

**PLACER COUNTY**  
**REDEVELOPMENT AGENCY**  
**MEMORANDUM**

**TO:** Honorable Members of the Redevelopment Agency Board  
**FROM:** Richard Colwell, Chief Assistant CEO – Redevelopment Director *REC*  
Rae James, Deputy Director  
**DATE:** July 25, 2006  
**SUBJECT:** Adopt a Resolution Authorizing an Exclusive Right to Negotiate Agreement with Ferrari Corporation, Inc. and Authorize the Chief Assistant CEO-Redevelopment Director or Designee to Sign all Related Documents, Subject to the Review of Agency Counsel.

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**ACTION REQUESTED:** Adopt a Resolution authorizing an Exclusive Right to Negotiate Agreement with Ferrari Corporation, Inc. and authorize the Chief Assistant CEO-Redevelopment Director or designee to sign all related documents, subject to the review of Agency Counsel.

**BACKGROUND:** In 2005, the Agency in conjunction with the North Lake Tahoe Resort Association, retained Design Workshop to prepare a report entitled Recommended Policy, Code, and Regulation Changes to Facilitate Redevelopment Opportunities in the North Lake Tahoe Redevelopment Project Area (Report). This Report identified five (5) nodes critical to North Lake Tahoe redevelopment opportunities – two in Tahoe City and three in Kings Beach.

On January 10, 2006, your Board approved an Agency contract with Economic & Planning Systems, Inc. (EPS) to continue and expand the effort with a land use and market study. Agency staff in conjunction with EPS discussed the potential for redevelopment with several property owners in the node areas, as well as with the Tahoe Regional Planning Agency staff and its consultants as the study relates to the regional plan update. Staff identified the Ferrari Corporation, Inc. as the first property owner in one of the key focus areas that meets the criteria for redevelopment and is considered ready to enter into an Exclusive Right to Negotiate Agreement (ERN).

The Ferrari Corporation, Inc. (Owner) controls thirteen parcels (Property) within the Kings Beach western gateway (See Attachment A – Map). The Property totals approximately 3.27 acres and contains largely older tourist accommodation units originally constructed in the 1960's. The Property fronts along State Highway 28 on both the beach and non-beach side. The Property has been well maintained, however, it is not functioning at its highest and best use of product mixes to address today's market needs.

Since the Property is identified as a site for potential redevelopment, one of the first steps to solidify this initiative is to enter into an ERN. Under Redevelopment Law an ERN allows both

parties to proceed with evaluating the development potential for a property, while not obligating either party to develop a project. The ERN sets out a timeframe to conduct due diligence in order to evaluate the feasibility of a project. If it is determined that a project is feasible, staff will come back to the Board with a request to enter into an Owner Participation Agreement, which shall define the actual project, provide project timeframes, and give detailed terms of any Agency support financing. The Agency anticipates participating in the Project by assisting with related street improvements, public parking and other infrastructure construction requirements. The ERN Agreement in its substantial form is attached.

As part of the initial due diligence effort, several pre-development expenditures must be made. Pre-development costs include plans, surveys, design, environmental studies, appraisals, legal, architectural and consultant fees. Agency staff is proposing in the ERN to match the Owner funds up to \$200,000 for pre-development costs associated with the Property. If it is determined that a project is feasible, repayment of the pre-development costs shall be considered within an OPA support financing package. If the project is determined to be infeasible, the Owner shall assign and forward all copies of plans, surveys, designs, etc. towards which the Agency has contributed funds.

**FISCAL IMPACT:** If approved, the Agency will use North Lake Tahoe Tax Increment Funds earmarked in its FY 2006/2007 Budget and Tax Increment Bond Proceeds approved by your Board on June 27, 2006. There is no impact on the County General Fund.

**ENVIRONMENTAL STATUS:** The proposed action would allow for refinement of the development proposal in order to define the project and commence environmental review, and does not commit the Agency to a definite course of action. Therefore, the action is exempt from environmental review under CEQA per Guidelines Section 15262. NEPA does not apply.

**RECOMMENDATION:** Adopt a Resolution authorizing an Exclusive Right to Negotiate Agreement with Ferrari Corporation, Inc. and authorize the Chief Assistant CEO-Redevelopment Director or designee to sign all related documents, subject to the review of Agency Counsel.

