

RECORDING REQUESTED BY:

City Clerk

WHEN RECORDED MAIL TO:

CITY OF CHULA VISTA
276 Fourth Avenue
Chula Vista, CA 91910

(Above Space for Recorder’s Use)

APNs _____ and _____

DEVELOPMENT AGREEMENT FOR OTAY
RANCH TOWN CENTER MIXED- USE PROJECT

THIS DEVELOPMENT AGREEMENT (“Agreement”) is made and entered into by and between the CITY OF CHULA VISTA, a chartered California municipal corporation (“City”) and General Growth Properties (GGP) Otay Ranch L.P. (“Owner”). City and Owner whenever referenced herein collectively shall be referred to as “Parties” and whenever referenced hereinafter individually may be referred to as “Party.” The Parties agree as follows:

RECITALS

A. City’s Authority to Enter into Development Agreement. City is authorized under California Government Code sections 65864 *et seq.* to enter into binding development agreements with persons having legal or equitable interests in real property for the purposes of, among other things, (i) providing certainty as to permitted land uses in the development of such property, and (ii) ensuring the successful completion of the Freeway Commercial FC-1 South Portion, owned by GGP Otay Ranch L.P., a 78.29-acre portion of the 120-acre Freeway Commercial FC-1 Sectional Planning Area Plan.

B. The Property: Owner’s Interest. Owner has a legal or equitable interest or both in the approximately 16.59-acre site more particularly described in Exhibit A and depicted in Exhibit B attached hereto (the “Property”). The Property is the subject of this Agreement and is located within Freeway Commercial FC-1, South Portion of the Freeway Commercial FC-1 Sectional Planning Area Plan. Owner intends that its successors in interest holding fee title to the Property benefit from and be bound by this Agreement, as more particularly described herein. The owner intends to develop, improve, build on, sell or lease the Property or portions thereof to various Builders (as hereinafter defined) who may acquire portions of the Property and the benefits and burdens under this Agreement.

C. The Project. The Property is being planned as Mixed-Use development that is intended to provide, over one or more phases, up to 840 residential dwelling units at full build out, as shown on Exhibit B, while preserving existing retail space, including the demolition of existing

retail space and rebuilding of 37,200 square feet of retail (the “Project”). The Project will also include various passive and active recreational open space areas distributed throughout the residential areas to provide recreational opportunities within walking distance of the proposed residential uses. The Project is located north of Birch Road, east of State Route 125, and west of Eastlake Parkway.

D. Project Approvals. On _____ 2024, the City approved a General Plan Amendment (by Resolution No. 2024-0XX), an amendment to the Otay Ranch General Development Plan, an amendment to Freeway Commercial FC-1 Sectional Planning Area (“SPA”) Plan (by Resolution No. 2024- 0XX), a Development Agreement (by Ordinance No. 2024-XXX, Tentative Map No. 22-0002 (by Resolution No. 2024-0XX), a Rezone (by Ordinance No 2024-XXX), and other related entitlements for the Project.

E. Compliance with CEQA. In connection with the City’s prior approval of the SPA Plan, the City certified a Final Environmental Impact Report for the Otay Ranch Freeway Commercial FC-1 Sectional Planning Area Plan Planning Area 12 (“FEIR”). Prior to the City’s adoption of the Existing Project Approvals (as hereinafter defined) described above, the City Council independently reviewed and approved a Fourth Addendum to the FEIR, which concluded the Project would not result in any new significant environmental effects beyond those previously analyzed under the FEIR, all in accordance with the provisions of the California Environmental Quality Act, California Public Resources Code section 21000, *et seq.* (“CEQA”).

F. City and Owner Acknowledge. City and Owner acknowledge this Agreement will provide the following benefits:

1. Allow for the development of the Project in phases, as further described herein.
2. Community Purpose Facility (“CPF”) alternative compliance obligations in a future CPF Agreement consistent with the Project’s density range, as set forth in Section 4.7 of this Agreement.
3. Provide for timing of park acreage and in lieu park fees on a sliding scale consistent with the Project’s density range, as set forth in Section 4.8 of this Agreement.
4. Provide for a public benefit contribution to be paid to the City by Owner for each residential dwelling unit developed, as set forth in Section 4.13 of this Agreement.
5. Provide Owner with assurances regarding the Existing Project Approvals and regulations that will be applicable to the development of the Project consistent with the existing land use regulations and the Existing Project Approvals; and

G. The Parties agree that the covenants, promises and other material requirements of this Agreement constitute adequate consideration that is fair, just, mutual, equitable and reasonable.

H. Planning Commission. On _____, 2024, City’s Planning Commission held a duly noticed public hearing on this Agreement and at the conclusion of the hearing recommended _____ of the Project and this agreement.

I. City Council Approval. On _____, 2024 the City Council held a duly noticed public hearing on this Agreement, at the conclusion of which the Council introduced and conducted the first reading of the ordinance _____ the Agreement, and subsequently, on _____, adopted Ordinance No. XXX _____ the Agreement. As part of its initial hearing, the City Council considered and approved the environmental documentation for this Agreement as being in compliance with the California Environmental Quality Act.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, City and Owner hereby agree as follows:

ARTICLE 1
DEFINITIONS

In this Agreement, unless the context otherwise requires, the following terms shall mean:

“Applicable Law” means laws, rules, regulations and official policies of City (including General Plan policies, Administrative codes, ordinances, resolutions and other local laws, regulations, and policies of City) in force and effect on the Effective Date.

“City Council” means the Chula Vista City Council.

“City Laws” means any new rules, laws, regulations, policies, ordinances, resolutions and standards adopted by the City after the Effective Date of this Agreement that can be applied to decisions on Future Project Approvals or amendments to Existing Project Approvals as provided for herein.

“Builder” means the entity, person or persons to whom Owner will sell, lease or convey or has sold, leased or conveyed the Property or portions thereof, for purposes of its improvement for residential, commercial, industrial or other uses.

“CEQA” means the California Environmental Quality Act, California Public Resources Code sections 21000, et seq and State CEQA Guidelines, Title 14 of the California Code of Regulations, section 15000 *et seq*.

“City” means the City of Chula Vista, in the State of California.

“City Manager” means the City Manager of the City or their designee.

“Permit Application” means an application that demonstrates a good faith attempt to provide the information required by the City’s Development Services Department including a Submittal Checklist, Grading Permit, or Building Permit, as the case may be, along with full payment of the applicable fees due at the time of such submission pursuant to the Tentative Tract Map Conditions of Approval and/or the City’s Master Fee Schedule. The City in its discretion

will determine when a Permit Application is complete pursuant to applicable Checklist requirements, including after review(s) by City Departments.

“Density per Acre” means the number of residential units per net acre of residentially zoned land that excludes any land area used for interior roads, easements, sidewalks, public parks or other areas open to the general public on such residentially zoned land.

“Development” means the construction, reconstruction, conversion, structural alteration, relocation, maintenance or enlargement of any structure; any mining, excavation, grading, landfill, or land disturbance; the construction of roadways, water and sewer infrastructure and other infrastructure improvements directly related to the Project whether located within or outside the Property; the installation of landscaping and other facilities and improvements necessary or appropriate for the Project; and any use or extension of the use of land.

“Development Impact Fee” or “DIF” means assessment, fee, charge or dedication imposed upon development within the City pursuant to a Development Impact Fee Program or equivalent program, adopted in accordance with the requirements of State law.

“Effective Date” means the first date on which all of the following are true: (a) the Owner has signed the Agreement and returned the signed Agreement to the City; (b) the City Council has adopted Ordinance No.-----, approving the Agreement, said ordinance has become effective and the statute of limitations for a timely challenge to said ordinance has expired or any timely challenge or suit to such ordinance has been resolved to the satisfaction of the City and Owner; and (c) the City has executed the Agreement.

“Existing Project Approvals” means the entitlements for the Project described in Recitals above, and in particular the following: (i) amendment to the General Plan, (ii) amendment to the Otay Ranch General Development Plan (iii) an amendment to Freeway Commercial FC-1, South portion, SPA, (iv) the rezone of the Property, (v) Tentative Map No. 22-0002, (vi) all associated documents that have been attached and made a part thereof, such as the PFFP, defined below, and (vii) the Fourth Addendum to the FEIR, all as may be amended from time to time consistent with this Agreement. Such Existing Project Approvals address, among other items, the maximum height and size of all Project structures or buildings.

“Final Map(s)” means any final subdivision map for all or any portion of the Property upon which the Project is located. The City and Owner acknowledge that, in order to facilitate development of the Project, the Final Map(s) may need slight modifications to the numbered and lettered lot boundaries depicted on the Tentative Tract Map, provided that the total development footprint for the Project shall not change. The City and Owner further acknowledge that Private Street A may need to shift north or south to facilitate Project development. Should that occur, the northern termination of Vista Miguel Road and Agua Verde Avenue shown on the Tentative Tract Map may also shift north or south. Should the Final Map include any modifications to these identified streets, it must still provide for a private road connecting Vista Miguel Avenue to Agua Verde Avenue and the new extension of Towne Center Drive. Any modifications to the Final Map(s) shall substantially comply and conform with the Tentative Tract Map, as well as must meet and comply with the applicable conditions and requirements of the Subdivision Map Act (CA Government Code sections 66410-66499.37), and City ordinances and regulation in effect

when the Tentative Tract Map was approved. Further, no provisions or term of this Agreement shall prevent the City from requiring or imposing an improvement agreement or improvement security for the Final Map(s) as allowed or permitted by the Subdivision Map Act.

“Future Project Approvals” means all discretionary and ministerial permits and approvals requested by the Owner and approved by the City after the Effective Date of this Agreement, including, but not limited to: (i) grading permits; (ii) site plan reviews; (iii) design guidelines review; (iv) subdivisions of the Property, or re-subdivisions of the Property; (v) conditional use permits; (vi) variances; (vii) encroachment permits; (viii) rezoning’s; and (ix) all other reviews, permits, and approvals of any type which may be required from time to time to authorize public or private on- or off-site development which is a part of the Project.

“Legal Description” mean the legal description of the Property shown in Exhibit A.

“Multi-Family Unit” means an attached residential unit that may be a for-sale or for-rent residential housing product.

“Owner” means the person, persons, or entity having a fee interest in the Property, or parts thereof, and includes Owner’s successors-in-interest and “Builder” as defined herein.

“Park Benefit Fee” means the Parkland Acquisition and Development (“PAD”) Fees, at the rate in effect at the time of building permit issuance.

“Park Improvements” means the improvements per the City’s approved park construction documents.

“Park Lot” means the lettered lots (Lots E, F, G and H) designated for future park acreage consistent with this document and Tentative Map No. TM22-0002.

“Park Master Plan” means the Master Plan as defined in the City of Chula Vista Landscape Manual.

“Parkland usable acres” means an area of parkland excluding slopes greater than 4:1 gradient.

“PFFP” means the Public Facilities Financing Plan for the Project, adopted as a part of the Project.

