

CONTRACTS SCAN SHEET

CONTRACT NUMBER: 6320

CONTRACT TYPE: IMPLEMENTATION AGREEMENT

DEPARTMENT: COMMUNITY DEVELOPMENT
Department initiating contract

CONTRACT DATE: 12/27/2010
As stated in Terms section of Contract

EXPIRATION DATE:
As stated in Terms section of Contract

MEETING DATE: 8/11/2009
Date of meeting where contract was approved

ITEM NUMBER: 4.4
Item number of meeting where contract was approved

CONTRACT AMOUNT:
As stated in Budget section of Contract

CONTRACT NAME: HERITAGE FIELDS EL TORO, LLC
As stated in 1st paragraph of contract

CONTRACT SUBJECT: AMENDED AND RESTATED MASTER
As stated in Description of Services section of contract IMPLEMENTATION AGREEMENT BY
AND BETWEEN HERITAGE FIELDS
EL TORO, LLC AND CITY OF IRVINE;
ARMIA; AGREEMENTS: 6894, 6895,
6896

4.4 CITY-INITIATED GENERAL PLAN AMENDMENT, ZONE CHANGE, DEVELOPMENT AGREEMENT AMENDMENT (including rate and method of apportionment), MASTER IMPLEMENTATION AGREEMENT AMENDMENT, AND TRI-PARTY AGREEMENT AMENDMENT FOR THE CITY OF IRVINE AND HERITAGE FIELDS EL TORO LLC, LOCATED IN PLANNING AREAS 30 AND 51

Mayor Kang reopened the public hearing at 8:19 p.m.

The following individuals spoke in support of the recommended actions:

Rob Ferguson
Matt Kamamura
Marian Bergeson, Great Park Conservancy
Joe Schoeningh, Second Harvest Food Bank

The public hearing remained open while Mayor Kang tabled the item at 8:30 p.m. to consider Item No. 4.3. Discussion resumed at the conclusion of Item No. 4.3.

City Manager Joyce introduced Douglas Williford, Director of Community Development; Kurt Mowery, Great Park Manager of Finance; and Jeff Melching, Assistant City Attorney, who presented the staff report.

The following individuals also spoke in support of the recommended actions:

Emile Haddad, Five Point Communities
Mary Ann Gaido, Planning Commissioner
Peggy Gaido, Art & Design Advocacy Coalition

The following individuals spoke in opposition to the recommended actions:

Shalom Elcott, President, Jewish Federation of Orange County
David Waite, representing Forest Lawn Memorial Parks

Mayor Pro Tempore Agran noted that additional communications were received from California State University, Fullerton, Orange County Building Industry Association (OC BIA), and the Orange County Business Council.

ACTION: Moved by Councilmember Krom, seconded by Mayor Pro Tempore Agran, and unanimously carried to close the public hearing at 9:40 p.m.

City Council discussion included: inclusion of an additional 500 acres of land; clarification that development of projects still occurs through the public hearing process; effects of a golf course being integrated with the wildlife corridor; financial benefits of the amendments to the City; concerns over major changes within the Development Agreement ("Agreement"); continuing the item to allow further review of the Agreement; whether or not the Agreement should go through all Commissions for review, including the Orange County Great Park Board, prior to the City Council and providing the community an opportunity to review; amount of homes being proposed; removal of a cemetery; clarification on the relationship between Lennar, Heritage Fields, LLC, and Five Point Communities and the legal impacts of the Agreement, if any, to the City; additional 131 acres received by the City resulting from the amended Agreement; funds paid by Lennar for infrastructure, the schedule of payments to the City, and whether or not it will coincide with the construction schedule of the park; identifying the responsible party for the demolition of the runway; components of Measure W; development of a hotel and whether or not the responsibility belongs to the City; and whether or not Trabuco Road will remain as the main entry to the Great Park.

ACTION: Moved by Mayor Pro Tempore Agran, seconded by Councilmember Krom, to:

ACTION:

- 1) Adopt RESOLUTION NO. 09-89 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IRVINE APPROVING CITY-INITIATED GENERAL PLAN AMENDMENT 00470036-PGA TO AMEND THE GENERAL PLAN LAND USE ELEMENT AND THE CIRCULATION ELEMENT FOR PLANNING AREAS 30 AND 51
- 2) Introduce for first reading and read by title only ORDINANCE NO. 09-08 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE APPROVING CITY-INITIATED ZONE CHANGE 00470039-PZC TO MODIFY DEVELOPMENT STANDARDS IN SECTION 3-37-39 AND TEXT AND THE STATISTICAL ANALYSIS IN CHAPTERS 2-9, 9-30, AND 9-51 OF THE ZONING ORDINANCE FOR PLANNING AREAS 30 AND 51
- 3) Introduce for first reading and read by title only ORDINANCE NO. 09-09 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF IRVINE APPROVING A CITY-INITIATED AMENDMENT TO ORANGE COUNTY GREAT PARK DEVELOPMENT AGREEMENT 00470035-PDA BETWEEN THE CITY OF IRVINE AND HERITAGE FIELDS EL TORO LLC; PERTAINING TO PROPERTY IN PLANNING AREAS 30 AND 51
- 4) Approve and authorize the Mayor to sign an Amended and Restated Master Implementation Agreement between the City of Irvine and Heritage Fields El Toro LLC.

The motion carried as follows:

AYES: 3 COUNCILMEMBERS: Agran, Krom and Kang

NOES: 2 COUNCILMEMBERS: Choi and Shea

ABSENT: 0 COUNCILMEMBERS: None

4.5 DEVELOPMENT AGREEMENT STATUS REPORT

City Manager Joyce introduced John Ernst, Principal Planner; Stephanie Keys, Senior Planner; and Tim Gehrich, Manager of Planning and Development, who presented the staff report.

Mayor Kang reopened the public hearing at 11:16 p.m. There were no public comments.

ACTION: Moved by Councilmember Krom, seconded by Councilmember Shea, and unanimously carried to close the public hearing at 11:17 p.m.

City Council discussion included: the bankruptcy of Maguire properties and the impacts to current projects and properties now in possession of the bank; status of the approximately \$10 million dollars due to the City based on the settlement agreement with Maguire Properties; and whether or not the City received funds in advance for Park Place.

ACTION: Moved by Councilmember Shea, seconded by Councilmember Choi, to:

ACTION: Find that the applicants have complied in good faith with the terms and conditions of Development Agreements.

The motion carried as follows:

AYES: 4 COUNCILMEMBERS: Agran, Choi, Shea and Kang

NOES: 0 COUNCILMEMBERS: None

ABSENT: 1 COUNCILMEMBERS: Krom (not present for vote)

5. COUNCIL BUSINESS

AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT

By and Between

HERITAGE FIELDS EL TORO, LLC

and

CITY OF IRVINE

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Exhibit B	Master Phasing Plan & Schedule (including Initial Demand and Processing Schedule)
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Exhibit D	Depiction of Runway Areas

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Exhibit E	Depiction of Developer Mitigation Area within City Property
Exhibit F	Protocol Plan for Unknown Hazardous Materials dated February 2007
Exhibit G	List of Pre-Approved Architects & Engineers
Exhibit H	Schedule for Allocation of Master Subdivision Map Conditions of Approval

AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT

THIS AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT ("**Agreement**") is made effective as of the 27 th day of December, 2010, by and between HERITAGE FIELDS EL TORO, LLC, a Delaware limited liability company ("**Developer**"), and the CITY OF IRVINE, a California charter city ("**City**"). Developer and City are sometimes hereinafter referred to individually as a "**Party**" and collectively as the "**Parties**".

R E C I T A L S :

A. Developer and City are the parties to that certain Great Park Development Agreement (the "**Development Agreement**") recorded in the Official Records of Orange County, California (the "**Official Records**") on July 12, 2005, as Instrument No. 2005000538136, with respect to that certain real property formerly known as the Marine Corps Air Station El Toro (the "**Base Property**"). The Development Agreement was assigned from Heritage Fields LLC, a Delaware limited liability company, to Developer pursuant to that certain Assignment and Assumption of Development Agreement recorded in the Official Records on December 22, 2005, as Instrument No. 2005001023682.

B. Developer and City are also parties to that certain Master Implementation Agreement dated June 27, 2006 (the "**MIA**"), pursuant to which, among other things, the Parties allocated responsibilities between the Parties with respect to certain activities, including (among other things) (i) development of a master phasing plan for the Property, (ii) design and construction of the Backbone Infrastructure, (iii) processing of the Master Subdivision Map for the Property, (iv) processing of regulatory and utility permits for the Property, and (v) development of design and development guidelines for the Property.

C. Developer, City and Orange County Great Park Corporation, a California non-profit corporation ("**GPC**") are also parties to that certain Agreement Regarding Hardscape Recycling dated May 3, 2006 (the "**Tri-Party Agreement**"), pursuant to which the Parties assigned and delegated to Developer the right and obligation to administer and control the removal and recycling of hardscape and certain other materials from certain portions of the Base Property owned or leased by Developer and City.

D. Developer and City have agreed to amend and restate the Development Agreement in full. To evidence and implement the amendment and restatement of the Development Agreement, the Parties have entered into that certain Amended and Restated Development Agreement of near or even date herewith (the "**Amended DA**").

E. The Parties also desire to amend and restate in full both the MIA and the Tri-Party Agreement. To evidence and implement the amendment and restatement of both the MIA and the Tri-Party Agreement, (i) the Parties have agreed to amend and restate the MIA in full as set forth in this Agreement, and (ii) the Parties (together with the Joinder signed by the GPC, with respect to its interests in the Tri-Party Agreement) have also agreed to amend and restate the Tri-Party Agreement in full as set forth in this Agreement.

F. Capitalized terms not defined herein shall have the meanings given such terms in the Amended DA.

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby amend and restate in full the MIA and the Tri-Party Agreement and hereby agree as follows:

A G R E E M E N T :

ARTICLE I CERTAIN DEFINITIONS

1.1 Additional Backbone Infrastructure. "**Additional Backbone Infrastructure**" shall have the meaning set forth in the Amended DA.

1.2 Backbone Infrastructure. "**Backbone Infrastructure**" means those certain Group A Facilities and Group B Facilities as described, respectively, in Exhibits E-1 and E-2 of the Amended DA, subject to modification as set forth in Section 2.2 below.

1.3 Backbone Infrastructure Activities. "**Backbone Infrastructure Activities**" has the meaning set forth in Article III below.

1.4 Base Property. "**Base Property**" has the meaning set forth in Recital A above.

1.5 Business Day. "**Business Day**" means any day that the Irvine City Hall is open to the public for business.

1.6 CFD Act. "**CFD Act**" means the Mello-Roos Community Facilities Act of 1982 (California Government Code Section 53311 et seq.), as may be amended from time to time.

1.7 City Property. "**City Property**" means those portions of the Base Property owned in fee or leased (pursuant to a LIFO) by the City as of the date of this Agreement and those additional portions of the Base Property City may acquire (in fee or in leasehold pursuant to an assignment of a LIFO) from Developer from time to time during the Term of this Agreement. Upon any transfer or other conveyance of City Property to Developer, the property transferred or conveyed shall no longer be deemed to be "City Property" under this Agreement and thereafter shall be deemed to be "Developer Property."

1.8 Commercially Reasonable Efforts. "**Commercially Reasonable Efforts**" means an obligation to use commercially reasonable efforts but shall not obligate a Party to expend its own funds or incur costs which are not reimbursed pursuant to Article V hereof.

1.9 County. "**County**" means the County of Orange.

1.10 Demolition Work. "**Demolition Work**" means the demolition work necessary in connection with the design and construction of the Backbone Infrastructure, which includes but is not limited to the Runway Demolition & Recycling Services.

1.11 Developer Property. "**Developer Property**" means those portions of the Base Property owned in fee or leased (pursuant to a LIFOC) by Developer as of the date of this Agreement and those additional portions of the Base Property Developer may acquire (in fee or in leasehold pursuant to an assignment of a LIFOC) from City from time to time during the Term of this Agreement. Upon any transfer or other conveyance of Developer Property to City, the property transferred or conveyed shall no longer be deemed to be "Developer Property" under this Agreement and thereafter shall be deemed to be "City Property."

1.12 Governmental Authority(ies). "**Governmental Authority(ies)**" shall mean all federal, state and local governmental and quasi-governmental agencies, bodies, entities, boards and authorities having jurisdiction over the Property, the furnishing of utilities or other services to the Property, or the subdivision, improvement, development, occupancy, sale or use of any portion of the Property.

1.13 Hazardous Materials. "**Hazardous Materials**" shall include and mean any substance, material, or waste that, because of its quantity, concentration or physical or chemical characteristics poses an unacceptable present or potential risk of harm to human health and/or safety or to the environment, including, but not limited to, petroleum, petroleum-based products, natural gas, or any substance, material or waste that is, or shall be, listed, regulated or defined by federal, state, or local statute, regulation or rule, ordinance or other governmental requirement to be hazardous, acutely hazardous, extremely hazardous, toxic, radioactive, biohazardous, infectious, or otherwise dangerous.

1.14 Licensed Affiliate. "**Licensed Affiliate**" has the meaning set forth in Section 3.1.1 below.

1.15 LIFOC(s). "**LIFOC(s)**" has the meaning set forth in Section 3.8 below.

1.16 Master Phasing Plan & Schedule. "**Master Phasing Plan & Schedule**" has the meaning set forth in Section 4.1 below.

1.17 Payment Requisition. "**Payment Requisition**" means a requisition signed by an authorized officer of Developer requesting the payment for, or reimbursement of, the Reasonable Costs and Expenses of the Backbone Infrastructure in accordance with the provisions of Section 5.2.5 below.

1.18 Property. "**Property**" means the Developer Property and the City Property, as the same may be modified from time to time.

1.19 Regulatory Permits "**Regulatory Permits**" means the various regulatory and resource permits, approvals, certifications and agreements required in connection with impacts to natural resources from development of the Property, including, without limitation, the following: (a) a federal Clean Water Act Section 404 Permit issued by the United States Army Corps of Engineers, (b) a California Fish and Game Code Section 1602 Streambed Alteration Agreement issued by the California Department of Fish and Game, (c) a Section 401 Water Quality Certification issued by the Santa Ana Regional Water Quality Control Board, (d) compliance with the Natural Community Conservation Plan & Habitat Conservation Plan (Central and Coastal Sub-region) and Implementation Agreement, and (e) approvals and/or permits necessary

for "incidental take" of state or federally listed species under the federal Endangered Species Acts and the California Endangered Species Act.

1.20 Quarterly Infrastructure Meetings. "**Quarterly Infrastructure Meetings**" shall mean the quarterly meetings between the City and Developer as described in Article IV below.

1.21 Reasonable Costs and Expenses. "**Reasonable Costs and Expenses**" include the actual costs and expenses incurred by Developer in connection with the performance of its obligations under this Agreement, except to the extent prohibited by the CFD Act or applicable federal laws. These generally include those items listed on attached **Exhibit A**.

1.22 Runway Demolition & Recycling Services. "**Runway Demolition & Recycling Services**" has the meaning set forth in Section 8.1 below.

1.23 Utility Permits. "**Utility Permits**" means the various authorizations, agreements, permits, licenses (including surety bonds) and similar documents with the appropriate Governmental Authorities and utility companies relating to access, traffic, utilities and other matters pertaining to the Backbone Infrastructure Activities, including, but not limited to, an Irvine Ranch Water District Subarea Master Plan approved by the Irvine Ranch Water District, a master dry utility master plan and a master plan of drainage to be approved by the County.

ARTICLE II **IDENTIFICATION OF BACKBONE INFRASTRUCTURE**

2.1 Initial Identification Backbone Infrastructure. In accordance with the Amended DA, the Parties have identified the Backbone Infrastructure, as described in Section 1.2 above.

2.2 Modification of Backbone Infrastructure Upon Mutual Agreement. As part of the Quarterly Infrastructure Meetings, the Parties may by mutual agreement elect to modify the scope and/or the specific components of the Backbone Infrastructure in accordance with the procedures outlined in Sections 4.2 and 4.3 below. In addition, in furtherance of Section 7.3 of the Amended DA, the Parties may, after a good faith meet and confer process, mutually determine there exists a need for the construction of Additional Backbone Infrastructure. If the Parties mutually agree to add any such Additional Backbone Infrastructure, the Parties shall set forth the same in writing in which case the Additional Backbone Infrastructure thereafter shall be paid for and/or constructed in the manner specified in this Agreement.

ARTICLE III **DESIGN AND CONSTRUCTION OF BACKBONE INFRASTRUCTURE**

Pursuant to Section 7 of the Amended DA, Developer is responsible for funding (subject to the reimbursement rights set forth in the Amended DA and this Agreement), overseeing and causing the construction of the Backbone Infrastructure; provided, however, the obligation to construct and/or pay for the Backbone Infrastructure shall not commence to accrue unless and until the date specified in Section 7.1 of the Amended DA. The Parties acknowledge that design, engineering and construction services required by this Agreement and/or the Amended DA with respect to the Backbone Infrastructure Activities shall be performed by design and engineering professionals selected by Developer (except as otherwise specifically set forth in Section 3.1.3

below); provided, however, the City's consent shall be required for the retention by Developer of any design or engineering professional for the design or engineering of those Backbone Infrastructure elements to be located on the City Property but only if and to the extent Developer desires to retain a design or engineering firm that is not included on the list of pre-approved design and engineering firms attached hereto as **Exhibit G**. The contractual obligations of such professional persons or entities shall be undertaken and performed under the direction of Developer (or its Licensed Affiliate, as described below). Accordingly, the Parties hereby agree as follows with respect to the process in which the Backbone Infrastructure shall be designed and constructed, including the engineering and Demolition Work required in connection therewith (collectively, the "**Backbone Infrastructure Activities**");

3.1 Design and Engineering.

3.1.1 Developer shall cause engineers selected and engaged by Developer to prepare and deliver to City for review and approval (as part of the City's normal regulatory review process) plans and specifications for the construction of the Backbone Infrastructure, including, without limitation, the streets, walks, utilities for drainage, sewage, telephone, gas, electrical power, lighting, CATV (the "**Plans and Specifications**"), consistent with the then-applicable Master Phasing Plan & Schedule. Prior to the preparation of any Plans and Specifications for any portion of the Backbone Infrastructure, Developer shall coordinate a meeting with the City to discuss the conceptual design and engineering for such portion of the Backbone Infrastructure. The Parties acknowledge that the Plans and Specifications will be prepared in phases, as the Backbone Infrastructure will be designed and constructed in phases over a period of years consistent with the then-applicable Master Phasing Plan & Schedule. The Parties acknowledge further that certain portions of the Plans and Specifications may be prepared and submitted by the utility providers (such as, for example, the cable television utility provider), in which case Developer will coordinate with the applicable utility provider and City in the preparation (if permitted by the applicable utility provider) and submission of such portions of the Plans and Specifications. In connection with preparation of the Plans and Specifications, Developer shall cause the engineers to (a) utilize City's Uniform Construction Codes (as defined in the Amended DA), (b) utilize the design standards and guidelines set forth in the Orange County Great Park Master Streetscape Design Guidelines approved by City's Planning Commission on October 16, 2008 (including subsequent refinements mutually approved by Developer and the Director of Community Development and as further supplemented and/or amended from time to time mutually by Developer and the City, the "**Streetscape Design Guidelines**"), and (c) design in accordance with the description of the Backbone Improvements in **Exhibits E-1 and E-2** attached to the Amended DA and in a manner consistent with the Master Phasing Plan & Schedule (as such document may be amended or modified from time to time). In the event of a conflict between the design standards and guidelines set forth in the City's construction codes and those set forth in the Streetscape Design Guidelines, the requirements of the Streetscape Design Guidelines shall govern. Developer shall use Commercially Reasonable Efforts to coordinate with the Irvine Ranch Water District ("**IRWD**"), the Orange County Flood Control District and other applicable utility providers and Governmental Authorities in connection with preparation of the Plans and Specifications. Notwithstanding that the Backbone Infrastructure will

serve both the City Property and the Developer Property and that portions of the Backbone Infrastructure will be located and constructed on City Property, the Parties agree that, for that portion of the Backbone Infrastructure located and constructed on the City Property, Developer is an independent contractor and further that, for all purposes under this Agreement (including Developer's obligation, through its Licensed Affiliate, to construct the Backbone Infrastructure), nothing in this Agreement or in the relationship between City and Developer shall constitute a partnership, joint venture, agency or any other similar relationship; provided, in no event, however, shall Developer act or undertake the duties of an architect, engineer, general contractor or subcontractor for or in connection with the Backbone Infrastructure Activities. In furtherance of the foregoing, the City hereby approves the selection of Lennar Communities, Inc., a California corporation ("Lennar"), or another entity wholly-owned or Controlled directly or indirectly by any direct or indirect member of Developer (or any authorized assignee of Developer pursuant to Section 15.6 below) that holds a California contractors' license (as applicable, a "Licensed Affiliate"), as the party to whom Developer may assign and delegate its duties under this Agreement that require a California contractor's license. As used in the preceding sentence, "Controlled" means the ownership of a majority interest in the entity (stock, partnership interests, membership interests or otherwise) and/or the power to direct the management of the entity through voting control, proxy or otherwise. Any proposed assignment and delegation under this Agreement that requires a California contractor's license and that is not to a Licensed Affiliate shall require the consent of the City, which shall not be unreasonably withheld, conditioned or delayed; provided, however, no such consent shall be required for any delegation to IRWD, Southern California Edison ("SCE") or the County for that portion of the Backbone Infrastructure that ultimately may be conveyed to or maintained or constructed by IRWD, SCE or the County (or contractors engaged by, through or for IRWD, SCE and/or the County).

3.1.2 Developer shall not be responsible or liable for the architectural or engineering design or quality of the Backbone Infrastructure, provided that the foregoing does not imply that the City waives its regulatory authority to approve (or decline to approve) the Plans and Specifications pursuant to the City's normal regulatory authority nor that the City waives its normal regulatory authority to monitor the progress of and to approve (or decline to approve) the construction of the Backbone Infrastructure to confirm whether it has been completed substantially in accordance with the Plans and Specifications approved by the City. City further agrees that Developer shall not be liable to the City for damages (whether direct, consequential, special, punitive or otherwise) for or as a result of (a) the budget or schedule for the Backbone Infrastructure, (b) any breach or default by any architect, engineer, contractor, subcontractor or consultant under their respective contracts for the Backbone Infrastructure, or (c) any defective work of or defective design by any architect, engineer, contractor, subcontractor or consultant in connection with the Backbone Infrastructure. Notwithstanding the foregoing, Developer shall remain responsible for causing the performance and completion of the Backbone Infrastructure Activities in a manner consistent with the terms of this Agreement and the preceding sentence is not intended to limit City's self-help rights and related remedies as set forth in Article XIII below. City agrees that its authorization for payment pursuant to Section 5.2 below shall not be conditioned upon nor shall City withhold payments pending acceptance by the City of the particular

component of the Backbone Infrastructure for which a Payment Requisition has been submitted. If Developer or the City discovers any defect in design by any architect, engineer or consultant in connection with any portion of the Backbone Infrastructure prior to the date on which the City (or other applicable utility provider) has accepted the same, Developer shall cause the defect to be corrected. After the Backbone Infrastructure (or particular component thereof) has been accepted by the City (or other applicable utility provider), Developer shall have no further responsibility for such portion or component of the Backbone Infrastructure, except for any portion of the Backbone Infrastructure for which a one-year defect bond (also commonly referred to as a maintenance bond) ("**Defect Bond**") is required. If such a one-year Defect Bond is required, Developer shall remain responsible for the correction of any construction defect discovered during such one-year warranty period.