Attachments

cc: Sabrina Thompson, Deputy County Counsel

**Before the Redevelopment Agency  
of Placer County Board of Directors  
County of Placer, State of California**

**In the matter of:**

**Adopt a Resolution Authorizing an Exclusive Right to Negotiate Agreement with Ferrari Corporation, Inc. and Authorize the Chief Assistant CEO-Redevelopment Director or Designee to Sign all Related Documents, Subject to the Review of Agency Counsel.**

**Resol. No:.....**

**Ord. No:.....**

**First Reading: .....**

**The following Resolution was duly passed by the Redevelopment Agency of Placer County Board at a regular meeting held July 25, 2006,**

**by the following vote on roll call:**

**Ayes:**

**Noes:**

**Absent:**

**Signed and approved by me after its passage.**

**Attest:  
Clerk of said Board**

**\_\_\_\_\_  
Chair, Agency Board**

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**BE IT RESOLVED** by the Redevelopment Agency of Placer County Board as follows:

WHEREAS, the Redevelopment Agency of Placer County (Agency) has adopted the Redevelopment Plan (Redevelopment Plan) for the North Lake Tahoe Redevelopment Project Area (Project Area) and the Implementation Plan for the North Lake Tahoe Redevelopment Project Area (collectively the Project Area and Plans); and

WHEREAS, the Agency and Ferrari Corporation, Inc. (Developer) desire to enter into an Exclusive Right to Negotiate to assess the feasibility of a project on Assessor Parcel Numbers 090-071-023, 090-071-004, 090-071-008, 090-071-034, 090-071-033, 090-070-017, 090-070-022, 090-072-006,

090-072-027, 090-072-009, 090-073-005, 090-073-006, and 090-073-007 (Site) which are owned or controlled by the Developer and located within the Project Area; and

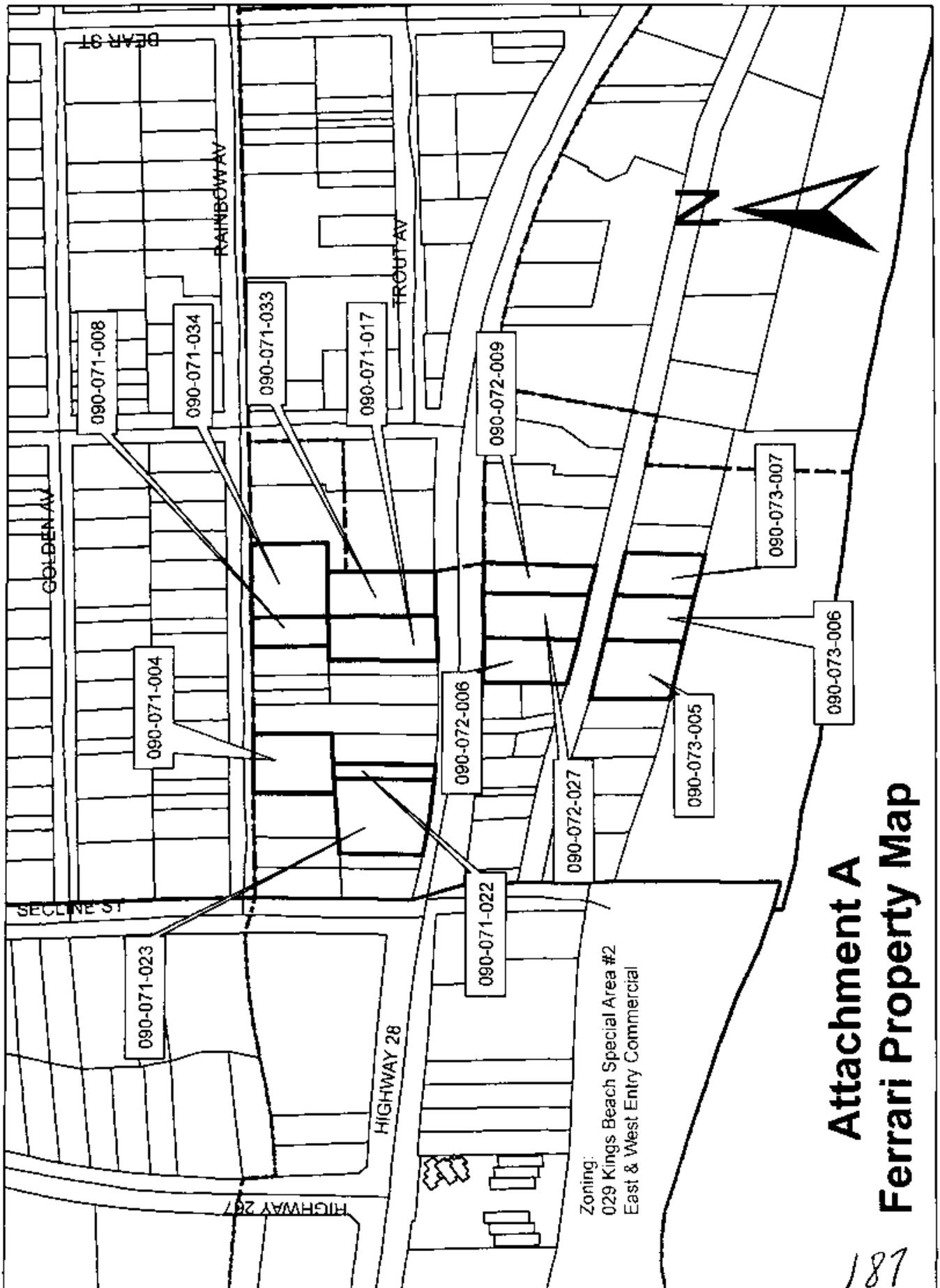
WHEREAS, the Agency desires to assist with the predevelopment costs associated with the development of a project on the Site; and

