

**Temporary Right-of-Entry Agreement
(TROE)**

Project: La Posada

Assessor Parcel Numbers: 061-040-012 and 061-040-024

County Project No.:

This Temporary Right-of-Entry Agreement (“TROE” or “Agreement”) is made by and between DIGNITYMOVES LA POSADA LLC, a California limited liability company ("DIGNITY"), and the COUNTY OF SANTA BARBARA, a political subdivision of the State of California ("COUNTY"), with reference to the following:

WHEREAS, COUNTY is the fee owner of that certain real property in the County of Santa Barbara, State of California, commonly known as Assessor’s Parcel Numbers 061-040-012 and 061-040-024, and identified as the diagonally slashed and vertically slashed areas, respectively, on the County Assessor’s Parcel Map attached hereto as Exhibit 1 and incorporated herein by reference ("Property"); and

WHEREAS, concurrently herewith, COUNTY and DIGNITY are entering into a Ground Lease Agreement (“Ground Lease”) whereby COUNTY is leasing a portion of the Property identified as the shaded area on Exhibit 2 (“Premises”) to DIGNITY for the development on the Premises of temporary interim supportive housing units and related facilities (“Development”); and

WHEREAS, DIGNITY desires a temporary right of entry onto the portion of the Property identified as the diagonally slashed area on the map attached hereto as Exhibit 3 and incorporated herein by reference (“Staging Area”) to store and stage materials and equipment on the Property during construction of the Development; and

WHEREAS, DIGNITY desires a temporary right of entry onto the portion of the Property identified as Juvenile Hall Road on Exhibits 1 and 4 (“Road”) for purposes of ingress and egress to and from the Staging Area and the Premises during construction of the Development; and

WHEREAS, DIGNITY desires a temporary right of entry onto the portion of the Property identified as the shaded area on the map attached hereto as Exhibit 4 and incorporated herein by reference (“Emergency Exit Pathway”) for purposes of emergency egress from the Premises to Juvenile Hall Road.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. **RIGHTS GRANTED:** COUNTY hereby grants to DIGNITY the following, subject to the provisions, requirements, restrictions, terms and conditions of this TROE:
 - a. A personal, temporary, non-exclusive, revocable right of entry, including the right for DIGNITY to enter upon and move workers, equipment, and materials over and upon the Staging Area for the purposes of storing on the Staging Area construction materials and equipment, until the issuance of the final certificate of occupancy with respect to the Development.
 - b. A personal, temporary, non-exclusive, revocable right of entry, including the right for DIGNITY to enter upon and move workers, equipment, and materials over and upon

the Road for purposes of ingress and egress to access the Staging Area and the Premises during the Term.

- c. A personal, temporary, non-exclusive, revocable right of entry over and upon the Emergency Exit Pathway for purposes of emergency egress from the Premises to Juvenile Hall Road during the Term.
- d. This TROE and the rights granted to DIGNITY hereunder are not transferable and shall not run with the Parcel or the Property.

2. **PROTECTION OF PROPERTY SUBJECT TO THIS TROE:** DIGNITY shall, and shall ensure that its authorized agents, contractors, officers, employees, volunteers and guests, exercise reasonable precautions necessary to prevent damage to, and to protect the Property, and all improvements thereon, in connection with use of the Property hereunder. DIGNITY shall be responsible for ensuring the safety and security of the Staging Area at all times during construction of the Development.

3. **LIMITATION OF LIABILITY:** COUNTY assumes no liability for any loss or damage to DIGNITY'S property, or injury to or death of any agent, contractor, officers, employee, volunteer or guest of DIGNITY, except to the extent said loss, damage, injury, or death is directly caused by the sole negligence or willful misconduct of the COUNTY. If COUNTY sells, assigns, or otherwise transfers (whether by operation of law or otherwise) all or part of its interests in the Property or this TROE: (i) COUNTY shall be relieved of all obligations and liabilities of COUNTY under this TROE accruing after the effective date of such transfer; and (ii) the transferee shall be deemed to have assumed all of COUNTY'S obligations and liabilities under this TROE effective from and after the effective date of such transfer.

4. **INDEMNIFICATION AND INSURANCE:** DIGNITY agrees to comply, and to cause all of its contractors and subcontractors to comply, with the insurance and indemnification requirements attached hereto as Exhibit 4 and incorporated herein by this reference.

