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AMENDED AND RESTATED COMMUNITY DEVELOPMENT PLAN FOR THE  
HOLLISTER REDEVELOPMENT PROJECT

Prepared by the  
Hollister Redevelopment Agency

Adopted on \_\_\_\_\_, by Ordinance No. \_\_\_\_\_

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# AMENDED AND RESTATED COMMUNITY DEVELOPMENT PLAN FOR THE HOLLISTER REDEVELOPMENT PROJECT AREA

## PART I. INTRODUCTION

This is the Amended and Restated Community Development Plan ("Plan") as amended by the Second Amendment ("Amendment"), for the Hollister Redevelopment Project Area ("Project Area"). This Plan amends, restates, and supersedes in its entirety the Community Development Plan hereto adopted for the Hollister Redevelopment Project ("Project"), and all amendments to such Plan previously adopted. Nothing in this Plan is intended to or shall affect in any manner the base year valuation for the Project determined in accordance with Section 33670 of the California Community Redevelopment Law. This Plan consists of text (Part I through Part XIII), Boundary Map (Exhibit A), a Legal Description (Exhibit B), a Land Use Map (Exhibit C), a list of Initially Proposed Actions and Projects (Exhibit D) and an Eminent Domain Map (Exhibit F).

This Plan has been prepared by the Hollister Redevelopment Agency ("Agency") pursuant to the Constitution of the State of California, the Community Redevelopment Law of the State of California ("Redevelopment Law"), and all applicable laws and local ordinances.

This Plan amends and supersedes the existing plan originally adopted on June 19, 1983, by Ordinance 611 and most recently amended on December 19, 1994 by Ordinance 856 to comply with AB 1290 ("Existing Plan"). The Amendment would amend the Existing Plan as follows: 1) Increase the Existing Plan's limit on the amount of tax increment revenue that may be collected by the Agency; 2) Increase the Existing Plan's existing limit on the amount of bonded indebtedness that may be outstanding at any one time; 3) Reestablish the Existing Plan's authority to acquire property by eminent domain; and 4) Update other technical provisions of the Existing Plan.

The proposed redevelopment of the Project Area as described in this Plan conforms to the General Plan for the City of Hollister, as applied in accordance with local codes and ordinances. This Plan is based upon the Preliminary Plan formulated and adopted by the Planning Commission of the City of Hollister on August 24, 2000.

This Plan provides the Agency with powers, duties and obligations to implement the program generally formulated in this Plan for the redevelopment, rehabilitation, and revitalization of the Project Area. This Plan does not present a specific plan or establish priorities for specific projects for the redevelopment, rehabilitation, and revitalization of any particular area within the Project Area. Instead, this Plan presents a process and a basic framework within which specific development plans will be presented, priorities for specific projects will be established, and specific solutions will be proposed, and by which tools are provided to the Agency to fashion, develop, and proceed with such specific plans, projects, and solutions.

Many of the requirements contained in this Plan are necessitated by and in accordance with statutory provisions in effect at the time of adoption of this Plan. Such statutory provisions

may be changed from time to time. In the event that any such statutory changes affect this Plan's terms, and would be applicable to the Agency, the Project Area, or this Plan, the terms of this Plan that are so affected shall be automatically superseded by such statutory changes, to the extent necessary to be in conformity with such statutory changes (and all other terms of the Plan shall remain in full force and effect).

## **PART II. GENERAL DEFINITIONS**

The definition of general terms contained in the Redevelopment Law shall govern the construction of this Plan, unless more specific terms and definitions therefore are otherwise provided in this Plan. In addition, the following specific definitions are used in this Plan:

A. "Agency" means the Hollister Redevelopment Agency.

B. "City Council" means the City Council of the City of Hollister, California.

C. "City" means the City of Hollister, California.

D. "Community Development or Community Redevelopment" means those activities provided for under the California Community Redevelopment Codes, included within the Health and Safety Codes Section 33000 et. Seq.

