA 95023

PROPOSED THIRD
FLOOR PLAN

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Checked	RL
Date	05/15/71
Scale	AS NOTE
Job	
Sheet	

A4

ATTACHMENT C



STAFF REPORT CITY COUNCIL AGENDA

DATE: April 22, 2016
STUDY SESSION DATE: N/A

AGENDA ITEM: Resolution # F.52.
MEETING DATE: May 2, 2016

TITLE OF ITEM: Receive Report, Review Proposal And Consider Approval Of Resolution No. 2016-65, Directing Staff To Proceed With An Exclusive Negotiation Agreement With The Del Curto Brothers Group For The Acquisition Of The 400 Block Property On San Benito Street.

BRIEF DESCRIPTION: The City Council will receive a report, review a proposal and consider approval of a resolution directing staff to proceed with an Exclusive Negotiation Agreement with The Del Curto Brothers Group for the acquisition of the 400 Block property with a commitment to build four mixed use buildings on the north parcel, reserve the central parcel as open space and construct a 7,420 foot philanthropic center in partnership with the Community Foundation for San Benito County on the south parcel.

STAFF RECOMMENDATION: Staff recommends that the City Council review the proposal submitted for the 400 block, determine the submittal from the Del Curto Brothers Group in partnership with the CFSBC is complete and approve Resolution No. 2016-65.

DEPARTMENT SUMMARY: On January 19, 2016, the City Council approved a 90 day extension to the Request for Proposal for a catalyst project on the 400 Block Property (the "Property") at the corner of Fourth and San Benito Streets. The extended RFP was released on January 20th with a deadline of April 19, 2016. Last fall the Property was appraised for \$290,000. Based on the appraisal, the City could receive \$52,603 from the sale of the property with the balance of the funds disbursed to taxing entities.

On April 19, 2016, the City Clerk opened a sealed proposal from the Del Curto Brothers Group (the "Developer") in partnership with the Community Foundation for San Benito County (CFSBC) which is included as Exhibit 2 of the attached resolution. The proposal met the minimum purchase price of \$290,000. The vision for project establishes a pedestrian scale mixed use development with paseos and public open space areas integrated between five buildings ranging in height from one to four stories. The north Parcel 1 would be developed with four buildings with 6,760 square feet of ground floor retail space and 11,840 square feet of residential (16 units). Parcel 2 (former Briggs Alley) would be left in open space. Parcel 3 would be developed as a two-story, 7,420 square foot philanthropic center for the CFSBC. The cost of construction for the building will be donated to the CFSBC by a resident of San Benito County but built by the Developer. The Developer approached staff during the RFP process and expressed a desire to negotiate the use of parking spaces within the Briggs Building for the 16 proposed residences.

ATTACHMENT C

Staff has reviewed the proposal, determined that it is complete and believes that it will fulfill the objectives of the former RDA to revitalize downtown Hollister. The project will add needed housing to the downtown core; the proposed philanthropic center will provide conference and meeting facilities that are unavailable in the community today and an outdoor plaza connected to an interior assembly area for gatherings. The mixed use multi-story pedestrian oriented development is consistent with the General Plan but as explained in the attached Supplemental Staff Report, the rooflines will need to be adjusted to conform to the Downtown Strategy Plan Design Guidelines adopted by the City Council. The project will also benefit from the proximity of the Briggs Building Parking structure. The cost of construction of the philanthropic center will be funded by a resident from San Benito County.

Staff Recommendation: That the City Council approve the resolution directing the City Manager to enter into an Exclusive Negotiating Agreement for the project with provisions to provide parking for residents in the Briggs Building Parking Structure.

ATTACHMENTS:	Supplemental Staff Report, Resolution
FINANCIAL IMPACT:	\$52,603 (18% of the sales price) to the General Fund
CEQA:	§15332 In-Fill Development Projects
DEPARTMENT:	Development Services Department
CONTACT PERSON:	Mary M. Paxton
DEPARTMENT HEAD:	William B. Avera
PHONE NUMBER:	(831) 636-4316

THIS REPORT WAS REVIEWED BY THE CITY MANAGER WHO CONCURS WITH THE STAFF RECOMMENDATION: _____

William B. Avera, City Manager

ATTACHMENT C

RESOLUTION NO. 2016 - 65

**A RESOLUTION OF THE CITY COUNCIL AUTHORIZING AN EXCLUSIVE
NEGOTIATION AGREEMENT FOR THE SALE OF REAL PROPERTY (0.48 ACRES)
LOCATED ON THE SOUTHWEST CORNER OF FOURTH AND SAN BENITO STREETS TO
THE DEL CURTO BROTHERS GROUP**

WHEREAS, the City owns two parcels and a portion of Briggs Alley consisting of approximately 0.48 acres located at the southeast corner of Fourth and San Benito Streets (hereinafter "the Parcel"); and

WHEREAS, the former Hollister Redevelopment Agency purchased several properties on the "400 Block" of San Benito Street to eliminate blight related to catastrophic damage to buildings from the Loma Prieta Earthquake to implement the 1991 Downtown Strategy and Plan to assemble the 400 Block properties for economic development and to facilitate the a catalyst project that would benefit from the Briggs Building parking structure; and

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on January 9, 2012 and pursuant to Health and Safety Code Section 34173, the City Council (the "City Council") declared that the City, a municipal corporation (the "City"), would act as successor agency (the "Successor Agency") for the dissolved City of Hollister Redevelopment Agency (the "Former RDA") effective February 1, 2012; and

WHEREAS, on January 9, 2012 and pursuant to Health and Safety Code Section 34176, the City Council declared that the City would retain all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the Former RDA, effective February 1, 2012; and

WHEREAS, on February 1, 2012, the Former RDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, on June 27, 2012 Assembly Bill 1484 amended the Dissolution Act and added requirements in Health and Safety Code Section 34191.5 that requires the Successor Agency to prepare a Long Range Property Management Plan for the disposition of Successor Agency property within six months of the issuance of the Finding of Completion for the Due Diligence Review; and

WHEREAS, the Department of Finance issued a Finding of Completion on May 29, 2013 for the Successor Agency Due Diligence Review of Housing and Other Funds; and

ATTACHMENT C

Sale of 400 Block Property at SW corner of San Benito and Fourth Streets
Page 2 of 5