WHEREAS, the proposed project will assist in the elimination of blight in that it will assemble land into economic parcels in support of rehabilitation and modern, integrated development, correct environmental deficiencies in the Project Area, including obsolete and aged building types, mixed character of buildings, incompatible and uneconomic land uses, and inadequate or deteriorated public improvements, facilities, and utilities.

WHEREAS, the proposed action would allow for refinement of the development proposal in order to define the project and commence environmental review of the project, and does not commit the Agency to a definite course of action. Therefore, the action is exempt from environmental review under CEQA per Guidelines Section 15262. NEPA does not apply.

BE IT FURTHER RESOLVED, after due consideration of the facts presented as stated in the staff report that accompanies this Resolution, that the Agency hereby approves the Exclusive Right to Negotiate Agreement (ERN), in substantially the same form as that which is on file with the Agency Clerk, is approved and the Chief Assistant CEO-Redevelopment Director, or designee is authorized to execute the ERN and to take such actions, execute such instruments, and amend the budget as may be necessary to effectuate and implement this resolution and the ERN.

BE IT FURTHER RESOLVED that the Agency is authorized to allocate and expend up to \$200,000 in North Lake Tahoe Redevelopment Area Tax Increment funds and Tax Increment Bond Proceeds to fund pre development expenditures associated with due diligence efforts under the ERN.



# Attachment A Ferrari Property Map

EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT  
BETWEEN THE PLACER COUNTY REDEVELOPMENT AGENCY AND THE FERRARI  
CORPORATION, INC.

APNS 090-071-023, 090-071-004, 090-071-008, 090-071-033, 090-071-034, 090-071-017, 090-  
071-022, 090-072-006, 090-072-027, 090-072-009, 090-073-007, 090-073-006, AND 090-073-  
005

THIS EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT (this "Agreement") is dated as of \_\_\_\_\_, 2006 (the "Effective Date"), by and between the PLACER COUNTY REDEVELOPMENT AGENCY, a public body, corporate, and political (the "Agency") and Ferrari Corporation, Inc., Ferrari Investment, LLC and La Perrona, LLC (the "Owner"). Agency and Owner are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

I. RECITALS

A. Party is the owner of thirteen parcels of real property (Assessor Parcel Numbers 090-071-023, 090-071-004, 090-071-008, 090-071-033, 090-071-034, 090-071-017, 090-071-022, 090-072-006, 090-072-027, 090-072-009, 090-073-007, 090-073-006, AND 090-073-005), located in the County of Placer, State of California, as described in Exhibit A, consisting of approximately 3.367 acres (the "Property"). The Property is located within the North Lake Tahoe Redevelopment Project Area (the "Project Area").

B. The development of the Property is consistent with the North Lake Tahoe Redevelopment Project Area Plan (the "Redevelopment Plan") and its implementing documents and has been identified by the Agency as important to the furtherance of the Project Area and the elimination of blighting conditions in the Project Area.