“Phase 1 Residential Development” means, subject to Section 3.10.1 of this Agreement below, the first phase of development of the Project that permits the construction of residential dwelling units, and that, if undertaken, would result in the construction of no less than 100 residential dwelling units, at a minimum density of 20 units per acre. As depicted on Exhibit B, such Phase 1 Residential Development is initially intended to be located on Lots 3, 4, 6, 9 and a portion of Private Street A and Agua Verde Avenue, albeit the exact lots and lot lines may be adjusted on the Final Map if consistent with or permitted by the Subdivision Map Act. The Phase 1 Residential Development shall also include the extension of Town Center Drive, along with the construction of two north-south private roads (all as indicated on the Tentative Tract Map with configuration and exact location subject to minor modifications while providing for the

same circulation). The Phase 1 Residential Development shall require design review and/or a Tentative Tract Map, which the City agrees to simultaneously review and process at the same time it processes the Final Map for such phase, in order to avoid any undue delay in the processing thereof or the development of such phase. Further, Owner shall submit to the City a complete and accurate Permit Application(s) for a grading permit(s) for the entire Phase 1 Residential Development, receive grading permits from the City, and begin grading for the Phase 1 Residential Development, within the time of the Initial Term of this Agreement identified in Section 2.1 of this Agreement below, or the failure for Owner to do so is subject to Section 3.10.1 of this Agreement below. Further, no later than the end of the time or term of the First Extension identified and discussed in Section 2.2 of this Agreement below, all Permit Applications for building permits for all Phase 1 Residential Development shall be submitted by Owner to the City, and the City shall have issued all such building permits, or failure to do so is subject to Section 3.10.1 of this Agreement below. Further, no later than the end of the time or term of the Second Extension identified and discussed in Section 2.2 of this Agreement below, subject to extension for force majeure, Owner shall have completed vertical construction and obtained issuance of Certificates of Occupancy by the City for the entire Phase 1 Residential Development, or failure to do so is subject to the provisions contained in the last three (3) sentences of Section 3.10.1 of this Agreement below.

“Phase 2 Residential Development” means, subject to Section 3.10.2 of this Agreement below, the second phase of development of the Project that permits the construction of residential dwelling units, and that, if undertaken, together with the Phase 1 Residential Development would collectively result in the cumulative construction of no less than 435 residential dwelling units. In the event the Phase 1 Residential Development includes only 100 units residential dwelling units, then the Phase 2 Residential Development shall have a minimum density of 80 units per acre. In the event the Phase 1 Residential Development includes more than 100 residential dwelling units, then the Phase 2 Residential Development shall have no minimum density requirement, so long as the full build out of the Phase 2 Residential Development collectively results in at least 435 total residential dwelling units between the Phase 1 Residential Development and the Phase 2 Residential Development. As depicted on Exhibit B, such Phase 2 Residential Development is initially intended to be located on Lots 1, 2, 5, H and portion of Private Street A and Vista Miguel Road, provided that the exact lots and lot lines may be adjusted on the Final Map if consistent with or permitted by the Subdivision Map Act.

The Phase 2 Residential Development shall require design review and/or a Tentative Tract Map, which the City agrees to simultaneously review and process at the same time it processes the Final Map for such phase, in order to avoid any undue delay in the processing thereof or the development of such phase. Further, Owner shall submit to the City a complete and accurate Permit Application(s) for a grading permit(s) for the entire Phase 2 Residential Development, and obtain all grading permits to be issued by the City for all Phase 2 Residential development within the time of First Extension Term identified in Section 2.2 of this Agreement below, or the failure for Owner to do so is subject to Section 3.10.2 of this Agreement below. Further, no later than the end of the time or term of the Second Extension identified and discussed in Section 2.2 of this Agreement below, all Permit Applications for building permits for all Phase 2 Residential Development shall be submitted by Owner to the City, the City shall have issued all such building permits, and vertical construction for the Phase 2 Residential

Development shall have started or failure to do so is subject to Section 3.10.2 of this Agreement below.

“Phase 3 Residential Development” means, subject to Section 3.10.3 of this Agreement below, the third phase of development of the Project that permits the construction of residential dwelling units, and that, if undertaken, together with the Phase 1 Residential Development and the Phase 2 Residential Development, would collectively result in the cumulative construction of 840 residential dwelling units. In the event the first two phases together only include 435 residential dwelling units, the Phase 3 Residential Development shall have a minimum density of 80 units per acre. In the event the Phase 1 Residential Development and Phase 2 Residential Development phases together include more than 435 residential dwelling units, then the Phase 3 Residential Development shall have no minimum density requirement, so long as full build out collectively results in a total of 840 units between the three phases. As depicted on Exhibit B, such Phase 3 Residential Development generally is initially intended to be located on Lots 7 and 8. The complete Permit Application for grading and building permits for the entire Phase 3 Residential Development must be submitted to the City by Owner, and any required design review and/or a Tentative Tract Map approvals, which the City agrees to simultaneously review and process at the same time it processes the Final Map for such phase, must be issued, and all grading permits and building permits for the entire Phase 3 Residential Development must also be issued by the City within the time of the Second Extension discussed in Section 2.2 of this Agreement below, unless such time for submittal is extended at the discretion of the City Council or Lots 7 and 8 shall revert to Freeway Commercial (“FC”) zone as discussed in Section 3.10.3 of this Agreement below, in addition to other applicable remedies or results discussed in this Agreement.

“Planning Commission” means the Planning Commission of the City of Chula Vista.

“Project” means the Development of the approximately 16.59-acre Property in one or more phases and all related private and public improvements on and off the Property as provided for in the Existing Project Approvals and as may be authorized by the City in Future Project Approvals.

“Project Improvements and Infrastructure” means private improvements and facilities (located on and off the Property) constructed to serve the Project as described in the Existing Project Approvals or as may be imposed, pursuant to the terms of this Agreement, as part of Future Project Approvals.

“Property” means the approximately 16.59-acre real property depicted on Exhibit “B.” The Property is located within the approximately 73.28 acre Otay Ranch Town Center mall (“Mall Property”).

“Public Benefit Contribution” means a per unit fee payable to the City for each residential unit constructed for the project.

“Tentative Tract Map” means the Tentative Tract Map for the Project as shown on Exhibit C.

“Term” of this Agreement means the period defined in Article 2, below.

ARTICLE 2
TERM

2.1 Term. This Agreement shall become effective as to the Property upon the Effective Date and shall continue for seven (7) years (“Initial Term”) thereafter. In the event of litigation challenging this Agreement or the Project, the Initial Term is automatically suspended for the duration of such litigation and resumes upon final disposition of such challenge and any appeal thereof upholding the validity of this Agreement or the Project. In the event that a referendum petition concerning this Agreement, the Existing Project Approvals, or Project is duly filed in such a manner that the ordinance approving this Agreement, the Existing Project Approvals, or the Project is suspended, then the Initial Term is deemed to commence upon City Council’s certification of the results of the referendum election affirming this Agreement, the Existing Project Approvals, or the Project as the case may be.

2.2 Extension. The Term shall be extended for any period of time during which processing of a complete Permit Application or Project application is suspended for any reason, other than due to the actions or the default of the Owner, including the Owner’s failure to timely submit to the City or other applicable government agencies or jurisdictions complete applications or materials relating to any Project development approvals or permits, and for such period of time equal to the period of time during which any action by the City or court action limits the processing of such Project applications, Future Project Approvals, issuance of building permits or any other development of the Property consistent with this Agreement. The City will process all complete applications for the Project, Future Project Approvals or issuance of building permits to Owner consistent with applicable laws, including the Permit Streamlining Act (California Government Code section 65920 *et seq.*). Upon Owner’s submission to the City during the Initial Term of a complete Permit Application, design review application, and/or final map (with payment of all applicable fees) for the entire Phase 1 Residential Development, and upon the commencement of grading for the Phase 1 Residential Development during the Initial Term, the Initial Term of the Agreement shall be extended and such extension shall be confirmed by written acknowledgement signed by both Parties until the date that is five (5) years (“First Extension”) from the date of the end of the Initial Term. Upon Owner’s submission to the City during the First Extension of a complete Permit Application for the entire Phase 2 Residential Development, and upon the commencement of grading of the Phase 2 Residential Development during the First Extension, this Agreement shall be extended and such extension shall be confirmed by written acknowledgement signed by both Parties for three (3) additional years (“Second Extension”) from the date of the last day in the First Extension. The term of this Agreement (the “Term”) shall mean the Initial Term plus, if applicable, the First Extension and the Second Extension, subject to any additional time added as agreed to in writing by the City for any written suspension of processing of complete applications for the Project, Future Project Approvals or issuance of building permits to Owner not caused or resulting from the actions, or the inactions, of the Owner.

Notwithstanding any other provision of Article I (Definitions) or Section 2.2 of this Agreement, before the end of the Second Extension Term of this Agreement, or before fifteen (15) years after the Effective Date of the Agreement, subject to any additional time added to the Agreement as agreed to in writing by the City, Owner shall have obtained from the City (1) approval or issuance any and all required design review and/or a Tentative Tract Map and Final Map approvals for the entire Project Phases 1, 2 and 3 Residential Developments, (2) approval or

issuance any and all required grading and building permits for the entire Project Phases 1, 2 and 3 Residential Developments, (3) completion of construction and issuance of Certificates of Occupancy by the City for the entire Phase 1 Residential Development, and (4) the start of vertical construction for the entire Phase 2 Residential Development, or the failure for Owner to do so is subject to Section 3.10 of this Agreement below

2.3 Covenants Running with the Land. As of the Effective Date, the terms and provisions of this Agreement are enforceable by the parties as equitable servitudes affecting the Property, constituting covenants running with the land pursuant to California law including, without limitation, Civil Code § 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Property, runs with the Property, and is binding upon Owner and the successors and assigns of Owner during their respective ownership of the Property.

2.4 Execution and Recordation. The City shall promptly execute this Agreement within thirty (30) days following City Council approval. The City may execute the Agreement in counterparts as set forth in Section 15.5 herein. Within 10 days after the Agreement has been executed by the City, the City Clerk shall notify the Owner of such execution and provide Owner the Agreement for recordation. The Owner shall cause the recordation of such Agreement against the Property (and no other portion of the Mall Property) and provide the City with a confirmed copy within ten (10) business days following its recordation. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall bind any portion of the Mall Property other than the Property. The Parties recognize and acknowledge that the precise boundaries of the Property may differ slightly from that described in Exhibit A and depicted in Exhibit B, and agree to cooperate with each other to update such exhibits upon recordation of the final map(s) that will create the legal parcels comprising the Property to replace the initial exhibits with updated exhibits that include references to the new lot numbers in place of the metes and bounds description. The Parties further agree that any such update to clarify the precise boundaries of the Property shall be treated as a Minor Modification, provided the subject final map substantially conforms with the subject tentative map as required by the Subdivision Map Act.

ARTICLE 3 VESTED RIGHTS

3.1 Vested Rights. Subject to Sections 2.2 and 3.10 of this Agreement, Owner is vested with the right to develop and maintain the Property to the land uses, densities and intensities of use, and the reservations and dedication of land for public purposes as provided in the Existing Project Approvals, as such approvals may be amended from time to time, and subject to Applicable Laws and as further provided in Section 3.3.1 below. If Future Project Approvals are obtained by Owner, they shall be vested to the same extent as the Existing Project Approvals.

3.2 Maximum Height and Size of Structures. The maximum height of seventy five (75) feet and size of structures to be constructed on the Project will be governed by the Existing Project Approvals.

3.3 Applicable Law. As provided by this Agreement, the rules, regulations and official policies (including General Plan policies, Administrative codes, ordinances, resolutions and other local laws, regulations and policies of City) governing the permitted uses, the density and intensity

of use, the design, improvement and construction standards and specifications of any improvements and the mitigation of impacts of the Project (except as identified and discussed at Sections 3.5 and 9.3 of this Agreement below), shall be those in full force and effect on the Effective Date (“Applicable Law”). Applicable Law includes the Existing Project Approvals, as they may be issued or amended from time to time, in a manner consistent with both the terms and provisions of this Agreement. The City shall retain its discretionary authority as to amendments to Existing Project Approvals and to Future Project Approvals, provided however, such decisions shall be regulated by the Applicable Laws and as further provided in Section 3.3.1 below.