3.1.3 Notwithstanding Section 3.1.1 above, the City shall cause engineers selected and engaged by the City to prepare and deliver to Developer for review (prior to submittal as part of the City's normal regulatory review process) Plans and Specifications for the construction of the City-Initiated Backbone Elements. As used herein, the "**City-Initiated Backbone Elements**" means only the Backbone Infrastructure elements of the following improvements (i.e., those elements that are described in Exhibits E-1 and/or E-2 of the Amended DA): (i) the Wildlife Corridor (other than the rough grading plan of a trapezoidal shape for such corridor and the plans for the installation of fire lines within the Wildlife Corridor from Irvine Blvd to where such corridor meets the curve for the existing Borrego channel north of the railroad, all of which will be prepared by Developer's engineers); (ii) Agua Chinon (other than the rough grading plan a trapezoidal shape for such corridor for flood control purposes from Irvine Blvd to just north of the crescent curve for Marine Way and the plans for the installation of fire lines in such area, and the plan of the mitigation features necessary to obtain acceptance of such corridor as an area that meets mitigation requirements for impacts within the Developer Property, all of which will be prepared by Developer's engineers); and (iii) Great Park Boulevard (other than the sewer plan for the sewer system a portion of which may be located under Great Park Boulevard). The Parties agree that any Plans and Specifications of the non-Backbone Infrastructure elements of the aforementioned improvements (i.e., those elements that are not described in Exhibits E-1 and/or E-2 of the Amended DA) will be undertaken by City, at City's expense, and not as part of the Backbone Infrastructure Activities. Prior to the preparation of any Plans and Specifications for any portion of the City-Initiated Backbone Elements, the City shall coordinate a meeting with Developer to discuss the conceptual design and engineering for such portion of the City-Initiated Backbone Elements at which time the Parties shall discuss the coordination and allocation of design and engineering responsibilities for the City-Initiated Backbone Elements. In connection with preparation of the Plans and Specifications for the City-Initiated Backbone Elements, the City shall cause the engineers to (a) utilize City's Construction Codes (as defined in the Amended DA), (b) utilize the Streetscape Design Guidelines, and (c) design in accordance with the description of Great Park Boulevard in Exhibit E-1 attached to the Amended DA and in a manner consistent with the Master Phasing Plan & Schedule (as such document may be amended or modified from time to time). The City shall use Commercially Reasonable Efforts to coordinate with the Irvine Ranch Water District, the Orange County Flood Control District and other applicable

utility providers and Governmental Authorities in connection with preparation of the Plans and Specifications for the City-Initiated Backbone Elements, where applicable. If City does not prepare and process the Plans and Specifications for the City-Initiated Backbone Elements in the time-frame required under the Master Phasing Plan & Schedule, then (1) such delay shall constitute a Force Majeure Delay for those specific obligations of Developer under this Agreement and the Amended DA that are dependant on completion of the City-Initiated Backbone Element(s) at issue, and (2) Developer may (but shall not be obligated to) elect to have its selected architects and engineers take over the preparation of the Plans and Specifications for all or any portion of the City-Initiated Backbone Elements, in which case such costs shall be included as part of the Reasonable Costs and Expenses permitted to be reimbursed in accordance with Article V. Prior to undertaking its self help right under clause (2) above, Developer shall comply with the notice and opportunity to cure provisions set forth in Section 13.4. The notice and cure period provided to City shall not toll or otherwise modify the commencement or continuance of the Force Majeure Delay as to those specific obligations of Developer under this Agreement and the Amended DA that are dependant on completion of the City-Initiate Backbone Element(s) at issue.

3.2 Construction.

3.2.1 Developer (or its Licensed Affiliate) shall provide all services reasonably necessary or appropriate to arrange, supervise and manage the Backbone Infrastructure Activities and the Backbone Infrastructure Contracts (as hereinafter defined) consistent with the then-applicable Master Phasing Plan & Schedule. Performance of the Backbone Infrastructure Activities by Developer and the Backbone Contractors (as hereinafter defined) shall be undertaken in compliance with the provisions of Section 7.1.2 of the Amended DA and shall also be subject to City's rights of inspection consistent with City's normal inspection processes through its Public Works department and/or by the City Engineer. Nothing contained herein or in the Amended DA shall independently require Developer to complete or record a Final Map merely as a result of the performance of the Backbone Infrastructure Activities.

3.2.2 Subject to the terms and conditions set forth in this Section, Developer shall bid and enter into construction agreements (the "**Backbone Infrastructure Contracts**") for performance of construction of the Backbone Infrastructure with contractors and/or design-build contractors (collectively, the "**Backbone Contractors**") selected in accordance with the bidding procedures contained on attached **Exhibit C**. Such bidding documents for the Backbone Contractors shall be subject to review by City and shall follow customary City requirements including, but not limited to, (i) performance of services in accordance with the approved Plans and Specifications (as amended or modified from time to time), (ii) insurance naming Developer, City and their respective designees as additional insureds, and (iii) retention amounts. The Parties agree that Developer shall cause the Backbone Infrastructure Contracts with the Backbone Contractors to address the following matters:

- (a) Payment of prevailing wages if, and to the extent, required by applicable laws;

(b) Identification and handling of Hazardous Materials discovered during the course of such Backbone Contractor's activities on the Property, but with Developer agreeing to provide the Backbone Contractor relevant and current information of those areas actually known by Developer to contain Hazardous Materials;

(c) Insurance obligations of the Backbone Contractor and its contractors, subcontractors and agents;

(d) An obligation of the Backbone Contractor to cause a Defect Bond to be issued for such contractor's work;

(e) Obligations of the Backbone Contractor to indemnify, reimburse, defend and hold harmless Developer and City against actions, proceedings, suits, demands, claims, liabilities, losses, damages, penalties, obligations, costs and expenses (including attorneys' and expert witness' fees and costs) arising from the acts and omissions of such Backbone Contractor on the Property or in connection with performance of its obligations under the Backbone Infrastructure Contract;

(f) Obligations of the Backbone Contractor to complete services on a lien-free basis and in accordance with the terms of its Backbone Infrastructure Contract;

(g) Rights of the City as a third party beneficiary under such Backbone Infrastructure Contract;

(h) Obligations of the Backbone Contractor to comply with all applicable laws and code restrictions, licenses, policies, permits and certificates required in connection with performance of its services; and

(i) Obligations of the Backbone Contractor to comply with all of the terms and provisions of any applicable LIFOCs (as hereinafter defined) with respect to performance of any services in a LIFOC Area (as hereinafter defined).

3.2.3 Notwithstanding anything to the contrary set forth herein, within ten (10) Business Days from the date the City receives written notice of Developer's intention to include a particular contractor on the bid list in accordance with the bidding procedures set forth on Exhibit C, City shall have the right to veto or disqualify any such proposed Backbone Contractor with respect to the performance of services affecting the City Property if City, in its reasonable discretion, deems such proposed Backbone Contractor not responsible.

3.2.4 Subject to Developer's obligations to enforce the terms of the Backbone Infrastructure Contracts as provided in Section 3.3.1 below, the Parties agree that, notwithstanding any other provision of this Agreement or any rights the Parties may otherwise have at law, equity or by statute, whether based on contract or some other claim, in the event of a dispute between any Party and any Backbone Contractor with respect to performance of the work for which such Backbone Contractor is responsible

under its Backbone Infrastructure Contract (including, without limitation, disputes regarding the quality of such work and/or defects in the performance of such work), after the acceptance by the City of such portion of the Backbone Infrastructure, City shall look solely to the Backbone Contractor for redress and/or resolution of such dispute and shall not seek redress or resolution from the other Party to this Agreement, except for any portion of the Backbone Infrastructure for which a one-year Defect Bond was delivered (or was required to be delivered). If such a one-year Defect Bond is required, Developer shall remain responsible for the correction of any construction defect discovered during such one-year warranty period.

3.3 Additional Developer Duties.

3.3.1 Developer shall enforce the terms of the Backbone Infrastructure Contracts and any other contracts or agreements entered into with third parties in connection with the Backbone Infrastructure Activities in the prudent judgment of Developer. Without limiting the foregoing, Developer shall have the right to commence or threaten to commence any legal proceeding and/or settle any action or dispute in performing its obligations under this Article III without the need for any approval or consent from City; provided, however, if the legal proceeding has a claim, defense or cause of action that alleges any defect in workmanship or design for any portion of the Backbone Infrastructure that will become the City's obligation to accept or otherwise maintain, then the City's consent shall be required for and prior to any settlement of any such proceeding. In furtherance of the foregoing, the City agrees to review and respond promptly to any proposed settlement terms and to provide its approval in writing. If the City does not approve the proposed terms, the City shall provide (in writing) in reasonable detail any objections and other modifications to any proposed settlement such that the City's modified proposed terms, if accepted by Developer and the other parties in interest, would be acceptable to City.

3.3.2 Developer shall undertake Commercially Reasonable Efforts and good faith to cause all Backbone Contractors to secure all Utility and Regulatory Permits required in connection with the Backbone Infrastructure Activities; provided, however, (i) that City, in its capacity as an adjoining landowner, shall use Commercially Reasonable Efforts and good faith to cooperate with Developer to obtain the timely issuance of any such Utility and Regulatory Permits; and (ii) in furtherance of Section 4.2 below, if a particular portion of the Backbone Infrastructure that is scheduled to commence pursuant to the then-applicable Master Phasing Plan & Schedule requires the acceleration of mitigation work in Agua Chinon (i.e., mitigation work beyond that budgeted for in the then-applicable Master Phasing Plan & Schedule), then the Parties shall meet and confer and work together to find a mutually acceptable solution so as not to require the acceleration of such other portion of mitigation work and to implement (either on a temporary or permanent basis) a functional equivalent of the portion of the Backbone Infrastructure then scheduled to be commenced.

3.3.3 In addition to the Quarterly Infrastructure Meetings, Developer and City shall organize and administer periodic meetings with each Party in order to review progress on the Backbone Infrastructure Activities and establish direction as necessary.

At these meetings, Developer shall update the City as to the estimated completion dates of the Backbone Infrastructure that has commenced prior to such meetings.

3.3.4 Developer shall perform such other related business functions pertaining to the Backbone Infrastructure Activities as reasonably agreed to between Developer and City. Developer shall designate, in writing to City, a representative (or representatives) who shall be fully acquainted with the terms and conditions of this Agreement and the scope of the work required hereunder.

3.4 Additional City Duties.

3.4.1 During the term of this Agreement, City shall do or undertake the following consistent with the then-applicable Master Phasing Plan & Schedule: (a) provide Developer with full information regarding City's requirements for the Backbone Infrastructure, including relevant information regarding City's plans for development of the City Property, (b) designate, in writing to Developer, a representative who shall be fully acquainted with the terms and conditions of this Agreement and the scope of the work required hereunder, and (c) subject to the availability of funds as specified in Article V of this Agreement, pay or cause the payment of all costs and expenses required to be paid by City under this Agreement when due.

3.4.2 City shall act expeditiously and in good faith to process Regulatory Permits, Utility Permits, applications, documents, approvals and/or entitlements submitted by Developer and/or any utility providers to City in connection with the development and construction of the Backbone Infrastructure. In furtherance of the foregoing, City shall give a priority to the review and processing of all such matters and shall use best efforts to respond expeditiously to the same. Additionally, City hereby agrees to take commercially reasonable steps, at no cost to City, to support any effort by Developer consistent with this Agreement, the Amended DA, and resolutions and ordinances adopted by the City (by transmitting letters and/or by attending meetings at the request of Developer) in order to secure from all other applicable Governmental Authorities, the approvals and development entitlements necessary in connection with the Backbone Infrastructure Activities.

3.4.3 City hereby agrees to grant Developer and its consultants full and complete access to all existing environmental documentation and studies prepared by City and/or its consultants and any additional environmental documentation prepared by or at the request of City relating to the Property; provided, however, that such access shall not extend to any documents that are protected from disclosure under the applicable exemption provisions of the Public Records Act as contained in California Government Code Sections 6250 et seq.

3.4.4 The requirements and limitations imposed upon the City by Sections 3.4.1 through 3.4.3 shall not apply to activities of the City in reviewing, analyzing, processing, and considering approval of land use entitlements, subdivisions, and other local development approvals undertaken by the City in the exercise of its police power pursuant to its Charter, Municipal Code, Zoning Ordinance, or State law.

3.5 Management Fee. Provided Developer does not use an outside project manager to perform the project management duties for the Backbone Infrastructure Activities, Developer (or its Licensed Affiliate) shall be entitled to a management fee ("**Management Fee**"), as part of the Reasonable Costs and Expenses, for the Developer's (or Licensed Affiliate's) performance of management responsibilities set forth in this Agreement. Such Management Fee shall be equal to five percent (5%) of such Reasonable Costs and Expenses (calculated exclusive of the Management Fee itself) related to the Backbone Infrastructure Activities (including, if applicable, Backbone Infrastructure Activities related to any Additional Backbone Infrastructure) and shall be payable in accordance with Article V hereof.

3.6 Licenses. City hereby grants to Developer and its Licensed Affiliate for the benefit of Developer and its Licensed Affiliate and its and their respective employees, agents and contractors (including, without limitation, the Backbone Contractors), a temporary license (the "**Temporary License**") to enter the City Property as reasonably necessary to carry out the obligations and exercise the rights of Developer under this Agreement; provided, however, that any such entry shall not substantially interfere with or delay any work being performed by City on the City Property. The Temporary License shall commence upon execution of this Agreement and terminate upon acceptance by City of all of the Backbone Infrastructure and expiration of any warranty period for which Developer is responsible under this Agreement or the Amended DA. Subject to Section 11, 4 below, Developer shall promptly repair any damage to the City Property or other property, and defend and indemnify the City for any personal injury, in any way caused by Developer or its agents in connection with Developer's exercise of its rights pursuant to the Temporary License, but excluding property damage or personal injury to the extent resulting from the negligence or willful misconduct of the City. Such Developer obligation shall not apply to activities of the Backbone Contractors but shall require such contractors to undertake the following, in compliance with Section 3.2.2 above: (i) indemnify the City and (ii) provide insurance coverage on terms required by the City so long as such terms are no more stringent than that typically required by the City for similar projects. For purposes hereof, the Parties agree that activities contemplated by and performed in accordance with the Plans and Specifications and/or the Backbone Infrastructure Contracts shall not be deemed "damage" to the City Property.

3.7 Easements/Rights of Way. Subject to Section 6.7 of the Amended DA, each Party hereby agrees to grant and convey such easements, rights and rights-of-way over the granting Party's property to the other Party and to utility providers, governmental or quasi-governmental authorities that may be required by any such Party, utility provider, Governmental Authority or quasi-Governmental Authority in connection with the construction of the Backbone Infrastructure. In addition to the foregoing, City agrees to use all appropriate City powers to cause third parties to grant, relinquish and/or agree to relocate such easements, rights and rights-of-way to utility providers, governmental or quasi-governmental authorities that may be required by any such utility provider, governmental or quasi-governmental authority in connection with the construction of the Backbone Infrastructure; provided, however, nothing contained herein shall compel the City to exercise its power of eminent domain. Notwithstanding any provision in this Agreement or the Amended DA to the contrary or any condition imposed pursuant to any entitlement (including but not limited to any subdivision maps, conditional use permits, and master plans), in the event the grant, relinquishment and/or relocation of any such easements, rights and/or rights-of-way are necessary in order to construct any portion of the Backbone

Infrastructure (or related or affected parts of such portions of the Backbone Infrastructure) and the City does not elect to use such power and/or if the cost to obtain the grant, relinquishment and/or relocation of any such easements, rights and/or rights-of-way meaningfully exceeds the cost estimated by Developer (as of the date of this Agreement) (collectively, a "**Development Constraint**"), then the following shall apply: (i) the Parties shall work together to find a mutually acceptable solution to design and construct such portions of the Backbone Infrastructure (and all other portions of the Backbone Infrastructure that are related to or affected by such portions of the Backbone Infrastructure) taking into consideration the constraints of the inability (or excess costs) to acquire, relinquish or relocate such easements, rights and/or rights-of-way, which may include (but shall not be limited to) seeking state and/or federal assistance (including grants) to pay or defray the costs of any such easements, rights and/or rights of way; (ii) the occurrence of any such Development Constraint shall constitute a Force Majeure Delay and the Master Phasing Plan & Schedule shall be modified to account for (among other impacts) any delays and cost impacts that result directly or indirectly from the constraints of the inability (or excess costs) to acquire, relinquish or relocate such easements, rights and/or rights-of-way; and (iii) if and to the extent the satisfaction of any condition on an entitlement (including, but not limited to, subdivision maps, conditional use permits, and master plans) cannot be satisfied due to the inability of Developer and the City to acquire from a third party, either consensually or through the exercise of eminent domain powers, the property necessary to satisfy the condition, such condition shall either be modified by the City in a manner that achieves substantially the same result without requiring the acquisition of said property or waived by the City.

3.8 **Cooperation Obligations.** Subject to compliance with the then-approved Master Phasing Plan & Schedule and the provisions of this Agreement, Developer shall have ultimate decision-making authority with respect to, but shall confer with the City regarding, the precise schedule (including precise timing and location) for the Demolition Work and construction of the Backbone Infrastructure on the portions of the City Property, including the schedule for activities located within portions of the Property owned by the United States Department of the Navy (the "**Navy**") and leased to Developer or City (the "**LIFOC Area(s)**"), as applicable, pursuant to a Lease in Furtherance of Conveyance (a "**LIFOC**"). Developer shall comply with all applicable laws and all appropriate requirements of the Navy, as well as all applicable terms and conditions of any LIFOC that may be applicable for work occurring within a LIFOC Area. Developer and City shall work cooperatively on any issues involving the Navy requirements and/or the terms and conditions of any LIFOC with respect to such LIFOC Areas. Notwithstanding the foregoing, in the event City reasonably objects to any proposed action by Developer involving a LIFOC Area located within City Property (a "**City Objected-To Action**"), then Developer, at Developer's election, shall either (i) develop, with or without the assistance of City, an alternative action plan with respect to the City Objected-To Action that is acceptable to City, or (ii) where the bases of the City's objection does not involve a violation of law or a breach of a term or condition of a LIFOC or an express Navy requirement, proceed with the City Objected-To Action and indemnify and defend City, its employees, representatives and agents (collectively, the "**City Parties**") for all claims and liabilities arising from such City Objected-To Action, provided that the foregoing indemnity and defense shall not apply to any claims or liabilities caused by the gross negligence or willful misconduct of City or any of the City Parties. Without limiting the provisions of **Sections 3.4** and **3.7** above, City, in its capacity as a regulatory authority and as an adjoining landowner, shall cooperate with Developer and the Backbone Contractors with respect to the timely issuance of the City-issued Utility Permits

required in connection with the Backbone Infrastructure Activities. Developer shall have no obligation to perform or cause the performance of the Demolition Work or construction of the Backbone Infrastructure unless all Utility Permits required in connection therewith, and subject to City's regulatory authority, have been issued by City. Developer shall use Commercially Reasonable Efforts to timely apply for and process the Regulatory and Utility Permits in accordance with City rules and regulations relating to such permits.

ARTICLE IV MASTER PHASING PLAN & SCHEDULE; OTHER DEVELOPMENT PLANS AND SCHEDULES

4.1 Master Phasing Plan. Developer and City hereby approve the plan attached hereto as **Exhibit B**, which sets forth the timing for the commencement of the Backbone Infrastructure and Demolition Work in the initial year (i.e., calendar year 2010) and the timing for the commencement of construction of the Backbone Infrastructure and the Demolition Work that the Parties intend to occur during the remainder of the initial five years of the Backbone Infrastructure Activities (i.e., calendar years 2011 through 2014). **Exhibit B**, as it may be amended, and as its time horizon is extended beyond the initial five years of Backbone Infrastructure Activities, is referred to herein as the "**Master Phasing Plan & Schedule**". Pursuant to Section 3.3 above, Developer shall update the City as to the estimated completion dates of the portions of the Backbone Infrastructure following commencement of the same. The Master Phasing Plan & Schedule shall not constitute or be deemed to constitute a regulatory "master plan" under the Irvine Development Code.

4.2 Quarterly Infrastructure Meetings. Within thirty (30) days of the end of each calendar quarter (or more frequently as the Parties mutually may deem necessary) (as used herein, the "**Quarterly Infrastructure Meetings**"), Developer and City agree to meet and confer in good faith to discuss, among other things, the following (the "**Infrastructure Meeting Items**"): (a) the then-current Master Phasing Plan & Schedule and the status of those portions of the Backbone Infrastructure Activities (including the Demolition Work) to have been completed at that time, as well as those activities to be completed during the next 24-month period, including addressing the need to shorten or lengthen the time in which any particular component of Backbone Infrastructure should be commenced or completed as set forth on the then-current Master Phasing Plan & Schedule; (b) the City's and Developer's then-current development plans and schedules for their own proposed development activity to occur on each Party's respective portions of the Property; (c) the timing of authorization and estimated amount of proceeds with respect to the issuance of bonds and special tax revenues for the applicable Improvement Area(s) within the CFD (as defined in the Amended DA); (d) an updated assessment of the estimated cost for implementation of the then-remaining portions of the Backbone Infrastructure (the "**Estimated Budget**") and the status of reimbursement of Developer's costs associated with the design and construction of the Backbone Infrastructure, including the then-current drawdown schedule for incremental payment of CFD bond revenues and special tax revenues and other amounts payable to Developer under Section 5.2 below; (e) the status of reimbursement of the Guaranteed Maintenance Amount (as defined in the Amended DA) from CFD special tax proceeds (including any special tax on undeveloped property) and/or Developer; (f) the modification of the scope and/or the specific components of the Backbone Infrastructure; (g) the assessment of mitigation requirements imposed with respect to the Density Bonus Units and the

resulting impact on the bonding capacity for the CFD if such mitigation requirements render implementation of such units economically infeasible; (h) potential additional federal, state or local public funding sources to assist in the payment of the design and/or construction of the Backbone Infrastructure, including any restrictions or limitations on the use or application of such public funding sources; and (i) such other matters as Developer and City reasonably determine are relevant to discuss related to the Backbone Infrastructure Activities. The Parties hereby agree as follows with respect to the Quarterly Infrastructure Meetings, the Annual MPP&S Update Meetings (as defined in Section 4.3 below), and Developer's obligations regarding the Backbone Infrastructure Activities: (i) when assessing the timing of completion of particular portions of the Backbone Infrastructure, the Parties shall take into consideration (among other things, including but not limited to the matters described in subsections (a) through (i) in the preceding sentence) the reasonably anticipated phasing of development as reflected on each Party's then-current respective development plans and schedules for their own proposed development activity to occur on each Party's respective portions of the Property, market conditions (such as, for example, the general economic certainty or uncertainty in developing, leasing, using and/or selling land and/or issuing CFD bonds on acceptable market terms), physical or legal constraints (such as, for example, areas located within LIFOCs that cannot be disturbed at such time, areas in which acquisitions of rights of way or easements are necessary to obtain, remove or relocate but have not been or can not be obtained, removed or relocated and/or necessary entitlements or approvals from the City or other Governmental Authorities that are required to commence or construct but have not yet been obtained), the impact (including, without limitation, from a physical construction and sequencing standpoint, from a fiscal standpoint and from a legal compliance standpoint), if any, resulting from the imposition by the City and/or other Governmental Authorities of any conditions of approval or other requirements with respect to the construction of the Backbone Infrastructure or other construction or use of other improvements constructed, or proposed to be constructed, on the Developer Property or City Property, and/or Force Majeure Delays that have or continue to prevent the commencement or completion of certain portions of the Backbone Infrastructure Activities; (ii) the City cannot require pursuant to this Agreement or the Amended DA that Developer shorten (i.e., accelerate) the time period in which a particular portion (or portions) of the Backbone Infrastructure must be commenced or completed, as such time period(s) is/are set forth on the then-applicable Master Phasing Plan & Schedule; (iii) Developer may (but shall not be obligated to) advance (i.e., accelerate) or extend the phase/time period in which a particular portion (or portions) of the Backbone Infrastructure that must be commenced or completed from one phase/time period to an earlier phase/time period, as such phase(s)/time period(s) is/are set forth on the then-applicable Master Phasing Plan & Schedule, provided that Developer continues to complete the City-Critical Backbone Infrastructure (defined below) in the applicable time periods set forth on the then-current Master Phasing Plan & Schedule; and (iv) in the event the City or other Governmental Authorities imposes as a condition of approval or mitigation measure as part of the processing of a particular entitlement or required approval (e.g., a map, traffic study, CUP, etc.) that a particular portion of the Backbone Infrastructure be commenced or completed prior to the date on which the same is scheduled to be commenced or completed pursuant to the then-applicable Master Phasing Plan & Schedule, then that particular portion of the Backbone Infrastructure may be commenced and/or completed by Developer, notwithstanding any limitations pursuant to clause (iii) above, ahead of the schedule set forth on the then-current Master Phasing Plan & Schedule. As used herein, the **"City-Critical Backbone Infrastructure"**

means those improvements identified as such on the initial Master Phasing Plan & Schedule (including Runway Breakup Services on City Property on the then-current Master Phasing Plan & Schedule) and on any future Master Phasing Plan & Schedule. All of the items set forth on the initial Master Phasing Plan & Schedule attached hereto as **Exhibit B** are City-Critical Backbone Infrastructure.

