



# City of San Leandro

Meeting Date: June 19, 2017

## Staff Report

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**File Number:** 17-344

**Agenda Section:** ACTION ITEMS

**Agenda Number:** 10.C.

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** Staff Report for Resolution Authorizing the City Manager to Execute a Purchase and Sale Agreement with David Langon Construction, Inc. for Sale of Successor Agency-owned property at 1595 Washington Avenue (APN: 075-0005-011-01) and 268 Parrott Street (APN: 075-0005-012-00).

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### SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council serving in its capacity as the Board of Directors of the Successor Agency to the Redevelopment Agency of the City of San Leandro (Successor Agency) approve a Resolution authorizing the City Manager, acting as the Executive Director of the Successor Agency, to execute a Purchase and Sale Agreement with David Langon Construction, Inc. for sale of Successor Agency-owned property at 1595 Washington Avenue and 268 Parrott Street, in keeping with the Successor Agency's Long Range Property Management Plan.

### BACKGROUND

The properties at 1595 Washington Avenue and 268 Parrott Street ("Properties") jointly comprise a 0.42 acre development site. The Redevelopment Agency of the City of San Leandro (RDA) purchased 1595 Washington from the East Bay Municipal Utility District (EBMUD) in 2004. The property was purchased with an office building, however the building was subsequently demolished. The City of San Leandro purchased 268 Parrott Street in 1998 and subsequently transferred it to the RDA so that the properties could be developed together.

In the City's 2007 Transit-Oriented Development Strategy, the Properties were identified as a strategic development opportunity site. Additionally, the Redevelopment Agency's 2010-2014 Implementation Plan includes a goal to redevelop the properties to "provide mixed-use retail and multi-family residential consistent with the TOD Strategy." Such a project has the potential to build upon additional new development in Downtown San Leandro and to positively impact the greater area.

The Properties are among 22 properties that were owned by the Redevelopment Agency of the City of San Leandro at the time of its dissolution in February 2012 (as required by ABx1 26, amended by AB 1484 and SB 107). Pursuant to the redevelopment dissolution statutes, ownership of these properties transferred to the Successor Agency to the Redevelopment Agency of the City of San Leandro (“Successor Agency”). The City of San Leandro serves as the Successor Agency, with the City Council acting as the Board of Directors .

The Successor Agency is now responsible for disposition of properties owned by the former RDA. On December 30, 2015, the California Department of Finance approved the Successor Agency’s Long Range Property Management Plan, which establishes a plan for transferring or selling the real property assets that were owned by the RDA.

## **Analysis**

### **Request for Proposals**

In accordance with the Long Range Property Management Plan, on November 28, 2016, the Successor Agency released a Request for Proposals (RFP) for purchase and development of the Properties. The RFP included information about the City’s vision for development, zoning and other regulations, submittal requirements, and selection criteria. Respondents were requested to submit detailed proposals for development of the site, as well as information about their development team and project timeline.

The RFP was widely marketed to architects and developers, including the Economic Development and Request for Proposals pages of the City’s website, the San Leandro Next blog, and online commercial realty sites including Oppsites CoStar, Loopnet and ICSC (the International Council of Shopping Centers). Staff worked with Larry Bell, a Vice President at Transwestern, as the listing agent and broker for the Properties; Mr. Bell assisted in marketing to potential developers. Mr. Bell reached out to over 250 developers in California and City staff reached out directly to approximately 50 others. The goal of the process was to ensure that a large number of qualified developers were aware of this opportunity.

Responses to the RFP were due on February 28, 2017 and three offers were received for this site. City staff and the listing agent held interviews with all three respondents to gain more information about their proposals for the site and development expertise. The three responses proposed various mixed-use commercial and residential uses for the site. Proposals were evaluated based upon the following selection criteria:

- Proposed vision and design that works towards the goals and policies of the City
- Quality of development team and its experience
- Proposed Price
- Financial ability to fund development
- Incorporation of sustainable design

### **Developer Selection**

After a careful review of the offers and interviews, David Langon Construction, Inc. was found to provide a proposal that best meets the selection criteria and goals for the site. Langon

Construction specializes in moderate to medium density in-fill housing through redevelopment or vacant land.

Langon Construction proposes to build for sale market rate condos, and meet the City's 15% affordable requirement. The residential project includes a private fitness center, rooftop open space, outdoor amenities and grade level parking. The proposal also includes an approximately 3,000 square foot bar and grill style restaurant along Washington Avenue with outdoor seating. Mixed-use residential is permitted in the DA-1-Downtown Mixed Use Zoning District and ground floor retail is required along Washington Avenue.

Langon Construction was selected for the following reasons:

- Its proposal is in line with the City's Transit Oriented Development (TOD) strategy goals for Downtown, which strives to provide mixed-use retail and multi-family residential.
- The proposal's primary goal is to provide high quality condominiums that are for sale along with moderate and low income inclusionary units.
- Langon's experience working in San Leandro producing other high quality projects, such as Toscani Place and Arbor Place.
- Langon had an exclusive negotiating agreement with the RDA for development of the property in 2008 and already studied the property extensively, which should enable it to bring the proposed project to market expeditiously.
- A qualified and well-regarded architect with experience in in-fill and mixed use development design.
- Langon's proposal to build a restaurant meets an identified need in the downtown area and its team has experience constructing and operating restaurants.
- Langon offers a price that is competitive based upon other viable offers received.

### **Terms of Purchase and Sale Agreement**

Staff prepared a Purchase and Sale Agreement based upon the following key terms:

Purchase Price:	\$1,150,000
Deposit:	\$34,300, refundable only until the close of due diligence
Due Diligence:	90 days for buyer to investigate property details
Close of Escrow:	30 days following end of due diligence to complete sale
Extensions:	One (1) thirty (30) day extension. Additional \$10,000 deposit required -refundable and applicable toward sale price.
As Is:	A requirement that the property will be conveyed by Seller to Buyer in an "As Is" condition, with no warranty as to the physical condition including, but not limited to, the soil, its geology, or the presence of hazardous materials.

### **Next Steps**

The attached Resolution authorizes the City Manager, acting as the Executive Director of the Successor Agency, to execute a Purchase and Sale Agreement with David Langon Construction, Inc. for sale of Successor Agency-owned properties at 1595 Washington Avenue and 268 Parrott Street, in keeping with the Successor Agency's Long Range Property

## Management Plan.

Following the execution of the agreement, David Langon Construction will begin its due diligence period, during which it will perform additional investigation into the property and further planning for its redevelopment. Project review will likely involve major site plan review, which will evaluate elevations, floor plans, exterior materials, landscaping details and engineering plans. The proposed use is permitted by right so no additional planning entitlements are anticipated.

## **Previous Actions**

- On November 2, 2015, the Successor Agency approved the Long Range Property Management Plan, establishing a plan for transferring or selling the real property assets that were owned by the Redevelopment Agency.
- On December 24, 2015, the Oversight Board to the Successor Agency approved a Resolution confirming the obligation of the Successor Agency to the City of San Leandro to deliver proceeds from future disposition of the property at 268 Parrott Street to the City of San Leandro and making a finding that the agreement was made for legitimate redevelopment purposes.

## **Environmental Review**

The requirement for environmental review will be determined as part of the entitlement process as plans for the site are further developed by the selected developer.

## **Legal Analysis**

The Purchase and Sale Agreement with David Langon Construction, Inc. was reviewed by the City Attorney and approved as to form.