3.3.1 Amendments. Subject to Sections 3.5 and 9.3 of this Agreement below, by way of example, amendments that would hinder, impede or cause an unreasonable delay or increase in cost of the Project as authorized by the Existing Project Approvals and therefore would be considered in conflict with the Applicable Laws include amendments that would:

(i) Prevent all or a portion of the Project or the Property from being developed, used, operated or maintained in accordance with the terms and provisions of this Agreement, Existing Project Approvals, or Applicable Laws;

(ii) Limit or reduce the overall density, intensity or unit count of the Project, or any part thereof, to a density, intensity or unit count that is lower than that specified in this Agreement, Existing Project Approvals or Applicable Laws;

(iii) Modify any land use designation or conditional use of the Property in a manner inconsistent with this Agreement, Existing Project Approvals, or Applicable Laws;

(iv) Limit or control the rate, timing, phasing or sequencing of the approval, development, construction or occupancy of all or any portion of the Project or Property except as specifically permitted by this Agreement;

(v) Subject to Sections 3.5 and 9.3 of this Agreement below, impose any condition, dedication or exaction that would conflict with this Agreement, Existing Project Approvals, or Applicable Laws;

(vi) Require the issuance of discretionary permits or nondiscretionary permits, to the extent such permits impose new or different substantive requirements on Owner or the Project that are not otherwise required by Applicable Laws, Existing Project Approvals, or this Agreement;

(vii) Apply to the Project any provision, condition or restriction that would be inconsistent with this Agreement, Existing Project Approvals, or Applicable Law;

(viii) Apply to the Project any rent control or price control provisions or tenant protections or uniform or prevailing wage requirements except to the extent required under state law, unless otherwise permitted by this Agreement;

(ix) Limit or control the location of buildings, structures, grading, or other improvements of the Project or the Property in a manner that is inconsistent with or more

restrictive than the limitations included in this Agreement, Existing Project Approvals, or Applicable Laws;

(x) Limit or control the availability of public utilities, services or facilities or any privileges or rights to public utilities, services or facilities in a manner other than as specifically set forth in this Agreement or Applicable Law (for example, water rights, water connections or wastewater treatment capacity rights, sewer connections, etc., if under the control or jurisdiction of the City) for the Project or the Property;

(xi) Apply to the Project or the Property any City Law allowed by this Agreement that is not uniformly applied on a City-wide basis to other development projects and properties;

(xii) (except as identified and discussed at Sections 3.5 and 9.3 of this Agreement below), establish, enact, increase, or impose against the Project any fees, Development Impact Fees, assessments, liens or other monetary obligations other than (i) those specifically permitted by this Agreement, and (ii) City-wide taxes and assessments (provided such City-wide taxes or assessments are not disproportionately applied to the Property); or

(xiii) Limit the processing or issuance of amendments to Existing Project Approvals or Future Project Approvals other than as specifically set forth in this Agreement or Applicable Law.

3.4 Development Impact Fees. All Project Development Impact Fees will be paid prior to final inspection of any building permits for the Project unless otherwise noted in this Agreement. Development Impact Fees and permit application amounts will be based on the rate set forth in the City's Master Fee Schedule at the time the fees are paid for any building permit in each Phased Residential Development. Owner understands that the fees set forth in the Master Fee Schedule are subject to annual increases every October 1st.

3.5 Reserved Authority. The City may apply changes in City Laws, regulations, ordinances, standards or policies specifically mandated by changes in state or federal law in compliance with Article 10 herein. This provision shall not affect any mitigation measures required of Owner under the environmental document certified for the Project.

3.6 Owner's Option to Apply New Rules. Owner may elect, with the City Manager's consent, to have applied to the Project any rules, regulations, policies, ordinances, or standards enacted after the Effective Date of this Agreement. The City Manager shall not unreasonably withhold said consent.

3.7 Modifications to Existing Project Approvals. It is contemplated by the Parties to this Agreement that the Owner may seek modifications to the Existing Project Approvals from time to time. These modifications are contemplated as within the scope of this Agreement and shall, if approved by the City, be incorporated into and constitute for all purposes an Existing Project Approval. Owner and City agree that any such modifications to Existing Project Approvals will not constitute an amendment to this Agreement nor require an amendment to the Agreement. The City shall process and act on such applications in accordance with the applicable provisions of the Applicable Law.

3.8 Moratorium and other Limitations. Subject to Sections 3.9, 9.3 and 10.1 of this Agreement below, this Project is exempt from any moratorium or other limitation (whether relating to the rate, timing, phasing or sequencing of development) affecting subdivision maps, building permits, certificates of occupancy or other land use entitlements that are approved or to be approved, issued or granted within the City. To the maximum extent permitted by law, City must prevent any City Law from invalidating or prevailing over all or any part of this Agreement, and City must cooperate with Owner and undertake such actions as needed to ensure this Agreement remains in full force and effect. If City applies to the Project a City Law that Owner believes to conflict with Applicable Laws or this Agreement, Owner may take such action as may be permitted under Section 12.16 and Article 8 herein. Except as allowed under this Agreement, City must not support, adopt or enact any City Law, or take any other action, which would violate the express provisions of this Agreement or the Existing Project Approvals. Owner may also challenge in court any City Law that would conflict with Applicable Laws or this Agreement or reduce the development rights provided by this Agreement, in accordance with the dispute resolution provisions of Section 12.19 below.

3.9 State and Federal Law. As provided in Government Code § 65869.5, in the event that state or federal laws or regulations, enacted after the Effective Date (“Changes in the Law”) prevent or preclude compliance with one or more provisions of this Agreement, such provisions of the Agreement will be, by operation of law, modified or suspended, or performance thereof delayed, as and to the extent that may be necessary to comply with such Changes in the Law.

3.10 Time for Construction and Completion of Project. 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 to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties’ agreement, it is the intention of the City and Owner to cure that deficiency by specifically acknowledging that timing and phasing of development is completely and exclusively governed by the Existing Project Approvals, except as set forth herein. Notwithstanding anything to the contrary contained herein:

3.10.1 In the event Owner does not submit a complete grading Permit Application to the City, receive design review and/or a Tentative Tract Map approvals from the City, obtain Final Map approval, obtain grading permits, and begin grading, all as for or related to the entire Phase 1 Residential Development during the Initial Term, subject to extension for force majeure (defined in Section 12.11 of this Agreement below), this Agreement shall immediately and automatically terminate, unless extended at the discretion of the City Council, and the City shall have the right to initiate a rezoning action to revert the zoning of Lots 1, 2, 3, 4, 5, 6, and 9 to Freeway Commercial (“FC”) zoning. Further, no later than the end of the time or term of the First Extension identified and discussed in Section 2.2 of this Agreement above, all Permit Applications for building permits for all Phase I Residential Development shall be submitted by Owner to the City, and the City shall have issued all such building permits, or this Agreement shall immediately and automatically terminate, unless extended at the discretion of the City Council, and the City shall have the right to initiate a rezoning action to revert the zoning of Lots 1, 2, 3, 4, 5, 6, and 9 to FC zoning. Further, no later than the end of the time or term of the Second Extension identified and discussed in Section 2.2 of this Agreement above, subject to extension for force majeure, Owner shall have completed vertical construction and obtained issuance of Certificates of Occupancy by the City for the entire Phase 1 Residential Development, or the City shall have

the right to initiate a rezoning action to revert the zoning of Lots 7 and 8 to FC zoning. Owner hereby consents to such rezoning and waives any right and ability to contest such rezoning. The construction of the Phase 1 Residential Development will include the extension of Town Center Drive (as indicated on the Tentative Tract Map).

3.10.2 In the event Owner does not submit a complete grading Permit Application to the City, receive design review and/or a Tentative Tract Map approvals from the City, obtain Final Map approval, and obtain grading permits, all as for or related to the entire Phase 2 Residential Development within the term of the First Extension Term, subject to extension for force majeure (defined in Section 12.11 of this Agreement below), this Agreement shall immediately and automatically terminate, unless extended at the discretion of the City Council, and the City shall have the right to initiate a rezoning action to revert the zoning of Lots 1, 2, and 5 to FC zoning. Further, no later than the end of the time or term of the Second Extension identified and discussed in Section 2.2 of this Agreement above, all Permit Applications for building permits for all Phase 2 Residential Development shall be submitted by Owner to the City, the City shall have issued all such building permits, and vertical construction for the Phase 2 Residential Development shall have started, or the City shall have the right to initiate a rezoning action to revert the zoning of Lots 1, 2, and 5 to FC zoning. Owner hereby consents to such rezoning and waives any right and ability to contest such rezoning.

3.10.3 In the event Owner has not, before the end of the Second Extension Term of this Agreement, or before fifteen (15) years after the Effective Date of the Agreement, subject to extension for force majeure (defined in Section 12.11 of this Agreement below) and any additional time added to the Agreement as agreed to in writing by the City, obtained from the City (1) approval or issuance any and all required design review and/or a Tentative Tract Map and Final Map approvals for the entire Project Phases 1, 2 and 3 Residential Developments, (2) approval or issuance any and all required grading and building permits for the entire Project Phases 1, and 2 and 3 Residential Developments, and (3) completion of construction and issuance of Certificates of Occupancy by the City for the entire Phase 1 Residential Development, and (4) the start of vertical construction for the entire Phase 2 Residential Development, this Agreement shall immediately and automatically terminate and the City shall have the right to initiate a rezoning action to revert the zoning of Lots 7 and 8 to FC zoning. Owner hereby consents to such rezoning and waives any right and ability to contest such rezoning.

ARTICLE 4 PROCESSING PROJECT

4.1 Processing of Future Project Approvals. City will accept for processing development applications and requests for Future Project Approvals, or other entitlements with respect to the development and use of the Property and will consider such matters in accordance with the appropriate process set forth in the Applicable Laws. The City will diligently work towards the timely issuance of such entitlements, including grading plans, improvement plans, and other plans or permits, as needed to issue building permits. City shall retain its discretionary authority to act on Future Project Approvals and apply City Laws to such matters, provided the City Laws do not conflict with Applicable Laws or the rights provided by this Agreement. In addition, the City may also apply changes in City Laws, regulations, ordinances, standards or

policies specifically mandated by changes in state or federal law in compliance with Article 10 herein.

4.2 Length of Validity of Tentative Subdivision Maps. Government Code section 66452.6 provides that tentative subdivision map(s) may remain valid for a length up to the term of a Development Agreement. The City agrees that all tentative subdivision maps (vesting or otherwise) for the Project, shall be for a term coterminous with the length of this Agreement.

4.3 Pre-Final Map Development. If Owner desires to do certain work on the Property (for example, grading) after approval of a tentative map, but prior to the recordation of a final map, it may do so by obtaining a grading permit and/or other required approvals from the City prior to recordation of a final map. The permit or approval may be approved or denied by the City in accordance with the requirements of the Applicable Laws and other City regulations or policies as may be applicable; provided the Owner is in compliance with this Agreement and with the terms of all Existing Project Approvals and Future Project Approvals. In addition, the Owner shall be required to post a bond or other reasonably adequate security required by City in an amount reasonably determined by the City to assure the rehabilitation of the land if the applicable final map does not record.