4.3 **Modification of Master Phasing Plan & Schedule: Approving Parties.** At each Quarterly Infrastructure Meeting, the following parties shall attend and participate: (a) for the City, the City Manager and/or his/her designee(s); and (b) for Developer, the Division President and/or his/her designee(s). In connection with each Quarterly Infrastructure Meeting, the Parties may update and revise as necessary the Master Phasing Plan & Schedule (or portions thereof), provided that the Parties may also update and/or revise the Master Phasing Plan & Schedule from time to time outside of the Quarterly Infrastructure Meetings. The Master Phasing Plan & Schedule shall be updated at least annually ("**Annual MPP&S Update Meeting**"), even if the Parties elect not to update the Master Phasing Plan & Schedule at any particular Quarterly Infrastructure Meeting, provided that the first Annual MPP&S Meeting will be held in July 2010 but the first update to the Master Phasing Plan & Schedule shall not occur until July 2011 unless the Parties agree to update the schedule sooner. Each annual update to the Master Phasing Plan & Schedule shall include the timing for the completion of the Backbone Infrastructure and the Demolition Work that the Parties intend to occur during the subsequent two year period beyond the year in which the particular meeting is taking place unless the Parties mutually elect to have such schedule cover a different period of time. All modifications, amendments and/or changes to the Master Phasing Plan & Schedule shall be executed by the City Manager (or his/her designee who has been appointed as such in writing) on behalf of City and by the Division President (or his/her designee who has been appointed as such in writing) on behalf of Developer, provided that no amendment to this Agreement shall be required for any such modification, amendment or change to the Master Phasing Plan & Schedule. Unless and until the Master Phasing Plan & Schedule has been modified as provided above, the then-current Master Phasing Plan & Schedule shall remain in force and effect.

ARTICLE V

FUNDING OF AND REIMBURSEMENT FOR BACKBONE INFRASTRUCTURE ACTIVITIES

5.1 **Funding of the Backbone Infrastructure.** The Reasonable Costs and Expenses incurred after the effective date of this Agreement for the design and construction of the Backbone Infrastructure may be financed, in whole or in part, by the formation of the CFD, the levy of Special Taxes and the issuance of CFD Bonds, as described in **Section 7** of the Amended DA, which among other provisions, sets forth the allocation of proceeds of the CFD Bonds and Special Taxes.

5.2 **Establishment of Facilities Financing Fund: Disbursement from Fund.** As provided in **Section 7** of the Amended DA, Developer and the City wish to finance the design and construction of the Backbone Infrastructure and the payment therefor with (i) the proceeds of CFD Bonds issued, in one or more series and from time to time, on behalf of each Improvement Area, (ii) Special Taxes collected from property within each Improvement Area, and (iii) other amounts (such as investment earnings, IRWD bond proceeds or other sources of funds as

specified in the Amended DA). All CFD Bond proceeds issued for an Improvement Area for the purpose of and that are allocated to financing the Backbone Infrastructure shall be deposited in separate funds or accounts created pursuant to the Indenture governing the series of CFD Bonds (however such funds or accounts are denominated, but referred to herein individually and collectively as the "**Project Fund**"). Amounts in the Project Fund may be distributed by the trustee or fiscal agent under the Indenture (herein, the "**Fiscal Agent**") upon the execution and delivery of a requisition or other documentation (herein, collectively, the "**Indenture Requisition**") directing the Fiscal Agent to make a payment from the Project Fund, all in accordance with the terms of the Indenture to be executed in connection with the issuance of CFD Bonds. The City shall execute, or cause the CFD to execute, as appropriate, any Indenture Requisition required to cause the Fiscal Agent to distribute CFD Bond proceeds on deposit in the Project Fund, less any funds segregated pursuant to Article XIII in furtherance of the City's self-help rights, to fund payments for the Backbone Infrastructure in accordance with this Agreement. Special Taxes collected within each Improvement Area that are allocated for the payment of Backbone Infrastructure in accordance with Section 7.6 of the Amended DA shall be deposited in the Facilities Financing Fund (defined below) and disbursed to Developer and City to pay the Reasonable Costs and Expenses incurred after the effective date of this Agreement for the design and construction of Backbone Infrastructure as set forth in this Section 5.2.

5.2.1 Establishment of Facilities Financing Fund. The City shall establish as a separate fund to be held by the City, a fund (the "**Facilities Financing Fund**"). Special Taxes collected within each Improvement Area that are allocated for the payment of Backbone Infrastructure in accordance with and subject to the limitations set forth in Section 7.6.4 of the Amended DA shall be deposited into the Facilities Financing Fund. Moneys deposited in the Facilities Financing Fund shall be held by the City, and shall be disbursed solely for (i) if requested by Developer, the direct payment to a Backbone Contractor (or a Licensed Affiliate) of the Reasonable Costs and Expenses of the Backbone Infrastructure (or directly to Developer, or its Licensed Affiliate, in the case of the Management Fee), (ii) the reimbursement of the Reasonable Costs and Expenses incurred by Developer in connection with the Backbone Infrastructure, or (iii) in the event of either the City's exercise of its self-help rights under Article XIII below or a request for reimbursement of City's design fees for the City-Initiated Backbone elements in accordance with Section 3.1.3 above, the reimbursement of the Reasonable Costs and Expenses incurred by City in connection with the Backbone Infrastructure (provided that the amount of reimbursement sought by the City for the design fees for the Wildlife Corridor and Agua Chinon in accordance with Section 3.1.3 shall be consistent with the design fees incurred by Heritage Fields on other Backbone Infrastructure Elements, where design fees are expressed as a percentage of the overall Backbone Infrastructure element's cost). The City and Developer further agree that disbursements from the Facilities Finance Fund shall be requested and paid only if and to the extent there are insufficient funds then on deposit in the Project Fund available to satisfy the entirety of the Payment Requisition. The City and Developer further agree that disbursements to the City from the Facilities Financing Fund and/or segregation of funds in the Facilities Financing Fund in furtherance of the City's self-help rights pursuant to Article XIII shall have a superior priority to any disbursement to Developer from the Facilities Financing Fund.

5.2.2 Procedure for Disbursements. Provided that the Backbone Infrastructure Activities are authorized to be financed by a CFD, and provided sufficient funds are available in the Project Fund and/or the Facilities Financing Fund, and subject to the City's self-help rights as set forth in Article XIII, one hundred percent (100%) of the Reasonable Costs and Expenses of the Backbone Infrastructure Activities shall be paid, or shall be caused to be paid, by the City from the Project Fund and/or Facilities Financing Fund to the Developer (or at Developer's direction, City shall reimburse the Licensed Affiliate or a Backbone Contractor) within sixty (60) days after City's receipt of a complete and accurate Payment Requisition from Developer (or its Licensed Affiliate). The Payment Requisition will be satisfied, first, to the extent of any CFD Bond proceeds on deposit in the Project Fund that are not otherwise segregated for another purpose specified in this Agreement and, second, to the extent Special Tax proceeds are available in the Facilities Financing Fund (subject to the conditions and limitations of the priorities of usage of such proceeds as set forth in Section 5.2.1 of this Agreement and Section 7.6 of the Amended DA with respect to the use of Special Tax proceeds, and Article XIII with respect to the City's self-help rights).

5.2.3 Disbursements from the Project Fund. Disbursements from the Project Fund shall be made within sixty (60) days after City's receipt of a complete and accurate Payment Requisition from Developer (or its Licensed Affiliate). Upon receipt of a Payment Requisition, the City shall, or shall cause the CFD to, execute and deliver one or more Indenture Requisitions so as to cause the Fiscal Agent to make a payment to the Developer or its designee out of the Project Fund within such sixty (60) day period, provided that there are funds in the Project Fund that have not previously been segregated pursuant to Article XIII of this Agreement. If the Project Fund does not have sufficient funds available to pay any portion of one or more Indenture Requisitions, City shall pay, unless otherwise paid pursuant to Section 5.2.4, said portion to Developer within ten (10) days after receipt of any additional funds in the Project Fund, to the extent of those funds, subject to the conditions and limitations of the priorities of usage of such funds as set forth in Section 7.6 of the Amended DA, and subject to the City's self-help rights as set forth in Article XIII.

5.2.4 Disbursements from the Facilities Financing Fund. Disbursements from the Facilities Financing Fund shall be made by the City within sixty (60) days after City's receipt of a complete and accurate Payment Requisition from Developer (or its Licensed Affiliate). Subject to the availability of sufficient funds, and subject further to the City's superior self-help rights as set forth in Article XIII, the amount disbursed from the Facilities Financing Fund shall be equal to the amount of the Payment Requisition not satisfied by the payments made pursuant to Section 5.2.3. If the Facilities Financing Fund does not have sufficient funds to pay any portion of one or more Payment Requisitions, City shall pay said portion to Developer within thirty (30) days after City's receipt of any additional Special Taxes, to the extent of those additional Special Taxes, subject to the conditions and limitations of the priorities of usage of such Special Taxes as set forth in Section 7.6 of the Amended DA.

5.2.5 Form of Payment Requisition. Each Payment Requisition shall: (i) identify all Reasonable Costs and Expenses incurred by Developer (or its Licensed

Affiliate) and the amount required to be disbursed, including the Management Fee, the purpose for which the disbursement is to be made and the person to which the disbursement is to be paid; (ii) contain reasonable and customary back-up documentation substantiating the basis for and amount of the requested payment or disbursement; and (iii) certify that the disbursement is for a purpose eligible to be funded with such amounts to be so disbursed, and in any event that no portion of the amount then being requested to be disbursed was paid pursuant to any Payment Requisition previously filed requesting disbursement. Disbursements from the Facilities Financing Fund shall be subject to the conditions and limitations of Section 7.6 of the Amended DA with respect to the use of Special Taxes. Developer (or its Licensed Affiliate) shall not submit a Payment Requisition to the City more frequently than two times per calendar month.

5.2.6 Failure to Make Payment. In the event City does not make any such payment, Developer (or its Licensed Affiliate) shall provide written notice to the City of such failure. If such payment is not received by Developer (or its Licensed Affiliate) within thirty (30) calendar days after the date a payment is due, (i) the unpaid amounts shall accrue interest at a rate equal to ten percent (10%) per annum from the 91st day following the date the City received the Payment Requisition from Developer until the date such sums are paid to Developer (or its Licensed Affiliate), and (ii) Developer (or its Licensed Affiliate) shall have the right to pursue an arbitration action against the City, provided however that the only relief available to Developer in such arbitration action shall be the recovery of the unpaid portion of the amount demanded in the Payment Requisition, including the permitted interest thereon from the 91st day following the date the City received a complete and accurate Payment Requisition from Developer. Further, City agrees that if it disputes any particular expenditure or item on a Payment Requisition (including due to Developer's failure to deliver complete or accurate information required to be delivered for such expenditure or item), it will not withhold payment of other sums on the same Payment Requisition that the City does not dispute.

5.2.7 Investment. Funds deposited in the Project Fund shall be invested in accordance with the Indenture. Funds deposited in the Facilities Financing Fund shall be invested in legal investments and any investment earnings shall be applied to the account from which it was earned and shall be used for the purposes of such account.

5.2.8 Progress Payments. The City and Developer agree that progress payments may be made out of the Project Fund and the Facilities Financing Fund for the design and construction of the Backbone Infrastructure prior to completion of such portion of Backbone Infrastructure pursuant to Section 53313.51 of the CFD Act.

5.2.9 Advances. At all times, any payments of Reasonable Costs and Expenses by Developer shall be made with the understanding that all such payments will be reimbursed to Developer (or its Licensed Affiliate) to the extent of funds on deposit in the Project Fund and the Facilities Financing Fund, subject to the conditions and limitations of the Indenture and Section 7.6 of the Amended DA with respect to the use of Special Taxes. No such payment by Developer (or its Licensed Affiliate) shall be construed as a dedication, gift or waiver of the right of reimbursement, regardless of

when any such payment is made and regardless of the availability of funds for payment at the time a Payment Requisition is submitted.

ARTICLE VI

MASTER SUBDIVISION MAP; SUBDIVISION BONDS & AGREEMENTS

6.1 Scope. The Parties acknowledge and agree that Developer processed the Master Subdivision Map (as defined in the Amended DA) with respect to the Property as contemplated by the Amended DA and that the City has approved the Master Subdivision Map.

6.2 Dedication of Backbone Infrastructure Alignment. The Parties acknowledge that the Master Subdivision Map (as it may be amended from time to time) reflects the alignment of the Backbone Infrastructure (or portions thereof) and other portions of the Property that, as of the filing of the Master Subdivision Map (and any amendments thereto), are identified therein as parcels or property interests to be dedicated to City (collectively, the "**City Map Parcels**"). Developer and the City acknowledge that the City Map Parcels were (or will be) dedicated (or offered for dedication) to City upon recordation of the Master Subdivision Map.

6.3 Subdivision Bonds and Agreements. Developer shall be responsible for posting all bonds and entering into all subdivision agreements necessary or useful in connection with the recordation of subdivision maps pertaining to Developer's Property; provided, however, the Parties acknowledge and agree that this Agreement shall constitute the subdivision agreement for the Backbone Infrastructure and that no additional or separate agreement shall be required. The Parties agree further that no subdivision bonds shall be required in connection with the construction of the Backbone Infrastructure (the Parties hereby agreeing to rely on the proceeds from the Facilities Financing Fund as security to pay for such infrastructure); provided, however, the foregoing is not intended to waive the requirement for Developer to post a one-year Defect Bond as required by the City for any portion of the Backbone Infrastructure in accordance with the terms of this Agreement.

6.4 Allocation of Conditions of Approval for Master Subdivision Map. The Parties hereby agree that the conditions of approval for the Master Subdivision Map shall be allocated to the future development of the Developer's Property and reflected as conditions on subsequent parcel maps and/or tract maps in accordance with the allocation schedule attached hereto as **Exhibit H**. City may elect to modify the allocation of such conditions administratively, which election shall be made, if at all, in writing.

ARTICLE VII

PERMITS AND APPROVALS

7.1 Processing of Regulatory Permits. The Parties acknowledge and agree that approvals of the Regulatory Permits for the Base Property have been obtained, and that the City has approved all mitigation and/or exaction measures that relate to the activity approved under the Regulatory Permits and affecting the City Property.

7.2 Cooperation on Other Approvals and Agreements. The Parties agree to use Commercially Reasonable Efforts to cooperate with respect to the application, processing and/or

negotiation of other approvals and agreements with Governmental Authorities and utility providers required in connection with development of the Property.

7.3 Cost Sharing. In exchange for Developer assuming City's proportionate share of the Reasonable Costs and Expenses in connection with the preparation and processing of applications and submissions with respect to the Regulatory Permits and other agreements described in this Article VII required in connection with development of the Property, Developer is hereby authorized to utilize up to thirty (30) acres of land within the open space and corridor portions of the City Property, the precise area of which is more particularly shown on Exhibit E attached hereto, for purposes of meeting mitigation requirements for impacts within the Developer's Property unrelated to the Backbone Infrastructure Facilities.

ARTICLE VIII

ADDITIONAL PROVISIONS CONCERNING DEMOLITION WORK

8.1 Description of Runway Demolition & Recycling Services. As part of the Demolition Work, Developer (or its Licensed Affiliate) shall provide and/or perform the following services and activities (collectively, the "**Runway Demolition & Recycling Services**" or sometimes referred to herein as the "**Runway Activities**" or the "**Runway Services**") subject to the provisions of this Article VIII and Section 3.1.1 above and Article IX below:

8.1.1 Developer shall provide all services reasonably necessary or appropriate to arrange, supervise, and manage the Runway Breakup Services (as defined below) for all of the runways, taxiways, aprons, aircraft parking ramps, roadways, parking lots and related hardscape materials located on that portion of the City Property and Developer Property shown on Exhibit D attached hereto, including utilities and other items to the extent such utilities and other items are interconnected with such hardscape (collectively, the "**Runways**"). The Runways shall specifically exclude existing buildings (including building slabs and foundations) located on the Property, including Runways depicted as runway areas to be permanently restored in the Great Park Master Plan, as defined in the Amended DA (as used herein, the "**City-Retained Runways**"). Until the Runways are removed entirely (other than that portion designated by the City as Interim Use Runway Areas and/or City Retained Runways, as such terms are defined below), Developer and City shall use the Recycled Products created from the Runways prior to purchasing such products from areas outside of the Base Property.

8.1.2 As used herein, the "**Runway Breakup Services**" means: (i) the breaking of all Runways (other than that portion designated by the City as Interim Use Runway Areas and/or City Retained Runways) (the "**Breakup Activities**"); (ii) the stockpiling of all Runway materials resulting from the Breakup Activities, subject to the limitations set forth in this Article VIII and Article IX below (the "**Stockpiling Activities**"); (iii) the identification of the portions of the Runways that it is commercially feasible to recycle for use in creating the Recycled Products (defined below); and (iv) the identification of the portions of the Runways that are not commercially feasible to use to create Recycled Products, such as asphalt, which shall be delivered to or removed by a Backbone Contractor (or another contractor who delivers the same to a Backbone Contractor) for other reuse activities and measures. As part of the Stockpiling Activities, Developer shall

stockpile the materials intended to be used to create the Recycled Products in locations agreed to by the Parties, provided that (i) the materials intended for use in the construction of the Backbone Infrastructure shall be stockpiled by Developer in a location reasonably selected by Developer that is efficient for such construction activities, (ii) the materials intended for use by the City shall be stockpiled on the City Property unless otherwise agreed to in writing by Developer and (iii) the materials intended for use by Developer shall be stockpiled on the Developer Property unless otherwise agreed to in writing by City. So long as Developer is responsible for coordinating the construction of the Backbone Infrastructure, the stockpiles intended for use in connection with the Backbone Infrastructure shall be maintained by Developer (as part of the costs payable in accordance with Section 5.2 hereof) in accordance with standard construction practices with respect to safety and regulations of the City and other Governmental Authorities. The stockpiles intended for use by City on the City Property shall be maintained by the City (at the City's cost) in accordance with standard construction practices with respect to safety and regulations of other Governmental Authorities. The stockpiles intended for use by Developer on the Developer Property (other than for Backbone Infrastructure) shall be maintained by Developer (at Developer's cost) in accordance with standard construction practices with respect to safety and regulations of the City and other Governmental Authorities. Developer shall not be obligated to make any payments or take any actions regarding the maintenance, transport or other matters regarding the stockpiles intended for use by the City.

8.1.3 Performance of the Runway Breakup Services shall be subject to the terms and conditions of an agreement or agreements (the "**Runway Breakup Agreement(s)**") with a contractor or contractors (the "**Runway Breakup Contractor(s)**") selected in accordance with the procedures described in Section 3.2.2 above. Accordingly, the Runway Breakup Contractors shall also be deemed to be Backbone Contractors (as defined in this Agreement) and the Runway Breakup Agreements shall also be deemed to be Backbone Infrastructure Contracts. Developer shall enter into (or cause its Licensed Affiliate to enter into) the Runway Breakup Agreement(s) with the Runway Breakup Contractor(s). Developer shall enforce the terms of the Runway Breakup Agreement(s) and any contracts or agreements entered into with third parties in connection with the Runway Demolition and Recycling Activities (but expressly subject to the terms of Section 8.4) in the prudent judgment of Developer. Without limiting the foregoing, Developer shall have the right to commence or threaten to commence any legal proceeding and/or settle any action or dispute in performing its obligations under this Article VIII without the need for any approval or consent from City.

8.1.4 Developer's approval of the Runway Breakup Agreements and/or Runway Breakup Contractors or any of the Runway Activities shall not be deemed to be a representation or warranty by Developer as to the adequacy or sufficiency of the Recycled Products or the Runway Activities or any of the actions contemplated thereby, and by its approval thereof, Developer does not assume any liability or responsibility for the Runway Activities or for any defect in any Recycled Product related or made pursuant thereto.

8.2 Recycled Products. The Parties hereto agree that all Runway materials that are

excavated and stockpiled as part of the Runway Breakup Services, which Developer and the City determine to be commercially feasible to recycle and reuse, shall be used to create the following products (hereinafter, the "**Recycled Product(s)**"): road base; bedding or backfill material; provided, however, all Runway materials that are not produced and used by Developer for the Backbone Infrastructure Activities and that are allocated to the City as provided in Section 8.4 below may be used by the City to create Other Recycled Products (defined below), including, without limitation, concrete aggregates (various sizes), engineered blocks (various sizes), and/or engineered pavers (various sizes) and/or used by the City by recycling such materials and placing the same as recycled fill material. City acknowledges and agrees that City (through its Chief Building Official, City Engineer, or Public Works Department, as determined by City) will diligently undertake such analyses and investigations as may be necessary to determine whether City may recognize the adequacy of Recycled Products and approve the use of such products for use by Developer and City and, upon such determination, shall timely approve or disapprove the use of the Recycled Products for such uses. Neither Developer nor the Runway Breakup Contractors engaged by Developer shall be obligated to produce, or attempt to create, other recycled products ("**Other Recycled Products**"), provided that City may separately engage any such Runway Breakup Contractor to produce Other Recycled Products for use in connection with any recycling program or operation run by or through the City. If City desires to produce Other Recycled Products from time to time, it may reasonably request that during the Breakup Activities Developer break up portions of the Runways in larger sizes that are commercially feasible such that the City's contractor may create the Other Recycled Products, provided that neither Developer nor the Runway Breakup Contractor shall be obligated to acquire additional or different equipment or incur additional costs or expenses in order to create any particular size or shape of material in connection with such Breakup Activities. City shall make such election, if at all, at least four (4) months in advance of Developer undertaking the applicable Breakup Activities. Developer may choose to participate in the City's recycling program, but is not required to participate in or adhere with any such program.

8.3 Cost of Runway Activities. Subject to the terms of this Article VIII and the terms of Article IX below, the Reasonable Costs and Expenses of the Runway Activities shall be paid for by Developer and reimbursed, if at all, in accordance with the terms of Article V of this Agreement. Nothing set forth in this Agreement shall require City to pay any portion of the cost of the Runway Breakup Services, other than as provided in this Article VIII and in Article IX below. However, the Parties agree that the Parties shall work together and use their best efforts to implement a Demand and Processing Schedule (defined below) and subsequent Supplemental Schedules (defined below) that, at a minimum, attempts to achieve a break even cost to Developer for the Runway Activities.

8.4 Rights of Usage for Recycled Products. The Parties shall have the right and obligation to use the Recycled Products in the following order of priorities, and the stockpiles created by Developer as part of the Stockpiling Activities, shall be consistent with the following order of priorities:

8.4.1 The Party constructing the Backbone Infrastructure shall have first rights to use the Recycled Products in such quantities as such Party deems necessary, in its sole and absolute discretion, for use in constructing the Backbone Infrastructure; and

8.4.2 Thereafter, it is the desire of the Parties that each of City and Developer have the right to use approximately fifty percent (50%) of the remaining Recycled Products not needed in connection with the construction of the Backbone Infrastructure. Notwithstanding the foregoing, since it is not feasible for the Parties to determine at this time the quantities of Recycled Products needed for the Backbone Infrastructure or their respective needs for a quantity of Recycled Products each Party may need for their respective developments, Developer shall also be entitled to sell Recycled Products for use on or off the Base Property to third-parties (a "**3rd Party Sale**"), provided that Developer shall limit the sale of Recycled Products for use off the Base Property to no more than approximately fifteen percent (15%) of the Recycled Product produced in each phase of Breakup Activities, and in no event in excess of the City's identified need, as reflected in the then-current Master Phasing Plan & Schedule. Given such right of Developer to undertake such 3rd Party Sales, the Parties acknowledge that the allocation of the right to use the remaining Recycled Product between the City and Developer ultimately may not be equal. The Net Profit (defined below) derived from any 3rd Party Sale shall be used by Developer as follows: first, to reimburse Developer for any Reasonable Costs and Expenses incurred by Developer in connection with the Backbone Infrastructure Activities that cannot be paid for out of the CFD bond proceeds or tax proceeds (such as, for example, un-reimbursed dry utility costs); and second, to reimburse Developer for any Reasonable Costs and Expenses incurred by Developer in connection with the Backbone Infrastructure Activities that can be but have not yet been paid for out of the CFD bond proceeds or tax proceeds. As used herein, "**Net Profit**" means the actual amount received by Developer from the purchaser of the Recycled Products for the 3rd Party Sale, after reimbursement to Developer of all costs in connection with the creation of the Recycled Products sold to such purchaser (including, without limitation, the costs for the Breakup Services and costs of sale (e.g., sales tax, transportation, etc.) and not otherwise reimbursed to Developer in accordance with Article V of this Agreement.