## **Fiscal Impacts**

The sale of these Successor Agency-owned property will result in new, unrestricted revenue to the City's General Fund once the transaction is completed. Proceeds from the sale of the two parcels will be allocated on a per-square-foot basis. Proceeds from the sale of 268 Parrott Street are owed to the City of San Leandro. Per the 2008 Conveyance Agreement, which transferred the property at 268 Parrott Street from the City of San Leandro to the Redevelopment Agency, "when the Agency disposes of the Property to another party, any and all funds the Agency derives from such disposition of the Property shall be paid to the City." Proceeds from the sale of 1595 Washington Street will be remitted to the Alameda County Auditor-Controller for distribution to the local taxing entities, with the City of San Leandro receiving approximately 12%. The estimated revenue to the City of San Leandro will be approximately \$540,000, less a broker's commission and applicable closing costs.

## **ATTACHMENTS**

### **Attachment to Staff Report**

- Proposal by David Langon Construction, Inc. for purchase and development of 1595 Washington Avenue and 268 Parrott Street.

**Attachment to Resolution**

- Purchase and Sale Agreement with David Langon Construction, Inc.

**PREPARED BY:** Katie Bowman, Economic Development Manager, and Mariana Garcia, Economic Development Specialist, Community Development Department

March 22, 2017

I am pleased to submit a revised proposal to purchase and develop the properties at:

1595 Washington Avenue, San Leandro  
268 Parrott Street, San Leandro

**A. *Purchase Price & Terms***

Purchase Price: \$1,150,000-

Buyer to have 90 days for due-diligence

Close of escrow to be 30 days at end of due-diligence

Seller to grant buyer 1-30-day extension for \$10,000-

Deposit of \$10,000- to be placed into escrow within 3 days of signed PSA agreement

Within 7 days seller to provide buyer with any plans, reports and any other documents  
in sellers possession

Offer is subject to buyer getting minimum approval of 28 units

**B. *Development Team Qualifications***

**Developer**

David Langon Construction  
3189 Danville Blvd., Ste. 245  
Alamo, CA 94507

(925) 946-1850

(510) 368-3263

**Firm Overview**

David Langon Construction has built a reputation for timeless design, enduring construction quality and community enhancement. The company currently specializes in moderate to medium density in-fill housing through redevelopment or vacant land. Each of our projects is unique by design, often setting a new standard in area housing trends and environmental planning.

At the heart of our business, we seek (1) strong communication with local planning agencies; (2) support of local residents; and (3) interest from qualified home buyers. Toward this pursuit, every new project must meet our high standards for:

Exceptional architectural design  
Highest quality workmanship  
Environmentally friendly building materials  
Energy efficient technology  
Approval by local agencies  
Neighborhood support

The company has a primary goal to build high quality homes with exceptional design and value. Each project begins with a study of needs within the community in order to determine the most beneficial design suited to the context of the surround environment. Our past projects have succeeded in adding intrinsic value to local neighborhoods. Meanwhile, we have earned the respect of individual homeowners through superior design, long-lasting construction and our exemplary customer service.

David Langon Construction was founded in 1997 by David Langon. The company is guided by his 25-year history in residential building industry, ranging from small subdivisions to high end multi-million dollar custom homes. Today, with award-winning designs, a seasoned management team and newly capitalized investments, David Langon Construction is positioned for exciting growth and new projects.

## **Experience**

### **San Leandro**

Arbor Place – Two Blocks to BART

Toscani Place – (Exhibit A)

Rehab-Englander/Parrot Center

### **Current Development**

(21) Units on Macarthur Boulevard

(3) Units on Castro

### **Castro Valley**

Magnolia Apartments: 40 Unit Apartment Building (Exhibit B)

### **Current Development**

\* Mixed Use on Redwood Road: (13) Town Homes over 6,000 square feet of Commercial Space (Exhibit C)

\* Mixed Use on Castro Valley Boulevard: (136) Units with 9,000 square feet of Retail Space (Exhibit D)

\* Both are with (2) Blocks of Castro Valley BART

### **Lafayette**

(9) Custom Lot Subdivision at Gloria Terrace

### **Newark**

(6) Town Homes

### **Hayward**

Lewelling: (14) Town Homes

Bartlett: (4) Single Family Homes

Penny Lane: (4) Single Family Homes

### **Walnut Creek**

North Main: (12) Unit Apartments

#### **Current Development**

\* Del Hombre: (19) Unit Condominium/Apartments – Across the Parking Lot from BART

### **References**

City of San Leandro

Cynthia Battenberg

Elmer Penaranda

Alameda County

Phil Sawery Kubichek – Senior Planner

Ken Carbone – Vice Chair M.A.C.

Contra Costa County

Francisco Avila – Senior Planner

### **Financial Viability**

David Langon will work with his group of equity partners to pay cash for property.

Would also like to have the option to use sale of other property to do a 1031 exchange.

## **C. *Project Proposal***

### **Project Description**

David Langon Construction will continue with the concept originally started while working with the Redevelopment Agency in 2010 (see attached plans). We plan to build 21-22 Units over 3,500' of restaurant space (per the attached plans). This will be a For Sale Market Rate Luxury Condominium Project. The units will be 1, 2 and 3 Bedroom Energy Efficient Units, with state of the art amenities and features. The building will host a private fitness center, rooftop open space and outdoor amenities. It will include 2 moderate and 1 low income inclusionary units as well. The ground floor will be built to host a boutique bar and grill type restaurant with outdoor seating, which will serve breakfast, lunch and dinner. We have built several restaurants and invested financially



in them. As a result, we have restaurateurs and investors ready and can ensure that the restaurant will go in!

### **Project Rationale and Strategy**

The fact that we are not just developers, but builders as well, will allow us to value engineer the design and then build with our in-house team of employees and subcontractors—with whom we have a twenty plus year relationship. This allows us to control costs and efficiency. With the rising cost of rents, there has been a lack of ownership for homeowners in the downtown area. Owners will be able to own these units for not much more than some are paying in rent. We want owners to be able plant roots in the City and have a of pride of ownership.

### **Sustainable Design**

With its proximity to downtown shopping, supermarkets, public transportation, BART and jobs, the location alone will reduce the need for cars. The design will incorporate energy efficient methods to reduce energy and water consumption.

### **Development Team**

The Development Team will be led by David Langon, with over 20 plus years' experience. He has built, developed and partnered with the City of San Leandro for the past 10 years.

The Design/Architect will be LCA Architects and the Civil Engineer will be apex Engineering, along with many other consultants—each bringing 20+ years in in-fill/mixed use development design. Our Marketing and Sales Team, will have input during the design phase in order to ensure unit layouts and design meet the need of current buyers.

### **Project Timeline**

Our goal is to secure entitlements and close escrow by the end of year 2017. Weather permitting and City Ordinance allowing, we will start construction in early 2018. Marketing and sales will begin in the summer of 2018, with project completion and move-in slated for early 2019.

Let me know if you need more information? I look forward to hearing back from you!