E. "County" means the County of San Benito, California.

F. "General Plan" means the City of Hollister General Plan, as it now exists or may hereafter be amended, and any specific plan(s) applicable to all or portions of the Project Area that may hereafter be in effect from time to time.

G. "Land Use Map" means the map setting forth the currently permitted land uses and major circulation routes in the Project Area. The Land Use Map is attached to this Plan as Exhibit C.

H. "Owner" means any person owning fee title to, or a long-term leasehold interest in Real Property (as defined below) within the Project Area.

I. "Owner Participation Rules" means the Rules for Business Tenant Preference and Owner Participation adopted by the Agency pursuant to the Redevelopment Law, as such Rules now exist or may hereafter be amended.

J. "Person" means any individual, or any public or private entity.

K. "Personal Property" means moveable property, chattels and any other property not part of real property.

L. "Plan", "Community Development Plan" or "Amended and Restated Community Development Plan" means this Community Development Plan for the Hollister Redevelopment Project, as it now exists or may hereafter be amended.

M. "Planning Commission" means the Planning Commission of the City of Hollister, California.

N. "Project" means the redevelopment activities undertaken in or for the benefit of the Project Area pursuant to this Plan.

O. "Project Area" means the area included within the boundaries of the Hollister Redevelopment Project Area, as shown on the Boundary Map (Exhibit A) and described in the Legal Description (Exhibit B).

P. "Real Property" means land, including land under water and waterfront property; buildings, structures, fixtures and improvements on the land; property appurtenant to or used in connection with the land; and every estate, interest, privilege, easement, franchise and right in land, including but not limited to rights-of-way, terms of years and liens, charges or encumbrances by way of judgment, mortgages or otherwise and the indebtedness secured by such liens.

Q. "Redevelopment Law" means the Community Redevelopment Law of the State of California (California Health and Safety Code Section 33000 et seq.).

R. "State" means the State of California.

S. "Zoning Ordinance" means the Zoning Ordinance of the City of Hollister, California, as it now exists or may hereafter be amended.

### **PART III. PROJECT AREA BOUNDARIES**

The Project Area consists of all properties within the boundaries shown on the Boundary Maps (Exhibit A) and described in the Legal Description (Exhibit B).

### **PART IV. COMMUNITY DEVELOPMENT AND REDEVELOPMENT GOALS AND OBJECTIVES**

#### **A. OVERVIEW OF GOALS AND OBJECTIVES**

The purpose of redevelopment is to eliminate serious physical, economic and social blight that burdens the community and which cannot reasonably be expected to be reversed or alleviated by private enterprise or government action, or both, without redevelopment. The Project Area exhibits a number of these conditions, which require the powers of redevelopment to address.

The Community Development Plan is designed to provide an effective set of legal and financial tools and techniques that will enable the City, the Agency, to build upon the strengths of the area—its environmental, historic, social and cultural resources and heritage, while overcoming its adverse physical, economic, and social conditions, to achieve the fundamental goals of the City of Hollister General Plan.

The legal and financial tools and techniques authorized in this Plan shall be used in a manner that will preserve and capitalize upon the environmental, historic, social and cultural resources of the area to the maximum extent possible consistent with revitalization of the Project Area as envisioned in the General Plan.

B. SPECIFIC GOALS AND OBJECTIVES

The Agency will utilize the authority of this Plan to achieve the following specific goals and objectives in furtherance of the purposes of the Redevelopment Law and the General Plan:

1. Provide a stable, diversified and larger economic base for the Project Area and community.
2. Conserve and improve existing public facilities and to provide such new facilities as needed for the full and complete revitalization of the Project Area.
3. Provide safer, more efficient and economical movement of persons and goods within the Project Area and community.
4. Provide additional housing opportunities in the Project Area and community.
5. Enhance the physical environment of the Project Area and to emphasize its favorable environmental characteristics.
6. Elimination and prevention of conditions of physical, economic and social blight and deterioration in the Project Area.
7. Conservation, rehabilitation and redevelopment of the Project Area in accordance with the General Plan, future specific or area plans, this Plan, and the Zoning Ordinance, as they now exist or may hereafter be adopted or amended.
8. The elimination of substandard buildings and those that conflict with uses proposed in the General Plan and the applicable City standards and guidelines, as they now exist or may hereafter be adopted or amended.
9. Creation of a strong commercial and industrial incentive program to encourage upgrading of commercial industrial buildings and to attract new uses to the area.

10. Achievement of an environment reflecting a higher level of concern for architectural, landscape, urban design and land use principles appropriate for attainment of the objectives of this Plan and the General Plan, as they now exist or may hereafter be adopted or amended.

11. Control of unplanned growth by guiding revitalization, rehabilitation and new development in such a fashion as to meet the needs of the Project, the City and its citizens.

12. Elimination or amelioration of constraints to development, including, without limitation, accessibility constraints that interfere with proper development by providing, as may be appropriate, street, interchange, and railroad overpass or other public improvements.

13. Elimination or amelioration of deficient or substandard public infrastructure conditions including insufficient off-street parking; deficient, undersized, or poorly located utilities; inadequate water, sewer, or fire protection facilities; or other similar public improvement deficiencies adversely affecting the Project Area.

14. Provision of assistance, as may be appropriate, to property owners, businesses, and investors to facilitate the rehabilitation or construction of buildings suitable for job generating commercial or industrial, and service uses.

15. Provision, as may be appropriate, of assistance to public and private development entities in the mitigation of environmental conditions that interfere with property development.

16. Promotion of new and continuing private sector investment within the Project Area to prevent the loss of and to facilitate an increase in industrial, and commercial service activity.

17. Creation and development of local job opportunities and preservation of the Project Area's existing employment base consistent with the General Plan.

18. Provision of assistance, as may be appropriate, to ensure the development, by rehabilitation or new construction, of a range of housing types affordable to various segments of the community, within the Project Area and elsewhere in the City in a manner consistent with the provisions of the General Plan and the Redevelopment Law, as they now exist or may hereafter be amended.

## **PART V. LAND USE REGULATIONS**

### **A. OVERVIEW OF REGULATIONS**

The City has adopted a General Plan, which is in full conformance with the State requirements for general plans.

The permitted land uses, land use standards, development goals, objectives and policies, and other evaluation guidelines of this Community Development Plan shall be those set forth in the General Plan, together with the specific redevelopment goals and objectives outlined in Part

IV above (which are consistent with and serve to implement the more general goals and objectives of the General Plan). It is further intended that all provisions of the Zoning Ordinance, as it now exists or hereafter be amended, shall be applicable to developments in the Project Area, and that all development in the Project Area shall comply with all applicable state and local laws, codes and ordinances in effect from time to time in the City, in addition to any requirements of the Agency imposed pursuant to this Plan.

Finally, the applicable City zoning and planning processes (including any moratoria or temporary development restrictions imposed by the City) shall continue to have full effect and shall continue to serve as the primary determinant for land use decisions in the Project Area. Without limiting the generality of the foregoing, and subject to the following paragraph, the Planning Commission, the City Council, City departments, and other City boards and commissions shall perform the same functions for consideration and approval or disapproval of development applications, permits and other entitlements for properties within the Project Area that are subject to this Community Development Plan, as for properties outside the Project Area that are not subject to this Community Development Plan.

The City Council may, in its discretion through appropriate future legislation, amend applicable City planning or building codes and standards to provide for modified or streamlined processing of development applications within redevelopment project areas or other special zones. Any such amendment of City planning and building codes and standards shall thereafter apply to the processing of development applications in the Project Area in accordance with the terms of such amendment.