For purposes of implementing the priorities of use of the Recycled Products set forth above, the Parties acknowledge that the Backbone Infrastructure and the use of the Recycled Products for the other improvements contemplated in Section 8.4.2 above (hereinafter, the "**Other Project Improvements**") shall take several years to complete. The Parties acknowledge further that the intent of this Agreement is to provide Developer with the right to control the phasing and timing for the Runway Breakup Services and, in turn, the use of the Recycled Products by using an annual demand and processing schedule (the "**Demand and Processing Schedule**"), which will be part of and incorporated into the Master Phasing Plan & Schedule, as supplemented or amended from time to time as part of the Quarterly Infrastructure Meetings (a "**Supplemental Schedule**"). In exercising its right to control the phasing and timing for the Runway Breakup Services, Developer shall (i) not demolish any Runways located on the City Property that the City intends to retain on its property for interim uses during the initial phases of the Runway Breakup Services until City indicates (in writing) such demolition is acceptable to City (the "**Interim Use Runway Areas**"), (ii) not demolish the City-Retained Runways, and (iii) prioritize for demolition those portions of the Runways located on the City Property that City identifies as necessary for removal to facilitate the City's near-term development needs (the "**City Demolition-to-Develop Areas**"); provided, however, the identification of the Interim Use Runways are and shall remain subject to the priorities of usage

set forth above (the Parties agreeing that if Interim Use Runway Areas are the only Runways remaining at some future point in time and Recycled Products are necessary for the Backbone Infrastructure Activities, then the Interim Use Runway Areas may be demolished to fulfill said Recycled Products need). City shall identify the Interim Use Runway Areas, the City Retained Runways and the City Demolition-to-Develop Areas, if any, during each Quarterly Infrastructure Meeting. Any City Runways identified as Interim Use Runway Areas shall be deemed to become City Retained Runways for purposes of this Section if City does not advise Developer (in writing) no later than eighteen (18) months prior to the final phase of the Breakup Activities that such areas are available for removal as part of the Runway Breakup Services. Once City identifies any portion of the Runways on City Property as City Retained Runways, Developer shall have no obligation to perform any Runway Activities for the City Retained Runways. Further, once Developer completes its use of Recycled Products that is necessary for the Backbone Infrastructure and its own development of the Developer Property, Developer shall have no obligation to perform any Runway Activities for the Interim Use Runways. The Demand and Processing Schedule shall serve as the baseline by which it is determined whether a Party has the right to use the Recycled Products pursuant to Section 8.4.2 after the Party constructing the Backbone Improvements has completed its use for the applicable period. (The initial Demand and Processing Schedule approved by the Parties is included as part of the Master Phasing Plan & Schedule attached hereto as Exhibit B.) For example, if the initial Demand and Processing Schedule shows a certain level of demand for Recycled Products for that portion of the Backbone Infrastructure intended to be constructed during the period covered by the applicable Demand and Processing Schedule, and the Licensed Affiliate (on behalf of Developer) does not use all the Recycled Products produced pursuant to that Demand and Processing Schedule for that period, or if there are still sufficient Recycled Products available for that period even if the Licensed Affiliate has used all the Recycled Products it needs for Backbone Improvements for that particular period, then the Developer and the City (and the respective parties ordering by or through Developer and the City for use in connection with the construction of the Other Project Improvements) would have their rights of usage as set forth in Section 8.4.2 above. In furtherance of the foregoing, it is acknowledged further that any Recycled Products made, but not used by a Party, during each applicable period covered by a particular Demand and Processing Schedule or Supplemental Schedule (hereinafter, the "Unused Products") shall not be treated as "remaining Recycled Products" pursuant to Sections 8.4.2, but rather that all such Unused Products shall instead be deemed to be available for use in the next period pursuant to the order established under the this Agreement (i.e., Section 8.4.1 gets first priority followed by the rights under Sections 8.4.2 thereafter).

ARTICLE IX

NON-RECYCLABLE MATERIALS; HAZARDOUS MATERIALS

9.1 Non-Recyclable Materials; Hazardous Materials. The Parties acknowledge that Backbone Contractor(s) may encounter non-recyclable materials (including, without limitation, Hazardous Materials) during the course of the Backbone Infrastructure Activities (including the Runway Activities). Notwithstanding anything to the contrary in this Agreement, as between the Parties hereto, the Party on whose property any non-recyclable materials are located (whether or not such non-recyclable materials are Hazardous Materials) shall be solely responsible for all costs and expenses incurred or to be incurred in connection with the removal of such materials, if such removal is required. Nothing in this Agreement, however, is intended to, and shall not in

any way affect, the duties, obligations, liability or responsibility of the Navy, any insurance or surety company under an applicable insurance policy or surety bond, or any other person or entity not a party to this Agreement, for such non-recyclable materials. In furtherance of the foregoing sentence, the Backbone Contractors (including the Runway Breakup Contractors) shall be instructed to immediately notify the City, in writing, when encountering any non-recyclable materials on the City Property and to identify the locations and type of such material known to such contractors. If City desires the applicable Backbone Contractor(s) to remove any non-recyclable materials from the City Property, or to take other remedial action, City may enter into separate agreements with Backbone Contractor(s) or any other contractor of their choice for the removal or such other remedial action in connection with such non-recyclable materials. No Party hereto shall have any recourse by this Agreement against any other Party to this Agreement for such non-recyclable materials. Notwithstanding anything to the contrary in this Agreement, by administering the Backbone Infrastructure Activities (including the removal and recycling of hardscape and certain other materials from the City Property as provided in this Agreement), Developer is not, by this Agreement, assuming responsibility for or control over the removal or recycling of any Hazardous Materials that may exist in the hardscape or other materials at, on or under the Base Property, including, without limitation, any Hazardous Materials that may exist in the soil, soil vapor and/or groundwater at the Base Property or that may be discovered through the Backbone Infrastructure Activities (including the Runway Activities). Each Party hereto shall be solely responsible, at its sole cost and expense, for conducting, or for causing the Navy or other appropriate responsible party to conduct, any required investigation, monitoring, assessment, treatment, removal, transport, disposal and/or remediation of any such Hazardous Materials discovered on said Party's property, and shall be responsible for executing, or causing the Navy or other appropriate responsible party, to execute proper manifests for the material so removed, as may be required by applicable laws, and/or as may be required for the submission and pursuit of any claim under any applicable insurance policy or surety bond.

9.2 Release of Hazardous Materials During Backbone Infrastructure Activities. In the event of any release, discharge, leakage or spillage of Hazardous Materials on or from the City Property or Developer Property caused by the actions of any Backbone Contractor (including any Runway Breakup Contractor) (collectively, a "**Backbone Contractor Release**"), the Backbone Contractor shall be required to immediately stop its activities in the affected area and provide written notice to Developer, if the release occurs on the Developer Property, and the City, if the release occurs on the City Property. Developer and City shall have no liability to or recourse against each other for any Backbone Contractor Release. Developer shall use Commercially Reasonable Efforts to cause a provision to be added to the Backbone Infrastructure Contract(s) whereby the Backbone Contractors agree to indemnify, reimburse, defend and hold harmless Developer and City from and against all actions, proceedings, suits, demands, claims, liabilities, losses, damages, penalties, obligations, costs and expenses of whatever kind or nature (including but not limited to attorneys', consultants' and expert witness' fees and costs) to the fullest extent permitted by law, arising in connection with any Backbone Contractor Release on the Base Property caused by the negligence or willful misconduct of the Backbone Contractor or any subcontractor of the Backbone Contractor. If a Backbone Contractor will not agree to so indemnify the City, the specific indemnity the applicable Backbone Contractor is willing to provide in its Backbone Infrastructure Contract shall be subject to City's consent, which shall not be unreasonably withheld, conditioned or delayed. Developer shall also use Commercially Reasonable Efforts to cause a provision to be added to

the Backbone Infrastructure Contract(s) whereby Developer and/or the City have a right of reimbursement in favor of Developer and/or City, as the case may be, from the Backbone Contractors, for all costs and expenses incurred or to be incurred in investigating, monitoring, assessing, treating, removing, transporting, disposing and/or remediating any Hazardous Materials resulting from any Backbone Contractor Release caused by the negligence or willful misconduct of the Backbone Contractor or any subcontractor of the Backbone Contractor ("**Backbone Infrastructure Cleanup Costs**"), where such Backbone Infrastructure Cleanup Costs were, or are to be, incurred by the Developer and/or City, at said Party's reasonable discretion, as a result of such Backbone Contractor Release. Backbone Contractor(s) shall be required to reimburse Developer and/or City for any Backbone Infrastructure Cleanup Costs within ten (10) days of its receipt of a written demand for the same. As between the Parties hereto, each Party shall be responsible for conducting, or for causing the Navy or other appropriate responsible party to conduct, any required investigation, monitoring, assessment, treatment, removal, transport, disposal and/or remediation of any such Hazardous Materials resulting from a Backbone Contractor Release, and shall be responsible for executing, or causing the Navy or other appropriate responsible party to execute, proper manifests for the material so removed, as may be required by applicable laws.

9.3 Protocol Plan for Unknown Hazardous Materials. In the event of the discovery of a suspected release of Hazardous Materials, Developer and City shall each follow, and shall each cause any Backbone Contractor to follow, the procedures and protocols set forth in the Protocol Plan for Unknown Hazardous Materials dated February 2007 (attached as **Exhibit F**).

9.4 Cooperation in Environmental Insurance Claims. If either Party elects to pursue a claim or notice of potential claim under the environmental insurance policy issued to the City and Developer pursuant to that certain Pollution Legal Liability Cleanup Costs Cap Insurance Policy Claims Made and Reported, effective July 12, 2005 ("**PLL Policy**") provided by American International Specialty Lines ("**AIG**") as result of any activities required by, arising out of, or in furtherance of, this Agreement, that Party shall give prior written notice to the other Party of the claim or notice of potential claim, and each Party shall reasonably cooperate with the other Party with respect to the pursuit of such claim or notice of potential claim, with the Parties agreeing to abide by the terms and conditions of the PLL Policy.

ARTICLE X

ADDITIONAL BACKBONE FUNDING SOURCES; CONSTRUCTION COORDINATION

10.1 Additional Backbone Funding Sources. As set forth in Section 4.2 above with respect to the Quarterly Infrastructure Meetings and as provided in Section 7.1 of the Amended DA, it is contemplated that the Parties may seek and/or utilize additional funding sources for payment of the costs for the design and construction of the Backbone Infrastructure and/or the Additional Backbone Infrastructure beyond the CFD Special Taxes and CFD Bonds and payments by the County (e.g., federal, state or local grants or stimulus funds). The Parties recognize further that certain funding sources (such as, for example, grants or stimulus funds) may limit or impose restrictions regarding the timing and/or manner in which those funds are used and/or improvements constructed with respect to the Backbone Infrastructure and/or the Additional Backbone Infrastructure.

10.2 Construction Coordination. If the City obtains and elects to utilize said additional sources of funds for the design and/or construction of the Backbone Infrastructure and/or Additional Backbone Infrastructure, Heritage Fields and the City shall work together to arrange for and carry out the design and construction of the components Backbone Infrastructure and/or Additional Backbone Infrastructure to funded by such other sources in accordance with the applicable funding and/or construction conditions, provided that (i) neither Heritage Fields nor the Heritage Fields Property shall incur or be subject to any additional financial or other burden, condition, mitigation measure or other impact resulting from the desire to undertake such infrastructure construction with such other funding sources, and (ii) the entire cost to design and construct the applicable components of Backbone Infrastructure and/or Additional Backbone Infrastructure shall be immediately available from such other sources for reimbursement to the party undertaking the design and construction prior to the commencement of design for such work. For example, if the City obtains funding sources for a particular street before the scheduled construction time period for such street pursuant to the applicable Master Phasing Plan & Schedule, Heritage Fields will not be required to advance any sum for the funding for such street or for any other infrastructure element that may be required in order to construct such street.

ARTICLE XI **INSURANCE**

11.1 Coverages. Developer (or its Licensed Affiliate) shall procure and maintain at all times during the term of this Agreement, the following policies of insurance:

11.1.1 Comprehensive General Liability Insurance. A policy of comprehensive general liability insurance written on a per occurrence basis in an amount not less than \$5,000,000 combined single limits covering the following: Personal Injury Liability Property Damage Liability, Contractual Liability, Contractors' Protective Liability, Products and/or Completed Operations Liability.

11.1.2 Automobile Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than either (i) bodily insurance liability limits of \$2,000,000 per person and \$2,000,000 per occurrence and property damage liability limits of Five Hundred Thousand Dollars \$500,000 per occurrence and \$500,000 in the aggregate or (ii) combined single limit liability of \$2,000,000. Said policy shall include coverage for owned, non-owned, leased, and hired cars.

11.1.3 Worker's Compensation Insurance. A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California.

The policies of insurance required hereunder shall be satisfactory only if issued by companies qualified to do business in California and rated "A: VII" or better in the most recent edition of Best's Insurance Guide. All of the policies of insurance described above shall be primary insurance and shall name City and its officers, officials, employees and lenders as additional insureds. The insurer shall waive all rights of subrogation and contribution it may have against City and its insurers. All of said policies of insurance shall provide that said

insurance may not be amended or cancelled, nor the amount of the coverage thereof reduced, without providing thirty (30) days prior written notice to City. In the event any of said policies of insurance are cancelled, Developer (or its Licensed Affiliate) shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Article. No work to be performed by Developer (or its Licensed Affiliate) pursuant to this Agreement shall commence until Developer (or its Licensed Affiliate) has provided City with certificates of insurance or appropriate insurance binders evidencing the above insurance coverage and said certificates or binders are approved by City.

11.2 Blanket Policies. Any policy required by the provisions of this Article may be made a part of a blanket policy of insurance so long as such blanket policy contains all of the provisions required herein and does not reduce the coverage, impair the rights or in any way negate the requirements of this Agreement.

11.3 Contractors. Neither Party shall permit any architect, engineer, contractor, subcontractor or consultant to commence work on or relating to its property until such individual or entity has named the other Party as an additional insured on such individual or entity's general liability insurance policy.

11.4 Waiver of Subrogation. The Parties hereby waive all rights against one another for damage to property caused by fire and other perils and any other risk to the extent that such damage is covered by each of such Party's policies of insurance.

ARTICLE XII

RELEASE

Each Party hereto expressly acknowledges that the other Party and its respective divisions, subsidiaries, partners, members, affiliated companies and its and their respective employees, directors, council members, board members, shareholders, agents, partners, members, representatives, attorneys, successors and assigns (collectively, the "Released Parties") shall not have any liability or obligation for claims, liabilities, losses, damages, suits, actions, proceedings, obligations, costs and expenses (including, without limitation, actual attorneys' and expert fees) arising out of or in connection with the activities undertaken by Developer hereunder (including, without limitation, the Backbone Infrastructure Activities) performed on or in connection with or with respect to the Property (collectively, "Losses"), each such Party's sole remedy being to proceed against the contractors performing such work and/or the professional consultants designing and/or overseeing such work.

Notwithstanding the foregoing, each Party hereby releases the Released Parties from all such Losses, and waives on its behalf, and on behalf of its successors and assigns, all claims for any such Losses, except to the extent caused by such Party's active negligence or intentional misconduct.

Notwithstanding anything to the contrary in this Agreement, express or implied, (i) the term Released Parties shall not include, and hereby is deemed to exclude, all contractors, subcontractors, engineers and consultants, designing, supervising, constructing or inspecting any physical work on the Property and (ii) Developer shall remain responsible for the performance

and completion of the Backbone Infrastructure Activities in a manner consistent with the terms of this Agreement.

EACH PARTY ACKNOWLEDGES THAT IT HAS BEEN ADVISED BY ITS LEGAL COUNSEL AND IS FAMILIAR WITH THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542, WHICH PROVIDES AS FOLLOWS:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

THE PARTIES, BEING AWARE OF SAID CODE SECTION, EACH HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE THEREUNDER, AS WELL AS UNDER ANY OTHER STATUTE OR COMMON LAW PRINCIPLE OF SIMILAR EFFECT IN CONNECTION WITH THE RELEASE GIVEN IN THIS ARTICLE X.

S.K.
CITY

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DEVELOPER

ARTICLE XIII TERM; EVENTS OF DEFAULT AND REMEDIES

13.1 Term. The term of this Agreement ("**Term**") shall commence as of the Second Effective Date (as defined in the Amended DA) and shall expire, if not sooner terminated by one of the Parties in accordance with the termination rights set forth in this Article XIII, upon the earlier of (a) the termination of the Amended DA pursuant to Section 14.2.1 thereof or (b) the completion of the Parties' respective obligations hereunder (including, without limitation, the acceptance by the City of the Backbone Infrastructure and the completion of all reimbursements by City to Developer, or its Licensed Affiliate, pursuant to Article V hereof), subject to extensions for Force Majeure Delay. City's obligations to pay or authorize payment to Developer for work performed or contracted for under the terms of Article V prior to the expiration or earlier termination of this Agreement shall survive the expiration or earlier termination of this Agreement. Further, the release under Article XII shall survive the expiration or earlier termination of the Agreement.

13.2 Event of Default by Developer. An "**Event of Default**" by Developer means any one (1) or more of the following occurrences:

13.2.1 Developer shall materially breach any of its duties or obligations herein (including, without limitation, the failure to construct the Backbone Infrastructure in the manner and at the times specified in the then-applicable Master Phasing Plan & Schedule), or shall fail to keep, observe or perform any material covenant, agreement, term or provision of this Agreement to be kept, observed or performed by Developer.

However, City must provide written notice to Developer setting forth the nature of the breach or failure and the actions, if any, required by Developer to cure such breach or failure. Developer shall be deemed in "material breach" of its obligations set forth in this Agreement if Developer has failed to take action and cure the default within thirty (30) days after the date of such notice (for monetary defaults), within forty-five (45) days after the date of such notice (for non-monetary defaults), or within such other time as may be specifically provided in this Agreement. If, however, a non-monetary default cannot be cured within such forty-five (45) day period, as long as Developer does each of the following, then Developer shall not be deemed in material breach of this Agreement:

- (a) notifies City in writing with a reasonable explanation as to the reasons the asserted default is not curable within the forty-five (45) day period;
- (b) notifies City of Developer's proposed course of action to cure the default;
- (c) promptly commences to cure the default within the forty-five (45) day period;
- (d) makes periodic reports to the City as to the progress of the program of cure; and
- (e) diligently prosecutes such cure to completion,

Notwithstanding the foregoing, Developer shall be deemed in material breach of its obligations set forth in this Agreement if said breach or failure involves the payment of money but the Developer has failed to completely cure said monetary default within thirty (30) days (or such other time as may be specifically provided in this Agreement) after the date of such notice.

13.2.2 Developer applies for the appointment of a receiver, trustee or liquidator of Developer or of all or a substantial part of its assets, files a voluntary petition in bankruptcy, or admits in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, files a petition or an answer seeking reorganization or arrangement with creditors or take advantage of any insolvency law or file an answer admitting the material allegations of the petition filed against Developer in any bankruptcy, reorganization, or insolvency proceeding, or if an order, judgment or on the application of a creditor, a decree shall be entered by any court of competent jurisdiction adjudicating Developer bankrupt or insolvent or approving a petition seeking reorganization of Developer or appointing a receiver, trustee, or liquidator of Developer or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect any period of thirty (30) consecutive days.

13.3 City Remedies. Upon the occurrence and during the continuance of an Event of Default by Developer, notwithstanding the provisions of the Amended DA, City's exclusive remedies shall be an action/arbitration, otherwise consistent with the requirements of the Amended DA and this Agreement, for specific performance or City may (but shall not be obligated to) elect to cure and perform those obligations of Developer which are the subject of

the Event of Default (the "**Defaulted Obligations**"); provided, however, in the case where the Defaulted Obligation(s) is/are the failure to commence or complete portions of the Backbone Infrastructure in the time frame set forth on the then-applicable Master Phasing Plan & Schedule, the City may only elect to perform the City-Critical Backbone Infrastructure. For purposes of this Agreement, the specific performance remedy shall include and allow for the recovery of sums due and owing to City (including interest permitted under this Agreement).

In the event of the exercise by City of its self-help rights under this Section 13.3, the following shall apply: (i) to the extent funds remain in the Project Fund upon the commencement of the City's exercise of its rights under this Section 13.3, the City may segregate the amount of said funds estimated in the then-current Master Plan & Phasing Schedule to be necessary to complete the Defaulted Obligations, and such segregated funds shall be used, to the extent sufficient, to pay the costs of performance of the Defaulted Obligations; in addition City shall be entitled to 10% interest on the un-reimbursed portion of costs incurred by the City in connection with the design and construction of the City-Critical Backbone Infrastructure (if any), as a first and superior priority for disbursement from the Project Fund until such times as the costs of performance of the Defaulted Obligations are fully satisfied.; (ii) to the extent funds in the Project Fund and the Facilities Financing Fund are insufficient to pay the costs of completion of the Defaulted Obligations by the City, the City shall be entitled to segregate the amount of said funds estimated in the then-current Master Plan & Phasing Schedule to be necessary to complete the Defaulted Obligations, and such segregated funds shall be used, to the extent sufficient, to pay the costs of performance of the Defaulted Obligations, and 10% interest on the un-reimbursed portion of said costs, as a first and superior priority for disbursement from the Facilities Financing Fund until such time as the costs of performance of the Defaulted Obligations are fully satisfied; and (iii) to the extent full reimbursement for the costs of performance of the Defaulted Obligations, and interest accrued thereon, cannot be obtained from the Project Fund or the Facilities Financing Fund within two (2) years of the City incurring such costs, the City shall be entitled to exercise its right to demand and obtain from Developer reimbursement of such costs and interest.

13.4 Event of Default by City. An "**Event of Default**" by City means any one (1) or more of the following occurrences:

13.4.1 City shall materially breach any of its obligations to Developer herein (the Parties acknowledging that the failure to make any payment to Developer, without the right to do so hereunder, shall be deemed to be a material breach by City) or shall fail to keep, observe or perform any material covenant, agreement, term or provision of this Agreement to be kept, observed or performed by City. However, Developer must provide written notice to City setting forth the nature of the breach or failure and the actions, if any, required by City to cure such breach or failure. City shall be deemed in "material breach" of its obligations set forth in this Agreement if City has failed to take action and cure the default within thirty (30) days after the date of such notice (for monetary defaults), within forty-five (45) days after the date of such notice (for non-monetary defaults), or within such other time as may be specifically provided in this Agreement. If, however, a non-monetary default cannot be cured within such forty-five (45) day period, as long as City does each of the following, then City shall not be deemed in material breach of this Agreement:

- (a) notifies Developer in writing with a reasonable explanation as to the reasons the asserted default is not curable within the forty-five (45) day period;
- (b) notifies Developer of City's proposed course of action to cure the default;
- (c) promptly commences to cure the default within the forty-five (45) day period;
- (d) makes periodic reports to Developer as to the progress of the program of cure; and
- (e) diligently prosecutes such cure to completion,

Notwithstanding the foregoing, City shall be deemed in material breach of its obligations set forth in this Agreement if said breach or failure involves the payment of money but City has failed to completely cure said monetary default within thirty (30) days (or such other time as may be specifically provided in this Agreement) after the date of such notice.

13.4.2 City applies for the appointment of a receiver, trustee or liquidator of City or of all or a substantial part of its assets, files a voluntary petition in bankruptcy, or admits in writing its inability to pay its debts as they come due, makes a general assignment for the benefit of creditors, files a petition or an answer seeking reorganization or arrangement with creditors or take advantage of any insolvency law or files an answer admitting the material allegations of the petition filed against City in any bankruptcy, reorganization, or insolvency proceeding, or if an order, judgment or on the application of a creditor, a decree shall be entered by any court of competent jurisdiction adjudicating City bankrupt or insolvent or approving a petition seeking reorganization of City or appointing a receiver, trustee, or liquidator of City or of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect any period of thirty (30) consecutive days.

13.5 Remedies of Developer. Upon the occurrence and during the continuance of an Event of Default by City, Developer's exclusive remedies shall be an action/arbitration, otherwise consistent with the requirements of the Amended DA and this Agreement, for specific performance. For purposes of this Agreement, the specific performance remedy shall include and allow for the recovery of sums due and owing to Developer (including interest permitted under this Agreement).

13.6 Survival. City's and Developer's obligations to make payments pursuant to Developer or the City, as the case may be, under this Agreement shall survive termination of the Agreement.