David Langon



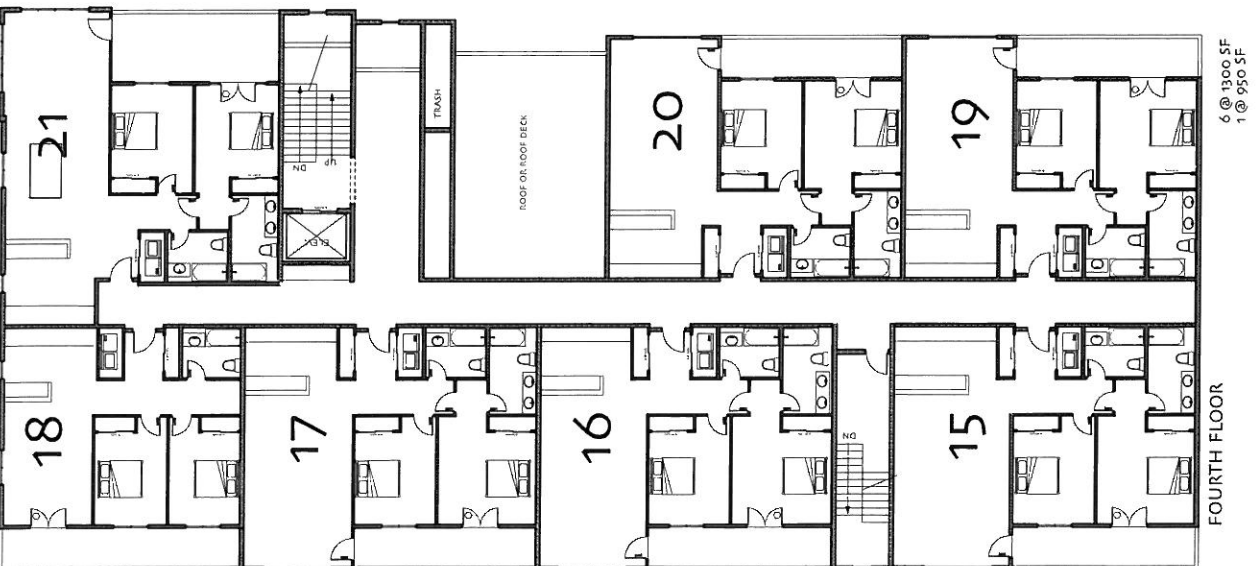
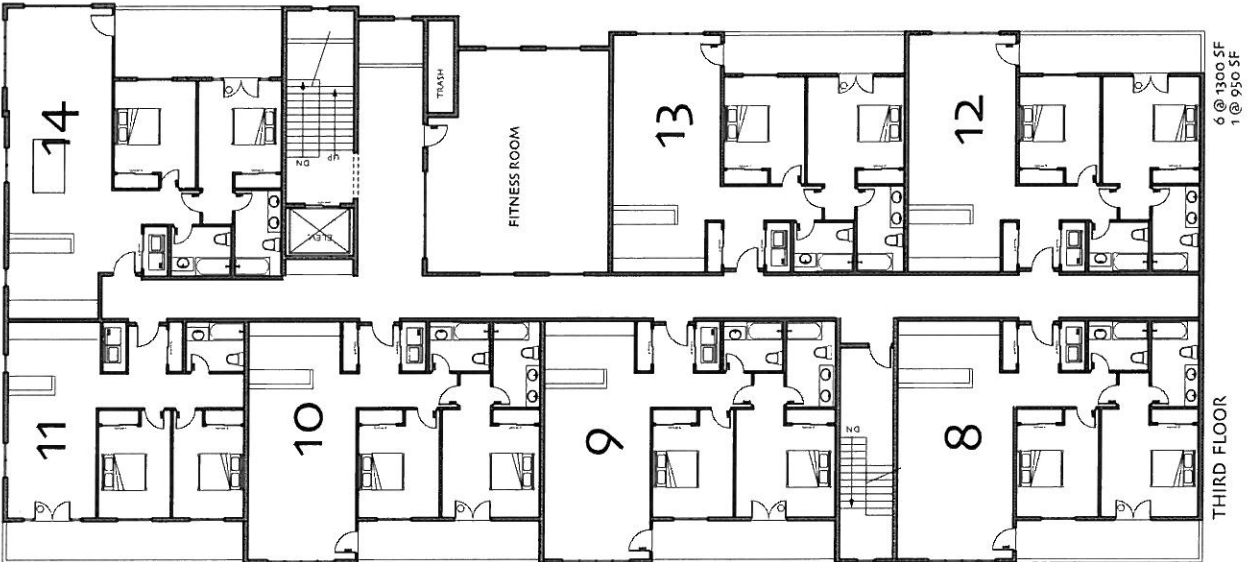
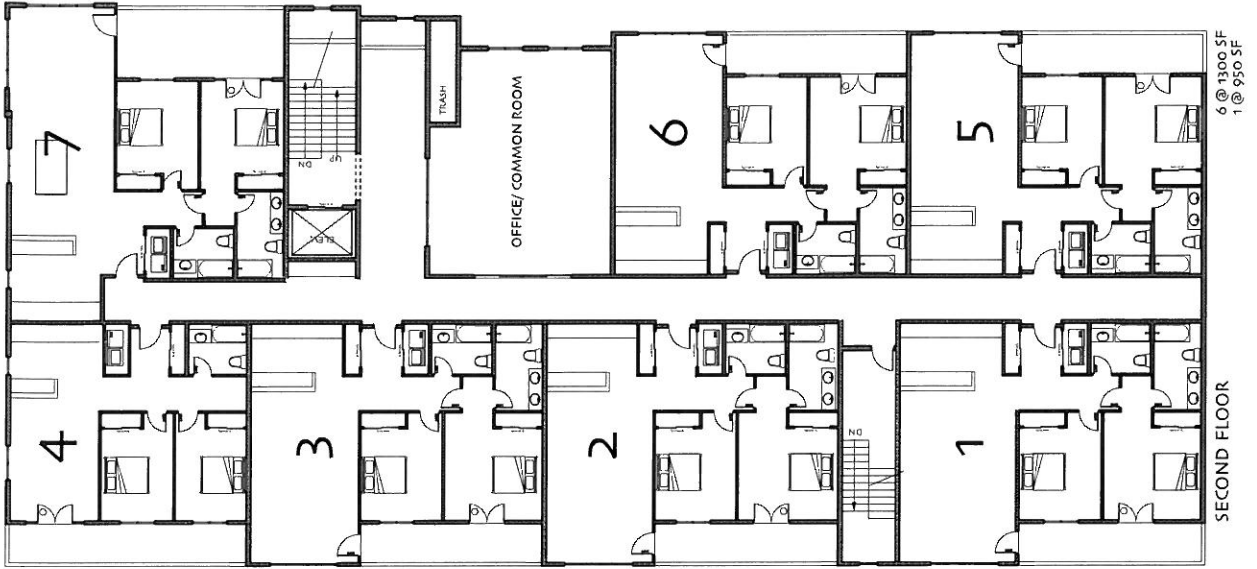
WASHINGTON AVENUE ELEVATION

