**ORDINANCE NO. 2024-1018**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING THE 2024 AQUABELLA SPECIFIC PLAN AMENDMENT DEVELOPMENT AGREEMENT BY AND BETWEEN T/CAL REALTY II, LLC, A SUBSIDIARY OF HF PROPERTIES, AND THE CITY OF MORENO VALLEY**

## RECITALS

**WHEREAS**, the City of Moreno Valley is a general law city and a municipal corporation of the State of California; and

**WHEREAS**, the City of Moreno Valley ("City") and T/CAL REALTY II, LLC, a Delaware limited liability company ("Applicant") and subsidiary of HF Properties, a California General Partnership ("Highland Fairview") agreed to enter into a Development Agreement pursuant to Government Code §65864 et seq. of the Government Code (the "Development Agreement Legislation"); and

**WHEREAS,** Applicant is the owner of real property consisting of approximately 668.6 acres located at the southwest corner of Cactus Avenue and Nason Street as more particularly described in the Legal Description, shown as an exhibit of the Development Agreement, attached here to as Exhibit A ("Project Site"); and

**WHEREAS,** Developer intends to develop the Project Site as a residential and mixed-use community of 15,000 workforce residential dwelling units, together with 49,900 square feet of commercial development, a 300-room hotel, up to four school sites, a turn-key senior center, and 80 acres of parks and lakes ("Proposed Project"); and

**WHEREAS**, the City is authorized to enter into development agreements with persons having legal or equitable interests in real property for the development of such property pursuant to California State general laws: Article 2.5 of Chapter 4 of Division I of Title 7 of the California Government Code commencing with section 65864 (the "Development Agreement Law"), and Article XI, Section 7, of the California Constitution, together with City ordinances; and

**WHEREAS**, Title 9, Section 9.02.110 (Development Agreements) of the Moreno Valley Municipal Code acknowledges that the Development Agreement Law permits local agencies and property owners to enter into development agreements as to matters such as the density, intensity, timing and conditions of development of real properties and that development agreements provide an enhanced degree of certainty in the development process for both the property owner/developer and the public agency; and

**WHEREAS**, the subject Development Agreement will eliminate uncertainty in planning for and secure orderly development of the Project Site, assure progressive installation of necessary improvements, and ensure attainment of the maximum effective utilization of resources within City at the least economic cost to its citizens; and

**WHEREAS**, the subject Development Agreement provides assurances that the Proposed Project can proceed without disruption caused by a change in City planning and development policies and requirements, which assurance will thereby reduce the actual or perceived risk of planning, financing and proceeding with construction of the Proposed Project; and

**WHEREAS**, the subject Development Agreement was voluntarily entered into in consideration of the benefits to and the rights created in favor of each of the parties thereto and in reliance upon the various representations and warranties contained therein; and

**WHEREAS**, City has determined that by entering into the subject Development Agreement: (1) City will ensure the productive use of Project Site and foster orderly growth and quality development in City; (2) development will proceed in accordance with the Proposed Project's entitlements; (3) City will receive substantially increased property tax and sales tax revenues; (4) City will benefit from the provision of workforce housing; (5) City will benefit from increased employment opportunities for residents of City created by the Proposed Project; and (6) City will receive the Public Community Benefits described in the subject Development Agreement; and

**WHEREAS**, based on the foregoing recitals, City has determined that the subject Development Agreement is appropriate under the Development Agreement Law and the City's "Development Agreement" provisions set forth in Title 9, Section 9.02.110 of the Municipal Code; and

**WHEREAS**, City has undertaken, pursuant to the California Environmental Quality Act (Public Resources Code §21000 et seq. ("CEQA") and the CEQA Guidelines, the required analysis of the environmental effects that would be caused by the Proposed Project and has determined and imposed feasible mitigation measures which will eliminate, or reduce to an acceptable level, the adverse environmental impacts of the Proposed Project; and

**WHEREAS**, the environmental effects of the proposed development of the Project Site and Proposed Project were analyzed by the Draft and Final Subsequent EIRs (as defined in Section 1.4.1) certified by City on November 19, 2024, in connection with the Proposed Project; and

**WHEREAS**, City has also adopted a Mitigation Monitoring and Reporting Program (the "MMRP") to ensure that the Proposed Project's design features, and mitigation measures incorporated as part of, or imposed on, the Proposed Project and the Proposed Project's entitlements are enforced and completed; and

**WHEREAS**, City has also adopted Findings of Fact and a Statement of Overriding Considerations for adverse environmental impacts of the Proposed Project on Air Quality that cannot be mitigated to an a level of insignificance; and

**WHEREAS**, City has given the required notice of its intention to adopt the subject Development Agreement and has conducted public hearings thereon pursuant to Government Code § 65867; and

**WHEREAS**, on October 24, 2024, the City's Planning Commission ("Planning Commission"), at a duly noticed public hearing, voted 7-0 to recommend that the City Council approve the subject Development Agreement pursuant to Planning Commission Resolution No. 2024-33.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY DOES ORDAIN AS FOLLOWS:**

**SECTION 1. RECITALS**

That the above Recitals are true and correct and are incorporated as though fully set forth herein.

**SECTION 2. CONSISTENCY FINDING**

That the City Council finds that based on substantial evidence contained in the administrative record of the proceedings related to the Proposed Project's entitlements, including without limitation the subject Development Agreement, the terms, conditions and provisions of the subject Development Agreement are consistent with the applicable General Plan and the Aquabella Specific Plan, as amended.

**SECTION 3. APPROVAL OF DEVELOPMENT AGREEMENT**

That the City Council hereby approves the attached 2024 Aquabella Specific Plan Amendment Development Agreement by and between T/Cal Realty II, LLC, a subsidiary of HF Properties, and the City of Moreno Valley, attached hereto as Attachment B, and authorizes the Mayor to execute the Development Agreement on behalf of the City of Moreno Valley.

**SECTION 4. REPEAL OF CONFLICTING PROVISIONS**

That all the provisions heretofore adopted by the City Council that are in conflict with the provisions of this Ordinance, are hereby repealed.

**SECTION 5. SEVERABILITY**

That the City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Ordinance as hereby adopted shall remain in full force and effect.

**SECTION 6. EFFECTIVE DATE OF ORDINANCE**

That this Ordinance shall take effect thirty (30) days after its second reading and adoption by the City Council.

**SECTION 7. RECORDATION**

That the City Clerk shall, no later than 10 days after the Effective Date of this Ordinance, record a copy of the subject Development Agreement, which shall cause the burdens of the subject Development Agreement to be binding upon, and the benefits of the subject Development Agreement shall inure to, all successors in interest to the parties to the subject Development Agreement.

**SECTION 8. CERTIFICATION**

That the City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published according to law.

INTRODUCED at a regular meeting of the City Council on November 19, 2024, and PASSED, APPROVED, and ADOPTED by the City Council on December 3, 2024, by the following vote:

CITY OF MORENO VALLEY
CITY COUNCIL

_____
Ulises Cabrera,
Mayor of the City of Moreno Valley

ATTEST:

_____
M. Patricia Rodriguez, City Clerk

APPROVED AS TO FORM:

_____
Steven B. Quintanilla, City Attorney

ORDINANCE JURAT

STATE OF CALIFORNIA )

COUNTY OF RIVERSIDE )

ss. CITY OF MORENO VALLEY)

I, M. Patricia Rodriguez, City Clerk of the City of Moreno Valley, California, do hereby certify that Ordinance No. 1018 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 3rd day of December 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem, and Mayor)

CITY CLERK _____

(SEAL)

# Exhibit A

## Development Agreement

RECORDING REQUESTED BY AND
FOR RECORDER'S USE ONLY

WHEN RECORDED MAIL TO:

City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552
Attn: City Clerk

Record for the Benefit of
the City of Moreno Valley
Pursuant to Government Code § 27283

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(Space Above This Line Reserved for Recorder's Use Only)

# DEVELOPMENT AGREEMENT

## BY AND BETWEEN

## THE CITY OF MORENO VALLEY

## AND

## T/CAL REALTY II, LLC,

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# DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into as of _____, 2024 ("Approval Date") by and between the CITY OF MORENO VALLEY, a municipal corporation organized and existing under the laws of the State of California ("City"), and T/CAL REALTY II, LLC, a Delaware limited liability company("Developer") and subsidiary of HF Properties, a California General Partnership ("Highland Fairview"). City and Developer are referred to individually as "Party," and collectively as the "Parties."

## RECITALS

This Agreement is entered upon the basis of the following facts, understandings and intentions of City and Developer.

A. The lack of certainty in the approval of development projects can result in a waste of resources, escalate the cost of housing and other development, and discourage investment in and commitment to comprehensive planning that would make maximum efficient utilization of resources at the least economic cost to the public.

B. In order to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs and risk of development, the California Legislature enacted Government Code §65864 et seq. of the Government Code (the "Development Agreement Legislation"), which authorizes a city and a developer having a legal or equitable interest in real property to enter into a binding development agreement, establishing certain development rights in the real property.

C. Pursuant to Government Code §65865, City has adopted rules and regulations establishing procedures and requirements for consideration of development agreements, which procedures and requirements are contained in Moreno Valley Municipal Code §9.02.110 (the "City Development Agreement Regulations").

D. This Agreement has been processed in accordance with the City Development Agreement Regulations.

E. Developer is the owner of real property consisting of approximately 668.6 acres located at the southwest corner of Cactus Avenue and Nason Street as more particularly described in Exhibit A attached hereto, and as depicted in Tentative Tract Map No. 38850 in Exhibit B attached hereto (the "Property").

F. Developer intends to develop the Property as a residential and mixed-use community of 15,000 workforce residential dwelling units, together with 49,900 square feet of commercial development, a 300-room hotel, up to four school sites, a turn-key senior center, and 80 acres of parks and lakes (the "Project").

G. Developer anticipates investing approximately $6,000,000,000 to develop the Project which is projected to generate approximately $3,500,000 annually in General Fund revenues which City may use to fund general municipal services such as, but not limited to public safety, parks and recreation, and road maintenance, in addition to millions of dollars paid to the

City for applicable Development Impact Fees or for public improvements that will be paid for by Developer and tens of thousands of dollars in processing fees that will be paid to City.

H. The Project will also require the payment of: 1) hundreds of thousands of dollars in fees to the Eastern Municipal Water District, which includes water and sewer fees; 2) tens of thousands of dollars in transportation improvements mitigation fees (TUMF) to the Riverside County Riverside County Transportation Commission (RCTC); 3) tens of thousands of dollars in school impact fees to the Moreno Valley Unified School District; and 4) tens of thousands of dollars of MSHCP fees to Western Riverside County Regional Conservation Authority for conservation and preservation of critical wildlife habitat.

I. The cost, complexity, magnitude and long-range nature of the Project would be difficult, if not impossible, for Developer to undertake if City had not determined, through this Agreement, to inject a sufficient degree of certainty in the land use regulatory process to justify the substantial financial investment associated with development of the Project.

J. As a result of the execution of this Agreement, both Parties can be assured that the Project can proceed without disruption caused by a change in City planning and development policies and requirements, which assurance will thereby reduce the actual or perceived risk of planning, financing and proceeding with construction of the Project.

K. While City may approve other projects after the Approval Date that place a burden on City's infrastructure, it is the intent and agreement of the Parties that Developer's right to build and occupy the Project, as set forth in the Project Approvals (as defined in Section 1.4), shall not be diminished as a result of such other projects and that Developer's cost to develop the Project shall not be increased as a result of such other projects.

L. Developer submitted an SB 330 preliminary application, received by City on September 6, 2023 ("Preliminary Application Date") which ensures that the Project will be subject to only the ordinances, policies and standards in effect on that date except as they are or will be amended by the Project Approvals (as defined in Section 1.4)., unless otherwise provided in this Agreement.

M. City is desirous of advancing the socioeconomic interests of City and its residents by promoting the productive use of property and encouraging quality development and economic growth, thereby enhancing employment opportunities for residents and expanding City's property tax base.

N. City is also desirous of gaining the Public Benefits (as defined in Section 2.1) of the Project, which are in addition to those dedications, conditions and exactions required by laws or regulations and as set forth in this Agreement, and which advance the planning objectives of, and provide benefits to, City.

O. City has determined that by entering into this Agreement: (1) City will ensure the productive use of property and foster orderly growth and quality development in City; (2) development will proceed in accordance with the Project Approvals; (3) City will receive substantially increased property tax and sales tax revenues; (4) City will benefit from the provision of workforce housing; (5) City will benefit from increased employment opportunities for residents

of City created by the Project; and (6) City will receive Public Benefits (as defined in Section 2.1) provided by the Project for the residents of City.

P. Developer has applied for, and City has granted, the Project Approvals (as defined in Section 1.4) in order to protect the interests of its citizens in the quality of their community and environment.

Q. As part of the Project Approvals, City has undertaken, pursuant to the California Environmental Quality Act (Public Resources Code §21000 et seq. ("CEQA"), the required analysis of the environmental effects that would be caused by the Project and has determined and imposed feasible mitigation measures which will eliminate, or reduce to an acceptable level, the adverse environmental impacts of the Project.