#### B. PERMITTED LAND USES

As noted in the overview to this Part, this Community Development Plan adopts the land uses set forth in the General Plan as the permitted uses within the Project Area. It is intended that the land uses set forth in the General Plan now, or as they may hereafter be amended, shall be the land uses governing this Plan.

#### C. LAND USE MAP; PUBLIC RIGHTS OF WAY

##### 1. Land Use Map

The Land Use Map (Exhibit C) shows the current permitted land uses, major circulation routes and street layout, the location of property proposed to be devoted to public purposes within the Project Area. The specific types of uses and activities (including size, height, and number of buildings and dwelling units) permitted or conditionally permitted in each land use category mapped on the Land Use Map are those types of uses and activities (including size, height and number of buildings and dwelling units) described in the General Plan for the relevant land use category. The land uses shown on the Land Use Map are drawn from the Land Use Element of the General Plan and shall be deemed to be automatically modified as the Land Use Element of the General Plan may be revised from time to time in order to maintain conformance of this Community Development Plan with the General Plan, as provided in Sections A and B of

this Part.

2. Public Streets and Rights-of Way

All streets within the Project Area may be widened, altered, or vacated for purposes of development of the Project. New streets may be created as appropriate, consistent with the General Plan. The anticipated configuration of streets and public rights-of-way within the Project Area (including existing streets to be retained and their relationship to major public facilities) is shown on the Land Use Map (Exhibit C). These public rights-of-way may be used for vehicular and/or pedestrian traffic as well as for public improvements, public and private utilities, and activities typically found in public rights-of-way.

Additional public streets, alleys and easements may be created in the Project Area as appropriate for proper development, consistent with maintaining and enhancing the rustic, informal character of the area, as well as the natural environment. Existing streets, alleys and easements may be abandoned, closed or modified as necessary for proper development of the Project.

Any changes in the existing interior or exterior street layout shall be in accordance with the General Plan, the objectives of this Plan, and the City's design standards, and shall be effectuated in the manner prescribed by state and local law.

D. GENERAL CONTROLS AND LIMITATIONS

All real property in the Project Area is hereby subject to the goals, objectives, policies, controls and requirements of this Plan (which expressly incorporates the goals, objectives, policies, controls and requirements of the General Plan and the Zoning Ordinance). No real property shall be developed, rehabilitated, or otherwise changed after the date of adoption of the Plan except in conformance with the provisions of this Plan, the General Plan, the Zoning Ordinance, and all other applicable State and local laws and standards in effect from time to time.

1. New Construction

All new construction shall comply with all applicable State and local laws and standards in effect from time to time. Parking facilities shall be provided in accordance with the criteria set forth in the General Plan and the Zoning Ordinance, as they now exist or may hereafter be amended, and any additional standards adopted by the Agency pursuant to Section E below. All parking shall be paved and drained so that storm and surface water drainage from parcels will not cross public sidewalks. All parking spaces visible from the street shall be landscaped as necessary to prevent unsightly barren appearances. Off-street loading facilities, trash areas and any outdoor storage of materials approved by the City and/or Agency shall be adequately enclosed or screened by walls, landscaping, or other such enclosure consistent with the applicable City ordinances.

## 2. Non-Conforming Uses

The existence, continuation, renovation, repair, expansion, and replacement of nonconforming uses in the Project Area shall be governed by the applicable City land use regulations in effect from time to time.

## 3. Rehabilitation

Any structure within the Project Area, which will be retained as part of the Plan, shall not be altered, constructed, or rehabilitated unless it is done so in conformance with the General Plan, the Zoning Ordinance, all applicable codes, and any guidelines, which may be adopted by the Agency to assist in the implementation of the Plan. This conformity shall extend to the architectural character, the public spaces and other elements as required by the City and/or Agency.