5. **HAZARDOUS MATERIAL:** DIGNITY shall not, and shall ensure that none of its contractors, subcontractors, officers, employees, agents, volunteers or guests, cause in, on, or under the Property or suffer, allow, or permit to occur in, on, or under, the Property, any generation, use, manufacturing, refining, transportation, emission, release, treatment, storage, disposal, presence, or handling of Hazardous Materials (as such term is defined in the Ground Lease). DIGNITY shall be fully responsible for all Hazardous Materials, and any other hazardous wastes, substances or materials as defined under federal, state or local law, regulation, or ordinance, that are manufactured, generated, used, placed, disposed, stored, handled or transported by DIGNITY, or any of its agents, employees, invitees, volunteers or designees, on, under, or in the Property during the Term of this TROE. DIGNITY shall notify COUNTY and all appropriate governmental emergency response agencies immediately in the event of any Release or threatened Release of any such Hazardous Materials.

6. **DAMAGE TO PROPERTY; IMPROVEMENTS:** If any part of the Property, including, but not limited to, any improvement(s) on the Property, is damaged, destroyed, or removed, without the prior written consent of COUNTY, by or on behalf of DIGNITY or any of DIGNITY'S agents, employees, contractors, volunteers, or guests, DIGNITY shall promptly repair such damage or, in the case of improvements, replace, at COUNTY'S election and to COUNTY'S satisfaction, such improvement(s) to as near the original condition and location as of the Effective Date as is practicable.

7. **TERM; TERMINATION:** The term of this TROE shall commence on the Effective Date, and shall expire on the date of termination of the Ground Lease ("Term"), unless earlier terminated as provided herein. Either party hereto may terminate this Agreement at any time for any reason by submitting a written notice of such termination to the other party hereto ("Termination Notice"). Such termination shall be effective as of the termination date specified in the Termination

Notice, provided that the termination date shall not be earlier than the date on which such Termination Notice is deemed received by the other party hereto pursuant to Section 15, below.

8. **REMEDIES:** COUNTY reserves all rights to compensation, payment and indemnification with respect to any damage, harm or injury to persons or property arising out of this TROE.

9. **WAIVER:** It is understood that any waiver of any term of this TROE, or of any default or breach of this TROE, shall not be deemed to be a waiver of any continuing or subsequent default or breach of any other provision of this TROE. All waivers of provisions of this TROE must be in writing and signed by the waiving party.

10. **OWNERSHIP; CONDITION:** COUNTY does hereby certify that it is the sole owner of the Property. COUNTY has communicated the contents, rights and duties of this TROE to all parties having an interest in the Property. COUNTY makes and has made no representations or warranties regarding the condition of the Property, or suitability of the Property for DIGNITY'S intended purpose or any other purpose or use, and DIGNITY has inspected the Property and accepts the rights granted hereunder with respect to the Property in "AS-IS" condition.

11. **NOTIFICATION OF ACCIDENTS; SURVIVAL OF INDEMNIFICATION PROVISIONS:** DIGNITY shall notify COUNTY immediately in the event of any accident or injury arising out of or in connection with this TROE or access to or use of the Property. The indemnification provisions contained in this TROE shall survive the expiration or termination of this TROE.

12. **COMPLIANCE WITH THE LAW:** DIGNITY shall, at its sole expense, at all times during the Term comply with all applicable federal, state, and local laws, regulations, rules and ordinances, guidelines, policies, directives, and standards, and agreements approved by COUNTY (collectively, "Applicable Laws") in effect at any time during the Term, and shall ensure that all of its contractors, subcontractors, officers, employees, agents, volunteers and guests likewise comply with all Applicable Laws in connection with the exercise of rights and the performance of DIGNITY's obligations hereunder.

13. **NON-INTERFERENCE:** DIGNITY shall not use, nor permit those under its control, including, without limitation, its employees, tenants, invitees, agents, volunteers and/or contractors, to use any portion of the Property in any way that interferes with any properties adjacent thereto or with COUNTY's lawful use of the Property or the COUNTY'S adjoining property.