R. The environmental effects of the proposed development of the Property were analyzed by the Subsequent EIR (as defined in Section 1.4.1) which was certified by City on October 24, 2024, in connection with the Project.

S. City has adopted a Mitigation Monitoring and Reporting Program (the "MMRP") to ensure that the Project's design features, and mitigation measures incorporated as part of, or imposed on, the Project and the Project Approvals are enforced and completed.

T. City has also adopted Findings of Fact and a Statement of Overriding Considerations for adverse environmental impacts of the Project on air quality that cannot be mitigated to an acceptable level.

U. In addition to the Project Approvals, the Project may require various additional land use and construction approvals, termed Subsequent Approvals (as defined in Section 1.4.6), in connection with development of the Project.

V. City has given the required notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to Government Code § 65867.

W. As required by Government Code § 65867.5, City has found that the provisions of this Agreement and its purposes are consistent with the goals, policies, standards and land use designations specified in City's General Plan and Specific Plan.

X. On October 24, 2024, the City's Planning Commission ("Planning Commission"), at a duly noticed public hearing, recommended approval of this Agreement pursuant to a duly adopted Resolution.

Y. The City's City Council ("City Council"), at a duly noticed public hearing, adopted an Ordinance approving this Agreement and authorizing its execution.

Z. For the reasons recited herein, City and Developer have determined that the Project is a development for which this Agreement is appropriate since this Agreement will eliminate uncertainty regarding Project Approvals (including the Subsequent Approvals), thereby encouraging planning for, investment in and commitment to use and development of the Property.

AA. Continued use and development of the Property will in turn provide substantial housing, employment, and property and sales tax benefits as well as other public benefits to City and contribute to the provision of needed infrastructure for area growth, thereby achieving the goals and purposes for which the Development Agreement Legislation was enacted.

BB. The terms and conditions of this Development Agreement have undergone extensive review by City staff, its Planning Commission and its City Council at publicly noticed public hearings and have been found to be fair, just and reasonable and in conformance with the applicable General Plan, the Specific Plan, the Development Agreement Legislation, and the City Development Agreement Regulations and, further, the City Council finds that the economic interests of City's residents and the public health, safety and welfare will be best served by entering into this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, City and Developer agree as follows:

## ARTICLE 1.
## GENERAL PROVISIONS

1.1 Parties.

1.1.1 City. City is a California municipal corporation, with offices located at 14177 Frederick Street, Moreno Valley, CA 91552. "City," as used in this Agreement, shall include City and any assignee of or successor to its rights, powers and responsibilities.

1.1.2 Developer. Developer is a Delaware limited liability company, duly authorized to conduct business in California, with offices located at 29000 Eucalyptus Avenue, Moreno Valley, CA 92555. "Developer," as used in this Development Agreement, shall include Highland Fairview, any subsidiary, and any permitted assignee or successor-in-interest as herein provided.

1.2 Property Subject to this Development Agreement.

1.2.1 Property. All of the Property, as described in Exhibit A and shown in Exhibit B, shall be subject to this Agreement.

1.3 Term.

1.3.1 Effective Date. This Development Agreement shall become effective upon the effectiveness of the Ordinance approving this Agreement (the "Effective Date").

1.3.2 Term of the Agreement. The term ("Term") of this Agreement shall commence upon the Effective Date and shall continue in full force and effect for a period of 20 years, unless extended or earlier terminated as provided in this Agreement. The Term has been established by the Parties as a reasonable estimate of the time required to develop the Project and obtain the Public Benefits of the Project. Nevertheless, because of the uncertainties inherent in the development of the Project, the Term shall automatically be extended by up to two five-year extensions by Developer providing City with written notice of Developer's exercise of its right to

extend the Term at least six months prior to the then-existing date of the termination of this Agreement.

1.4 Project Approvals. Developer has applied for and obtained various environmental and land use approvals and entitlements related to the development of the Project, as described below. For purposes of this Agreement, the term "Project Approvals" shall mean all of the approvals, plans and agreements described in this Section 1.4.

1.4.1 SEIR. The Subsequent Environmental Impact Report (State Clearinghouse No. 2023100145) ("SEIR"), which was prepared pursuant to CEQA, was certified by the Planning Commission on October 24, 2024, by a duly adopted Resolution.

1.4.2 General Plan Amendment. On October 24, 2024, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Resolution, approved an amendment to the General Plan (the "General Plan Amendment"), which allowed the development of up to 15,000 residential units on the Property.

1.4.3 Change of Zone. On October 24, 2024, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Ordinance approved amendments to the City's Zoning Ordinance and Zoning Map to change the zoning of the Property to allow for the approval of the Aquabella Specific Plan Amendment.

1.4.4 Aquabella Specific Plan Amendment. On October 24, 2024, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Ordinance approved the amendment to the Aquabella Specific Plan (the "Specific Plan") to allow the development of 15,000 workforce residential dwelling units, 49,900 square feet of commercial development, a 300-room hotel, up to four school sites and 80 acres of parks and lakes.

1.4.5 Tentative Tract Map. On October 24, 2024, the Planning Commission, after a duly noticed public hearing, adopted a Resolution approving Tentative Tract Map No. 38850.

1.4.6 Development Agreement. On the Approval Date, following Planning Commission review and recommendation, and after a duly noticed public hearing, the City Council, by Ordinance, approved this Agreement and authorized its execution.

1.4.7 Subsequent Approvals. In order to develop the Project as contemplated in this Agreement, the Project may require land use approvals, entitlements, development permits, and use and/or construction approvals other than those listed in Sections 1.4.1 through 1.4.4 above, which may include, without limitation: development plans, amendments to applicable redevelopment plans, conditional use permits, variances, subdivision approvals, street abandonments, design review approvals, demolition permits, improvement agreements, infrastructure agreements, grading permits, building permits, right-of-way permits, lot line adjustments, site plans, sewer and water connection permits, certificates of occupancy, parcel maps, lot splits, landscaping plans, master sign programs, transportation demand management programs, encroachment permits and any amendments thereto to and to the Project Approvals

(collectively, "Subsequent Approvals"). At such time as any Subsequent Approval is approved by the City, then such Subsequent Approval shall become subject to all the terms and conditions of this Agreement applicable to Project Approvals and shall be treated as a "Project Approval" under this Agreement.

1.5 Definitions. The capitalized terms used in this Agreement shall have the meanings set forth in the various sections of this Agreement.

## ARTICLE 2.
## PUBLIC BENEFITS

2.1 Public Benefits. In consideration of, and in reliance on, City agreeing to the provisions of this Agreement, Developer will provide the public benefits ("Public Benefits") described in Exhibit C, which are over and above those dedications, conditions and exactions required by laws or regulations.

## ARTICLE 3.
## DEVELOPMENT OF THE PROPERTY

3.1 Project Development. Developer shall have a vested right to develop the Project on the Property, in accordance with the Vested Elements (defined in Section 3.2).

3.2 Vested Elements. The permitted uses of the Property, the maximum density and/or number of residential units, the intensity of use, the maximum height and size of the proposed buildings, provisions for reservation or dedication of land for public purposes, the conditions, terms, restrictions, and requirements for subsequent discretionary actions, the provisions for public improvements and financing of public improvements, and the other terms and conditions of development applicable to the Property are as set forth in:

a. The General Plan as it existed on the SB 330 Preliminary Application Date, as amended by the Project Approvals ("Applicable General Plan");

b. The Specific Plan as amended by the Project Approvals;

c. The City's Zoning Ordinance of City as it existed on the SB 330 Preliminary Application Date, as amended by the Project Approvals ("Applicable Zoning Ordinance");

d. The City's Building Code and any City ordinances that interpret these codes as they existed on the SB 330 Preliminary Application Date, where such ordinances establish construction standards that are intended to be applied ministerially to the construction of improvements on private property and public infrastructure ("Applicable Building Code"), subject to Section 3.4.2(c)(ii).

e. Other rules, regulations, ordinances and policies of City applicable to development of the Property as they existed on the SB 330 Preliminary Application Date (collectively, together with the Applicable General Plan, the Specific Plan and the Applicable Zoning Ordinance, the "Applicable Rules"), unless otherwise provided in this Agreement; and

f. The Project Approvals, as they may be amended from time to time upon Developer's consent (such consent to be granted at the sole discretion of Developer) and City's approval of any such amendment in accordance with Section 6.4.2 of this Agreement; and are hereby vested in Developer, subject to, and as provided in, the provisions of this Development Agreement (the "Vested Elements"). City shall be bound with respect to the Vested Elements, subject to Developer's compliance with the terms and conditions of this Agreement.

The intent of this Section 3.2 is to cause all development rights which may be required to develop the Project in accordance with the Project Approvals to be deemed to be "vested rights" as that term is defined under California law applicable to the development of land or property and the right of a public entity to regulate or control such development of land or property, including, without limitation, vested rights in and to building permits, inspections and certificates of occupancy.

Nothing in this Agreement shall affect the Developer's SB 330 Preliminary Application vesting/locking in the "ordinances, policies, and standards" adopted and in effect on the SB 330 Preliminary Application Date, as amended by the Project Approvals, pursuant to Government Code § 65589.5(o)(1), unless otherwise provided in this Agreement.

3.3 Development Construction Completion.

3.3.1 Timing of Development; *Pardee* Finding. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that the failure of the parties therein to provide for the timing of development resulted in a later-adopted initiative restricting the timing of development to prevail over the parties' agreement, it is the Parties' intent to cure that deficiency by acknowledging and providing that, subject to any infrastructure phasing requirements that may be required by the Project Approvals, Developer shall have the right (without obligation) to develop the Property in such order and at such rate and at such times as Developer deems appropriate within the exercise of its subjective business judgment.

3.3.2 Moratorium. No City-imposed moratorium or other limitation (whether relating to the rate, timing or sequencing of the development or construction of all or any part of the Property, whether imposed by ordinance, initiative, resolution, policy, order or otherwise, and whether enacted by the City Council, an agency of City, the electorate, or otherwise) affecting parcel or subdivision maps (whether tentative, vesting tentative or final), building permits, occupancy certificates or other entitlements to use or service (including, without limitation, water and sewer) approved, issued or granted within City, or portions of City, shall apply to the Property to the extent such moratorium or other limitation is in conflict with this Agreement; provided, however, the provisions of this Section shall not affect City's compliance with moratoria or other limitations mandated by other governmental agencies or court-imposed moratoria or other limitations.

3.3.3 No Other Requirements. Nothing in this Agreement is intended to create any affirmative development obligations to develop the Project at all or in any particular order or manner, or liability in Developer under this Agreement if the development fails to occur.

3.4 Effect of Project Approvals and Applicable Rules; Future Rules.

3.4.1 Governing Rules. Except as otherwise explicitly provided in this Agreement, development of the Property shall be subject to (a) the Project Approvals and (b) the Applicable Rules

3.4.2 Changes in Applicable Rules; Future Rules.

a. To the extent any changes in the Applicable Rules, or any provisions of future General Plans, Specific Plans, Zoning Ordinances or other rules, regulations, ordinances or policies (whether adopted by means of ordinance, initiative, referenda, resolution, policy, order, moratorium, or other means, adopted by the City Council, Planning Commission, or any other board, commission, agency, committee, or department of City, or any officer or employee thereof, or by the electorate) of City (collectively, "Future Rules") are not in conflict with the Vested Elements, such Future Rules shall be applicable to the Project.

For purposes of this Section 3.4.2(a), the word "conflict" means Future Rules that would (i) alter the Vested Elements, or (ii) frustrate in a more than insignificant way the intent or purpose of the Vested Elements in relation to the Project, or (iii) materially increase the cost of performance of, or preclude compliance with, any provision of the Vested Elements, or (iv) delay in a more than insignificant way development of the Project, or (v) limit or restrict the availability of public utilities, services, infrastructure of facilities (for example, but not by way of limitation, water rights, water connection or sewage capacity rights, sewer connections, etc.) to the Project, or (vi) impose limits or controls in the rate, timing, phasing or sequencing of development of the Project, or (vii) increase the permitted "Impact Fees" (as defined in Section 3.6.3) or add new Impact Fees, unless otherwise provided in this Agreement, or (viii) limit or control the location of buildings, structures, grading, or other improvements of the Project in a manner that is inconsistent with or more restrictive than the limitations included in the Project Approvals; or (ix) apply to the Project any Future Rules otherwise allowed by this Agreement that is not uniformly applied on a City-wide basis to all substantially similar types of development projects and project sites; or (x) require the issuance of additional permits or approvals by the City other than those required by Applicable Rules; or (xi) establish, enact, increase, or impose against the Project or the Property any fees, taxes (including without limitation general, special and excise taxes), assessments, liens or other monetary obligations (including demolition permit fees, encroachment permit and grading permit fees) other than those specifically permitted by this Agreement or other connection fees imposed by third party utilities; (xii) impose against the Project any condition, dedication or other exaction not specifically authorized by Applicable Rules; or (xiii) limit the processing or procuring of applications and approvals of Subsequent Approvals. To the extent that Future Rules conflict with the Vested Elements, they shall not apply to the Project and the Vested Elements shall apply to the Project, except as provided in Section 3.4.2(c) herein.

b. To the maximum extent permitted by law, City shall prevent any Future Rules from invalidating or prevailing over all or any part of this Agreement, and City shall cooperate with Developer and shall undertake such actions as may be necessary to ensure this Agreement remains in full force and effect. City shall not support, adopt or enact any Future Rule, or take any other action which would violate the express provisions or spirit and intent of this Agreement or the Project Approvals. Developer reserves the right to challenge in court any Future

Rule that would conflict with the Vested Elements or this Agreement or reduce the development rights provided by this Agreement.

c. Any Future Rule that conflicts with the Vested Elements shall nonetheless apply to the Property if, and only if (i) it is determined by City and evidenced through findings adopted by the City Council that the change or provision is reasonably required in order to prevent a condition dangerous to the public health or safety; (ii) required by changes in State or Federal law as set forth in Section 3.4.3 below; (iii) it consists of changes in, or new fees permitted by, Section 3.6; (iv) it consists of revisions to, or new Building Regulations to the extent required by the then current version of the California Building Code; or (v) it is otherwise expressly permitted by this Agreement.

d. Prior to the Effective Date, City shall prepare two sets of the Project Approvals and Applicable Rules, one set for City and one set for Developer. If it becomes necessary in the future to refer to any of the Project Approvals or Applicable Rules, the contents of these sets are presumed for all purposes of this Agreement, absent clear clerical error or similar mistake, to constitute the Project Approvals and Applicable Rules.