## 4. Open Space/Landscaping

Park and recreational facilities as well as public open space shall be developed in a manner consistent with the goals set forth in this Plan. Open space and public areas as well as any public buildings, which may be necessary in providing services to the public, are permitted uses throughout the Project Area. The standards for open space to be provided within the Project Area will be set forth in the General Plan and the Zoning Ordinance, as they now exist and may hereafter be amended, and are included as part of the goals and objectives of this Plan. The precise amount of open space, if any, to be provided in the Project Area will depend on the particular plans for development submitted by developers of private property in the Project Area and approved by the City. Landscaping plans for development projects shall be submitted to the City for review and approval.

## 5. Height and Bulk

The height and bulk of structures shall be regulated as provided in the General Plan and the Zoning Ordinance, as they now exist or as they may hereafter be amended, and such additional standards as may be adopted by the Agency pursuant to Section E below.

## 6. Density

The maximum permitted density of development on any building site shall be regulated as provided in the General Plan and the Zoning Ordinance, as they now exist or may hereafter be amended, and such additional standards as may be adopted by the Agency pursuant to Section E below.

## 7. Signs

Exterior signs necessary for the identification of buildings and premises shall be as permitted by the General Plan and the Zoning Ordinance, as they now exist or may hereafter be

amended, provided that they comply with any design criteria established for the Project Area. The Agency may require that the complete sign program for a development and such additional standards as may be adopted by the Agency pursuant to Section E below be reviewed by the Agency staff, as well as the Planning Commission, prior to the erection or installation of signs in any part of the Project Area.

#### 8. Nondiscrimination and Nonsegregation

As more fully set forth in Part VI below, there shall be no discrimination or segregation based on race, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry permitted in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of property in the Project Area.

#### 9. Resubdivision of Parcels

After rehabilitation and development pursuant to this Plan, no parcel in the Project Area, including any parcel retained by a conforming owner or participant shall be subdivided without the approval of the City.

#### 10. Variances

In the event the City grants a variance from applicable City land use regulations for development of a parcel within the Project Area, such grant of variance shall be deemed to constitute a comparable variance from the land use standards of this Plan without additional action by the Agency.

In addition, the Agency is authorized to permit variances from any development standards adopted by the Agency pursuant to Section E below or any affordable housing regulations or policy guidelines adopted by the Agency pursuant to Section H below. In order to permit such a variance the Agency must determine that:

- a. The application of one or more of the provisions of such Agency development standards, regulations or policy guidelines would result in unnecessary hardship to the property owner;
- b. There are exceptional circumstances or conditions applicable to the property or to the intended development of the property which do not apply generally to other properties having the same standards, restrictions and controls;
- c. Permitting a variance from the limits, restrictions, or controls of such Agency development standards, regulations or policy guidelines will not be materially detrimental to the public welfare or injurious to property or improvements in the area;
- d. Permitting a variance from the limits, restrictions or controls of such Agency development standards, regulations or policy guidelines will not be contrary to the objectives of this Plan; and

e. The grant of variance by the Agency will not result in development that conflicts with applicable City land use standards.

No such variance shall be granted which changes a basic land use pursuant to this Plan or which permits other than a minor departure from the provisions of this Plan. In permitting any variance, the Agency shall impose such conditions as are necessary to protect the public health, safety, and welfare and to assure compliance with the objectives of the Plan.

E. ADOPTION OF ADDITIONAL STANDARDS FOR DEVELOPMENT

Within the limits, restrictions and controls established in the General Plan, the Zoning Ordinance, and this Plan, the Agency is authorized to establish and adopt, by appropriate resolution, specific guidelines and/or standards for building heights, building coverage, design criteria, architectural character, landscaping character, sign character, traffic circulation ingress and egress, parking, and any other development and design control necessary to implement the Plan. Such guidelines and/or standards may relate to both private and public areas within the Project Area. No new development shall be constructed and no existing improvements shall be substantially modified, altered, repaired, or rehabilitated except in accordance with such adopted guidelines and/or standards for development. The Agency shall not approve plans, which do not comply with any adopted guidelines and/or standards for development.