14. **SUCCESSORS IN INTEREST; TRANSFERS:** DIGNITY shall not assign or otherwise transfer, directly or indirectly, in any transaction or series of transactions, whether by operation of law or otherwise, this TROE, or any of DIGNITY's rights or obligations hereunder other than to Service Provider, to the extent provided in the Use Agreement, as defined in the Ground Lease, as approved by COUNTY, without the prior written consent of COUNTY in each instance. Any such purported assignment or other transfer in violation of the provisions of this TROE shall be null and void and of no force or effect. Neither any assignment, transfer, nor any occupancy, or use of the Property or any part thereof by any person or entity, shall, in any circumstances, relieve DIGNITY of its obligations under this TROE. This TROE and the covenants contained herein shall be binding upon and inure to the benefit of the respective Parties and to their respective permitted assigns and transferees.

15. **NOTICES:** Any notice to be given to a party hereunder shall be in writing and shall be delivered, either personally, by U.S. Postal Service Mail, or by e-mail, to such party as follows:

COUNTY: General Services Department
Real Property Division
1105 Santa Barbara Street 2nd Flr.
Santa Barbara, CA 93101
Attn: Julie Lawrence, Real Property Manager
Phone: (805) 568-3070
e-mail: juliel@countyofsb.org

DIGNITY: DignityMoves La Posada LLC
2406 Bush Street
San Francisco, CA 94115
Attn: Elizabeth Funk
Phone: (415) 867-7397
e-mail: elizabeth@dignitymoves.org

Copy to: Brownstein Hyatt Farber Schreck, LLP
2049 Century Park East, Suite 3550
Los Angeles, CA 90067
Attn: Diane De Felice
Phone: (310) 500-4613
Email: DDeFelice@bhfs.com

or to such party at such other respective address as may be designated by such party in writing in accordance with this Section 15. Such notices shall be served by depositing them addressed as set out above, postage prepaid, in the U.S. Postal Service mail, nationally recognized overnight courier, or by personal delivery. Notices personally or electronically delivered are considered received upon delivery. Notices sent by overnight delivery are considered received on the next business day. Mailed notices are considered received three (3) business days after deposit in the mail.

16. **MAINTENANCE AND REPAIR.** DIGNITY shall perform necessary maintenance so as to keep the Staging Area at all times in the same condition as existed as of the Effective Date of this Agreement. In the event that any portion of the Staging Area is damaged in connection with DIGNITY's exercise of any of its rights under this Agreement, DIGNITY shall, at its sole cost and expense, repair and restore the Staging Area to the condition in which it existed as of the Effective Date.

17. **EXECUTION IN COUNTERPARTS:** This TROE may be executed in any number of counterparts, and each of such counterparts shall for all purposes be deemed to be an original, and all such counterparts, or as many of them as the parties hereto shall preserve undestroyed, shall together constitute one and the same instrument.

[Signatures appear on the following page.]

IN WITNESS WHEREOF, COUNTY and DIGNITY have executed this TROE by their respective authorized officers as set forth below to be effective as of the first date fully executed.

“COUNTY”
COUNTY OF SANTA BARBARA
a political subdivision of the State of California

By: _____
Kirk Lagerquist, Director
General Services Department

Date: _____, 2023

APPROVED AS TO FORM:
RACHEL VAN MULLEM
COUNTY COUNSEL

APPROVED AS TO FORM:
GREG MILLIGAN
CEO/RISK MANAGEMENT

By: _____
Lauren Wideman
Deputy County Counsel

By: _____
Greg Milligan
Risk Manager

APPROVED:

By: _____
Julie Lawrence
Real Property Manager

(DIGNITY signature continues on next page)

Document: DignityMoves TROE
Project: La Posada SB
Folio:
APNs: 061-040-012; 061-040-024

IN WITNESS WHEREOF, COUNTY and DIGNITY have executed this Agreement by their respective authorized officers as set forth below to be effective as of the first date fully executed by all of the parties hereto (“Effective Date”).