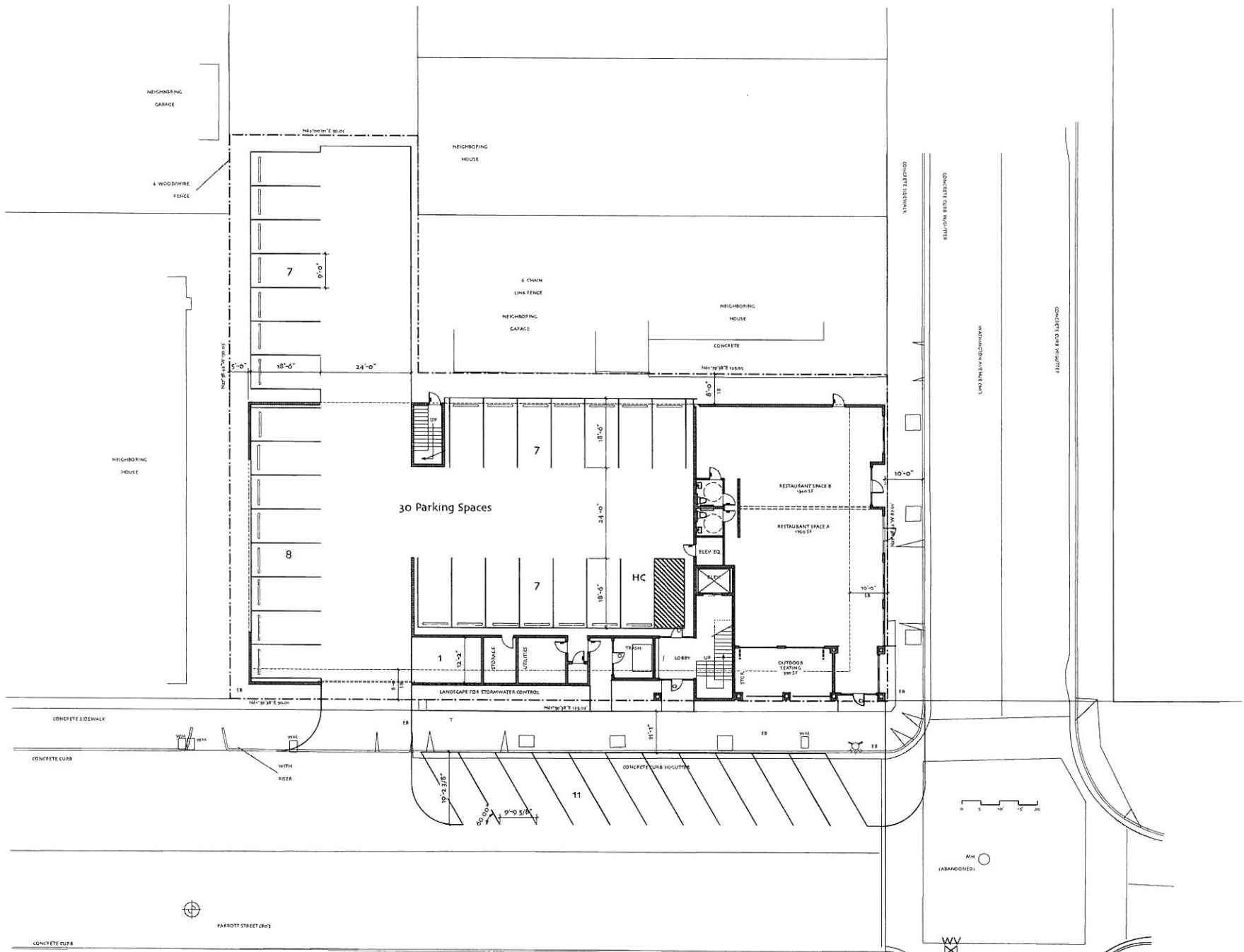


PARROTT STREET ELEVATION

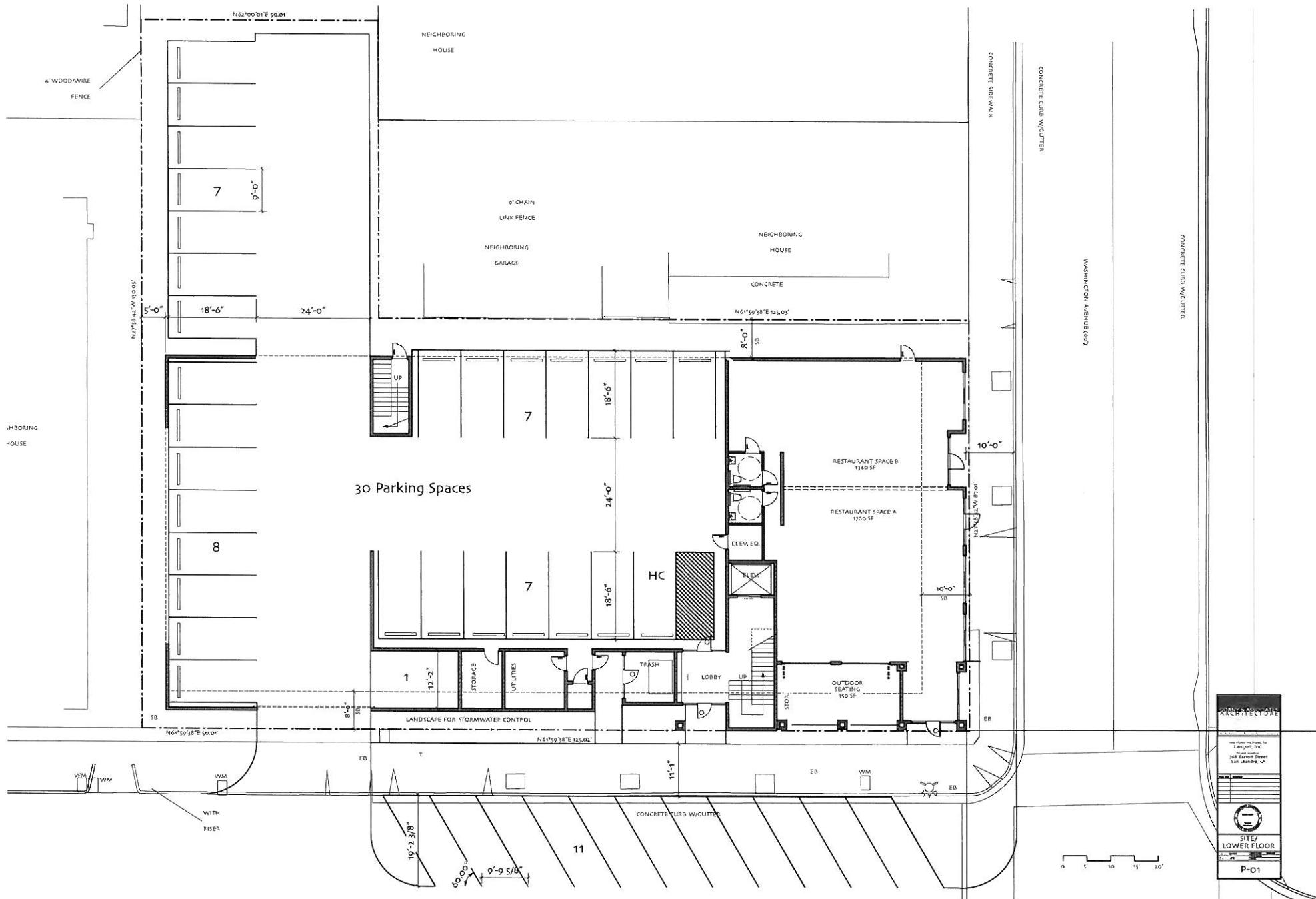
ARCHITECTURE  
 Langoni, Inc.  
 2000 17th Street  
 San Leandro, CA

ELEVATIONS  
 P-03





30 FT  
 LOWER FLOOR  
 P-00



**DAVID CASAPRATA ARCHITECTURE**

1000 Alameda Street  
 Suite 200  
 San Francisco, CA 94103  
 Tel: 415.774.8888  
 Fax: 415.774.8889  
 www.dcasapratarch.com

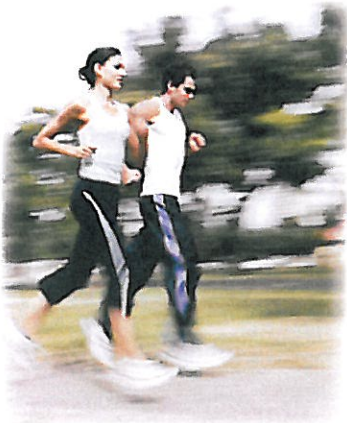
**SITE/LOWER FLOOR**

P-01

# TOSCANI PLACE



This new development is the first of its type in San Leandro. Developer LANGON HOMES worked closely with the City Redevelopment Agency to bring these nine new homes to the local landscape. The highest regard was given to modern environmental design and planning trends to maximize the in-fill land use in context with the neighborhood, plus provide a high level of design aesthetics and state-of-the-art living for its residents.