F. BUILDING PERMITS

No permit shall be issued for the construction of any new building or for any construction on an existing building in the Project Area from the date of adoption of this Plan until the application for such permit has been made and processed in a manner consistent with all City requirements.

The Agency is authorized to establish permit procedures and approvals in addition to those set forth above where required for the purposes of this Plan. Where such additional procedures and approvals are established, a building permit shall be issued only after the applicant for same has been granted all approvals required by the City and the Agency at the time of application. See page 36 of existing Plan-call Billy to see if he wants it changed.

G. DWELLING UNITS

In compliance with the Health and Safety Code Section 33333(c), and as provided in Sections B, C.1 and D.6 of this Part V, the maximum number of dwelling units in the Project Area shall be regulated as provided in the General Plan and the Zoning Ordinance, as they now exist or may hereafter be amended.

H. AFFORDABLE HOUSING

To the extent, that new residential development or substantial rehabilitation occurs within the Project Area and if permitted by applicable General Plan and Zoning Ordinance provisions,

the Agency shall ensure compliance with the provisions of Health and Safety Code Section 33413(b) requiring that specified percentages of all new or substantially rehabilitated dwelling units developed in the Project Area (if any) be available at affordable housing cost to households in specified income categories for specific durations of time. Such adopted Agency regulations and/or policy guidelines shall be applicable and enforceable by the City and the Agency under this Plan with respect to parcels developed with new or rehabilitated residential structures in the Project Area regardless of whether such parcels are developed with Agency assistance or participation.

I. MITIGATION MEASURES

By concurrent resolution (Resolution No. \_\_\_\_\_; the "EIR Resolution") adopted in connection with certification of the Environmental Impact Report for this Plan (the "EIR"), the City Council and the Agency adopted specified environmental mitigation measures (the "Mitigation Measures") to be implemented as part of this Plan to minimize potential adverse environmental impacts of the Plan. The Mitigation Measures are based, in substantial part, on the mitigation measures identified in the EIR.

The Mitigation Measures are hereby incorporated into this Plan by this reference and shall be implemented by the Agency, the City, or individual property owners/developers, as appropriate, in connection with public and private actions undertaken pursuant to this Plan (including in connection with City land use approvals for developments in the Project Area during the effectiveness of this Plan).

Each individual public activity/improvement or private development action within the Project Area and/or in furtherance of this Community Development Plan that will require a discretionary approval by the Agency or the City will, at a minimum, be subject to a preliminary California Environmental Quality Act (CEQA) review to determine if the activity, improvement or development action then requires preparation of a negative declaration, a mitigated negative declaration or a subsequent or supplemental environmental impact report in accordance with the applicable standards of CEQA and the CEQA guidelines.

**PART VI. REDEVELOPMENT TECHNIQUES TO ACHIEVE PLAN OBJECTIVES**

The development of the Project will be undertaken in accordance with the provisions of the Redevelopment Law. The Agency proposes to use the redevelopment techniques set forth in this Part VI and the Redevelopment Law to achieve the goals and objectives of the Plan set forth in Part IV above.

Among the programs and projects that may be implemented by the Agency using the techniques set forth in this Part VI and the Redevelopment Law are those described in Exhibit D, the Initially Proposed Actions and Projects. Exhibit D lists redevelopment programs and projects that appear, at the time of Plan adoption, to have significant potential for achieving the goals and objectives of the Plan. As redevelopment needs and opportunities evolve over the life of the Plan, the Agency may determine not to undertake certain programs or projects listed in

Exhibit D, and/or to undertake other programs and projects consistent with this Plan and the Redevelopment Law that are not listed in Exhibit D.