4.4 Transfer of Rights and Obligations of Development. Whenever Owner conveys a portion of the Property, the rights and obligations of this Agreement shall transfer in accordance with Article 5 herein.

4.5 Cooperation with respect to Project Improvements and Infrastructure. The Parties shall reasonably cooperate with each other to take all actions necessary and appropriate to facilitate the timely development of Project Improvements and Infrastructure.

4.6 City's Acceptance of Dedications. Owner offers of dedication required by this Agreement or the Existing Project Approvals must be accepted by City within a reasonable time, provided that the applicable improvements are completed consistent with Applicable Law.

4.7 Community Purpose Facilities. Owner is required to provide land for community purpose facilities ("CPF") based upon a ratio of 1.39 acres per 1,000 residents in accordance with Section 19.48.025 of the City's Municipal Code. For example, for 435 units, Owner would be required to provide approximately 1.56 acres at full build out. For the maximum density of 840 multifamily residential units, Owner would be required to provide approximately 3.01 acres at full build out. If built in phases the CPF requirement shall be proportional to the number of units built. A population factor of 2.58 residents per unit applies to this calculation.

The Owner shall enter into a CPF agreement with the City prior to recordation of the first Final Map for the Project which could include one or both of the following method of alternative compliance to Chula Vista Municipal Code ("CVMC") Chapter 19.48.025:

(i) Provide excess of 10% affordable residential units based on the number of units built in the Project.

(ii) Provide indoor community space on the Mall Property at a ratio of 7,800 square feet of affordable CPF space per 1 acre of required community purpose facility

obligation. The affordable CPF space would be provided an allowance for tenant improvements that would result in a rent free space on the Mall Property. This conversion is based on Floor Area Ratio (“FAR”) conversion using the below methodology:

The existing center has approximately 670,000 square feet of commercial development. The Mall Property is 78.29 acres which equates to a FAR of 0.196. Applying this methodology equates to the below proposed indoor affordable CPF space square footage:

435 units	1.56 acres	0.196	13,319 sf
840 units	3.01 acres	0.196	25,699 sf

Uses for this space would include but not be limited to services outlined in CVMC Chapter 19.48.025, or other uses as approved by the Director of Development Services, or their designee.

4.8 Parkland Obligations. Owner is required to comply with the City’s Parklands and Public Facilities Ordinance, Chula Vista Municipal Code (“CVMC”) Chapter 17.10 (“PLDO”), as amended, in effect at the time of issuance of any building permit for the Project. The PLDO requires new residential development projects to provide land and improvements for parks and recreational facilities, allows for a credit against the payment of in-lieu fees or dedication of land if the developer provides the park and recreational improvements, and permits the City to require a combination of dedication and payment of in-lieu fees if the City determines that the combination would better serve the public.

The Project is required to provide up to 6.57 usable acres of developed parkland if the construction reaches the maximum density of 840 multi-family residential units, based upon the persons per household factor established by the PLDO of 2.61 persons per attached multi-family dwelling unit and 3.0 usable acres of park per 1,000 residents. If built in phases, the amount of parkland provided in each phase shall be proportional to the units built as indicated in the below chart.

The City, by entering into this Agreement, finds that, due to the unique, urban, high-density nature of the Project and its proximity within the Otay Ranch Town Center mall, Owner cannot provide suitable land to satisfy the entire 6.57 usable acre parkland requirement solely through the dedication and improvement of parkland. The City further finds that, as a result of the urban, high-density nature of the Project, the public interest and the park and recreation needs of the Project’s future residents would be better served through a combination of parkland acreage, parkland development improvements, and in-lieu fees.

The parkland obligation for the first 350 units developed as part of the Project shall be satisfied via the provision of on-site privately maintained parkland, which shall be open to the public, at a rate of 0.80 usable acres of parkland for every 100 residential units, as outlined in Column D of the below table. After construction of the 350th residential unit, the remaining parkland obligation of up to 4.01 usable acres will be satisfied via payment of in-lieu park benefit fees. The park benefit fee amount is equal to the Parkland Acquisition and Parkland Development

fees at the time of building permit issuance for any building permit for the Project. Park Lots E and F shall not be provided park development credit for existing park amenities and shall be required to pay the in-lieu development fees. Upon the Building Permit triggers listed below, Owner must have submitted a formal submission package for the design for the required usable parkland acreage for the applicable Project phase to the City of Chula Vista:

A	B	C	D
Building Permit Trigger	Lettered Park Lot per Tentative Map	Lot Acreage	Parkland Usable Acres
100 th residential unit	Lot H	0.76	0.76
150 th residential unit	Lot G	0.38	0.38
262 nd residential unit	Lot F	0.87	0.70*
350 th residential unit	Lot E	0.72	0.72
TOTAL		2.73	2.56

* Slopes areas within the park boundaries greater than 4:1 are ineligible for park credit.

Owner shall use the City’s customary procedures to design and obtain the City’s reasonable approval for the design of the Parks listed above. The Parks shall be designed consistent with the applicable requirements of an approved Park Master Plan, the City’s Landscape Manual and the City’s Parks and Recreation Master Plan. The Project’s Park Master Plan once completed, shall be presented to the Parks & Recreation Commission and must be approved by City Council. Each identified Park Lot may have a Master Plan or all identified Park Lots may be included in one Master Plan.

4.9 Park Budget. The construction costs established at the time the Park Lot construction documents are approved by the City and shall reflect the requirement established by the parkland development component of the PLDO at the time it is due. The Owner or its successor shall submit for City review and obtain City approval of the Park Lot construction budget for each Park Lot prior to construction commencement.

4.10 Park Maintenance Establishment Period. The period of time between Completion of Construction and the City’s final approval of the completed Park Lot, as identified in the above table, in which the contractor is responsible for maintaining the Park Lot to ensure that the plant material is fully established before its opened for public use, and that other park improvements such as irrigation systems, electrical systems, and park equipment or facilities that are fully operational and functional. The duration of this period and maintenance operations will be specified in the contract documents for each Park Lot, subject to reasonable adjustments as determined by the City's Director of Development Services, or their designee, in their sole discretion.

4.11 Documentation of Costs for Park Lots. Owner shall, within sixty (60) days of Completion of Construction of the Park Lot, provide City, for its review and approval, all documentation City reasonably requires to evidence the completion and costs of the Park Lot. Developer shall, within sixty (60) days of completion of the Maintenance Establishment Period, provide the City, for its review and approval, all documentation City reasonably requires to evidence the satisfactory completion of the Maintenance Establishment Period.

4.12 Security for Park Lot construction. Upon the commencement of construction of any Park Lot, the Owner shall post security, including one or more bonds in accordance with the CVMC, for the construction of the Park Lot. City may use that security to complete construction of such Park Lot should Owner fail to meet its obligations to do so. City may reduce and release the securities pursuant to City's customary procedures and schedules pro rata upon completion of the park lot. Bond shall be based on the accepted Bid amount for construction of the Park Lot and shall be in place prior to commencement of construction of the Park Lot.

4.13 Public Benefit Contribution. Owner shall pay the City \$5,000 per residential dwelling unit developed pursuant to this Agreement as a public benefit contribution. Said amount shall be paid no later than the time of final inspection by the City for such residential dwelling units. In addition to other available remedies to the City in this Agreement, failure by Owner to timely pay the Public Benefit Contribution shall result in the City immediately and indefinitely suspending and withholding the processing of any Project application, the inspection or review of any Project permit, and the issuance of any certificate of occupancy relating to the Project.

ARTICLE 5 PARTIAL TERMINATION

5.1 Termination of Agreement with Respect to Lots to Public. The provisions of Article 5 shall not apply to the sale, or lease (for a period longer than one year) of any lot which has been finally subdivided and is individually (and not in “bulk”) sold or leased to a member of the public or other ultimate user who intends to occupy the parcel. Notwithstanding any other provisions of this Agreement, this Agreement shall terminate with respect to any such lot and such lot shall be released and no longer be subject to this Agreement without the execution or recordation of any further document upon the sale of such lot as set forth in the immediately preceding sentence.

5.2 Partial Termination. The Owner has the right to request that the City approve a partial termination of this Agreement, to release a portion(s) of the Property from the Agreement's obligations and benefits. A partial termination shall be approved by the City if Owner demonstrates to City that the portion(s) of the Property to be released from the Agreement's obligations is/are not needed to satisfy any of the obligations established in this Agreement. If City makes such a determination, such released property shall not be subject to any of the obligations created in this Agreement, and, similarly, shall not receive any of the benefits granted in this Agreement.

5.3 Releases. City agrees that upon written request of Owner and provided that all payments and the requirements and conditions required by this Agreement and the Existing Project Approvals and any applicable Future Project Approvals have been fully performed and satisfied in the City's determination, with respect to the Released Property (defined below) City may execute and deliver to Owner appropriate release(s) of obligations imposed by this Agreement in a form (attached to this Agreement as Exhibit D) and substance acceptable to the City and the County Recorder and title insurance company, if any, or as may otherwise be necessary to effect the release of a portion of the Property (“Released Property”) to an individual home buyer or parcel of property that has been built out and sold to an ultimate consumer. City Manager shall not unreasonably withhold approval of such release(s).

ARTICLE 6
ANNUAL REVIEW

6.1 City and Owner Responsibilities. The City will, at least every twelve (12) months during the Term of this Agreement, pursuant to California Government Code section 65865.1, review the extent of good faith substantial compliance by Owner with the terms of this Agreement. Pursuant to California Government Code section 65865.1, as amended, Owner shall have the duty to demonstrate by substantial evidence its good faith compliance with the terms of this Agreement at the periodic review. Either City or Owner may address any requirement of the Agreement during the review.

6.2 Review Letter. If Owner is found to be in compliance with this Agreement after the annual review, City shall, within forty-five (45) days after Owner's written request, issue a review letter in recordable form to Owner ("Letter") stating that based upon information known or made known to the City Council, the City Planning Commission and/or the City Manager, this Agreement remains in effect and Owner is not in default. The owner may record the Letter in the Official Records of the City of San Diego.

6.3 Failure of Periodic Review. City's failure to review at least annually Owner's compliance with the terms and conditions of this Agreement shall not constitute, or be asserted by City or Owner as, a default by Owner or City with respect to the Agreement, or prevent the City from raising at any time any issue about Owner's compliance with the Agreement.

ARTICLE 7
ENCUMBRANCES AND RELEASES ON PROPERTY

7.1 Discretion to Encumber. This Agreement shall not prevent or limit Owner in any manner at Owner's sole discretion, from encumbering the Property, or any portion of the Property, or any improvement on the Property, including, without limitation, by any mortgage, deed of trust, or other security device securing financing with respect to all or any portion of the Property or its improvement. Any such mortgage, deed of trust, or other security device securing financing shall be subordinate to the City's interests in this Agreement.

7.2 Mortgagee Rights and Obligations. The mortgagee of a mortgage or beneficiary of a deed of trust encumbering the Property, or any part thereof, and their successors and assigns shall, upon written request to City, be entitled to receive, from City written notification of any default by Owner of the performance of Owner's obligations under the Agreement which has not been cured within thirty (30) days following the date of default. If there are no such defaults by Owner, the City Manager shall notify the requesting Party of that fact in writing.