WHEREAS, the Successor Agency prepared a Long Range Property Management Plan in compliance with the provisions of Health and Safety Code Section 34191.5 and the guidelines posted on the Department of Finance web page and adopted Resolution 2013-03 on August 19, 2013 directing staff to submit the plan to the Oversight Board and Department of Finance; and

WHEREAS, the Oversight Board approved the Long Range Property Management Plan on October 3, 2013 and it was submitted to the Department of Finance; and

WHEREAS, the Oversight Board approved an amendment to the Long Range Property Management Plan on January 2, 2014 and it was re-submitted to the Department of Finance; and

WHEREAS, the Department of Finance issued a letter on February 21, 2014 approving the Successor Agency Long Range Property Management Plan; and

WHEREAS, the Long Range Property Management Plan proposed that the City should be allowed to continue the use of the Parcel for non-profit activities open to the public until an agreement can be negotiated for a keystone commercial or mixed use development on the Parcel; and

WHEREAS, the amended Long Range Property Management Plan stated that prior to the transfer of the property to the City, it would be necessary for the City to enter into a compensation agreement required by Health and Safety Code Section 34180 (f) (a); and

WHEREAS, the City Council approved Resolution 2014-77 on April 21, 2014 directing staff to prepare and negotiate a compensation agreement with other taxing entities; and

WHEREAS, staff negotiated a compensation agreement with other taxing entities and the agreement was approved on August 4, 2014 and is on file with the City Clerk; and

WHEREAS, the Successor Agency and City approved Resolutions 2014-12SA and 2014-179 on September 8, 2014 authorizing the execution of documents such as lot-line adjustments and quit claim deeds to clear the title for the future transfer of the Parcel in anticipation of the future sale of the property and the transfer of the Parcel to the City to hold for future redevelopment; and

WHEREAS, the Successor Agency and City executed grant deeds to transfer the ownership of the Parcel to the City in January of 2015; and

ATTACHMENT C

Sale of 400 Block Property at SW corner of San Benito and Fourth Streets
Page 3 of 5

WHEREAS, the staff was approached by two parties interested in developing the Property in the fall of 2015; and

WHEREAS, the Parcel is zoned Downtown Mixed Use; and

WHEREAS, an appraisal has been completed establishing a minimum value of \$20 per square foot of land for the fee simple interest of the Parcel, for a total of Two Hundred Ninety Thousand Dollars (\$290,000); and

WHEREAS, on November 2, 2015 the City Council approved Resolution 2015-211 authorizing staff to release a Request for Proposal/Qualifications (RFP/RFQ) for the development of the Parcel with a catalyst project; and

WHEREAS, on January 19, 2016, the City Council at a duly noticed public meeting directed staff to extend the RFP/RFQ period for at least ninety (90) days; and

WHEREAS, on April 19, 2016, the City Clerk publicly opened one qualifying sealed proposal for the purchase of the Parcel from the Del Curto Brothers Group; and

WHEREAS, the City Council has reviewed the proposal and has determined that the Del Curto Brothers proposal in partnership with the Community Foundation for San Benito County of constructing a mixed use development with 16 residences on the upper floors of the northern parcel and a 7,420 square foot philanthropic center will provide needed housing, conference and meeting facilities for the community and non-profits and additional retail spaces with modern facilities and will add and wage earnings by future employees and foot traffic downtown; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL as follows:

That the City of Hollister hereby accepts the proposal submitted by the Del Curto Brothers Group dated April 19, 2016, attached hereto as Exhibit 2 for the purchase of the Parcel as legally described in Exhibit 1, attached hereto.

The sale of the property as proposed in Exhibit 2 conforms to the Long Range Property Management Plan for the Parcel required by Health and Safety Codes Sections §34181 and §34191.5.

The City Manager is authorized to enter into an Exclusive Negotiating Agreement with the Del Curto Brothers Group for the sale of the property that substantially conforms to Exhibit 2 with provision to negotiate an agreement to allow parking for sixteen residents in the Briggs Building Parking Structure.

ATTACHMENT C

Sale of 400 Block Property at SW corner of San Benito and Fourth Streets
Page 4 of 5

CEQA Finding. The City Council finds that the sale of the former RDA property is categorically exempt from CEQA review pursuant to CEQA Guidelines 15332 In-Fill Development Projects because the proposal as described in Exhibit 2 is consistent with the General Plan, the development will occur within the City on less than a one-half acre area, the project site has no value as habitat for endangered, rare or threatened species, the approval of the project would not result in any significant effects related to traffic, noise, air quality or water quality, the site can be adequately served by all required utilities and public services, the project is designed as a pedestrian oriented development near a transit stop and a mixed use infill development that could contribute to vehicle miles travelled and associated greenhouse gas emissions.

PASSED AND ADOPTED at a regular meeting of the City Council held this 2nd day of May 2016, by the following votes:

AYES:

NOES:

ABSENT:

Ignacio Velazquez, Mayor

ATTEST:

Thomas Graves, CMC, City Clerk

APPROVED AS TO FORM:
L + G LLP, Attorneys at Law

Brad Sullivan, City Attorney

ATTACHMENT C

Sale of 400 Block Property at SW corner of San Benito and Fourth Streets
Page 5 of 5

Exhibit 1

Parcel 1 includes all of San Benito County Assessor Parcel 054-011-036.

Parcel 2 includes portions of Assessor Parcel Numbers 054-011-016 and 054-011-030 and is described as follows: BEING A PORTION of Lots 29, 30, 31 and 32 of Block 14 of the Town of Hollister, according to the map thereof recorded March 23, 1870 in Volume 1 of Maps, page 54, San Benito County Records, bounded by a line more particularly described as follows:

Beginning at the intersection of the westerly line of San Benito Street at the southerly line of Briggs Alley and thence running along the said westerly line of San Benito Street South 2° 55' 51" West 74.39 feet, more or less, to the southeasterly corner of that certain Parcel One described in the Final Order of Condemnation recorded November 25, 1996 as Instrument number 9611258, San Benito County Records; thence along the southerly line of said Parcel One and parallel with the northerly line of Fifth Street North 87° 06' 01" West 84.49 feet; thence leaving said southerly line of Parcel One and running parallel to the westerly line of San Benito Street North 2° 55' 51" East 74.41 feet, more or less, to a point in the southerly line of Briggs Alley; thence along said southerly line South 87° 05' 09" East 84.49 feet to the point of beginning.

