

COMMUNITY BENEFITS AGREEMENT

between

CONTRA COSTA COUNTY and

DISCOVERY BUILDERS INC.

(County File Nos. CDGP04-00013, CDRZ04-03148, CDS04-08809, CDDP04-03080)

This Community Benefits Agreement (“Agreement”) is entered into as of _____, 2022 (“Effective Date”) by and between Contra Costa County (“County”), a political subdivision of the State of California, and Discovery Builders Inc. (“Developer”), a California corporation.

RECITALS

A. On _____, 2022, the County Board of Supervisors certified the environmental impact report and approved Developer’s Bayview Estates Residential Project (the “Project”), a 144-unit single-family residential development located in the unincorporated Vine Hill/Pacheco area, including a General Plan amendment (CDGP04-00013), a rezoning (CDRZ04-03148), a vesting tentative map (CDS04-08809), and a preliminary and final development plan (CDDP04-03080).

B. In addition to the discretionary land use approvals already obtained from the County, Developer intends to obtain County building permits necessary to construct the Project.

C. The County seeks to repair its sidewalks and related pedestrian improvements from the intersection of Arthur Road, Palms Drive, and Leabig Lane to and including the pathway from Karen Lane to Las Juntas Elementary School, which will facilitate implementation of policies set forth in the County's Safe Route to School Program.

D. The Project approval contains Condition of Approval No. ___ that requires Developer to design and construct sidewalk and path improvements and enhanced pedestrian crosswalks along Arthur Road and Karen Lane from the intersection of Arthur Road, Leabig Lane, and Palms Drive to and including the pathway from Karen Lane to Las Juntas Elementary School (collectively, the “Enhanced Pedestrian Improvements”). Construction of the Enhanced Pedestrian Improvements is required to be completed prior to issuance of a building permit for the Project’s 49th residential unit. However, the Director of Conservation and Development (the “Director”) may authorize the issuance of additional building permits before the Enhanced Pedestrian Improvements are completed.

E. Due to its location and surrounding uses, the Project is a unique residential development with unique impacts on the community.

AGREEMENT

NOW THEREFORE, Contra Costa County and Developer agree as follows:

1. Purpose. The purpose of this Agreement is to memorialize Developer’s commitment to making

a community benefits contribution to the County on a per-residential unit basis as building permits are issued for residential units of the Project. The foregoing recitals are correct and incorporated by reference into the Agreement terms.

2. Community Benefits Payments.

a. Developer shall pay \$2,000,000 to the County, less the actual design, construction, and other costs incurred by Developer to complete the Enhanced Pedestrian Improvements (in total, the “CB Amount”).

b. Developer shall pay the CB Amount, including all CPI increases to the CB Amount, on a per-residential unit basis as follows:

i. For each building permit issued by the County for the Project, up to and including the building permit for the Project’s 48th residential unit, Developer shall make a payment of \$10,417, plus the applicable CPI increase (each an “Initial CB Payment”). The parties acknowledge that this calculation of the Initial CB Payment assumes that the actual costs incurred by Developer to complete the Enhanced Pedestrian Improvements will be \$500,000, and that the true actual costs (whether greater or less than \$500,000) will be accounted for in the calculation of the Recalculated CB Payment below.

ii. If the Director authorizes the issuance of additional building permits after the building permit for the Project’s 48th residential unit is issued but before the Enhanced Pedestrian Improvements are completed (each, an “Additional Building Permit”), Developer shall pay an Initial CB Payment to the County for each Additional Building Permit issued by the County.

iii. Beginning with the building permit issued for the Project’s 49th residential unit, or the first building permit issued after the Enhanced Pedestrian Improvements are completed, whichever occurs later, and for each subsequent building permit, Developer shall make a payment equal to the following (each a “Recalculated CB Payment”):

$$\frac{\left[\left(\text{Principal amount of the CBA Amount remaining unpaid} \right) - \left(\text{Actual cost incurred by Developer to complete the Enhanced Pedestrian Improvements} \right) \right]}{\left[96 - \left(\text{Number of Additional Building Permits issued by the County, if any} \right) \right]}$$

c. Beginning on January 1, 2024, and on each January 1 thereafter, the principal amount of the CB Amount remaining unpaid, if any, shall increase by any increase in the Consumer Price Index for the San Francisco-Oakland-Hayward Combined Statistical Area (U.S. Bureau of Labor Statistics) for the 12-month period ending on the October 31 immediately preceding the January 1 when the increase takes effect.

d. Developer may pre-pay all or any portion of the CB Amount, plus the applicable CPI increase, without penalty.

3. Verification of Developer’s Actual Costs. When the Enhanced Pedestrian Improvements are completed, Developer shall provide the County with documentation of the actual costs incurred by Developer, including but not limited to, an accounting of contracts executed, purchases made, and developer’s staff time spent to design, construct, and otherwise complete of the Enhanced Pedestrian Improvements. At the County’s request, Developer shall provide additional documentation or information necessary for the County to calculate the Recalculated CB Payment amount.
4. Use of Payments. The County shall, in its sole discretion, allocate funds received pursuant to this Agreement to benefit the local community.
5. Notices. All payments, notices, demands, and other communications made under this Agreement shall be in writing and personally delivered, sent by overnight carrier with delivery charges prepaid for next business day delivery, or sent by First Class U.S. Mail with postage prepaid, and addressed as follows:

To County: Director of Conservation and Development
 30 Muir Road
 Martinez, CA 94553

To Developer: _____

A payment, notice, demand, or other communication shall be deemed given on the same day it is personally delivered, on the next business day following deposit with and overnight carrier, or on the fifth day after deposit in the U.S. Mail. A party may change its address for delivery of notices under this Agreement by providing written notice of the change in accordance with this section.

6. Assignment. Developer’s obligations under this Agreement shall be binding upon Developer’s successors and assigns. Developer shall not assign this Agreement, or any of its obligations under this Agreement, to any other person or entity without the advance written approval of the County, which shall not be unreasonably withheld. If Developer sells, conveys, or otherwise transfers ownership of the Project to a third-party, Developer shall require that third-party to accept an assignment of this Agreement. Notwithstanding the above, County consent to assignment or other transfer under this Section shall not be required for an assignment or transfer resulting from corporate reorganization, restructuring, merger, or name change involving Developer and affiliated entities, so long as there is no substantial change in the management or control of Developer, and Developer provides County with prior notice of the assignment.
7. No Third-Party Beneficiaries. Nothing in this Agreement confers and rights or obligations on any person or entity that is not a party to this Agreement.
8. Counterparts. The Agreement may be executed in counterparts.

- 9. Governing Law. This Agreement shall be governed by the laws of the State of California.
- 10. Notwithstanding anything in this Agreement to the contrary, no obligations contained in this Agreement shall arise unless and until the Project is approved and all applicable statutes of limitation have passed without legal challenge or, if a legal challenge arises, the subject lawsuit is resolved in a manner favorable to the County and Developer and that allows for construction of the Project.

The County and Developer have executed this agreement as specified below.

CONTRA COSTA COUNTY

DISCOVERY BUILDERS INC.

Name: _____
Title: _____
Date Signed: _____

Name: _____
Title: _____
Date Signed: _____