Located in the heart of San Leandro, TOSCANI PLACE is one of the most convenient and trendsetting housing developments in the San Francisco East Bay area.

Each home includes three bedrooms and three full bathrooms, plus a dedicated live/work space with separate entrance on the ground floor. Every unit includes a two-car garage with automatic steel door, individually fenced private patio and separate utilities.

The architecture is characterized with Mediterranean-style tile roofs, energy-efficient windows, iron railings, designer colors and professional landscaping. The interior space offers a large living room, ceramic tile entry, natural wood cabinets, stainless steel kitchen appliances and granite counter tops.

Numerous amenities are also available for customization. Owners may choose from a substantial list of upgrades including paint accents, designer wood cabinets, large flat screen plasma TV, high-efficiency washer and dryer, designer window blinds and more.

TOSCANI PLACE is sure to provide homeowners with a perfect blend of contemporary sophistication and urban enjoyment.



**CONCEPTUAL PERSPECTIVE VIEW**  
3765 CASTRO VALLEY BOULEVARD MIXED USE

JANUARY 30, 2017  
LCA PROJECT #16064







# City of San Leandro

Meeting Date: June 19, 2017

## Resolution - Council

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**File Number:** 17-345

**Agenda Section:** ACTION ITEMS

**Agenda Number:**

**TO:** City Council

**FROM:** Chris Zapata  
City Manager

**BY:** Cynthia Battenberg  
Community Development Director

**FINANCE REVIEW:** David Baum  
Finance Director

**TITLE:** RESOLUTION of the Successor Agency to the Redevelopment Agency of the City of San Leandro Authorizing the Executive Director to Execute a Purchase and Sale Agreement with David Langon Construction, Inc. for Sale of the Successor Agency-owned Property at 1595 Washington Avenue (APN: 075-0005-011-01) and 268 Parrott Street (APN: 075-0005-012-00) for a price of \$1,150,000.

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**WHEREAS**, on February 1, 2012, the Redevelopment Agency of the City of San Leandro was dissolved pursuant to Assembly Bill x1 26; and

**WHEREAS**, on February 1, 2012, the City of San Leandro became the Successor Agency to the Redevelopment Agency ("Successor Agency"); and

**WHEREAS**, pursuant to Health and Safety Code Section 34191.5(c), property shall not be transferred to a successor agency, city, county or city and county, unless the Long Range Property Management Plan has been approved by the Oversight Board to the Successor Agency (the "Oversight Board") and the Department of Finance; and

**WHEREAS**, the Long Range Property Management Plan was approved by the Oversight Board on November 5, 2015 and by the California Department of Finance on December 30, 2015; and

**WHEREAS**, the Long Range Property Management Plan establishes a plan for transferring or selling the real property assets that were owned by the former Redevelopment Agency;

**WHEREAS**, the Successor Agency is the owner of certain real properties with addresses of 1595 Washington Avenue, San Leandro, CA, also known as Alameda County Parcel Number (APN: 075-0005-011-01) (the "Properties") and 268 Parrott Street, San Leandro, CA, also known as Alameda County Parcel Number (APN: 075-0005-012-00) (the "Properties");

**WHEREAS**, the Properties are included as “for sale” properties in the Long Range Property Management Plan prepared by the Successor Agency and approved by the California Department of Finance;

**WHEREAS**, the Successor Agency previously issued a public request for proposals for the purchase and development of the Properties;

**WHEREAS**, David Langon Construction, Inc. submitted a proposal to the Successor Agency offering to pay the Successor Agency One Million One-Hundred Fifty Thousand Dollars (\$1,150,000) for the Properties (“Purchase Price”);

**WHEREAS**, Successor Agency staff has determined that David Langon Construction, Inc. possesses the resources and experience necessary to complete a successful development at the Properties consistent with the Long Range Property Management Plan;

**WHEREAS**, the Successor Agency reviewed the sales price of comparable properties, as well as other responses to the RFP, and determined that the Purchase Price represents the fair market value of the Properties;

**WHEREAS**, a Purchase and Sale Agreement (the “Agreement”) was presented to the Board of Directors of the Successor Agency of the Redevelopment Agency of the City of San Leandro (“Board of Directors”);

**WHEREAS**, the Board of Directors is familiar with the contents thereof; and

**WHEREAS**, the City Manager, acting as Executive Director of the Successor Agency, recommends approval of the Agreement.

**NOW, THEREFORE THE CITY COUNCIL FOR THE CITY OF SAN LEANDRO RESOLVES THAT:**

1. Subject to approval by the Oversight Board to the Successor Agency of the Redevelopment Agency of the City of San Leandro, the sale by the Successor Agency to David Langon Construction, Inc. of the properties identified herein and in the Long Range Property Management Plan, is hereby approved; and
2. That the Agreement substantially in the form presented are hereby approved and execution by the Executive Director is hereby authorized; and
3. That the Executive Director is authorized to make non-substantial revisions to the Agreement, subject to the approval of the Agency Counsel; and
4. That the original executed agreement shall be attached to and made part of this resolution.
5. The Executive Director and his designees are authorized and directed to execute all documents and take all actions necessary to implement this Resolution, including without

limitation the execution of quitclaim deeds, certificates of acceptance, and all other necessary instruments, as applicable.

## PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (this “**Agreement**”) is entered into as of \_\_\_\_\_ (the “**Effective Date**”), by and between the Successor Agency to the Redevelopment Agency of the City of San Leandro, a public agency (the “**Seller**”) and David Langon Construction Inc., a California corporation (“**Buyer**”). Seller and Buyer are collectively referred to herein as the “**Parties**.”

### RECITALS

A. Seller is the owner of certain real property with an address of 268 Parrott Street, San Leandro, California, also known as Alameda County Parcel Number 075-0005-012-00, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference, and 1595 Washington Street, San Leandro, California, also known as Alameda County Parcel Number 075-005-011-00, as more particularly described in Exhibit B attached hereto and incorporated herein by this reference (collectively, the “**Property**”).

B. The Property is included as a “for sale” property in the long-range property management plan prepared by Seller and approved by the California Department of Finance.

C. Seller previously issued a public request for proposals for the purchase and development of the Property (the “**RFP**”).

D. Buyer submitted a proposal to Seller offering to pay the Seller One Million One Hundred Fifty Thousand Dollars (\$1,150,000) for the Property (the “**Purchase Price**”).

D. Seller has reviewed the sales price of comparable properties, as well as other responses to the RFP, and has determined that the Purchase Price represents the fair market value of the Property.