3.4.3 Changes in State or Federal Laws. In accordance with California Government Code §65869.5, in the event that state or federal laws or regulations enacted after the Effective Date ("State or Federal Law") prevent or preclude compliance with one or more provisions of this Agreement, the Parties shall meet in good faith to determine the feasibility of any modification or suspension of this Agreement that may be necessary to comply with such State or Federal Law and to determine the effect such modification or suspension would have on the purposes and intent of this Agreement and the Vested Elements. Following the meeting between the Parties, the provisions of this Agreement may, to the extent feasible, and upon mutual agreement of the Parties, be modified or suspended, but only to the minimum extent necessary to comply with such State or Federal Law. In such an event, this Agreement, together with any required modifications, shall continue in full force and effect. In the event that the State or Federal Law operates to frustrate irremediably and materially the vesting of development rights to the Project as set forth in this Agreement, Developer may terminate this Agreement. In addition, Developer shall have the right to challenge (by any method, including litigation) the State or Federal Law preventing compliance with, or performance of, the terms of this Agreement and, in the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect, unless the Parties mutually agree otherwise, except that if the Term of this Agreement would otherwise terminate during the period of any such challenge and Developer has not commenced with the development of the Project in accordance with this Agreement as a result of such challenge, the Term shall be extended for the period of any such challenge.

3.4.4 Conflicts. In the event of an irreconcilable conflict between the provisions of the Project Approvals (on the one hand) and the Applicable Rules (on the other hand), the provisions of the Project Approvals shall apply. In the event of a conflict between the Project Approvals (on the one hand) and this Agreement (on the other hand), the provisions of this Agreement shall control.

3.5 Processing Subsequent Approvals.

3.5.1 Processing of Subsequent Approvals. City shall accept, make completeness determinations, and process, promptly and diligently, to completion all applications for Subsequent Approvals for the Project, in accordance with the terms of this Agreement including, but not limited to, the following:

a. the processing of applications for and issuance of all discretionary approvals requiring the exercise of judgment and deliberation by City, including without limitation, the Subsequent Approvals;

b. the holding of any required public hearings;

c. the processing of applications for, and issuing of, all ministerial approvals requiring the determination of conformance with the Applicable Rules, including, without limitation, site plans, development plans, land use plans, grading plans, improvement plans, building plans and specifications, and ministerial issuance of one or more final maps, zoning clearances, demolition permits, grading permits, improvement permits, wall permits, building permits, lot line adjustments, encroachment permits, conditional and temporary use permits, sign permits, certificates of use and occupancy and approvals and entitlements and related matters as may be necessary for the completion of the development of the Property ("Ministerial Approvals"). All Ministerial Approvals shall be acted upon within 14 calendar days of City's receipt of an application for the Approval.

3.5.2 Scope of Review of Subsequent Approvals. City will use its best efforts to anticipate and communicate to Developer issues and concerns that may arise in connection with any application prior to the application submittal if possible and as early as feasible in the permit process. Developer will use its best efforts to keep City informed of development applications as they mature, and anticipate and communicate issues of mutual concern prior to submittal of permit applications. By approving the Project Approvals, City has made a final policy decision that the Project is in the best interests of the public health, safety and general welfare. Accordingly, City shall not use its authority in considering any application for a discretionary Subsequent Approval to change the policy decisions reflected by the Project Approvals or otherwise to prevent or delay development of the Project as set forth in the Project Approvals. Instead, the Subsequent Approvals shall be deemed to be tools to implement those final policy decisions. The scope of the review of applications for Subsequent Approvals shall be limited to a review of substantial conformity with the Vested Elements and the Applicable Rules (except as otherwise provided by Section 3.4), and compliance with CEQA. Where such substantial conformity/compliance exists, City shall not deny an application for a Subsequent Approval for the Project.

3.5.3 Additional Staffing. If standard City staffing is unable or fails to result in processing of Subsequent Approvals, within 14 calendar days for Ministerial Approvals or as promptly as reasonably required by Developer for discretionary Subsequent Approvals, City shall, at the request and expense of Developer, hire plan check, inspection and other personnel, or hire additional consultants for such actions, or allocate use of exclusively dedicated staff time, such that the time limits of Developer can be achieved. City shall consult in good faith with Developer as to any additional consultants to be hired pursuant to this Section.

3.6 Development Fees, Exactions; and Conditions.

3.6.1 General. All fees, exactions, dedications, reservations or other impositions to which the Project would be subject, but for this Agreement, are referred to in this Agreement either as "Processing Fees" (as defined in Section 3.6.2) or "Impact Fees" (as defined in Section 3.6.3).

3.6.2 Processing Fees. "Processing Fees" mean fees charged on a citywide basis to cover the cost of City review of applications for any permit or other review by City departments, in effect at the time the SB 330 Preliminary Application Date was submitted to City (September 6, 2023).

3.6.3 Impact Fees. "Impact Fees" means Residential Development Impact Fees listed in Moreno Valley Municipal Code Chap. 3.38 as of September 6, 2023, and Commercial Development Impact Fees listed in Moreno Valley Municipal Code Chap. 3.42 as of September 6, 2023, in an amount in effect at the time the respective impact fee is due for payment by the City pursuant to the Moreno Valley Municipal Code.

a. Any Impact Fees levied against, or applied to, the Project must be consistent with the provisions of applicable California law, including the provisions of Government Code §§ 66000 *et seq.* ("AB 1600") and 65589.5. Developer retains all rights set forth in California Government Code §§ 66020 and 65589.5. Nothing in this Development Agreement shall diminish or eliminate any of Developer's rights set forth in such sections.

b. Unless otherwise provided herein, City and Developer will cooperate to ensure that the phasing of pertinent assessments, fees, special taxes, dedications, or other similar levies coincides with, and does not precede, the actual construction of each increment of the Project, so that only currently developing portions of the Property are subject to such assessments, fees, special taxes, dedications, or other similar levies. This timing may be accomplished through a number of mechanisms including, among others, the phasing of assessment districts and the use of benefit districts in conjunction with assessment districts, thereby spreading the timing of the imposition of relevant levies.

3.6.4 Conditions of Subsequent Approvals.

a. In connection with any Subsequent Approvals, City shall have the right to impose reasonable conditions on discretionary approvals including, without limitation, normal and customary dedications for rights of way or easements for public access, utilities, water, sewers, and drainage necessary for the Project; provided, however, such conditions and dedications shall not be inconsistent with the Applicable Rules or Project Approvals, nor inconsistent with the development of the Project as contemplated by this Agreement. Developer may protest any conditions, dedications or fees while continuing to develop the Property; such a protest by Developer shall not delay or stop the issuance of grading, building or other development permits, inspections or certificates of occupancy.

b. No conditions imposed on Subsequent Approvals shall require dedications or reservations for, or construction or funding of, public infrastructure or public improvements beyond those already included in the Specific Plan and the MMRP. In addition,

any and all conditions imposed on Subsequent Approvals for the Project must comply with Sections 3.6.2 and 3.6.3 herein.

c. Upon Developer's request, City shall cooperate with Developer (a) to locate any new easements required for the Project so as to minimize interference with development of the Project, and (b) in Developer's efforts to relocate or remove easements to facilitate development of the Project.

3.7 Infrastructure.

3.7.1 Infrastructure Phasing Flexibility. Notwithstanding the provisions of any phasing requirements in the Project Approvals, Developer and City recognize that economic and market conditions may necessitate changing the order in which the infrastructure is constructed. Therefore, should it become necessary or desirable to develop any portion of the Project's infrastructure in an order that differs from the order set forth in the Project Approvals, Developer and City shall collaborate on, and City shall permit, any modification requested by Developer so long as the modification continues to ensure adequate infrastructure is available to serve that portion of the Project being developed.

3.7.2 Infrastructure Capacity. Subject to Developer's installation of infrastructure in accordance with the requirements of the Project Approvals, City hereby acknowledges that it will have, and shall reserve, sufficient capacity in its infrastructure, services and utility systems, including, without limitation, traffic circulation, storm drainage, flood control, electric service, sewer collection, sewer treatment, sanitation service and, except for reasons beyond City's control, water supply, treatment, distribution and service, as and when necessary to serve the Project as it is developed. To the extent that City renders such services or provides such utilities, City hereby agrees that it will serve the Project and that there shall be no restriction on hookups or service for the Project except for reasons beyond City's control.

3.7.3 Availability of Public Services. To the maximum extent permitted by law and consistent with its authority, City shall assist Developer in reserving such capacity for sewer and water services as may be necessary to serve the Project. The minimum water capacity to be reserved for buildout of the Project shall be 3,519-acre feet/year. The minimum sewer capacity to be reserved for buildout of the Project shall be 2,767-acre feet/year. This capacity shall be assured for the Term at a cost to be applied uniformly without discrimination as to user or use.

3.7.4 Taxes and Assessments: Assessment Districts or Other Funding Mechanisms. As of the SB 330 Preliminary Application Date, the Property is not within an assessment district. City is unaware of any pending efforts to initiate, or consider applications for new assessments covering the Property, or any portion thereof. City understands that long-term assurances by City concerning fees, taxes and assessments were a material consideration for Developer agreeing to process the siting of the Project in its present location and to pay long-term fees, taxes and assessments described in this Agreement. City shall retain the ability to initiate or process applications for the formation of new assessment districts covering all or any portion of the Property. Subject to the provisions of Section 3.6 above, City may impose new taxes and assessments, other than Impact Fees unless otherwise provided in this Agreement, on the Property in accordance with the then-applicable laws. Nothing herein shall be construed so as to limit

Developer from exercising whatever rights it may otherwise have in connection with protesting or otherwise objecting to the imposition of taxes or assessments on the Property. In the event as assessment district is lawfully formed to provide funding for services, improvements, maintenance or facilities that are substantially the same as those services, improvements, maintenance or facilities being funded by the fees or assessments to be paid by Developer under the Project Approvals, such fees or assessments to be paid by Developer shall be subject to reduction/credit in an amount equal to Developer's new or increased assessment under the assessment district. Alternatively, the new assessment district shall reduce/credit Developer's new assessment in an amount equal to such fees or assessments to be paid by Developer under the Project Approvals.

3.8 Life of Project Approvals and Subdivision Maps.

3.8.1 Life of Subdivision Maps. The term of any subdivision or parcel map for the Property, any amendment or reconfiguration thereto, or any subsequent tentative map, shall be automatically extended such that such tentative maps remain in effect for the Term of this Agreement.

3.8.2 Life of Other Project Approvals. The term of all other Project Approvals shall be automatically extended such that these Project Approvals remain in effect for the term of this Agreement.

3.8.3 Termination of Agreement. In the event that this Agreement is terminated prior to the expiration of the Term of this Agreement, the term of any subdivision or parcel map or any other Project Approval and the vesting period for any final subdivision map approved as a Project Approval shall be the term otherwise applicable to the approval, which shall commence to run on the date that the termination of this Agreement takes effect (including any extensions).

3.9 Further CEQA Environmental Review.

3.9.1 Reliance on the SEIR. The SEIR, which has been certified by City as compliant with CEQA, addresses the potential environmental impacts of the entire Project as it is described in the Project Approvals. In acting on any discretionary Subsequent Approvals for the Project, City shall rely on the SEIR to satisfy the requirements of CEQA to the fullest extent permissible by CEQA, City shall not require a new initial study, negative declaration or subsequent or supplemental EIR unless required by CEQA and shall not impose on the Project any mitigation measures or other conditions of approval other than those specifically imposed by the Project Approvals and the MMRP or specifically required by the Applicable Rules.