7.3 Subordination. Owner agrees to enter into subordination agreements with all lenders having a mortgage, deed of trust, lien, or other security device securing financing with respect to the Property or its improvement to ensure that the provisions of this Agreement bind such mortgage holders, trust holders, lienholders, or security device holders should they take title to all or part of the Property through a quitclaim deed, sale, foreclosure or any other means of transfer of property. As a condition precedent to obtaining the benefits that accrue to the Owner or the Property under this Agreement, this Agreement by and through said subordination agreements

shall be prior and superior to such mortgages, deeds of trust, liens, or other security devices securing financing with respect to the Property or its improvement. The owner shall deliver to the City the fully executed subordination agreements for the Property in a form acceptable to the City Manager or their designee and suitable for recording, prior to the second reading of the ordinance adopting the Agreement.

ARTICLE 8
DEFAULT

8.1 Events of Default. A default under this Agreement shall be deemed to have occurred upon the happening of one or more of the following events or conditions:

(i) A warranty, representation or statement made or furnished by Owner to City is false or proves to have been false in any material respect when it was made.

(ii) A finding and determination by City made following a periodic review under the procedure provided for in California Government Code section 65865.1 that upon the basis of substantial evidence Owner has not substantially complied with one or more of the material terms or conditions of this Agreement.

(iii) City does not accept, timely review, or consider requested development permits or entitlements submitted in accordance with the provisions of this Agreement.

(iv) Owner fails to comply with any other material Owner obligation under the terms of this Agreement.

(v) City fails to comply with any other material City obligation under the terms of this Agreement.

If either Party defaults under this Agreement, the Party alleging such default will give the breaching Party not less than thirty (30) days' notice of default in writing. The notice of default will specify the nature of the alleged default, and, where appropriate, the manner and period of time, which shall not be less than 30 days, in which said default may be satisfactorily cured. Where the default cannot be cured within the period of time provided, but can be cured within a longer time, the Party charged will not be considered in default for the purposes of termination or institution of legal proceedings if such Party has commenced to cure such default within the time provided and thereafter pursues such cure to completion with reasonable diligence. If the default is cured, then no default will exist and the noticing Party will take no further action.

8.2 Option to Set Matter for Hearing or Institute Legal Proceedings. After proper notice and the expiration of the cure period, the noticing Party to this Agreement, at its option, may (i) institute legal proceedings or (ii) schedule hearings before the Planning Commission and the City Council for a determination as to whether this Agreement should be modified, suspended, or terminated as a result of such default.

8.3 Waiver. Nothing in this Agreement shall be deemed to be a waiver by Owner or City of any right or privilege held by Owner or City pursuant to federal or state law, except as specifically provided herein. Any failure or delay by a Party in asserting any of its rights or remedies as to any default by the other Party will not operate as a waiver of any default or of any such rights or remedies or deprive such Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

8.4 Remedies upon Default. In the event of a default by either Party to this Agreement, the Parties shall have the remedies of specific performance, mandamus, injunction and other equitable remedies. In the event of a default pursuant to Section 8.1(ii) or 8.1(iv), City shall have the additional remedy, in its sole and unfettered discretion, of withholding issuance of grading, building or other permits and/or the inspection of previously issued permits. Neither Party shall have the remedy of monetary damages against the other; provided, however, that the award of costs of litigation and attorneys' fees shall not constitute monetary damages. For avoidance of doubt, under no circumstances shall City's remedies include any right to require Owner to develop, construct, commence, or complete all or any portion of the Project via specific performance, injunctive relief, or otherwise.

8.5 Remedies for Breach. Except as otherwise set forth herein, all remedies at law or in equity which are consistent with the provisions of this Agreement are available to City and Owner to pursue in the event there is a breach provided, however, neither Party shall have the remedy of monetary damages against the other except for an award of litigation costs and attorneys' fees as provided for by this Agreement.

ARTICLE 9 MODIFICATION OR SUSPENSION

9.1 Modification to Agreement by Mutual Consent. Except as specifically provided for herein, this Agreement may be modified, from time to time, by the mutual consent of the Parties only in the same manner as its adoption by an ordinance as set forth in California Government Code sections 65867, 65867.5 and 65868. The term, "Agreement" as used herein, will include any such modification properly approved and executed.

9.2 Minor Modifications. The Parties to this Agreement contemplate that there may be periodic clarifications and minor modifications to this Agreement. Such minor clarifications or modifications when agreed upon by the Parties hereto are anticipated and shall not constitute an amendment to this Agreement or a modification pursuant to this Article 9 but shall automatically be incorporated herein upon execution in writing by the Parties.

9.3 Unforeseen Health or Safety Circumstances. If, as a result of facts, events, or circumstances City finds that failure to suspend or modify this Agreement would pose an immediate threat to the health or safety of the City's residents or the City, the following shall occur:

(a) Notification of Unforeseen Circumstances. Notify Owner of (i) City's determination; and (ii) the reasons for City's determination, and all facts upon which such reasons are based; and

(b) Notice of Hearing. Notify Owner in writing at least fourteen (14) days prior to the date, of the date, time and place of the hearing and forward to Owner a minimum of ten (10) days prior to the hearings described in paragraph 9.3(c) below, all documents related to such determination and reasons therefor; and

(c) Hearing. Hold a hearing on the determination, at which hearing Owner will have the right to address the City Council. At the conclusion of said hearing, City may take action to suspend or terminate this Agreement as provided herein

ARTICLE 10 CHANGE IN STATE OR FEDERAL LAW OR REGULATIONS

10.1 State or Federal Law or Regulation. If any state or federal law or regulation enacted during the Term of this Agreement, or the action or inaction of any other affected governmental jurisdiction, precludes compliance with one or more provisions of this Agreement, or requires changes in plans, maps, or permits approved by City, the Parties will act pursuant to paragraphs 10.1(a) and 10.1(b), below.

(a) Notice; Meeting. The Party first becoming aware of such enactment or action or inaction will provide the other Party(ies) with written notice of such state or federal law or regulation and provide a copy of such law or regulation and a statement regarding its conflict with the provisions of this Agreement. The Parties will promptly meet and confer in a good faith and reasonable attempt to modify or suspend this Agreement to comply with such federal or state law or regulation.

(b) Hearing. If an agreed-upon modification or suspension would not require an amendment to this Agreement, no hearing shall be held. Otherwise, the matter of such federal or state law or regulation will be scheduled for hearing before the City Council. Fifteen (15) days' written notice of such hearing shall be provided to Owner, and the City Council, at such hearing, will determine and issue findings on the modification or suspension which is required by such federal or state law or regulation. The owner, at the hearing, shall have the right to offer testimony and other evidence. Any modification or suspension shall be taken by the affirmative vote of not less than a majority of the authorized voting members of the City Council. If the Parties fail to agree after said hearing, the matter may be submitted to nonbinding mediation pursuant to subsection 13.19, prior to the filing of any legal action by any Party. Any suspension or modification may be subject to judicial review in conformance with this Agreement.

ARTICLE 11 ASSIGNMENT, TRANSFER AND NOTICE

11.1 Assignment of Interests, Rights and Obligations. Owner may transfer all or any portion of its interest in, and rights and obligations under, this Agreement to any person acquiring an interest or estate in all or any portion of the Property (any such portion, a "Transfer Property"), including, without limitation, purchasers or ground lessees of such Transfer Property (a "Transferee") only with the written consent of the City, or as otherwise permitted herein. Any such transfer agreed to by the City must, as and to the extent set forth below, relieve the transferring party (a "Transferor") of any and all rights and obligations under this Agreement insofar as they

pertain to the Transfer Property. Provided that all applicable payments and applicable requirements and conditions of this Agreement and the Existing Project Approvals and any applicable Future Project Approvals have been fully performed and satisfied in the City's determination, Owner shall have the right to assign, transfer, or convey all or any partial interest in all or any portion of the Property to any entity or entities owned or under common control with Owner ("Permitted Transfer") without the consent of the City. Owner shall timely provide to the City reasonable notice and a copy of the Transfer Instrument thirty days before any Permitted Transfer to allow the City to confirm the common ownership or control of the transferee with the Owner. No sale, transfer or assignment shall require the amendment of this Agreement. Any transfer by Owner of all or any portion of its interest in, and rights and obligations under, this Agreement to any other person or entity, other than a Permitted Transfer, shall require the City's express written consent.

11.2 Transfers to Third Persons in General; Release. In connection with any transfer by a Transferor of all or any portion of the Property, the Transferor and the Transferee may enter into a written agreement regarding the respective rights and obligations of the Transferor and the Transferee in and under this Agreement (a "Transfer Agreement"). Any such Transfer Agreement may contain provisions (i) releasing the Transferor from any rights and obligations under this Agreement that relate to the Transfer Property, provided the Transferee expressly assumes all such rights and obligations, (ii) transferring to the Transferee a vested right to improve and use that portion of the Property being transferred and any other rights or obligations of the Transferor arising under this Agreement, and (iii) addressing any other matter deemed necessary or appropriate in connection with the Transfer of the Transfer Property. The Transfer Agreement shall be in recordable form, in substantially the form attached hereto as Exhibit E. Any material changes to the attached form will be subject to the review and approval of the City, which shall not be unreasonably withheld or delayed. Provided that all applicable payments and applicable requirements and conditions required by this Agreement and the Existing Project Approvals and any applicable Future Project Approvals have been fully performed and satisfied by the Owner in the City's determination, upon recordation of any Transfer Agreement for a Permitted Transfer, the Transferor shall be released from any prospective liability or obligation under this Agreement related to the Transfer Property, except as specified therein, and thereafter the Transferee shall be deemed to be "Owner" under this Agreement with all rights and obligations related hereunder, solely with respect to the Transferred Property.

11.3 Release Provisions. Except in the case of Permitted Transfers utilizing a Transfer Agreement in substantially the form of Exhibit E attached hereto, a Transferor shall obtain the City's written consent to those provisions of any Transfer Agreement purporting to release such Transferor from any obligations arising under this Agreement (the "Release Provisions").

11.4 City Consent. City will review and consider promptly and in good faith any request by a Transferor for City's written consent to any transfer and/or any Release Provisions. City's consent to any such transfer and/or Release Provisions may be withheld only if, in light of the proposed Transferee's reputation and financial resources, such Transferee would not in City's reasonable discretion be able to fully and timely perform the obligations proposed to be assumed by such Transferee. In no event will City's consent to any transfer and/or Release Provisions be unreasonably withheld.

12.3 Rules of Construction. In this Agreement, the use of the singular includes the plural; the masculine gender includes the feminine; “shall” is mandatory; “may” is permissive.

12.4 Entire Agreement, Waivers, and Recorded Statement. This Agreement constitutes the entire understanding and agreement of City and Owner with respect to the matters set forth in this Agreement. This Agreement supersedes all negotiations or previous agreements between City and Owner respecting this Agreement. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of City and Owner. Upon the completion of performance of this Agreement, or its revocation or termination, a statement evidencing completion, revocation, or termination signed by the City Manager shall be recorded in the Official Records of the City. Unless otherwise specifically stated, nothing herein shall be construed to supersede, modify or amend other existing agreements between the Parties.

12.5 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original and all of which together shall constitute one and the same instrument.

12.6 Incorporation of Recitals. The recitals set forth in this Agreement are incorporated herein to this Agreement.

12.7 Captions. The captions of this Agreement are for convenience and reference only and shall not define, explain, modify, construe, limit, amplify, or aid in the interpretation, construction, or meaning of any of the provisions of this Agreement.

12.8 Consent. Where the consent or approval of City or Owner is required or necessary under this Agreement, the consent or approval shall not be unreasonably withheld, delayed, or conditioned.

12.9 Covenant of Cooperation. City and Owner shall cooperate and deal with each other in good faith and assist each other in the performance of the provisions of this Agreement.

