

RESOLUTION NO: RA 93-03

A RESOLUTION OF THE REDEVELOPMENT AGENCY  
OF THE CITY OF EL PASO DE ROBLES  
AUTHORIZING THE CHAIRMAN AND THE EXECUTIVE DIRECTOR  
TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN  
THE REDEVELOPMENT AGENCY OF THE CITY OF  
EL PASO de ROBLES, WOODLAND PLAZA II AND  
RICHARD J. WOODLAND AND PATRICIA D. WOODLAND

WHEREAS, the Redevelopment Agency of the City of El Paso de Robles (the "Agency") is carrying out the Redevelopment Plan (the "Redevelopment Plan") for the Paso Robles Redevelopment Project (the "Project"); and

WHEREAS, Woodland Plaza II is a California general partnership (the "Developer") whose general partners are the Halferty Development Company, a California corporation and Richard J. Woodland and Patricia D. Woodland, as co-trustees of the Richard J. Woodland and Patricia D. Woodland Trust; and

WHEREAS, the Developer owns or controls certain real property within the Project Area for the Redevelopment Plan (the "Project Area") and is therefore eligible to qualify as an owner participant, as that term is use in the Redevelopment Plan and under the California Community Redevelopment Law (Health & Safety Code, §33000 *et seq.*); and

WHEREAS, Objective #8 of Section 400.10 of the Redevelopment Plan of the Redevelopment Agency of the City of El Paso de Robles is "the encouragement, promotion, and assistance in the development and expansion of local commerce and needed commercial and industrial facilities, increasing local employment prosperity, and improving the economic climate within the Project Area, and the various other isolated, vacant and/or underdeveloped properties within the Project Area"; and

WHEREAS, the Redevelopment Agency received a request for Agency assistance and Redevelopment Agency Policy A-3, which sets forth the manner in which requests for financial assistance are processed, has been satisfied; and

WHEREAS, the Agency has received a proposed Memorandum of Understanding (the "MOU") from the Developer setting forth the status of negotiations regarding the development of certain real property (the "Site") located within the Project Area.

NOW, THEREFORE, BE IT RESOLVED, that the Redevelopment Agency of the City of El Paso de Robles does hereby approve and authorize execution of the MOU by and between the Agency and the Developer, by its Chairman and Secretary for and on behalf

of the Agency substantially in the form attached hereto as Attachment "A", subject to minor or clarifying technical revisions as the Agency's attorney shall approve.

PASSED AND ADOPTED THIS 1st day of June 1993 by the following roll call vote:

AYES: Heggarty, Iversen, Macklin and Martin  
NOES: Picanco  
ABSENT: None  
ABSTAIN: None



Steven W. Martin, Chairman

ATTEST:



Richard J. Ramirez, Agency Secretary

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (the "MOU") is entered into this 1<sup>st</sup> day of NOV, 1993, by and among the REDEVELOPMENT AGENCY OF THE CITY OF EL PASO DE ROBLES (the "Agency"), WOODLAND PLAZA II, a California general partnership (the "Developer") and RICHARD J. WOODLAND AND PATRICIA D. WOODLAND, as co-trustees of the Richard J. Woodland and Patricia D. Woodland Trust ("Woodland").

Recitals

- A. Pursuant to the California Community Redevelopment Law (Health & Safety Code §33000, *et seq.*) the Agency is undertaking the redevelopment of a portion of the City of El Paso de Robles (the "City") pursuant to a redevelopment plan (the "Redevelopment Plan"), adopted by the City Council of the City by Ordinance No. 540 N.S. on November 30, 1987, for the Paso Robles Redevelopment Project (the "Project").
- B. The Developer is a California general partnership whose two (2) general partners are (1) Halferty Development Company, a California corporation, and (2) Woodland.
- C. The Developer owns or controls a parcel of property (hereinafter the "Site") within the project area (the "Project Area") for the Redevelopment Plan. The Developer, as a property owner within the Project Area, is eligible to qualify as an owner participant as that term is used in the Redevelopment Plan and under the California Community Redevelopment Law.
- D. The Developer has been pursuing the development of a retail shopping center on the Site since March, 1991. To that end, the Developer has proposed, and the City has approved the development of the Site as a retail shopping center including a minimum of three (3) major anchor tenants (including a Wal-Mart store), retail shops, restaurants, an automobile service station, parking, and on-site and off-site improvements (the "Retail Center").
- E. Because some of the off-site public improvements that are required to be built prior to or concurrently with the development of the Retail Center will have certain regional benefits and because of the broad benefit of those improvements, the Developer has proposed that the Agency assist with respect to certain public infrastructure improvements to effectuate the development concept and to achieve the benefits to the Agency and the City that will result from the development of the

Retail Center and the Public Infrastructure Improvements (as defined below in Section 3.).

F. Pursuant to Article XVI, Section 16 of the California Constitution and Section 33670 of the Health and Safety Code, the Agency is authorized to receive a portion of property taxes (the "Tax Increments") from the Site and the Retail Center.

G. The Agency and the Developer desire to enter into this MOU to set forth the status of the negotiations at this point regarding the development of the Retail Center on the Site. The matters contained herein shall not be construed as final commitments by any party but are intended to state generally the basis upon which the parties intend to negotiate a contract for the development of the Retail Center and the Public Infrastructure Improvements.

H. The Developer and the Agency will negotiate in good faith with the intention of expeditiously drafting and executing a more detailed owner participation agreement (the "OPA") dealing with the matters contained herein and any other related matters deemed necessary by the parties hereto for the development of the Retail Center and the Public Infrastructure Improvements.

#### Agreements

Section 1. The parties hereto expect that the Retail Center, to be known as Woodland Plaza II, will consist of the following elements:

- (a) A Wal-Mart store of approximately 120,000 square feet;
- (b) At least two (2) and up to three (3) major retail anchor tenants of at least 30,000 square feet each;
- (c) Retail shop space ;
- (d) Four (4) retail and/or restaurant pads, including an automobile service station;
- (e) Outdoor sales area totalling approximately 17,000 square feet; and
- (f) Surface automobile parking to serve the Retail Center.

The parties expect that the total of net leasable area to be developed in the Retail Center in elements (a) through (e) above shall be approximately 425,000 square feet.

Section 2. The parties anticipate that the development of the Retail Center will occur in three (3) phases (Phases 1, 2 and 3), as follows and as shown on the Site Plan, attached hereto as Exhibit A and incorporated herein by reference:

(a) The minimum development for Phase 1 shall consist of development of a Wal-Mart store of not less than 100,000 square feet and related parking. The balance of Phase 1 shall consist of the expansion of the Wal-Mart store, the development of Pads M, N and Q and the related parking. As shown on the Site Plan, Phase 1 includes 805,138 square feet of land.