DIGNITYMOVES LA POSADA LLC,
a California limited liability company

By: _____
Elizabeth Funk,
Chief Executive Officer

By: DIGNITYMOVES, a California
nonprofit
public benefit corporation, its Sole Member

By: _____
Elizabeth Funk,
Chief Executive Officer

Date: _____, 2023

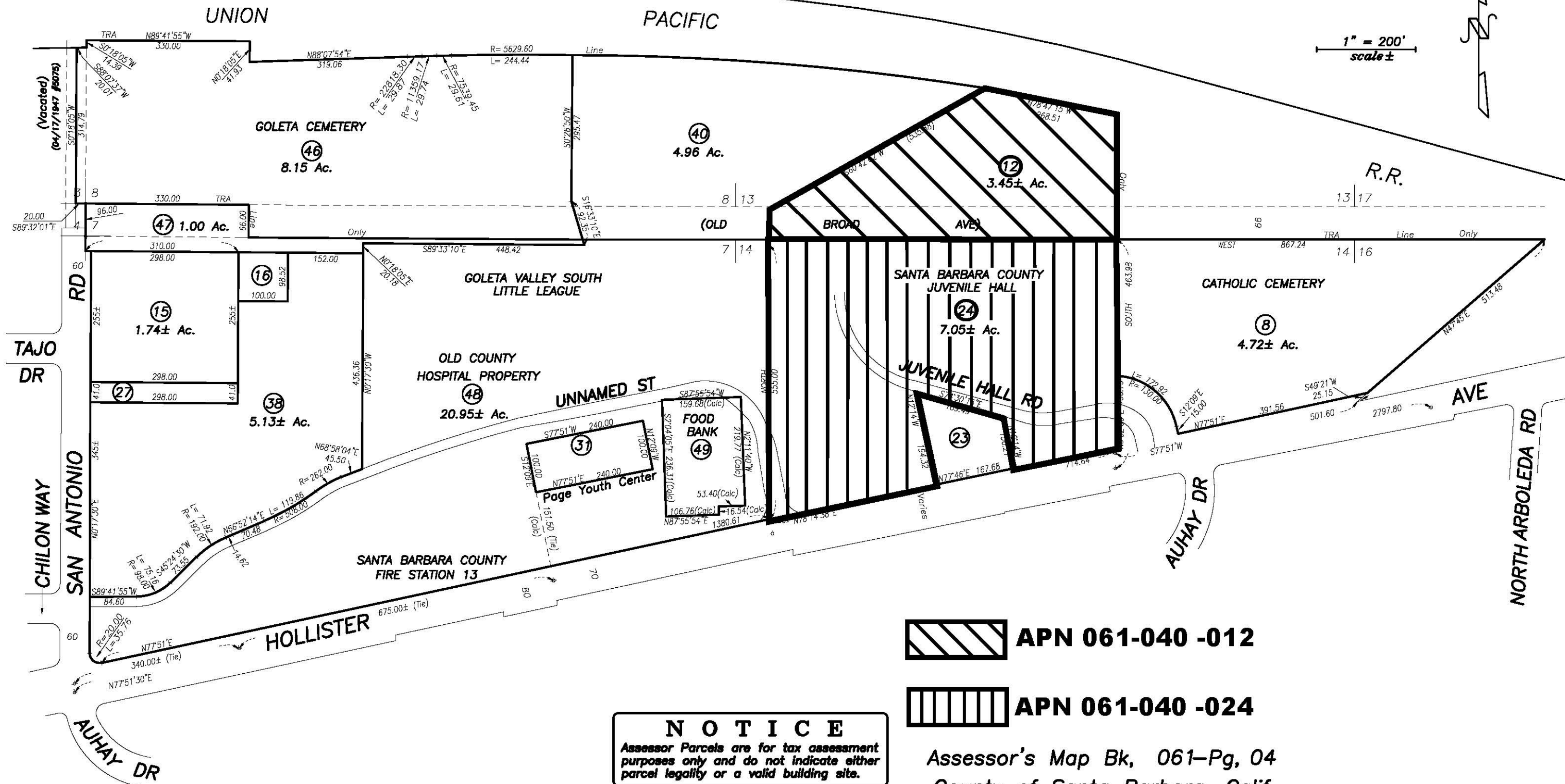
EXHIBIT 1

The Property

POR. PUEBLO LANDS

061-04

U.S. HWY 101



 **APN 061-040 -012**

 **APN 061-040 -024**

NOTICE
 Assessor's Parcels are for tax assessment purposes only and do not indicate either parcel legality or a valid building site.

Assessor's Map Bk, 061-Pg, 04
County of Santa Barbara, Calif.