12.10 Recording. The City Clerk shall cause a copy of this Agreement to be recorded with the Office of the County Recorder of the County of San Diego, within ten (10) days following the Effective Date.

12.11 Delay, Extension of Time for Performance (Force Majeure). In addition to any specific provision of this Agreement, performance by either City or Owner of its obligations hereunder shall be excused during any period of delay caused at any time by reason of any event beyond the control of City or Owner which prevents or delays and impacts City’s or Owner’s ability to perform obligations under this Agreement, including, but not limited to the following: acts of God, enactment of new conflicting federal, state or local laws or regulations (such as: listing of a species as threatened or endangered), judicial actions (such as the issuance of restraining orders and injunctions), or riots, strikes, pandemics, declared health emergencies, or damage to work in process by reason of fire, floods, earthquake, or other such casualties. In addition, any delay in Owner’s performance herein may be excused if such delay is caused by City’s failure to process any required plans, documents or approvals, provided, however, City’s delay is not caused by Owner’s failure to submit such plans or documents in a timely manner or is due to Owner’s changes or amendments to said documents. If City or Owner seeks excuse from performance, it

shall provide written notice of such delay to the other Party within thirty (30) days of the commencement of such delay. If the delay or default is beyond the control of City or Owner, and is excused, an extension of time for such cause will be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon.

12.12 Covenant of Good Faith and Fair Dealings. No Party shall do anything which shall have the effect of harming or injuring the right of the other Parties to receive the benefits of this Agreement; each Party shall refrain from doing anything which would render its performance under this Agreement impossible; and each Party shall do everything which this Agreement contemplates that such Party shall do in order to accomplish the objectives and purposes of this Agreement.

12.13 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

12.14 Cancellation of Agreement. This Agreement may be canceled by the mutual consent of City and Owner only in the same manner as its adoption, by an ordinance as set forth in California Government Code section 65868 and shall be in a form suitable for recording in the Official Records of the County. The term “Agreement” shall include any such amendment properly approved and executed.

12.15 Estoppel Certificate. Within thirty (30) calendar days following a written request by any of the Parties, the other Parties to this Agreement shall execute and deliver to the requesting Party a statement certifying that (i) this Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications; (ii) there are no known current uncured defaults under this Agreement, or specifying the dates and nature of any such default; and (iii) any other reasonable information requested. The failure to deliver such a statement within such time shall constitute a conclusive presumption against the Party which fails to deliver such statement that this Agreement is in full force and effect without modification, except as may be represented by the requesting Party, and that there are no uncured defaults in the performance of the requesting Party, except as may be represented by the requesting Party. The Estoppel Certificate may be issued by the Director of Development Services, or their designee.

12.16 Institution of Legal Proceeding. In addition to any other rights or remedies, any Party may institute legal action to cure, correct, or remedy any default, to enforce any covenants or agreements herein, or to enjoin any threatened or attempted violation thereof; or to obtain any remedies consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of San Diego, State of California.

12.17 Attorneys’ Fees and Costs. If any Party commences litigation or other proceedings (including, without limitation, arbitration) for the interpretation, reformation, enforcement, or rescission of this Agreement, the prevailing Party, as determined by the court, will be entitled to its reasonable attorneys’ fees and costs.

12.18 Hold Harmless. In addition to any defense, indemnity, and hold harmless obligations of Owner, whether at contract or at law, Owner agrees to and shall fully and timely

indemnify, reimburse, and hold harmless City, its officers, agents, employees and representatives from liability for damage, cost, expense, or claims for damage for personal injury, including death, and any form of claims for property damage which may arise from the direct or indirect operations of Owner or those of its contractors, subcontractors, agents, employees or other persons acting on Owner's behalf, on the Project. Owner also agrees to and shall defend (with counsel approved by the City in writing) City and its officers, agents, employees and representatives from actions for damage, costs, expense, or liability caused or alleged to have been caused by reason of Owner's activities on or inaction relating to the Project. Owner agrees to fully and timely indemnify, reimburse, hold harmless, pay all costs and provide a defense for City in any administrative proceeding, or any legal action filed in a court of competent jurisdiction by a third Party challenging the validity of this Agreement. The provisions of this paragraph 12.18 shall not apply to the extent such damage, liability or claim is caused by the sole negligence or willful misconduct of City, its officers, agents, employees or representatives.

12.19 Non-binding Mediation. If this Agreement requires mediation in order to resolve a disagreement between the Parties, such mediation shall comply with the following provisions:

(a) Meet and Confer. The Parties shall meet and confer in good faith to attempt to resolve their disagreement. If the Parties are not able to resolve their disagreement within thirty (30) calendar days after their first meeting on the subject, the matter shall be submitted for non-binding mediation in accordance with the terms and conditions set forth below.

(b) Non-binding Mediation. In the event that the Parties are unable to resolve their disagreement by meeting and conferring among themselves as provided above, the Parties shall meet to select a mediator who will attempt to resolve the disagreement. Unless otherwise agreed by the Parties, the mediator shall have no affiliation with either of the Parties and preferably have experience in municipal law or land use. In the event that the Parties are unable to agree on a mediator within ten (10) business days after the expiration of the meet and confer period, the Parties shall petition a Judge of the Superior Court of the County of San Diego to appoint a mediator who possesses the above-described qualifications.

(c) Mediation. The mediation shall occur at times and locations agreed upon by the Parties. The Parties shall submit to the mediator their respective relevant documents or evidence supporting their position that each may choose to provide. Neither Party, nor the mediator, shall have any discovery powers in the proceeding. The mediator shall meet with the Parties and attempt to resolve their disagreement by facilitating discussions between them. The mediator shall not take a position on the dispute unless requested to do so by both Parties. In the event that mediation process does not resolve the disagreement within twenty (20) business days after first meeting with the mediator, unless extended by mutual agreement of the Parties, the mediation process shall terminate. All discussions at the mediation shall be kept confidential, as may be allowed by state and federal law, and shall not be discoverable in any subsequent proceedings. Each Party shall bear their own costs in the mediation and the Parties shall share equally in any and all costs charged by the mediator. In the event that a resolution of the disagreement at issue is not reached, each Party reserves the right to pursue any and all remedies available at law or in equity with respect thereto.

Dated this ___ day of _____, 2024

CITY OF CHULA VISTA

By: _____

GGP-OTAY RANCH, L.P.,
A DELAWARE LIMITED PARTNERSHIP

By: GGP-Otay Ranch L.L.C.,
a Delaware limited liability company
and general partner

By: GGP/Homart II L.L.C.,
a Delaware limited liability company
and its sole member

By: _____
General Growth Properties (GGP)
Otay Ranch L.P.

ATTEST:

APPROVED AS TO FORM:

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

LOT 4 TOGETHER WITH PORTIONS OF LOT 1 OF CHULA VISTA TRACT NO. 05-02, OTAY RANCH FREEWAY COMMERCIAL SECTIONAL PLANNING AREA, IN THE CITY OF CHULA VISTA, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 15037, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY JUNE 30, 2005, AND AS CORRECTED BY A CERTIFICATE OF CORRECTION RECORDED JANUARY 3, 2008 AS INSTRUMENT NO. 2008-0003099, AND FURTHER CORRECTED BY A CERTIFICATE OF CORRECTION RECORDED AUGUST 10, 2009 AS INSTRUMENT NO. 2009-0446488, BOTH OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL A

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE ALONG THE NORTHERLY LINE THEREOF NORTH 71°57'30" EAST (RECORD N71°57'21"E PER SAID MAP), 176.03 FEET TO THE SOUTHERLY LINE OF PARCEL 40015-1 GRANTED TO SAN DIEGO ASSOCIATION OF GOVERNMENTS PER GRANT DEED RECORDED DECEMBER 29, 2016 AS DOCUMENT NO. 2016-0714265, OF OFFICIAL RECORDS, BEING THE BEGINNING OF A NON-TANGENT 512.50 FOOT RADIUS CURVE CONCAVE NORTHERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 00°25'59" WEST; THENCE LEAVING SAID NORTHERLY LINE ALONG SAID SOUTHERLY LINE EASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 18°28'26" A DISTANCE OF 165.25 FEET; THENCE NORTH 71°57'33" EAST, 456.08 FEET TO THE WESTERLY LINE OF SAID LOT 4, SAID POINT BEING THE BEGINNING OF A NON-TANGENT 1123.00 FOOT RADIUS CURVE CONCAVE EASTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 83°07'32" WEST; THENCE NORTHERLY ALONG SAID WESTERLY LINE AND THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 00°04'26" A DISTANCE OF 1.45 FEET TO SAID NORTHERLY LINE; THENCE LEAVING SAID PARCEL 40015-1 ALONG THE NORTHERLY LINES OF SAID LOTS 1 AND 4 NORTH 71°57'30" EAST, 54.59 FEET; THENCE LEAVING SAID NORTHERLY LINE SOUTH 18°02'30" EAST, 53.83 FEET; THENCE SOUTH 17°31'53" EAST, 59.68 FEET TO THE BEGINNING OF A 138.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°15'24" A DISTANCE OF 10.25 FEET TO THE BEGINNING OF A 1054.00 FOOT RADIUS REVERSE CURVE CONCAVE NORTHEASTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 76°43'31" WEST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 05°51'47" A DISTANCE OF 107.86 FEET; THENCE SOUTH 19°08'17" EAST, 61.22 FEET TO THE BEGINNING OF A 172.00 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 09°56'23" A DISTANCE OF 29.84 FEET; THENCE SOUTH 29°04'40" EAST, 38.74 FEET TO THE BEGINNING OF A 436.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 04°17'15" A DISTANCE OF 32.63 FEET; THENCE SOUTH 24°47'25" EAST,

27.79 FEET TO THE BEGINNING OF A 352.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 10°53'57" A DISTANCE OF 66.96 FEET TO THE BEGINNING OF A 375.00 FOOT RADIUS COMPOUND CURVE CONCAVE SOUTHWESTERLY; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 06°11'07" A DISTANCE OF 40.48 FEET; THENCE SOUTH 07°42'21" EAST, 106.90 FEET; THENCE SOUTH 82°00'00" WEST, 268.88 FEET; THENCE SOUTH 07°50'53" EAST, 0.96 FEET TO THE BEGINNING OF A NON-TANGENT 20.00 FOOT RADIUS CURVE CONCAVE SOUTHEASTERLY, A RADIAL LINE TO SAID POINT BEARS NORTH 07°50'53" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 83°02'49" A DISTANCE OF 28.99 FEET; THENCE SOUTH 82°00'10" WEST, 13.11 FEET TO A POINT IN THE SOUTHERLY LINE OF SAID LOT 4; THENCE ALONG SAID SOUTHERLY LINE SOUTH 07°59'50" EAST, 15.58 FEET; THENCE SOUTH 82°00'10" WEST, 11.00 FEET; THENCE LEAVING SAID SOUTHERLY LINE SOUTH 08°00'00" EAST, 164.92 FEET; THENCE SOUTH 82°00'00" WEST, 12.50 FEET; THENCE NORTH 72°31'00" WEST, 28.00 FEET; THENCE SOUTH 81°37'00" WEST, 510.42 FEET; THENCE NORTH 08°00'00" WEST, 92.41 FEET; THENCE SOUTH 82°00'00" WEST, 10.37 FEET; THENCE NORTH 08°00'00" WEST, 38.81 FEET; THENCE SOUTH 82°00'00" WEST, 40.54 FEET; THENCE NORTH 74°57'00" WEST, 14.00 FEET TO THE BEGINNING OF A 61.50 FOOT RADIUS CURVE CONCAVE NORTHEASTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 31°34'57" A DISTANCE OF 33.90 FEET; THENCE SOUTH 82°00'00" WEST, 72.36 FEET TO A POINT IN THE WESTERLY LINE OF SAID LOT 1; THENCE ALONG SAID WESTERLY LINE NORTH 02°42'33" WEST, 16.85 FEET; THENCE NORTH 00°45'27" WEST, 86.28 FEET; THENCE NORTH 01°42'40" WEST, 25.65 FEET; THENCE NORTH 00°44'18" WEST, 168.03 FEET; THENCE NORTH 01°53'44" EAST, 149.93 FEET; THENCE NORTH 02°31'58" EAST, 31.90 FEET; THENCE NORTH 02°45'18" EAST, 60.52 FEET TO THE **POINT OF BEGINNING**.