(b) The minimum development for Phase 2 shall consist of two (2) major retail anchor stores of at least 30,000 square feet each, on Building Areas B and D, as shown on the Site Plan, (Exhibit A) plus additional retail shops/or restaurants totaling a minimum of 17,000 square feet on Pad P and/or Shop E, G, H and/or J, as shown on the Site Plan (Exhibit A). The balance of Phase 2 shall consist of the development of the remaining balance of Pad P and/or Shops E, G, H and/or J. As shown on the Site Plan, Phase 2 includes 548,976 square feet of land.

(c) There shall be no minimum development required for Phase 3. Phase 3 shall consist of the development of the balance of the Retail Center, consisting of Pads F, K and L and major tenant C, as shown on the Site Plan, (Exhibit A). As shown on the Site Plan (Exhibit A), Phase 3 includes 371,171 square feet of land.

Notwithstanding the foregoing provisions of this Section 2., the Developer shall have the right to proceed with the construction of all or any part of Phase 3 after the commencement of construction of the minimum development of Phase 1 if Developer agrees to install the Public Infrastructure Improvements (as defined in Section 3., below) required as a condition precedent to completing Phase 2 in addition to any such applicable Public Infrastructure Improvements required in connection with the proposed improvements undertaken for Phase 3.

Section 3. The off-site public infrastructure improvements that are required to be built in connection with the development of the Retail Center (the "Public Infrastructure Improvements") consist of two types of improvements: (i) the "Mello-Roos Improvements" (as defined in this Section 3.) and the "Additional Improvements," (as defined in Section 5. hereof). The Public Infrastructure Improvements are to be developed in connection with the development of Phases 2 and 3 and the balance of Phase 1 and will be installed as required by the applicable work for each Phase. The Developer desires to finance part of the costs of certain of the Public Infrastructure Improvements for installation concurrently with the development of Phase 2 of the Retail Center by the issuance and sale of tax-exempt bonds (the "Bonds") sold by the Agency or the City pursuant to the authority of the Mello-Roos Community Facilities Act of 1982 (Government Code §53311, et seq.). A

list of the Public Infrastructure Improvements to be financed by the Bonds (the "Mello-Roos Improvements") is attached hereto as Exhibit B and incorporated herein by reference.

Subject to the conditions set forth in this Section 3., the Agency or City shall establish or cause to be established the financing district (the "Mello-Roos District") to sell or cause to be sold tax-exempt Mello-Roos District Bonds. The Developer agrees to cooperate in the establishment of the Mello-Roos District and in the sale of the Mello-Roos District Bonds. The parties anticipate that the Mello-Roos District will consist of (i) the Site, except for the parcel owned by Wal-Mart; and (ii) a portion of the Woodland Plaza I site, as shown on the Map of Proposed Mello-Roos District, attached hereto as Exhibit C and incorporated herein by reference. The Mello-Roos District Bonds are to be secured by the land and the improvements in the Mello-Roos District and the Developer will be obligated to pay a special tax or special assessment on all the land and improvements in the District to pay the debt service on the Mello-Roos District Bonds. The Agency or City will authorize the sale and disbursement of the proceeds from the Mello-Roos District Bonds upon the terms and conditions to be set forth in the OPA, including, but not limited to, (i) the close of escrow of the sale of a portion the Phase 1 parcel to Wal-Mart and issuance of building permits for the development of the Wal-Mart store thereon; (ii) submission of evidence satisfactory to the Agency that Developer has obtained binding commitments from two (2) major anchor tenants for the Phase 2 portion of the Retail Center; and (iii) submission of evidence reasonably satisfactory to the Agency that Developer has obtained financing, from debt and equity sources (when considered together with the Agency public investment discussed in Section 4. of this Agreement) sufficient to develop and construct a portion of the Retail Center which, when completed, will be of sufficient value to support the Mello-Roos District Bonds, as well as the on-site and other off-site public improvements not included within the Mello-Roos Improvements.

Section 4. The OPA shall contain a more detailed description of the Mello-Roos financing mechanism, consistent with the terms of this MOU, and subject to the approval of the Agency's bond counsel. Subject to the conditions and limitations set forth below, and as will be more fully set forth in the OPA, the Agency agrees that it shall annually pay all the Tax Increments it receives from the land and improvements on (i) the parcels in the Mello-Roos District; and (ii) the parcel in the Retail Center owned by Wal-Mart (collectively, the "Retail Center Tax

Increments") to the Developer for the purpose of paying, in part, the debt service on the Mello-Roos District Bonds for the Mello-Roos Improvements. The parties anticipate that the annual amount of the Retail Center Tax Increments received by the Agency may not be sufficient to pay the annual debt service on the Mello-Roos District Bonds. Accordingly, the parties further agree that the Agency's obligations with respect to the Mello-Roos District Bonds shall be limited to the amount of the Retail Center Tax Increments attributable from those portions of the Retail Center for which the minimum development has commenced within the time periods set forth in the OPA and that the Developer shall have the sole responsibility for paying the balance of the debt service on the Mello-Roos District Bonds, if any. The Agency's obligations to make such payments shall be evidenced by a promissory note and agreement, the form of which shall be part of the OPA. Notwithstanding any of the foregoing, the Agency shall have no obligation to make any payments of Retail Center Tax Increments from the corresponding portion of the Retail Center if the minimum development for Phase 1, 2 or 3 has not commenced within the times set forth in the OPA. The OPA shall provide that the construction of the minimum development for each phase of the Retail Center must be commenced within the following time periods (subject to events of force majeure, which shall include litigation initiated by third parties but shall not include the unavailability of commercially reasonable financing):

- (i) Phase 1 -- one (1) year after the execution of the OPA;
- (ii) Phase 2 -- five (5) years after the execution of the OPA;
- (iii) Phase 3 -- six (6) years after the execution of the OPA.