LD/23 30 & 43 into 48
19, 20 & 21 into 49

EXHIBIT 2

The Premises

Date	Description
03/31/2023	ISSUE FOR PERMIT

AHJ Stamps

Seal / Signature

NOT FOR CONSTRUCTION

Project Name
Dignity Moves - La Posada

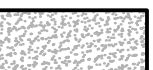

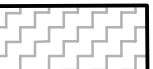

Project Number
20221726-10

Description
HORIZONTAL CONTROL, PAVING, SIGNING AND STRIPING PLAN

Scale
1"=20'

C5.00

PAVING LEGEND

-  AC PAVING
3" MIN. AC/10" MIN. CLASS II AB/PREPARED
SUBGRADE (T. 5.0, R = 5)
-  COLD PLANE AND AC OVERLAY
COLD PLANE 2" AC
2" MIN AC OVERLAY
-  CONCRETE PAVING (PEDESTRIAN)
4" CONC/4" CLASS 2 AB COMPACTED TO 95%
-  DEEP LIFT AC
12" DEPTH

PAVING NOTES:

1. SITE R-VALUE OF 5 IS ASSUMED. PROPOSED SITE PAVEMENT SECTIONS TO BE DETERMINED BY THE GEOTECHNICAL ENGINEER.

SIGNING & STRIPING NOTES

1. LOCATIONS OF EXISTING SIGNS, STRIPING, AND PAVEMENT MARKERS ARE APPROXIMATE ONLY. NEW ROADSIDE SIGNS SHALL CONFORM TO THE LATEST PROVISIONS OF THE CALIFORNIA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (CA MUTCD) AND THE PROJECT SPECIFICATIONS.
2. PRIOR TO THE START OF CONSTRUCTION, CONTRACTOR SHALL PREPARE A TRAFFIC CONTROL PLAN AND OBTAIN APPROVAL FROM THE OWNER.
3. ALL CONFLICTING STRIPING, PAVEMENT MARKERS, AND PAVEMENT MARKINGS SHALL BE REMOVED AS REQUIRED.
4. ALL STRIPING AND PAVEMENT MARKINGS SHALL BE THERMOPLASTIC.



EXHIBIT 3

Staging Area

Date	Description
03/31/2023	ISSUE FOR PERMIT

AHJ Stamps

Seal / Signature

NOT FOR CONSTRUCTION

Project Name
Dignity Moves - La Posada

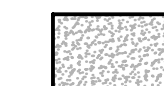



Project Number
20221726-10

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HORIZONTAL CONTROL, PAVING,
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Scale
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C5.00