3.9.2 Subsequent CEQA Review. The Specific Plan sets forth the ministerial nature of reasonably foreseeable approvals. In the event that any additional CEQA documentation is legally required for any discretionary Subsequent Approval for the Project, the scope of such documentation shall be focused, to the extent possible consistent with CEQA, on the specific subject matter of the Subsequent Approval, and City shall conduct such CEQA review as expeditiously as possible. The cost and implementation of any additional mitigation measures or conditions requiring public improvements and/or public infrastructure may be imposed on the Subsequent Approvals for the Project as a result of such CEQA process only to the extent otherwise permitted by Section 3.6 of this Agreement. In the event that CEQA review of a Subsequent

Approval for the Project pursuant to this Section identifies any additional mitigation measures or conditions that are not permitted by Section 3.6 of this Agreement, then City, at its election, shall, either: (a) cause the implementation of such mitigation measures or conditions at no cost and expense to Developer and in an expeditious manner; or (b) to the extent permitted by law, approve the Subsequent Approval without such mitigation measures or conditions being required (where such approval creates the requirement for preparation of an environmental impact report and the adoption of a statement of overriding considerations, City shall prepare such documentation at no cost and expense to Developer and in an expeditious manner).

3.10 Developer's Right to Rebuild. Developer may renovate or rebuild the Project during the Term of this Agreement should it become necessary due to natural disaster, changes in seismic requirements, or should the buildings located within the Project become functionally outdated, as determined by Developer at its sole discretion, due to changes in technology. Any such renovation or rebuilding shall be subject to the Vested Elements, shall comply with the Project Approvals, the Building Regulations existing at the time of such rebuilding or reconstruction, and the requirements of CEQA.

## ARTICLE 4.
## ADDITIONAL RIGHTS AND OBLIGATIONS OF THE PARTIES; ALLOCATIONS OF RIGHTS AND OBLIGATIONS OF THE PARTIES

4.1 Conveyance and Acceptance of Public Infrastructure.

4.1.1 Acceptance; Maintenance. Upon completion of any and all public infrastructure to be completed by Developer, Developer shall offer for dedication to City from time to time as such public infrastructure is completed, City shall promptly accept from Developer the completed public infrastructure, shall promptly release to Developer any bonds or other security posted in connection with performance thereof in accordance with the terms of such bonds, and thereafter City shall maintain the public infrastructure. Developer may offer dedication of public infrastructure in phases and City shall accept such phased dedications and release the bonds or other security for those phases so long as all other conditions for acceptance have been satisfied.

4.2 Assessment Financing. City shall cooperate with Developer in the formation of any assessment districts (including, without limitation, Mello Roos Community Facility and Landscaping and Lighting Districts, Geologic Hazard Abatement Districts, tax exempt financing mechanisms (each a "Financing Mechanism") that Developer in its sole discretion may elect to initiate related to the Project as and when so requested by Developer.

4.2.1 General Parameters.

a. Upon written request of City, Developer shall advance amounts necessary to pay all costs and expenses of City to evaluate and structure any Financing Mechanism, to the end that City will not be obligated to pay any costs related to the formation or implementation of any Financing Mechanism from its own general funds. City staff shall meet with Developer to establish a preliminary budget for such costs, and shall confer with Developer from time to time as to any necessary modifications to that budget.

b. Any Financing Mechanism will provide for the reimbursement to Developer of any advances by Developer described in subparagraph (a) above, and any other costs incurred by Developer that are related to the Financing Mechanism, such as the costs of legal counsel, special tax consultants, engineers, etc. Developer shall promptly submit to City a detailed accounting of all such other costs incurred by Developer at such time as Developer makes application for reimbursement.

c. City shall consult with Developer prior to engaging any consultant (including bond counsel, underwriters, appraisers, market absorption analysts, financial advisors, special tax consultants, assessment engineers and other consultants deemed necessary to accomplish any financing) and Developer shall be allowed an opportunity to provide input on each proposed consultant. City shall consider all of Developer's comments on the proposed consultants in its hiring decisions, provided, however, that the Developer shall be entitled to reject, in its sole discretion, up to three consultants. If Developer rejects a consultant, City shall not engage that consultant and shall consult Developer with respect to another consultant.

4.2.2 Public Improvements.

a. Developer shall submit to City its phasing plan for any public facilities to be financed, including the priority and financing needs relative to the public improvements. City shall use available proceeds of any public financing in accordance with such priorities, and as otherwise provided in this Agreement.

b. City and Developer shall determine, following consultation by City staff with Developer, the means by which such improvements will be acquired by City.

c. In addition, any financing may include amounts necessary to discharge any assessment, special tax or other liens on the Property.

4.2.3 Financing Parameters.

a. Any public financing shall be secured solely by assessments or special taxes levied within the respective district, proceeds of the bonds issued that are placed in a bond fund, reserve fund or other such fund for the financing and investment earnings thereon. City's general fund shall not, unless otherwise agreed to in writing by City, be pledged to the repayment of any public financing.

b. The payment of actual initial and annual administrative costs of City to be incurred in connection with any Financing Mechanism shall be adequately assured, through the inclusion in any assessment or special tax methodology of appropriate provision for such costs as estimated by City, to the end that City's general fund shall not be called upon to provide for initial or any annual administrative costs related to any Financing Mechanism.

4.3 Eminent Domain. City shall cooperate with Developer in implementing all of the conditions of all Project Approvals, including, but not limited to, consideration of the use of its eminent domain powers; provided, however, that the use of eminent domain shall be in the sole and absolute discretion of City and shall be subject to all applicable legal requirements.

4.4 Public Improvements. City shall use its best efforts to work with Developer to ensure that all public infrastructure in connection with the Project is (a) designed and constructed in accordance with all applicable City standards, (b) reviewed and accepted by City in the most expeditious fashion possible, and (c) maintained by City after acceptance, including, without limitation, maintenance of any public parks dedicated to City. Developer (or its affiliates or contractor(s)) shall be responsible for obtaining all permits and approvals necessary for development of the public infrastructure.

4.5 Specific Plan and Related Conditions of Approval Allocations.

4.5.1 Developer's Rights and Obligations. Developer shall be entitled to all of the rights, and shall be subject to all of the obligations, set forth in the Specific Plan.

4.5.2 Default. A default by any Party with respect to any obligation not identified as an obligation of Developer in the Specific Plan shall not constitute a default by Developer and shall not result in: (a) any remedies imposed against Developer including, without limitation, any remedies under this Agreement; or (b) termination of this Agreement. In the event of any such default, City shall not exercise any of the rights or remedies available to it in connection with such default in a manner that would adversely affect Developer or the development, use, operation or occupancy of the Property or the Project.

4.6 Reimbursement. City and Developer shall enter into a reimbursement agreement pursuant to City Municipal Code § 9.14.200 calling for Developer to be reimbursed to the extent that they are in excess of those reasonably necessary to service or mitigate the impacts of the Project. This includes, but is not limited to, the constriction of Nason Road and Channel Line F.

## ARTICLE 5.
## ANNUAL REVIEW

5.1 Annual Review. The annual review required by California Government Code §§ 65865.1 and 9.02.110(G) of the City Municipal Code shall be conducted for the purposes and in the manner stated in those laws as further provided herein. As part of that review, City and Developer shall have a reasonable opportunity to assert action(s) that either Party believes have not been undertaken in accordance with the terms and conditions of this Agreement, to explain the basis for such assertion, to receive from the other Party a justification for the other Party's position with respect to such action(s), and to take such actions as permitted by law. The procedure set forth in this Article shall be used by Developer and City in complying with the annual review requirement. The annual review process shall review compliance by Developer and City with the obligations under this Agreement but shall not review compliance with other Project Approvals.

5.2 Commencement of Process. City's Community Development Director (the "Community Development Director" or "Director") shall commence the annual review process by notifying Developer in writing at least 45 days prior to the anniversary of the Effective Date each year that the annual review process shall commence as specified in Section 5.1. Failure of the Director to send such notification shall be deemed to extend the time period in which annual review is required until at least 45 days after such notice is provided. City's failure to perform an annual

review pursuant to the terms of the Article 5 shall not constitute or be asserted as a default by Developer.

5.3 Developer Compliance Letter. Not less than 30 days after receipt of the Community Development Director's notice pursuant to Section 5.2, Developer shall submit a letter to the Director demonstrating Developer's good faith compliance with the material terms and conditions of this Agreement and shall include in the letter a statement that the letter is being submitted to City pursuant to the requirements of Government Code § 65865.1.

5.4 Community Development Director Review. Within 30 days after the receipt of Developer's letter, the Community Development Director shall review Developer's submission and determine whether Developer has, for the year under review, demonstrated good faith compliance with the material terms and conditions of this Agreement.

5.5 Community Development Director Compliance Finding. If the Community Development Director finds that Developer has so complied, the Director shall conduct schedule the annual review for the next available meeting of the City Council and shall prepare a staff report to the City Council, which shall include, in addition to Developer's letter, (a) a demonstration of City's good faith compliance with the material terms and conditions of this Agreement; and (b) the Director's recommendation that the City Council find Developer to be in good faith compliance with the material terms and conditions of this Agreement.

5.6 Community Development Director Noncompliance Finding. If the Community Development Director (or the City Council, on review of the Director's recommendation pursuant to Section 5.5) finds and determines that there is substantial evidence that Developer has not complied in good faith with the material terms and conditions of this Agreement and that Developer is in material breach of this Agreement for the year under review, the Director shall issue and deliver to Developer a written "Notice of Default" specifying in detail the nature of the failures in performance that the Director or the City Council claims constitutes material noncompliance, all facts demonstrating substantial evidence of material noncompliance, and the manner in which such noncompliance may be satisfactorily cured in accordance with the terms of this Agreement. In the event that the material noncompliance is an Event of Default pursuant to Article 7 herein, the Parties shall be entitled to their respective rights and obligations under both Articles 5 and 7 herein, except that the particular entity allegedly in default shall be accorded only one of the 60-day cure periods referred to in Sections 5.7 and 7.1 herein.

5.7 Cure Period. If the Community Development Director finds that Developer is not in compliance, the Director shall grant a reasonable period of time for Developer to cure the alleged noncompliance. The Director shall grant a cure period of at least 60 days and shall extend the 60-day period if Developer is proceeding in good faith to cure the noncompliance and additional time is reasonably needed. At the conclusion of the cure period, the Director shall either (a) find that Developer is in compliance and refer the matter to the City Council, as specified in Section 5.5, or (b) find that Developer is not in compliance and refer the matter to the City Council as specified in Section 5.8.

5.8 Referral of Noncompliance to the City Council. The Community Development Director shall refer the alleged default to the City Council if Developer fails to cure the alleged

noncompliance to the Director's reasonable satisfaction during the prescribed cure period and any extensions thereto. The Director shall also refer the alleged noncompliance to the City Council if Developer requests a hearing before the City Council. The Director shall prepare a staff report to the City Council which shall include, in addition to Developer's letter, (a) demonstration of City's good faith compliance with the terms and conditions of this Agreement, (b) the Notice of Default, and (c) a description of any cure undertaken by Developer during the cure period.

5.9 Delivery of Documents. At least 5 days prior to any City hearing regarding Developer's compliance with this Agreement, City shall deliver to Developer all staff reports and all other relevant documents pertaining to the hearing.

5.10 City Council Compliance Finding. If the City Council, following a noticed public hearing pursuant to Section 5.5 or 5.8, determines that Developer is in compliance with the material terms and conditions of this Agreement, the annual review shall be deemed concluded. City shall, at Developer's request, issue and have recorded a Certificate of Compliance indicating Developer's compliance with the terms and conditions of this Agreement.

5.11 City Council Noncompliance Finding. If the City Council, at a properly noticed public hearing pursuant to Section 5.5 or 5.8, finds and determines, on the basis of substantial evidence, that Developer has not complied in good faith with the material terms or conditions of this Agreement and that Developer is in material breach of this Agreement, Developer shall have a reasonable time, as determined by the City Council, to meet the reasonable terms of compliance, as determined by the City Council, which time shall be not less than 15 days. If Developer does not complete the terms of compliance within the time specified, the City Council shall hold a public hearing regarding termination or modification of this Development Agreement. Notification of intention to modify or terminate this Agreement shall be delivered to Developer by certified mail containing: (a) the time and place of the City Council hearing; (b) a statement as to whether the City Council proposes to terminate or modify this Agreement and the terms of any proposed modification; and (c) any other information reasonably necessary to inform Developer of the nature of the proceedings. At the time of the hearing, Developer shall be given an opportunity to be heard. The City Council may impose conditions to the action it takes as necessary to protect the interests of City; provided that any modification or termination of this Agreement pursuant to this provision shall bear a reasonable nexus to, and be proportional in severity to the magnitude of, the alleged breach, and in no event shall termination be permitted except in accordance with Article 7 herein.

5.12 Relationship to Default Provisions. The above procedures shall supplement and shall not replace that provision of Section 7.4 of this Agreement whereby either City or Developer may, at any time, assert matters which either Party believes have not been undertaken in accordance with this Agreement by delivering a written Notice of Default and following the procedures set forth in Section 7.4.