The parties anticipate that the Retail Center Tax Increments from Phase 1 shall be used to help pay for the cost of the Niblick Bridge improvements, which is one of the Mello-Roos Improvements listed on Exhibit B. The parties agree that the Agency, after the minimum development for Phase 1 has been completed and before the commencement of construction of Phase 2, may issue Mello-Roos-District Bonds specifically for the purpose of obtaining funds to pay for the Niblick Bridge improvements. In such event, the Agency agrees that it shall use the Retail Center Tax Increments from Phase 1 and the portion of the Woodland Plaza I site within the Mello-Roos District to pay, in part, the debt service on such Mello-Roos District Bonds. In addition, if Phase 1 is commenced within the time period set forth in the OPA, but Phase 2 is not commenced within the time set forth in the OPA and no Mello-Roos District Bonds are issued, the Agency shall use the Retail Center Tax Increments from Phase 1 towards the cost of the Niblick Bridge improvements, and

such Phase 1 Retail Center Tax Increments shall be credited as part of Developer's contribution to such improvements. As a further example, if Phase 3 is developed within the time set forth in the OPA, but Phase 2 has not been developed within the time set forth in the OPA, the Agency shall make payments of the Retail Center Tax Increments from Phase 3 as set forth herein, but shall have no obligation to make payments of the Retail Center Tax Increments from Phase 2. As used herein, "commencement of construction" shall mean the obtaining of all applicable building permits for the minimum development for each Phase.

Notwithstanding the foregoing, the Agency's obligations to make such payments of Retail Center Tax Increments shall be subordinate only to the Agency's existing Tax Allocation Bonds for the Paso Robles Redevelopment Project, dated December 1, 1991 (the "Existing Bonds"), and shall be subject to adjustment pursuant to the provisions of Section 6., below.

Section 5. The OPA also shall provide that the Agency shall construct or cause to be constructed certain other off-site Public Infrastructure Improvements (the "Additional Improvements") required for the development of the Retail Center. A list of the Additional Improvements is attached hereto as Exhibit D and incorporated herein by reference. The Agency shall have no obligation to construct or cause the construction of the Additional Improvements unless and until the occurrence of the following: (i) the close of escrow for the purchase of a parcel in Phase 1 by Wal-Mart; (ii) the issuance of building permits for the Wal-Mart store on Phase 1; and (iii) the payment of all required development fees by Wal-Mart for the improvements to be constructed on its parcel in the Retail Center. In addition, the OPA shall provide that the maximum aggregate amount of the Agency's obligation to pay for the cost of the Additional Improvements shall not exceed One Million Six Hundred Thousand Dollars (\$1,600,000). Developer agrees that it shall pay for any costs of constructing the Additional Improvements in excess of that amount.

Subject to the last sentence of this paragraph, the parties anticipate that the Developer's general partner, Halferty Development Company, shall act as the construction manager for the Agency in connection with the construction of the Additional Improvements for the customary overhead and fees for such services as set forth in Exhibit D hereto and with the construction of the Mello-Roos Improvements set forth in Exhibit B hereto. In no event shall Halferty Development Company and/or Developer serve as the subcontractor on any of the work in connection with the Additional Improvements. The parties expressly

acknowledge and agree that all work in connection with the Additional Improvements and the Mello-Roos Improvements must be performed in compliance with the requirements of state and local laws for "public projects," as well as the preference for local suppliers (as set forth in Section 7. of this Agreement), with respect to competitive bidding and the payment of prevailing wages, as well as any other applicable requirements regarding such work.

Section 6. Developer acknowledges that the Retail Center Tax Increments are the only revenues available to discharge the Agency's obligations under Section 4. of this MOU. If the Agency is unable to make the full amount of its payment obligations for the Mello-Roos District Bonds as a result of changes in state law regarding the allocation of Tax Increments or by actions of any governmental entity having jurisdiction over such matters, Developer agrees that it shall assume the responsibility for meeting any shortfall. As used in this MOU, the term "Developer Advance" shall mean the amount paid by the Developer which is equal to the difference between the full amount of the Retail Center Tax Increments which the Agency would have been allocated, as calculated under Section 33670 of the Health and Safety Code (as such section exists on the date of this MOU), and the amount of the Retail Center Tax Increments actually available to the Agency to use for its obligations under Section 4. of this MOU. The Agency agrees that, to the extent legally permissible, if the amount of Tax Increments allocated to the Agency is reduced by state law or by actions of any governmental entity having jurisdiction over such matters or if the Agency is required to use a portion of its Tax Increments for a purpose specified by state law or by a governmental entity having jurisdiction over such matters, it shall apply any such reduction or payment out of Tax Increments received from other parcels in the Project Area before applying any portion of such reduction or payment out of Retail Center Tax Increments. In addition, if the Agency and/or the City receives subventions from the State and/or any other assistance or reimbursements or substitutions of funds from the State or federal government to offset all or any part of the reduction or payment of Tax Increments required by state law, then such funds will be used when received, to the extent permitted by law, to reimburse the Developer for any Developer Advances made under this Section 6.

Section 7. To the extent it is commercially reasonable, Developer will use its good faith efforts to hire qualified contractors and encourage the use of qualified

subcontractors from the Central Coast/Paso Robles region for the development and construction of the Retail Center.

Section 8. The OPA shall require the Developer to make contributions in the following amounts and at the following times to the City's Main Street program:

- (a) \$35,000 upon the issuance of a Certificate of Occupancy by the City for Wal-Mart;
- (b) \$6,500 upon the date of opening for business of the first store of Phase 2 of the Retail Center and \$6,500 on each anniversary thereafter for the next nine (9) years; and
- (c) an additional \$3,500 upon the date of opening for business of the first store of Phase 3 of the Retail Center and \$3,500 on each anniversary thereafter up to and including the year during which the payments under subsection (b), above, are being made.

If the Main Street program ceases to exist during the period Developer is obligated to make such payments, Developer shall make such payments directly to the Agency for promotional programs to stimulate retail and commercial activity.

Section 9. Developer shall reimburse Agency for all actual, documented and reasonable expenses paid to third parties in connection with the development of the Retail Center at the times set forth as follows:

- (a) Promptly upon the execution of an OPA by Developer and Agency, Developer shall reimburse Agency for its expenses paid to third parties in connection with the negotiation of this MOU and the OPA, provided, however, that such sum shall not exceed SIXTY-FIVE THOUSAND DOLLARS (\$65,000);
- (b) Developer shall reimburse Agency for its expenses associated with the preparation of the Environmental Impact Report related to the Retail Center and the hiring of certain consultants associated with the formation of the Mello-Roos District in accordance with the agreements with such consultants; and
- (c) The remaining costs required to be incurred directly in connection with the issuance of the Mello-Roos District Bonds shall be paid when the Mello-Roos District Bonds are issued, with such bond costs not to exceed contract amounts approved by the Agency and accepted by the Developer prior to the preparation of the bond documents.