ARTICLE XIV
DISPUTE RESOLUTION

14.1 **JUDICIAL REFERENCE OF DISPUTES.** IF ANY CLAIM OR CONTROVERSY THAT ARISES OUT OF OR RELATES TO, DIRECTLY OR INDIRECTLY, THIS AGREEMENT OR ANY DEALINGS BETWEEN THE PARTIES CANNOT BE SETTLED BY THE PARTIES WITHIN THIRTY (30) DAYS AFTER EITHER PARTY IS FIRST PROVIDED WRITTEN NOTICE OF THE CLAIM OR CONTROVERSY BY THE OTHER, THE MATTER SHALL BE DETERMINED BY JUDICIAL REFERENCE PURSUANT TO THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 THROUGH 645.1, EXCEPT AS OTHERWISE MODIFIED HEREIN. THE PARTIES SHALL COOPERATE IN GOOD FAITH TO ENSURE THAT ALL NECESSARY AND APPROPRIATE PARTIES ARE INCLUDED IN THE JUDICIAL REFERENCE PROCEEDING. IN THE EVENT THAT A LEGAL PROCEEDING IS INITIATED BASED ON ANY SUCH DISPUTE, THE FOLLOWING SHALL APPLY: 1) THE PROCEEDING SHALL BE BROUGHT AND HELD IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED UNLESS THE PARTIES AGREE TO A DIFFERENT VENUE; 2) THE PARTIES SHALL USE THE PROCEDURES ADOPTED BY JAMS FOR JUDICIAL REFERENCE AND SELECTION OF A REFEREE (OR ANY OTHER ENTITY OFFERING JUDICIAL REFERENCE DISPUTE RESOLUTION PROCEDURES AS MAY BE MUTUALLY ACCEPTABLE TO THE PARTIES); 3) THE REFEREE MUST BE A RETIRED JUDGE OR LICENSED ATTORNEY WITH SUBSTANTIAL EXPERIENCE IN RELEVANT REAL ESTATE MATTERS; 4) THE PARTIES TO THE JUDICIAL REFERENCE PROCEDURE SHALL AGREE UPON A SINGLE REFEREE WHO SHALL HAVE THE POWER TO TRY ANY AND ALL OF THE ISSUES RAISED, WHETHER OF FACT OR OF LAW, WHICH MAY BE PERTINENT TO THE MATTERS IN DISPUTE, AND TO ISSUE A STATEMENT OF DECISION THEREON. ANY DISPUTE REGARDING THE SELECTION OF THE REFEREE SHALL BE RESOLVED BY JAMS OR THE ENTITY PROVIDING THE REFERENCE SERVICES, OR, IF NO ENTITY IS INVOLVED, BY THE COURT IN ACCORDANCE WITH CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 AND 640; 5) THE REFEREE SHALL BE AUTHORIZED TO PROVIDE ALL REMEDIES AVAILABLE IN LAW OR EQUITY APPROPRIATE UNDER THE CIRCUMSTANCES OF THE CONTROVERSY; 6) THE REFEREE MAY REQUIRE ONE OR MORE PRE-HEARING CONFERENCES; 7) THE PARTIES SHALL BE ENTITLED TO DISCOVERY, AND THE REFEREE SHALL OVERSEE DISCOVERY AND MAY ENFORCE ALL DISCOVERY ORDERS IN THE SAME MANNER AS ANY TRIAL COURT JUDGE; 8) A STENOGRAPHIC RECORD OF THE REFERENCE PROCEEDINGS SHALL BE MADE; 9) THE REFEREE'S STATEMENT OF DECISION SHALL CONTAIN FINDINGS OF FACT AND CONCLUSIONS OF LAW TO THE EXTENT APPLICABLE; 10) THE REFEREE SHALL HAVE THE AUTHORITY TO RULE ON ALL POST-HEARING MOTIONS IN THE SAME MANNER AS A TRIAL JUDGE; 11) THE PARTIES SHALL PROMPTLY AND DILIGENTLY COOPERATE WITH EACH OTHER AND THE REFEREE AND PERFORM SUCH ACTS AS MAY BE NECESSARY FOR AN EXPEDITIOUS RESOLUTION OF THE DISPUTE; 12) SUBJECT TO SECTION 15.14, EACH PARTY TO THE JUDICIAL REFERENCE PROCEEDING SHALL BEAR ITS OWN ATTORNEYS' FEES AND COSTS IN CONNECTION WITH SUCH PROCEEDING; AND 13) THE STATEMENT OF DECISION OF THE REFEREE UPON ALL OF THE ISSUES CONSIDERED BY THE

REFEREE SHALL BE BINDING UPON THE PARTIES, AND UPON FILING OF THE STATEMENT OF DECISION WITH THE CLERK OF THE COURT, OR WITH THE JUDGE WHERE THERE IS NO CLERK, JUDGMENT MAY BE ENTERED THEREON. THE DECISION OF THE REFEREE SHALL BE APPEALABLE AS IF RENDERED BY THE COURT. THIS PROVISION SHALL IN NO WAY BE CONSTRUED TO LIMIT ANY VALID CAUSE OF ACTION, WHICH MAY BE BROUGHT BY ANY OF THE PARTIES. THE PARTIES ACKNOWLEDGE AND ACCEPT THAT THEY ARE WAIVING THEIR RIGHT TO A JURY TRIAL.

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CITY'S INITIALS

14.2 **ARBITRATION OF DISPUTES.** RECOGNIZING THAT TIMELY AND EFFECTIVE ENFORCEMENT OF THIS AGREEMENT IS CRITICAL TO THE PARTIES, IF FOR ANY REASON THE JUDICIAL REFERENCE PROCEDURES IN SECTION 14.1 ARE LEGALLY UNAVAILABLE AT THE TIME A DISPUTE WOULD OTHERWISE BE REFERRED TO JUDICIAL REFERENCE, THEN, UPON THE WRITTEN DEMAND OF EITHER PARTY, THE DISPUTE SHALL BE RESOLVED BY BINDING ARBITRATION IN ACCORDANCE WITH THE AMERICAN ARBITRATION ASSOCIATION'S COMMERCIAL ARBITRATION RULES, EXCEPT AS FOLLOWS: THE ARBITRATION SHALL BE CONDUCTED BY ONE ARBITRATOR WHO IS A RETIRED SUPERIOR, APPELLATE OR FEDERAL COURT JUDGE OR AN ATTORNEY WITH NOT LESS THAN FIFTEEN (15) YEARS EXPERIENCE IN REAL ESTATE MATTERS; A LIST OF POTENTIAL ARBITRATORS WHO CAN ENSURE THAT ANY DISPUTE CONCERNING A NON-MONETARY DEFAULT CAN BE HEARD AND DETERMINED WITHIN NINETY (90) DAYS OF NOTICE ARBITRATION SHALL BE APPROVED BY THE PARTIES AS OF THE SECOND EFFECTIVE DATE. THE JUDGMENT UPON THE ARBITRATION AWARD SHALL BE FINAL AND BINDING UPON THE PARTIES (EXCEPT IN CASE OF FRAUD OR UNDISCLOSED CONFLICT OF INTEREST ON THE PART OF THE ARBITRATOR) AND MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF. THE ARBITRATOR SHALL BE EMPOWERED HEREBY TO ENTER SPECIFIC PERFORMANCE ORDERS AS SHALL, IN ITS DISCRETION, BE NECESSARY TO ENSURE THE TIMELY PERFORMANCE OF THE OBLIGATIONS OF THIS AGREEMENT BY EITHER OR BOTH OF THE PARTIES, SO AS TO AVOID THE DELAYS ASSOCIATED WITH OBTAINING SUCH RELIEF PURSUANT TO COURT ACTION. THE ARBITRATOR MAY ALLOCATE THE FEES AND COSTS OF ARBITRATION BETWEEN THE PARTIES AND MAY AWARD COSTS, INCLUDING REASONABLE ATTORNEYS' FEES, TO EITHER PARTY. IN THE ABSENCE OF A DETERMINATION BY THE ARBITRATOR, EACH PARTY SHALL BEAR ITS PROPORTIONATE SHARE OF THE COSTS OF THE ARBITRATION AND THE ARBITRATOR AND ALL OF ITS OWN COSTS. NOTHING CONTAINED IN THIS SECTION SHALL RESTRICT ANY PARTY FROM SEEKING EQUITABLE RELIEF FROM THE COURT SYSTEM PENDING RESOLUTION OF THE ARBITRATION.

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DEVELOPER'S INITIALS

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CITY'S INITIALS

ARTICLE XV
GENERAL PROVISIONS

15.1 Notices. All notices, requests, demands, approvals, consents or other communications required or permitted by this Agreement (except as expressly provided elsewhere in this Agreement with respect to matters to be approved by City), shall be addressed as follows and shall be in writing and shall be sent by (a) recognized overnight courier, or (b) facsimile or telecopy and shall be deemed received (i) if delivered by overnight courier, when received as evidenced by a receipt, or (ii) if given by facsimile or telecopy, when sent with confirmation of receipt. Any notice, request, demand, direction or other communication sent by facsimile or telecopy must also be sent within forty-eight (48) hours by letter mailed or delivered in accordance with the foregoing.

To Developer:	Heritage Fields El Toro, LLC 25 Enterprise, Suite 400 Aliso Viejo, California 92656 Attention: Corporate Counsel Telephone: (949) 349-1000 Facsimile: (949) 349-1097
With copies to:	Allen Matkins Leck Gamble Mallory & Natsis LLP 1900 Main Street, Fifth Floor Irvine, California 92614 Attn: Michael Alvarado, Esq. Telephone No.: (949) 553-1313 Facsimile No.: (949) 553-8354
To City:	City of Irvine City Hall One Civic Center Plaza Irvine, California 92623-9575 Attention: City Manager Telephone No.: (949) 724-6451 Facsimile No.: (949) 724-6440
With a copy to:	Rutan & Tucker, LLP 611 Anton Blvd., Suite 1400 Costa Mesa, California 92626 Attention: Jeff Melching, Esq. Telephone No.: (714) 641-5100 Facsimile No.: (714) 546-9035

Notice of change of address shall be given by written notice and in the manner detailed in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or other communication sent.

15.2 Entire Agreement. This Agreement, together with the Exhibits attached hereto and the Amended DA (and the exhibits attached thereto), shall constitute the entire agreement between the parties hereto concerning the subject matter hereof and shall supersede all other prior or contemporaneous agreements, written or oral, between the parties hereto and relating to the activities undertaken by Developer hereunder. Unless specifically stated in this Agreement, the terms of this Agreement are not meant to supersede or modify any terms of the Amended DA. In the event there is a conflict between the terms of the Amended DA and this Agreement, the Amended DA shall govern.

15.3 Modifications. No modification hereof shall be effective unless made by supplemental agreement in writing executed by the parties hereto.

15.4 Governing Law. This Agreement is made pursuant to, and shall be governed by and construed in accordance with, the laws of the State of California.

15.5 No Waiver; Cumulative Remedies. The failure of either Party to seek redress for violation, or to insist upon the strict performance of any covenant, agreement, provision or condition at subsequent times shall not constitute a waiver of the terms or of any other covenant, agreement, provision or condition, and either Party shall have all remedies provided herein and by applicable law with respect to any subsequent act which would have originally constituted a violation.

15.6 Assignment; Binding Agreement. Except as provided in this Section and as otherwise permitted herein with respect to an assignment and delegation of certain duties to the Licensed Affiliate, none of the rights, interests, duties or obligations created by this Agreement may be assigned, transferred or delegated in whole or in part by Developer or City without the prior written consent of the other Party to this Agreement, and any such purported assignment, transfer or delegation without such prior written consent shall be void. Notwithstanding the foregoing sentence, Developer shall have the right, without City's consent, to assign this Agreement and/or its rights hereunder to any entity to whom Developer, with the City's consent (as required by the Amended DA), assigns the Amended DA; provided, however, that (i) the assignee of Developer shall, by written instrument, assume all obligations of such Party hereunder, and (ii) Developer shall deliver a copy of the fully executed assignment and assumption agreement to the City. Subject to the restrictions on assignment set forth herein, this Agreement shall inure to the benefit of and be binding upon City and Developer and their respective heirs, executors, legal representatives, successors and assigns. Whenever in this instrument a reference is made to City or Developer, such reference shall be deemed to include a reference to their respective heirs, executors, legal representatives, successors and assigns.

15.7 Further Instruments. In connection with this Agreement, as well as all transactions contemplated by this Agreement, each Party agrees to execute and deliver such additional documents and instruments and perform such additional acts as may be necessary or

appropriate to effectuate, carry out and perform all the terms, provisions and conditions of this Agreement and all transactions contemplated by it.

15.8 Common Defense to Third Party Claims. In the event any third-party claims, actions, suits and/or proceedings ("**Third Party Claims**") are brought against City and/or Developer in connection with the matters described in this Agreement, City and Developer may elect to cooperate with respect to the defense of such Third Party Claims.

15.9 Costs and Expenses. Except as otherwise expressly provided herein, each Party shall pay for any and all costs and expenses incurred by such Party in connection with the preparation, negotiation, implementation of and performance under this Agreement.

15.10 Authority to Implement. From time to time, Developer shall designate authorized signatories of Developer (the "**Authorized Signatories**") by written notice to City. Except with respect to decisions regarding the execution, amendment or termination of this Agreement, or the initiation of proceedings to enforce this Agreement, all decisions, consents, approvals and other actions required in connection with this Agreement and implementation of the agreements, proposals, schedules, tasks and documents described herein or contemplated hereby shall be undertaken by the City Manager or designee on behalf of City and by the Authorized Signatories on behalf of Developer. Notwithstanding the foregoing, the Authorized Signatories and the City Manager shall be authorized to make decisions and execute amendments to this Agreement with respect to activities and expenditures set forth in a budget previously approved by the City or Developer, respectively.

15.11 Force Majeure. Developer's performance of any services, obligations or undertakings under this Agreement shall be postponed in the event Developer is prevented, delayed or hindered by causes beyond its reasonable control (an event of "**Force Majeure Delay**") including without limitation any delay caused by any action, inaction, order, ruling, moratorium, regulation, statute, condition or other decision of any private party or Governmental Authorities having jurisdiction over any of the activities or matters for which Developer is responsible under this Agreement (including, without limitation, the Backbone Infrastructure Activities), or by delays in inspections or in issuing approvals by private parties or permits by Governmental Authorities, or by fire, flood, inclement weather, act of God, strikes, lockouts or other labor or industrial disturbance (whether or not on the part of agents or employees of Developer or City), civil disturbance, order of any government, court or regulatory body claiming jurisdiction or otherwise, act of public enemy, war, riot, sabotage, blockage, embargo, failure or inability to secure materials, supplies or labor through ordinary sources by reason of shortages or priority, discovery of Hazardous Materials, earthquake, or other natural disaster, delays caused by any litigation brought or enforced by any Party or by a third party, and any act or failure to act by City or its representative, employees, agents, independent contractors, consultants and/or any other person performing or required to perform services on behalf of City. In furtherance of the foregoing, a Force Majeure Delay includes physical or legal constraints (such as, for example, areas located within LIFOCs that cannot be disturbed at such time, areas in which acquisitions of rights of way or easements are necessary to obtain, remove or relocate but have not been or can not be obtained, removed or relocated and/or necessary entitlements or approvals from Governmental Authorities that are required to commence or construct but have not yet been obtained). Developer agrees to use Commercially Reasonable Efforts to mitigate

any Force Majeure Delays, provided that the precise manner in which a Force Majeure Event is to be mitigated is subject to Developer's sole control.

15.12 Interpretation. The headings of this Agreement are inserted for convenience and identification only and are not intended to describe, interpret, define or limit the scope, extent, or intent of this Agreement or any provisions hereof. All references herein to Articles or Sections shall refer to the corresponding Articles or Sections of this Agreement unless specific reference is made to Articles or Sections of another document or instrument. Whenever the context requires, the gender of all words used in this Agreement shall include the masculine, feminine and neuter, and the number of words shall include the singular and the plural.

15.13 Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

15.14 Attorneys' Fees. In any judicial proceeding, arbitration, or mediation between the City and Developer seeking enforcement of any of the terms and provisions of this Agreement (collectively, an "Action"), the prevailing Party in such Action shall recover all of its actual and reasonable costs and expenses (whether or not the same would be recoverable pursuant to Code of Civil Procedure Section 1033.5 or Civil Code Section 1717 in the absence of this Agreement), including expert witness fees, attorney's fees, and costs of investigation and preparation prior to the commencement of the Action. However, such recovery shall not exceed the dollar amount of the actual costs and expenses of the Party from whom such recovery is sought for such same Action ("Non-Prevailing Party's Expenses"), and such prevailing Party shall not recover any costs and expenses in excess of the Non-Prevailing Party's Expenses. The right to recover such costs and expenses shall accrue upon commencement of the Action, regardless of whether the Action is prosecuted to a final judgment or decision.

15.15 Exhibits. The Exhibits, including Exhibit A through H, inclusive, attached hereto are hereby incorporated herein by this reference.

15.16 No Third-Party Beneficiary. The covenants and agreements and any and all other terms and provisions herein contained, express or implied, shall be only for the benefit of the Parties hereto and their respective successors and assigns, and such covenants, agreements, terms, and provisions shall not inure to the benefit of the obligees of any indebtedness or any other Party, whomsoever, deemed to be a third-party beneficiary of this Agreement.

15.17 Rights of Lenders. No breach or violation of the terms of this Agreement shall defeat or render invalid the lien of any mortgage, deed of trust or similar instruments encumbering the Property, or any portion thereof, and securing a loan made in good faith and for value; provided, however, that this Agreement and all provisions hereof shall be binding upon and effective against any subsequent owners of any portion of the Property whose title is acquired by foreclosure, trustee's sale, or other remedies provided in such mortgage or deed of trust, but such subsequent owners shall take title free and clear of any violations by their respective predecessors-in-interest of the terms of this Agreement occurring prior to such transfer of title.

15.18 Limitation of Developer's Liability. The Parties agree that, notwithstanding any other provision of this Agreement or any rights which City may otherwise have at law, equity or by statute, whether based on contract or some other claim, any liability of Developer to City arising out of this Agreement, the Backbone Infrastructure Contracts and/or the activities contemplated under either this Agreement or the Backbone Infrastructure Contracts shall be satisfied only from Developer's interest in the then-owned Developer Property and the proceeds thereof. No partner, member, employee, officer, director, beneficiary, affiliate, or direct or indirect owner of Developer or any of Developer's affiliates has any personal liability for any of Developer's covenants or other agreements hereunder or in connection with the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, if Developer is or becomes a partnership, the general or limited partners, employees, agents, or affiliates of Developer shall not in any manner be personally or individually liable for the obligations of Developer hereunder or for any claims related to this Agreement. If Developer is or becomes a corporation, no officer, employee, agents or affiliates of Developer shall in any manner be personally or individually liable for the obligations of Developer hereunder or for any claim in any way related to this Agreement.

15.19 No Partnership/Fiduciary Relationship. The Parties acknowledge and agree that the relationship created by this Agreement between Developer and City is one of contract only, and that no partnership, joint venture or other fiduciary or quasi-fiduciary relationship is intended or in any way created hereby.

15.20 No Recordation. No Party shall file or record any instrument or document relative to this Agreement in the public records of any County or State at any time.

15.21 Estoppel Certificate. No more than two (2) times per year upon written request of a Party to this Agreement, the other Party shall deliver to the requesting Party and at such Party's request, to such party's mortgagee, prospective mortgagee or prospective purchaser (including a ground lessee), an estoppel certificate or statement stating whether: (a) it knows of any default under this Agreement; (b) to its knowledge, the Agreement has been assigned, modified or amended in any way (and if it has, then stating the nature thereof); and (c) to its knowledge, this Agreement, as of that date, is in full force and effect. Any such statement or certificate may be conclusively relied upon by the Party requesting the statement or certificate.

15.22 Additional Reasonable Costs and Expenses. To the extent Developer incurs Reasonable Costs and Expenses for performing duties under this Agreement, other than those described in Articles V, VI, VII and VIII, such Reasonable Costs and Expenses: (i) shall be shared proportionately by the parties with respect to Developer obligations that serve or benefit both the Developer Property and the City Property; and (ii) shall be paid by a Party if the Developer obligations serve or benefit only that Party's portion of the Property.

15.23 Severability. If any term, provision, covenant, or condition of this Agreement is invalidated by a timely referendum, determined by a court of competent jurisdiction or by a referendum to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect, unless and to the extent the rights and obligations or the benefits of the bargain of any Party have been materially altered or abridged by such holding or

action, as determined by the Party who would have benefited, in which case, in accordance with the provisions of Section 15.26, the MIA shall govern.

15.24 Effect of a Challenge. Because the Parties may not be able to anticipate or expressly provide for every future contingency, the Parties hereby state their general intention that should this Agreement or the Amended DA not be effective or become ineffective, the MIA and the Tri-Party Agreement shall govern the Parties' relationship, and that this Agreement shall be construed to effectuate that intention. If a referendum or third-party action or other legislative or legal action is instituted which might affect or challenge the validity or enforceability of the enacting ordinance or this Agreement including its Exhibits or the Amended DA, or any provision of this Agreement or the Amended DA, or any document implementing the provisions contained in this Agreement or the Amended DA including the Exhibits to each such agreement (collectively, a "**Third-Party Legal Challenge**"), this Agreement shall remain in full force and effect subject to (i) any injunction issued by a court of competent jurisdiction, and/or (ii) the legal effect of any voter initiated legislative action. If a Third-Party Legal Challenge results in a temporary or preliminary order enjoining the enforcement of or performance of all or any provision under this Agreement or the Amended DA, or an adverse final adjudication or legislative action concerning the validity or enforceability of all or any portion of this Agreement or the Amended DA, and such portion of this Agreement is not severable under Section 15.25 or such portion of the Amended DA is not severable under Section 20.7 of the Amended DA, the MIA (and/or the Tri-Party Agreement) shall remain in full force and effect, and nothing shall impair the rights accorded and vested by the MIA (and/or the Tri-Party Agreement).

(Signatures on Next Page)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

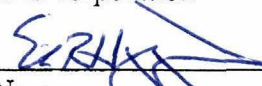
"Developer":

HERITAGE FIELDS EL TORO, LLC,
a Delaware limited liability company

By: Heritage Fields LLC,
a Delaware limited liability company

By: Lennar-LNR Heritage Fields, LLC,
a Delaware limited liability company

By: Lennar Homes of California, Inc.,
a California corporation

By: 
Name: _____
Title:

Erik R. Higgins Vice President

"CITY":

CITY OF IRVINE,
a California charter city

By: 
Sukhee Kang, Mayor

ATTEST:


Deputy City Clerk

APPROVED AS TO FORM:

City Attorney

[Signatures Continued on Next Page]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

"Developer":

HERITAGE FIELDS EL TORO, LLC,
a Delaware limited liability company

By: Heritage Fields LLC,
a Delaware limited liability company

By: Lennar-LNR Heritage Fields, LLC,
a Delaware limited liability company

By: Lennar Homes of California, Inc.,
a California corporation

By: _____
Name: _____
Title: _____

"CITY":

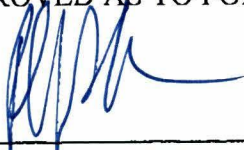
CITY OF IRVINE,
a California charter city

By: _____
Sukhee Kang, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney

[Signatures Continued on Next Page]

JOINDER

Orange County Great Park Corporation, a California non-profit corporation ("GPC"), hereby acknowledges that it has received originally executed counterparts or a fully executed original of the foregoing Amended and Restate Master Implementation Agreement ("Agreement") and agrees to be bound by and perform any covenants of the GPC made therein. Without limiting the generality of the foregoing, the GPC hereby agrees (and by their execution of this Joinder below, Developer and City hereby agree) that the Tri-Party Agreement is hereby amended and restated in full in this Agreement and that the Tri-Party Agreement is no longer of any force or effect (subject to Section 15.24 of the Agreement, Effect of a Challenge).