## ARTICLE 6.
## AMENDMENTS

6.1 Amendments to Development Agreement Legislation. This Agreement has been entered into in reliance upon the provisions of the Development Agreement Legislation as those

provisions existed on the Approval Date. No amendment or addition to those provisions or any other federal or state law and regulation that would materially adversely affect the interpretation or enforceability of this Agreement or would prevent or preclude compliance with one or more provisions of this Agreement shall be applicable to this Agreement unless such amendment or addition is specifically required by the change in law, or is mandated by a court of competent jurisdiction. In the event of the application of such a change in law, the Parties shall meet in good faith to determine the feasibility of any modification or suspension that may be necessary to comply with such new law or regulation and to determine the effect such modification or suspension would have on the purposes and intent of this Agreement and the Vested Elements. Following the meeting between the Parties, the provisions of this Agreement may, to the extent feasible, and upon mutual agreement of the Parties, be modified or suspended but only to the minimum extent necessary to comply with such new law or regulation. If such amendment or change is permissive (as opposed to mandatory), this Agreement shall not be affected by the change unless the Parties mutually agree in writing to amend this Agreement to permit such applicability. Developer and/or City shall have the right to challenge any new law or regulation preventing compliance with the terms of this Agreement, and in the event such challenge is successful, this Agreement shall remain unmodified and in full force and effect. The Term of this Agreement shall be extended for the duration of the period during which such new law or regulation precludes compliance with the provisions of this Agreement.

6.2 Amendments to or Cancellation of This Agreement. This Agreement may be amended from time to time or canceled in whole or in part by mutual consent of both Parties in writing in accordance with the provisions of the Development Agreement Legislation and the City Development Agreement Regulations. Review and approval of an amendment to this Agreement shall be strictly limited to consideration of only those provisions to be added or modified. No amendment, modification, waiver or change to this Agreement or any provision hereof shall be effective for any purpose unless specifically set forth in a writing that expressly refers to this Agreement and signed by the duly authorized representatives of both Parties. All amendments to this Agreement shall automatically become part of the Project Approvals.

6.3 Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between City and Developer and development of the Property hereunder may demonstrate that refinements and clarifications are appropriate with respect to the details of performance of City and Developer. If, and when, from time to time, during the Term of this Agreement, City and Developer agree that such clarifications are necessary or appropriate, City and Developer shall effectuate such clarifications through operating memoranda approved by City and Developer, which, after execution, shall be attached hereto as addenda and become a part hereof, and may be further clarified from time to time as necessary with future approval by City and Developer. No such operating memoranda shall constitute an amendment to this Agreement requiring public notice or hearing. The City Manager, in consultation with the City Attorney, shall make the determination on behalf of City whether a requested clarification may be effectuated pursuant to this Section 6.3 or whether the requested clarification is of such a character as to constitute an amendment hereof pursuant to Section 6.2 above. The City Manager shall be authorized to execute any operating memoranda hereunder on behalf of City.

6.4 Amendments to Project Approvals. Notwithstanding any other provision of this Agreement, Developer may seek and City may review and grant amendments or modifications to

the Project Approvals (including the Subsequent Approvals) subject to the following (except that the procedures for amendment of this Agreement are set forth in Section 6.2 herein).

6.4.1 Variation Permitted by Specific Plan. Upon written application by Developer, the Community Development Director, in consultation with the Director of City's Department of Public Works ("Public Works Director"), may agree to certain modifications in the Project, including without limitation variations in configuration, location, use and sequencing, in accordance with the procedures set forth in the Specific Plan. City acknowledges that the modifications permitted by the Specific Plan, subject to the approval of the Community Development Director in consultation with the Public Works Director, are consistent with the Specific Plan and do not constitute an amendment to this Agreement, the Vested Elements or the Project Approvals.

6.4.2 Amendments to Project Approvals. Project Approvals (except for the amendment of this Agreement, the process for which is set forth in Section 6.2) may be amended or modified from time to time, but only at the written request of Developer or with the written consent of Developer (at its sole discretion) and in accordance with Section 3.4. All amendments to the Project Approvals shall automatically become part of the Project Approvals. The permitted uses of the Property, the maximum density and/or number of residential units, the intensity of use, the maximum height and size of the proposed buildings, provisions for reservation or dedication of land for public purposes, the conditions, terms, restrictions and requirements for subsequent discretionary actions, the provisions for public improvements and financing of public improvements, and the other terms and conditions of development as set forth in all such amendments shall be automatically vested pursuant to this Agreement, without requiring an amendment to this Agreement. Amendments to the Project Approvals shall be governed by the Project Approvals and the Applicable Rules, subject to Section 3.4. City shall not request, process or consent to any amendment to the Project Approvals that would affect the Property or the Project without Developer's prior written consent.

6.4.3 Administrative Amendments. Upon the request of Developer for an amendment or modification of any Project Approval, the Community Development Director or his/her designee shall determine: (a) whether the requested amendment or modification is minor when considered in light of the Project as a whole; and (b) whether the requested amendment or modification substantially conforms with the material terms and conditions of this Agreement and the Applicable Rules. If the Director or his/her designee finds that the requested amendment or modification is both minor and substantially conforms with the material terms and conditions of this Agreement and the Applicable Rules, the amendment or modification shall be determined to be an "Administrative Amendment," and the Director or his/her designee may approve the Administrative Amendment, without public notice or a public hearing Without limiting the generality of the foregoing, lot line adjustments, reductions in the density, intensity, scale or scope of the Project, minor alterations in vehicle circulation patterns or vehicle access points, changes in trail alignments, variations in the location of structures that do not substantially alter the design concepts of the Project, substitution of comparable landscaping for any landscaping shown on any development plan or landscape plan, variations in the location or installation of utilities and other infrastructure connections and facilities that do not substantially alter design concepts of the Project, amendments to the master sign program, and minor adjustments to a subdivision map or the Property legal description shall be deemed to be minor amendments or modifications. Any

request of Developer for an amendment or modification to a Project Approval that is determined not to be an Administrative Amendment as set forth above shall be subject to review, consideration and action pursuant to the Applicable Rules and this Agreement.

## ARTICLE 7.
## DEFAULT, REMEDIES AND TERMINATION

7.1 Events of Default. Subject to any extensions of time by mutual consent of the Parties in writing, and subject to the provisions of Section 11.2 hereof regarding permitted delays and a Mortgagee's right to cure pursuant to Section 10.3 hereof, any failure by either Party to perform any material term or provision of this Agreement (not including any failure by Developer to perform any term or provision of any other Project Approvals) shall constitute an "Event of Default," (a) if such defaulting Party does not cure such failure within 60 days (such 60-day period is not in addition to any 60-day cure period under Section 5.7, if Section 5.7 is applicable) following written notice of default from the other Party, where such failure is of a nature that can be cured within such 60-day period, or (b) if such failure is not of a nature which can be cured within such 60-day period, the defaulting Party does not commence substantial efforts to cure such failure within such 60-day period, or thereafter does not within a reasonable time prosecute to completion with diligence and continuity the curing of such failure. Any notice of default given hereunder shall specify in detail the nature of the failures in performance that the noticing Party claims constitutes the Event of Default, all facts constituting substantial evidence of such failure, and the manner in which such failure may be satisfactorily cured in accordance with the terms and conditions of this Agreement. During the time periods herein specified for cure of a failure of performance, the Party charged therewith shall not be considered to be in default for purposes of (a) termination of this Agreement, (b) institution of legal proceedings with respect thereto, or (c) issuance of any approval with respect to the Project. The waiver by either Party of any default under this Agreement shall not operate as a waiver of any subsequent breach of the same or any other provision of this Development Agreement.

7.2 Meet and Confer. During the time periods specified in Section 7.1 for cure of a failure of performance, the Parties shall meet and confer in a timely and responsive manner, to attempt to resolve any matters prior to litigation or other action being taken, including without limitation any action in law or equity; provided, however, nothing herein shall be construed to extend the time period for this meet and confer obligation beyond the 60-day cure period referred to in Section 7.1 (even if the 60-day cure period itself is extended pursuant to Section 7.1) unless the Parties agree otherwise in writing.

7.3 Remedies and Termination. If, after notice and expiration of the cure periods and procedures set forth in Sections 7.1 and 7.2, the alleged Event of Default is not cured, the non-defaulting Party, at its option, may institute a judicial reference proceeding pursuant to Section 7.6 and/or terminate this Agreement pursuant to Section 7.7. In the event that this Agreement is terminated pursuant to Section 7.7 and judicial reference is instituted that results in a final decision that such termination was improper, then this Agreement shall immediately be reinstated as though it had never been terminated.

7.4 Legal Action by Parties.

7.4.1 Remedies. Either Party may, in addition to any other rights or remedies, institute legal action to cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the Parties hereto or obtain any remedies consistent with the purpose of this Agreement. All remedies shall be cumulative and not exclusive of one another, and the exercise of any one or more of these remedies shall not constitute a waiver or election with respect to any other available remedy. Without limiting the foregoing, Developer reserves the right to challenge any Future Rules that would conflict with the Vested Elements or the Subsequent Approvals for the Project or reduce the development rights provided by the Project Approvals.

7.4.2 No Damages. In no event shall either Party, or its boards, commissions, officers, agents or employees, be liable in damages for any default under this Agreement, it being expressly understood that the sole legal remedy available to either Party for a breach or violation of this Development Agreement by the other Party shall be an action in mandamus, specific performance or other injunctive or declaratory relief to enforce the provisions of this Agreement by the other Party, or to terminate this Agreement. This limitation on damages shall not preclude actions by a Party to enforce payments of monies or the performance of obligations requiring an obligation of money from the other Party under the terms of this Agreement including, but not limited to obligations to pay attorneys' fees and obligations to advance or reimburse monies. In connection with the foregoing provisions, each Party acknowledges, warrants and represents that it has been fully informed with respect to, and represented by counsel of such Party's choice in connection with, the rights and remedies of such Party hereunder and the waivers herein contained, and after such advice and consultation has presently and actually intended, with full knowledge of such Party's rights and remedies otherwise available at law or in equity, to waive and relinquish such rights and remedies to the extent specified herein, and to rely to the extent herein specified solely on the remedies provided for herein with respect to any breach of this Agreement by the other Party.

7.5 Effects of Litigation. In the event that litigation is timely instituted, and a final judgment is obtained which invalidates in its entirety this Agreement, then Developer shall have no obligations whatsoever under this Agreement. In the event that any payment(s) have been made by or on behalf of Developer to City pursuant to the obligations contained in Section 3.6, City shall refund to Developer all monies remaining in any segregated City account into which such payment(s) were deposited, if any, along with interest which has accrued, if any. To the extent the payment(s) made by or on behalf of Developer were not deposited, or no longer in the segregated City account, City shall give Developer a credit for the amount of such payment(s) as determined pursuant to this Section 7.5, along with interest, if any, that has accrued, which credit may be applied by Developer to any costs or fees imposed by City on Developer in connection with construction or development within or outside the Property. Developer shall be entitled to use all or any portion of the credit at its own discretion until such time as the credit has been exhausted. Any credits due to Developer pursuant to this Section 7.5 may, at Developer's own discretion, be transferred by Developer to a third party for application by the third party to any costs or fees imposed by City on the third party in connection with the construction or the development of property within City, whether or not related to the Project. In the event that Developer has already developed or is developing a portion of the Project at the time of any invalidation of this Agreement, then any such refund or credit shall be limited to the amount paid by Developer that

exceeds, on a pro rata basis, the proportion and uses of the Property retained by Developer to the entire Property. This Section 7.5 shall survive the termination or expiration of this Agreement.

7.6 Judicial Reference. Pursuant to Code of Civil Procedure § 638, et seq., all legal actions shall be heard by a referee who shall be a retired judge from either the Riverside County Superior Court, the California Court of Appeal, the United States District Court or the United States Court of Appeals, provided that the selected referee shall have experience in resolving land use and real property disputes. Developer and City shall agree upon a single referee who shall then try all issues, whether of fact or law, and report a finding and judgment thereon and issue all legal and equitable relief appropriate under the circumstances of the controversy before such referee. If Developer and City are unable to agree on a referee within 10 days of a written request to do so by either Party hereto, either Party may seek to have one appointed pursuant to Code of Civil Procedure § 640. The cost of such proceeding shall initially be borne equally by the Parties; the referee shall have the power as part of a final decision to award costs and attorneys' fees to the prevailing Party. In order to ensure that any dispute is resolved as quickly as possible, the Parties hereby expressly waive the right to appeal the referee's final decision. Any referee selected pursuant to this Section 7.6 shall be considered a temporary judge appointed pursuant to Article 6, Section 21 of the California Constitution. Notwithstanding the provisions of this Section 7.6, either Party shall be entitled to seek declaratory and injunctive relief in any court of competent jurisdiction to enforce the terms of this Agreement, or to enjoin the other Party from an asserted breach thereof, pending the selection of a referee as provided in this Section 7.6, on a showing that the moving party would otherwise suffer irreparable harm. Upon the mutual agreement by both Parties, any legal action shall be submitted to non-binding arbitration in accordance with rules to be mutually agreed upon by the Parties.