Section 10. Developer agrees that it shall pay Agency a share of the net proceeds from the sale of any part of the Phase 3 portion of the Site, as set forth herein. "Net Sales Proceeds" shall mean the gross sales price, less (a) costs of sale; (b) repayment of any mortgage or deed of trust held by an entity or entities previously approved by the Agency (for the parcel or parcels being sold) as having rights senior to the Agency for purposes of this division of sales proceeds; (c) return of any loans of Developer either (i) specifically required by a lender approved by the Agency for Phase 3; (ii) used to make improvements to Phase 3; (iii) used to repay advances to cover operating losses of Phase 3; or (iv) used to repay a deposit required by a lender approved by the Agency to Phase 3; (d) the capital cost of the land attributable to the applicable portion of Phase 3 (which the parties agree shall be Four Dollars and Fifty Cents (\$4.50) per square foot) plus the cost of the on and off-site improvements (including financing costs), to the extent they are not assumed by the buyer, for such portion of Phase 3 being sold (collectively, the "Capital"); (e) any Developer Advances as provided in Section 6., hereof, plus interest on such amount at the compounded annual rate of nine percent (9%) but only to the extent such Developer Advances have not previously been reimbursed to Developer; and (f) any unrecovered Capital from a previous sale of part of Phase 3. In no event shall Developer receive a preferred return on its Capital. Upon the sale of any portion of Phase 3, the Developer agrees to pay the Agency a share of the Net Sales Proceeds (with Net Sales Proceeds to be calculated on a pro rata basis for sales of portions of Phase 3), and measured from the date of the issuance of a Certificate of Occupancy by the City for the improvements on the portion of Phase 3 being sold, as follows:

0 to 5 years: 25% of Net Sales Proceeds;

More than five years to 10 years: the greater of \$500,000 out of the Floor Preference (as defined below) or 25% of Net Sales Proceeds ;

More than 10 years to 15 years: the greater of \$900,000 out of the Floor Preference or 25% of Net Sales Proceeds;

More than 15 years to 20 years: the greater of \$1,300,000 out of the Floor Preference or 25% of Net Sales Proceeds;

More than 20 years to 25 years: the greater of \$1,900,000 out of the Floor Preference or 25% of Net Sales Proceeds.

As used herein, the term "Floor Preference" shall mean the Net Sales Proceeds prior to any distribution or payment being made to any other person. Developer shall provide evidence satisfactory to Agency regarding items (a) through (f) above, including, financial statements certified by the chief financial officer of Developer regarding the costs of development and operation of the Retail Center. The Agency shall have the right to audit such financial statements and all books, records and accounts pertaining thereto. If it shall be determined as a result of such audit that there has been a deficiency in any payment required by this Section 10., then such deficiency shall immediately become due and payable with interest at the maximum rate for which parties may lawfully contract, determined as of and accruing from the date that such payment should have been made. In addition, if Developer has understated the amount of Net Sales Proceeds which should have been paid to the Agency by more than the greater of \$5,000 or Five Percent (5%), then Developer shall pay, in addition to the interest charges referenced hereinabove, all of Agency's reasonable costs and expenses connected with such audit or review of Developer's accounts and records.

If no Certificate of Occupancy has been issued for the portion of Phase 3 being sold, the Developer shall pay to Agency 25% of the Net Sales Proceeds. In addition, the OPA shall provide for a method of determining the amount to be paid to Agency if any portion of Phase 3 remains unsold at the end of twenty-five (25) years after the issuance of a Certificate of Occupancy, or if no Certificate of Occupancy has been issued on such portion of Phase 3, twenty-five (25) years after the execution of the OPA.

Developer's obligation to pay Agency a portion of Net Sales Proceeds as set forth in this Section 10. shall be evidenced in a document to be recorded regarding Phase 3. Such document shall provide that the Developer's obligation to pay Agency a share of Net Sales Proceeds shall be subordinate to the rights of lenders approved by the Agency for the Retail Center.

**Section 11.** In consideration of the Developer's agreement to share a portion of the sales proceeds from Phase 3 with the Agency and Developer's other obligations described in this MOU, the Agency shall cooperate with Developer, upon

request by the Developer, in the issuance of taxable bonds by the Agency, the proceeds of which shall be used by the Developer only for permanent financing for the Retail Center. Such taxable bonds shall be secured only by the land and private improvements on the Retail Center and/or Woodland Plaza I and such issuance shall require that the Developer hold the City and Agency harmless in connection therewith. In addition, the OPA shall specify certain other conditions for the issuance of such taxable bonds including, but not limited to, a requirement that the bonds be "privately placed," within the meaning of applicable regulations of the Securities and Exchange Commission, that the Agency receive an opinion of the Agency's and underwriter's special disclosure counsel (which the Agency shall select with the underwriter's approval) regarding the adequacy of the disclosure made to prospective investors in the offering documents and that the issue meet the standards required by a national rating agency reasonably approved by the Agency for an investment grade rating.

If such taxable bonds are issued, Developer shall pay to Agency a processing fee of THIRTY-FIVE THOUSAND DOLLARS (\$35,000) to reimburse Agency for certain extraordinary costs to be identified in the OPA associated with the issuance, including fees paid to Agency disclosure counsel. In addition, so long as the taxable bonds are outstanding, Developer shall pay to Agency an annual monitoring fee to reimburse Agency for its actual, out-of-pocket and reasonable costs incurred in monitoring the taxable bonds, provided however, that such monitoring fee shall not exceed THREE THOUSAND DOLLARS (\$3,000) per year.

Section 12. It cannot be ascertained at this time whether the Agency or City will incur any binding obligation in connection with the proposed Mello-Roos District Bond issue prior to the start of construction. However, it is intended that if such an obligation should be required of the City or Agency, the Developer shall provide adequate assurance, in a form acceptable to counsel for the City and Agency and bond counsel for the Agency, that all related issuance or other costs shall be recoverable by the Agency or City, as the case may be, if Developer fails to undertake development of the Retail Center in accordance with the terms of the OPA; provided, however, that such costs must be approved by the Developer, such approval not to be unreasonably withheld. It is the intent of this provision that the City and Agency shall be held harmless by the Developer as to any risk undertaken by virtue of a bond issue being committed or sold prior to the completion of the Retail Center.

Section 13. It is understood that the Retail Center will be subject to all usual governmental reviews common to a project of this size and type, including, but not limited to, architectural review, required special permits, plan and working drawing review, development plan review, and other reviews, whether by the City, the Agency, or any state or federal agency. The execution of this MOU by the Agency shall not be deemed to affect or constrain, in any manner whatsoever, such review as may be required.