PAVING LEGEND

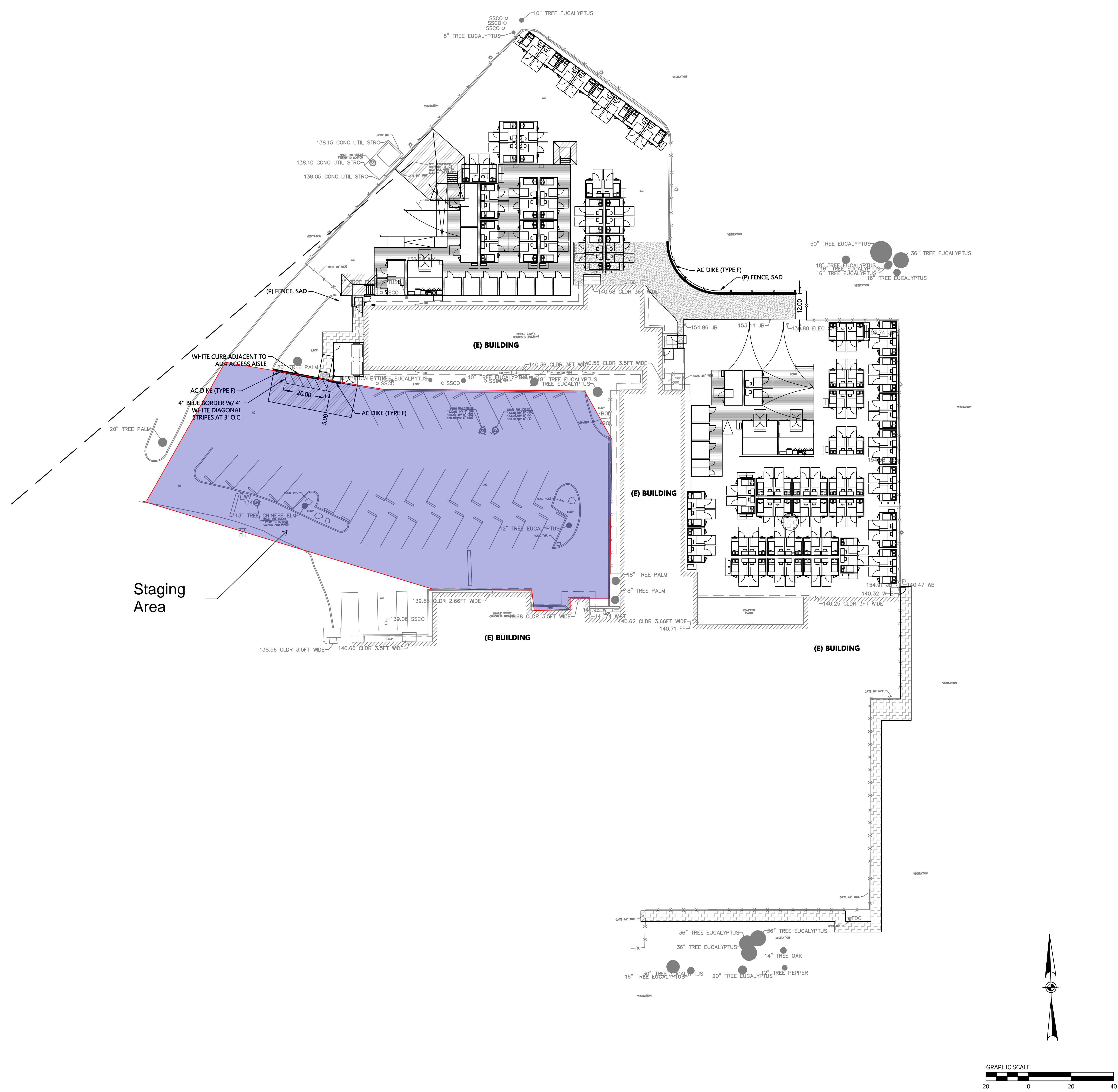
-  AC PAVING
3" MIN. AC/10" MIN. CLASS II AB/PREPARED
SUBGRADE (T.I. 5.0, R = 5)
-  COLD PLANE AND AC OVERLAY
COLD PLANE 2" AC
2" MIN AC OVERLAY
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4" CONC/4" CLASS 2 AB COMPACTED TO 95%
-  DEEP LIFT AC
12" DEPTH

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2. PRIOR TO THE START OF CONSTRUCTION, CONTRACTOR SHALL PREPARE A TRAFFIC CONTROL PLAN AND OBTAIN APPROVAL FROM THE OWNER.
3. ALL CONFLICTING STRIPING, PAVEMENT MARKERS, AND PAVEMENT MARKINGS SHALL BE REMOVED AS REQUIRED.
4. ALL STRIPING AND PAVEMENT MARKINGS SHALL BE THERMOPLASTIC.



DRAWING NO. 20221726-10.dgn, 03/22/2023 10:00 AM, User: jg, Project: Dignity Moves - La Posada, Sheet: C5.00, Title: PAVING AND STRIPING PLAN

PAGE TURN 3/22/2023

EXHIBIT 4
The Road and Emergency Exit Pathway



Exit Pathway to Juvenile Hall Rd.

Santa Barbara County Juvenile

Santa Barbara Juvenile Hall

4400

Juvenile Hall Rd

Juvenile Hall Rd

EXHIBIT 5

INDEMNIFICATION AND INSURANCE REQUIREMENTS

INDEMNIFICATION

DIGNITY shall defend (with counsel reasonably approved by the COUNTY), indemnify and hold harmless the COUNTY and its officers, officials, agents, volunteers, and employees from and against any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments and liabilities arising out of this Agreement or the performance or attempted performance of the provisions hereof, whether directly or indirectly (collectively, "Claims"), including, but not limited to, the acts, errors or omissions of DIGNITY, its employees, agents, volunteers, contractors or invitees, other than in the event of a California Environmental Quality Act (CEQA) challenge or where such indemnification is prohibited by law; provided, however, that Claims shall not include any claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities to the extent resulting from the sole or gross negligence or willful misconduct of the COUNTY or from the acts, errors or omissions of Good Samaritan Shelter, its employees, agents, volunteers, contractors or invitees.