Dated: Dec 27 2010

ORANGE COUNTY GREAT PARK
CORPORATION, a California non-profit
corporation

By: [Signature]
Name: Larry Agran
Title: Chair, Great Park Board

By: [Signature]
Name: Sukhee Kang
Title: Mayor

"Developer":

HERITAGE FIELDS EL TORO, LLC,
a Delaware limited liability company

By: Heritage Fields LLC,
a Delaware limited liability company

By: Lennar-LNR Heritage Fields, LLC,
a Delaware limited liability company

By: Lennar Homes of California, Inc.,
a California corporation

By: [Signature]
Name: Erik R. Higgins
Title: Vice President

[Signature Continued on Next Page]

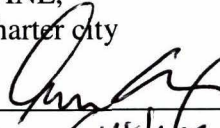
"CITY":

CITY OF IRVINE,
a California charter city

By: _____

Name: _____

Its: _____


Sukhee Kang
Mayor

ATTEST:


City Clerk

Deputy

APPROVED AS TO FORM:


City Attorney

EXHIBIT A

LIST OF REASONABLE COSTS AND EXPENSES

Reasonable Costs and Expenses mean the total actual costs and expenses incurred by Developer in the performance of its obligations under the Agreement including, without limitation, the following, except to the extent prohibited by the CFD Act or applicable federal laws:

1. The costs of all permits, fees, entitlements and licenses and other approvals required by local, state or federal governmental agencies in order to undertake and complete the development;
2. The aggregate amount of all contracts and sub-contracts for the furnishing of labor, materials, tools and/or equipment in connection with the construction of the Backbone Infrastructure, including the costs of acquisition and/or relocation from third parties of any necessary right-of-way or easements for such Backbone Infrastructure (it being understood that any land owned by Developer or City and needed for right-of-way will be dedicated to the City by Developer, without compensation to Developer or City);
3. The direct cost, including, without limitation, progress or partial payments to or for any and all labor (including overtime), materials, tools and equipment actually furnished in connection with the construction of the on and off-site improvements;
4. The costs of any and all professional and technical services rendered which are related to the construction of the project, including, but not limited to, accounting, legal, architectural, engineering, inspection, materials testing, consulting services and similar professional services;
5. The costs of off-site and on-site construction supervision, inspection and testing;
6. The cost of payroll contributions, bonuses, taxes and fringe benefits normally paid on behalf of labor and construction supervision that are reasonably allocable to this project plus all contributions to pension or other related retirement plans;
7. The cost of any worker's compensation insurance, comprehensive general liability insurance, or other insurance incurred by the Developer reasonably allocable to the construction;
8. The premium for any completion and/or labor and material bonds required by any local government agencies, and/or any construction lender;
9. All direct costs incurred in purchasing job cost reports from a data processing service bureau;
10. All job site transportation expenses incurred by the Developer in the construction of the Backbone Infrastructure Facilities ("Facilities") and the related improvements;

11. All costs of development financing, whether secured or unsecured, interim or permanent, such as interest, points, standby fees, discounts, fees for letters of credit, accommodation fees, contingency fees, guarantee fees and all other fees and payments however denominated and commissions in connection with such financing and all other costs on connection with the creation and implementation of such financing, such as (but without limitation) broker's fees, legal fees, appraiser's fees and trustee fees and expenses in connection with any of the foregoing as well as any repayments of principal of the development financing;
12. All costs of the Demolition Work;
13. Taxes (including without limitation real property taxes), licenses, permits, levies, royalties, duties, excise and assessments; completion and/or labor and material bonds; casualty, surety bonds and/or other insurance premiums (including without limitation the cost of worker's compensation insurance, comprehensive general liability insurance and title insurance), and any other fees paid to governmental agencies for obtaining governmental approvals for the Backbone Infrastructure;
14. Landscaping and other site improvements;
15. The costs incurred in preparing plans for Backbone Infrastructure, including planning and engineering expenses and any soils engineering;
16. The costs related to construction staking;
17. Other costs directly related to the construction and/or acquisition of the Backbone Infrastructure, such as costs of payment and performance bonds and costs of repairs necessary for the governmental entity's acceptance of the Backbone Infrastructure; and
18. Project security until the end of construction.

EXHIBIT B

MASTER PHASING PLAN & SCHEDULE
(INCLUDING INITIAL DEMAND AND PROCESSING SCHEDULE)

EXHIBIT "B"

Master Phasing Plan & Schedule - Phase 1⁽⁶⁾ (Years 1-5 Summary)

Reference Location ⁽¹⁾	Year 1 Joint Backbone Infrastructure ⁽²⁾ (Engineering, Permitting, Construction)	Cost Estimate (W/ Management Fees) ⁽³⁾
Segment 24E	Bee Canyon Channel - "LV" Street to Marine Way (Includes NTS Basin) ⁽⁴⁾	\$ 5,620,000
Segment 30	Reach B Sewer from "LV" to Railroad (Includes Reclaimed Water from Marine Way to Railroad) ⁽⁴⁾	\$ 4,260,000
Exhibit "B" Pg 3	Runway removal and stockpile on OCGP property - Ag Area (Phase 1)	\$ 500,000
	Total for Year 1	\$ 10,380,000
	Year 2 Joint Backbone Infrastructure⁽²⁾ (Engineering, Permitting, Construction)	
Segment 7	Trabuco - SR133 to "O" Street	\$ 4,710,000
Segment 6	Storm Drain Only: "LM" Between Trabuco and "LW" St and "LW" Between "LM" St and "Y" St	\$ 1,040,000
Segment 6	Sewer Only: "LM" Between Trabuco and "LV" Street; "LV" between "LM" and "Y" St	\$ 310,000
Segment 6	Trabuco - Between "O" Street and "Y" Street	\$ 4,270,000
Segment 24D	"Y" Street - Trabuco to "LV" Street	\$ 2,720,000
Segment 2A	Domestic Water Only: "O" Street - "LA" Street to "LQ" Street	\$ 270,000
Segment 32	Domestic Water Only: "O" Street - "LQ" Street to Trabuco	\$ 220,000
Exhibit "B" Pg 3	Runway removal and stockpile on OCGP property - Sports Demo (Phase 2)	\$ 1,000,000
	Total for Year 2	\$ 14,540,000
	Year 3 Joint Backbone Infrastructure⁽²⁾⁽⁵⁾ (Engineering, Permitting, Construction)	
Segment 9	Bee Canyon Channel - Marine Way to Railroad ⁽⁴⁾	\$ 3,310,000
Segment 3C	Reach A Sewer from Marine Way south ⁽⁴⁾	\$ 1,510,000
Segment 3A & 3B	Undergrounding Dry Utility Transmission from Trabuco Substation to south of "LV" Street	\$ 2,690,000
Exhibit "B" Pg 3	Runway removal and stockpile on OCGP property - Lake Demo (Phase 3)	\$ 1,000,000
	Total for Year 3	\$ 8,510,000
	Years 4 and 5 Joint Backbone Infrastructure⁽²⁾ (Engineering, Permitting, Construction)	
Segment 2A	"O" Street - "LA" Street to "LQ" Street	\$ 1,650,000
Segment 32	"O" Street - Trabuco to "LQ" Street	\$ 3,810,000
Exhibit "B" Pg 3	Runway removal and stockpile on OCGP property	\$ 1,000,000
	Total for Years 4 and 5	\$ 6,460,000
	Total	\$ 39,890,000

(1) Segments are more particularly depicted in the document entitled "March 2009 Update to Backbone Infrastructure Cost Estimates By Segment". Runway removal and stockpile as depicted on Exhibit "B" page 3 dated 7-08-09.

(2) Commencement and completion timing subject to Article III (Including Section 3.7), 4.2, 4.3, and 15.11.

(3) Costs rounded based on the document entitled "March 2009 Update to Backbone Infrastructure Cost Estimate By Segment". Regulatory Permit mitigation costs are capped at \$1.3 M. Runway removal and stockpile costs are capped at \$3.5 M.

(4) Acquisition cost for 8 acre NTS Basin south of Marine Way and for easements for utilities through County Property at no cost to Heritage Fields.

(5) Backbone Infrastructure costs for Master Phasing Plan & Schedule - Phase 1 (Years 1-5 Summary) are capped at \$40 M. If actual costs for Years 1-3 Backbone Infrastructure have already reached \$40 M prior to the end of Year 3, remaining items to be delayed until Phase 2, i.e. after Year 5.

(6) In furtherance of Section 4.2, no portion of the initial phase of development by the Great Park Corporation (i.e., the Phase I - 500 Acre Park Production Plan) shall impact or otherwise affect jurisdictional waters or wetland areas, the effect of which would require the commencement of any mitigation work or requirements of Heritage Fields under any Regulatory Permits including any work in the Phase Mitigation Area north of Irvine Boulevard (the Parties acknowledging and agreeing that no such mitigation or other work is budgeted for in this Master Phasing Plan & Schedule).

EXHIBIT "B"

SAND CANYON BLVD

SR-133

"O" STREET

"LA" ST

"LM" ST

"LO" ST

"LW" ST

"LV" ST

"LX" ST

"T" STREET

"Y" STREET

TRABUCO ROAD

MARINE WAY

SEWER

1975-1976

LEGEND

SEWER

YEARS 1 - 5

SR-133

"O" STREET

"LA" ST

"LQ" ST

15 "W7"

"X" 57

"T" STREET

TRABUCO ROAD

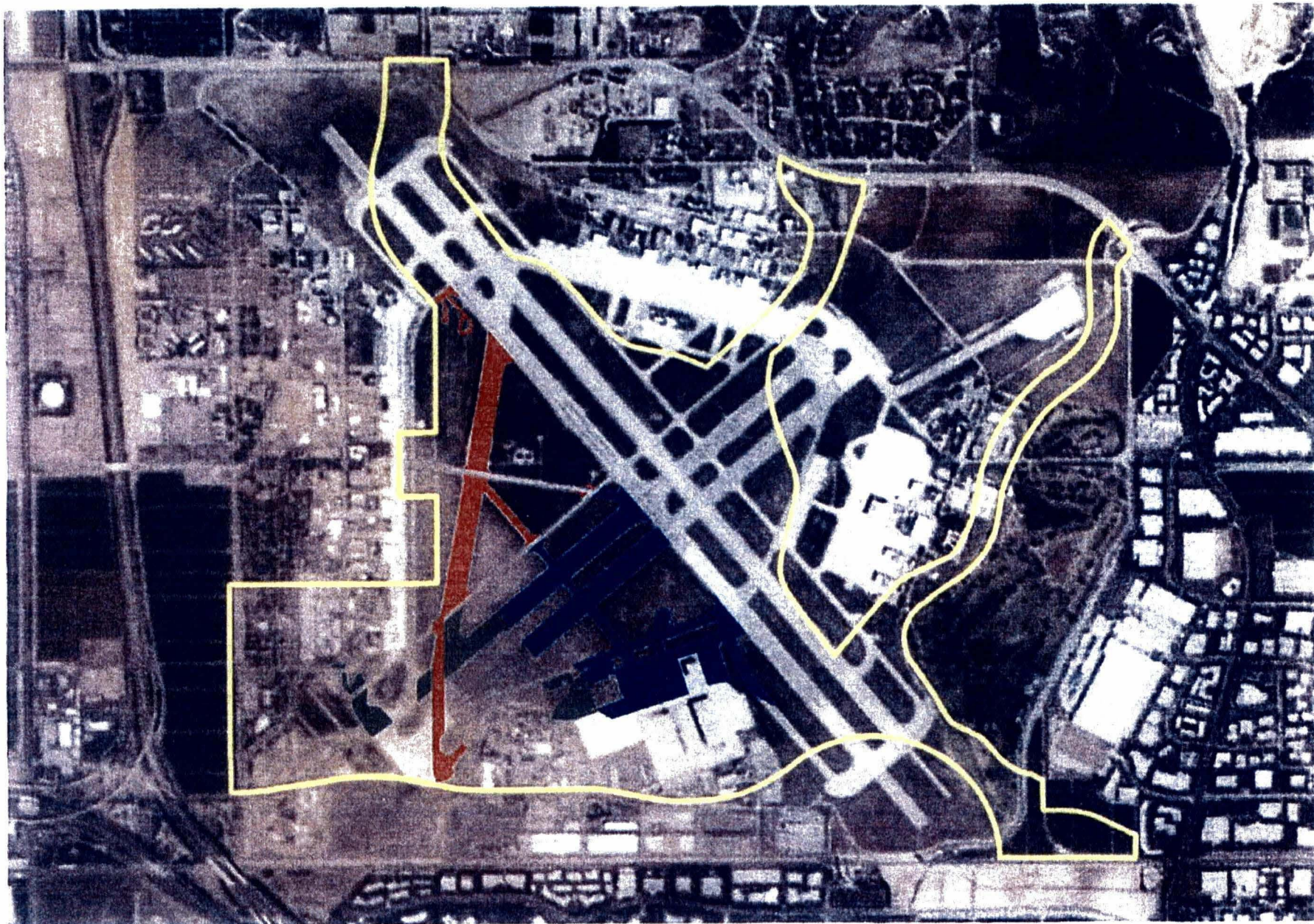
"LW" ST

"LV" ST

"Y" STREET

MARINE WAY

YEARS 1 - 5



Legend





-  Property Boundary
-  Phase 1
-  Phase 2
-  Phase 3

EXHIBIT "B"

Demand & Processing Schedule



07-08-09

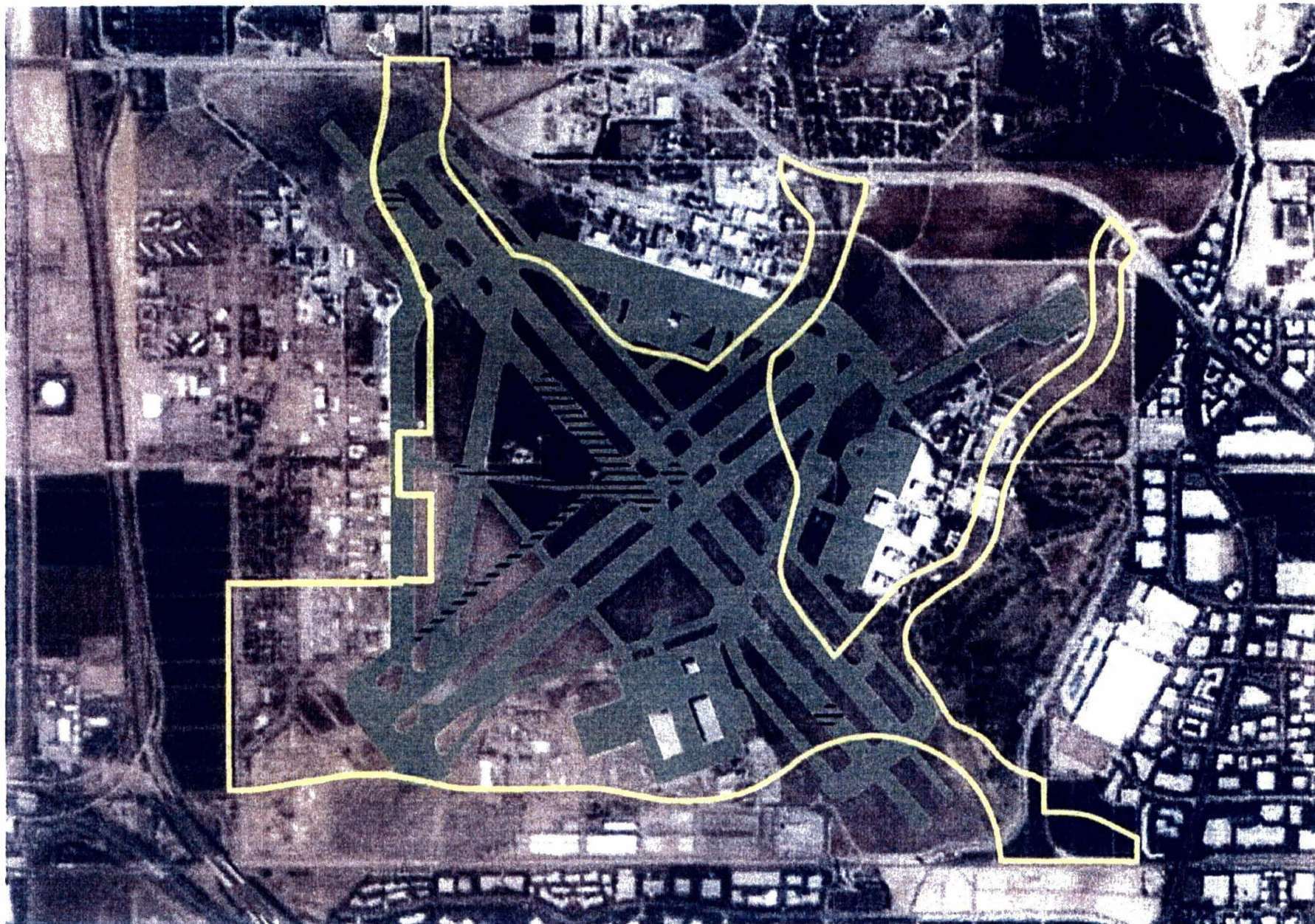
Page 3

EXHIBIT C




BIDDING PROCEDURES

- 1) Prepare Contractor Bid List for applicable trades and distribute to City for review/approval.
- 2) Prepare bid packages to include samples of:
 - a. Standard Contract
 - b. List of Drawings & Specifications
 - c. Trade Specific Scope of Work
 - d. Proposal/Unit Price Form
 - e. Project Schedule
 - f. Site-specific safety requirements
 - g. Logistics
- 3) Provide a copy of generic Bid Package for City's review.
- 4) Finalize the bid documents prior to issuing to contractors.
- 5) Copy and distribute Bid Packages to prequalified contractors.
- 6) Set-up and conduct Pre-Bid meeting and review of Site conditions.
- 7) From the list of prequalified bidders, at least three contract bids will be obtained for each scope of work.
- 8) Clarify any discrepancies or missing information with Architect (or Engineer) and design team resulting from contractor bidding by preparing and issuing Bid Addenda during the bid period to applicable contractors.
- 9) Analyze contractor bids and prepare Bid Analysis for each scope of work to normalize the bids and identify missing items.
- 10) Each Contract will be awarded to the lowest responsible bidder.
- 11) Prepare Bid Award Letter with copy of Bid Analysis.
- 12) Submit Bid Award Letter to City.
- 13) Upon approval of Bid Award Letter by City, prepare and issue contract.

EXHIBIT D
DEPICTION OF RUNWAYS



Legend

-  Area Subject To The Agreement
-  OCGP Corporation Limits
-  City Retained Runways

Depiction of Runways
Exhibit "D"

Great Park
NEIGHBORHOODS



EXHIBIT E

DEPICTION OF DEVELOPER MITIGATION AREA WITHIN CITY PROPERTY

EXHIBIT F

PROTOCOL PLAN FOR UNKNOWN HAZARDOUS MATERIALS
(dated February 2007)

Exhibit F

Protocol Plan for Unknown Hazardous Materials Heritage Fields Irvine, California

Prepared for
Heritage Fields, LLC

February 2007



3 Hutton Centre Drive, Suite 200
Santa Ana, California 92707

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Acronyms

COC	chain-of-custody
QA/QC	quality assurance/quality control
SAP	Sampling and Analysis Plan
HSP	Health and Safety Plan
PPE	personal protective equipment
MCAS	Marine Corps Air Station
DBCRA	Defense Base Closure and Realignment Act
DON	Department of the Navy
FOSL	Finding of Suitability to Lease
FOST	Finding of Suitability to Transfer
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
BRAC	Base Realignment and Closure
DoD	Department of Defense
BCT	Base Closure Team

1. Background

Marine Corps Air Station (MCAS) El Toro was operationally closed in July 1999 in accordance with the Defense Base Closure and Realignment Act (DBCRA) of 1990. Currently, the majority of the buildings/structures/facilities are vacant, and the primary activities at the station are caretaker related and environmental cleanup. The United States (U.S.) Department of the Navy (DON) has prepared Findings of Suitability to Transfer (FOSTs) that document environmental related findings that support the conclusion that real properties made available through the Base Realignment and Closure (BRAC) process at the former MCAS El Toro are suitable for transfer by deed under the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Heritage Fields, LLC has acquired certain properties at the former MCAS El Toro through the FOST process and is now performing development activities in these transferred areas.

The Navy has also prepared a Finding of Suitability to Lease (FOSL) to support the lease of certain areas of the former base not suitable for transfer at this time. These areas are leased by the DON to Heritage Fields pursuant to certain Leases in Furtherance of Conveyance (LIFOCs). Such leased areas encompass locations of concern (LOCs) where further environmental evaluation and/or actions are ongoing or required by the Navy. Heritage Fields is performing development activities in certain portions of the LIFOC areas pursuant to Project Environmental Evaluation Forms (PERFs) that are reviewed and approved by the DON.

2. Overview

This protocol plan is designed to serve two purposes relating to the possibility of discovering unknown hazardous materials during development activities. One purpose of this plan is to meet certain requirements of the Environmental Impact Report completed for the Orange County Great Park dated, May 27, 2003 (EIR). Mitigation Measure HH5 in the EIR requires that, prior to the issuance of a grading permit, a protocol plan must be developed to address the possible discovery of unknown hazardous materials during grading, construction, and/or related development activities. Grading permits will be sought by Heritage Fields for various areas during the course of development activities, and the purpose of this protocol plan as it relates to EIR Mitigation Measure HH5 is further discussed below in Section 2.1.

The other purpose of this plan is to address certain requirements contained in the LIFOCs for leased areas. Section 13.10 in the LIFOCs states that Heritage Fields shall have a "plan for responding to hazardous waste, fuel and other chemical spills prior to commencement of operations." The LIFOC requirement for a contingency plan is intended for operating hazardous waste facilities that may experience emergency situations, including new releases of hazardous materials, fires or explosions, but would not normally apply to development activities. In actuality, the only real risk relating to hazardous materials in the LIFOC areas is the possibility of encountering unknown contamination in the subsurface. Therefore, the effective purpose of the LIFOC contingency plan requirements in this situation is quite similar to the purpose of EIR Mitigation Measure HH5. For this reason, the two plans have been combined in this document. The purpose of this plan as it relates to the LIFOC contingency plan requirement is further discussed below in Section 2.2.

2.1 Protocol Plan Purpose – Mitigation Measure HH5

Environmental Impact Report Mitigation Measure HH5 requires that prior to issuance of a grading permit a protocol plan must be submitted "(including but not limited to worker training, health and safety precautions, additional testing requirements, and emergency notification procedures) in the event that unknown hazardous materials are discovered during grading, construction, and/or related development activities." This plan satisfies this submittal requirement for EIR Mitigation Measure HH5. In the event that unknown hazardous materials due to past military operations not previously identified by the DON are discovered during grading, construction, subsurface demolition and/or related development activities the appropriate protocols, including but not limited to those described in this document, will be implemented. Heritage Fields, LLC shall be responsible for notifying the DON, appropriate regulatory agencies, and the Director of the Irvine Redevelopment Agency in a timely manner (as described in Section 3.5 of this plan) in the event that unknown hazardous materials due to past military operations not previously identified by the DON are discovered.

2.2 Protocol Plan Purpose – LIFOC Contingency Plan

Section 13.10 of the LIFOCs states that Heritage Fields shall have a “plan for responding to hazardous waste, fuel and other chemical spills prior to commencement of operations” in LIFOC areas. This provision goes on to require that “the contingency plan shall be consistent with the provisions of California Code of Regulations, Title 22, Chapter 15, Article 4 beginning with Section 66265.50,” and other than for initial responses to emergency situations, shall be not rely on any DON personnel. This contingency plan requirement is taken from California regulations applicable to operating hazardous waste facilities, and includes emergency planning elements pertinent to imminent or actual emergency situations associated with new releases of hazardous materials, fires, explosions, and other potentially catastrophic circumstances at active facilities. However, as stated above in this plan, the only real hazardous materials-related risk relating to Heritage Field’s development activities in LIFOC areas is the possibility of encountering historic contamination in the subsurface. Therefore, this protocol plan is intended to satisfy the pertinent objectives of the contingency plan requirement in the LIFOCs, in the context of the development activities that will actually be conducted. As such, this plan does not seek to meet all of the substantive requirements of a contingency plan under the California hazardous waste facility regulations, but instead contains the relevant elements of such a plan, including assignment of an emergency coordinator and establishing emergency procedures in the event that an imminent or actual emergency is encountered during Heritage Field’s development activities.

2.3 Heritage Fields, LLC, City of Irvine, and Navy Contact List

Heritage Fields Contact and Emergency Coordinator:

James P. Werkmiester, P.E.
Manager, Environmental Affairs
7130 Trabuco Road
Irvine, CA 92618
Emergency Coordinator Telephone Numbers: Office: (949) 784-4231 Cell: (949) 677-6020

Irvine Redevelopment Agency

Barry Curtis
7000 Trabuco Road, Bldg 873
Irvine, CA 92618
(949) 724-7453

Navy Contact:

Real Estate Contracting Officer
Base Realignment and Closure Program Management Office
1230 Columbia Street, Suite 1100
San Diego, CA 92101

3. Protocols for Unknown Hazardous Materials

3.1 Unknown Hazardous Materials and Emergency Situations

The identification and notification process for unknown, potentially hazardous materials in the subsurface during development activities is a multi-tiered process that will include:

- Personnel training;
- Preliminary identification of potential unknown hazardous materials by equipment operators/site workers;
- Site management procedures pending the verification of unknown hazardous materials, and as necessary if verified;
- Verification of unknown hazardous materials and determination by the Emergency Coordinator of whether an imminent or actual emergency situation exists;
- Notifications of verified unknown hazardous materials as appropriate pursuant to Section 3.5 of this plan.