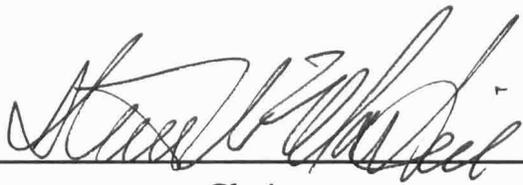
Section 14. Time is of the essence under this MOU. The Developer and Agency will proceed diligently and in good faith to negotiate an OPA and related agreements and documents with the intention of executing an OPA at the earliest possible time but no later than sixty (60) days after the date of this MOU in order to allow the construction of the Retail Center to commence as soon as practicable. However, if during the OPA negotiating process in the judgment of the Agency it shall appear reasonably probable that the Developer shall not be able to proceed with the Retail Center to completion, the Agency reserves the right to withdraw from these negotiations.

Section 15. The Agency is relying upon the capacities, abilities and experience of the constituent partners of the Developer and, but for these representations, would not have entered upon this MOU. Accordingly, the Agency reserves the right to withdraw and terminate this MOU upon the sale or transfer of any controlling interest in the Developer or upon the expansion of the capital structure of the Developer by the inclusion of additional partners or ownership parties, any of which, in the reasonable judgment of the Agency, would materially change the capacities, abilities and experience of the Developer. The Agency recognizes that the Developer may associate and bring in other participants, such as joint venturers, partners or lenders, as equity participants or otherwise in order to obtain its financing and assure the operation of the Retail Center; provided, however, that the Agency reserves the right to approve any permanent lender if any is so designated by the Developer prior to or at the time of execution of the OPA referred to in Section 13. of this MOU. The OPA shall provide reasonable rights of review and approval by the Agency of any change in the identity of the permanent lender.

Section 16. Halferty Development Company and Woodland reserve the right to terminate their partnership agreement if an OPA is not executed by Agency and Developer within sixty (60) days after the date of this Agreement. Upon such termination, this MOU will automatically terminate and the parties hereto shall have no rights against or liability to the other.

This MOU is executed as of the day and year first above written.

REDEVELOPMENT AGENCY OF THE CITY  
OF EL PASO DE ROBLES ("AGENCY")

By:   
Chairman

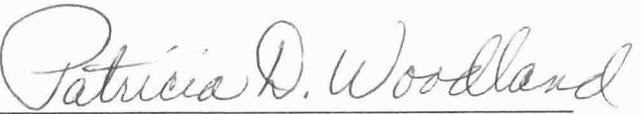
By:   
Secretary

"AGENCY"

- AND -

RICHARD J. WOODLAND AND PATRICIA D. WOODLAND,  
co-trustees of the Richard J. Woodland and  
Patricia D. Woodland Trust ("WOODLAND")

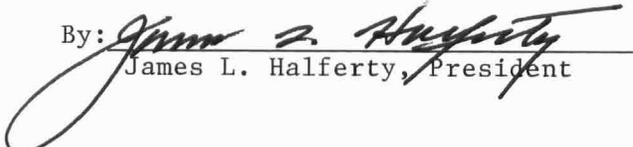
By:   
Richard J. Woodland

By:   
Patricia D. Woodland

"WOODLAND"

WOODLAND PLAZA II, a California general  
partnership ("DEVELOPER")

By: Halferty Development Company, a  
California corporation  
Managing General Partner

By:   
James L. Halferty, President

05/27/93 13:11

818 405 0632

HALFERTY CO.

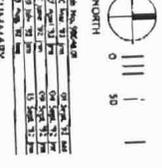
Exhibit "A"

Planned / Final Submittal  
Final Submittal  
Final Submittal

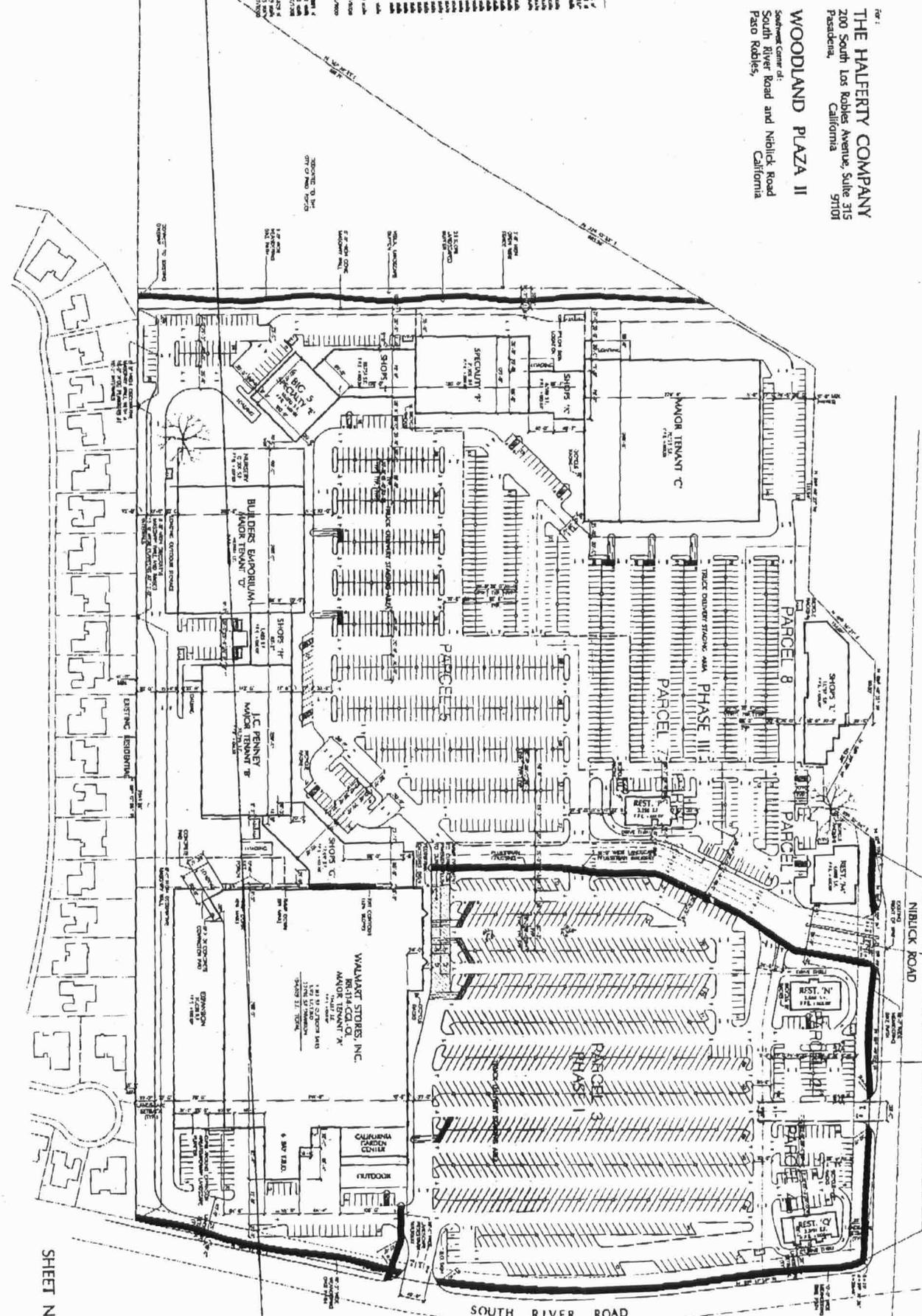
PROJECT: WOODLAND PLAZA II  
 LOCATION: 200 South Los Robles Avenue, Suite 315, Pasadena, California  
 CLIENT: THE HALFERTY COMPANY  
 ARCHITECT: MCG architects  
 DATE: 05/27/93