F. Buyer agrees to purchase the Property, and Seller agrees to sell the Property to Buyer, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged by the parties, Sellers and Buyer hereby agree as follows:

1. INCORPORATION OF RECITALS AND EXHIBITS. The Recitals set forth above and the Exhibits attached to this Agreement are each incorporated into the body of this Agreement as if set forth in full.

2. PURCHASE AND SALE.

2.1 Agreement to Buy and Sell. Subject to the terms and conditions set forth herein, Seller agrees to sell the Property to Buyer, and Buyer hereby agrees to acquire the Property from Seller.

2.2 Purchase Price. The purchase price for the Property to be paid by Buyer to Seller (the "**Purchase Price**") is One Million One Hundred Fifty Thousand Dollars (\$1,150,000). The Purchase Price will be paid in immediately available funds to Seller on the Closing Date (defined below) at the address of Seller as provided in Section 10.8 of this Agreement.

3. ESCROW.

3.1 Escrow Account. Seller has opened an interest-bearing escrow account (the "**Escrow**") maintained by First American Title, 1850 Mt. Diablo Blvd., Suite 530 Walnut Creek, CA 94596 Attn: Pam Nicolini (the "**Escrow Holder**"), with interest accruing to the benefit of Buyer. Escrow Holder shall perform all escrow and title services in connection with this Agreement.

3.2 Opening of Escrow. Within seven (7) business days after the Effective Date, the Parties will deposit into Escrow the fully executed Agreement, or executed counterparts thereto. The date such fully executed Agreement is received by Escrow Holder will be deemed the "**Opening of Escrow**" and Escrow Holder will give written notice to the Parties of such occurrence.

3.3 Buyer's Deposit. Within three (3) business days after the Opening of Escrow, the Buyer shall deposit Thirty-Four Thousand Five Hundred Dollars (\$34,500) in Escrow ("**Initial Deposit**"). If the Due Diligence Contingency Period (as defined in Section 5(a) below) is extended pursuant to Section 5.1, Buyer shall deposit Ten Thousand Dollars (\$10,000) in Escrow (the "**Additional Deposit**"). The Initial Deposit and Additional Deposit are sometimes collectively referred to herein as the "**Deposits.**"

3.4 Satisfaction of Due Diligence Contingency. Buyer shall have the right, in its sole discretion, to terminate this Agreement for any reason prior to the expiration of the Due Diligence Contingency Period (as defined in Section 5(a) below) and receive a refund of the Deposit. Buyer hereby agrees to provide written notice to Seller prior to the expiration of the Due Diligence Contingency Period if Buyer disapproves any due diligence items or approves all due diligence items ("**Approval Notice**"). If Buyer disapproves any items through the delivery of the Approval Notice to Seller before 5:00 p.m. on the last day of the Due Diligence Contingency Period, this Agreement shall terminate, and all amounts deposited by Buyer into escrow (except the Independent Consideration), together with interest thereon, if any, will be returned to Buyer, and neither party shall have any further rights or obligations hereunder except those which expressly

survive the termination hereof. If Buyer fails to timely deliver the Approval Notice to Seller, it will be conclusively presumed that Buyer has approved all such items, matters or documents and the Initial Deposit will be retained by the Seller.

3.5 Independent Consideration. As independent consideration for Seller's entering into this Agreement to sell the Property to Buyer, Buyer shall deliver the sum of Ten Dollars (\$10.00) to Seller through Escrow ("**Independent Consideration**"). In the event that Buyer terminates this Agreement in accordance with Section 3.4 above, or Seller terminates this Agreement in accordance with Section 3.5 above, Seller shall retain the Independent Consideration; in the event that Buyer does not terminate this Agreement as aforesaid, the Independent Consideration shall be applied to the Purchase Price at Closing.

#### 4. PROPERTY DISCLOSURE REQUIREMENTS.

4.1 Condition of Title/Preliminary Title Report. Escrow Holder shall deliver a Preliminary Title Report for the Property (the "**Preliminary Report**") to Buyer within three (3) days after the Opening of Escrow. Buyer shall have until the end of the Due Diligence Contingency Period to approve the condition of title to the Property. If Buyer delivers the Approval Notice, Buyer agrees to take title to the Property subject to the following "**Permitted Exceptions**": (a) standard printed exceptions in the Preliminary Report; (b) general and special real property taxes and assessments constituting a lien not yet due and payable; and (c) the Schedule B exceptions to the title referenced in the Approval Notice.

4.2 Environmental and Natural Hazards Disclosure. California Health & Safety Code section 25359.7 requires owners of non-residential real property who know, or have reasonable cause to believe, that any release of hazardous substances are located on or beneath the real property to provide written notice of same to the buyer of real property. Other applicable laws require Seller to provide certain disclosures regarding natural hazards affecting the Property. Seller agrees to make all necessary disclosures required by law.

#### 5. CLOSING AND PAYMENT OF PURCHASE PRICE.

5.1 Closing. The closing (the "**Closing**" or "**Close of Escrow**") will occur no later than thirty (30) days after the end of the Due Diligence Contingency Period ("**Closing Date**"). In the event the Closing has not occurred due to a delay beyond the Buyer's control, then Close of Escrow may be extended up to an additional thirty (30) days (the "**Extension Period**") at the sole discretion of the Executive Director of the Seller. If Close of Escrow has not occurred by the end of the Extension Period, Buyer may elect to terminate this Agreement.

5.2 Buyer's Conditions to Closing. Buyer's obligation to purchase the Property is subject to the satisfaction of all of the following conditions or Buyer's written waiver thereof (in Buyer's sole discretion) on or before the Closing Date:

(a) Buyer will have ninety (90) days from the Opening of Escrow (the "**Due Diligence Contingency Period**") to complete physical inspections of the Property and due diligence related to the purchase of the Property. Seller shall provide to Buyer copies of all reasonably available and known documents relating to the ownership and operation of the Property, including but not limited to plans, permits and reports (environmental, structural, mechanical, engineering and land surveys) that Seller has in its possession not later than five (5) business days following the execution and delivery of this Agreement. All physical inspections must be coordinated with Seller's representative. Buyer hereby agrees to indemnify and hold Seller harmless for any damage to the Property caused (but not merely revealed) by Buyer's inspections.

(b) Seller has performed all obligations to be performed by Seller pursuant to this Agreement.

(c) Seller's representations and warranties herein are true and correct in all material respects as of the Closing Date.

(d) The Title Company is irrevocably committed to issue a CLTA Title Policy to Buyer, effective as of the Closing Date, insuring title to Buyer in the full amount of the Purchase Price subject only to the Permitted Exceptions.

5.3 Seller's Conditions to Closing. The Close of Escrow and Seller's obligation to sell and convey the Property to Buyer are subject to the satisfaction of the following conditions or Seller's written waiver (in Seller's sole discretion) of such conditions on or before the Closing Date:

(a) Buyer has performed all obligations to be performed by Buyer pursuant to this Agreement before Closing Date.

(b) Buyer's representations and warranties set forth herein are true and correct in all material respects as of the Closing Date.

5.4 Conveyance of Title. Seller will deliver marketable fee simple title to Buyer at the Closing, subject only to the Permitted Exceptions. The Property will be conveyed by Seller to Buyer in an "as is" condition, with no warranty, express or implied, by Seller as to the physical condition including, but not limited to, the soil, its geology, or the presence of known or unknown faults or Hazardous Materials or hazardous waste (as defined by state and federal law); provided, however, that the foregoing shall not relieve Seller from disclosure of any such conditions of which Seller has actual knowledge.