EXCEPTING THEREFROM THE HEREINABOVE DESCRIBED PARCEL OF LAND ANY PORTION LYING WITH LOT 5 OF SAID MAP NO. 15037.

THE HEREINABOVE DESCRIBED PARCEL OF LAND CONTAINS 14.591 ACRES, MORE OR LESS.

PARCEL B

BEGINNING AT AN ANGLE POINT IN THE SOUTHWESTERLY LINE OF SAID LOT 1, SAID POINT BEING THE WESTERLY TERMINUS OF THAT CERTAIN COURSE AS SHOWN ON SAID MAP BEARING NORTH 82°00'00" EAST, 216.95 FEET; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 81°59'56" EAST, 76.88 FEET; THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 07°59'50" WEST, 7.10 FEET TO THE BEGINNING OF A 2.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" A DISTANCE OF 3.14 FEET; THENCE SOUTH 82°00'10" WEST, 17.00 FEET; THENCE NORTH 07°59'50" WEST, 243.00 FEET; THENCE NORTH 82°00'10" EAST, 17.00 FEET TO THE BEGINNING OF A 2.00 FOOT RADIUS CURVE CONCAVE

NORTHWESTERLY; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" A DISTANCE OF 3.14 FEET; THENCE NORTH 07°59'50" WEST, 7.10 FEET; THENCE SOUTH 82°00'10" WEST, 167.84 FEET TO THE WESTERLY LINE OF SAID LOT 1; THENCE ALONG SAID WESTERLY LINE SOUTH 11°45'18" EAST, 45.01 FEET; THENCE SOUTH 14°13'28" EAST, 39.16 FEET; THENCE SOUTH 15°13'56" EAST, 31.49 FEET; THENCE SOUTH 16°55'17" EAST, 30.06 FEET; THENCE SOUTH 18°01'56" EAST, 45.42 FEET; THENCE SOUTH 19°54'00" EAST, 37.19 FEET; THENCE SOUTH 21°59'19" EAST, 62.50 FEET; THENCE SOUTH 32°17'52" EAST, 39.23 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE LEAVING SAID WESTERLY LINE ALONG SAID SOUTHWESTERLY LINE NORTH 61°27'47" EAST, 47.93 FEET; THENCE NORTH 28°32'13" WEST, 47.28 FEET TO THE **POINT OF BEGINNING**.

THE HEREINABOVE DESCRIBED PARCEL OF LAND CONTAINS 0.870 ACRES, MORE OR LESS.

PARCEL C

COMMENCING AT AN ANGLE POINT IN THE SOUTHWESTERLY LINE OF SAID LOT 1, SAID POINT BEING THE WESTERLY TERMINUS OF THAT CERTAIN COURSE AS SHOWN ON SAID MAP BEARING NORTH 82°00'00" EAST, 216.95 FEET; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 81°59'56" EAST, 106.88 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE LEAVING SAID SOUTHWESTERLY LINE NORTH 07°59'50" WEST, 39.69 FEET; THENCE NORTH 82°00'10" EAST, 6.00 FEET; THENCE NORTH 07°59'50" WEST, 5.00 FEET; THENCE SOUTH 82°00'10" WEST, 6.00 FEET; THENCE NORTH 07°59'50" WEST, 88.60 FEET TO A POINT IN SAID SOUTHWESTERLY LINE; THENCE ALONG SAID SOUTHWESTERLY LINE NORTH 62°29'09" EAST, 98.43 FEET; THENCE NORTH 81°59'56" EAST, 17.28 FEET; THENCE SOUTH 08°00'04" EAST, 166.17 FEET; THENCE SOUTH 81°59'56" WEST, 110.07 FEET TO THE **TRUE POINT OF BEGINNING**.

THE HEREINABOVE DESCRIBED PARCEL OF LAND CONTAINS 0.384 ACRES, MORE OR LESS.

PARCEL D

COMMENCING AT AN ANGLE POINT IN THE SOUTHERLY LINE OF SAID LOT 1, SAID POINT BEING THE SOUTHERLY TERMINUS OF THAT CERTAIN COURSE AS SHOWN ON SAID MAP BEARING NORTH 08°00'00" WEST, 571.65 FEET; THENCE ALONG SAID SOUTHERLY LINE NORTH 08°00'04" WEST, 571.65 FEET; THENCE LEAVING SAID SOUTHERLY LINE NORTH 14°30'54" WEST, 147.30 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE SOUTH 82°00'10" WEST, 167.15 FEET; THENCE SOUTH 04°29'41" WEST, 8.65 FEET; THENCE SOUTH 82°00'10" WEST, 7.05 FEET; THENCE SOUTH 07°59'50" EAST, 58.58 FEET; THENCE SOUTH 82°00'10" WEST, 82.67 FEET; THENCE NORTH 07°59'50" WEST, 18.15 FEET TO THE BEGINNING OF A NON-TANGENT 21.00 FOOT RADIUS CURVE CONCAVE WESTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 73°01'11" EAST; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 52°31'30" A DISTANCE OF 19.25

FEET; THENCE NORTH 07°59'50" WEST, 15.94 FEET; THENCE NORTH 22°17'15" WEST, 4.49 FEET; THENCE SOUTH 82°00'10" WEST, 152.22 FEET; THENCE SOUTH 66°44'50" WEST, 11.40 FEET; THENCE SOUTH 82°00'10" WEST, 6.00 FEET; THENCE NORTH 07°59'50" WEST, 53.17 FEET; THENCE NORTH 82°00'10" EAST, 164.19 FEET TO THE BEGINNING OF A NON-TANGENT 86.50 FOOT RADIUS CURVE CONCAVE EASTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 81°16'06" WEST; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 22°31'07" A DISTANCE OF 34.00 FEET; THENCE NORTH 82°00'10" EAST, 7.08 FEET; THENCE NORTH 07°59'50" WEST, 42.66 FEET; THENCE NORTH 82°00'10" EAST; 75.06 FEET; THENCE SOUTH 07°59'50" EAST, 42.62 FEET; THENCE NORTH 82°00'10" EAST, 7.62 FEET; THENCE SOUTH 07°59'50" EAST, 3.06 FEET TO THE BEGINNING OF A NON-TANGENT 88.00 FOOT RADIUS CURVE CONCAVE SOUTHWESTERLY, A RADIAL LINE TO SAID POINT BEARS NORTH 63°15'46" EAST; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 18°41'11" A DISTANCE OF 28.70 FEET; THENCE NORTH 82°00'10" EAST, 164.72 FEET; THENCE SOUTH 07°59'50" EAST, 42.16 FEET TO THE **TRUE POINT OF BEGINNING**.

THE HEREINABOVE DESCRIBED PARCEL OF LAND CONTAINS 0.719 ACRES, MORE OR LESS.

JIMMY J. ELMORE

P.L.S. 8483

HUNSAKER & ASSOCIATES SAN DIEGO, INC.