3.2 Requirements for Health and Safety Plan and Worker Training

A Health and Safety Plan (HSP) will be prepared to address the health and safety of workers during the grading, subsurface demolition, and/or related development activities. This HSP will be developed by the Contractor performing the work and will include, but not necessarily be limited to the items listed below for all grading, subsurface demolition, and/or related development activities.

As part of the site-specific health and safety training that will be required of equipment operators and site workers, instruction will be given on how to identify potential unknown hazardous materials in the subsurface. Such training will include:

- General description of the potential for encountering previously unknown subsurface contamination;
- Description of the types of observations that may indicate the presence of unknown hazardous materials (soil staining, odor, sheen, presence of unidentifiable substances);
- Instructions on who to notify at the site in the event that a potential unknown hazardous material is identified.

The grading contractor will be required to have a minimum of one on-site representative who holds current certification of 40-hour Hazardous Waste Operations/Awareness Training (HAZWOPER). Optionally the contractor will be required to have a minimum of

one on-site representative attend an 8-hour Occupational Health and Safety (OSHA) Hazard Awareness Training provided by Heritage Fields, LLC. In addition, Heritage Fields, LLC will have a contact at the site that is also 40-hour HAZWOPER trained. Any personnel involved in the sampling and/or other on-site activities intended to address the presence of identified hazardous materials will be properly trained and will conduct such work under a Health and Safety Plan appropriate for those particular activities.

The Health and Safety Plan for grading, subsurface demolition, and/or related development activities will include the following:

- Project Information and Description
- Site Map
- Tasks to be Performed
 - Specific Details of the Hazardous Material(s) Encountered
 - Task Hazard Analysis
- Hazard Control
 - Project-Specific Hazards
 - General Hazards
 - General Practices and Housekeeping
 - Hazard Communication
 - Shipping and Transportation of Chemical Products
 - Lifting
 - Fire Prevention
 - Electrical
 - Stairways and Ladders
 - Heat Stress
 - Procedures for Locating Buried Utilities
 - Confined Space Entry
 - Biological Hazards and Controls
 - Contaminants of Concern
 - Potential Routes of Exposure
- Project Organization and Personnel
 - Employee Medical Surveillance and Training
 - Field Team Chain of Command and Communication Procedures
 - Client
 - Contractor
 - Subcontractors
- Personal Protective Equipment (PPE)
- Air Monitoring/Sampling

- Decontamination
- Spill-Containment Procedures
- Emergency Response Plan
 - Emergency Contact Numbers
 - Directions to the nearest hospital

3.3 Preliminary Identification of Unknown Hazardous Materials

In the event that a possible unknown hazardous material is discovered during grading, subsurface demolition, and/or related development activities, operators/site workers are required to shutdown activity near the suspect material, and immediately notify their on-site supervisor. The site supervisor will ascertain whether something out of the ordinary has actually been encountered, and if so, will immediately contact the Heritage Fields (HF) Contact/Emergency Coordinator using the contact information listed in Section 2.3 of this plan, and provide all relevant information on the situation.

3.3.1 Anticipated Contamination at the Site

Groundwater Contamination

Based on proposed depths of excavation, it is not anticipated that groundwater will be encountered. The groundwater depths, and depths to groundwater contamination, range from 75 feet to 200 feet throughout the former MCAS El Toro, and excavation depth will not exceed 30 feet. Therefore groundwater contamination will not be encountered during grading.

Soil Contamination

During the Navy's environmental program, soil contamination sites have been identified as "Locations of Concern" (LOCs), and their cleanup status has been updated on a continual basis. During HF's grading permit process, LOCs will be located on the plan and HF will demonstrate that residual soil contamination will not be encountered. If there is a potential for encountering residual soil contamination HF will prepare a soil management plan to be approved by the City of Irvine.

3.3.2 Soil Management Plan

In areas of grading or excavation that are expected to encounter LOCs with residual soil contamination, a soil management plan will be prepared which will include the following:

1. Soil sampling Plan
2. Quality Assurance Plan
3. Site-Specific Health and Safety Plan

Based on existing LOC information, the Soil Management Plan will detail the number and locations of samples to be collected, analytical methods, cleanup levels, approach to excavate and dispose soil that exceeds these cleanup levels, and a methodology for confirmation sampling of the excavation bottom to ensure residual contamination has been removed.

3.4 Verification of Unknown Hazardous Materials

Upon notification that a possible unknown hazardous material has been encountered, the HF Contact/Emergency Coordinator will come immediately to the site, if not already present. The HF Contact/Emergency Coordinator will verify through the information provided, and any additional information ascertainable at the site, whether an unknown hazardous material has been encountered. At any time in the process of making such a determination the HF Contact/Emergency Coordinator may require additional site management procedures to control the area of potential concern and reduce any possible risks to human health or the environment.

Upon verification of unknown hazardous materials, the HF Contact/Emergency Coordinator will make the appropriate notifications under Section 3.5 of this plan. Work in will remain suspended in the vicinity of the hazardous material until further investigation (sampling and analysis) can be completed by a qualified environmental contractor, and any necessary response action is taken. A site and hazard specific health and safety plan including applicable worker training requirements will be prepared or modified as necessary to address the specific hazardous material(s).

The HF Contact/Emergency Coordinator will also make a determination of whether an imminent or actual emergency situation exists. If so, then the notifications made under Section 3.5 will include information regarding the nature of the emergency, as appropriate, and the additional procedures described in Section 3.6 of this plan will be followed.

3.5 Notification Plan

3.5.1 Notification Requirements

In the event of the discovery of a previously unknown release of hazardous materials the following notification protocol describes (but is not necessary inclusive of) the requirements for notifications. In the event of the discovery of the release of a hazardous material a verbal report must be made to Heritage Fields, LLC and Irvine Redevelopment Agency. If the discovered release constitutes an emergency, then 911 should also be called.

Heritage Fields Contact and Emergency Coordinator:

James P. Werkmiester, P.E.
Manager, Environmental Affairs
7130 Trabuco Road
Irvine, CA 92618

Emergency Coordinator Telephone Numbers: Office: (949) 784-4231
Cell: (949) 677-6020

Irvine Redevelopment Agency

Barry Curtis
7000 Trabuco Road, Bldg 873
Irvine, CA 92618
(949) 724-7453

If HF encounters unknown contamination while working on property owned by the City of Irvine, HF will also contact a representative of the Orange County Great Park Corporation.

3.5.1.1 Notification of Environmental Regulators

(a) State - Immediate Notification to the Office of Emergency Services

In the event of the discovery of the release of a hazardous material (which includes oil and CERCLA hazardous substances), an immediate, verbal report must be made to the Office of Emergency Services (OES) and the Orange County Fire Authority. If the discovered release constitutes an emergency, then 911 should also be called.

If necessary, rather than immediate notification, calls may be made as soon possible without impeding immediate control of the release.

OES Telephone Number: (800) 852-7550

Orange County
Fire Authority: (714) 433-6000

In the Event of Emergency: 911

The immediate reporting shall include the following, at a minimum:

- (1) The exact location of the release;
- (2) The name of the person reporting;
- (3) The hazardous materials involved;
- (4) An estimate of the quantity of hazardous materials involved;
- (5) If known, the potential hazards presented;
- (6) Description of what happened;
- (7) Location of threatened or involved waterway, if applicable.

Note: The immediate reporting described above in this section shall not be required if there is a reasonable belief that the release poses no significant present or potential hazard to human health and safety, property, or the environment. However, if there is any question in the mind of the person who has observed the release, then notification should be made.

(b) State - Written Follow-Up to OES

In the event that verbal notification of a release is provided to OES, written follow-up should be sent as soon as possible thereafter. Written follow-up should be provided to OES on an Emergency Release Follow-Up Notice Reporting Form, which is included as Attachment 1 to this document.

OES Mailing Address: State Emergency Response Commission (SERC)
 c/o Governor's Office of Emergency Services
 Attn: Section 304 Reports
 Hazardous Materials Unit
 3650 Schrievs Avenue
 Mather, CA 95655

(c) State - Written Notification to DTSC

In the event of the discovery of a release of a reportable quantity of a hazardous substance, a written report shall be made to the California Department of Toxic Substances Control (DTSC) within 30 days of the discovery, unless either of the following applies:

- (1) The release requires immediate reporting to OES pursuant to Section 1(a) above.
- (2) It can be established that the release occurred prior to January 1, 1994.

Written reporting to DTSC should be done using a Nonemergency Hazardous Substance Release Report Form, which is included as Attachment 2 to this document.

In most cases it is expected that immediate, verbal reporting to OES will occur if previously unknown contamination is discovered. However, if reporting to OES turn out to be unnecessary, an assessment should be made as to whether written reporting to DTSC within 30 days is required.

DTSC Address for Department of Toxic Substances Control
Written Notification: Attn: Mr. John Scandura
 Site Mitigation Program, Office of Military Facilities
 5796 Corporate Avenue
 Cypress, CA 90630

For the purposes of this protocol, "reportable quantity" means either of the following: (a) the quantity of a hazardous substance established in 40 C.F.R. Part 302 as triggering notification requirements or (b) any quantity of a hazardous substance that is not reportable to OES under 1(a) above but that may pose a significant threat to public health and safety or to the environment.

(d) Federal - National Response Center

In the event of the discovery of the release of a reportable quantity of a hazardous substance, immediately call the National Response Center (NRC) in Washington, DC.

NRC Telephone Number: (800) 424-8802

In addition to the information listed in Section 1(a) of this document, the following should also be provided to the NRC, if known:

- (1) Medium or media impacted by the release;
- (2) Name and phone number for more information;
- (3) Proper precautions to take.

Note: Immediate notification of the NRC is technically only required in the event that a release of a reportable quantity within a 24-hour period of a hazardous substance is discovered. While reportable quantities are generally fairly large (except for extremely hazardous substances), it may be very difficult in the field to assess whether a reportable quantity was released. Furthermore, releases are considered to be ongoing regardless of when they initially occurred; therefore, a release of a reportable quantity within a 24-hour period cannot be ruled out merely because the release is historic in nature. Thus, for purposes of assuring that federal reporting requirements are properly satisfied in the event of the discovery of a release of a hazardous substance, the NRC should be notified, unless it is clear that a reportable quantity was not involved.

(e) State - Discharges or Probable Discharges to State Waters

In the event of the discovery of a discharge or probable discharge of reportable quantities of hazardous substances, sewage, oil, or petroleum products into or on state waters, immediately call OES. If necessary, however, notification can be provided without substantially impeding cleanup or other emergency measures.

State waters in California include both surface water and groundwater. In the event of a discharge or probable discharge of a reportable quantity to surface or groundwater, follow the instructions of this protocol for immediate, verbal notification and follow-up written notification to OES.

For the purposes of this reporting requirement, reportable quantity means the following:

Hazardous Substances: Those reportable quantities established in 40 C.F.R. Part 302

Sewage: 1,000 gallons or more

Oil and Petroleum: 42 gallons or more

Note: Discharges or probable discharges to groundwater in most instances will also be immediately reportable under this protocol.

3.5.1.2 Navy Notification of Environmental Contamination on FOSL Property

In the event that environmental contaminants in excess of applicable screening criteria are confirmed in the LIFOC areas, the DON should be provided with written notification of the discovery. Under the LIFOCs, in the event environmental contamination is discovered which creates, in the DON's determination, an imminent and substantial endangerment to human health or the environment, the DON may require that the impacted area be vacated.

Written notification shall be provided to the DON pursuant to Section 19 of the LIFOCs, Submission of Notices, as follows:

Real Estate Contracting Officer
Base Realignment and Closure Program Management Office
1230 Columbia Street, Suite 1100
San Diego, CA 92101-8571

3.6 Emergency Procedures

Whenever there is an imminent or actual emergency situation, the Emergency Coordinator shall immediately notify all on-site personnel who may be affected, notify appropriate state or local agencies with designated response roles if their help is needed, and place a call to 911. The Emergency Coordinator will also contact any contractors whose services may be required in addressing the situation.

Whenever there is a new release of hazardous materials, fire, or explosion, the Emergency Coordinator shall immediately identify the character, exact source, amount, and areal extent of any release materials. Concurrently, the Emergency Coordinator shall assess possible hazards to human health or the environment that may result from the release, fire, or explosion, and direct appropriate site control measures as appropriate to control the emergency and reduce any potential risks to human health or the environment.

During an emergency, the Emergency Coordinator shall take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread. Immediately after an emergency, the Emergency Coordinator shall provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a new release, fire, or explosion.

3.7 Sampling and Analysis Plan

3.7.1 Requirements for Sampling and Analysis Plan

In the event that unknown hazardous materials are discovered during grading, construction, subsurface demolition and/or related development activities a Sampling and Analysis Plan will be prepared by a qualified environmental contractor and reviewed by the lead regulatory agency. The plan will include but not necessarily be limited to the following:

- Field Methods and Procedures
 - Soil Sampling
 - Confirmation Samples
 - Decontamination Water Samples
 - Decontamination
 - Investigation-Derived Waste Management
- Sample Handling, Preservation, Labeling, Transportation, and Chain-of-Custody Procedures
 - Sample Handling

- Sample Preservation
- Sample Transportation
- Sample Documentation
 - Field Samples
 - Quality Assurance/Quality Control Samples
 - Data Evaluation/Validation
- Sample Chain-of-Custody Procedures
- Recordkeeping Procedures

EXHIBIT G
LIST OF PRE-APPROVED ARCHITECTS & ENGINEERS
(Article III)

Hunsaker & Associates, HNTB Corporation, RBF Consulting,
TAIT & Associates, PSOMAS—Civil Engineering

Shaw Environmental & Infrastructure, Inc, Westin Environmental—Environmental

Morrow Management—Dry Utilities

Zeiser Kling, Leighton Consulting, Inc, Engco—GeoTech

Origins Golf Design—Corridor Management

Iteris -- Traffic

EXHIBIT H

**SCHEDULE FOR ALLOCATION OF
MASTER SUBDIVISION MAP CONDITIONS OF APPROVAL**

**EXHIBIT H
SCHEDULE FOR ALLOCATION OF
MASTER SUBDIVISION CONDITIONS OF APPROVAL**

MATRIX OF AMENDED VTTM 17008 CONDITIONS OF APPROVAL & MM'S
THAT APPLY TO EACH DEVELOPMENT DISTRICT

	DEVELOPMENT DISTRICT									
	"X" DENOTES THAT THE SPECIFIC AMENDED VTTM 17008 CONDITION APPLIES TO THAT DEVELOPMENT DISTRICT									
	LLD	PA 30 SOUTH	PA 30 NORTH	EXPO	PD SOUTH	CRESCENT	PD NORTH	BORDIER'S	13-ACRE PARCEL	OCGP
Prior to Release of Final Maps by City										
1.1 Construct Public Improvements, execute subdivision improvement agreements, post bonds, pay fees	X	X	X	X	X	X	X	X	X	X
1.6 Post advanced energy fee for street lights	X	X	X	X	X	X	X	X	X	X
1.6 Submit computerized data of final map	X	X	X	X	X	X	X	X	X	X
1.11 Disturbance of existing survey monuments	X	X	X	X	X	X	X	X	X	X
1.13 Annex to Specification of grade street transportation management plan (TMP)	X	X	X	X	X	X	X	X	X	X
1.14 Final maps to show LIDC areas	X			X	X	X	X			X
1.16 Existing buildings with proposed lot lines through them to be demolished	X			X	X	X	X			X
1.17 Notes on map regarding automatic fire sprinkler systems	X			X	X	X	X			X
1.18 Submit report regarding existing infrastructure to remain	X	X	X	X	X	X	X	X		X
1.24 Obtain right of entry to maintain storm drains across ICA property	X									
Prior to the Issuance of Grading Permits										
2.1 Arches/Poles	X	X	X	X	X	X	X	X	X	X
2.2 Groundwater Survey	X	X	X	X	X	X	X	X	X	X
2.3 Compliance with Federal, State and local agencies having jurisdiction over changes to earthen flood control channels		X	X	X	X	X	X			X
2.4 Special Flood Hazard Areas - CLOMRA/OMRA/IRM approvals prior to issuance of precise grade permits		X	X	X	X	X	X			X
2.5 N.O.I.	X	X	X	X	X	X	X	X	X	X
2.6 Evidence of compliance from Federal, State and local agencies. Mitigation requirements incorporated into plans	X	X	X	X	X	X	X	X	X	X
2.7 Easement documents for public trees	X	X	X	X	X	X	X	X	X	X
2.9 Existing Survey Monuments - Tie Out	X	X	X	X	X	X	X	X	X	X
2.10 WQMP	X	X	X	X	X	X	X	X	X	X
2.11 Geotechnical Report - Seismic	X	X	X	X	X	X	X	X	X	X
2.13 Project Plan for Discovery of Unknown Hazards	X	X	X	X	X	X	X	X	X	X
2.14 Geotechnical and Hydrology Reports to Address Erosion Control and Surface Runoff	X	X	X	X	X	X	X	X	X	X
2.15 SWPPP - WQMP	X	X	X	X	X	X	X	X	X	X
2.16 Construction management plan regarding stormwater runoff	X	X	X	X	X	X	X	X	X	X
2.17 Tree Inventory	X	X	X	X	X	X	X	X	X	X
2.18 Poles	X	X	X	X	X	X	X	X	X	X
2.20 Demol Buildings Prior to Removal of OCA Access and Water Supply	X			X	X	X	X			X
2.21 Close and Secure Unoccupied Buildings that have no OCA Access and Water	X			X	X	X	X			X
2.22 OCA Fire Master Plan for fire hydrant locations and access	X	X	X	X	X	X	X	X	X	X
2.24 Master Plan of Drainage	X	X	X	X	X	X	X	X	X	X
2.25 Project Design Report - Flood Control Facilities	X	X	X	X	X	X	X	X	X	X
2.26 Grading in conformance with Master Plan of Drainage	X	X	X	X	X	X	X	X	X	X
2.27 Resource Agency Permits - Institutional Waters	X	X	X	X	X	X	X			X
2.28 OCA - 2nd Point of Access when 150 Dr's is Exceeded	X		X	X	X	X	X	X		
2.29 OCA Infrastructure Fire Master Plan that would include an engineered fire flow report	X	X	X	X	X	X	X	X	X	X
2.31 Fire ID (Hydant) - Utility locations to be approved by City			X							
2.32 Fire ID (Conserve) - Utility locations to be approved by City						X				

**EXHIBIT H
SCHEDULE FOR ALLOCATION OF
MASTER SUBDIVISION CONDITIONS OF APPROVAL**

MATRIX OF AMENDED VTTM 17008 CONDITIONS OF APPROVAL & MM'S
THAT APPLY TO EACH DEVELOPMENT DISTRICT

	DEVELOPMENT DISTRICT									
	"X" DENOTES THAT THE SPECIFIC AMENDED VTTM 17008 CONDITION APPLIES TO THAT DEVELOPMENT DISTRICT									
	LLD	PA 30 SOUTH	PA 30 NORTH	EXPD	PD SOUTH	CRESCENT	PD NORTH	BORDIER'S	13-ACRE PARCEL	OCGP
2.33 Analysis demonstrating that residual levels of soil contamination are safe for human activity	X	X	X	X	X	X	X	X	X	X
2.34 Prior to issuance of a PC permit for public trails, submit a Public Facilities Preliminary Review Application	X	X	X	X	X	X	X	X	X	X
2.35 Prior to issuance of a PC permit for lots containing a public trail, submit a Public Facilities Preliminary Review Application	X	X	X	X	X	X	X	X	X	X
Prior to the Issuance of Building Permits										
3.1 Acoustical Report	X	X	X	X	X	X	X	X	X	X
3.2 Photometric Survey	X	X	X	X	X	X	X	X	X	X
3.3 Special Flood Hazard Area - CLOMR/OMR/IRM approvals prior to issuance of building permits		X	X		X	X	X			X
3.4 Occupancy Disclosure Form	X	X	X	X	X	X	X	X	X	X
3.8 NIM Agreement	X	X	X	X	X	X	X	X	X	X
3.9 NIM Funding	X	X	X	X	X	X	X	X	X	X
3.10 Operation - Emissions Mitigation Plan	X	X	X	X	X	X	X	X	X	X
3.11 Development designed in accordance with Seismic Design Parameters	X	X	X	X	X	X	X	X	X	X
3.12 Geotechnical studies	X	X	X	X	X	X	X	X	X	X
3.13 OMR required prior to issuance of building permits		X	X		X	X	X			X
3.14 Lighting and Signage Plans	X	X	X	X	X	X	X	X	X	X
3.15 OCA - Secured Fire Protection Agreements	X	X	X	X	X	X	X	X	X	X
3.16 Construct Class I trails with construction of Trabuco, "D" Street, and Irvine Boulevard	X			X	X		X	X		X
3.17 Prior to issuance of a building permit for a lot containing a public trail, applicant to construct that public trail	X	X	X	X	X	X	X	X	X	
3.18 Construct Class I trail along Mariposa Way prior to issuance of building permit for Lot 1										X
Prior to the Issuance of Certificates of Use and Occupancy										
4.2 Signage Posted on Streets Occupied but Not Yet Accepted by City	X	X	X	X	X	X	X	X	X	X
4.4 Fire Life - Safety Evaluation of Structures to Remain	X			X	X	X	X			X
4.5 OCA - Fire Master Plan for Buildings to Remain	X			X	X	X	X			X
Prior to the Exoneration of Security										
6.1 Final Drawings	X	X	X	X	X	X	X	X	X	X
6.2 Final Figs	X	X	X	X	X	X	X	X	X	X
6.4 Re-Establish Disturbed Monuments	X	X	X	X	X	X	X	X	X	X
Miscellaneous Standard Conditions										
6.1 Subordination of Easements	X	X	X	X	X	X	X	X	X	X
6.2 Pay Charges for this Discretionary Case Application										
Miscellaneous General Conditions										
6.5 HFOC Access	X			X	X	X	X			X
6.6 Do Not Disturb Existing Monitoring Wells	X			X	X	X	X			X
6.7 Info on Available Housing and Employment	X	X	X	X	X	X	X	X	X	X
6.8 Demonstrate Trip Reducing Measures/Opportunities	X	X	X	X	X	X	X	X	X	X
6.9 Heritage Farming	X	X	X	X	X	X	X	X	X	X