C. The Parties desire to investigate the feasibility of a project (the "Project") and to negotiate an Owner Participation Agreement (the "OPA") for financing and development of the Property. Both the Owner and the Agency require time to conduct due diligence in order to evaluate the feasibility of an OPA.

D. This Agreement does not obligate or commit neither the Owner nor the Agency to entering into an OPA.

E. The development of the Property, the completion of the Project and the fulfillment generally of the Agreement are for the purpose of community improvement and welfare, for the benefit of the Project Area and in accordance with public purposes and provisions of any applicable federal, state and local laws and requirements which the Project is to be undertaken.

## II. IDENTITY OF PARTIES

A. Owner is the Ferrari Corporation, Inc., organized and doing business in the State of California. The principal office of Owner is located at 8200 North Lake Boulevard, Kings Beach, California 96143. Owner shall make full disclosure to Agency of the identity of all principals, officers, stockholders, partners, joint ventures, and entities in Development. Initially, the principals of Owner are (see attached Exhibit B). Notices to the Owner shall be clearly marked "Attention: David Ferrari."

B. The Agency is the Placer County Redevelopment Agency, a public body, corporate and politic, organized under California Law and functioning within the jurisdiction of the County of Placer. The principal office of the Agency is 3091 County Center Drive, Suite 260, Auburn, CA 95603. Correspondence should be mailed to P.O. Box 7096, Auburn, CA 95604-7096.

C. The Agency shall receive a copy of the Owner's Articles of Incorporation, Bylaws, and other pertinent Property operating agreements prior to the consent of any funding request pursuant to Section VIII below.

D. Notices to any Party shall be personally delivered or sent by first class mail to its principal office address. Notices to the Agency shall be clearly marked "Attention: Deputy Director, Redevelopment."

III. PURPOSE. During the term of this Agreement, the Parties shall confer to frame the Property development concept. The Parties may pursue due diligence efforts during the term of this Agreement to determine the design, structure, and financial feasibility of a mixed use development project which will result in the execution of an OPA. The Parties acknowledge and agree that neither Party is obligated by this Agreement or otherwise to undertake the Project nor any other Project on the Property and that no Party has a cause of action against the other arising under this Agreement for failure to approve or undertake the Project. By its execution of this Agreement, the Agency is not committing itself to or agreeing to undertake (a) approval of the Project by the Agency; or (b) any other acts or activities requiring the subsequent independent exercise of discretion by the Agency, or any agency or department of the County.

IV. TERM. This Agreement shall terminate upon the earlier of completion of all pre-development activities leading to an agreed OPA or One Hundred Eighty Days (180 days) after the Effective Date unless extended by written agreement of the parties (the "Term"). Upon written request of Owner received no later than sixty (60) days prior to the Term of this Agreement by Agency, Agency shall reasonably consider an extension of the initial term of this Agreement if Owner has acted diligently and in good faith under this Agreement and if there is reasonable likelihood that the parties can negotiate a mutually acceptable OPA.

V. ENVIRONMENTAL ACKNOWLEDGMENT. This Agreement does not constitute approval of a Project. In accordance with the California Environmental Quality Act ("CEQA"), Owner shall prepare the environmental documentation and consider the environmental effects of the Project as defined at a later date and as required for the approval of the OPA.

VI. SCHEDULE OF PERFORMANCE. The Parties shall perform the following stated obligations at the time specified in the following schedule ("Schedule of Performances")"

Responsible Party	Action	Due Date
Owner and Agency	Execution of Exclusive Right to Negotiate	July 25, 2006
Owner and Agency	Meet monthly regarding progress of the development scope.	Monthly
Owner	Submit information as requested by Agency, for review of Owner's proposal and inclusion in presentation to governing bodies.	On-Going
Owner and / or Agency	Identify an experienced, mutually agreed upon Owner and/or financing partner and negotiate permanent Agency financing package, which shall be subject to Agency governing board approval.	180 days from Effective Date of Agreement

VII. AGREEMENTS. The Owner and / or its agents agree not to sell, assign or further encumber the Property during the Term of this Agreement without notification to the Agency. Owner will promptly notify the Agency in writing of any litigation materially affecting the Property and of any claims or disputes that involve a material risk of such litigation. The Agency agrees to the extent legally permissible and readily available to provide Owner with copies of any studies, plans, or information that may facilitate with the development of the Project.