A. PUBLIC IMPROVEMENTS

As more fully set forth in Health and Safety Code Sections 33445 and 33679, the Agency is authorized to install and construct or cause to be installed and constructed the public improvements and public utilities (within or outside the Project Area) necessary to carry out this Plan. Such public improvements and public utilities include, but are not limited to, the construction, expansion, rehabilitation or modernization of over-or underpasses, bridges, streets, curbs, gutters, sidewalks, public gateway and signage features, street lights, sewers, sewage treatment facilities, waste water or septic tank disposal areas, storm drains, flood control facilities, traffic signals, electrical and other energy distribution and generation systems, communication systems, fiber optic systems, fire fighting facilities, police and criminal justice facilities, educational facilities, community and civic centers, natural gas distribution systems, water treatment and distribution systems, other public buildings, parks and open space areas, if any, off-street parking, plazas, landscaped areas, and undergrounding of existing utilities. Anticipated public improvements, facilities and utilities that may be installed or constructed, or caused to be installed or constructed, by the Agency include, but are not limited to, those public improvements, facilities and utilities set forth in the attached Exhibit D, the Initially Proposed Actions and Projects.

Without limiting the generality of the financing techniques available to the Agency under this Plan as set forth in Part VII, Section A below, among the techniques the Agency may employ to cause the financing and construction, expansion, rehabilitation, or modernization of the above-referenced public improvements and public facilities is participation in payments to assessment districts, Mello-Roos community facility districts, or other similar districts established pursuant to applicable law to finance construction, expansion, rehabilitation, or modernization of such public improvements and public facilities.

B. PROPERTY ACQUISITION

1. Acquisition of Real Property

Except as specifically limited herein (see paragraphs a., b., and c. below regarding limitations on the Agency's eminent domain power), the Agency may, but is not required to, acquire or obtain options to acquire all real property located in the Project Area by gift, devise, exchange, purchase, eminent domain or any other lawful method whatsoever except that the Agency power of eminent domain is limited to properties depicted on the Map attached as Exhibit F. The Agency may also acquire any other interest in real property less than a fee interest.

Since it is in the public interest and is necessary for the elimination of those conditions requiring redevelopment, the power of eminent domain may be employed by the Agency to acquire real property in the Project Area. The power of eminent domain shall not be exercised

on properties not shown on Exhibit F or, however, when the conditions described in either subdivision a. or b. or c. below exist:

a. The property in question is owned by a public body and that public body has not consented to the exercise of the power of eminent domain by the Agency; or

b. The property in question is improved with a structure and, although not conforming to the Plan, the Agency has determined that the property and the structure can so conform pursuant to an owner participation agreement and that the owner is faithfully performing under the terms of the owner participation agreement; or

c. The property in question is improved with a structure and, in the sole determination of the Agency, all of the following are true:

(1) The property is not needed for those specific activities outlined in the Plan, including for development by a master developer pursuant to Section C.2 below; and

(2) The property is not needed for the development of replacement housing for those displaced by Agency activity, if any; and

(3) The property is not needed for any other public improvement or facility; and

(4) The property is not needed to promote historical or architectural preservation; and

(5) The property is not needed to remove a blighting influence on surrounding properties which prevents achievement of the objectives of this Plan; and

(6) The property is not needed for the elimination of environmental deficiencies including among other things, inadequate circulation, access or street layout, hazardous materials, incompatible and mixed uses, overcrowding and small parcel size; and

(7) The property is not needed for the removal of impediments to land development and disposition through assembly of land into appropriately sized and shaped parcels served by improved circulation and utilities.

Notwithstanding the foregoing limitations, the Agency may, with the prior written consent of the affected property owner, use the power of eminent domain to acquire property within the Project Area that is otherwise excluded from the exercise of the power of eminent domain for those properties located outside of the boundaries identified on Exhibit F but within Project Area boundaries or noted above.

The Agency must commence eminent domain proceedings with respect to any property, which it intends to acquire within twelve (12) years of the date of adoption of the ordinance approving this Second Amendment to the Community Development Plan including such