The property also includes the portion of Briggs Alley between parcels 1 and 2.

ATTACHMENT C



SUPPLEMENTAL STAFF REPORT CITY COUNCIL AGENDA

F.52.3.

DATE: MAY 2, 2016

TITLE OF ITEM: Review of a proposal for disposition of the 400 Block.

DEPARTMENT SUMMARY: On November 2, 2015, the City Council approved Resolution 2015-211 authorizing staff to release a Request for Proposal for a catalyst project on the 400 Block Property (the "Property") at the southwest corner of Fourth and San Benito Streets. A Request for Proposal was released on November 8th with a submittal deadline of January 5, 2016. The RFP was distributed to over 40 developers and builder's exchanges in the region, posted on Ebidboard.com and the City's home page. A public notice was published on December 25, 2015 notifying the public of the request for proposal, the submittal deadline of January 5, 2016 and that the City Council would review the proposals at a meeting on January 19, 2016. Two parties requested an extension during the RFP period due to the holidays. The City Council approved an extension on January 19, 2016 for at least 90 days. The extended RFP was released on January 20th with a deadline of April 19, 2016.

The General Plan designation of the 400 Block Property is Downtown Commercial Mixed Use and the City's Zoning Code designates the property as Downtown Mixed Use (DMU). The property consists of three parcels totaling 19,673 square feet (0.45 acre). A four story structure with a maximum height of 72 feet is allowed in the zoning district.

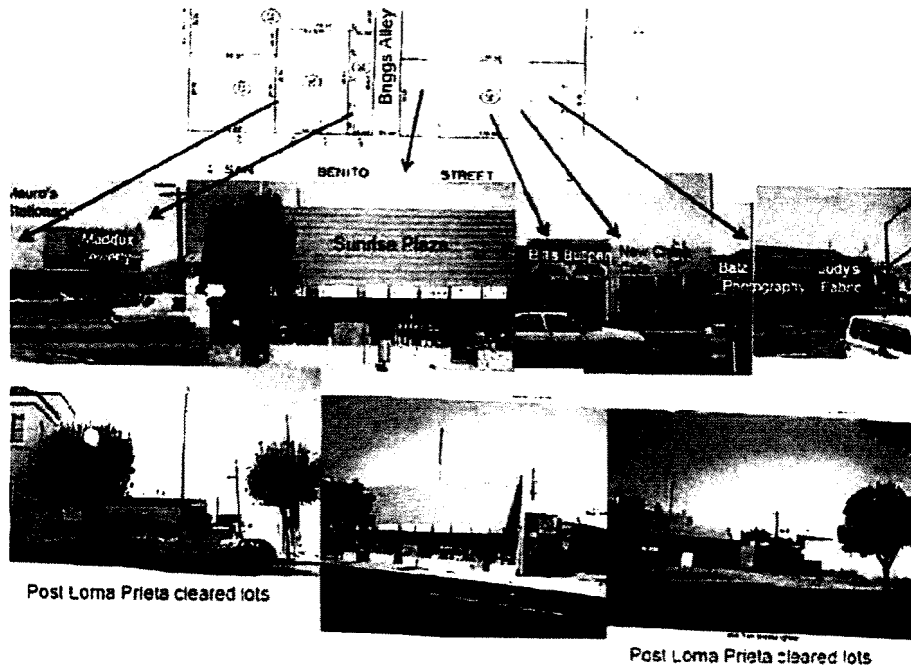
The Property was transferred to the City of Hollister from the Successor Agency (SA) to the former City of Hollister Redevelopment Agency (RDA) in January of 2015. The SA received approvals for a Long Range Property Management Plan (LRPMP) to sell the Property from the Oversight Board to the SA and the Department of Finance (DOF) in January and February of 2015. The LRPMP was approved to allow the City of Hollister to fulfill the intent of the former RDA to reserve the property for the development of a catalyst project that could benefit from the nearby Briggs Building Parking structure. Since the approved plan did not assure immediate sale of the Property, the DOF required the SA to negotiate a Compensation Agreement with taxing entities. The City negotiated a Compensation Agreement with all taxing entities that was executed in August of 2014. Pursuant to the Compensation Agreement and the Dissolution Act, the City of Hollister will share the proceeds from the future sale of the Property with the taxing entities. The Property was appraised for a value of \$290,000 last fall. The City could receive nearly to \$52,603 from the proceeds from the sale based on the appraised value.

The 400 Block properties were acquired by the former Hollister Redevelopment Agency to assist with revitalization of downtown Hollister after the 1989 Loma Prieta Earthquake. The majority of the buildings on the 400 block were condemned and demolished after the Loma Prieta Earthquake (see below). The RDA provided

ATTACHMENT C

F.52.3.

relocation assistance to businesses and subsequently assembled the 400 block properties with the objective of implementing a 1991 Downtown Strategy and Plan vision to redevelop the 400 block with a larger catalyst project that would benefit from use of the nearby Briggs Building parking structure.



Between 2002 and early 2015, the combination of the sewer moratorium, the great recession, and dissolution of Redevelopment agencies in California inhibited the potential to develop the property.

On April 19, 2016, the City Clerk opened a sealed proposal from one qualifying developer, the Del Curto Brothers Group in partnership with the Community Foundation for San Benito County which is attached to this report. The proposal met the minimum purchase price of \$290,000.

The vision for development of the property establishes a pedestrian scale and oriented development with paseos and public and private open space areas integrated between five buildings that would vary in height from one to four stories.

Parcel 1: The Del Curto Brothers Group proposes to develop northern 11,698 square foot Parcel 1 with one retail and three mixed use buildings centered around a 3,500 square foot open air courtyard with a water feature and outdoor seating and dining. Retail uses (6,760 square feet) are proposed on the ground floor and 16 residential units are proposed on the upper floors. The elevations on Sheet C-1 of the attached proposal show that open air balconies will face to the interior courtyard as well as San Benito Street.

ATTACHMENT C

F.52.3.

Building A would be a 1,871 square foot one-story building at the corner of Fourth and San Benito Street slated for retail use. A rounded glass wall would face the corner.

Building B would be three stories with a 2,000 square foot retail/restaurant area on the ground floor with potential to connect with activities outdoor plaza at the Philanthropic center proposed on Parcel 3. Six units are proposed on the upper floors with three on the second and three on the third. A 600 square foot deck for the home owners is proposed on the third floor with an elevated bridge to link the units in Buildings C and D.