VIII. PREDEVELOPMENT COSTS. The Agency may pay in full or in part for pre-development costs, which may include architectural renderings and plans, engineering studies and plans, surveys, application fees, legal services, permits, site preparation, appraisals development consultants, or other applicable studies, plans or reports leading to the development of an OPA. On or after the signing by all Parties to the Agreement, the Owner shall either by regular mail or electronic mail notify the designated representative for the Agency of proposed pre-development expenditures and request a determination as to whether the expenditures are eligible as set out in the preceding sentence. Approval of expenditures shall be done prior to the initiation of work proposed for reimbursement and with the understanding that time is of the essence. Both Parties shall maintain records of pre-development expenditure approvals and / or denials. The Agency's contribution shall be limited to no more than \$200,000 in predevelopment expenditures. Agency will reimburse Owner only upon presentation of third party invoices for pre-approved predevelopment expenses. Owner shall provide Agency a copy of any document paid in part or in full with Agency funds.

Both Parties agree that the OPA may include provisions for the Agency to recoup pre-development funds expended during the term of this Agreement as part of the Project's final financing package.

If the Parties agree in writing to terminate the Agreement through no fault of their own pursuant to Section IX below, the Owner shall assign and provide complete copies of all predevelopment plans, studies, reports, and other products for the Project. The Owner shall not be obligated to repay the Agency for pre-development costs advanced by the Agency upon the Parties mutual concurrence to terminate this Agreement.

If the Owner fails to cure a default as defined under Section IX below, the Agency shall immediately demand full repayment of Agency funds expended for pre-development costs under this Agreement with simple interest at ten percent (10%).

IX. **DEFAULTS.** Either the Agency or the Owner shall be in default of this Agreement if it (a) fails to fulfill its obligations when due, which failure is not caused by the other Party, (b) does not negotiate the OPA in good faith and upon the terms stated in this Agreement, (c) does not reasonably cooperate with the other in fulfilling the other's obligations under this Agreement, or (d) refuses to execute the OPA when negotiations are completed.

Defaulting Party shall have thirty (30) days to cure the default. Should the defaulting Party fail to cure the default within thirty (30) days, the nondefaulting Party may terminate this Agreement by written notice to the defaulting Party, and shall have no remedies available to it for such default except as provided in the last two sentences of Section XIII and Section XI

X. **INDEMNITY.** The Owner shall indemnify, defend, and hold the Agency, its directors, officers, employees, agents, and its successors and assigns harmless against all claims which arise from events occurring in connection with Owner's actions related to the Property, occupancy in, or construction on the Property by the Owner or the Owner's contractors, subcontractors, agents, employees or tenants. This indemnity obligation shall not extend to the extent of any claim arising from the Agency's sole negligence or willful misconduct or the Agency's failure to perform its obligations under this Agreement, and shall survive termination of this Agreement.

XI. **NON-LIABILITY OF PARTIES.** Neither Party shall be liable for the lack of execution of an OPA if the Parties have acted in good faith within the time period specified.

XII. **APPLICABLE LAW AND VENUE.** This Agreement shall be construed in accordance with the law of the State of California, and venue for any action under this Agreement shall be in Placer County, California.

XIII. ATTORNEY'S FEES. In the event of any dispute between the parties, whether or not such dispute results in litigation, the prevailing Party shall be reimbursed by the other Party for all reasonable costs and expenses, including, without limitation, reasonable attorneys' fees, witness and expert fees and investigation costs. A Party receiving an award after arbitration or an order or judgment after hearing or trial shall not be considered a prevailing Party if such award, order or judgment is not substantially greater than the other Party's offer of settlement made in advance of the arbitration, hearing or trial.

Executed as of the date first written above, in Placer County, California.

AGENCY: Placer County  
Redevelopment Agency

Approved as to form:

\_\_\_\_\_  
By: Richard Colwell, Chief Assistant  
CEO – Redevelopment Director

\_\_\_\_\_  
Agency Counsel

OWNER: Ferrari Corporation, Inc.

Approved as to form:

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

\_\_\_\_\_  
Counsel for Owner

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

OWNER: Ferrari Investment, LLC

Approved as to form:

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

\_\_\_\_\_  
Counsel for Owner

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

OWNER: La Perrona, LLC

Approved as to form:

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

\_\_\_\_\_  
Counsel for Owner

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

EXHIBIT A  
DESCRIPTION OF PROPERTY

EXHIBIT B  
DEVELOPMENT PRINCIPALS AND ENTITIES