5.5 Deliveries at Closing.

(a) Deliveries by Seller. Seller shall deposit into the Escrow for delivery to Buyer at Closing: (i) a grant deed; (ii) an affidavit or qualifying statement which satisfies the requirements of paragraph 1445 of the Internal Revenue Code of 1986, as amended, any regulations thereunder (the “**Non-Foreign Affidavit**”); and (iii) a California Franchise Tax Board form 590 to satisfy the requirements of California Revenue and Taxation Code Section 18805(b) and 26131.

(b) Deliveries by Buyer. No less than one (1) business day prior to the close of escrow, Buyer shall deposit into escrow immediately available funds in the amount, which together with the Deposits plus interest thereon, if any, is equal to: (i) the Purchase Price as adjusted by any prorations between the Parties; (ii) the escrow fees and recording fees; and (iii) the cost of the Title Policy.

(c) Closing. Upon Closing, Escrow Holder shall: (i) record the grant deed; (ii) disburse to Seller the Purchase Price, less Seller’s share of any escrow fees, costs and expenses; (iii) deliver to Buyer the Non-Foreign Affidavit, the California Certificate and the original recorded grant deed; (iv) pay any commissions and other expenses payable through escrow; and (v) distribute to itself the payment of escrow fees and expenses required hereunder.

(d) Closing Costs. Buyer will pay all escrow fees (including the costs of preparing documents and instruments), and recording fees. Buyer will pay title insurance and title report costs and Seller will pay all governmental conveyance fees and all transfer taxes. All other costs and fees shall be paid in accordance with custom and practice in Alameda County.

(e) Pro-Rations. At the close of escrow, the Escrow Agent shall make the following prorations: (i) property taxes will be prorated as of the Close of Escrow based upon the most recent tax bill available, including any property taxes which may be assessed after the close of escrow but which pertain to the period prior to the transfer of title to the Property to Buyer, regardless of when or to whom notice thereof is delivered and (ii) any bond or assessment that constitutes a lien on the Property at the Close of Escrow will be assumed by Buyer.

6. REPRESENTATIONS, WARRANTIES AND COVENANTS.

6.1 Seller’s Representations, Warranties and Covenants. In addition to the representations, warranties and covenants of Seller contained in other sections of this Agreement, Seller hereby represents, warrants and covenants to Buyer that the statements below in this Section 6.1 are each true and correct as of the Closing Date provided however, if to Seller’s actual knowledge any such statement becomes untrue prior to Closing, Seller will notify Buyer in writing and Buyer will have three (3) business



days thereafter to determine if Buyer wishes to proceed with Closing. If Buyer determines it does not wish to proceed, then the terms of Section 6.2 will apply.

(a) Authority. Seller is a public agency, lawfully formed, in existence and in good standing under the laws of the State of California. Seller has the full right, capacity, power and authority to enter into and carry out the terms of this Agreement. This Agreement has been duly executed by Seller, and upon delivery to and execution by Buyer is a valid and binding agreement of Seller.

(b) Encumbrances. Seller has not alienated, encumbered, transferred, mortgaged, assigned, pledged, or otherwise conveyed its interest in the Property or any portion thereof, nor entered into any Agreement to do so, and there are no liens, encumbrances, mortgages, covenants, conditions, reservations, restrictions, easements or other matters affecting the Property, except as disclosed in the Preliminary Report. Seller will not, directly or indirectly, alienate, encumber, transfer, mortgage, assign, pledge, or otherwise convey its interest prior to the Close of Escrow, as long as this Agreement is in force.

(c) There are no agreements affecting the Property except those which have been disclosed by Seller. There are no agreements which will be binding on the Buyer or the Property after the Close of Escrow, which cannot be terminated on thirty (30) days prior written notice, and the Reciprocal Easement Agreement.

The truth and accuracy of each of the representations and warranties, and the performance of all covenants of Seller contained in this Agreement are conditions precedent to Buyer's obligation to proceed with the Closing hereunder. The foregoing representations and warranties shall survive the expiration, termination, or close of escrow of this Agreement and shall not be deemed merged into the deed upon closing.

6.2 Buyer's Representations and Warranties. In addition to the representations, warranties and covenants of Buyer contained in other sections of this Agreement, Buyer hereby represents, warrants and covenants to Seller that the statements below in this Section 6.5 are each true as of the Effective Date, and, if to Buyer's actual knowledge any such statement becomes untrue prior to Closing, Buyer shall so notify Seller in writing and Seller shall have at least three (3) business days thereafter to determine if Seller wishes to proceed with Closing.

(a) Buyer is a California Corporation. Buyer has the full right, capacity, power and authority to enter into and carry out the terms of this Agreement. This Agreement has been duly executed by Buyer, and upon delivery to and execution by Seller shall be a valid and binding agreement of Buyer.

(b) Buyer is not bankrupt or insolvent under any applicable federal or state standard, has not filed for protection or relief under any applicable bankruptcy or creditor protection statute, and has not been threatened by creditors with an involuntary application of any applicable bankruptcy or creditor protection statute.

The truth and accuracy of each of the representations and warranties, and the performance of all covenants of Buyer contained in this Agreement are conditions precedent to Seller's obligation to proceed with the Closing hereunder.

7. REMEDIES In the event of a breach or default under this Agreement by Seller, if such breach or default occurs prior to Close of Escrow, Buyer reserves the right to either (a) seek specific performance from Seller or (b) to do any of the following: (i) to waive the breach or default and proceed to close as provided herein; (ii) to extend the time for performance and the Closing Date until Seller is able to perform; or (iii) to terminate this Agreement upon written notice to Seller, whereupon Seller shall cause Escrow Holder to return to Buyer any and all sums placed into the Escrow by Buyer, and except for the rights and obligations expressly provided to survive termination of this Agreement, neither party shall have any further obligations or liabilities hereunder. IN THE EVENT OF A BREACH OR DEFAULT HEREUNDER BY BUYER AND THE CLOSING DOES NOT OCCUR DUE TO SUCH DEFAULT, SELLER'S SOLE REMEDY SHALL BE TO RETAIN THE DEPOSITS AS LIQUIDATED DAMAGES. THE PARTIES AGREE THAT IN SUCH INSTANCE, THE DEPOSITS REPRESENT A REASONABLE APPROXIMATION OF SELLER'S DAMAGES AND ARE NOT INTENDED AS A FORFEITURE OR PENALTY BUT RATHER AN ENFORCEABLE LIQUIDATED DAMAGES PROVISION PURSUANT TO CALIFORNIA CIVIL CODE SECTION 1671, ET SEQ. IN NO EVENT SHALL EITHER PARTY BE ENTITLED TO LOST PROFITS OR CONSEQUENTIAL DAMAGES AS A RESULT OF THE OTHER PARTY'S BREACH OF THIS AGREEMENT.

\_\_\_\_\_  
Buyer's Initials

\_\_\_\_\_  
Seller's Initials

8. BROKERS. Seller has appointed Jones Lang LaSalle ("**Broker**") as Seller's exclusive agent with respect to sale of the Property. Seller shall pay all fees due Broker in connection with the sale of the Property. Buyer represents that no real estate broker has been retained by Buyer in the procurement of the Property or negotiation of this Agreement. Buyer shall indemnify, hold harmless and defend Seller from any and all claims, actions and liability for any breach of the preceding sentence, and any commission, finder's fee, or similar charges arising out of Buyer's conduct.