NOTIFICATION OF INCIDENTS AND SURVIVAL OF INDEMNIFICATION PROVISIONS

DIGNITY shall immediately notify the COUNTY in the event of any accident, injury, or Claim relating to this Agreement. The indemnification provisions in this Agreement shall survive any expiration or termination of this Agreement.

INSURANCE

Without limiting DIGNITY's indemnification of the COUNTY as provided in this Agreement, DIGNITY shall procure and maintain: (a) from the Effective Date through issuance of final certificates of occupancy for the Project, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the use of the Property by DIGNITY and its agents, representatives, employees, contractors, and subcontractors, including the following required insurance coverages and (b) after issuance of final certificates of occupancy for the Project, only Property Insurance as described in Section A.4. below, at DIGNITY's sole cost and expense (collectively, "Insurance Coverages"). All Insurance Coverages are to be placed with insurers which (1) have a Best's rating of no less than A: VII, and (2) are admitted insurance companies in the State of California. All other insurers require the prior approval of the COUNTY. Failure to comply with the insurance requirements set forth in this Agreement shall constitute default under this Agreement by DIGNITY. Upon request by the COUNTY, DIGNITY shall provide to COUNTY within ten (10) working days a certified copy of the insurance policy or policies evidencing the Insurance Coverage(s) specified in such request.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. **Workers’ Compensation:** Insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
3. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if DIGNITY has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
4. **Property Insurance:** against all risks of loss to any improvements, at full replacement cost with no coinsurance penalty provision.
5. **Contractor’s Pollution Legal Liability:** with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If DIGNITY maintains higher limits than the minimums shown above, the COUNTY requires and shall be entitled to coverage for the higher limits maintained by DIGNITY. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the COUNTY.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured** – The COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of DIGNITY including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to DIGNITY’S insurance at (least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).
2. **Primary Coverage** – For any claims related to this contract, DIGNITY’S insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officers, officials, employees, or volunteers shall be excess of DIGNITY’S insurance and shall not contribute with it.

3. **Legal Liability Coverage** – The property insurance is to be endorsed to include Legal Liability Coverage (ISO Form CP 00 40 04 02 or equivalent) with a limit equal to the replacement cost of the Property.
4. **Notice of Cancellation** – Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
5. **Waiver of Subrogation Rights** –DIGNITY hereby grants to COUNTY a waiver of any right to subrogation which any insurer of DIGNITY may acquire from DIGNITY by virtue of the payment of any loss. DIGNITY agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the COUNTY has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the COUNTY for all work performed by DIGNITY, its employees, agents and subcontractors.
6. **Deductibles and Self-Insured Retention** – Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. The COUNTY may require DIGNITY to (i) cause the insurer to reduce or eliminate such deductibles or self-insured retentions with respect to the COUNTY, its officers, officials, employees, agents and volunteers, or (ii) provide a financial guarantee satisfactory to the COUNTY guaranteeing payment of losses and related investigations, claim administration, and defense expenses.
7. **Acceptability of Insurers** – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum A.M. Best's Insurance Guide rating of "A- VII".
8. **Verification of Coverage** – DIGNITY shall furnish the COUNTY with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to COUNTY before occupying the premises. However, failure to obtain the required documents prior to the work beginning shall not waive DIGNITY'S obligation to provide them. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.
9. **Failure to Procure Coverage** – In the event that any policy of insurance required under this Agreement does not comply with the requirements, is not procured, or is canceled and not replaced, COUNTY has the right but not the obligation or duty to terminate the Agreement. Maintenance of required insurance coverage is a material element of the Agreement and failure to maintain or renew such coverage or to provide evidence of renewal may be treated by COUNTY as a material breach of contract.
10. **Subcontractors** – DIGNITY shall require and verify that its subcontractors and permitted sublessees, if any, maintain insurance meeting all the requirements stated herein, and DIGNITY shall ensure that COUNTY is an additional insured on insurance required from such subcontractors and permitted sublessees, if any. For

CGL coverage subcontractors shall provide coverage with a format least as broad as CG 20 38 04 13.

11. **Special Risks or Circumstances** – COUNTY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. DIGNITY agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of COUNTY to monitor or enforce compliance with any of the insurance and indemnification requirements shall not be deemed as a waiver of any rights on the part of COUNTY.