7.7. Termination

7.7.1 Expiration of the Term. Except as otherwise provided in this Agreement, this Agreement shall be terminated and of no further effect upon the expiration of the Term of this Agreement as set forth in Section 1.3.

7.7.2 Survival of Obligations. Upon the termination or expiration of this Agreement as provided herein, neither Party shall have any further right or obligation with respect to the Property under this Agreement except with respect to any obligation that is specifically set forth as surviving the termination or expiration of this Agreement. The termination or expiration of this Agreement shall not affect the validity of the Project Approvals (other than this Agreement) for the Project.

7.7.3 Termination by City. Notwithstanding any other provision of this Agreement, City shall not have the right to terminate this Agreement with respect to all or any portion of the Property before the expiration of its Term unless City complies with all termination procedures set forth in the Development Agreement Legislation, there is an alleged Event of Default by Developer, such Event of Default is not cured pursuant to Article 5 herein or this Article 7, Developer has first been afforded an opportunity to be heard regarding the alleged default before the City Council and this Agreement is terminated only with respect to that portion of the Property to which the default applies. Compliance with the procedures set forth in Sections 7.1 through 7.3 and 7.7.3 shall be deemed full compliance with the requirements of the California Claims Act

(Government Code § 900 *et seq.*) including, but not limited to, the notice of an event of default hereunder constituting full compliance with the requirements of Government Code § 910.

## ARTICLE 8.
## COOPERATION AND IMPLEMENTATION

8.1 Further Actions and Instruments. Each Party to this Agreement shall cooperate with and provide reasonable assistance to the other Party and shall take all actions necessary to ensure that the Parties receive the benefits of this Agreement, subject to satisfaction of the conditions of this Agreement. Upon the request of any Party, the other Party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and shall take any other actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

8.2 Regulation by Other Public Agencies. Other public agencies not within the control of City may possess authority to regulate aspects of the development of the Property separately from, or jointly with, City, and this Agreement does not limit the authority of such other public agencies. Nevertheless, City shall be bound, and shall abide, by its covenants and obligations under this Agreement in all respects when dealing with any such agency regarding the Property. To the extent that City, the City Council, the Planning Commission or any other board, agency, committee, department or commission of City constitutes and sits as any other board, agency, commission, committee, or department, it shall not take any action that conflicts with City's obligations under this Agreement. In the event any state or federal resources agency (e.g., California Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, Regional Water Quality Control Board/State Water Resources Control Board, South Coast Air Quality Management District), in connection with its final issuance of a permit or certification for all or a portion of the Project, imposes requirements that require modifications to the Project, then the Parties shall work together in good faith to incorporate such changes into the Project; provided, however, that if Developer appeals or challenges any such permit requirements, then the Parties may defer such changes until the completion of such appeal or challenge is finally determined.

8.3 Other Governmental Permits and Approvals; Grants. Developer shall apply in a timely manner in accordance with Developer's construction schedule for the permits and approvals from other governmental or quasi-governmental agencies having jurisdiction over the Project as may be required for the development of, or provision of services to, the Project. Developer shall comply with all such permits, requirements and approvals. City shall cooperate with Developer in its endeavors to obtain (a) such permits and approvals and shall, from time to time, at the request of Developer, attempt with due diligence and in good faith to enter into binding agreements with any such entity to ensure the availability of such permits and approvals, or services, at each stage of the development of the Project; and (b) any grants for the Project for which Developer applies.

8.4 Cooperation in the Event of Legal Challenge.

8.4.1 The filing of any third-party lawsuit against City or Developer relating to this Agreement, the Project Approvals or other development issues affecting the Property shall not

delay or stop the development, processing or construction of the Project or approval of any Subsequent Approvals, unless the third party obtains a court order preventing the activity. City shall not stipulate to or cooperate in the issuance of any such order.

8.4.2 In the event of any administrative, legal or equitable action instituted by a third party challenging the validity of any provision of this Agreement, the procedures leading to its adoption, or the Project Approvals for the Project, Developer and City each shall have the right, in its sole discretion, to select its own counsel (and pay for such counsel at its own expense), and to control its participation and conduct in the litigation in all respects permitted by law. The Parties shall cooperate in defending the action and shall execute a joint defense and confidentiality agreement in order to share and protect information, under the joint defense privilege recognized under applicable law. As part of the cooperation in defending an action, City and Developer shall coordinate their defense in order to make the most efficient use of legal counsel and to share and protect information. If, in the exercise of its sole discretion, Developer agrees to pay for defense counsel for City, Developer shall jointly participate in the selection of such counsel. The City shall not settle any third-party litigation of Project Approvals without Developer's express written consent.

8.5 Revisions to Project. In the event of a court order issued as a result of a successful legal challenge, City shall, to the extent permitted by law or court order, in good faith seek to comply with the court order in such a manner as will maintain the integrity of the Project Approvals and avoid or minimize to the greatest extent possible (a) any impact to the development of the Project as provided for in, and contemplated by, the Vested Elements, or (b) any conflict with the Vested Elements or frustration of the intent or purpose of the Vested Elements.

8.6 State or Federal Regulation, Administrative Order or Case Law. Where any state or federal legislation, regulation or administrative order or case law allows City to exercise any discretion or to take any act with respect to that order or law, City shall, in an expeditious and timely manner, at the earliest possible time, (a) exercise its discretion in such a way as to be consistent with, and carry out the terms of, this Agreement and (b) take such other actions as may be necessary to carry out in good faith the terms of this Agreement.

8.7 Defense of Agreement. City shall take all actions that are necessary or advisable to uphold the validity and enforceability of this Agreement. If this Agreement is adjudicated or determined to be invalid or unenforceable, City shall, subject to all legal requirements, consider modifications to this Agreement to render it valid and enforceable to the extent permitted by applicable law.

## ARTICLE 9.
## TRANSFERS AND ASSIGNMENTS

9.1 Right to Assign. Developer shall have the right to sell, assign or transfer ("Transfer") its rights and obligations under this Agreement with City's prior written consent, which consent shall not be unreasonably withheld or delayed. Failure by City to respond within 45 days of City's receipt of a written request made by Developer for such consent shall be deemed to be City's approval of the Transfer in question. City may refuse to give its consent only if, in light of the proposed transferee's reputation and financial resources, such transferee would not in

City's reasonable opinion be able to perform the obligations proposed to be assumed by such transferee. Such determination shall be made by the Community Development Director and shall be appealable by Developer to the City Council. Upon Developer's request, City shall cooperate with Developer and any proposed transferee to identify completed obligations and to allocate rights, duties and obligations under this Agreement and the Project Approvals among the transferred Property and the retained Property.

9.2 Release upon Transfer. Upon the Transfer of Developer's rights and interests under this Agreement pursuant to Section 9.1, Developer shall automatically be released from its obligations and liabilities under this Agreement with respect to that portion of the Property or Project transferred, and any subsequent default or breach with respect to the transferred rights and/or obligations shall not constitute a default or breach with respect to the retained rights and/or obligations under this Agreement, provided that (a) Developer has provided to City written notice of such Transfer, and (b) the transferee signs and delivers to City a written agreement in which (i) the name and address of the transferee is set forth and (ii) the transferee expressly and unconditionally assumes all of the obligations of Developer under this Development Agreement with respect to that portion of the Property or Project transferred. Upon any transfer of any portion of the Property or Project and the express assumption of Developer's obligations under this Agreement by such transferee, City shall look solely to the transferee for compliance by such transferee with the provisions of this Agreement as such provisions relate to the portion of the Property or Project acquired by such transferee. A default by any transferee shall only affect that portion of the Property or Project owned by such transferee and shall not cancel or diminish in any way Developer's rights hereunder with respect to any portion of the Property or Project not owned by such transferee. The transferor and the transferee shall each be solely responsible for the reporting and annual review requirements relating to the portion of the Property or Project owned by such transferor/transferee, and any amendment to this Agreement between City and a transferor or a transferee shall only affect the portion of the Property or Project owned by such transferor or transferee. Failure to deliver a written assumption agreement hereunder shall not affect the running of any covenants herein with the land, as provided in Section 9.3 below, nor shall such failure negate, modify or otherwise affect the liability of any transferee pursuant to the provisions of this Agreement.

9.3 Covenants Run with the Land. All of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall be binding upon the Parties and their respective successors (by merger, reorganization, consolidation, or otherwise) and assigns, devisees, administrators, representatives, lessees, and all of the persons or entities acquiring the Property or the Project or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever, and shall inure to the benefit of the Parties and their respective successors (by merger, consolidation or otherwise) and assigns. All of the provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law, including but not limited to, Section 1468 of the Civil Code of the State of California. Each covenant to do, or refrain from doing, some act on the Property hereunder (a) is for the benefit of such Property and is a burden upon such Property, (b) runs with such Property, (c) is binding upon each Party and each successive owner during its ownership of such Property or any portion thereof, and (d) each person or entity having any interest therein derived in any manner through any owner of such Property, or any portion thereof, and

shall benefit the Property hereunder, and each other person or entity succeeding to an interest in such Property.

## ARTICLE 10.
## MORTGAGEE PROTECTION; CERTAIN RIGHTS OF CURE

10.1 Mortgagee Protection. This Agreement shall not prevent or limit Developer, in its sole discretion, in any manner, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property ("Mortgage"). This Agreement shall be superior and senior to any lien placed upon the Property or any portion thereof after the date of recording this Agreement, including the lien of any Mortgage. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon, effective against and inure to the benefit of, any person or entity, including any deed of trust beneficiary or mortgagee ("Mortgagee") who acquires title to the Property, or any portion thereof, by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

10.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 10.1, no Mortgagee shall have any obligation or duty under this Agreement to perform Developer's obligations or other affirmative covenants of Developer hereunder; provided, however, that a Mortgagee shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements provided for or authorized by this Agreement, or by the Project Approvals and Applicable Rules.

10.3 Notice of Default to Mortgagee; Right of Mortgagee to Cure. If City receives a notice from a Mortgagee requesting a copy of any Notice of Default given to Developer hereunder and specifying the address for service thereof, then City shall deliver to such Mortgagee, concurrently with service thereon to Developer, any notice given to Developer with respect to any claim by City that Developer has committed a default, and if City makes a determination of noncompliance hereunder, City shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service thereof on Developer. Each Mortgagee shall have the right (but not the obligation) during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the Event of Default claimed or the areas of noncompliance set forth in City's notice.

10.4 No Supersedure. Nothing in this Article 10 shall be deemed to supersede or release a Mortgagee or modify a Mortgagee's obligations under any subdivision improvement agreement or other obligation incurred with respect to the Project outside this Agreement, nor shall any provision of this Article 10 constitute an obligation of City to such Mortgagee, except as to the notice requirements of Section 10.3.

10.5 Technical Amendments to this Article 10. City shall reasonably consider and approve interpretations and/or technical amendments to the provisions of this Agreement that are required by lenders for the acquisition and construction of the improvements on the Property or any refinancing thereof and to otherwise cooperate in good faith to facilitate Developer's negotiations with lenders.

## ARTICLE 11.
## MISCELLANEOUS PROVISIONS

11.1 Limitation on Liability. Notwithstanding anything to the contrary contained in this Agreement, in no event shall: (a) any general or limited partner, officer, director, member, shareholder, employee, affiliate, manager, representative, or agent of Developer be personally liable for any breach of this Agreement by Developer, or for any amount which may become due to City under the terms of this Agreement; nor (b) shall any member, officer, agent or employee of City be personally liable for any breach of this Agreement by City or for any amount which may become due to Developer under the terms of this Agreement.

11.2 Force Majeure. The Term of this Agreement and the Project Approvals and the time within which Developer shall be required to perform any act under this Agreement shall be extended by a period of time equal to the number of days during which performance of such act is delayed unavoidably and beyond the reasonable control of the Party subject to the delay by strikes, lock-outs and other labor difficulties, Acts of God, inclement weather, failure or inability to secure materials or labor by reason of priority or similar regulations or order of any governmental or regulatory body, changes in local, state or federal laws or regulations, any development moratorium or any action of other public agencies that regulate land use, development or the provision of services prevents, prohibits or delays construction of the Project, enemy action, riots, insurrections, civil disturbances, wars, terrorist acts, fire, unavoidable casualties, pandemic, government mandated shutdowns or government closure (meaning any of the following events: (a) the governmental offices where any action required under this Agreement (collectively, "Government Offices") are not open for business and any Government Offices' systems are not operational such that such action cannot occur; (b) any other third party is not open for business such that its services required as necessary for a Party to perform obligations under this Agreement cannot be performed; (c) overnight couriers are not operating such that any documents cannot be delivered to the extent such documents are required to be originals; (d) financial institutions or wire transfer systems are not operating, such that, consummation of financial transactions contemplated herein cannot occur; (e) litigation involving this Agreement or the Project Approvals; or (f) any other cause beyond the reasonable control of Developer which substantially interferes with carrying out the development of the Project. Such extension(s) of time shall not constitute an Event of Default and shall occur at the request of any Party. In addition, the Term of this Agreement and any subdivision map or any of the other Project Approvals shall be extended to by the amount of time corresponding to any period of time during which (i) a development moratorium including, but not limited to, a water or sewer moratorium, is in effect; (ii) the actions of public agencies that regulate land use, development or the provision of services to the Property prevent, prohibit or delay either the construction, funding or development of the Project or (iii) there is any mediation, arbitration; litigation or other administrative or judicial proceeding pending involving the Vested Elements, or Project Approvals. Furthermore, in the event the issuance of a building permit for any part of the Project is delayed as a result of Developer's inability to obtain any other required permit or approval, then the Term of this Development Agreement and of the Project Approvals shall be extended by the period of any such delay.