**SUMMARY**

NO.	DESCRIPTION	AMOUNT
1	LAND ACQUISITION	1,234,567
2	CONSTRUCTION	2,345,678
3	PERMITS	123,456
4	PROFESSIONAL FEES	567,890
5	MARKETING	234,567
6	RESERVE	123,456
7	TOTAL	6,629,513



THE HALFERTY COMPANY  
 200 South Los Robles Avenue, Suite 315  
 Pasadena, California 91101  
 WOODLAND PLAZA II  
 Southeast Corner of:  
 South River Road and Niblick Road  
 Pasadena, California



SHEET NO. 1

## EXHIBIT "B"

WOODLAND PLAZA II  
 MELLO-ROOS IMPROVEMENTS PORTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS

LINE ITEM DESCRIPTION	TOTAL	PHASE I	PHASE II	PHASE III
<b>REGIONAL/COMMUNITY INFRASTRUCTURE COSTS</b>				
Bridge Expansion Cost	2,000,000		2,000,000	
Regional/Community Off-Site Costs Fronting Project				
Community Bike Path	20,000			20,000
5' Protective Screen Wall for Community Bike Path	30,275			30,275
Contingency @ 25%	12,569			12,569
Engineering/Staking @ 15%	7,541			7,541
S. River Rd., Woodland Plaza I to Creston Rd.	150,000		150,000	
Public Open Space Lot, Riparian Mitigation/Enhancements	75,000			75,000
<b>OTHER PUBLIC INFRASTRUCTURE IMPROVEMENT COSTS</b>				
Community Retaining Walls	50,000	50,000		
Community Bike Lane	7,000		7,000	
Cut/Fill (10% Estimated Allocation of Total)	85,000	25,000	15,000	45,000
Sewer Manhole	2,500	2,500		
Public Street Improvements				
Curb Return and Ramp	3,200	3,200		
Signs	400	400		
Paint Striping	584	584		
Perimeter Landscape/Irrigation	50,878	35,878		15,000
Clear and Grub	500	500		
Cut and Fill, Balanced	10,000			10,000
Sawcut Asphalt Pavement	1,800	1,800		
Traffic Signal	100,000			100,000
Combined Utility Trench	33,600	33,600		
Contingency @ 25%	88,366	38,366	5,500	42,500
Engineering/Staking @ 15%	51,819	23,019	3,300	25,500
Construction Management Overhead	102,890	27,890	45,000	30,000
Cultural Resources Mitigation	100,000		100,000	
City Capital Improvement Fees	579,066	55,000	264,601	259,465
General Contingency	12,144	4,144	4,000	4,000
<b>MELLO-ROOS PORTION OF INFRASTRUCTURE IMPROVEMENTS (1)</b>	<b>3,573,132</b>	<b>301,881</b>	<b>2,594,401</b>	<b>676,850</b>

## FOOTNOTES SUPPORTING SCHEDULE

- (1) These totals represent net construction proceeds from the Mello-Roos bond issuance and will be increased to reflect costs relating to bond issuance costs, reserves, capitalized interest (18 months) and negative arbitrage costs included in the bond issue.