9. ASSIGNMENT. Absent an express signed written agreement between the Parties to the contrary, neither Seller nor Buyer may assign its rights or delegate its duties under this Agreement without the express written consent of the other, which consent may be withheld for any reason. No permitted assignment of any of the rights or obligations under this Agreement shall result in a novation or in any other way release the assignor from its obligations under this Agreement.

10. MISCELLANEOUS.

10.1 Attorneys' Fees. If any party employs counsel to enforce or interpret this Agreement, including the commencement of any legal proceeding whatsoever (including insolvency, bankruptcy, arbitration, mediation, declaratory relief or

other litigation), the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs (including the service of process, filing fees, court and court reporter costs, investigative fees, expert witness fees, and the costs of any bonds, whether taxable or not) and shall include the right to recover such fees and costs incurred in any appeal or efforts to collect or otherwise enforce any judgment in its favor in addition to any other remedy it may obtain or be awarded. Any judgment or final order issued in any legal proceeding shall include reimbursement for all such attorneys' fees and costs. In any legal proceeding, the "prevailing party" shall mean the party determined by the court to most nearly prevail and not necessarily the party in whose favor a judgment is rendered.

10.2 Interpretation. This Agreement has been negotiated at arm's length and each party has been represented by independent legal counsel in this transaction and this Agreement has been reviewed and revised by counsel to each of the Parties. Accordingly, each party hereby waives any benefit under any rule of law (including Section 1654 of the California Civil Code) or legal decision that would require interpretation of any ambiguities in this Agreement against the drafting party.

10.3 Survival. All indemnities, covenants, representations and warranties contained in this Agreement shall survive Close of Escrow.

10.4 Successors. Except as provided to the contrary in this Agreement, this Agreement shall be binding on and inure to the benefit of the Parties and their successors and assigns.

10.5 Governing Law. This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

10.6 Integrated Agreement; Modifications. This Agreement contains all the agreements of the Parties concerning the subject hereof any cannot be amended or modified except by a written instrument executed and delivered by the parties. There are no representations, agreements, arrangements or understandings, either oral or written, between or among the parties hereto relating to the subject matter of this Agreement that are not fully expressed herein. In addition there are no representations, agreements, arrangements or understandings, either oral or written, between or among the Parties upon which any party is relying upon in entering this Agreement that are not fully expressed herein.

10.7 Severability. If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof shall be stricken from this Agreement, any such provision shall not be affected by the legality, enforceability, or validity of the remainder of this Agreement. If any provision or part thereof of this Agreement is stricken in accordance with the provisions of this Section, then the stricken provision shall be replaced, to the extent possible, with a legal, enforceable and valid provision this is in keeping with the intent of the Parties as expressed herein.

10.8 Notices. Any delivery of this Agreement, notice, modification of this Agreement, collateral or additional agreement, demand, disclosure, request, consent, approval, waiver, declaration or other communication that either party desires or is required to give to the other party or any other person shall be in writing. Any such communication may be served personally, or by nationally recognized overnight delivery service (i.e., Federal Express) which provides a receipt of delivery, or sent by prepaid, first class mail, return receipt requested to the party's address as set forth below:

To Buyer: David Langon Construction, Inc.  
Attn: David Langon  
3189 Danville Blvd., Ste. 245  
Alamo, CA 94507

To Seller: Successor Agency to the San Leandro  
Redevelopment Agency  
Attn: Community Development Director  
835 East 14th Street  
San Leandro, CA 94577

To Escrow Holder: First American Title  
1850 Mt. Diablo Blvd., Suite 530  
Walnut Creek, CA 94596  
Attn: Pam Nicolini  
Escrow Number: \_\_\_\_\_

Any such communication shall be deemed effective upon personal deliver or on the date of first refusal to accept delivery as reflected on the receipt of delivery or return receipt, as applicable. Any party may change its address by notice to the other party. Each party shall make an ordinary, good faith effort to ensure that it will accept or receive notices that are given in accordance with this section and that any person to be given notice actually receives such notice.

10.9 Time. Time is of the essence to the performance of each and every obligation under this Agreement.

10.10 Days of Week. If any date for exercise of any right, giving of any notice, or performance of any provision of this Agreement falls on a Saturday, Sunday or holiday, the time for performance will be extended to 5:00 p.m. on the next business day.

10.11 Reasonable Consent and Approval. Except as otherwise provided in this Agreement, whenever a party is required or permitted to give its consent or approval under this Agreement, such consent or approval shall not be unreasonably withheld or delayed. If a party is required or permitted to give its consent or approval in its sole and absolute discretion or if such consent or approval may be unreasonably withheld, such consent or approval may be unreasonably withheld but shall not be unreasonably delayed.

10.12 Further Assurances. The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to carry out the intent and purposes of this Agreement.

10.13 Waivers. Any waiver by any party shall be in writing and shall not be construed as a continuing waiver. No waiver will be implied from any delay or failure to take action on account of any default by any party. Consent by any party to any act or omission by another party shall not be construed to be a consent to any other subsequent act or omission or to waive the requirement for consent to be obtained in any future or other instance.

10.14 Signatures/Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

10.15 Date and Delivery of Agreement. Notwithstanding anything to the contrary contained in this Agreement, the parties intend that this Agreement shall be deemed effective, and delivered for all purposes under this Agreement, and for the calculation of any statutory time periods based on the date an agreement between parties is effective, executed, or delivered, as of the Effective Date.

10.16 Representation on Authority of Parties. Each person signing this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement. Each party represents and warrants to the other that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

10.17 Approvals. Whenever this Agreement calls for Seller approval, consent, extension or waiver, the written approval, consent, or waiver of the Seller's Executive Director or his or her designee(s) shall constitute the approval, consent, extension or waiver of the Seller, without further authorization required from the Seller's Board. The Seller hereby authorizes the Agency's Executive Director and his or her designee(s) to deliver any such approvals, consents, or extensions or waivers as are required by this Agreement, or that do not otherwise reduce Seller's rights under this Agreement, and to waive requirements under this Agreement, on behalf of the Seller.

**SIGNATURES ON FOLLOWING PAGE**

IN WITNESS WHEREOF, this Agreement is executed by Buyer and Successor Agency as of the Effective Date.

**SELLER:**

Successor Agency to the San Leandro  
Redevelopment Agency

By: \_\_\_\_\_  
Chris Zapata, Executive Director

**BUYER:**

David Langon Construction, Inc.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Tamika Greenwood, Agency Secretary

Reviewed as to Form:

\_\_\_\_\_  
Richard Pio Roda, Agency Counsel

**EXHIBIT A**

**LEGAL DESCRIPTION**

Real property in the City of San Leandro, County of Alameda, State of California,  
described as follows:

**PARCEL ONE**

THE SOUTHEASTERN 37 FEET OF LOT E AND ALL OF LOT F, BLOCK 5, MAP OF  
THE TOWN OF SAN LEANDRO, FILED FEBRUARY 27, 1855, AND RECORDED  
JUNE 14, 1870, MAP BOOK 1, PAGE 19, ALAMEDA COUNTY RECORDS.

APN: 075-0005-011-01

**EXHIBIT B**

**LEGAL DESCRIPTION**

Real property in the City of San Leandro, County of Alameda, State of California,  
described as follows:

PARCEL TWO

LOT G, BLOCK 5, MAP OF THE TOWN OF SAN LEANDRO, FILED FEBRUARY 27,  
1855, MAP BOOK 1, PAGE 19, ALAMEDA COUNTY RECORDS.

A.P.N.: 075-0005-012