Buildings C and D will each be four stories and will be located next to the Briggs Building Parking structure. Each ground floor will have close to 1,490 square feet of retail area. The second floor of each building will have single story dwelling units. Two story units will be located on the third and fourth floors with six units in Building C and five units in Building D.

Parcel 2 which is the 1,690 square foot right-of-way of the former Briggs Alley is proposed to be left in open space and serve as a pedestrian corridor between San Benito Street, the Briggs Buildings and Parcels 1 and 3.

Parcel 3 is the southern 6,285 square foot lot on the 400 Block. The Del Curto Brothers are proposing to build two-story a 7,420 square foot Philanthropic Center for the Community Foundation for San Benito County (CFSBC). The cost of construction for the building will be donated to the CFSBC by a resident of San Benito County. The building will include small and large conference/assembly areas available for the community, non-profit board meetings, community meetings and gatherings and offices for 7 to 9 local non-profit organizations. One of the assembly areas will connect to a 1,800 square foot outdoor plaza located between the former Briggs Alley and the access road to the parking garage. A kitchen/snack area will be connected to the assembly area.

The Del Curto Brothers Group approached staff during the RFP process and expressed a desire to negotiate the use of parking spaces within the Briggs Building for the 16 proposed residences.

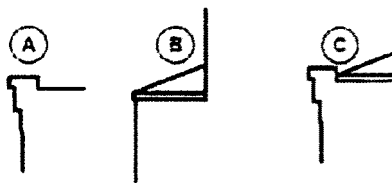
The City Council adopted the Design Guidelines in the Downtown Strategy Plan. The conceptual renderings, site planning, building facades and forms conform to most aspects of the plan. One exception is the roof lines. The Strategy Plan encourages flat roofs with parapet or cornice, shed roof (only where step backs occur), or sloped roof combined with roof parapet as shown below. The conceptual plans show a peaked roof which conflicts with the defining characteristics of the Downtown National Historic District. Staff recommends revisions to the roof-lines through the Site and Architectural Review process.

ATTACHMENT C

F.52.3.

Design Guideline

Main Street Commercial Building



Roofs

The following types of roofs are encouraged

- (A) Flat roof with parapet or cornice
- (B) Shed roof (only where building setbacks occur)
- (C) Sloped roof combined with roof parapet
- D. Roofing forms, slopes, details, materials, and overall design should be compatible with the overall style and character of the structure

The development is designed with paseos between buildings and to be pedestrian friendly which is consistent numerous policies in the General Plan for the Downtown Commercial and Mixed Use land use designation.

Staff Recommendation: Staff has reviewed the proposal and believes that it will fulfill the objectives of the former RDA to revitalize downtown Hollister because the project will add needed housing to the downtown core, the proposed philanthropic center will provide needed conference and meeting facilities that are not available in the community today and a variety of stakeholders downtown. The mixed use multi-story pedestrian oriented development is consistent with the General Plan. The project will also benefit from the proximity of the Briggs Building Parking structure. The cost of construction of the philanthropic center will be funded by a resident from San Benito County.

Staff recommends the City Council approve the resolution attached to this staff report directing the City Manager to enter into an Exclusive Negotiating Agreement for the project with provisions to provide parking for residents in the Briggs Building Parking Structure.

ATTACHMENT C

Exhibit 2

400 BLOCK PROPOSAL

ATTACHMENT C

Exhibit 2



The Del Curto Group



*P.O. Box 1311 Hollister, Ca. 95024
Office (831) 637-4583
Cell (831)902-5454
Fax (831)637-6940*

April 18, 2016

*The City Of Hollister
Attn: Mary M. Paxton
375 5th St.
Hollister, Ca. 95023
(831) 636-4316*

Dear Mary,

*Our team is submitting a proposal for the 400 Block development of a 4 story building consisting of Commercial/Retail space with a pedestrian friendly courtyard area with fountain/garden and siting area at street level. The 2nd, 3rd and levels will consist of residential condominiums with open air balconies that are open to the central courtyard and San Benito St.
Our team is partnering with the Community Foundation/Randy Wolf for the construction of a two level open air structure they will own and occupy. This building will be adjacent to the Vault building.
We believe our team can satisfy The City's desire for a development that will attract the community to the downtown area and provide much needed affordable housing.*

Thank You

ATTACHMENT C

Exhibit 2

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<i>Page 1</i>	<i>Developer team biography</i>
<i>Page 2</i>	<i>Project approach</i>
<i>Page 3</i>	<i>Preliminary architectural and site renderings</i>
<i>Page 4</i>	<i>List of potential tenants</i>
<i>Page 5</i>	<i>Estimated total project costs</i>
<i>Page 6-8</i>	<i>Business Financials</i>
<i>Page 9</i>	<i>Financial resources</i>
<i>Page 10</i>	<i>Project schedule</i>
<i>Page 11</i>	<i>Statement of qualifications</i>
<i>Page 12</i>	<i>References</i>
<i>Page 13</i>	<i>Proposal sheet</i>

ATTACHMENT C

Exhibit 2

Developer Team Biography

*Del Curto Bros. Construction Co., Darin and Derek Del Curto
Community Foundation/Randy Wolf
JW Design Group, Jerry Whitney
Private Capital Group, Jim Petralia*

DC Bros. was established in 1988 by Derek and Darin. Since its inception they have developed in Hollister, Santa Cruz and Gilroy areas. Developments have included minor and major subdivisions consisting 4-14 lot residential home developments in Gilroy. We have experience in working with agencies such as Coastal Commission and the City of Capitola for a 4 unit development which consisted of 4-2300 square foot homes with a unique design in capturing ocean views with common areas on 2nd story. Current developments in the City of Hollister under construction are a 22 lot residential development off Hillcrest Road, 4 townhouse complex on East St. and 8 unit townhouse development at 853 San Benito St.

DC Bros. are capable of constructing the proposed project at the 400 block and have always met their deadlines and milestones with their projects in the past.

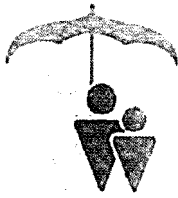
The Community Foundation was established 1982 for San Benito County has donated to a variety of local causes and nonprofits. The common factor in each instance was that funds were granted to benefit the people of San Benito County. In 2002, the Foundation hired its first full-time executive director and funded the start of the Permanent Endowment. The board has increased in size to 16 members and over 25 local community leaders sit on five committees (grants, finance, challenge grant, public relations, special events) supporting the board and local interests.