11.3 Notices, Demands and Communications Between the Parties. Formal written notices, demands, correspondence and communications between City and Developer shall be sufficiently given if delivered personally (including delivery by private courier), dispatched by

certified mail, postage prepaid and return receipt requested, or delivered by nationally recognized overnight courier service, or by electronic facsimile transmission followed by delivery of a "hard" copy to the offices of City and Developer indicated below. Such written notices, demands, correspondence and communications may be sent in the same manner to such persons and addresses as either Party may from time-to-time designate in writing at least 15 days prior to the name and/or address change and as provided in this Section 11.3.

City:

City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552
Attention: City Clerk
patty@moval.org

with copies to:

City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552
Attention: City Manager
mikel@moval.org

City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552
Attention: Community Development Director
angelicaf@moval.org

City of Moreno Valley
14177 Frederick Street
Moreno Valley, CA 92552
Attention: City Attorney
SteveQ@QALawyers.com

Developer

T/Cal Realty II, LLC
29000 Eucalyptus Avenue
Moreno Valley, CA 92555
Attention: Iddo Benzeevi
benzeevi@highlandfairview.com

with copies to:

Cox, Castle & Nicholson LLP
2029 Century Park East, 21st Floor
Los Angeles, CA 90067
Attention: Kenneth B. Bley, Esq.
kbley@coxcastle.com

Gatzke Dillon & Balance LLP
2762 Gateway Road
Carlsbad, CA 92009
Attention: Mark J. Dillon, Esq.
mdillon@gdandb.com

Notices personally delivered shall be deemed to have been received upon delivery. Notices delivered by certified mail, as provided above, shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addresses designated above as the Party to whom notices are to be sent, or (b) within 5 days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. Notices delivered by overnight courier service as provided above shall be deemed to have been received 24 hours after the date of deposit. Notices delivered by electronic facsimile transmission shall be deemed received upon receipt of sender of electronic confirmation of delivery, provided that a "hard" copy is delivered as provided above.

11.4 Project as a Private Undertaking; No Joint Venture or Partnership. The Project constitutes private development, neither City nor Developer is acting as the agent of the other in any respect hereunder, and City and Developer are independent entities with respect to the terms and conditions of this Agreement. Nothing contained in this Agreement or in any document in any way related to this Agreement shall be construed as making City and Developer joint venturers or partners.

11.5 Non-Intended Prevailing Wage Requirements. The Parties are aware of a letter of determination by the Department of Industrial Relations holding that freezing the amount of impact fees in a development agreement constitutes a public subsidy requiring the payment of prevailing wages, Public Case No. 2020-014. They are also aware that the decision is currently pending before the Director of Industrial Relations.

In light of the foregoing, it is the intent of the Parties that nothing in this Agreement shall in any way require, or be construed to require, Developer to pay prevailing wages with respect to any work of construction or improvement on the Property or within the Project (a "Non-Intended Prevailing Wage Requirement"). But for the understanding of the Parties as reflected in the immediately preceding sentence, the Parties would not have entered into this Agreement based upon the terms and conditions set forth herein. Developer and City have made every effort in reaching this Agreement to ensure that its terms and conditions will not result in a Non-Intended Prevailing Wage Requirement. These efforts have been conducted in the absence of any applicable existing judicial interpretation of which the Parties are aware of that would indicate that the terms and conditions of this Agreement would result in a Non-Intended Prevailing Wage Requirement. If, despite such efforts, any provision of this Agreement shall be determined by the Department of Industrial Relations, the Labor and Workforce Development Agency or any court of competent jurisdiction to result in a Non-Intended Prevailing Wage Requirement, such determination shall, in such event, at the election of Developer in its sole and absolute discretion, cause this Agreement to be reformed such that each provision of this Agreement that results in the Non-Intended Prevailing Wage Requirement shall be removed as though such provisions were never a part of this Agreement, and, in lieu of each such provision, replacement provisions shall be added as a

part of this Agreement as similar in terms to each such removed provision as may be possible and legal, valid and enforceable but without resulting in the Non-Intended Prevailing Wage Requirement.

Additionally, the Parties to this Agreement have discussed the prospect of including community or local workforce or skilled and trained or apprenticeship workforce requirements in this Agreement; however, after negotiations and deliberations, City finds that such mandates are infeasible and undesirable due to monitoring, reporting and enforcement difficulties.

11.6 Severability. If any term or provision of this Agreement or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of this Agreement or its application to other situations, shall remain in full force and effect unless amended or modified by mutual consent of the Parties; provided, however, that, if the invalidation, voiding or enforceability would deprive either City or Developer of material benefits derived from this Agreement, or make performance under it unreasonably difficult, then City and Developer shall meet and confer and shall make good faith efforts to amend or modify this Agreement in a manner that is mutually acceptable to City and Developer]. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, Developer, in its sole and absolute discretion, may terminate this Agreement by providing written notice of such termination to City.

11.7 Section Headings. Article and Section headings in this Agreement are for convenience only and are not intended to be used in interpreting or construing its terms, covenants or conditions.

11.8 Construction of This Agreement. This Agreement has been reviewed and revised by legal counsel for both Developer and City and no presumption or rule that ambiguities shall be construed against the drafting Party shall apply to its interpretation or enforcement.

11.9 Entire Agreement. This Development Agreement is signed in duplicates, each of which is deemed to be an original. This Agreement includes the Recitals and five exhibits, attached hereto and incorporated by reference herein, which, together with the Applicable Rules, the Project Approvals and the Vested Elements, constitute the entire understanding and agreement of the Parties and supersede all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. The exhibits are as follows:

| | |
|---|---|
| Exhibit A | Legal Description of the Property |
| Exhibit B | Map of the Property |
| Exhibit C | Public Benefits |
| Exhibit D | **Senior Center and Public Park Land Dedication** |

11.10 Estoppel Certificates. Either Party may, at any time during the Term of this Agreement, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing that, to the knowledge of the certifying Party, (a) this Agreement is in full

force and effect and is a binding obligation of the Parties, (b) this Agreement has not been amended or modified either orally or in writing, or if amended, identifying the amendments, (c) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and amount of any such defaults, and (d) any other information reasonably requested. The Party receiving a request hereunder shall sign and deliver such certificate or give a written, detailed response explaining why it will not do so within 20 days following the receipt thereof. The failure of either Party to provide the requested certificate within such 20-day period shall constitute a confirmation that this Agreement is in full force and effect and that no modification or default exists. Either the City Manager or the Community Development Director shall have the right to sign any certificate requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by transferees and Mortgagees.

11.11 Recordation. Pursuant to California Government Code § 65868.5, within 10 days after the signing of this Agreement by the Parties, the City Clerk shall record this Development Agreement with the Riverside County Recorder. Thereafter, if this Agreement is terminated, modified or amended, the City Clerk shall record notice of such action with the Riverside County Recorder.

11.12. No Waiver. No delay or omission by either Party in exercising any right or power accruing upon noncompliance or failure to perform by the other Party under any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either Party of any of the covenants or conditions to be performed by the other Party shall be in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought, and any such waiver shall not be construed as a waiver of any succeeding breach or non-performance of the same or other covenants and conditions hereof.

11.13 Time. Time is of the essence for each provision of this Agreement for which time is an element.

11.14. Interpretation. This Agreement shall be construed and enforced in accordance with the laws of the State of California.

11.15. Attorneys' Fees. Should any legal action be brought by either Party because of a breach of this Agreement or to enforce any of its provisions, the prevailing party shall be entitled to reasonable attorneys' fees and such other reasonable costs, including expert witness fees and any costs of enforcement of a final judgment, as may be awarded by the referee.

11.16. Third Party Beneficiaries. Except for successors, assignees or transferees, there are no third-party beneficiaries to this Agreement, and nothing contained herein shall be construed as giving any other person or entity third party beneficiary status.

11.17. Constructive Notice and Acceptance. Upon recordation of this Agreement, every person who now, or hereafter, owns or acquires any right, title or interest in or to any portion of the Property or Project shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Property.

11.18. Counterparts. This Development Agreement may be signed by each Party on a separate signature page, and when the signed signature pages are combined, shall constitute one single instrument.

11.19. Authority. Each person signing this Agreement represents and warrants that he/she have the authority to bind his/her respective Party and that all necessary approvals by members, boards of directors, shareholders, partners, city councilors other appropriate entities or people have been obtained.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, City and Developer have signed this Development Agreement as of the date first set forth above.

**DEVELOPER**:

T/CAL REALTY II, LLC,
a Delaware limited liability company

By: _____ 10/15/24
Iddo Benseevi, President Date

**CITY**:

CITY OF MORENO VALLEY,
a California municipal corporation

By: _____
Ulises Cabrera, Mayor Date

**ATTESTATION**:

By: _____
M. Patricia Rodriguez
Acting City Clerk

APPROVED AS TO FORM:

By: _____
Steven B. Quintanilla
City Attorney

**EXHIBIT A**

**LEGAL DESCRIPTION OF THE PROPERTY**

**[to be attached]**

# EXHIBIT "A"

## LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MORENO VALLEY, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1: (APN 486-300-013, 486-310-035, 486-320-009, 486-320-010, 486-320-011 AND 486-320-012)

ALL OF BLOCKS 129, 138, 139, 148, 149, 152 AND 153 AS SHOWN BY MAP NO. 1 BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, IN THE COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 11, PAGE 10 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, CALIFORNIA, ALSO LOTS 2 TO 7 INCLUSIVE OF BLOCK 150, LOTS 2 TO 8, INCLUSIVE IN BLOCK 151, LOTS 1, 2, 7 AND 8 IN BLOCK 157 AND LOTS 3, 4 AND 5 IN BLOCK 158, AS SHOWN BY MAP NO. 1 OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY.

TOGETHER WITH THOSE PORTIONS OF THE STREETS AND AVENUES VACATED BY RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE, A CERTIFIED COPY OF WHICH WAS RECORDED AUGUST 11, 1966 AS INSTRUMENT NO. 81996, OFFICIAL RECORDS, WHICH WOULD PASS WITH A CONVEYANCE OF SAID LAND.

EXCEPTING FROM BLOCK 138 THOSE PORTIONS DESCRIBED IN THE DEED TO THE COUNTY OF RIVERSIDE RECORDED AUGUST 31, 1992 AS INSTRUMENT NO. 324866.

EXCEPTING FROM BLOCKS 148 AND 153 THOSE PORTIONS DESCRIBED IN THE DEED TO THE MORENO VALLEY UNIFIED SCHOOL DISTRICT RECORDED JULY 19, 1994 AS INSTRUMENT NO. 286514.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE CITY OF MORENO VALLEY AS DESCRIBED IN A GRANT DEED RECORDED MAY 15, 2013 AS INSTRUMENT NO. 2013-0231868 OF OFFICIAL RECORDS.

EXCEPTING THEREFROM ANY PORTION LYING WITHIN TRACT NO. 34950-1 RECORDED IN BOOK 433, PAGES 93 THROUGH 96, INCLUSIVE, OF MAPS.

EXCEPTING AND RESERVING UNTO GRANTOR, ITS SUCCESSORS AND/OR ASSIGNS, WITHOUT RIGHT OF SURFACE ENTRY, AS A MINERAL INTEREST AND NOT AS A ROYALTY INTEREST, ALL OIL, GAS, OTHER MINERALS AND HYDROCARBON SUBSTANCES, AND ACCOMPANYING FLUIDS, INCLUDING BUT NOT BY WAY OF LIMITATION, ALL GEOTHERMAL RESOURCES IN, UNDER, OR PRODUCED AND SAVED FROM THE REAL PROPERTY GRANTED HEREIN , TOGETHER WITH ANY OF THE FOREGOING THAT MAY BE ALLOCATED THERETO PURSUANT TO ANY POOLING OR UNITIZATION AGREEMENT OR RATABLE TAKINGS PROGRAM TO WHICH GRANTOR MAY SUBSCRIBE, AND TOGETHER WITH THE SOLE AND EXCLUSIVE RIGHT TO PROSPECT FOR, DRILL FOR, PRODUCE, AND REMOVE SUCH OIL, GAS, OTHER MINERALS AND HYDROCARBON SUBSTANCES, AND GEOTHERMAL RESOURCES, FROM SAID REAL PROPERTY BELOW THE DEPTH OF FIVE HUNDRED FEET (500') FROM THE SURFACE OF SAID REAL PROPERTY, INCLUDING THE RIGHT TO SLANT DRILL FROM ADJACENT PROPERTY, THE RIGHT TO UTILIZE SUBSURFACE STORAGE FOR NATURAL SUBSTANCES, AND THE RIGHT TO MAINTAIN SUBSURFACE PRESSURES, BY DEED RECORDED JANUARY 07, 2004 AS INSTRUMENT NO. 20040010169 OF OFFICIAL RECORDS.