**EXHIBIT H
SCHEDULE FOR ALLOCATION OF
MASTER SUBDIVISION CONDITIONS OF APPROVAL**

MATRIX OF AMENDED VTTM 17008 CONDITIONS OF APPROVAL & MM'S
THAT APPLY TO EACH DEVELOPMENT DISTRICT

	DEVELOPMENT DISTRICT									
	"X" DENOTES THAT THE SPECIFIC AMENDED VTTM 17008 CONDITION APPLIES TO THAT DEVELOPMENT DISTRICT									
	LLD	PA 30 SOUTH	PA 30 NORTH	EXPO	PD SOUTH	CRESCENT	PD NORTH	BORDIER'S	13-ACRE PARCEL	OCGP
6.10 Work to Minimize Conflicts with Farmers	X	X	X	X	X	X	X	X	X	X
6.11 OCIA Review of All Development Plans	X	X	X	X	X	X	X	X	X	X
6.12 OCIA - Determination of Need for Land Use Plan	X	X	X	X	X	X	X	X	X	X
6.13 NIM Traffic Studies	X	X	X	X	X	X	X	X	X	X
6.14 Transfer Assignment	X	X	X	X	X	X	X	X	X	X
6.15 Coordinate with Caltrans for off-ramps	X	X	X	X	X	X	X	X	X	X
6.16 Indemnification	X	X	X	X	X	X	X	X	X	X
6.17 Mitigation for Removed Trees	X	X	X	X	X	X	X	X	X	X
6.18 Infrastructure Demo Plan - Approved by OCIA	X			X	X	X	X			X
6.19 No Mirrored or Highly Reflective Surfaces	X	X	X	X	X	X	X	X	X	X
6.20 Archeo - Submit Mitigation Plan Addressing Archeo Discoveries	X	X	X	X	X	X	X	X	X	X
6.21 Submit Mitigation Program to Address Discovery of Human Remains	X	X	X	X	X	X	X	X	X	X
6.22 Sonnet Evaluation of Existing Structures to Remains	X			X	X	X	X			X
Miscellaneous - Demolition and Construction Permits										
6.23 Instruct Neighbors of Planned Demolition and Construction Develop Measures to Reduce Impacts to Neighbors	X	X	X	X	X	X	X	X	X	X
6.24 Construction Emissions Mitigation Plan	X	X	X	X	X	X	X	X	X	X
6.25 Lead Base Paint	X			X	X	X	X			X
6.26 Asbestos	X			X	X	X	X			X
6.27 LFOC Existing Buildings - Notify City of Restrictions Limitations	X			X	X	X	X			X
6.28 Technical Evaluations of Solid Waste for Recycling	X	X	X	X	X	X	X			X
6.29 Written Plan to City Ensuring that 75% of Materials Inappropriate for Recycling is Diverted from Landfill	X	X	X	X	X	X	X			X
6.30 Solid Waste Collected by City Approved Solid Waste Hauler - 75% of Materials Diverted from Landfill by Recycling	X	X	X	X	X	X	X	X	X	X
6.31 Submit Tonnage Reports to City to Demonstrate Solid Waste Diversion	X	X	X	X	X	X	X	X	X	X
6.32 Written Plan to City Ensuring that Green Waste is Recycled	X	X	X	X	X	X	X	X	X	X
Miscellaneous - Tentative/Subdivision Maps, Grading Permits, Park Designs, and Other Applications										
6.33 Updated Traffic Study - Compliance with NIM	X	X	X	X	X	X	X	X	X	X
6.34 Freeway and Ramps: Determine Cost Allocation	X	X	X	X	X	X	X	X	X	X
6.35 Comprehensive Park Plan	X			X	X	X	X	X		
6.36 Comprehensive Master Trail Plan	X	X	X	X	X	X	X	X	X	
6.37 Master Plan for Conceptual Design of the Great Park (O.C.G.P.)										X
6.38 Confirm Final Park Locations are in Substantial Compliance with Comprehensive Park Plan (Cond 6.35)	X		X	X	X	X	X	X		
6.39 Additional R.O.W. for Trails	X	X	X	X	X	X	X	X	X	
6.40 Park Design (O.C.G.P.)										X
6.41 Park Phasing Plan (O.C.G.P.)										X
6.42 Timing and fair share cost for proposed trail connections and bedding at Marine Way (O.C.G.P.)										X
6.43 Additional R.O.W. for Trails (O.C.G.P.)										X
6.44 Notes and Bounds Legal of Property Used in Great Park to Meet the Community Park Dedication Requirements for Residential Units on Lots 1-57 (O.C.G.P.)										X
6.45 Affordable Housing Plan	X		X	X	X	X	X	X		

**EXHIBIT H
SCHEDULE FOR ALLOCATION OF
MASTER SUBDIVISION CONDITIONS OF APPROVAL**

MATRIX OF AMENDED VTTM 17008 CONDITIONS OF APPROVAL & MM'S
THAT APPLY TO EACH DEVELOPMENT DISTRICT

	DEVELOPMENT DISTRICT									
	"X" DENOTES THAT THE SPECIFIC AMENDED VTTM 17008 CONDITION APPLIES TO THAT DEVELOPMENT DISTRICT									
	LLD	PA 30 SOUTH	PA 30 NORTH	EXPO	PD SOUTH	CRESCENT	PD NORTH	BORDIER'S	13-ACRE PARCEL	OCCP
6.46 Preliminary Noise Analysis	X	X	X	X	X	X	X	X	X	X
6.47 Roundabout Feasibility Analysis	X	X	X	X	X	X	X	X	X	X
6.48 Median Break Feasibility Analysis	X	X	X	X	X	X	X	X	X	X
6.49 Master Wall and Fence Plan	X	X	X	X	X	X	X	X	X	
6.50 Any realignment of "O" Street shall be approved by the City Engineer and may require a map revision	X									
6.53 Comprehensive Wireless Communication Facility Site Analysis	X	X	X	X	X	X	X	X	X	X
6.56 May Request a Grading Permit for Lot 17, Golf Course and Wildlife Corridor. Prior to Satisfying Other Conditions					X					
6.58 Prepare Master Design Guidelines for each Development District	X	X	X	X	X	X	X	X	X	
6.57 Submit as-built plans for public trails	X	X	X	X	X	X	X	X	X	X
6.58 Prior to approval of street improvement plans for "O" Street, City Engineer shall approve utility locations	X									
6.59 Easements for Venta Sour Trail on Lots 34 and 37 (lots 11 and 15 of VTTM 17283)	X									
6.60 UFD (Urban Forestry Ordinance) mitigation requirement	X	X	X	X	X	X	X	X	X	X
6.61 LEED for Neighborhood Development checklist	X									
6.62 Demonstrate that the master plan for each Development District meets the intent of Sustainable Travelways	X	X	X	X	X	X	X	X	X	X
6.63 Authorization from downstream property owner required for increased flow across PA 40	X									
OCCP FEIR Mitigation Measures not Incorporated into COA's										
TRAN 2 Commit to participate in a transportation system/infrastructure fee program to fund intersection improvements	X	X	X	X	X	X	X	X	X	X
TRAN 6 Mitigate to insignificant levels all project impacts at significantly impacted study area intersections	X	X	X	X	X	X	X	X	X	X
TRAN 7 City of Irvine shall coordinate with Caltrans and TCA as required to provide ramp connections to Trabuco Road	X	X	X	X	X	X	X	X	X	X
TRAN 8 City to work to amend Orange County MAPA	X	X	X	X	X	X	X	X	X	X
HII 1 Asbestos containing materials and lead based paint	X			X	X	X	X	X	X	X
HII 2 IRP Sites 3, 16 and 24	X			X						X
HII 8 Review permit applications to ensure maintenance to works	X			X						X
IWQ 3 Prepare detailed hydrology and hydraulic analysis	X	X	X	X	X	X	X	X	X	X
BIO 1 Focused surveys for southern tarplant, mountain plover, burrowing owl, least Bell's vireo and SW'n willow flycatcher	X	X	X	X	X	X	X	X	X	X
BIO 2 Perform wetland delineation	X	X	X	X	X	X	X	X	X	X
BIO 3 City to work with State and federal agencies to implement the revegetation/restoration plan for the wildlife corridor	X	X	X	X	X	X	X	X	X	X
CULT 1 Prepare a detailed archaeological report prior to development	X	X	X	X	X	X	X	X	X	X



SEAN JOYCE, City Manager

www.ci.irvine.ca.us

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575

(949) 724-6249

December 27, 2010

Mrs. Lynn Jochim
Heritage Fields El Toro, LLC
25 Enterprise, Suite 400
Aliso Viejo, CA 92656

**RE: AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT
AND AMENDED AND RESTATED DEVELOPMENT AGREEMENT**

Dear Lynn:

At or near the date of this letter, the City of Irvine ("City"), the Irvine Redevelopment Agency, and Heritage Fields El Toro LLC ("**Heritage Fields**") entered into an agreement entitled "AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF IRVINE, THE IRVINE REDEVELOPMENT AGENCY and HERITAGE FIELDS EL TORO, LLC" ("**ARDA**"). The ARDA was approved by the City Council and adopted pursuant to Ordinance No. 09-09 on September 8, 2009. Also at or near the date of this letter, the City and Heritage Fields entered into an additional agreement entitled "AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT" ("**ARMIA**"). The ARMIA was approved by the City Council and adopted pursuant to Resolution No. 09-02 on August 11, 2009. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the ARDA and/or ARMIA.

Given the Third Party Legal Challenge, the parties now desire to update the ARMIA as follows:

1. The Parties agree that (i) the date referenced in the first set of parenthesis in the first sentence of Section 4.1 of the ARMIA is changed from calendar year 2010 to calendar year 2011, and (ii) the dates referenced in the second set of parenthesis in the first sentence of Section 4.1 of the ARMIA are changed from "calendar years 2011 through 2014" to "calendar years 2012 through 2015."
2. The Parties agree that the first Quarterly Infrastructure Meeting will occur in January 2011.

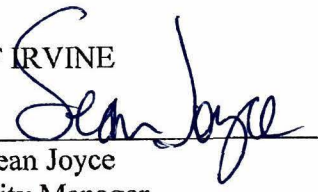
Mrs. Lynn Jochim
December 27, 2010
Page 2 of 2

3. The Parties agree that the first Annual MPP&S Update Meeting will be held in July 2011 (as opposed to July 2010 as originally stated in the ARMIA), and every July thereafter, and that the reference to "July 2011" for the first update to the Master Phasing Plan & Schedule shall now mean and refer to "July 2012".

Please acknowledge your consent and agreement to the foregoing by executing this letter agreement in the space provided below.

CITY OF IRVINE

By:


Sean Joyce
City Manager

ACCEPTED, AGREED AND ACKNOWLEDGED

HERITAGE FIELDS EL TORO, LLC,
a Delaware limited liability company


By: Heritage Fields LLC,
a Delaware limited liability company
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,
a Delaware limited liability company
Its: Administrative Member

By: Lennar Homes of California, Inc.,
California corporation
Its: Managing Member

By:

Print Name:


Erik R. Higgins
Vice President

Print Title:



SEAN JOYCE, City Manager

www.ci.irvine.ca.us

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575

(949) 724-6249

December 27, 2010

Mrs. Lynn Jochim
Heritage Fields El Toro, LLC
25 Enterprise, Suite 400
Aliso Viejo, CA 92656

**RE: CONFIRMATION AND CLARIFICATION OF CERTAIN PROVISIONS UNDER
AMENDED AND RESTATED DEVELOPMENT AGREEMENT AND AMENDED AND
RESTATED MASTER IMPLEMENTATION AGREEMENT IN VIEW OF EVENTS
OCCURRING SINCE ORIGINAL APPROVAL OF AMENDED AND RESTATED
DEVELOPMENT AGREEMENT AND AMENDED AND RESTATED MASTER
IMPLEMENTATION AGREEMENT**

Dear Lynn:

At or near the date of this letter, the City of Irvine ("City"), the Irvine Redevelopment Agency, and Heritage Fields El Toro LLC ("**Heritage Fields**") entered into an agreement entitled "AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF IRVINE, THE IRVINE REDEVELOPMENT AGENCY and HERITAGE FIELDS EL TORO, LLC" ("**ARDA**"). The ARDA was approved by the City Council pursuant to Ordinance No. 09-09 on September 8, 2009. Also at or about the time of this letter, the City and Heritage Fields entered into an additional agreement entitled "AMENDED AND RESTATED MASTER IMPLEMENTATION AGREEMENT" ("**ARMIA**"). The ARMIA was approved by the City Council pursuant to Resolution No. 09-02 on August 11, 2009. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the ARDA.

Among other things, the ARDA contains the following two paragraphs:

"7.9 Apportionment; Application to County Property. The City covenants to request in writing that the County honor its obligations pursuant to

Section 2.2.5 of the County Agreement, and to actively pursue enforcement of that provision, which provides as follows:

'The parties acknowledge that the City seeks to create a funding mechanism whereby all Base users pay their fair share of the costs of developing the necessary infrastructure and related improvements. The County agrees to participate in such a funding mechanism and pay its fair share of the costs that are limited to infrastructure improvements directly related to servicing the properties County is to receive referenced in 2.2.3 above. Infrastructure improvements shall refer to utilities, roadways, sewer lines and other types of infrastructure needs that are necessary to service each County parcel, if any. The County will not be required to contribute, through assessments or other funding or financing methods, to the development or maintenance costs or expenses for any park or open space that will be developed and maintained on the Base under the Irvine 'Great Park Plan'. Furthermore, to the extent they qualify, County shall have the option to pay any portion of its share of infrastructure costs and expenses with Road Funds or other non-General Fund revenues.'

In this regard, the City agrees to meet and confer in good faith with Heritage Fields concerning the City's efforts to secure compliance with Section 2.2.5 of the County Agreement. The City shall not enter into any agreement with the County (or other parties, including OCTA) or a modification to the terms of the County Agreement that creates a material and adverse impact on the cost of the Backbone Infrastructure and/or a material and adverse impact on the timing of construction of the Backbone Infrastructure, as that timing is specified in the Master Phasing Plan and Schedule provided as Exhibit B to the MIA¹, as that schedule may be modified from time to time in accordance with the MIA. Nothing in this Section 7.9 requires that the City commence any litigation action against the County to enforce the terms of the County Agreement, provided that nothing contained herein shall be deemed to be a waiver by Heritage Fields of any rights Heritage Fields may have as against the County with respect to the County Agreement."

"9.2.1 Conveyance of ARDA Transfer Site. Heritage Fields shall, within ninety (90) days of the Second Effective Date, convey to the City the ARDA Transfer Site and deliver to City a grant deed in the form substantially the same as the form attached hereto as Exhibit Q, unless a Third-Party Legal Challenge has been brought before that date, in which

¹ The term "MIA" as used in the ARDA refers to the ARMIA.

case the conveyance shall occur within ninety (90) days after a final adjudication or legislative action rejecting such Third-Party Legal Challenge. The City shall not be required to pay any fee or purchase price for the ARDA Transfer Site. Notwithstanding the 90-day time periods referenced above, the timing of the conveyance of the ARDA Transfer Site shall be subject to Section 9.9 with respect to LIFOCs, the final determination of the location of "Q" Street and the preparation of a metes and bounds legal description that correspondingly shows the precise boundaries of the ARDA Transfer Site."

Subsequent to the City Council's approval of the ARDA and the ARMIA, but prior to the execution of those documents, the City and the County of Orange ("**County**") approved three documents that, among other things, implemented and further defined various rights and obligations under a document entitled PROPERTY TAX TRANSFER AND PRE-ANNEXATION AGREEMENT ("**Annexation Agreement**") between the City and the County. The Annexation Agreement is the same document described as the "County Agreement" in the ARDA. Those three documents include:

- (1) IMPLEMENTATION AGREEMENT NO. 2 BETWEEN CITY OF IRVINE, IRVINE REDEVELOPMENT AGENCY AND COUNTY OF ORANGE ("**Implementation Agreement**"), dated August 17, 2010;
- (2) SUBLEASE BETWEEN CITY OF IRVINE AND COUNTY OF ORANGE FOR INSTITUTIONAL PARCEL WITHIN EL TORO LIFOC PARCEL 3 ("**100 Acre Sublease**"), dated August 17, 2010; and
- (3) RECIPROCAL LICENSE AGREEMENT² ("**License Agreement**"), between and among the City, the County, and Heritage Fields dated December 27, 2011.

The Implementation Agreement, 100 Acre Sublease, and License Agreement are collectively referred to as the "**Annexation Agreement Implementing Documents.**"

Heritage Fields acknowledges and agrees that if the County contributes the County's "Fair Share" for development the "Infrastructure" (as such terms are defined in the Implementation Agreement), the County shall have discharged its obligation under Section 2.2.5 of the County Agreement. Heritage Fields agrees further that so long as the Annexation Agreement Implementing Documents remain in effect and the City complies with such agreements and uses reasonable efforts to require compliance with the provisions of the Annexation Agreement Implementing Documents (which reasonable efforts shall not require the commencement of litigation by the City against the County), Heritage Fields shall not claim that the Annexation Agreement Implementing Documents, or the exercise of rights and performance of obligations thereunder, constitute a breach of any obligation of the City under the ARDA

² Heritage Fields El Toro, LLC, is a party to the License Agreement, in addition to the City and the County.

and/or the ARMIA, creates any legal or equitable liability of the City under the ARDA and/or the ARMIA, and/or reduces or delays any obligation of Heritage Fields under the ARDA and/or the ARMIA.

As to Section 9.2.1 of the ARDA, the parties have agreed, in accordance with Section 9.2.1.2 of the ARDA, to adjust the precise location of the ARDA Transfer Site (as depicted on Exhibit G to the ARDA), such that the revised description of the ARDA Transfer Site shall be as depicted on Exhibit A attached hereto. The parties acknowledge and agree that Exhibit A divides the ARDA Transfer Site into two parcels ("Parcels"), one of which consists of approximately 125.5 acres (the "Northern Parcel"), and the other of which consists of approximately 5.0 acres (the "Southern Parcel"). The metes and bounds descriptions of the two Parcels shall be based upon Exhibit A attached hereto unless the parties hereafter mutually agree to a different location and/or area of the ARDA Transfer Site in accordance with Section 9.2.1.2 of the ARDA. The metes and bounds descriptions of the Parcels shall be completed by April 1, 2011. By May 17, 2011, a transfer of fee title to the Southern Parcel from Heritage Fields to the City (containing no restrictions on use beyond those imposed by the Department of the Navy and/or mutually agreed upon by the parties or as already set forth in the ARDA) shall occur. By May 17, 2011, a sublease, assignment of lease, transfer of fee title or combination of the foregoing options shall be completed in accordance with the terms of the ARDA (provided that no provision of the ARDA shall be interpreted to excuse or avoid the obligation to complete the sublease, assignment of lease, and/or fee conveyance of the Northern Parcel by May 17, 2011), such that the City shall hold a possessory interest in the entirety of the Northern Parcel (containing no restrictions on use beyond those imposed by the Department of the Navy and/or mutually agreed upon by the parties or as already set forth in the ARDA). Heritage Fields and the City further agree that Section 9.6, concerning modifications to property boundaries to accommodate the ultimate roadway alignments and design standards, shall apply to the ARDA Transfer Site.

The parties separately acknowledge and agree that the Index for Guaranteed Amount attached as Exhibit R-1 and R-2 to the ARDA and the Rate and Method of Apportionment attached as Exhibit S to the ARDA (the "RMA") were both developed with the assumption that the ARDA would become effective during Fiscal Year 2009-2010. Due to, among other things, the Third Party Litigation, the ARDA was not signed and will not become effective until Fiscal year 2010-2011. Accordingly, the parties agree that the obligations for payment of the Guaranteed Amount in the ARDA that are identified as being due in Fiscal Year 2009-2010 will be due in Fiscal Year 2010-2011, and that obligations identified in the ARDA and the RMA and the respective exhibits to the ARDA and RMA as being due in succeeding years (i.e. years following Fiscal Year 2009-2010) will correspondingly be due one year later than is indicated in the ARDA and RMA and respective exhibits. Given that the Second Effective Date will be deemed to be December 27, 2010 (as identified below), the first payment of the Guaranteed Amount for the current Fiscal Year (2010-2011) will be due April 10, 2011.

Finally, the parties have agreed that the Second Effective Date of the ARDA shall be December 27, 2010; provided, however, that the first payment of the Public Benefit Fee due

Mrs. Lynn Jochim
December 27, 2010
Page 5 of 5

under Section 10.1 of the ARDA shall be payable in January 2011, and all subsequent adjustments to the Public Benefit Fee shall occur in the month of January, as opposed to the month of December.

Please acknowledge your consent and agreement to the foregoing by executing this letter agreement in the space provided below.

CITY OF IRVINE

By: _____


Sean Joyce
City Manager

ACCEPTED, AGREED AND ACKNOWLEDGED

HERITAGE FIELDS EL TORO, LLC,
a Delaware limited liability company

By: Heritage Fields LLC,
a Delaware limited liability company
Its: Sole Member

By: Lennar-LNR Heritage Fields, LLC,
a Delaware limited liability company
Its: Administrative Member

By: Lennar Homes of California, Inc.,
California corporation
Its: Managing Member

By: _____

Print Name: _____

Print Title: _____



Erik R. Higgins
Vice President

EXHIBIT "A"

ACREAGE SUMMARY

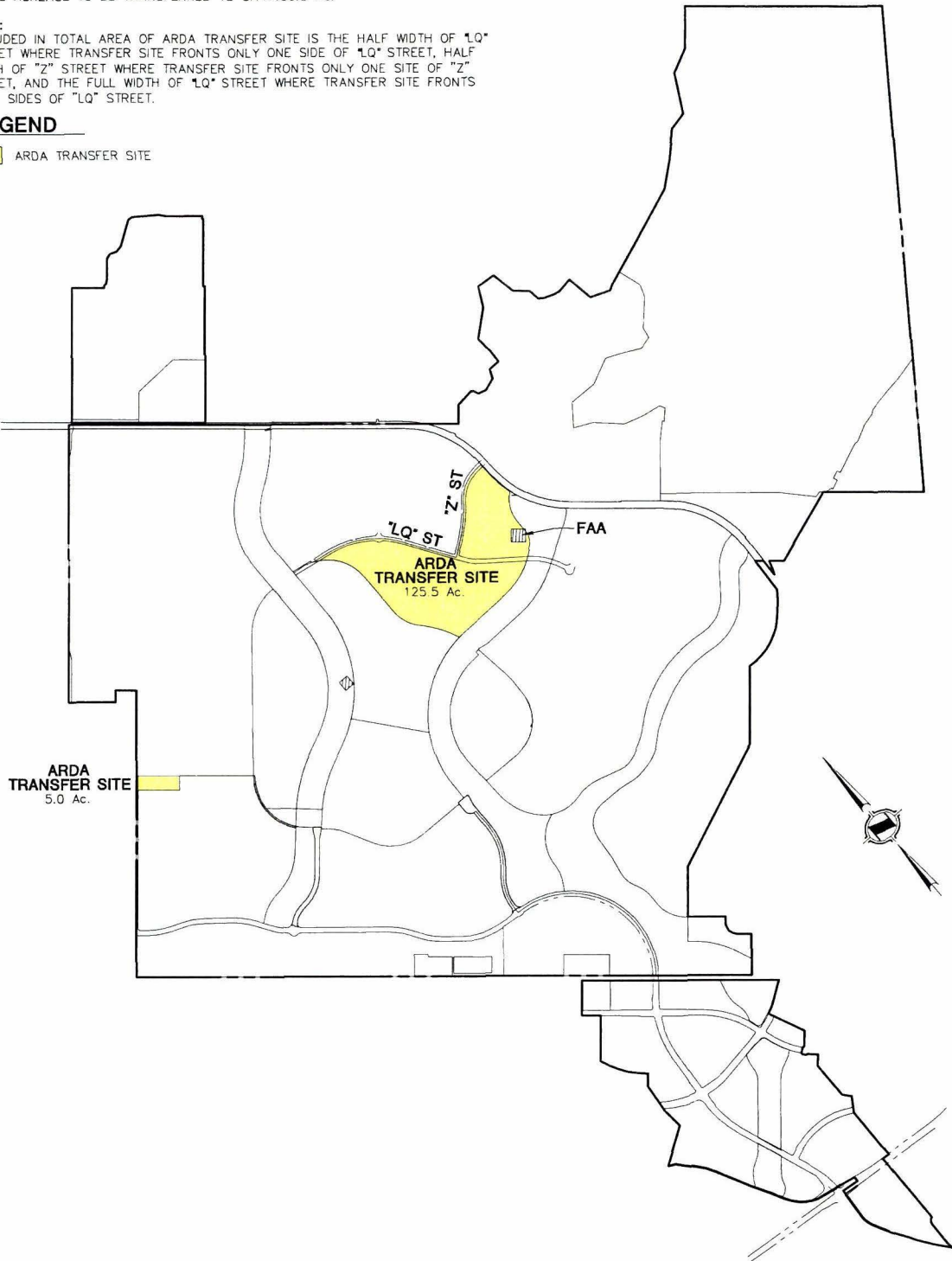
TOTAL ACREAGE TO BE TRANSFERRED TO CITY: 130.5 Ac.

NOTE:

INCLUDED IN TOTAL AREA OF ARDA TRANSFER SITE IS THE HALF WIDTH OF "LQ" STREET WHERE TRANSFER SITE FRONTS ONLY ONE SIDE OF "LQ" STREET, HALF WIDTH OF "Z" STREET WHERE TRANSFER SITE FRONTS ONLY ONE SIDE OF "Z" STREET, AND THE FULL WIDTH OF "LQ" STREET WHERE TRANSFER SITE FRONTS BOTH SIDES OF "LQ" STREET.

LEGEND

ARDA TRANSFER SITE



HUNSAKER & ASSOCIATES
IRVINE, INC.

PLANNING • ENGINEERING • SURVEYING
Three Hughes • Irvine, CA 92618 • P: (949) 583-1010 • F: (949) 583-0799

DATE: 12/21/10

REV. DATE

DWG. DATE

By: K. LYNCH

CHK'd By:

SCALE: 1"=2000'

W.O. 1855-80X

ARDA TRANSFER SITE

IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF CALIFORNIA

C:\Kory\Heritage Fields\DA Exhibits\JULY 2009\EXH-G-122110.dwg