Jerry with JW design has worked on various projects consisting of residential and commercial in Monterey County, Santa Cruz County and the State of Nevada. Jerry was instrumental in the design of our 8 unit project on San Benito St. which included professional colored renderings. Jerry is a vital asset to our team and is very capable of design/ plans for our proposed project.

Jim with Private Capital has been our lender for projects in the last 3-4 years. His company has financed our projects from \$250,000.00-\$1,800,000.00. Our 8 unit development on San Benito St. has a loan commitment of \$1,800,000.00 and is under construction at this time.

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Exhibit 2



Community
Foundation

COMMUNITY FOUNDATION FOR SAN BENITO COUNTY

FOUNDATION BOARD

Chair
Phil Fortino
Vice Chair
Rebecca Medeiros Wolf
Secretary
Kathly Flores
CFO, Treasurer
Mike Grace
Past Chair
Fernando Gonzalez
Christine Breen
Vince Brigantino
Alfonso Castaneda
Alan Clark
Marilyn Ferreira
Kay Filice
Steve Hudner
Susan Schwabach-Moore
Anne Morris
Allison Rohnert
Ed Stephenson
Bob Tiffany
Gene Zanger
President/CEO
Gary Byrne

Thursday, April 14, 2016

Dear City of Hollister,

The Community Foundation for San Benito County, a 501(c)(3) nonprofit organization, is seeking to build a community philanthropic center on the south parcel of the "400 Block".

The Foundation is working in collaboration with Del Curto Bros. Construction Co., Darin and Derek Del Curto. It is our hope to be part of the revitalization of our downtown.

On this parcel of 6,285 square feet, we propose to build a two story building of approximately 8,000 square feet. The building will accommodate 7 to 9 local nonprofit organizations, and be a conference center for the community. With space for board meetings, community meetings and community gatherings. The board of directors for the foundation strongly feel that this is very much in line with the mission of the foundation.

"Dedicated to building a stronger community and enhancing the quality of life in San Benito County through the support of philanthropic activities"

The cost of this project is being donated to the community by a resident of San Benito County. The donation value will be approximately \$900,000.

As of March 31, 2016 the community foundation has assets of \$9m, made up of \$7.7m in stock and bonds and \$1.3 in cash.

Sincerely,

Gary Byrne
President and CEO

829 San Benito St. Ste 200
Hollister, CA 95023
831 630 1924
FAX 831 630 1934
www.cffsb.org

501(c)(3) Organization
TIN 77-0312582

"For Good... For Ever"

ATTACHMENT C

Exhibit 2

Project Approach:

Our preliminary approach would consist of commercial retail space at street level, 50% of exterior wall would include glazing (glass). The open air courtyard would consist of approximately 3500 square foot with a water fountain feature, along with raised planters, seating area with outdoor dining tables. The courtyard would open up to the sky in all 4 stories. Open air balconies at the 2nd, 3rd and 4th levels will face to the interior courtyard and San Benito St. The 2nd, 3rd and 4th levels of the exterior will be terraced from the ground level to give it a softer transition for the exterior elevation.

The 2nd, 3rd and 4th levels will consist of residential condominiums with open air walkway.

Our team has visited various pedestrian friendly cities throughout California with the intent of gathering ideas developers have incorporated into open space in downtown developments. Our desire is to have a pleasant, inviting and safe space where the community can congregate, dine and meander in and through our proposed development.

ATTACHMENT C

Exhibit 2

List of Potential Tenants

- 1. Community Foundation of San Benito County(Gary Byrne)*
- 2. Ray and Peggy Pierce with Pierce Realty*
- 3. Cold Stone Creamery*
- 4. Wine and Cheese tasting room*
- 5. Gavilan College*
- 6. Retail Candy Store*
- 7. Boutique gift shop*
- 8. Restaurant and bar*
- 9. Café and Pastry shop with outdoor dining*
- 10. Residential condominiums would be offered for sale*

ATTACHMENT C

Exhibit 2

Estimated Total Project Costs

1. Preliminary design	\$ 5,600.00
2. Final Design	\$ 11,000.00
3. Building Plans	\$ 75,000.00
4. Construction hard costs (Corner north parcel)	\$ 2,850,000.00
5. Construction hard costs (Community Foundation south parcel)	\$ 900,000.00
6. Land Acquisition	\$ 390,000.00
7. Soft Costs (Overhead, Interest, Insurance)	\$ 280,000.00

1

Total-----\$ 4,511,600.00

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ATTACHMENT C

Exhibit 2



OMB APPROVAL NO. 3245-0188
EXPIRATION DATE 01/31/2018

PERSONAL FINANCIAL STATEMENT
7(a) / 504 LOANS AND SURETY BONDS

U.S. SMALL BUSINESS ADMINISTRATION

As of January 4 2016

SBA uses the information required by this Form 413 as one of a number of data sources in analyzing the repayment ability and creditworthiness of an application for an SBA guaranteed 7(a) or 504 loan or a guaranteed surety.

Complete this form for: (1) each proprietor; (2) general partner; (3) managing member of a limited liability company (LLC); (4) each owner of 20% or more of the equity of the Applicant (including the assets of the owner's spouse and any minor children); and (5) any person providing a guaranty on the loan.

Return completed form to:

For 7(a) loans: the lender processing the application for SBA guaranty.

For 504 loans: the Certified Development Company (CDC) processing the application for SBA guaranty.

For Surety Bonds: the Surety Company or Agent processing the application for surety bond guaranty.