MAY 27 '93 15:46 KLEIN FIN. GROUP



TOTAL ACREAGE: 31.98 ACRES

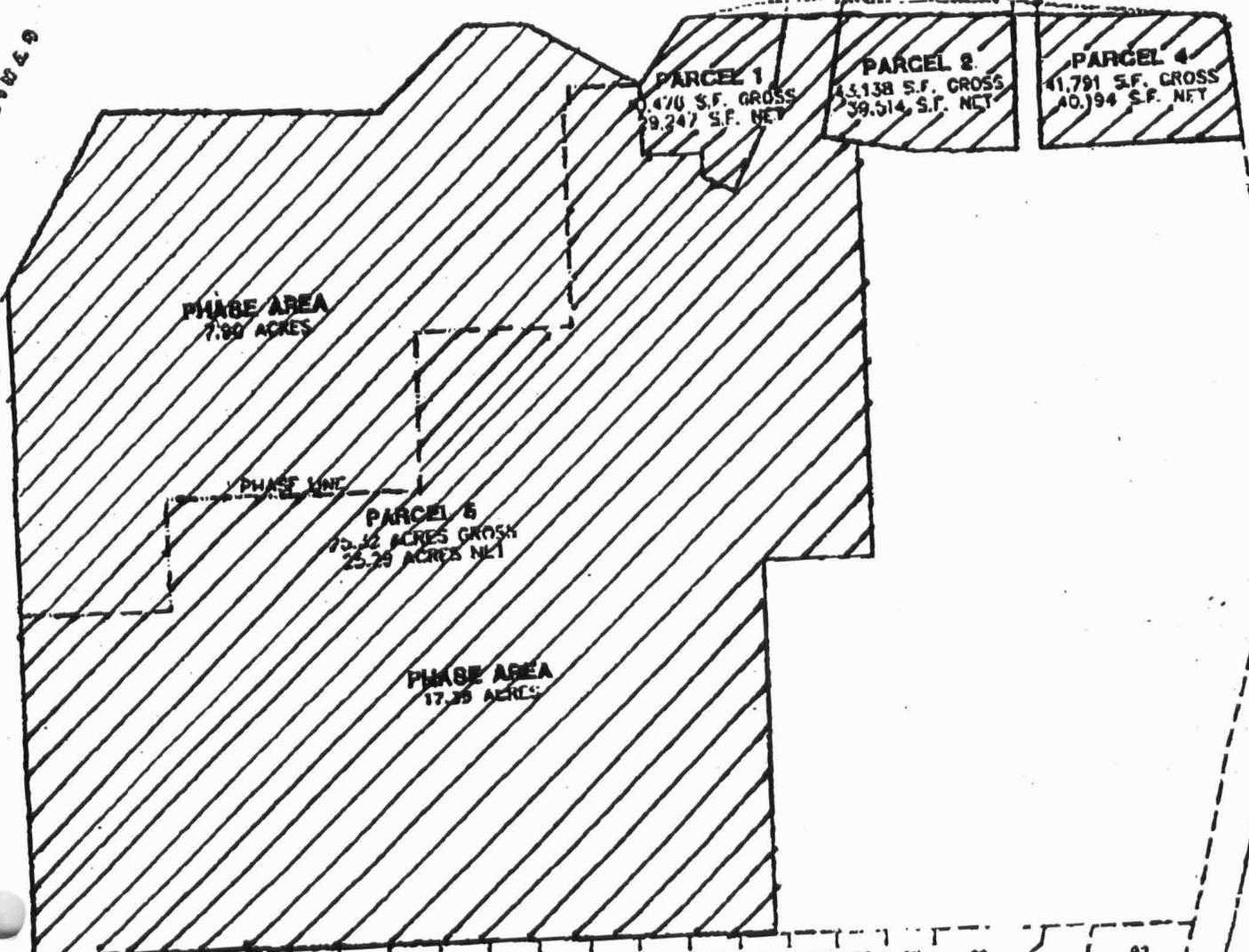
 = Proposed Mello-Roos District

SEVEN

WINDYBICK ROAD

DESIGNED

ST. VERN'S



112 111 110 109 108 107 106 105 104 103 102 101 100 99 98 97 96 95 93 92

**LEGAL DESCRIPTION**

**PARCEL A**

PARCEL 4 OF PARCEL MAP PR 89-418 AS RECORDED JUNE 26, 1990, IN BOOK 47 OF PARCEL MAPS AT PAGE 22, CONTAINING 2.61 ACRES.

**PARCEL B**

PARCEL 7 OF PARCEL MAP PR 89-418 AS RECORDED JUNE 26, 1990, IN BOOK 47 OF PARCEL MAPS AT PAGE 22, CONTAINING 27,338 S.F.

**PARCEL C**

PARCEL 5 OF PARCEL MAP PRAL 90-323 AS RECORDED SEPTEMBER 16, 1991, IN BOOK 48 OF PARCEL MAPS AT PAGE 74, CONTAINING 22,967 S.F.

**PARCEL D**

PARCEL 1 OF PROPOSED PARCEL MAP PR 91-095, CONTAINING 29,247 S.F.

**PARCEL E**

PARCEL 2 OF PROPOSED PARCEL MAP PR 91-095, CONTAINING 39,514 S.F.

**PARCEL F**

PARCEL 4 OF PROPOSED PARCEL MAP PR 91-095, CONTAINING 40,194 S.F.

**PARCEL G**

PARCEL 5 OF PROPOSED PARCEL MAP PR 91-095, CONTAINING 25.29 ACRES.

NOTE: PARCEL G AREAS BY PHASE ARE 7.90 ACRES AND 17.39 ACRES

**TOTAL AREA: 31.56 ACRES**

EXHIBIT "D"

WOODLAND PLAZA II

ADDITIONAL IMPROVEMENTS PORTION OF PUBLIC INFRASTRUCTURE IMPROVEMENTS

<u>LINE ITEM DESCRIPTION</u>	<u>PHASE I</u>
<b>REGIONAL/COMMUNITY INFRASTRUCTURE COSTS</b>	
Regional/Community Off-Site Costs Fronting Project	
Regional 16" Water Line	66,200
Community Bike Path	32,500
Public Street Improvements	
Curb and Gutter	22,680
New Median	28,792
Median Curbs	29,048
New A.C. Paving	61,927
Street Lights	20,000
S. River/Niblick Rds. Intersection Signal	30,000
Regional Drainage Improvements	100,000
Contingency @ 25%	97,787
Engineering/Staking @ 15%	58,872
Niblick Rd., S. River Rd., to Quarterhorse	75,000
Creston Rd./S. River Rd. Signal	150,000
Box Culvert, Un-named Creek #1	425,000
Public Open Space Lot, Riparian Mitigation/Enhancements	100,000
<b>OTHER PUBLIC INFRASTRUCTURE IMPROVEMENT COSTS</b>	
Continuous Cross Gutter	1,800
Remove Existing Median	7,938
Trench Resurfacing	9,440
Cut and Fill, Balanced	20,000
Traffic Signal Modification	30,000
Contingency @ 25%	17,295
Engineering/Staking @ 15%	10,377
Construction Management Overhead	147,110
Cultural Resources Mitigation	50,000
General Contingency	21,856
<b>AGENCY PORTION OF INFRASTRUCTURE IMPROVEMENTS</b>	<u>1,613,421</u>

FOOTNOTES SUPPORTING SCHEDULE

(1) Regional Road Improvements for S. River Road  
 From Woodland Plaza I to Creston Road will  
 be funded, in part, to the extent the contingencies  
 and/or other listed items can be reduced and/or  
 eliminated.



# CITY OF EL PASO DE ROBLES

*"The Pass of the Oaks"*

June 25, 1993

Mr. James Halferty  
199 S. Los Robles Ave., Suite 660  
Pasadena, CA 91101-2459

Re: Certification of Resolution/MOU

Dear Mr. Halferty:

I, Candace Aschle, Deputy City Clerk of the City of El Paso de Robles, California, do hereby certify that the foregoing Resolution No. RA93-03 and the Memorandum of Understanding, are true and correct copies of the originals on file which were duly and regularly adopted, passed and approved by the City Council of the City of El Paso de Robles, California at a regular meeting of said City Council held at the regular meeting place thereof, on the 1st day of June, 1993 by the following vote:

AYES: Heggarty, Macklin, Martin, and Iversen

NOES: Picanco

ABSENT: None

ABSTAINED: None

DATED this 25th day of June, 1993

Deputy City Clerk of the City Council  
of the City of El Paso de Robles,  
State of California

AGENCY RESOLUTION NO. RA 93-04

RESOLUTION OF THE REDEVELOPMENT AGENCY OF THE CITY OF EL PASO DE ROBLES APPROVING AND AUTHORIZING EXECUTION OF AN OWNER PARTICIPATION AGREEMENT BETWEEN THE AGENCY AND WOODLAND PLAZA II, AND MAKING FINDINGS AND DETERMINATIONS IN CONNECTION THEREWITH AND APPROVING AND AUTHORIZING RELATED ACTIONS

WHEREAS, the Redevelopment Agency of the City of El Paso de Robles (the "Agency") is carrying out the Redevelopment Plan (the "Redevelopment Plan"); for the Paso Robles Redevelopment Project (the "Redevelopment Project"); and