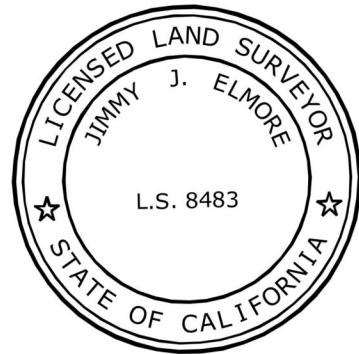


EXHIBIT C

**TENTATIVE MAP/CVT 22-0002 FOR: OTAY RANCH TOWN CENTER FC-1
CITY OF CHULA VISTA, CALIFORNIA**

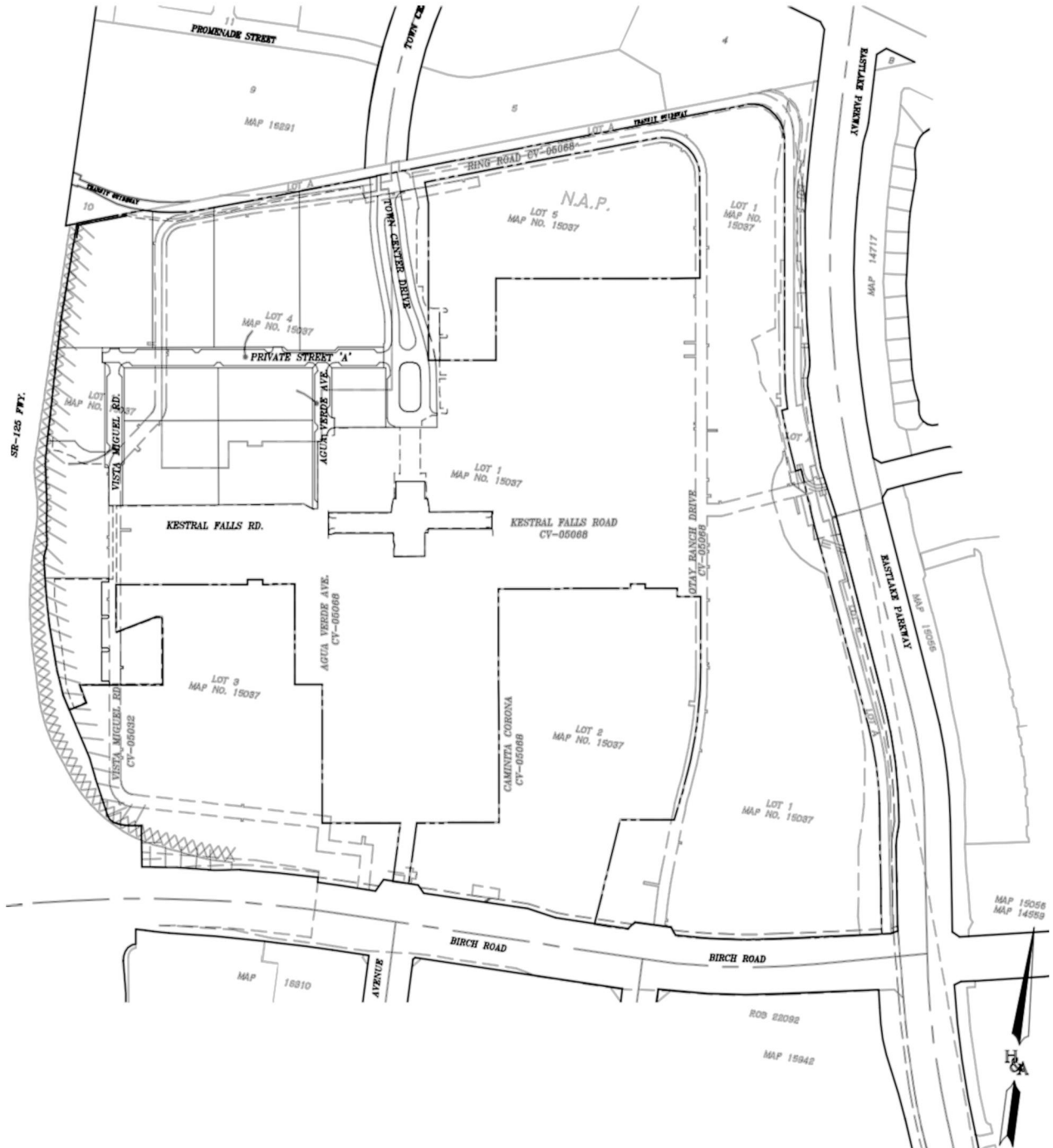


EXHIBIT C

OTAY TOWN CENTER LAND USE SUMMARY

A. PROPOSED LAND USE

LOT	LAND USE	AREA AC	COMMERCIAL	UNITS
MU/R LOT 1	Urban Core	1.65	-	-
MU/R LOT 2	Urban Core	1.23	-	-
MU/R LOT 3	Urban Core	1.88	-	-
MU/R LOT 4	Urban Core	1.86	*37,200 SF	-
MU/R LOT 5	Urban Core	0.73	-	-
MU/R LOT 6	Urban Core	0.73	-	-
MU/R LOT 7	Urban Core	1.19	-	-
MU/R LOT 8	Urban Core	1.17	-	-
MU/R LOT 9	Urban Core	0.47	-	-
SUBTOTAL MU/R		10.91	-	840
PS LOT A	Private St.	1.50	-	-
PS LOT B	Private St.	0.80	-	-
PS LOT C	Private St.	0.26	-	-
PS LOT D	Private St.	0.37	-	-
SUBTOTAL PS		2.93	-	-
P LOT E	Park/Plaza	0.72	-	-
P LOT F	Park	0.87	-	-
P LOT G	Park	0.38	-	-
P LOT H	Park	0.76	-	-
SUBTOTAL PARK		2.73	-	-
SUBTOTAL REDEVELOPMENT		16.57	-	-
LOT 10	Commercial Retail	41.93	-	-
TOTAL		58.49	*37,200	840

Note: Acreages rounded to the nearest hundredth of an acre

* 37,200 sf of existing commercial to be replaced with 37,200 sf of new commercial

*** Usable Area of P Lot F is 0.70 ac.

**** See Conceptual Landscape Plan Otay Ranch Town Center FC-1 by Rios 10-23-23

B. EXISTING LOTS

LOT	LAND USE	AREA AC
LOT 1	Commercial Retail	50.791
LOT 4	Commercial Retail	7.699
TOTAL		58.490

** THE BOUNDARY AND ACREAGE OF LOT 1 OF FINAL MAP 15037 WAS CORRECTED PURSUANT TO CERTIFICATE OF CORRECTION REC. 1/03/2008 AS INST. NO. 2008-0003099 AND CERTIFICATE OF CORRECTION REC. 8/10/2009 AS INST. NO. 2009-0446488. THE ACREAGE REFLECTED HEREON IS ACCORDANCE WITH THESE CORRECTIONS.

EXHIBIT D

RELEASE FORM

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
CITY OF CHULA VISTA
276 Fourth Avenue
Chula Vista, CA 91910

(Space Above For Recorder's Use)

RELEASE FROM DEVELOPMENT AGREEMENT

This Release Agreement ("Release") is made and entered into as of this ____ day of _____ ("Effective Date"), by and between the CITY OF CHULA VISTA, a chartered California municipal corporation ("City") on the one hand, and _____, a _____ ("Owner") on the other. Collectively, City and Owner may be referred to as "Parties" and individually, each as a "Party".

RECITALS

A. On _____, 2024 the City approved a mixed-use development project intended to provide, over one or more phases, up to 840 residential dwelling units, while preserving existing retail space, including the demolition of existing retail space and rebuilding of 37,200 square feet of retail (the "Project") on a 16.59 acre site (the "Property"). The City also approved and entered into that certain Development Agreement No. _____ (the "Development Agreement"), dated as of [____], 202[___] and was recorded in the Official Records of the County of San Diego ("Official Records") on [____] as Document No. [_____].

B. Pursuant to Section 5.3 of the Development Agreement, upon written request of Owner and provided that all payments and the requirements and conditions required by the Development Agreement have been performed, City may execute and deliver to Owner appropriate release(s) of obligations imposed by the Development Agreement, as necessary to effect the release of a portion the Property.

C. Owner has requested that City release a portion of the Property, as more particularly described in Exhibit A attached hereto (the "Released Property"), and City has determined that the requirements for such a release have been satisfied.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

EXHIBIT D

1. Release. Pursuant to Section 5.3 of the Development Agreement, the City fully and unconditionally releases and forever discharges the Released Property from all obligations under the Development Agreement.

2. No Effect on Other Agreements. This Release only affects the Released Property, and shall not be construed to affect any obligations of the City or the respective developers/owners of any other portion of the Property.

3. Successors and Assigns. This Release shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.

4. Counterparts; Governing Law. This Release may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single agreement. This Release shall be governed by the laws of the State of California.

[END OF TEXT; SIGNATURES FOLLOW IMMEDIATELY ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Release as of the Effective Date.

ATTEST:

CITY:

CITY OF CHULA VISTA,
a Municipal Corporation

By: _____
City Clerk

By: _____

APPROVED AS TO FORM:

OWNER:

[NAME] _____

By: _____
City Attorney
City of Chula Vista

By: _____
Its: _____

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title 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 _____

(Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title 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 _____

(Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title 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 _____

(Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title 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 _____

(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE RELEASED PARCEL

EXHIBIT E

TRANSFER AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City Clerk
CITY OF CHULA VISTA
276 Fourth Avenue
Chula Vista, CA 91910

(Space Above For Recorder's Use)

ASSIGNMENT AND ASSUMPTION AGREEMENT
RELATIVE TO DEVELOPMENT AGREEMENT

[Otay [Phase_____]]

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (hereinafter, the "Assignment") is entered into as of this [] day of [_____, 20__], by and between [_____, a [_____] ("Assignor") and [_____, a [_____] ("Assignee"). Assignor and Assignee each are also referred to herein as a "Party" and collectively as the "Parties".

RECITALS

A. Assignor is a party to that certain Development Agreement (as the same may have been any may be further amended, restated or otherwise modified, the "Development Agreement") dated as of [_____, 202[] with respect to certain real property owned by Assignor, as such property is more particularly described in the Development Agreement (the "Project Site"). The Development Agreement was recorded in the Official Records of the County of San Diego ("Official Records") on [_____] as Document No. [_____].

B. Assignor is "Owner" under the Development Agreement with respect to the portion of the Project Site as more particularly identified and described on Exhibit A attached hereto (hereafter the "Transferred Property").

C. Contemporaneously herewith, Assignor has transferred to Assignee Assignor's right, title and interest in and to the Transferred Property.

D. Assignor desires to assign and Assignee desires to assume Assignor's right, title, interest, burdens and obligations under the Development Agreement with respect to and as related to the Transferred Property, as more particularly described below.

ASSIGNMENT AND ASSUMPTION

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Incorporation of Recitals. The foregoing recitals are true and correct and are incorporated herein by this reference.

2. Defined Terms. Initially capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Development Agreement.

3. Assignment of Development Agreement. Subject to the terms and conditions of this Assignment, Assignor hereby assigns to Assignee, effective as of Assignor's conveyance of the Transferred Property to Assignee (the "Assignment Effective Date"), all of Assignor's right, title, obligations, and interest under the Development Agreement and the Existing Project Approvals and any applicable Future Project Approvals with respect to the Transferred Property, including without limitation any community benefits or fees that are tied to the Transferred Property applicable to the Transferred Property[, all as more particularly described on Exhibit B], (collectively, the "Assigned Rights and Obligations"). Assignor retains all of Assignor's rights, title, obligations and interest under the Agreement other than the Assigned Rights and Obligations relating to the portions of the Project Site other than the Transferred Property.

4. Assumption of Development Agreement. Assignee hereby assumes, as of the Assignment Effective Date, the Assigned Rights and Obligations and agrees to observe and fully perform all of the duties and obligations of Assignor under the Development Agreement with respect to the Assigned Rights and Obligations and to be subject to all of the terms and conditions of the Development Agreement with respect to the Assigned Rights and Obligations, in each case to the extent arising on or after the Assignment Effective Date. Assignor and Assignee acknowledge and agree that, from and after the Assignment Effective Date, Assignee shall be the "Owner" under the Development Agreement and the Existing Project Approvals and any applicable Future Project Approvals with respect to the Transferred Property and the Assigned Rights and Obligations. With respect to the Transferred Property, Assignee shall indemnify, defend and hold harmless Assignor from any and all liability arising from the Development Agreement from and after the Assignment Effective Date.

5. Binding on Successors. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

6. Notices. The notice address for Assignee under Section [] of the Development Agreement shall be:

Attn: _____

With copy to:

Attn: _____

7. Counterparts. This Assignment may be executed in as many counterparts as may be deemed necessary and convenient, and by the different parties hereto on separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same instrument.

8. Governing Law; Venue. This Assignment and the legal relations of the parties hereto shall be governed by and construed and enforced in accordance with the laws of the State of California, without regard to its principles of conflicts of law. All rights and obligations of the Parties under this Assignment are to be performed in the City of Chula Vista, and the County of San Diego shall be the venue for any legal action or proceeding that may be brought, or arise out of, in connection with or by reason of this Assignment.

9. No Waiver. The waiver or failure to enforce any provision of this Assignment shall not operate as a waiver of any future breach of any such provision or any other provision hereof.

10. Further Assurances. Each Party shall execute and deliver such other certificates, agreements and documents and take such other actions as may be reasonably required to consummate or implement the transactions contemplated by this Assignment provided the same does not increase such Party's obligations and liabilities or reduce such Party's rights under this Assignment and/or the Development Agreement other than to a de minimis extent.

11. Severability. If any term, provision, covenant or condition of this Assignment is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Assignment shall continue in full force and effect, except to the extent that enforcement of the remaining provisions of this Assignment would be unreasonable or grossly inequitable under all the circumstances or would frustrate the fundamental purpose of this Assignment or the Development Agreement.

12. Interpretation. The Parties acknowledge that this Assignment is the product of negotiation and compromise on the part of both Parties, and the Parties agree that since both have participated in the negotiation and drafting of this Assignment, this Assignment shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

13. Amendments. Any amendments or modifications to this Assignment must be in writing, signed by duly authorized representatives of each of the Parties hereto, and recorded in the Official Records.

14. Recordation. Assignor and Assignee shall record this Assignment against the Transferred Property in the Official Records contemporaneously with the recordation of the instrument conveying title to the Transferred Property to Assignee and prior to the lien of any security interest that will encumber the Transferred Property after the conveyance.

15. Authority. Each person executing this Assignment represents and warrants that he or she has the authority to bind his or her respective Party to the performance of its obligations hereunder and that all necessary board of directors', shareholders', partners', members', managers', and other approvals have been obtained.

[END OF TEXT; SIGNATURES FOLLOW IMMEDIATELY ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Assignment and Assumption Agreement as of the day and year first above written.

ASSIGNOR:

By: _____
Name: _____
Title: _____

ASSIGNEE:

By: _____
Name: _____
Title: _____

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title 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 _____

(Seal)

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of _____)

On _____, before me, _____,
(insert name and title 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 _____

(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF THE TRANSFERRED PROPERTY