Name Del Curto Bros. Const. Co., Inc.Business Phone 831-637-4583Home Address P.O. Box 1311Home Phone 831-902-5454City, State, & Zip Code Hollister, Ca 95024Business Name of Applicant Same as Above

ASSETS	(Omit Cents)	LIABILITIES	(Omit Cents)
Cash on Hand & in banks	\$ 354,000.00	Accounts Payable	\$
Savings Accounts	\$ 5,400.00	Notes Payable to Banks and Others	\$ 2,160,000.00
IRA or Other Retirement Account	\$ 38,000.00	(Describe in Section 2)	
(Describe in Section 5)		Installment Account (Auto)	\$ 4,300.00
Accounts & Notes Receivable	\$ 106,000.00	Mo. Payments	\$ 334.00
(Describe in Section 5)		Installment Account (Other)	\$
Life Insurance - Cash Surrender Value Only	\$	Mo. Payments	\$
(Describe in Section 8)		Loan(s) Against Life Insurance	\$
Stocks and Bonds	\$ 8,300.00	Mortgages on Real Estate	\$
(Describe in Section 3)		(Describe in Section 4)	
Real Estate	\$ 5,900,000.00	Unpaid Taxes	\$
(Describe in Section 4)		(Describe in Section 6)	
Automobiles	\$ 57,000.00	Other Liabilities	\$
(Describe in Section 5; and include		(Describe in Section 7)	
Year/Make/Model)		Total Liabilities	\$ 2,164,300
Other Personal Property	\$	Net Worth	\$ 4,335,700
(Describe in Section 5)			
Other Assets	\$ 32,000.00		
(Describe in Section 5)			
Total Assets	\$ 6,500,700	Total Liabilities & Net Worth	\$ 6,500,700
		*Must equal total in assets column.	

Section 1. Source of Income.

Salary \$ 12,000.00
Net Investment Income \$
Real Estate Income \$
Other Income (Describe below) \$ 2,500.00

Contingent Liabilities

As Endorser or Co-Maker \$
Legal Claims & Judgments \$
Provision for Federal Income Tax \$
Other Special Debt \$

Description of Other Income in Section 1.

*Alimony or child support payments should not be disclosed in "Other Income" unless it is desired to have such payments counted toward total income.

ATTACHMENT C

Exhibit 2

Section 2. Notes Payable to Banks and Others. (Use attachments if necessary. Each attachment must be identified as part of this statement and signed.)					
Names and Addresses of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral
PLM	360,000.		2,400.00	Monthly	El Cerro Sub-Division
PLM	1,800,000.		13,500.00	Monthly	853 San Benito Street

Section 3. Stocks and Bonds. (Use attachments if necessary. Each attachment must be identified as part of this statement and signed.)					
Number of Shares	Name of Securities	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value

Section 4. Real Estate Owned. (List each parcel separately. Use attachment if necessary. Each attachment must be identified as a part of this statement and signed.)			
	Property A	Property B	Property C
Type of Real Estate (e.g. Primary Residence, Other Residence, Rental Property, Land, etc.)	Commercial Development	Mixed Use Development	Residential Development
Address	0 Chappell Road	853 San Benito Street	El Cerro
Date Purchased	2002	2015	2015
Original Cost	150,000.00	300,000.00	750,000.00
Present Market Value	399,000.00	3,100,000.00	1,900,000.00
Name & Address of Mortgage Holder	N/A	PLM 90 Pacific St. Monterey	PLM 90 Pacific St. Monterey
Mortgage Account Number	N/A	N/A	N/A
Mortgage Balance	N/A	1,800,000.00	360,000.00
Amount of Payment per Month/Year	N/A	13,500.00/Month	2,400.00
Status of Mortgage	N/A	Current	Current

Section 5. Other Personal Property and Other Assets. (Describe, and, if any is pledged as security, state name and address of lien holder, amount of lien, terms of payment and, if delinquent, describe delinquency.)
Equipment

Section 6. Unpaid Taxes. (Describe in detail as to type, to whom payable, when due, amount, and to what property, if any, a tax lien attaches.)

Section 7. Other Liabilities. (Describe in detail.)

SBA Form 413 (7a/504/5BG) (09-14) Previous Editions Obsolete	Page 2
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ATTACHMENT C

Exhibit 2

Section 8. Life Insurance Held. (Give face amount and cash surrender value of policies — name of insurance company and Beneficiaries.)

I authorize the SBA/Lender/Surety Company to make inquiries as necessary to verify the accuracy of the statements made and to determine my creditworthiness.

CERTIFICATION: (to be completed by each person submitting the information requested on this form)

By signing this form, I certify under penalty of criminal prosecution that all information on this form and any additional supporting information submitted with this form is true and complete to the best of my knowledge. I understand that SBA or its participating Lenders or Certified Development Companies or Surety Companies will rely on this information when making decisions regarding an application for a loan or a surety bond. I further certify that I have read the attached statements required by law and executive order.

Signature *Derek Del Curto*

Date 01/04/2016

Print Name Derek Del Curto

Social Security No. _____

Signature *Darin Del Curto*

Date 01/04/2016

Print Name Darin Del Curto

Social Security No. _____

NOTICE TO LOAN AND SURETY BOND APPLICANTS: CRIMINAL PENALTIES AND ADMINISTRATIVE REMEDIES FOR FALSE STATEMENTS:

Knowingly making a false statement on this form is a violation of Federal law and could result in criminal prosecution, significant civil penalties, and a denial of your loan or surety bond application. A false statement is punishable under 18 U.S.C. §§ 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 U.S.C. § 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally-insured institution, a false statement is punishable under 18 U.S.C. § 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000. Additionally, false statements can lead to treble damages and civil penalties under the False Claims Act, 31 U.S.C. § 3729, and other administrative remedies including suspension and debarment.

PLEASE NOTE

The estimated average burden time for the completion of this form is 1.5 hours per response. If you have questions or comments concerning this estimate or any other aspect of this information, please contact Chief, Administrative Branch, U.S. Small Business Administration, Washington, D.C. 20415, and Clearance Officer, Paper Reduction Project (3245-C198) Office of Management and Budget, Washington, D.C. 20503. PLEASE DO NOT SEND FORMS TO OMB.

ATTACHMENT C

Exhibit 2

PH 831-647-1258 • FAX 1-831-401-2290
90 PACIFIC STREET, SUITE 555-D • MONTEREY, CA 93940
CABRE CONSTRUCTION

December 16, 2015

Re: Del Curto Brothers Construction Company, Inc.

To Whom It May Concern:

I am writing this letter at the request of Darin Del Curto with whom I have had a business relationship that is focused on land development and construction. Private Capital Group, Inc. (PCG) is duly licensed and in good standing with the California Bureau of Real Estate. I am the President and the Broker of Record for PCG and have been in this business exclusively since 1979. PCG is in the business of arranging private money loans secured exclusively by Real Property in the State of California. One emphasis of this company is arranging loans to acquire land for development and construction.