THAT PORTION OF BLOCK 138, AS SHOWN BY MAP NO. 1, BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, AS PER MAP RECORDED IN BOOK 11, PAGE 10 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID BLOCK 138; THENCE SOUTH THE EAST LINE OF SAID BLOCK 138, 1324 FEET, MORE OR LESS, TO THE CENTER LINE OF DELPHINIUM STREET (VACATED); THENCE WEST ALONG THE CENTER LINE OF DELPHINIUM STREET (VACATED), 822.5 FEET;

## EXHIBIT A
## (Continued)

THENCE NORTH 1324 FEET, MORE OR LESS, PARALLEL WITH THE WEST LINE OF SAID BLOCK 138, TO A POINT ON THE NORTH LINE OF SAID BLOCK 138; THENCE EAST 822.5 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

EXCEPTING ALL OIL, GAS, OTHER MINERALS AND HYDROCARBON SUBSTANCES, AND ACCOMPANYING FLUIDS INCLUDING, BUT NOT BY WAY OF LIMITATION, ALL GEOTHERMAL RESOURCES IN, UNDER OR PRODUCED AND SAVED FROM THE REAL PROPERTY GRANTED HEREIN, TOGETHER WITH ANY OF THE FOREGOING THAT MAY BE ALLOCATED THERETO PURSUANT TO ANY POOLING OR UNITIZATION AGREEMENT OR RATEABLE TAKINGS PROGRAM TO WHICH GRANTOR AMY SUBSCRIBE, AND TOGETHER WITH THE SOLE AND EXCLUSIVE RIGHT TO PROSPECT FOR, DRILL FOR, PRODUCE, AND REMOVE SUCH OIL, GAS, OTHER MINERALS AND HYDROCARBON SUBSTANCES, AND GEOTHERMAL RESOURCES, FROM SAID REAL PROPERTY BELOW THE DEPTH OF FIVE HUNDRED FEET (500') FROM THE SURFACE OF SAID REAL PROPERTY, INCLUDING THE RIGHT TO SLANT DRILL FROM ADJACENT PROPERTY, THE RIGHT TO UTILIZE SUBSURFACE STORAGE FOR NATURAL SUBSTANCES, AND THE RIGHT TO MAINTAIN SUBSURFACE PRESSURES, AS RESERVED BY THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, A CALIFORNIA CORPORATION BY DEED RECORDED AUGUST 31, 1992 AS INSTRUMENT NO. 92-324866, OFFICIAL RECORDS.

PARCEL 3: (APN: 486-310-014)

LOT 1 IN BLOCK 151, AS SHOWN BY MAP NO. 1 OF BEAR VALLEY AND ALESSANDRO DEVELOPMENT COMPANY, ON FILE IN BOOK 11, PAGE 10 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA.

PARCEL 4: (APN: 486-280-056)

THAT CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF MORENO VALLEY, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, BEING LOT 1 OF TRACT NO. 34950-1 AS SHOWN ON THE MAP FILED IN BOOK 433, PAGES 93 THROUGH 96, INCLUSIVE, OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID RIVERSIDE COUNTY, CALIFORNIA.

EXCEPTING THEREFROM THAT PORTION OF LOT 1 OF TRACT 34950-1 AS CONVEYED TO THE COUNTY OF RIVERSIDE BY GRANT DEED RECORDED AUGUST 15, 2012 AS DOCUMENT NO. 2012-0389628 OF OFFICIAL RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

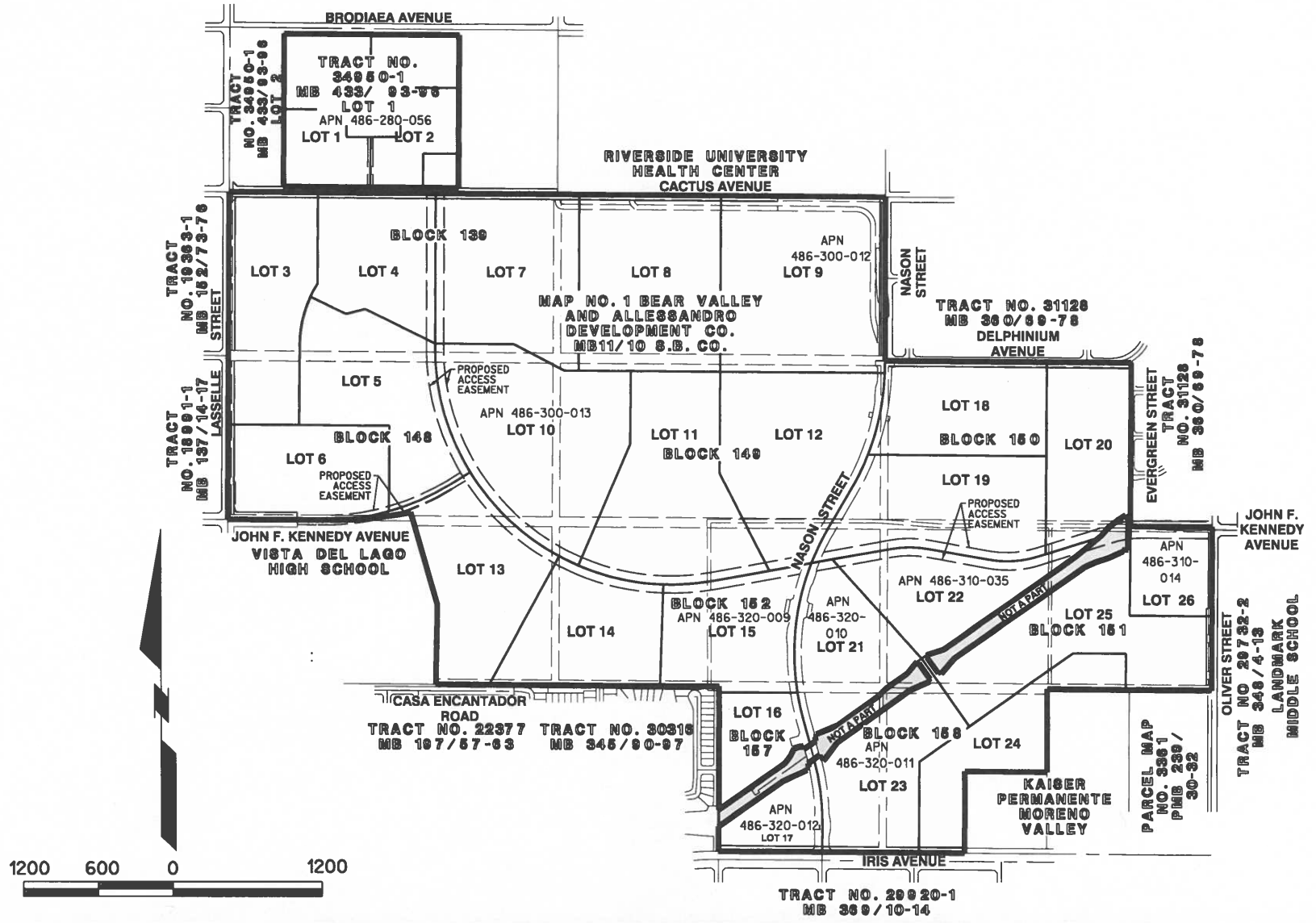
BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID TRACT NO. 34950-1; THENCE ALONG THE SOUTHERLY LINE OF SAID TRACT NO. 34951-1, BEING ALSO THE CENTERLINE OF CACTUS AVENUE AS DESCRIBED IN THE DECLARATION OF DEDICATION TO THE CITY OF MORENO VALLEY, RECORDED SEPTEMBER 28, 2000 AS DOCUMENT NO. 2000-382573 OF OFFICIAL RECORDS IN THE OFFICE OF SAID RIVERSIDE COUNTY RECORDER, NORTH 89°34'00" WEST 796.90 FEET; THENCE PARALLEL WITH THE EASTERLY LINE OF SAID TRACT NO. 34950-1 NORTH 00°25'16" EAST 1320.19 FEET TO THE NORTHERLY LINE OF SAID TRACT NO. 34950-1, BEING ALSO THE CENTERLINE OF BRODIAEA AVENUE;

THENCE ALONG SAID NORTHERLY LINE OF TRACT NO. 34950-1 AND SAID CENTERLINE OF BRODIAEA AVENUE SOUTH 89°33'38" EAST 796.90 FEET TO THE EASTERLY LINE OF SAID TRACT NO. 34950-1;

APN: 486-280-056, 486-300-012, 486-300-013, 486-310-014, 486-310-035, 486-320-009, 486-320-010,486-320-011, AND 486-320-012

**EXHIBIT B**

**TENTATIVE TRACT MAP NO. 38850**

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# EXHIBIT "B"

SCALE: 1"=1200 | DATE: OCTOBER 15, 2024



\\cp.rickeng.com\projects\C19000\19365_Aquabella\Survey\19365exb01_ExhibitB.dgn

PLOT DATE: 15-OCT-2024 JN 19365

## EXHIBIT C

## PUBLIC BENEFITS

All terms not defined herein shall have the meaning ascribed to them in the Development Agreement to which this Exhibit C is attached to and a part thereof.

City has determined that the Project presents certain public benefits and opportunities that are advanced by City and Developer entering into this Agreement. This Agreement will, among other things:

1. Allow the development of approximately 668.6 acres of land, which has been vacant for decades.
2. Reduce uncertainties in planning and provide for the orderly development of the Property.
3. Provide the vibrant Downtown Center core area called for in City's 2040 General Plan.
4. Advance the goals, policies and objectives set forth in City's 2040 General Plan.
5. Provide up to 15,000 homes to fulfill City's need for housing and workforce housing.
6. Strengthen City's economic base with approximately 56,000 construction jobs and almost 1,450 permanent jobs that will result from the development of almost 50,000 sq. ft of downtown lifestyle oriented mixed-us town center commercial space and a 300-room hotel
7. Increase the property taxes resulting from the investment of approximately $6,000,000,000 to develop the Project.
8. Provide City general fund revenues of approximately $3,500,000 annually.
9. Expand park and recreation facilities - 80 acres of land and facilities within the Property to include:
    a. 40-acre recreational lake,
    b. 15-acre active lake promenade,
    c. 25-acre central park,
    d. A 24,000 sq. foot Senior Center, designed, constructed and together with the land underlying the Center, delivered to the City, and
    e. Payment of Quimby fees for 49 acres of parkland in addition to the on-site public park land and facilities.
10. Expand educational opportunities - 40 acres of land for new schools and payment of applicable workforce development fees.
11. Provide a multi-model transit center hub at the Project Town Center.
12. Provide on-site public art.

13. Payment of Multiple Species Habitat Conservation Plan (MSHCP) fees for Riverside County wildlife and habitat conservation.
14. Payment of all require city Development Impact fees as prescribed by the Moreno Valley Municipal code.
15. City has set performance criteria for the Term of the Agreement.
16. City will annually review and enforce the terms of the Agreement to ensure that the benefits will be provided that the Developer is otherwise satisfying its obligations under the Agreement.

## EXHIBIT D

## SENIOR CENTER AND PUBLIC PARK LAND DEDICATION

**Senior Center**. The Project Applicant shall design and construct and deliver a 24,000 square foot Senior Center building which, together with the land on which the Senior Center is built, shall be dedicated to the City. Construction of the Senior Center (a permitted use in the Aquabella Specific Plan and recreation facility) shall be completed, and delivery/conveyance to the City shall occur no later than 36 months after issuance of the occupancy permit (final inspection) for the 8,000$^{th}$ residential unit in the Aquabella Project.

**Public Park Land Dedication**. The Project Applicant shall develop eighty (80) acres of land within Aquabella for public park land purposes and dedicate said parkland and improvements to the City, subject to the City providing the Aquabella Project Applicant with the appropriate park Development Impact Fee (DIF) credits. The Project Applicant acknowledges that a total of 129 acres of parkland is required as a condition of approval of the Aquabella Project; as such, the Project Applicant acknowledges that it shall pay the Quimby Fees and Park Development Impact Fees (for parks) for the remaining 49 acres that are not dedicated or developed by the Aquabella Project Applicant.

STATE OF CALIFORNIA )
) ss:
COUNTY OF Riverside )

On October 15, 2024 before me, Holli Nuchols, notary public (here insert name of the officer), Notary Public, personally appeared Eddo Benzeevi, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Seal]

HOLLI NUCHOLS
Notary Public - California
Riverside County
Commission # 2483371
My Comm. Expires Feb 29, 2028

Holli Nuchols
Signature of Notary Public

STATE OF CALIFORNIA )
) ss:
COUNTY OF _____ )

On __ _____, 20__ before me, _____ (here insert name of the officer), Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
Signature of Notary Public

[Seal]