WHEREAS, in 1992, the City of El Paso de Robles (the "City") received an application from Halferty Development Company ("Halferty") for the development in phases of a regional shopping center (the "Retail Center") on certain real property consisting of approximately 39 acres (the "Site") located within the boundaries of the Redevelopment Project (the "Project Area"); and

WHEREAS, on August 8, 1992, the Planning Commission of the City (the "Planning Commission") adopted Resolution PC 92-049, certifying the completion and adequacy of the Final EIR regarding the proposed Regional Center, and on October 6, 1992, the City Council adopted Resolution CC 92-163 upholding the Planning Commission's action; and

WHEREAS, on November 10, 1992, the Planning Commission recommended approval of a proposed rezoning of the Site to accommodate development of the Retail Center project, and on December 1, 1992, the City Council adopted Ordinance 648 N.S. amending the municipal zoning code and approving such rezoning; and

WHEREAS, on December 22, 1993, the Planning Commission adopted Resolutions PC 92-072, PC 92-073, PC 92-074 and PC 92-075, approving the environmental findings, planned development, conditional use permit and parcel map regarding the proposed Retail Center, and on January 19, 1993, the City Council adopted Resolutions CC 93-09, CC 93-10, CC 93-11 and CC 93-12 upholding the Planning Commission's actions; and

WHEREAS, Halferty submitted a request to the Agency for assistance in financing the costs for construction of certain related regional public infrastructure improvements (the "Public Infrastructure Improvements") to be provided as part of the Retail Center project;

WHEREAS, the Agency entered into a Memorandum of Understanding, dated \_\_\_\_\_, 1993, with Woodland Plaza II, a California general partnership, whose general partners are (i) Halferty, (ii) James L. Halferty, an individual, and (iii) Richard J. Woodland and Patricia D. Woodland, as co-trustees of the Richard J. Woodland and Patricia D. Woodland Trust (collectively, the "Participant"), which set forth the status of negotiations between the Agency and Participant regarding preparation of an owner participation agreement relating to development of the Retail Center project and assistance from the Agency in financing the Public Infrastructure Improvements; and

WHEREAS, in furtherance of the MOU, the Agency and the Participant have prepared a proposed owner participation agreement (the "OPA") to be entered into by the Agency and the Participant providing for the development of the Regional Center and the Public Infrastructure Improvements relating thereto in accordance with the previous approvals of the City Council and Planning Commission relating to development of the Retail Center project; and

WHEREAS, pursuant to Sections 33421 and 33421.1 of the Community Redevelopment Law, the Agency is authorized, with the consent of the City Council, to develop a site for industrial or commercial use so as to provide streets, sidewalks, utilities or other improvements which an owner or operator of the site would otherwise be obliged to provide; and

WHEREAS, pursuant to Section 33445 of the Community Redevelopment Law, the Agency is authorized, with the consent of the City Council, to pay all or any part of the value of and the cost of installation and construction of any building, facility, structure or other improvement which is publicly owned either within or without the Project Area upon a determination by the City Council that such building, facility, structure or other improvement is of benefit to the Project Area or the immediate area in which the Project is located, and that no other reasonable means of financing such building, facility, structure or other improvement is available to the community;

NOW, THEREFORE, THE REDEVELOPMENT AGENCY OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. The proposed OPA is hereby approved substantially in the form on file with the Agency Secretary and the Chairman and Secretary of the Agency are authorized to complete and execute the OPA on behalf of the Agency, subject to such minor, technical and clarifying changes as the Executive Director and Agency Counsel shall determine are necessary or appropriate. The Executive Director of the Agency is hereby authorized and directed to do all other acts and execute all other documents which are necessary or appropriate to carry out the purposes and authority of this Resolution.

Section 2. The OPA provides for Agency financial assistance to the Participant to reimburse the Participant for certain costs, and to assist the

Participant in establishing a financing mechanism, through formation of a Mello-Roos Financing District or other similar financing district, in connection with specified Public Infrastructure Improvements to be provided by the Participant in connection with the development of the Retail Center. The Agency hereby finds and determines:

(a) That such financial assistance by the Agency is fair and reasonable and that without such financial assistance the Retail Center could not be developed by the Participant on economically feasible terms and, consequently, would not be developed by the Participant;

(b) That the Public Infrastructure Improvements, including the Mello-Roos Improvements and the Additional Improvements (as defined in the OPA), in which costs the Agency is participating are of benefit to the project area or the immediate neighborhood in which the project is located and that no other reasonable means of financing the costs of the Public Infrastructure Improvements is available to the community; and

(c) That the provision of streets, sidewalks, utilities or other improvements by the Agency, in whole or in part, for the development of the Retail Center is necessary to effectuate the purpose of the Redevelopment Plan, and the Agency is authorized, with the consent of the City Council, to provide such improvements.

Section 3. The Agency has fully considered the Final EIR for the Retail Center project and the findings and statements of overriding considerations contained in the previous approvals relating to the Retail Center project, identified above in the third, fourth and fifth paragraphs of this Resolution (collectively, the "Previous Approvals"), and has determined that no subsequent changes are proposed in the Retail Center project and no substantial changes have occurred with respect to the circumstances under which the Retail Center project is to be undertaken and no information of substantial importance has become available which will require revisions to the Final EIR due to the involvement of new significant environmental impacts or new information of substantial importance not previously considered in the Final EIR or in the Previous Approvals relating to the Retail Center project, and that no subsequent or supplemental EIR is necessary or required; and that the proposed OPA will have no significant environmental impacts except as identified and considered in the Final EIR and the Previous Approvals relating to the Retail Center project. The Agency hereby further approves and adopts and incorporates herein the findings and statements of overriding considerations contained in Planning Commission Resolutions PC 92-072, PC 92-073, PC 92-074 and PC 92-075, adopted on December 22, 1993, and City Council Resolutions CC 93-09, CC 93-10, CC 93-11 and CC 93-12, adopted on January 19, 1993, approving the environmental findings, planned development, conditional use permit and parcel map relating to the Retail Center project, and Ordinance 648 N.S., approving the rezoning of

the Site. The Agency further finds that all mitigation measures and conditions of approval included in such Previous Approvals have been incorporated in the project set forth in the OPA.

Section 4. The approvals and findings contained in this Resolution are based on the proposed OPA and documents and testimony submitted in connection therewith, and on all prior actions and approvals of the City of El Paso de Robles with respect to the approval of the Retail Center project, and actions in implementation thereof, all of which are incorporated by reference into the record before the Agency.

PASSED AND ADOPTED the \_\_\_\_\_ day of \_\_\_\_\_, 1993, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Chairperson

ATTEST:

\_\_\_\_\_  
Secretary