Arranging and managing construction from the lenders point of view carries a higher degree of difficulty over placing a loan on a property that is already improved. The builder must produce a viable budget to build the structure and then must adhere to a stringent fund control regimen that assures the property improvements are built according to the draw system set forth. Releases are procured from each party working on the property during each phase of development in order to assure that the lender remains in a priority position throughout the duration of the project.

I am highly selective regarding the parties with whom I arrange development /construction loans. I limit this activity to only a few parties to include Del Curto Brothers Construction Company, Inc. I would take this occasion to give you the following recommendation:

Darin Del Curto has informed me that the City of Hollister is considering his company as a potential purchaser of a City owned property located downtown that is in need of development.

Both Darin and Derek Del Curto build a quality product and have been honest and forthright in every aspect of our relationship to date. I look forward each time to their next project because they have been able to stay on budget and have worked very well with our fund control system. Each and every time to date, that I have arranged a loan for them to build a project, the loan has either paid off early or on time.

As a general rule, I am very reticent to give recommendations; However I do want to recommend the Del Curto Brothers to you. If you do work with them on this project, in my opinion, the chances of success are excellent.

If you would like to speak with me directly, I am available during normal business hours at: 831-647-1258.

Sincerely,

James A. Petralia

ATTACHMENT C

Exhibit 2

Project Schedule

1.	<i>Site and architectural application submittal</i>	<i>May 1, 2016</i>
2.	<i>Completion of plans ready for submittal</i>	<i>November 1, 2016</i>
3.	<i>Plan check and revisions</i>	<i>May 1, 2017</i>
4.	<i>Building permit issued</i>	<i>May 30, 2017</i>
5.	<i>Grading and foundation completion</i>	<i>July 1, 2017</i>
6.	<i>Construction completed</i>	<i>March 1, 2018</i>
7.	<i>Final occupancy</i>	<i>April 1, 2018</i>

ATTACHMENT C

Exhibit 2

Statement of Qualifications

- 2006-2007: *4 lot split sub-division with construction of 4 ocean front beach homes.*
Development and construction of 10 homes ranging from 2400 S.F. to 3800 S.F. for real estate speculation.
- 2006-2008: *Development of 14 lot major sub-division with construction of 2400 S.F. homes.*
4 lot split sub-division with construction of 4 two story homes for real estate speculation.
- 2008-2012: *Complete construction of a 5500 S.F. Medical/office facility*
Obtain certification from Bank of America to renovate their extensive foreclosure list of homes for real estate speculation.
Contracted with several clients to construct their private residences ranging from 2500 S.F. to 4000 S.F.
- 2012-Present: *Development and construction of various homes ranging from 2100 S.F. to 3300 S.F. for real estate speculation.*
Development and under construction of two mixed use developments in Hollister.
We work with various sub-contractors whom have proven to us quality of workmanship and meeting required timelines on our projects. We have built a team of subcontractors whom will be employed on our proposed 400 block project. Derek and Darin Del Curto will be actively supervising all aspects of the construction process of our proposed project.

ATTACHMENT C

Exhibit 2

References

1. *Nino Development Inc. Mike Nino 330 Tres Pinos Rd. Hollister, Ca. (831) 635-0745*
2. *Ray and Peggy Pierce Real Estate 225 Sixth St. Ste D Hollister, Ca. (831) 801-2400*
3. *McKinnon Lumber John Barrett 375 Fifth St. Hollister, Ca. (831) 637-5767*

ATTACHMENT C

Exhibit 2

400 Block Proposal Sheet

This sheet shall be submitted with proposals and will be available to review immediately by all bidders. The City Clerk or Designee will read the information aloud to attendees. Please summarize.

Proposed Purchase Price \$ 390,000

Proposed Terms of Purchase USE EXISTING BUILDING
PERMIT

Proposed Use of Property MIXED USE

ATTACHMENT C

Exhibit 2



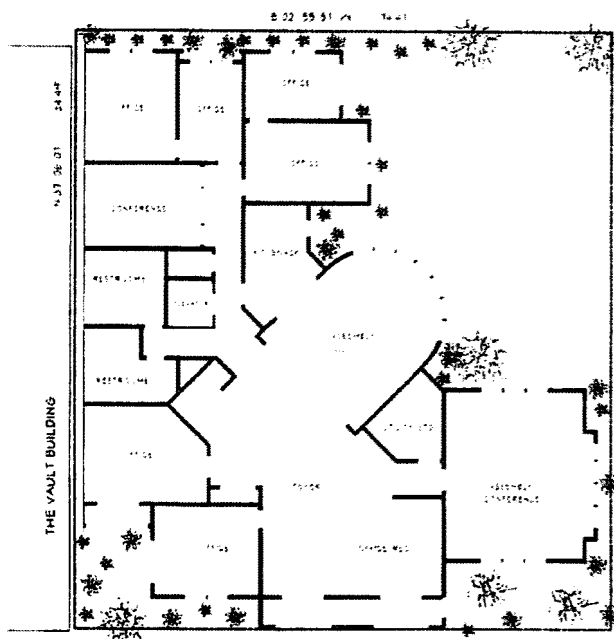
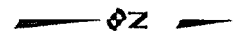
SAN BENITO STREET ELEVATION



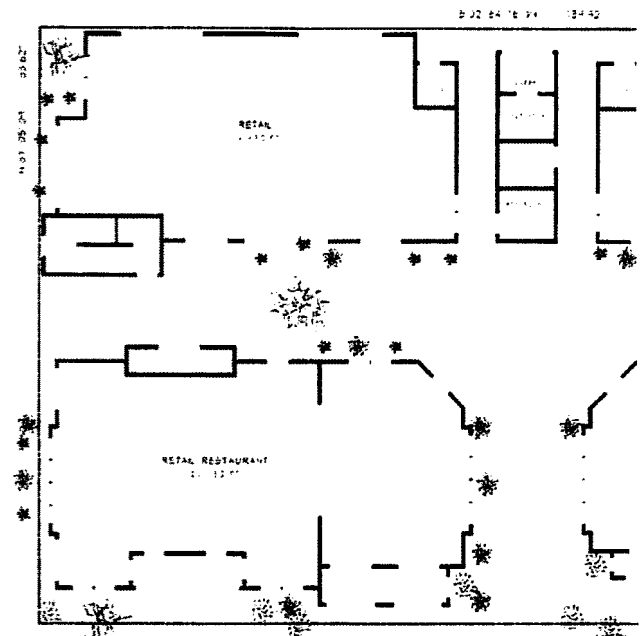
ATTACHMENT C

Exhibit 2

MUNICIPAL PARKING GARAGE

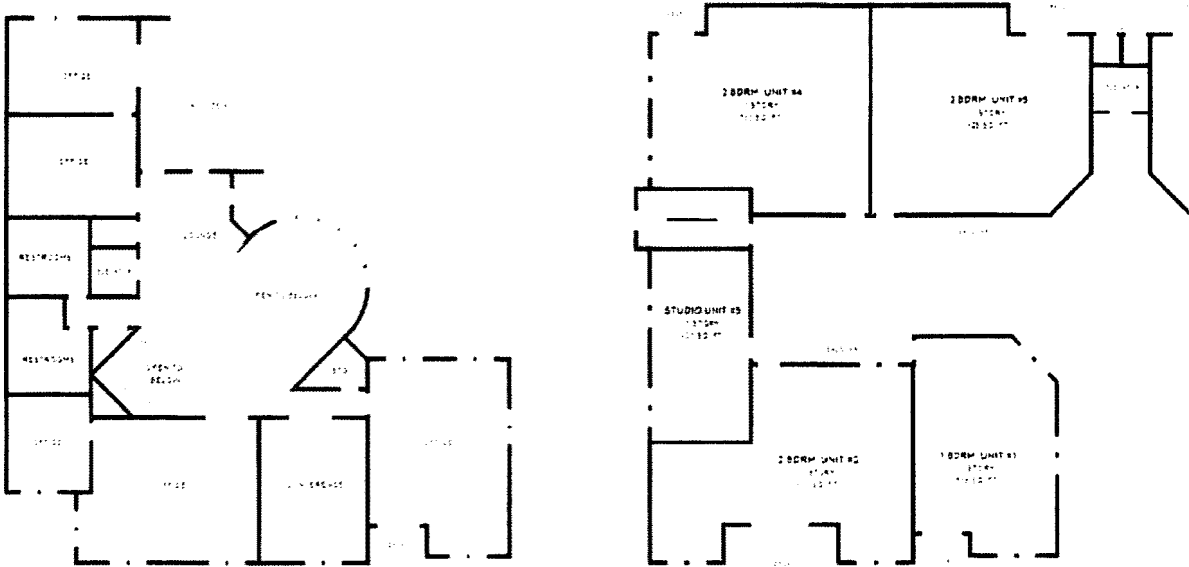


BRIGGS ALLEY



ATTACHMENT C

Exhibit 2



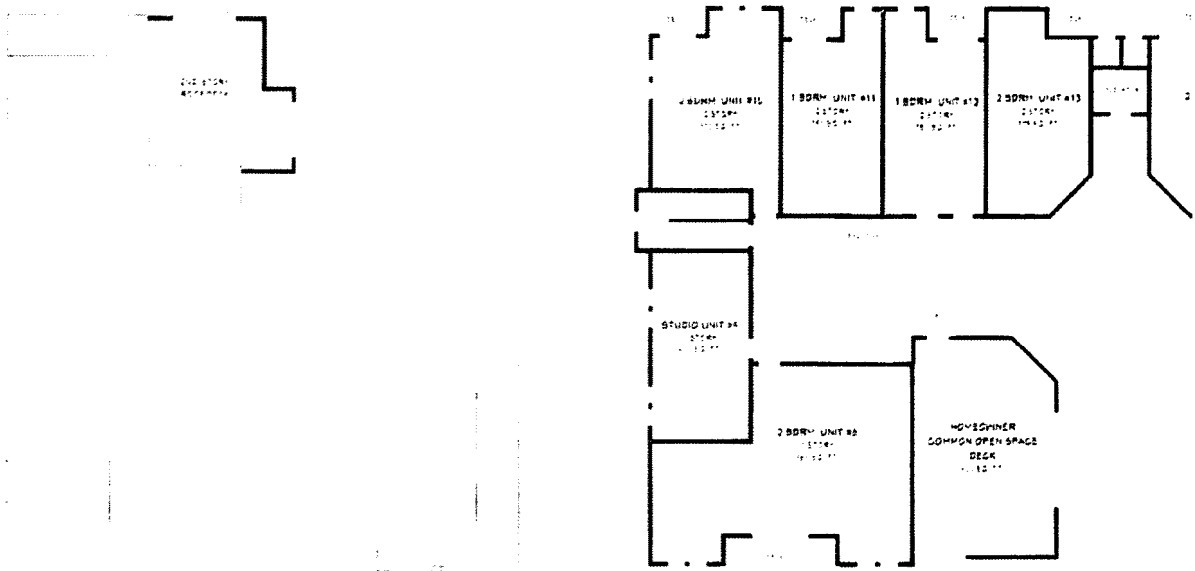
A SECOND LEVEL FLOOR PLAN
1/8"=1'-0"

BLDG 1

BLDG 2

ATTACHMENT C

Exhibit 2

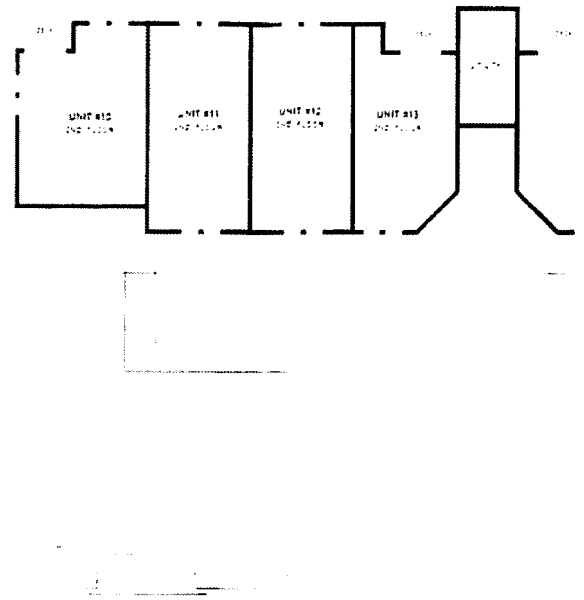


A THIRD LEVEL FLOOR PLAN
1/8"=1'-0"

ATTACHMENT C

Exhibit 2

BUILDING E



A

FOURTH LEVEL FLOOR PLAN

1/8" = 1'-0"